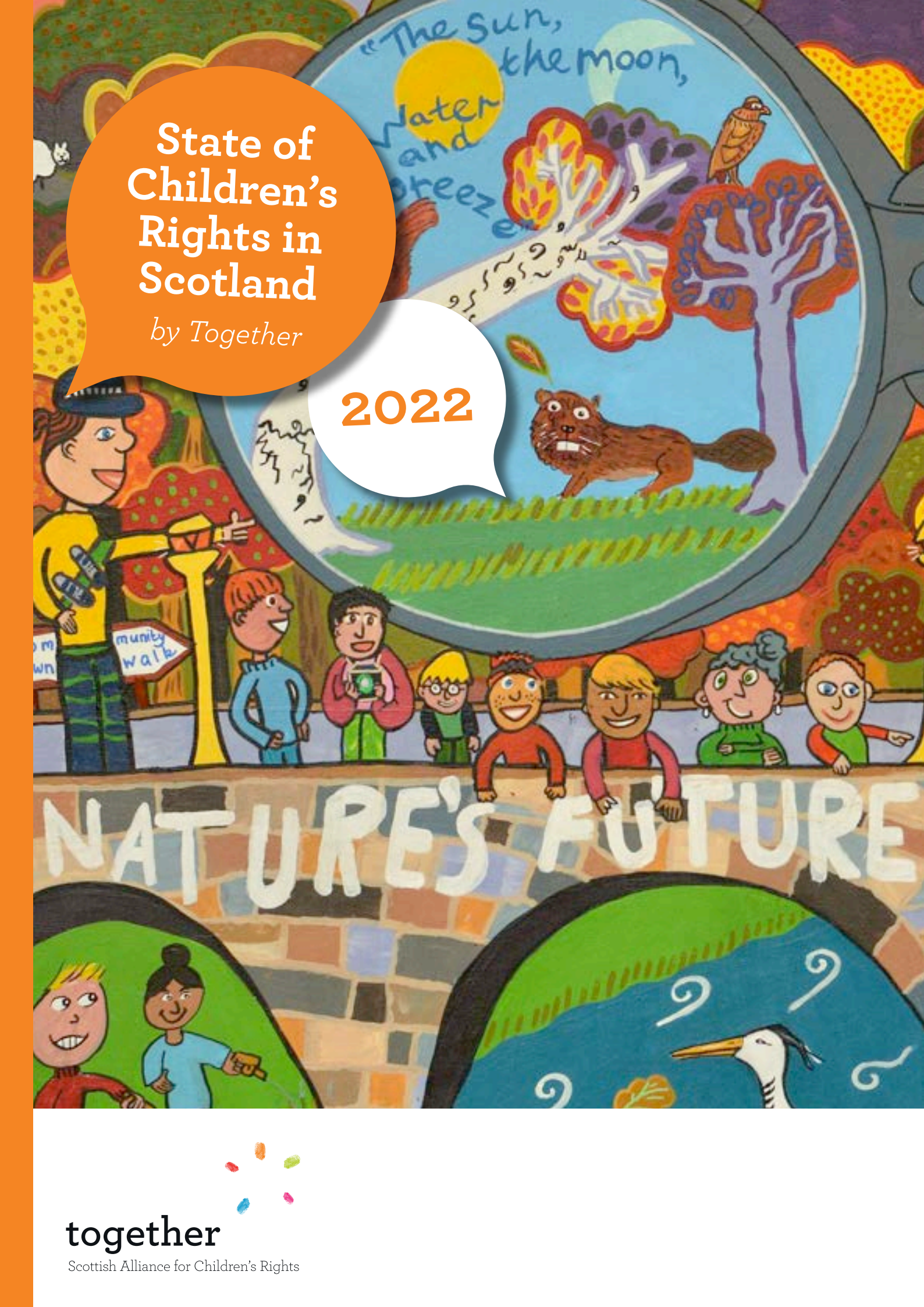




State of Children's Rights in Scotland

by Together

2022

together

Scottish Alliance for Children's Rights

About Together

Together (Scottish Alliance for Children's Rights) is an alliance of almost 500 children's organisations, academics and interested professionals. Our vision is that all children in Scotland have their human rights respected, protected and fulfilled. To achieve this, we work to inspire and enable everyone in Scotland to put children's human rights at the heart of everything they do.

Key: icons used in this report

- | | |
|---|--|
|  Quotes from children |  Quotes from adults and organisations |
|  Case studies of promising practice |  Watch this space! |
|  Top tips |  UNCRC article |

Glossary of Terms

AAC – Augmentative and Alternative Communication

ADES – Association of Directors of Education in Scotland

The ALLIANCE – The Health and Social Care Alliance Scotland

APiC – A Place in Childhood

Article – a specific section of an international treaty such as the United Nations Convention on the Rights of the Child

ASN – Additional Support Needs

Barnahus model – a child-friendly, multidisciplinary and interagency model for responding to child victims or witnesses of abuse or violence (also known as Bairn's House in Scotland).

BSL – British Sign Language

CAMHS – Child and Adolescent Mental Health Services

Care Experienced – anyone who has been or is currently in care or from a looked-after background at any stage in their life, no matter how short it is.

CEDAW – Convention on the Elimination of All Forms of Discrimination Against Women

CELCIS – Centre for Excellence for Children's Care and Protection

CFVC – Caring for Vulnerable Children

Child/children – for the purpose of brevity and in line with Article 1 UNCRC, this report uses "child" or "children" to refer to people under the age of 18. However, we acknowledge that many older children prefer the category 'young people'.

Concluding Observations – recommendations from a UN treaty body that set out further steps a specific country should take to implement human rights.

Co-production – actively involving children in a matter that affects them. Co-production goes beyond simple 'consultation' and gives children an active role in decision making.

CRIA – Child Rights Impact Assessment

CRIN – Child Rights International Network

CRWIA – Child Rights and Wellbeing Impact Assessment

CYCJ – Children and Young People's Centre for Justice

CYPCS – Children and Young People's Commissioner for Scotland

Devolved governments – governments of Scotland, Wales and Northern Ireland

DGD – Day of General Discussion

ECHR – European Convention on Human Rights

EHRIC – Scottish Parliament Equalities and Human Rights Committee (since renamed)

ENYA – European Network of Young Advisers

ESOL – English for Speakers of Other Languages

EU – European Union

FOI – Freedom of Information

GCVS – Glasgow Council for the Voluntary Sector

General Measures of Implementation – actions countries should take to embed the UNCRC into law, policy and practice. This includes creating participatory structures, rights-based budgeting and raising awareness of children’s human rights.

General Principles – four UNCRC articles which help to interpret all of the others. These are Article 2 (non-discrimination), Article 3 (best interests), Article 6 (life, survival and development) and Article 12 (right to be heard).

GIRFEC – Getting It Right for Every Child

IAP – Inclusion as Prevention

ICCPR – International Covenant on Civil and Political Rights

ICERD – International Convention on the Elimination of All Forms of Racial Discrimination

ICESCR – International Covenant on Economic, Social and Cultural Rights

IJCC – Improving Justice in Child Contact Project

Incorporation – the process of making an international treaty part of a country’s own law.

LGBT – Lesbian, Gay, Bisexual and Transgender

LGBTQI – Lesbian, Gay, Bisexual, Transgender, Queer and Intersex

LOIPR – List of Issues Prior to Reporting. A list of questions the UN Committee on the Rights of the Child sends to a country ahead of reviewing its progress to implement children’s human rights.

MCP – Member of Children’s Parliament

MHOG – Mental Health Operational Group

MOOCs – Massive Open Online Courses

MSP – Member of Scottish Parliament

MSYP – Member of Scottish Youth Parliament

National Outcomes – aims that describe the kind of Scotland that Scottish Government wants to create.

NGO – refers to non-governmental organisations in Scotland unless otherwise stated

NTO – National Transitions Officer

OHOV – Our Hearings Our Voice

PACE – Permanence and Care Excellence

PDC – Participative Democracy Certificate

PECS – Picture Exchange Communication Systems

PoC – Person (or People) of Colour

The Promise – one of the five reports published by Scotland’s Independent Care Review.

PSE – Personal and Social Education

Public authority – includes organisations such as Scottish Government, local authorities, health services, police and schools. For further definition see Section 6 of the UNCRC Incorporation Bill.

Reserved matters – topics that the Scottish Parliament is not permitted to make laws about.

SCMA – Scottish Childminding Association

SCQF – Scottish Credit and Qualifications Framework

SDG – Sustainable Development Goals

SHANARRI – Scottish Government’s indicators for children’s wellbeing. Stands for Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included.

SHRC – Scottish Human Rights Commission

SIB – UNCRC Strategic Implementation Board

SIMD – Scottish Index of Multiple Deprivation

SNAP – Special Needs Action Project (may also be used for Scotland’s National Action Plan for Human Rights).

SPSO – Scottish Public Services Ombudsman

SQA – Scottish Qualifications Authority

SYP – Scottish Youth Parliament

UN – United Nations

UNCAT – United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The UN Committee – United Nations Committee on the Rights of the Child

UNCRC – United Nations Convention on the Rights of the Child

UNCRC Incorporation Bill – shortened term for the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill

UNCRPD – United Nations Convention on the Rights of Persons with Disabilities

UNICEF – United Nations Children’s Fund

UPR – Universal Periodic Review

VIP – Voices and Inclusion Project

Whole Systems Approach – an approach introduced in 2011 that focuses on diversion, early intervention and holistically responding to children in conflict with the law.

Artwork

The artwork used throughout this report was created by Members of the Children’s Parliament (SC 026247).

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Executive Summary

Background

The *State of Children's Rights Report 2022* seeks to inspire and enable everyone in Scotland to put children's human rights at the heart of everything they do. These rights are enshrined in the United Nations Convention on the Rights of the Child (UNCRC) and other international human rights treaties.

