



UNCRC Incorporation

Written by Together: The Scottish Alliance for Children's Rights
Consulting with Young People (13years+)
Facilitator Guide

Large Print Version following RNIB Guidelines, 16pt text

About this guide

This guide is for adults to help them plan engagement sessions with young people around incorporating the UN Convention on the Rights of the Child (UNCRC) into Scots law. If you are working with children (8-12 years) please see our separate guide.

The guide brings together suggestions from our members and divides these into key themes related to incorporation. Each theme contains ideas for related activities and questions.

- Theme 1: Introducing Children and Young People's Rights
- Theme 2: A World of Rights
- Theme 3: What Happens when Children's rights aren't respected?
- Theme 4: What will the rights look like?

You do not need to cover all the themes, but rather pick those which are most relevant to you or of most interest to the children you work with. The only exception is Theme 1, introducing children's rights, which should always be covered before moving on to your chosen themes.

Ending Your Consultation Event and Feedback

“What happens after participation work is just as important as what happens during it”

A recurring message we hear from young people is that they want to be included throughout the whole process of policy development and decision making. Where possible after these events every effort should be made to inform the young person how their views have been carried

forward and what has happened as a result. This ensures that participation is a two-way respectful dialogue.

For young people, this could mean emailing or calling your event participants or their parents/guardians with a copy of your event notes, report or a summary of your consultation response. It could also mean following up with them when a Bill is introduced to Parliament or even when it passes to help them feel like they have had a meaningful impact.

Next steps

Scottish Government to consider all responses and draft a Bill on incorporation – expected late 2019/early 2020.

For further information, please contact

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Theme 1: Introducing Children and Young People's Rights

All engagement sessions should spend some time on this theme before moving on to any others. This theme will help young people understand:

- *What is the UN Convention on the Rights of the Child (UNCRC)?*
- *What does incorporation mean?*

What is the UNCRC?

'UNCRC' stands for the United Nations Convention on the Rights of the Child. This is a document that sets out children and young people's rights and how they should be treated.

The rights in the UNCRC are set out in sections called 'articles'. These articles cover everything from the right to education to helping ensure young people have a voice in all matters that affect them.

The UNCRC also includes some special protections for particular groups of children and young people, like those with disabilities or refugees.

Nearly every country in the world has signed up to the UNCRC, meaning that they promise to respect the rights within it and be checked on the progress they have made (kind of like a report card at school). This 'check up' process is done by an international group of experts known as the Committee on the Rights of the Child. This Committee is based in Geneva, Switzerland.

The United Kingdom signed up to the UNCRC 28 years ago. This means that the Scottish and UK Governments have to show that they are working hard to support children and young people's rights and that these rights are being put into practice.

Is the UNCRC the law in Scotland?

Not completely! In 2014, the Scottish Government introduced a new law called the Children and Young People (Scotland) Act. The Act contains some positive steps to advance young people's rights, but it doesn't make the UNCRC the law in Scotland.

The 2014 Act says that the government need to 'consider' children's rights and take steps to progress them. The Act also says that the Scottish Government and public bodies (like the local councils, social work departments, the police and health boards) also have to publish a

report every few years that says what they are doing to progress children's rights through their work.

What does incorporation mean?

The UNCRC is part of international law. In order to make it part of the law in Scotland, it first has to go through a process called 'incorporation'.

Incorporation means making the UNCRC part of the law in Scotland.

This would mean that the Scottish Government, Scottish Parliament would have to do their best to make sure that laws and decisions respect the UNCRC. It would also mean that public bodies (like local councils, the police, the courts and health boards) would have to do their best to make sure their decisions and actions respect children and young people's rights.

If laws, decisions or actions don't respect these rights, then incorporation means you can hold the government, parliament or public body accountable for this.

A number of other countries have already incorporated the UNCRC, in lots of different ways.

The Scottish Government has it is going to incorporate the UNCRC by 2021. As part of this process, the Scottish Government wants to hear what children and young people think. All children and young people have a right to tell the government what they want to happen and a right to be listened to – this is set out in Article 12 of the UNCRC.

Why is incorporation important?

Quite a lot of countries already have already incorporated the UNCRC into law. This includes Norway, Finland, Iceland and Spain. We know from these countries that incorporation can bring about a culture change, in which:

- More people learn about young people's rights. This includes politicians and people that work for government who make decisions that affect young people, on issues like education, healthcare and transport.

