Summary Report:
State of Children's Rights 2021 Webinar Series

By Together (Scottish Alliance for Children's Rights)

About the webinars

Together held a series of webinars in October 2021 which focused on implementing a children's rights-based approach. The webinars responded to members' information needs as indicated in our State of Children's Rights survey. We were joined by expert speakers to deliver four webinars on:

1. Introduction to a children's human rights-based approach
2. Participation
3. Access to justice
4. Impact assessments, budgeting and data collection

This document includes a summary of the presentations and a list of useful resources for each theme.

The events also included breakout room discussions where attendees could share some of the challenges they are facing to implementing children's rights, what steps they are taking to overcome these and examples of promising practice. Findings from these discussions will be used to shape our forthcoming State of Children's Rights Report 2021.

Access the webinar recordings and slides here.

Contents

Webinar 1: An introduction to children's human rights and rights-based approaches

Children's human rights, the UNCRC and incorporation
Juliet Harris, Director, Together (Scottish Alliance for Children's Rights)

Access the slides from Juliet's presentation [here.](#)

Juliet gave an overview of the United Nations Convention on the Rights of the Child 1989 ('UNCRC'). This international treaty sets out what children need to grow up "in an atmosphere of happiness, love and understanding". The UNCRC sets out the rights that everyone under 18 years old has. The UNCRC is a **floor** not a ceiling. It set out *minimum* standards beyond which countries should strive.

Characteristics
Children's human rights are:
- **Universal:** all children (under 18s) have rights under the UNCRC. They have these rights regardless of their race, religion, abilities, family circumstances or any other reason.
- **Unconditional:** all children are entitled to all of their rights.
- **Inalienable:** rights cannot be given or taken away.
- **Inherent:** rights are permanent.
- **Indivisible:** rights are dependent on each other for their effectiveness. You cannot "pick and choose" rights – you need to uphold them all. For example, realising the right to education relies on the right for children to share their views on their education.

What does the UNCRC cover?
The UNCRC covers all aspects of children's lives. It sets out 42 substantive rights from the right to play, to protection from harm, to education, to the rights of specific groups of children.

There are four articles of the UNCRC which flow through the whole of the treaty. These are known as the **"General Principles"** and should be kept in mind whenever making a decision that directly or indirectly affects children's lives. The general principles are:
- **Article 2** - non-discrimination;
- **Article 3** - best interests of the child;
- **Article 6** - life, survival and development;
- **Article 12** - children's participation.

What is incorporation?
Incorporation means making an international treaty part of a country's domestic law.

Incorporation is important as it makes children's rights *binding* on public authorities, rather than just *guiding.* Incorporation gives children a right to complaint to a court if a public authority does not respect their rights.

The UNCRC (Incorporation) Scotland Bill

Children and young people, supported by Together and its members, have led a decade-long campaign to incorporate the UNCRC into Scots law. In March 2021, the Scottish Parliament passed a Bill which seeks to incorporate the UNCRC. This Bill was later challenged in the UK Supreme Court on constitutional grounds.

The UK Supreme Court found that the Bill went beyond the powers of the Scottish Parliament. This challenge was purely about constitutional matters – the intention behind the Bill was never in dispute.

Scottish Government is now working to revise the relevant parts of the Bill. Scottish Government will continue its implementation work whilst these technical issues are resolved.

A child-rights based approach
Bruce Adamson, Children and Young People's Commissioner Scotland
Lewis, Young Adviser to the Commissioner

The Children's Commissioner gave an overview of what a rights-based approach looks like. We then heard from Lewis – one of the Commissioner's Young Advisers - about his experiences of the COVID-19 pandemic and how a rights-based approach could have been used to reach a different outcome.

What does a rights-based approach look like?

Bruce noted that a rights-based approach requires us to use all the tools available to us. It means changing not only the law, but also policy and practice.

He explained that a rights-based approach means following the UNCRC general principles – a key part of this is to ensure that children's voices are included at the heart of everything. Another aspect of a rights-based approach is to make sure that we use the "maximum available resources" towards realising children's rights. This means putting as much resources as we possibly can towards ensuring children can access their rights.

Bruce also outlined some helpful models or tools that can help us to understand and adopt a rights-based approach in everything we do. This includes the Lundy Model of participation and the PANEL principles. The Panel principles say that there must be:

1. Participation
2. Accountability
3. Non-discrimination
4. Empowerment
5. Legality

A case-study: children and young people's experiences of COVID-19

Lewis shared his experiences of COVID-19 and how different outcomes may have resulted had a child rights-based approach been taken to decision-making.

