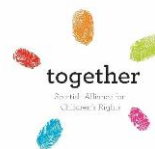


# Event report



## Incorporation of Children's Rights Consultation Event 8 July 2019, The Health and Social Care Alliance Scotland

### Introduction



Image by pupils of Sciennes Primary School, courtesy of Together (Scottish Alliance for Children's Rights)

The Health and Social Care Alliance Scotland (the ALLIANCE) and Together (Scottish Alliance for Children's Rights) partnered to host a session to gather views on the Scottish Government's Incorporation of Children's Rights Consultation on 8 and 11 July 2019.

The ALLIANCE hosted the 8 July 2019 event in Glasgow. This event report outlines the main themes that were raised by speakers and delegates. While this report has been produced by the ALLIANCE, with input from Together, the views expressed are those of the speakers and participants.

### Gita Sharkey – Team Leader Rights and Participation, Scottish Government

Gita outlined the principles of incorporation in relation to the UN Convention on the Rights of the Child (UNCRC) and emphasised the Scottish Government's commitment to incorporation and ongoing implementation of children's rights. Gita discussed three key themes:

- Legal mechanisms for incorporating the UNCRC into domestic law.
- Embedding children's rights in public services and additional non-legislative activities to progress implementation of the UNCRC.
- Enabling compatibility and redress.

Gita said that a key challenge was to ensure that the international obligations set out in the UNCRC are translated into mechanisms and actions that make life better for children and young people in Scotland. The Scottish Government is consulting on this issue in order to get the best possible advice on how that can be achieved.

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## Juliet Harris – Director, Together (Scottish Alliance for Children’s Rights)

Juliet explained that incorporation makes children’s human rights real, by ensuring these are binding, no longer just guiding, on government, parliament and public bodies. She highlighted the long campaign for incorporation, noting it has been almost 30 years since the UK signed up to the Convention and that a solid foundation for incorporation now exists, following legislation such as the Children (Scotland) Act 1995, the Children and Young People (Scotland) Act 2014 and more recently the First Minister’s commitment to bring the UNCRC into law by 2021.

Juliet outlined two approaches to incorporation as set out in the consultation paper:

- (1) a “copy and paste” method, whereby the UNCRC is directly incorporated into Scots law without any adjustment; or
- (2) a ‘pick and mix’ approach whereby certain UNCRC rights are brought into Scots law to form a “Scottish suite of rights”.

Juliet outlined the potential advantages and disadvantages of each approach, drawing on experience from countries which have already incorporated the UNCRC, including Norway, Iceland, Spain, and Belgium. The ‘copy and paste’ method ensures that interpretation of UNCRC rights remains up-to-date and in line with international standards, and could also ensure that the model of incorporation would automatically cover any new powers that may be devolved to the Scottish Parliament in the future. Consideration would need to be given to how this works effectively within the current devolution settlement to ensure that the model is within competence of the Scottish Parliament. The ‘pick and mix’ approach would help to ensure the model is shaped around the current devolved powers but would risk rights losing their direct link to the international human rights framework, ultimately making them harder for courts to interpret. It would also mean that the model would need to be updated anytime new powers were devolved to the Scottish Parliament.

Juliet outlined a [draft Bill](#), prepared by an independent advisory group convened by Together and the Children and Young People’s Commissioner Scotland, and referred to in Scottish Government’s consultation paper. The Bill follows the “copy and paste” method and sets out a “carrot and stick” approach for ensuring prevention and redress:

- (1) Prevention (the proactive ‘carrot’): in the first instance, it seeks to prevent rights violations from arising, by ensuring children’s human rights and are considered from the outset of decision-making and are embedded in public services. The Bill sets out a variety of methods through which this could be

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achieved including an overarching “due regard” duty, a Children’s Rights Scheme, Child Rights and Wellbeing Impact Assessments (CRWIAs), compliance reports, and scrutiny by rights holders.

- (2) Redress (the reactive ‘stick’): if a child’s human rights are breached, then a reactive “stick” component ensures that incompatible acts or omissions can be challenged before the courts.

Juliet shared with the group that Together was currently working on facilitator briefings for those doing engagement work with children and young people around incorporation. These have since been published on Together’s website and can be accessed [here](#).

Additionally, Juliet will be featured on the Health and Social Care Scotland’s [24 July 2019 edition of ALLIANCE Live](#), where she will further discuss incorporation.

## Participant Discussion



Image by pupils of Sciennes Primary School, courtesy of Together (Scottish Alliance for Children’s Rights)

Around tables, participants were asked to respond to a set of three questions, and to think of ideas that could inform the Scottish Government’s approach to incorporating the UNCRC into law.

**Question One: To incorporate, should the Scottish Government ‘copy and paste’ the UNCRC into Scots law? Or create a Scottish suite of rights based on the UNCRC?**

- After hearing both presentations, most participants were in favour of the “copy and paste” method, however, a few raised the concern that “copy and paste” is being favoured simply because there is a rush to get the bill passed.
- Participants felt that there needs to be increased ownership. “We need to eat, sleep, and breathe children’s rights.”
- There was concern amongst participants that adopting a Scottish suite of rights would “water down” the rights outlined in the UNCRC.
- There was some concern that adopting a Scottish suite of rights, reflecting currently devolved areas, could be problematic if further powers were devolved to Scotland in future.
- Participants also favoured copy and paste because there is international evidence supporting this method of incorporating the UNCRC.