Purpose of the report

This report has been developed to support public authorities, the third sector, organisations and individuals as we approach implementation of the UNCRC (Incorporation) (Scotland) Bill.

The UNCRC Incorporation Bill was passed unanimously by the Scottish Parliament in March 2021. It is an important first step in making rights real for children. In October 2021, the UK Supreme Court found that aspects of the Bill exceeded the powers of the Scottish Parliament and would need to be addressed before it could enter into force.¹ Scottish Government has confirmed its commitment to address these issues as soon as practicable and that the majority of implementation work can, and should, continue whilst these technical issues are resolved.²

- Refer to Chapter 1.3 for more details on the UNCRC Incorporation Bill and the UK Supreme Court challenge.

Effective implementation of the UNCRC Incorporation Bill will be key to delivering the transformative change that children and their families need. We hope this report is an inspirational and encouraging tool that helps people understand what a child rights-based approach looks like and how to embed this in practice.

Many children in Scotland already lead safe, happy lives and feel listened to and respected by the adults around them. Many organisations will already have procedures that are consistent with a child rights-based approach and with new duties under the UNCRC Incorporation Bill. Yet, despite these efforts, there is much to do to make rights a reality for all children living in Scotland. Adopting the principles and practices described in this report will complement or strengthen what is already working.

Evidence gathering

This report is built upon what children have said is important to them. Throughout the report you will see insights children have shared with us and our members.



¹ Reference by the Attorney General and the Advocate General for Scotland – United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill [2021] UKSC 42.

² Scottish Parliament (2021). Scottish Governments response to UK Supreme Court judgment on UN Convention Rights of the Child. <https://bit.ly/3IWxwkF> [Date accessed: 29.01.22].

Together conducted wide consultation with its members and supporters across Scotland. This explored the internal and external challenges they face and the efforts they are taking to overcome these challenges. Engagement took place in four phases:



We would like to thank all participants for being so candid about the challenges they are facing, and for sharing the inspiring case studies which are found throughout this report.

Report structure

The report begins with an overview of what a child rights-based approach looks like. This includes an introduction to the international and domestic legal frameworks for upholding children's human rights.

Subsequent chapters are broadly themed around the requirements of the Children's Rights Scheme set out in Part 3 of the UNCRC Incorporation Bill. The Children's Rights Scheme focuses on a range of actions that should be taken to put children's human rights into practice. These actions include children's participation in decision making, raising awareness of children's human rights and conducting child rights impact assessments.

- Refer to Chapter 1.3 for more information on the Children's Rights Scheme.

Each chapter explores ways to embed children's human rights and the benefits of doing so, the challenges children and organisations are facing, the steps being taken to overcome these challenges, practical tools, tips and resources. Promising practice case studies illustrate how some organisations are already working to make human rights a reality for children. We hope these case studies will offer guidance and inspiration to others.

Key Findings

Children's participation in decision making

Our research highlighted the challenges organisations and children face in relation to participation. A recurring challenge is a gap between theory and practice for many decision makers, adults and organisations. Multiple participants identified the lack of a feedback loop – both internally and externally – meaning children did not know the impact of their engagement and could not hold decision makers to account. Many organisations noted the considerable challenges COVID-19 posed for children's participation and the impact this had on certain groups of children. Ensuring child-friendly and inclusive online participation which is sensitive to the needs of all children became a challenge faced by most organisations. To overcome this, organisations put significant effort into working innovatively to ensure that children's right to participate was upheld. Case studies in this chapter look at co-production, building a trusting environment, inclusive online participation, designing activities with children, adapting to limited timescales, participation of younger and early

years children, supporting children's direct engagement with decision makers and sharing practice between organisations.

Inclusive communication

Having the skills to confidently communicate with children, particularly disabled children and early years children, was one of the key challenges expressed by organisations. Being equipped with these skills would enable *all* children to be involved in participatory activities with successful feedback loops. Methods used to ensure communication is inclusive involves targeting the spaces used by children who are at an increased risk of having their views missed, misinterpreted, diluted or even dismissed by others. To do this, organisations have used different social media platforms. Peer-research and supportive techniques which utilise existing relationships have also helped organisations to better identify what children are wanting to communicate. Organisations have disseminated their learning by delivering training sessions and developing resources which distinguish various signals of engagement.

Situations where children's rights are not being fulfilled or are at risk

Children with certain characteristics, identities and/or experiences face an increased risk of not having their rights fulfilled. Collecting and monitoring data enables us identify groups who are at increased risk of having their rights breached. It supports the designing of solutions which meet children's needs and prevents breaches of their rights. Responses to our survey highlighted a range of internal and external issues impacting organisations' ability to carry out effective data collection and monitoring. Externally, organisations have called on public authorities to better collect, disaggregate and monitor data. Internally, organisations have sought to fill any gaps in available information through conducting their own research and submitting Freedom of Information requests although noting pressure on their capacity. Case studies in this chapter identify a whole host of resources which organisations have developed to challenge both direct and indirect discrimination.

Raising awareness and understanding

Organisations encountered challenges such as lack of knowledge of children's rights, exclusion of groups of children whose rights are at risk, and lack of funding opportunities. The pandemic exacerbated existing challenges in raising awareness of children's rights – among children and adults alike. Measures introduced in light of COVID-19 made it more difficult to communicate effectively about children's rights. Organisations continued to develop promising practices to overcome these challenges. Case studies in this chapter look at research, learning resources, awareness, training and funding.

Access to justice

Organisations face several difficulties when implementing proactive, preventative and reactive access to justice measures. These challenges included restricted access to independent advocacy based on location, issue, age, and additional support needs. Promisingly, organisations have sought to secure extra funding to widen their remit for advocacy services. Advocacy services have undertaken awareness raising activities so children can be better signposted to supportive services. Long waiting times, unsatisfying outcomes, adult-focused language create difficulties for informal and formal complaints to be made by children. Staff training, inclusive communication techniques and involving children in the development of child-friendly complaints mechanisms from the outset have helped to make these processes more accessible to children and responsive to their needs.

Child rights budgeting

Child rights budgeting is a key area in need of development. Organisations felt confused by different terminology and budgeting models (such as gender-based, wellbeing and participatory budgeting). The relationship between these models needs to be clarified in a way that allows the strengths of

each approach to be harnessed. Despite these challenges, examples of promising practice are emerging – particularly around supporting children to influence budgetary decisions.

Child Rights Impact Assessments (CRIA)

There are gaps in knowledge and understanding about CRIA. Organisations also noted difficulties around accessing relevant data to complete CRIA and how to engage children in the process. Case studies in this chapter include charities that have developed their own CRIA models, organisations that have started to conduct CRIAs of their policies and processes, and work to ensure children's views shape the outcome of CRIAs.

Introduction

Together (Scottish Alliance for Children's Rights) works to inspire and enable everyone in Scotland to put children's human rights at the heart of everything they do. Since our inception in 1996, we have grown to a network of almost 500 members ranging from national charities to local playgroups, parents' associations, academics and individuals.

In March 2021, we celebrated the passage of the UNCRC Incorporation Bill which will make children's human rights part of Scots law. This significant achievement followed over a decade of campaigning by children, young people, Together's members and wider civil society. Once in force, the Bill will place duties across a range of different areas – including schools, hospitals, policing and transport – to protect and uphold the rights set out in the UNCRC. If children's UNCRC rights are breached, children and their supporters will be able to complain to the courts in the most serious cases.

The UNCRC Incorporation Bill was welcomed as a milestone on Scotland's journey towards making human rights real for every child. The next step is effective implementation to ensure the Bill delivers the transformative change that children and their families need. While the UK Supreme Court has identified technical issues with the Bill that must be resolved before it can enter into force, Scottish Government has confirmed that the majority of implementation work can, and will, continue whilst these technical issues are resolved.

Our State of Children's Rights Report 2022 has been developed to support public authorities, the third sector, other organisations and relevant individuals to prepare for implementation of the UNCRC Incorporation Bill.

A range of actions can ensure law and policy are implemented in line with the UNCRC, including children's participation in decision making, raising awareness and understanding, child rights impact assessments (CRIA), child rights budgeting, data collection and analysis. Throughout this report, we demonstrate the importance of these actions, identify common challenges and steps being taken, examples of promising practice, resources and practical suggestions. By taking this approach, we hope to inspire broader implementation of child rights-based approaches. We hope our report can serve as a roadmap for government, parliament and practitioners on what must happen next to ensure the human rights of *all* children in Scotland are protected, respected and fulfilled, *all of the time*.



Chapter 1:

A child rights-based approach



1.1 What is a child rights-based approach?

A 'child rights-based approach' means putting children's human rights at the heart of everything you do. It is a principled and practical framework for working with and for children, grounded in the United Nations Convention on the Rights of the Child (UNCRC).

The United Nations Convention on the Rights of the Child

The UNCRC is an international treaty that sets out specific human rights for everyone under 18 years of age. It reflects the particular needs, vulnerabilities and potential of children and includes a broad range of rights from the right to play, the right to take part in decisions, through to the right not to be separated from their parents, unless it is in the child's best interests.

Children's human rights are:

Universal – everyone under the age of 18 has rights under the UNCRC;

Unconditional – rights are automatic – they are not 'earned';

Inalienable – rights cannot be given or taken away;

Inherent – rights are permanent;

Indivisible – children's rights are dependent on each other for their effectiveness.

You cannot 'pick and choose' rights – you must uphold them all.