Lewis is 14 and said that the pandemic had had a huge impact on his education and wider life. Suddenly, he had no real structure in place to his days - he was stuck in his room and his school workload became even heavier. Even though there was more work, there were fewer ways to ask for help. He could only contact his teachers by email and they weren't always quick to respond. Lewis and his friends tried to find their own ways of coping, with some creating study groups but others just asked each other for the answers to homework. Everything led to an increase in stress, a decrease in confidence and overall impact on mental health. Upon learning about the struggle with SQA results, Lewis realised that problems were widespread:

"I soon realised that it wasn't just a problem with me or with my school, but a problem affecting the whole of Scotland. Scotland had more problems than I originally realised.

Ultimately, young people's discontent and feelings of disempowerment boiled over into protests and sparked a year-long investigation and change in SQA policy. This was an example of children and young people acting as human rights defenders.

What would a rights-based based approach mean?

Lewis considered the PANEL principles and suggested how a rights-based approach could have been taken to address these (and future) issues:

- **Participation:** *"you could find a better way of involving children and young people in decision making. Even just asking them something as simple as what they [teachers and adults] can do to help them better their learning."*
- **Accountability**: *"it's about teaching children and young people what their rights are, where they can go if they don't think it's being upheld and what they can do."*
- **Non-discrimination**: *"it's making sure that people aren't discriminated over anything at all. Anything you can think of that people are discriminated over, they shouldn't be."*
- **Empowerment:** "*letting pupils be involved in designing the solution of a task*".

Resources
- Access the webinar recording here.
- Together, State of Children's Rights Report 2019, Chapters 1-2.
- Children's Commissioner Wales, The Right Way (a guide for public bodies in understanding what a child rights-based approach looks like and how to implement it in practice).

Webinar 2: General Principles of the UNCRC: A Focus on Participation

General Principles of the UNCRC
Juliet Harris, Director, Together (Scottish Alliance for Children's Rights)

Juliet gave an overview of the general principles of the United Nations Convention on the Rights of the Child 1989 ('UNCRC'). The general principles are of particular importance when looking at how to embed a right's-based approach in implementing children's right.

What are the General Principles?

They are four specific rights.
- **Non-discrimination (Article 2) –** equality of opportunity and making sure that every child has what they need to ensure that their rights are secured. This could sometimes mean dedicating more resources to some children and young people, and their families than the other. It also involves "making sure that everybody has the setup they need to have equality of opportunity".
- **Best interests (Article 3)** - the best interest of the child should be a primary consideration in every decision that impact the child. This applies to all decisions that affect children (directly or indirectly) – such as decisions about the environment, about transport and planning - not only decisions about education, childcare or family support. Every decision should have the best interests of the child at its heart.
- **Survival and development (Article 6)** - this ensures not only that children have what they need to survive but that they have what they need to thrive.
- **Right to participation (Article 12) -** children's and young people's participation.

Children's Right to Participate in Decisions
Colin Morrison, Co-Director, Children's Parliament
Kirsty Morrison, Policy and Public Affairs Manager, Scottish Youth Parliament
Heather, Head of Yearly Years Development, Starcatchers

This presentation looked at good practices in participation across different ages and stages. Access the slides from this presentation here.

Children and young people have an urgent entitlement to their rights. Children's human rights are **indivisible**, **universal**, **inalienable**, **shared** and no rights is more important than the other. The right to participate in decisions that impact them is the entitlement of all children including the young, children with disability or children who experience barriers to participation.

What makes good participation? Some general points…

1. Engaging young people from the start and throughout

Children and young people need to be engaged from the beginning to the end, that is, from the initial planning stages throughout the project, rather than getting to the end of the project and realising the need to get the opinion of children.

Young people are smart. They know when they are being pushed to give a certain opinion and when the process is not meaningful. They have good insights that are valuable at the start of any work. They also have valuable experiences that could be brought to the table which will be lost when they are not involved.

2. Realistic expectations and honesty

In every participatory project there is a need to be realistic and honest with the children and young people involved. They want to know what can be done, what their involvement will mean, what's expected of them, what outcomes could result and the value of their contribution.

3. Balance of power

Treating young people as equals, even from a young age is important in promoting their rights and getting the best out of every involvement of children and young people in a project. They have experiences that they can bring that older people do not have and they also appreciate that older people have experiences that they do not have.