- Adults have to speak to young people and listen to what they have to say before making decisions that affect them.
- Young people are seen as people who have their own rights and views, instead of always having adults speak for them.
- Young people have the right to complain if they think their rights haven't been considered.

Resources

- Unicef, [basic outline of the CRC](#) including a summary
- [CYPCS Children's Rights Picture Gallery for Young People](#)
- [Video: Equalities and Human Rights Commission background to the CRC](#) (Suitable for ages 12-16)
- [Children's Commissioner, Children's Rights Booklet](#) (you can get copies of these booklets from Together if you need printed versions)

Theme 2: A World of Rights

These questions are relevant to questions 13, 14, 15 and 16 in the Scottish Government consultation.

This theme will help young people think about:

- *What their 'perfect' rights respecting world would look like.*
- *What needs to happen in Scotland to turn it into this rights respecting world?*
- *When should these changes happen?*

When we incorporate the UNCRC in Scotland, this would mean that the government, politicians and public bodies will have to think about children and young people's rights when making decisions about them, and make sure that these rights are respected. This is called a rights-based approach.

Examples could include:

- Young people have the right to be as healthy as possible and to be listened to when adults are making decisions about them. This means that when a doctor is treating a young person, they would have to make sure they have the best standard of care possible and take that young person's views into account throughout their treatment.
- Young people have the right to education. This means that the government needs to make sure there are enough schools, teachers and resources so that all young people can access this right.
- Young people have the right to be treated fairly. This means that young people with a disability should be given the extra help they might need to go to school and take part in the same activities as their friends.

Lots of things can make children's rights stronger in Scotland, including:

- Adults knowing about children and young people's rights, including through training.
- Children and young people learning about their rights in in school and through youth work.
- Government writing down how its decisions support children's rights (Child Rights Impact Assessments).

- Government involving children and young people when making decisions and new laws.

The Scottish Government has said it will create a plan setting out everything the government is going to do to make sure young people's rights are taken into account. The plan might include some of the examples above. It might take some time to put this plan into practice.

Ideas for Activities

A world of rights: get young people to make big cloud style images/text of what their 'perfect rights respecting world would look like. This would take some time spent discussing ideas first – ask them to think about what they and adults/decision-makers would need to make a rights respecting world. This could include things like making sure all young people and adults know about these rights, always involving young people in decisions which will affect them, examining new laws to see whether they respect young people's rights and where they could be strengthened.

Ideas for Questions

- Can you imagine a perfect world where young people's rights are always respected and taken into account? What would this look like?
- What needs to happen in Scotland to turn it into this perfect example? Should government put these things into their plan? (*Question 13 and 16*)
- When do you think these things should happen? (*Question 14 and 15*)

Theme 3: What should happen when rights aren't respected?

These questions are relevant to questions 18 and 23 in the Scottish Government consultation.

This section will help young people think about what should happen if their rights aren't respected.

Incorporation should mean that if children and young people's rights aren't rights have been respected, they should be able to make a complaint. This could be to their teachers, social workers, people who work for the council and even politicians. Young people's complaints should be listened to and taken seriously and changes should be made to ensure that the complaint is addressed. Incorporation could also mean that if an idea for a new law didn't respect children and young people's rights then it might be stopped from going ahead.

In serious and rare cases children and young people could take a complaint to court if a decision makers has failed to uphold their rights. Taking a case to court can be difficult, so it's important that young people have other people that they can make a complaint to, this could include a parent, teacher, social worker or other adult. If a case does need to go to court, then it's important that the young person has the support they need.

Ideas for activities

Pathway: a game whereby young people design a series of pathway tiles with all the steps to finding redress when their rights are violated (E.g. from the initial step like complaining to a parent or teacher, all the way through to going to court). Discuss with the young people whether they think all of these steps are needed in every case, or whether in some cases less of these steps are enough.

Examples from other countries: Discuss examples of children in other countries bringing complaints to court.

Problem Tree: A flip chart with a problem tree' using post-it notes to share ideas. Like any other tree the problem tree has three parts: a trunk, roots and branches. The trunk is the core problem. The roots represent the causes of the core problem while the branches represent its effects. Using sharpies the group can discuss and draw an apple on the tree

which represents an idea. This could be helpful for setting out the devolution context.