General Principles

The UNCRC is made up of 54 articles that cover all aspects of children's lives. Four articles are seen as special. They are known as the 'General Principles' and help to interpret all other articles of the UNCRC. The General Principles should be kept in mind whenever a decision is being made that (directly or indirectly) affects children. These principles are at the heart of a child rights-based approach:

Non-discrimination – Article 2 UNCRC

1. *States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*
2. *States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.*

Best interests of the child – Article 3 UNCRC

1. *In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*
2. *States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.*

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Right to life, survival and development – Article 6 UNCRC

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Right to be heard – Article 12 UNCRC

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Minimum standards

It must be remembered that the UNCRC is a *floor*, not a ceiling for rights protection. It sets out basic *minimum* standards beyond which countries should strive. There must be an expectation that Scotland goes above the bare minimum if it is truly to deliver a ‘gold-standard’ for children’s rights protection.

Going beyond minimum standards – Article 41 UNCRC

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State party; or
- (b) International law in force for that State.

General Comments

The UN Committee on the Rights of the Child (UN Committee) produces a wide range of commentary to guide governments in their efforts to realise children’s human rights. This guidance is set out in documents known as General Comments. These cover issues such as children’s participation, adolescent health, protecting children from violence and abuse and establishing children’s best interests.

The State of Children’s Rights Report 2022 references these General Comments to enable public bodies to quickly and easily learn more about specific areas of children’s rights. In particular, the report reflects General Comment 5 on the ‘general measures of implementation’. This means the actions countries should take to embed the UNCRC into law, policy and practice. The chapters of this

report reflect many of the themes in General Comment 5 including children's participation in decision making, rights-based budgeting, training and capacity-building.³

- **Learn more about the different General Comments here.**

Monitoring UNCRC implementation

The UN Committee oversees countries' compliance with the UNCRC. It takes evidence regarding UNCRC implementation in the UK approximately every five years. Non-governmental organisations (NGOs) are given a role in monitoring the UNCRC's implementation. Together works closely with its sister organisations in England, Wales and Northern Ireland to fulfil this role.⁴

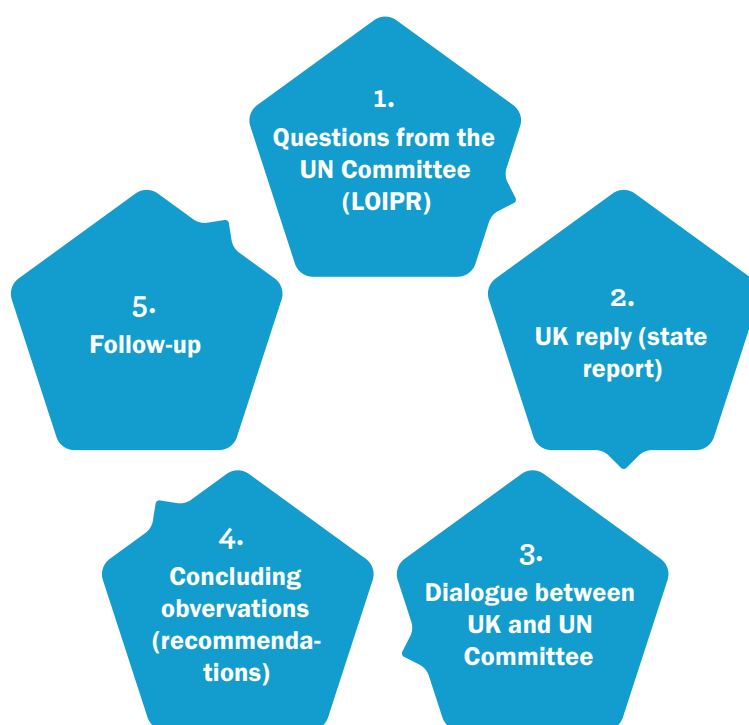
The last review cycle concluded in 2016. Following this examination, the UN Committee made a series of 150 recommendations (known as Concluding Observations) to set out where the UK – including Scotland – was falling short.⁵

A new examination cycle is currently underway. In December 2020, Together submitted a report to the UN Committee to inform its early considerations.⁶ In February 2021, the UN Committee published a List of Issues Prior to Reporting (LOIPR) requesting specific information from the UK and devolved governments about their progress in implementing the UNCRC.⁷ This included an update on progress towards the 2016 recommendations and questions on new issues. The UK Government must submit its official response by 15th June 2022 and Scottish Government will contribute to this report. The UN Committee is expected to meet with the UK delegation in January 2023 and will publish its Concluding Observations shortly thereafter. Delays to this timeline may occur in light of a COVID-19 backlog of reviews.

Together will draw from the State of Children's Rights Report 2022 and wider consultation with members to inform the UN Committee on priority issues impacting on children's human rights in Scotland.

- **Learn more about the different General Comments here.**

Diagram: the UNCRC Reporting Cycle ►



³ CRC/GC/2003/5.

⁴ See Together, Children's Rights Alliance England, Children in Wales/Wales UNCRC Monitoring Group, Children's Law Centre (2020). England, Scotland, Wales and Northern Ireland NGO briefing to the UN Committee on the Rights of the Child to inform its List of Issues Prior to Reporting United Kingdom of Great Britain and Northern Ireland. <https://bit.ly/3sdiBLZ> [Date accessed: 18.01.22].

⁵ CRC/C/GBR/CO/5.

⁶ Together (2020). Children's Rights in Scotland (UK): Civil society report to inform the UN Committee on the Rights of the Child's List of Issues Prior to Reporting by Together (Scottish Alliance for Children's Rights). <https://bit.ly/3L6X9kv> [Date accessed: 13.12.21].

⁷ CRC/C/GBR/QPR/6-7.

Other treaties and the Universal Periodic Review

The UK is also signatory to six other United Nations human rights treaties, including International Covenants on Civil and Political Rights (ICCPR) and Economic, Social and Cultural Rights (ICESCR), as well as conventions against torture (UNCAT), racial discrimination (ICERD), discrimination against women (CEDAW) and the rights of disabled people (UNCRPD).

Approximately every six years, the UK Government submits a report to the relevant UN treaty body on its implementation of the treaty. These reports address both reserved and devolved matters and include contributions from Scottish Government. After considering evidence from a range of sources, including a verbal examination of representatives from the UK, the relevant committee issues recommendations as to how the UK and devolved governments can make progress in implementing the particular treaty.

In addition to reviews by specific treaty bodies, an overarching review of the UK's human rights record takes place every five years through the Universal Periodic Review (UPR). Through this process, UN Member States make recommendations relating to the UK's human rights record, many of which concern children's rights. The last UPR recommendations for the UK were issued in 2017. The next UPR review is due to take place in late 2022.

- [Learn more about the other treaties and UPR here.](#)

1.2 UK legislation

The UK Government ratified the UNCRC in 1991. In ratifying the UNCRC, the UK committed all areas of government to do all they can to fulfil children's human rights. This includes UK and Scottish Government through to public bodies including local authorities, health services, criminal justice institutions and schools.

Human Rights Act 1998

The Human Rights Act 1998 protects the human rights of people of all ages, including children. The Human Rights Act incorporated parts of the European Convention on Human Rights (ECHR) into UK law. As such, the Human Rights Act sets out civil and political rights. By contrast, the UNCRC also includes economic, social and cultural rights.

The Human Rights Act currently provides the only mechanism through which children in the UK can seek legal redress for breaches of their human rights.

The UK Government has repeatedly proposed to repeal or overhaul the Human Rights Act. In December 2020, it commissioned an Independent Review into the operation of the Act. Together's response highlighted the important role the Human Rights Act plays in protecting children's rights.⁸ Additional research conducted for Together by an LLM Human Rights candidate at the University of Edinburgh noted the progression of, and gaps in, protection the Human Rights Act affords to children, as well as lessons to be learned for implementation of the UNCRC Incorporation Bill.⁹ The long-awaited findings of the Independent Review were published in December 2021. The report

⁸ Together (2021). *Independent Human Rights Act Review*. <https://bit.ly/3oi104H> [Date accessed: 13.12.21].

⁹ Mohd Ali, S. Z. B. (2021). *Human Rights Act 1998: A study on how the Human Rights Act 1998 has impacted children's rights in the United Kingdom in anticipation of Scotland's implementation of the UNCRC (Incorporation) (Scotland) Bill and future incorporation of international human rights treaties*. <https://bit.ly/3lUd5F1> [Date accessed: 13.12.21].

concluded that the Human Rights Act had been a success and did not advocate for radical overhaul.¹⁰ Nevertheless, the UK Government reiterated its plans for reform and launched a three-month consultation on plans to replace it with a UK Bill of Rights.¹¹

1.3 Scottish legislation

Early developments

Since the UK ratified the UNCRC in 1991, Scotland has taken a piecemeal approach to reflecting children's rights in law. The Children (Scotland) Act 1995 was a significant first step, reflecting the principle of a child's best interests and participation rights (UNCRC Articles 3 and 12 respectively). These have been reflected in subsequent legislation.^{12 13 14}

Scotland Act 1998

The Scotland Act 1998 (Scotland Act) provided for the establishment of the Scottish Parliament and the devolution settlement. This resulted in the transfer of a range of powers which have a significant impact on children's human rights – such as education, health and housing.

The Scotland Act specifies that the Scottish Parliament has limited powers. It cannot make laws on 'reserved matters' such as immigration, the economy, defence, the constitution and the related power of the UK Parliament to make laws for Scotland. The Scotland Act also specifies that the Scottish Parliament cannot legislate in a way which is incompatible with 'Convention rights' – meaning ECHR rights which have been incorporated by the Human Rights Act 1998.

The Human Rights Act and Scotland Act encouraged the development of a human rights culture in Scotland.¹⁵ However, children were clear that greater legal protection of their rights was required.