4. Small preparation task

Assigning small specific tasks to children and young people that they can complete is important in preparing them for each activity and also ensuring that they feel prepared to make a valuable contribution.

5. Make documents accessible

Documents used in every engagement with children should be made accessible.

6. Don't put the responsibility on children and young people

Children should not be expected to have all the answers or the solution to all problems. Not all children have lived experience and they shouldn't be expected to represent any or all groups of children.

7. Good participation is built on the relationship that adults and children have.

This relationship should be rights-based and be based on kindness, empathy, trust and human dignity. When children understand the core idea of human dignity it shapes their understanding of the experiences they have and the relationship they have with others. Participation is essentially about relationships and relationship building takes time.

8. **Adopting nurturing approaches**

In terms of participation, this involves engaging with children based on a rights-based approach that creates a safe place where children and young people can eat together and play together. Adopting a nurturing approach to participation create a space where participation can happen meaningfully.

Early years children

For early years children, engaging with them is not just about conversations with younger children or having them answer questions in a consultation. It is essentially about understanding how they represent and express themselves through art and drawings. Early years children must be treated as human beings from the beginning.

In engaging early years children in decision making, adults and decision makers need to be open to what children say and not just the answer that the adults want to hear.

Engaging with children is about creating agency in them. Helping them to understand from an early age that their contribution is important.

For nonverbal children – it is about studying their responses. It could be studying their gaze, or what they grasp in response to a gesture to them. Non-verbal children need to be able to understand that if they gaze at a thing, for example, they get it. This builds their sense of agency and allows them to understand that what they say is important.

A case-study: children's experience with participation

Kirsty shared quotes from young people noting what they saw as 'good participation' and what wasn't

Good participation quotes

On realistic expectations- '*I wanted a clearer understanding of what their capacity was to make change, because I don't want to read over something or dedicate my time to something that's tokenistic. Young people have so much on, it's important that you give them as much information as possible so they can realistically figure out what they have the time and capacity for*.' MSYP

On balance of power - '*From the beginning, we were very much treated as equals. The adults that we work with, there's no dynamic that they make the decisions or they set the agenda, we learn from each other which is really good. It's part of what keeps that balance, where they can be like "hey we don't know what works well in school, we don't know what social media we should be using", so it kind of goes both ways*.' MSYP

On small prep task - '*I find that if you give us something to think about in advance, like a paragraph to read, not a task that takes more than ten minutes, but it means that we don't come in completely blind.*' MSYP

On accessibility - *'They presented a lengthy, six-page-long document which was not youth friendly – they shared screen and said 'what do you think?'* MSYP

'We were sent an email out of the blue, asking if we would read over and review a 174 page document.' MSYP

Good participation for younger children

Sprog Rock – A project where an artist worked with very young children to produce songs. Instead of going around and asking the children what they need from a gig (as they have never been to a gig and would not know what to say), the artist began by talking to the children about what was important to them. Exploring with the little ones different musical styles to help them understand the choices they have and deciding on what they want. This formed part of their experiential learning – helping them engage in decision making that was meaningful. Those conversations about what was important to them, for example, what it feels like being three years old and what it would be like turning four – led to meaningful songs being produced and they children got the opportunity to hear the songs being performed during the gigs. It creates a sense of agency about their contribution being important.

Resources
- Access the webinar recording here.
- Together's State of Children's Rights Report 2019, particularly pp.35-38.
- The Children's Commissioners' 7 golden rules for participation - 7 Golden rules for participation - The Children and Young People's Commissioner Scotland
- A blog post on strategic participation, written by one of the members of the Scottish Youth Parliament: Cabinet Blogs - Engaging Young People in Decision-Making - Scottish Youth Parliament
- The Lundy Model of Participation.

Webinar 3: Access to Justice

Access to justice
Laura Pasternak, Policy and Participation Manager, Who Cares? Scotland
Lucy Hughes, Policy Officer, Who Cares? Scotland

Access the slides from the presentation here.

Laura and Lucy explored what the concept of "access to justice" is and the role played by independent advocacy in accessing justice.

What does access to justice and child-friendly complaint mechanisms involve?