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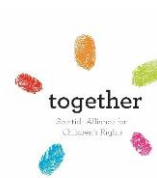
## **Question Two: What should be included in a statutory children's rights scheme to support transparency and accountability?**

- To aid with transparency and accountability, regular, meaningful reporting on the Scottish Government's, and other duty holders' progress towards clear, obtainable goals is key.
- Participants felt that we need more clarity around how children and families will be able to seek redress, as there is concern that children and young people might have to be responsible for guaranteeing their own rights if clear pathways for redress are not identified and upheld.
- Participants would like a clearer understanding of how redress will be funded. For example, would children and young people be able to access legal aid for the purpose of redress in their own right?
- To enable speedy resolution, at both informal and formal levels, there should be alternative routes to redress that do not involve the courts.
- Enforceability is particularly important. Duty bearers should be easily identifiable and readily accessible to ensure accountability across all levels of government and public services. At the same time, participants expressed the view that incorporation should be a positive move to support children's services staff, as well as children and young people.

## **Question Three: What more needs to be done by public bodies to prepare for incorporation of the UNCRC into Scots law? How long do you think it will take?**

- Participants had the view that good communication around incorporation is essential as is good training for relevant staff across the children's services workforce and beyond.
- A suite of real-life situations or case studies would be helpful to help show the potential impact of incorporation.
- There is a need for an "on the ground" implementation team with a Rights Officer, who could both promote rights-based working within each local authority area, and a focus on workforce development. This would help address the gap between policy and practice.
- Participants felt that a peer led "board of young people", with a variety of experiences and backgrounds, would be key to incorporation. This would help us to better understand needs around accessibility to redress, advocacy, and would provide performance measurement from children and young people.
- There must be clear pathways for anyone trying to access information about children's rights. Information should be accessible.
- Most participants were unclear on how long incorporation will take, but most agreed that it should happen quickly in order to take advantage of cross-party commitment and support.

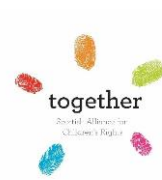
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## Organisations that were represented during this event included:

- Abertay University
- Becausewematter
- Children and Young People's Commissioner Scotland
- Dyslexia Scotland
- East Ayrshire Health & Social Care Partnership
- Glasgow City Council Children & Families Residential
- Glasgow Caledonian University
- The Health and Social Care Alliance Scotland
- Highland Children's Forum
- Home Start
- Mental Health Rights Scotland
- MsMissMrs
- National Parent Forum of Scotland
- NHS Lothian
- Our Hearings, Our Voice
- Partners in Advocacy
- Promoting Positive Contact
- Respect Me
- Royal Blind
- Scottish Commission for Learning Disability
- Scottish Government
- See Me
- The Scottish Independent Advocacy Alliance
- Sport Aberdeen
- Together Scotland
- Voluntary Action South Ayrshire
- West Lothian CHCP

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## Resources

[ALLIANCE – Getting it Right for Every Child](#)

[ALLIANCE Live: Incorporating the UNs Convention on the Rights of the Child \(UNCRC\) into Scots Law](#)

[Incorporating the UN Convention on the Rights of the Child into Scots Law: consultation](#)

[Together, Briefing on UNCRC Incorporation](#)

[Together, Facilitator Guide for Engaging with Children \(8-12 years\)](#)

[Together, Facilitator Guide for Engaging with Young People \(13 years+\)](#)

[Children and Young People's Commissioner Scotland: Position Paper on UNCRC Incorporation](#)

[Sciennes Primary School, P6 UNCRC Art Project with Together \(Scottish Alliance for Children's Rights\)](#)

## For more information

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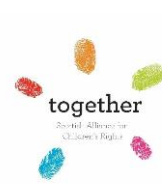
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## About the ALLIANCE

The national third sector intermediary for a range of health and social care organisations.

The Health and Social Care Alliance Scotland (the ALLIANCE) has over 2,700 members including large, national support providers as well as small, local volunteer-led groups and people who are disabled, living with long term conditions or providing unpaid care.

Many NHS Boards, Health and Social Care Partnerships and Primary/Community Care practices are associate members and many health and social care professionals are Professional Associates. Commercial organisations may also become Corporate Associates.

Our vision is for a Scotland where people of all ages who are disabled or living with long term conditions, and unpaid carers, have a strong voice and enjoy their right to live well, as equal and active citizens, free from discrimination, with support and services that put them at the centre.

The ALLIANCE has three core aims; we seek to:

- Ensure people are at the centre, that their voices, expertise and rights drive policy and sit at the heart of design, delivery and improvement of support and services.
- Support transformational change, towards approaches that work with individual and community assets, helping people to stay well, supporting human rights, self-management, co-production and independent living.
- Champion and support the third sector as a vital strategic and delivery partner and foster better cross-sector understanding and partnership.

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## About Together (Scottish Alliance for Children's Rights)

Together is an alliance of Scottish children's charities that works to improve the awareness, understanding and implementation of the United Nations Convention on the Rights of the Child (UNCRC).

We do this by:

- promoting the UN Convention on the Rights of the Child;
- helping children's organisations to integrate the UNCRC into their work;
- monitoring and reporting on the progress made at a Scottish and UK level.

Our growing membership is made up of a range of children's charities, from small local playgroups through to large international charities, alongside individuals, academics and professionals with an interest in children's rights.