Children and Young People (Scotland) Act 2014

The Children and Young People (Scotland) Act 2014 (2014 Act) was a response to children's calls.¹⁶ The 2014 Act placed the UNCRC in Scottish legislation for the first time, creating reporting duties for Scottish Government and public bodies, and granting investigatory powers to the CYPCS. The 2014 Act was widely welcomed as providing a platform for systemic change but fell short of calls to fully incorporate the UNCRC into law.¹⁷

UNCRC (Incorporation) (Scotland) Bill

Following a decade-long campaign by children, young people and their supporters, the UNCRC (Incorporation) (Scotland) Bill (UNCRC Incorporation Bill) was introduced to the Scottish Parliament in September 2020. Members of Scottish Parliament passed it unanimously on 16th March 2021.¹⁸

¹⁰ Independent Human Rights Act Review Panel (2021). *The Independent Human Rights Act Review*. <https://bit.ly/3L3RgVh> [Date accessed: 30.01.22].

¹¹ UK Government (2021). *Human Rights Act Reform: A Modern Bill of Rights*. <https://bit.ly/3sanNQT> [Date accessed: 18.01.22].

¹² Sections 6, 11, 16, and 17. *Children (Scotland) Act 1995*. <https://bit.ly/3L3412t> [Date accessed: 13.12.21].

¹³ Section 2(2). *Standards in Scotland's Schools etc. Act 2000*. <https://bit.ly/3ulizok> [Date accessed: 13.12.21].

¹⁴ Section 27, *Children's Hearings (Scotland) Act 2011*. <https://bit.ly/3ujAviR> [Date accessed: 13.12.21].

¹⁵ Scottish Human Rights Commission (2018). *Inquiry: 20 years of the Human Rights Act 1998 Written evidence to the Joint Committee on Human Rights Scottish Human Rights Commission*. <https://bit.ly/3IRx6Mc> [Date accessed: 18.01.22].

¹⁶ *Children and Young People (Scotland) Act 2014*. <https://bit.ly/35lz97g> [Date accessed: 13.12.21].

¹⁷ *Together* (2017). *Post-Seminar Briefing 4: The UNCRC Going Forwards*. <https://bit.ly/3sc5t9X> [Date accessed: 13.12.21].

¹⁸ *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill*. <https://bit.ly/3s58NDU> [Date accessed: 18.01.22].

What is incorporation?

Incorporation means making an international treaty part of a country's own laws. This means the government and public authorities must follow the rights that the treaty contains. Incorporation means protections in a treaty are made accessible to the people who live in that country – including children.

 *I think you should make children's rights law because it will keep a lot more children safe.¹⁹*

What will the UNCRC Incorporation Bill do?

Once in force, the UNCRC Incorporation Bill will make children's human rights under the UNCRC part of the law in Scotland. It will:

- Require public authorities in Scotland to act compatibly with the UNCRC requirements;
- Give children and their representatives the power to enforce their rights in court;
- Give Scottish courts the power to decide if legislation is compatible with the UNCRC requirements;
- Require Scottish Government to publish a Children's Rights Scheme that explains how it is meeting the UNCRC requirements and its future plans to promote and embed children's human rights;
- Require Scottish Government to review the Children's Rights Scheme every year;
- Require certain public authorities to write a report every three years on what they are doing (and plan to do) to meet the UNCRC requirements.

The Children's Rights Scheme

The UNCRC Incorporation Bill requires Scottish Government to prepare and publish a Children's Rights Scheme.²⁰ The Children's Rights Scheme is a plan that sets out the steps that Scottish Government has taken – and plans to take – to ensure compliance with children's rights.

Scottish Government must review and report on the scheme every year. Before publishing the report, it must consult with children, Children and Young People's Commissioner for Scotland (CYPCS), Scottish Human Rights Commission (SHRC) and other stakeholders as appropriate. The annual report must be laid before the Scottish Parliament and be accompanied by a child-friendly version.

Certain things *must* be included in the Children's Rights Scheme. This includes what Scottish Government is doing and plans to do to:²¹

- Ensure children are able to participate in decision making;
- Use and promote the use of inclusive ways of communicating;
- Identify and address any situation where a child's rights are (or are at risk of) not being fulfilled;

¹⁹ Children's Parliament (2019). 'All rights are important, so all rights should be law' – A consultation on incorporating the UNCRC into domestic law in Scotland, p6. <https://bit.ly/3INQ6eK> [Date accessed: 13.12.21].

²⁰ Section 11. United National Convention on the Rights of the Child (Incorporation) (Scotland) Bill. <https://bit.ly/3s58NDU> [Date accessed: 18.01.22].

²¹ Section 11(3)(a)-(f). United National Convention on the Rights of the Child (Incorporation) (Scotland) Bill. <https://bit.ly/3s58NDU> [Date accessed: 18.01.22].

- Raise awareness and promote children's rights;
- Promote child-friendly complaints processes;
- Ensure children have effective access to justice;
- Protect children's rights in relation to non-government bodies (e.g. public services delivered by third sector or private bodies);
- Ensure child rights-based budgeting;
- Prepare Child Rights and Wellbeing Impact Assessments.

The chapters of the State of Children's Rights Report 2022 are broadly themed around the requirements above. They explain what each of these concepts means and why they are important. They share potential challenges, drawing from the experience of our members, and case studies of promising practice to overcome these challenges. Recommendations from the UN Committee and key National Outcomes have been mapped against these topics.

There is considerable overlap and interlinkage between the chapters and case study themes. This is to be expected, given the interdependence and indivisibility of children's human rights. Cross-references have been added where relevant.

UK Supreme Court challenge

Shortly after it was passed, the UK Government raised concerns that aspects of the UNCRC Incorporation Bill went outwith the powers of the Scottish Parliament. The UK Government referred the case to the UK Supreme Court. The Supreme Court handed down its judgment on 6th October 2021. The judges unanimously decided that four provisions of the Bill went beyond the powers of the Scottish Parliament. They did not object to the policy intention behind the Bill nor the Scottish Parliament's powers to incorporate the UNCRC – provided it stayed within the limits of its powers.

The result of this judgment is that the UNCRC Incorporation Bill cannot enter into force in its current form. Scottish Government has reiterated its commitment to incorporation and that it will work at pace to resolve technical issues with the Bill.

In November 2021, Scottish Government published its 2021-24 Action Plan for children's rights.²² This stated Scottish Government's commitment to incorporate the UNCRC "to the maximum extent possible, as soon as practicable". It noted that Scottish Government is "urgently and carefully considering the implications of the judgment and how best to take that work forward" and that the majority of work in relation to implementing the UNCRC could and would continue whilst technical issues were resolved.²³

The State of Children's Rights Report 2022 should be read in light of this context. All references to the UNCRC Incorporation Bill are references to the form in which it was passed by the Scottish Parliament on 16th March 2021.

Children's rights and subcontracted services

Private and third sector bodies play an increasing role in children's lives.²⁴ Often services are outsourced and funded by national or local government. In line with non-discrimination (Article

²² Scottish Government (2021). *Progressing the human rights of children in Scotland: action plan 2021 to 2024*. <https://bit.ly/3uko2f5> [Date accessed: 18.01.22].

²³ Scottish Government (2021). *Progressing the human rights of children in Scotland: action plan 2021 to 2024*, p2. <https://bit.ly/3uko2f5> [Date accessed: 18.01.22].

²⁴ CRC/C/GC/16.

2 UNCRC), it is essential that the rights of *all* children are protected, respected and fulfilled – regardless of who is providing the service they access.

The UN Committee has recognised this issue. In 2013, it published a General Comment on business and children’s rights.²⁵ In 2016, the UN Committee called on the UK and devolved governments to ensure the business sector complied with children’s human rights, including in the context of public procurement.²⁶ The UN Committee recently asked for updates ahead of the UK’s review in 2022-23.²⁷

Scottish Government’s 2018-21 and 2021-24 Action Plans have both acknowledged the issue of outsourcing.^{28 29 30} The UNCRC Incorporation Bill (as originally passed), placed a duty on public authorities to act compatibly with children’s human rights. This included private bodies undertaking “functions of a public nature” such as those carried out under contract or other arrangement with a local authority.³¹ As noted above, the Children’s Rights Scheme must also include arrangements for Scottish Ministers to “protect the rights of children in relation to their actions with persons, other than public authorities, who provide services which affect children”.³²

Accordingly, a wide range of organisations may be subject to duties under the UNCRC incorporation Bill, including some of Together’s members.

What are some of our members doing to prepare?

includem

Includem works with social services, schools and criminal justice services to identify children and young people (aged 0-25) who could benefit from the organisation’s support. Includem engages with the child, young person and their family or carer to develop a package of support tailored to their specific needs. This work is usually funded and delivered on behalf of the public authority. As such, includem may itself fall within the definition of ‘public authority’ under section 6 of the UNCRC Incorporation Bill and be subject to the duty to act compatibly with the UNCRC requirements.

*Includem is taking a range of steps in preparation for these new duties. It is conducting a review of existing includem practices, training and materials. It is updating the includem practitioner toolkit ‘A Better Life’ – which staff use to engage with children and young people – ensuring this is mapped against the UNCRC. The aim is to support staff’s understanding of children’s human rights and begin to understand and frame their day-to-day practice in terms of rights. Includem is also working to review its staff training, ensuring that rights are mainstreamed through all **existing***

²⁵ CRC/C/GC/16.

²⁶ CRC/C/GBR/CO/5: Paras: 19(a), (b).

²⁷ CRC/C/GBR/QPR/6-7: Para 11.

²⁸ SNAP (no date). *Business and Human Rights*. <https://bit.ly/2GLHW8t> [Date accessed: 13.12.21].

²⁹ In its 2018-21 Action Plan for Children’s Rights, Scottish Government noted work with partners to develop a co-ordinated plan of action to implement the UN Guiding Principles on Business and Human Rights. A national baseline assessment was published in October 2016. See Scottish Government (2018). *Progressing the Human Rights of Children in Scotland: An Action Plan 2018-2021*, p21. <https://bit.ly/3ulB5wG> [Date accessed: 18.01.22].