Ideas for Questions

- If you didn't think your rights were being protected, what do you think you should be able to do to challenge this? Would you like there to be somewhere to go and someone to talk to about this? Who would this be? (question 18).
- Do you think that adults or organisations should be able to take cases to court in extreme cases, on behalf of children and young people? Who would be the best people to help young people do this and why? (Question 23)

Theme 4: What will the rights look like?

These questions are relevant to questions 4 and 12 in the Scottish Government consultation.

This section will help young people think about:

- *The nature of children and young people's rights (rights are for all children and link into each other)*
- *Which rights they think should be protected in our law (all of them or some of them?)*

It is important to remember that children and young people's rights are:

- **Universal:** they apply to all children and young people in the world
- **Indivisible and interrelated:** the different rights in the UNCRC support each other and work together. You often need one right to make sure another right is respected. For example, the right to education can only be respected if teachers also respect the right for children to have their views known.

We need to think about what rights should be brought into our law and how they should be written down. This is a bit complicated in Scotland because of devolution.

'Devolution' means that Scotland has powers to make laws and decisions in some areas but not others.

If a topic is one that Scotland is allowed to make its own decisions on, it is called a 'devolved' area. Housing, education and healthcare are all devolved – decisions and new laws about these can be made in Scotland. However, other areas (like decisions and laws about refugees and the armed forces) can only be made by the UK Parliament and UK Government. These are called 'reserved' areas.

Some of the rights in the UNCRC relate to devolved topics, others relate to reserved areas, and some UNCRC rights involve both devolved and reserved areas!

We need to be careful that the UNCRC incorporation law is only about children's and young people's rights in Scotland. The Scottish Government has two options for how this can be done:

Option 1: Copy and paste

'Copy & Paste' means taking the exact wording of the UNCRC and putting this into Scottish law. It is also sometimes called 'direct incorporation'.

Most countries that have incorporated the UNCRC have done it this way, including Norway, Finland, Iceland and Sweden. Copy and paste means that children and young people in Scotland will have the same rights as children and young people in these other countries. It means that the government, politicians, judges and other people making decisions about children and young people's lives can learn from these other countries and get new ideas about how to protect children and young people's rights better in Scotland.

It also means that what the international experts say about children and young people's rights can be used by the government and the courts to make sure they're doing their best for children and young people. If 'copy and paste' is used, we would need to make sure that government and judges know that we are only talking about children and young people's rights that can be in laws in Scotland (because of devolution).

Option 2: Pick and mix

The second option is to build a new list of rights for children and young people in Scotland. This would be a 'pick and mix' style list with politicians choosing which rights they want to include and which they don't.

This way, we could make sure that we only include the rights that are linked to the (devolved) laws that are made in Scotland, and not the rights that only the UK Government can make decisions about. It would mean we could add, take away or change the rights that are in the UNCRC.

Idea for activity

Football league: You are about to start your own football league. Think about your team:

- Would you like to follow the same rules as the rest of the world? This would mean you could play with lots of other children across the world, talk to other international football experts, learn new tricks and moves

from across the world and play the same game everyone else in the world is playing. However, you would not be able to make up your own rules and would only be able to use tricks that were allowed in the worldwide rules, even when you play in Scotland.

Or...

- Would you create special rules for teams in Scotland so you can play football however you like? This would mean you could have as many people on your team as you like, you could play for as long as you like and you could even use tricks that weren't allowed in the international rules! However, if your rules were different to the rest of the world, the international football experts wouldn't help you to learn new things and you would only be able to play in Scotland.

Snakes and ladders: Pros and cons could be played like Snakes and Ladders game.

Idea for Question 1

There are good and bad things about the 'copy and paste' idea and the 'pick and mix' idea. Using the list below, ask the young people to look at both of the ideas and decide whether the things that might happen from each idea are good or bad. Ask them to discuss their own ideas and add them to the list (*question 12*).

You might want to print each bullet point onto colour-coded cards (one colour for copy and paste items, one for pick and mix) and then organise these according to whether they are a 'pro' or a 'con'.