Laura and Lucy outlined that "access to justice" can encompass many different things. Webinar participants shared their thoughts - they said access to justice could consist of the following:

- Access to legal representation, independent advocacy, hearings and courts
- Taking a trauma-informed approach
- Child-friendly communication and accessible formats
- Building confidence and trust
- Legal aid to support equitable access
- Being informed about decisions being made and receiving updates
- Challenging discrimination
- Having space spaces to meet
- Awareness of rural/remote difficulties
- Understanding child's rights and the role adults and youth workers play
- Advocacy and speaking to MSPs about critical issues

What is Independent Advocacy?
An Independent Advocate's role is to represent the wishes and interest of a person or a collection of people. They help people claim, understand their rights and have a meaningful voice. Independent Advocacy should be used in addition to services instead of a substitute.

What are the PANEL Principles?
Panel Principles are a way of breaking down what a human-rights based approach means in practice, as a human-rights based approach brings about:

- **P**articipation
- **A**ccountability
- **N**on-discrimination and Equality
- **E**mpowerment
- **L**egality

Why support the universal right to independent advocacy?
The right to independent advocacy is protected by only some legislation. Poor awareness and inaccessible referral routes make accessing independent advocates difficult and patchy.

Having a universal right to independent advocacy can support Corporate Parents to understand people's experience on the ground better – which can lead to better decision-making.

A case-study: Margot

Inspired by the experiences of many Care Experienced people, this fictional case study highlights the impact independent advocacy can have on children and young people's rights.

Margot is 16 and is living in a foster care placement. She is unhappy and wants to move. She has access to an independent advocacy worker, who helps her communicate these views to her social workers. There is a delay in a decision being made by management in the local authority and Margot is now uncertain of her future. She moves between a few different short-term placements, far away from her school, while a long-term place to live is still being found. It has now been two months since Margot first raised that she was unhappy in her foster placement and no decision has been reached about where she will live long term.

Being unable to access justice has meant Margot's rights including her access education, access a stable placement and care plan, and ability to have her voice heard has been negatively impacted.

Margot does have access to an independent advocacy worker, which means she is supported to understand her rights. As nothing has happened since Margot's independent advocate raised her thoughts, Margot has the option of lodging a complaint, exploring legal representation, and going to court for having her rights breached.

Research: Navigating a World of Rights

This research gathered the experiences of 80+ Care Experienced people trying to access justice and uncovered different issues with regards to incorporation of the UNCRC and new human rights legislation. Difficulties Care Experienced people said they faced included not having information about their rights and justice systems being more adult-focused. As such, there was unanimous support for universal, lifelong access to support from independent advocates.

Resources
- Access the webinar recording here.
- Access the slides here.
- Access the Navigating a World of Rights report here. There is a short video for this report here.
- You can read more about The Promise Scotland, responsible for driving the work of change demanded by the findings of the Independent Care Review.

Webinar 4: Impact Assessments, Budgeting and Data

An introduction to child rights impact assessments
Eilidh Turnbull, British Institute of Human Rights

Access the [slides from the presentation here.](#)

What are CRIAs?
CRIAs (Children's Rights Impact Assessments) are a tool used to look at the potential impact on children's rights of a proposed policy, law, or decision. They should be done every time a government or a public body makes a decision that impacts children (directly or indirectly). Charities, groups and organisations can also complete CRIAs, as they can raise concerns and prompt decision-makers to take human rights into account.

Why should we do CRIAs?
CRIA centres both decision and policy making in human rights and enables us to take steps to mitigate or reduce the negative impact decisions may have. It can make sure the voices and experiences of people who are potentially impacted are considered.

How do you do them?
When completing a CRIA, you should explore:

- What human rights apply? What are the legal duties?
- Which rights may be impacted and how?
- Include any steps that can be taken to ensure the decision is more rights-respecting.

Two suggested approaches: PANEL and FAIR
For PANEL, consider the following:

- **P**articipation – people and groups should be involved in decisions that affect their rights.
- **A**ccountability – people and groups should be listened to and changes should be made if something has gone wrong.
- **N**on-discrimination – people and groups should be offered equal opportunities to be involved and share their views.
- **E**mpowerment – everyone should know about their rights and should be supported to be involved in decisions about their lives.
- **L**egality – decisions and processes used by public services should be based on human rights law.

For FAIR, think about the following:

- **F**acts – what are the facts of the situation? How long has it been going on for? What is the impact of the people being involved?
- **A**nalyse the rights at stake

- **I**dentify changes necessary to improve the decisions being made and identify who is responsible for making these
- **R**ecord and review – review the previous principles and adjust the answers to the principles above as time goes on.