³⁰ In its 2021-24 Action Plan for Children’s Rights, the Scottish Government expressed an aim for “all children in Scotland experience public services consistently upholding their rights.” The plan acknowledges that these services may be delivered by public authorities or other bodies. See Scottish Government (2021). *Progressing the human rights of children in Scotland: action plan 2021 to 2024*, p4. <https://bit.ly/3uko2f5> [Date accessed: 18.01.22].

³¹ Section 6. *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill*. <https://bit.ly/3s58NDU> [Date accessed: 18.01.22].

³² Section 11(3)(bc). *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill*. <https://bit.ly/3s58NDU> [Date accessed: 18.01.22].

training, recruitment and induction work rather than being a separate ‘add on’. The organisation has responded to the needs and working patterns of its staff by producing various new materials including written training materials and the introduction of podcasts, allowing staff to listen when travelling between support sessions.

Barnardo’s Scotland

Barnardo’s Scotland is planning a range of actions to ensure that children’s human rights are integral to policy and practice development. These include an enhanced children’s rights workforce development programme, a refreshed children’s rights self-evaluation and rights-based decision making toolkit, promoting a rights-based approach to service commissioning including within discussions with public authorities in relation to service monitoring and evaluation. Ongoing organisational work in response to *The Promise*³³ will be rights focused, enabling children’s access to advocacy support, ensuring feedback, evaluation and complaints processes are child-centred and children have access to the appropriate support to challenge breaches of their rights.

Incorporation of wider treaties

In addition to UNCRC incorporation, Scottish Government has made a commitment to incorporate other international human rights treaties.³⁴ In its 2021-22 Programme for Government, it committed to consult on a new Human Rights Bill which will incorporate the ICCPR, CEDAW, CERD and CRPD into Scots law.³⁵ The Human Rights Bill will also include a right to a healthy environment and specific rights for older people. It will take forward recommendations from the National Taskforce on Human Rights Leadership.³⁶

Together continues to support children and our members to engage with decision makers around plans for the new Human Rights Bill.

1.4 Resources

- UN Committee (2003). **General Comment 5 on the general measures of implementation.**
- UN Committee (2013). **General Comment 16 on the business sector and children’s rights.**
- Children’s Commissioner for Wales (2017). **The Right Way.**
- UNICEF UK (no date). **A child rights-based approach.**
- Children’s Parliament (2019). **The time is now (video).**
- Together (2020). **Making Children’s Human Rights Real : Turning a Vision into a Reality for Every Child in Scotland.**
- Scottish Government (2021). **Introductory Guidance on UNCRC Implementation.**
- Scottish Government (2012). **Common Core of Skills, Knowledge & Understanding and Values for the “Children’s Workforce” in Scotland.**

³³ *The Promise* (no date). *The Promise Scotland*. <https://bit.ly/35wwKwb> [Date accessed: 30.01.22].

³⁴ Scottish Government (2021). *New Human Rights Bill*. <https://bit.ly/34bEnIb> [Date accessed: 18.01.22].

³⁵ Scottish Government (2021). *A fairer, greener Scotland: Programme for Government 2021-22*, pp10, 35, 49. <https://bit.ly/34c0vCj> [Date accessed: 18.01.22].

³⁶ *National Taskforce for Human Rights Leadership* (2021). *National Taskforce for Human Rights Leadership Report*. <https://bit.ly/3lRaueS> [Date accessed: 18.01.22].



Chapter 2:

Children's participation in decision making



"The Sun,
the moon,
water
and
a breeze"

NATURE'S FUTURE

2.1 Introduction

 *Children shouldn't have to speak in a way that adults do just to have their views heard.*³⁷

Children's participation is at the heart of child rights-based approaches. Children have the right to be heard in all decisions that affect them and to have their views taken into account (Article 12 UNCRC). This means that children's views must be heard and listened to in a range of different environments, such as the classroom, family and alternative care settings, and in their communities.

Right to be heard – Article 12 UNCRC

1. *States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*
2. *For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.*

If participation is to be effective and meaningful, it needs to be understood as a process, not as an individual, one-off event. As the UN Committee has explained, participation involves “ongoing processes, which include information-sharing and dialogue between children and adults based on mutual respect, and in which children can learn how their views and those of adults are taken into account and shape the outcome of such processes”.³⁸ It emphasises that the inclusion of children in decision making is not solely centred on gathering their views but extends into a discussion between children and adults to shape policies, programmes and actions relevant to all aspects of their lives.³⁹

NGOs have a critical role to play in supporting engagement between government and children, including ensuring that government draws upon seldomly heard children's experiences. However, the UN Committee is clear that “[i]t is important that Governments develop a direct relationship with children, not simply one mediated through NGOs or human rights institutions”.⁴⁰

The UN Committee has warned against tokenistic approaches and noted nine basic requirements that must be followed in all processes which involve children.⁴¹

The nine basic requirements of participation

 All processes in which children are heard and participate must be:⁴²

1. **Transparent and informative:** they must provide children with accessible information about their right to be heard, how this participation will take place, its scope, purpose and potential impact.

³⁷ Scottish Women's Aid (no date). *Call for Views : Children (Scotland) Bill*, p1. <https://bit.ly/3IVPwvA> [Date accessed : 18.01.2022].

³⁸ CRC/C/GC/12: Para: 3.

³⁹ CRC/C/GC/12: Para: 13.

⁴⁰ CRC/GC/2003/5: Para: 12.

⁴¹ CRC/C/GC/12: Paras: 132-134.

⁴² CRC/C/GC/12: Paras: 132-134.

2. **Voluntary:** children should never be coerced into expressing views against their wishes; children must know they can cease being involved at any time.
3. **Respectful:** children's views must be treated respectfully. Participation must be sensitive to children's backgrounds and experience. Children should have opportunities to initiate ideas and activities.
4. **Relevant:** ensure that the issues being considered are relevant to children's lives and allow them to draw on their knowledge, skills and abilities.
5. **Child-friendly:** create a child-friendly environment, working methods and resources by adapting these to children's capacities. Support children to learn about a topic so that they are confident to contribute their views.
6. **Inclusive:** ensure opportunities without discrimination of any kind. Participation must be inclusive and encourage opportunities for marginalised children.
7. **Supported by training:** support adults to obtain the skills to facilitate children's participation effectively. Children can be involved as trainers to help adults learn.
8. **Safe and sensitive to risk:** adults must minimise the risks children may face. They must make sure children are aware of their right to be protected from harm and know what to do if something is worrying them.
9. **Accountable:** commit to following-up with children on how their views have been interpreted, used and how they have influenced decisions.

2.2 Why is children's participation important?

Children's participation in decision making gives them room to fully develop their personality and evolving capacities as is consistent with the provisions of the UNCRC.⁴³ Taking children's views and experiences into account increases the prominence for children and children's rights across government, agencies and other organisations making decisions that impact their lives.⁴⁴ Listening to children's views and experiences is key to children's rights monitoring, as this is the most effective way in which government (national and local) and services can fully understand whether children's rights are being respected and what improvements are necessary.

- Refer to Chapter 4.2 for more information on qualitative data collection.

Participation plays an important part in ensuring that children can hold the government accountable for its responsibilities to protect children's rights. The right to participate in decisions that affect their lives comes



⁴³ CRC/C/GC/12: Para: 79.

⁴⁴ Ombudsman for Children in Sweden (2020). Additional Submission to the UN Committee on the Rights of the Child from the Ombudsman for Children in Sweden Focusing on Sweden's Response to COVID-19. <https://bit.ly/3IULBiu> [Date accessed : 18.01.2022].

with the requirement that decision makers will listen to children and consider their views.⁴⁵ Children's participation also ensures that the right to be heard goes beyond the rights of individual children and includes the rights of groups of children such as disabled children, children from minority ethnic groups and other groups of children who may be seldom heard.^{46 47}

Ensuring child-friendly spaces for engagement is key to enabling and empowering children to share their views. Children should not only be involved in identifying issues which need changed, but also designing the improvements that are needed, and scrutinising their implementation.⁴⁸

What have children said?

Children have expressed their views on why participation is important and what it means to them. They want their experiences and interests to be taken into account in decisions that affect them.

 *Children and young people are experts in their own experience.*⁴⁹

 *We need to be heard not just listened too. Don't just listen to us and disappear. Independent board, should be set up with people with lived experience, set up workshops go to schools, tell people about rights.*⁵⁰

 *Black and people of colour young people are often overlooked with their expertise, but it is them who would understand and contribute to an experience-based discussion. It is important to recognise that young people with lived experience have the potential to bring a lot more qualified expertise than the adults they are potentially working with that don't have that lived experience. For the [UNCRC Incorporation Bill] to reach its fullest potential we need meaningful and genuine participation of Black & PoC young people at the heart decision making tables, before any decisions have been made that affect their future. This should ensure that there is consultation with groups of young people in safe spaces.*⁵¹

 *Acknowledging and supporting this reality ensures better outcomes and that the young people feel seen and supported in the process.*⁵²

 *Lived experience of not being listened to by someone in authority – there is mistrust of authority among LGBT people.*⁵³



⁴⁵ Joining Forces (January 2021). Policy Brief : Children's Rights to be Heard : We're Talking; Are You Listening, p2. <https://bit.ly/3ohpXgq> [Date accessed : 18.01.2022].

⁴⁶ This term can encompass a broad range of children who face additional barriers to having their voices heard such as children who experience racism and discrimination, refugee and asylum seeking children, Care Experienced children, children with a disabled parent or caregiver.

⁴⁷ CRC/C/GC/12: Para: 87.

⁴⁸ Together (2020). Making Children's Human Rights Real : Turning a Vision into a Reality for Every Child in Scotland, p27. <https://bit.ly/3ugSXsA> [Date accessed : 17.01.2022].