Copy and Paste could mean:

- **Every right that is in the UNCRC is in the law in Scotland (as far as devolution allows).**
- **Young people in Scotland have all the same rights as other young people across the world.**
- **International experts help the Scottish Government understand how rights should be respected.**
- **Rights stay linked together.**
- **Rights stay up-to-date if the Scottish Parliament is given more powers.**

- **Some rights might be put in law that the Scottish Parliament doesn't have control over.**

Pix and mix could mean:

- **Scottish Government can be careful to only include rights the Scottish Parliament has control over.**
- **Young people in Scotland have different rights to other children across the world.**
- **Young people in Scotland have extra rights to other young people across the world.**
- **Some rights in the UNCRC aren't included in the law in Scotland.**
- **The Scottish Government doesn't have to listen to what the international experts say.**
- **Rights get out of date if the Scottish Parliament gets more powers.**

Resources

The above activity may stray into questions about devolution. Here is a game to help explain devolution to children, what it is and the issues it impacts on:

- [Scottish Parliament Guide to Devolved/Reserved Matters](#)
- [Scottish Parliament Video on Devolution](#)

Theme 5: Interpretation & International experts

These questions are relevant to questions 4 and 5 in the Scottish Government consultation.

The UN Committee on the Rights of the Child is a group of experts based in Geneva, Switzerland. These international experts have studied children and young people's rights for years and have spoken to many children and young people across the world, about their experience of their rights.

The Committee has two main roles:

- **Creating guidance:** it writes guidance about children's rights to help governments understand what they should be doing.
- **Checking progress:** it checks how well countries are protecting children and young people's rights under the UNCRC and what more they need to do.

Creating guidance

Sometimes the Committee writes guidance for governments across the world to help them understand what they should be doing to protect children's rights. These guidance documents are called 'General Comments' and they cover lots of different topics from listening to children and young people, children and young people's health, right through to education and more.

This guidance is updated over the years so that it keeps up with modern life and new developments. For example, just now the Committee is writing a new document about how children and young people should be supported when they're online. This is needed because when the UNCRC was written 28 years ago when they had not even heard of the internet. These instructions from the Committee are important as they keep the rules up to date!

Checking progress

The Committee is also in charge of checking how well countries are respecting children and young people's rights under the UNCRC. Every few years, the Committee reviews each country to see what they've been doing and what they need to change or get better at (kind of like a report card at school).

These reports are called 'Concluding Observations'. [The UK's last review and report card was published in 2016.](#)

Possible metaphors

Homework analogy: you could compare General Comments to having notes scribbled at the side of your homework giving new details to do better or extra instructions. Whereas Concluding Observations are like the comments and grades after a big test, but one where your teacher really wants you to improve and do better next time.

Ideas for Questions

- Should the Scottish Government *have to* listen to what these experts say or should the Scottish Government be able to ignore this? Ask the young people to consider whether following the expert's ideas should be *compulsory* (like attending school when you're under 16) or just a *recommendation* (like eating 5 pieces of fruit and veg a day)? (*question 4*).
- Do you think courts in the UK should be able to look at the guidance (General Comments) and report cards (Concluding Observations) when trying to work out what a particular right means and how it should be protected? (*question 5*).

Theme 5: Timing

These questions are relevant to questions 14 and 15 in the Scottish Government consultation.

As well as saying that she'll make children and young people's rights law, the First Minister has also said that she'll incorporate other human rights into Scottish law. These include rights for disabled people, women and girls, and minority groups.

The First Minister has said that she will make children and young people's rights law first, by 2021, and then bring these other rights into law after that.

Some teachers, social workers and doctors have said that they might need more time to get ready for children and young people's rights to become law because they will be more accountable, and have to ensure that children's rights are respected at every step.

Ideas for Activities:

- Take what age you, the young person, are now and add 4 years, 5 years and 7 years – do you think they should wait until then for their rights to become law? When do they want to see this happen?
- Timeline on paper, get young people to draw out actions on the line. This can be done in pictures or words.

Ideas for Questions

- When do you think the Scottish Government should incorporate the UNCRC? Now? next year? 5 years from now? (*question 14*).
- Once the law is made incorporating the UNCRC do you think we should wait a while before decision makers have to start doing it? Or do you think it should start straight away? (*question 15*).

Pros

vs

Cons