Resources
- Access the [webinar recording here](#)
- Access the [slides here.](#)

Human Rights Budgeting
Dr Jo Ferrie, University of Glasgow and Human Rights Budgeting Working Group
Aidan Flegg, University of Glasgow and Human Rights Budgeting Working Group

What is human rights budgeting?
A human rights budget is one which aims to enable the realisation of everyone's human rights. It involves applying international human rights standards to budgeting processes – including transparency, participation and embedding accountability (see the PANEL principles above). In human rights budgeting, decision-makers should make their decisions "in the room" with the people it will affect, rather than listening to what people say and then ultimately making the budgetary decisions "behind closed doors".

Human rights budgeting can also be seen as a monitoring tool. It helps us measure if we are moving in the right direction when it comes to realising children's rights.

Why is it important?
The budget is the most significant instrument of social policy because it can be used to constrain, maintain or enable progressive reform at local and national levels. Budgets are also a sign of government's priorities – so if human rights are not visible within a budget then it means they are not seen as a priority. Human rights budgeting is a tool to ensure these rights are protected, respected and fulfilled.

Key concepts and the international framework
International treaties set out the key principles for human rights budgeting. The International Covenant on Economic, Social and Cultural Rights and the UNCRC both set out the principle of "progressive realisation". This means that progress should be made over time towards the full realisation of human rights. As part of this principle, there are three related concepts:

- **Maximum available resources**: governments should use the maximum amount of the resources available to them to realise human rights.
- **Non-retrogression**: governments should not take any backwards steps.
- **Minimum core obligations:** the minimum, essential level of a right that all governments must guarantee regardless of resources.

In 2016, the UN Committee on the Rights of the Child issued guidance on children's rights and public budgets - General Comment 19.

Budget frameworks

There are several, mutually reinforcing budget frameworks which can be used to realise human rights. These include wellbeing budgeting, gender budgeting, participatory budgeting and children's budgeting.

Each of these frameworks has its strengths. If one is used in isolation, then some of the strengths of the other approaches is lost. We need to create a model that draws on the strengths of all these approaches.

Recovery, prevention and boosting financial power

Dr Ferrie noted that we need to:

1. Lobby for power sharing
2. Lobby for human rights budgeting
3. Lobby for transparency – of data, resources and spend

Early investment in early years is key to realising children's rights but can also save money in the long run and boost local economies.

Resources

- Access the webinar recording here.
- Access the slides here.
- Flegg, A. and Ferrie, J. (2021) Introduction to Human Rights Budgeting.
- Nolan, A. (2014) Human Rights Budget Work, SNAP Innovation Forum, Govan
- SHRC (2019) Human Rights Budget Work; What, Why, How?
- SHRC, Human Rights Budget Work
- O'Connell R et al (2014) Applying an International Human Rights Framework to State Budget Allocations (Routledge)
- UN OHCHR (2017) Realising Human Rights Through Government Budgets

Children's Rights Indicators: International Approaches

Mihaela Manole, Research and Evaluation Associate, CELCIS

Access the slides from the presentation here.

Background

Data collection concerns a plethora of tools, measures and indicators supporting the collection and analysis of data involving children and young people.

Rationale for developing data collection tools

1. Measuring performance
2. Assessing compliance

3. Comparing between states or years
4. Informing or guiding improvement
5. Guiding research and informing evidence-based opinions
6. Informing and strengthening advocacy

What is important in data collection?

It is important in data collection to work with qualitative and qualitative data side by side, as quantitative data do not show the bigger picture of the situation. Qualitative data, such as children's experiences in their own words, can help build a more complete picture than is visible from the quantitative data alone.

Children's rights indicators

There are various examples of children's rights indicators in use. Examples include:

- KidsRights Index
- Belgian National Child Rights Indicators
- Structure processing outcome: it measures on one hand treaty obligations and the extent to which the rights outlined in the treaty are ensured. Eg Early childhood rights indicators.
- EU Agency for Fundamental Rights Indicators: looks at the policy existing in the EU on four areas: (a) family environment and alternative care; (b) protection from exploitation and violence (c) education, citizenship and cultural activities; (d) adequate standard of living.

Looking ahead

Child's rights indicators canvassed by Laura Lundy

- Data collection should pay attention to inequality and how this is reflected in data
- Using the indicators has to be respectful of children's rights

Next Steps in data Collection

- Starting small (then expand)
- Fit for purpose
  - Clear context and use
  - Driven by what needs to be known, rather than available data
- Meaningful and relevant
- Comprehensive (both qualitative and quantitative)
- Collaborative approach that includes children and young people

Resources
- Access the webinar recording here.
- Access the webinar slides here (these include further references)