⁴⁹ Children in Scotland (August 2019). Children and Young People Consultation on the Incorporation of The United Nations Convention on the Rights of the Child, p9. <https://bit.ly/3ITPcgl> [Date accessed : 12.01.2022].

⁵⁰ CYCJ (17 November 2020). UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with Young People and Committee Members, p2. <https://bit.ly/3IXKO06> [Date accessed : 12.01.2022].

⁵¹ Intercultural Youth Scotland (IYS) Ambassadors (2020). UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with Young People and Committee Members, p1. <https://bit.ly/343Nafq> [Date accessed : 22.02.2022].

⁵² Intercultural Youth Scotland (IYS) Ambassadors (2020). UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with Young People and Committee Members, p1. <https://bit.ly/343Nafq> [Date accessed : 12.01.2022].

⁵³ LGBT Youth Scotland (2020). Submission to the Equalities and Human Rights Committee on the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, p3. <https://bit.ly/3ofbdPm> [Date accessed : 12.01.2022].

Children want more opportunities to be involved. They are clear that it is not enough just to hear their views – decisions need to be made *with* children:

 *If there's something happening in our lives, if it's bad we have to speak about it. If it's good, we want to talk about it. We need to be listened to.*⁵⁴

 *More chances for children to interact with local and national government.*⁵⁵

 *You don't realise how many opportunities bypass you until you get involved in youthwork. Youthwork makes you feel part of something and that you're making a difference.*⁵⁶

Children have also shared their views on what participation should look like and how they should be involved in decision making. Children want to be involved from the beginning and throughout – not engaged half-way through as an afterthought.⁵⁷ They want a balance of power that allows the engagement to go beyond simple consultation towards co-production:

 *The first thing about engaging with young people is that you actually need to plan it, rather than getting to the end of a project and being like, oh my god we've not engaged with any young people.*⁵⁸

 *Children and young people need to be involved in developing resources and training about rights.*⁵⁹

Children want decision makers and adults working with them to give them realistic expectations and to be honest. They want adults to be considerate to their needs:

 *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.*⁶⁰

 *There is a need to establish more intergenerational respect, often children and young people feel like that even when they are asked to speak that their voices are not valued. As young people, we are painfully aware of when actions are tokenistic. We need to ensure that we are not just checking a box and young people are able to see actual tangible results that incorporate their ideas. The way to tackle issues facing young people should be treated with the same respect.*⁶¹

⁵⁴ Children's Parliament (2019). A Consultation on Incorporating the UNCRC into Domestic Law in Scotland, p19. <https://bit.ly/3INQ6eK> [Date accessed : 12.01.2022].

⁵⁵ Children's Parliament (2019). A Consultation on Incorporating the UNCRC into Domestic Law in Scotland, p12. <https://bit.ly/3INQ6eK> [Date accessed : 12.01.2022].

⁵⁶ YouthLink Scotland (2020). UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with 12-18-year-olds Hosted by Together. <https://bit.ly/3LfqlWT> [Date accessed : 12.01.2022].

⁵⁷ This information is collected from the series of webinars conducted by Together.

⁵⁸ This information is collected from the series of webinars conducted by Together.

⁵⁹ Together (2020). UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with 12-18-year-olds Hosted by Together. <https://bit.ly/3LfqlWT> [Date accessed : 12.01.2022].

⁶⁰ This information is collected from the series of webinars conducted by Together.

⁶¹ Intercultural Youth Scotland (IYS) Ambassadors (2020). UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with Young People and Committee Members, p1. <https://bit.ly/343Nafq> [Date accessed : 12.01.2022].

Children emphasise that learning about a topic helps them feel confident to share their views. However, this must be done in a child-friendly way – such as through small preparation tasks:

 *Language is important, use everyday language, use pictures, graphics etc. and keep things clear and simple. Needs to be accessible without diluting the content.*⁶²

Children don't want adults working with them and for them to put too much expectation on them and expect them to have all the answers.

 *One of the first things we did in our project was we thought about the voices that were missing, and we thought about the voices that wouldn't be heard through our experiences. That was a really valuable thing to do because we came back to it. Making sure that your engagement doesn't stop with the bundle group of young people you have in the project.*⁶³

 *It is essential for all children and young people to know their rights, however, it is important to note that level of access to rights differs disproportionately amongst groups with protected characteristics ranging from young Black and PoC people, those with disabilities, Roma travelling communities, LGBTQI+, kids in care or that are carers and so on. It is important to approach this conversation from an understanding of equity not equality and to recognise how intersectionality plays a role in how much we are enabled to access certain rights.*⁶⁴

What has the UN Committee said?

General Comments

Children's right to be heard is one of the four General Principles of the UNCRC.⁶⁵

The UN Committee has produced a range of General Comments which offer guidance on implementing children's right to be heard. General Comment 12 is dedicated to children's participation across a range of settings⁶⁶ whilst other General Comments explore the right in particular contexts – such as the child justice system⁶⁷ and migration.⁶⁸

UNCRC Concluding Observations (2016)

When the UN Committee last examined the UK's children's rights record, it made a range of recommendations around participation.

The UN Committee asked the UK and devolved governments to establish structures for the active and meaningful participation of children. It called for children's views to be given due weight when designing laws, policies, programmes and services at the local and national level. The UN Committee said that particular attention should be paid to ensuring younger children and disabled children are heard and listened to in matters concerning them.⁶⁹

⁶² CYCJ (2020). UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with Young People and Committee Members, p3. <https://bit.ly/3lXK006> [Date accessed : 12.01.2022].

⁶³ SYP. The report will be published in due course.

⁶⁴ Intercultural Youth Scotland (IYS) Ambassadors (2020). UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with Young People and Committee Members, p2. <https://bit.ly/343Nafq> [Date accessed : 12.01.2022].

⁶⁵ UNICEF (no date). What is the UN Convention on the Rights of the Child. <https://bit.ly/3JdABNx> [Date accessed : 18.01.2022].

⁶⁶ CRC/C/GC/12.

⁶⁷ CRC/C/GC/24.

⁶⁸ CRC/C/GC/22.

⁶⁹ CRC/C/GBR/CO/5: Para: 31(a).

UNCRC List of Issues Prior to Reporting (2021)

In February 2021, the UN Committee asked the UK and devolved governments for an update on the measures they had adopted to ensure a child rights-based approach to children's participation in matters that affect them. Specifically, the UN Committee sought information on the measures adopted in legal and administrative proceedings, and those adopted to promote the meaningful participation of children, including younger children and disabled children. The UN Committee also sought information on measures adopted to ensure children's participation within the family and the community, at school and in the realm of local and national policymaking and decision making affecting children, including on climate change.⁷⁰

The UK and devolved governments are expected to report to the UN Committee on their progress in June 2022.

2.3 The context in Scotland

Scottish Government's 2018-21 Action Plan aimed to mainstream children's participation in decision making across Scotland by working with children and stakeholders to develop a strategic and sustainable approach to children's participation.⁷¹

The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill ('UNCRC Incorporation Bill') builds on these aims by including several sections aimed at upholding children's right to participate in decision making. When preparing the Children's Rights Scheme, Scottish Government must set out arrangements to "ensure that children are able to participate in the making of decisions that affect them".⁷² Scottish Government must also consult with children before publishing reports on the Scheme and accompany reports with child-friendly versions.

In its Action Plan 2021-24, Scottish Government set out plans to promote a rights-based approach to children's participation which ensures that children's views are listened to, considered, and acted upon, including the views of seldom heard groups.⁷³ The Action Plan highlights the arrangements that Scottish Government is making and will make as part of the Children's Rights Scheme. This includes ensuring that children have the required support to participate in decisions that affect them. Part of this involved working with Rights Right Now! (a group of children supported by Together and its members)^{74 75} to shape the 2021-24 Action Plan, and the establishment of an ongoing "consortium of organisations to support a sustainable, meaningful and inclusive approach to participation of children in decision making".⁷⁶

- For more detail on Rights Right Now! see the case study at p.48.

⁷⁰ CRC/C/GBR/QPR/6-7: Para: 15.

⁷¹ Scottish Government (December 2018). *Getting It Right for Every Child : Progressing the Human Rights of Children in Scotland : An Action Plan 2018 to 2021*, p7. <https://bit.ly/3ulB5wG> [Date accessed : 17.01.2022].

⁷² Section 11(3). *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill*. <https://bit.ly/3s58NDU> [Date accessed : 18.01.2022].

⁷³ Scottish Government (2021). *Getting It Right for Every Child : Progressing the Human Rights of Children in Scotland : An Action Plan 2021 to 2024*, p5. <https://bit.ly/3uko2f5> [Date accessed : 18.01.2022].

⁷⁴ Together (2021). *Together Launches UNCRC Implementation Project*. <https://bit.ly/3ugOiqr> [Date accessed 18.01.2022].

⁷⁵ Together (no date). *Rights Right Now*. <https://bit.ly/34bpPIC> [Date accessed: 30.01.22].

⁷⁶ Scottish Government (2021). *Getting It Right for Every Child : Progressing the Human Rights of Children in Scotland : An Action Plan 2021 to 2024*, p5. <https://bit.ly/3uko2f5> [Date accessed : 18.01.2022].

Through implementing the Children's Rights Scheme and actions to ensure children's participation, Scottish Government will simultaneously advance National Outcomes on the inclusion of children in decisions about their lives and world to ensure that their rights, dignity and wellbeing are protected.⁷⁷

2.4 Overcoming challenges

Our survey and interview data highlighted the challenges organisations and children face in relation to participation. Quotations in this section are from survey participants unless otherwise indicated. Quotations have been attributed to NGOs, academic institutions or public authorities where this information was given.

Understanding the importance of participation and what good practice looks like

Many decision makers, adults and organisations who participated in our research were aware of children's rights – including the right to participation – but struggled to translate this into practice. This gap between theory and practice was noted within some organisations (internal to their work), but also as part of a wider context, outwith the control of organisations but which still affected their work (external challenges).

Internal challenges – staff capacity

 *[We] do acknowledge the UNCRC. The challenge is linking it with practice and ensuring full understanding of why they do what they do and can demonstrate it with confidence.*

(NGO)

A challenge facing many organisations was limited understanding of what 'good quality participation' looks like. Generally, organisations and their staff wanted to ensure children's participation but had limited understanding of how to incorporate this into their day-to-day practice. In some instances, Article 12 was interpreted quite literally as meaning only the *gathering* of the views. In these instances, it was difficult for staff to understand the communication needs of some children, understand how best to support them and understand how to include the views of children who are seldom heard. Staff working with children were often inexperienced in how to support *rights-based* participation.

Organisations said they wanted to avoid 'tokenistic' or 'tick-box' approaches but did not always know how to achieve this. Responses indicated that children's participation often takes the form of 'consultation', leaving out aspects of 'co-production' that would ensure children's views are taken into account in decisions.

Limited capacity left many organisations sticking to familiar activities, instead of exploring different approaches. This impacted their ability to evaluate the effectiveness of their participatory approaches, in turn affecting their confidence. To compound this, several respondents said training opportunities were not readily available.

Steps taken to overcome these challenges

Some organisations said they had developed training opportunities for all new and existing staff to improve their knowledge of children's rights. Some were also running development and learning exchange programmes to help staff understand how to incorporate their knowledge of children's rights into practice.

⁷⁷ Scottish Government (no date). National Outcomes : Children and Young People. <https://bit.ly/3IYcBxu> [Date accessed : 18.01.2022].

To overcome limited practical experience, some organisations reported seeking advice from partner organisations with specific expertise. Another approach was organisations testing new and creative ways of engaging with children, evaluating the success of the new approach periodically (with children involved in this process) and either changing or adopting the approach all through their work.

Some organisations had started to share examples of good practice – both internally and externally. Several participants noted that while organisations are often eager to share examples of where things have worked, they are reluctant to share examples of where things have not for fear of reputational damage. There was recognition that valuable learning can be drawn from both situations and a desire for greater openness between organisations.

Please see the following case studies for more detailed examples:

- Our Hearing Our Voice at p.39;
- Scottish Women's Aid at p.40;
- See Me at p.42;
- Forces Children Scotland at p.44;
- Child Rights International Network (CRIN) at p.45;
- Starcatchers at p.47;
- Who Cares? Scotland at p.57.

External challenges

 *[We] can understand that some professionals and decision makers will be worried about changes to long-standing practices.*

(NGO)

Many participants noted challenges they had faced when supporting children to engage with external individuals or organisations. Participants said resistance to change by some professionals and decision makers was a key barrier. Some noted reluctance to move away from traditional ways of working to more participatory approaches on the basis of: 'it's what we've always done'. These attitudes created an additional hurdle requiring time and resources to overcome before participatory projects could even be established. As one charity said:

 *We do still need to increase understanding about why participation is essential, and what good participation actually means (not just gathering views) and then seek a commitment to making those changes.*

(NGO)

Flowing from this reluctance, some charities noted public authorities' overreliance on children's charities to 'do participation for them'. They expressed frustration that public authorities frequently talk about wanting to hear children's views but seem unwilling to get engaged in these conversations directly – often expecting third sector organisations to gather children's views themselves and then feed these back in written form. Charities noted that such arrangements were more likely to become 'tokenistic' or 'tick-box'.

Charities welcomed the occasions where decision makers were keen to engage directly with children with charities' support. However, this was not without its own set of challenges. Several gave examples of engagement work they had facilitated between children and decision makers where decision makers cancelled meetings with children at the last minute, arranged meetings at times and

venues not suitable for the children, always asked the children to come into ‘adult’ spaces and were unwilling to go to children in their spaces. In these situations, decision makers appeared to prioritise other commitments at the expense of the children. Organisations said this had led to some children feeling undervalued and disillusioned about the project, in turn affecting their relationship with the staff at the organisation supporting them.

In other instances, decision makers commissioned projects to run for short timeframes to fit with their own deadlines. This did not allow for sufficient support and preparation time with the children. Staff need time to undertake the work at a reasonable pace and form a trusting relationship with children, for participatory programmes to be carried out effectively. They also need time to reflect on their approach and weigh its effectiveness while the programme is ongoing. Delivering projects within the short timeframes often set by public authorities does not encourage the implementation of effective approaches in ensuring children’s participation.

A related issue was the allocation of sufficient funding. Survey and interview participants noted that budgets set aside for children’s participation are often inadequate to meet children’s needs and deliver on the desired outcome. Children’s participation requires skilled and knowledgeable staff. It also takes time and requires additional support costs if it is to be inclusive.

- Refer to Chapter 3 for more detail on inclusive and child-friendly communications.

Steps taken to overcome these challenges

Organisations said it could be too difficult to push back against public authorities’ expectations of them, given they were often reliant on funding from that authority. However, some organisations reported giving feedback to funders – particularly around short timescales and insufficient funding. In some situations, this has led to additional funding or greater flexibility in timescales.

Some participants said they had turned down projects which risked being tokenistic. Others said they tried to implement an adaptable and creative way of working in the circumstances. Some organisations designed project models that were adaptable to different short-term projects to ensure the most benefit for children. This included creating facilitator packs or toolkits that practitioners could use with children who already had an established and trusting relationship with them.

Please see the following case studies for more detailed examples:

- CELCIS at p.46;
- Children’s Parliament at p.50.
- Scottish Parliament Equalities and Human Rights Committee and Outreach Team at p.50;
- Play Scotland at p.54;
- SQA, Where’s Our Say? at p.55.

Feedback loop

 *There have been occasions where children we support have been asked to take part in external consultations or evaluation exercises quite regularly. And, it has felt that these exercises were not always approached in a meaningful manner, but more as a box ticking exercise for the external agency carrying it out.*

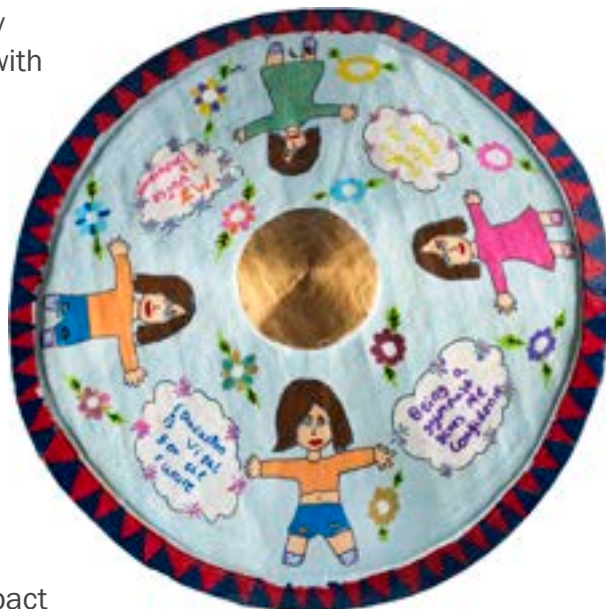
(NGO)

Multiple participants identified the lack of feedback loop as a key challenge. This was noted mainly in relation to work with external organisations, but gaps were also identified in relation to NGOs’ internal

processes. Without feedback, children did not know how their views had been used, what impact (if any) their views had had on the decision and the reasons why. This made children feel that they were not being listened to despite their opinions being asked. Organisations were clear that even if, after consideration of children's views, no action was to be taken, it was still crucial to let children know this and why.

Steps taken to overcome these challenges

Some organisations have put in place a system whereby external agencies that approach them for consultation with children must submit a short proposal outlining what the consultation is about, what the expectations are, how long it will take and what will happen with the information gathered from children. With this, they give the children who might like to be involved an opportunity to consider the invitation and decide on whether they want to take part. This ensures that power is transferred into children's hands, children know the extent of their involvement and helps to ensure that participation is not tokenistic. It can also lead to changes being made where the children have identified certain issues and these have been communicated back to the agency that submitted the proposal. Some organisations also evidence the impact of children's participation in their work and promote their engagement with existing networks rather than setting up new ones.



Multiple organisations said that in the absence of adequate feedback from public authorities, they did their best to step in and give the children as much information as they could gather.

Please see the following case studies for more detailed examples:

- Scottish Women's Aid at p.40;
- See Me at p.41;
- A Place in Childhood at p.42;
- YouthLink Scotland at p.44;
- Scottish Parliament's Equalities and Human Rights Committee and Outreach Team at p.50;
- Carers Trust Scotland at p.51;
- Our Hearings Our Voice at p.56.

Exclusion of certain groups of children

Some children have been excluded from having their views heard as a result of their unique situations. The findings below are examples of issues highlighted in our survey and are not an exhaustive list of all children who face additional barriers to participation.

Children with additional support needs

 *From our experience we have found significant challenges when gathering views from children and young people with complex needs*
(NGO)

There has been a significant challenge amongst staff in supporting children with additional support needs in making their views heard. Professionals who work with children often do not understand how to involve children with additional support needs and can lack knowledge around consent and safeguarding issues when supporting children's participation. Specialised training around participation of children with additional support needs can be costly for staff to undergo, as are some of the specific aids required to enhance the engagement of children with support needs. Smaller organisations reported this financial barrier as being a particular challenge.

Steps taken to overcome these challenges

Some organisations provide training to equip their staff with the skills to effectively facilitate participation for children with ASN. Others have built partnerships with charities that support children with ASN, to learn from their expertise and experience. Charities supporting children with ASN have produced a range of advice and materials on how to support children's engagement.

Please see the following case study as one example:

- Children in Scotland, Enquire, Partners in Advocacy and Cairn Legal at p.124.



Participation of early years

-  *Overcoming barriers about our...play based approach not being taken as seriously as other approaches that are more familiar*
(NGO)

Younger children from birth to three years are very often left out of the conversation in matters that affect them. Decision makers and carers often do not understand how to communicate with these children or help build their agency from an early age. Sometimes they do not understand or demean the approaches of organisations who use play-based methods to engage with younger children, despite these being the most effective age and stage-appropriate method. This was cited as a challenge when it came to working with decision makers and also funders, as both seemed more comfortable and familiar with the approaches used for older children.

Steps taken to overcome these challenges

Organisations that work with younger children have focussed much of their efforts in building relationships and partnerships that project the value of their work to communities they engage with. They do considerable work to encourage other organisations to incorporate art and creative means of expressions into their activities and to adapt communication into language that children use and understand. These organisations also place considerable focus in building relationships with decision makers so they can communicate what they have learned from children, even if direct engagement between the decision makers and the children has not been possible.

Please see the following case studies for more detailed examples:

- Starcatchers at p.47;
- Starcatchers at p.48.

Care Experienced children

 *Individuals who have been in care are the experts in their own experience, which means they have a lot to offer. Those in power should not only listen to their ideas, hopes and aspirations, but should learn from and act on them.*

(NGO)

Often the views of children who are Care Experienced are not sought or acted upon, and their experiences are not prioritised by decision makers. This can inhibit engagement in formal participation activities and create distrust around services. The public narrative and the media frequently stereotype people with Care Experience. Many children who are Care Experienced are aware of this stigma and so some can be wary of making their views heard, sharing their experiences or participating in activities in case they are subjected to further stigmatisation.

Steps taken to overcome these challenges

Organisations that support Care Experienced children spoke of the importance of holding meetings either side of engagement activities. This was crucial to ensure a trusting environment for Care Experienced children and to make sure that they feel comfortable enough to participate in sessions, particularly those that involve decision makers. These organisations also ensured that children participating in activities could work at their own pace and created space for them to feedback.

Please see the following case studies for more detailed examples:

- CELCIS at p.37;
- Who Cares? Scotland at p.57.
- Refer to Chapter 4.5 for further case studies around supporting Care Experienced children.

Children in places difficult to access

 *We also can find challenges with engaging with children who live rurally, for in-person participation opportunities in particular.*

(NGO)

Children who live in rural areas, including islands, are sometimes excluded from participation activities. This can limit opportunities to children only in better connected or populated areas, obscuring the unique experiences and views that children in rural areas want to contribute.

Participants also noted the challenges of engaging children who live in secure accommodation, hospitals or other types of placements where their liberty is restricted.

Steps taken to overcome these challenges

Online engagement has been one of the approaches some organisations have adopted to reach children in rural areas. In these cases, some organisations provided electronic devices and data SIMS to ensure that children who are in places that are difficult to reach are able to access platforms that aid their right to participate in matters that affect them.

Other organisations have worked to ensure children from rural areas are represented, including for in-person projects. This has involved budgeting for their travel and accommodation costs, including that of a parent/carer where necessary.

Please see the following case studies for more detailed examples:

- A Place in Childhood at p.42;
- Children and Young People's Commissioner Scotland at p.53.

Impact of COVID-19 on children's right to participate

 *The COVID-19 pandemic has had a significant impact on children's participation.*

(Academic institution)

Many organisations noted the considerable challenges COVID-19 posed for children's participation. The challenge faced by most organisations was ensuring child-friendly and inclusive online participation sensitive to the needs of children. Despite the benefits of engaging online, some children struggled as they preferred the format of face-to-face meet-ups. Some children who participated prior to the lockdowns withdrew completely after activities moved online, as they preferred the physical activities and staff struggled to maintain their interest in online activities. There were also challenges with Wi-Fi connections, 'Zoom fatigue' as a result of prolonged periods on screen and drop-off for other reasons associated with engaging from home. Some organisations reported it had also been tricky maintaining control of the virtual space and ensuring that the children were comfortable engaging virtually and had their rights to safety and privacy fully protected.



The impact of COVID-19 has not been felt equally by all children in relation to online participation. Difficulties reported include: supporting digitally excluded children; helping children from refugee backgrounds to build the confidence to engage digitally; ensuring privacy for young carers; building trusting relationships necessary to support Care Experienced children's participation; and difficulties facilitating online engagement of children with ASN.

 *Working online can be a barrier for some children and young people and limits engagement with those who are digitally excluded.*

(NGO)

 *It [is] increasingly difficult to engage with young carers via online platforms in some areas*

(NGO)

 *Restrictions on meeting in person during the pandemic have made it harder to build relationships required for meaningful participation.*

(Academic institution)

Steps taken to overcome these challenges

Generally, to overcome challenges faced as a result of COVID-19, organisations tried to work innovatively to ensure that children retained opportunities to engage. They supported children to highlight the impact of the pandemic on them and their families, and communicate this to decision makers. To help build rapport, trust and a group dynamic online, several organisations said they tried to recreate elements of in-person interactions. This included having meals together or incorporating creative activities that could be done individually (for example baking, taking walks, photography), and sharing these online with others. Several organisations created packs that they sent out to children and then completed together on video calls – for example, a baking or craft box.

Please see the following case studies for more detailed examples:

- Our Hearings Our Voice at p.39;
- Scottish Women's Aid at p.40;
- Scottish Refugee Council at p.41;
- Rights Right Now! at p.48;
- Carers Trust Scotland at p.51.

2.5 Case studies

The following case studies offer a snapshot of what organisations are already doing to uphold children's right to participate. They are grouped loosely by theme, although many of the examples cut across multiple themes. **You can access further case studies on Together's blog.**

Co-production



CELCIS – Voices and Inclusion Project

The Voices and Inclusion (VIP) Project enables Care Experienced children and young people to improve the way children's hearings work for children and young people. The participants are between the ages of 16-23, but the project is open to those aged 12-26 years. It was established in April 2021 and the children and young people are currently in the early stages of developing their ideas into solutions.

The children and young people have been asked how much they want to be involved in the exploratory phase and what they want to focus on. Importantly, this information was gathered before the planning stage to ensure that children and young people's views shape the project from the outset rather than being "fitted in" at a later point. The children and young people said they wanted the project to be about developing solutions – not just iterating problems. This resulted in CELCIS changing the focus of the project from what was initially envisaged, to allow a greater focus on implementation.

The children and young people are leading the project and forming subgroups based on the different potential solutions they want to focus on. They have control over what the focus of each subgroup will be, the activities and their outputs.

Facilitators are on hand to help the children and young people to scope the landscape of their ideas and highlight learning from earlier work. For example, facilitators can help identify what challenges and barriers similar ideas have faced in the past. The facilitators have also supported

the formation of an advisory group of sector partners to ensure the young people build up-to-date knowledge, skills and understanding of how their ideas will impact key stakeholders. This supportive relationship helps to equip children and young people with information needed to adapt their ideas and overcome potential challenges. The children and young participants are paid for their involvement in the project.

- **Read more about the Voices and Inclusion project here** or **watch this video featuring one of the young participants.**

Children in Scotland – Participation through the Pandemic project

Children in Scotland works with children as peer researchers to promote their participation in matters that concern them. Their peer research approach ensures that the children take more of a lead in projects and become partners in its delivery. The peer research model adopted by Children in Scotland uncovers issues and priorities that would ordinarily not be raised when adults (however skilled) speak to children. Its aim of involving children as peer researchers is to support and uphold the rights of children.

An example of the peer research approach is the ‘Participation through the Pandemic’ project. For this project, a group of Peer Researchers aged 14-18 are researching how COVID-19 has changed the ways children and young people get involved in projects or access services. The peer researchers on the project have just finished gathering data from the six projects that they chose to research. They delivered a series of sessions with adults, children and young people where they ran focus group discussions and also a creative activity where children and young people could share their views through a poster or a diary entry. They chose to research organisations working with children and young people with a range of lived experiences including those experiencing deprivation, children with additional support needs and children who have experienced bereavement.

So far, they have identified that being involved in the project has made them more confident, improved their ability to do research, understand other people’s views and to take responsibility. From a self-evaluation of the project, the children noted that:

My confidence in sharing my own views has never been particularly great – however, the more time I spend working on the project within the group setting, the more comfortable I am when expressing my opinions/ideas.

At the in-person meeting in Edinburgh, I was able to listen to other people’s wildly different opinions on the candidates we had to select from, and hearing their reasoning has helped me to better understand how other people view things.

The approach taken for the project was designed by the children themselves and they used emojis to score their progress. When published, the findings will detail what can be learned from children and young people’s experiences during the pandemic to make sure the adults who work with children and young people do this well in the future.

- **Read more about the Participation through the Pandemic project here.**



See Me – Feels FM

See Me, Scotland's national programme to end mental health stigma and discrimination, ensures that its Youth Champions (age 16-24) are involved in the design and development of its resources, training offers, and its work influencing policy and engaging with other youth organisations. They champion a peer-led approach, empowering children and young people to know their rights in relation to mental health stigma and discrimination and to act on them.

See Me has worked with children and young people to co-produce Feels FM – an emoji-powered jukebox to help children and young people share their opinions on mental health stigma and get music to match their mood. Initially, See Me ran a month-long online survey to engage with 12-26-year-olds, exploring what was important to them in order to guide the campaign. This survey attracted 1,455 responses.

Following this, they co-produced an online interactive platform (Feels FM) that allowed visitors to use emojis to express their current mood. Visitors would then be presented with a curated playlist which matched their emotions, while being asked questions about mental health stigma. These were about how children and young people's experiences of their mental health could be improved by looking at what makes it easier, and more difficult, to talk about mental health. Data analysis and report-writing was carried out by the children and young people and shared with Scottish Government officials for their consideration, particularly in relation to policy decisions that might affect children and young people's right to health.

Over 5,000 young people shared their views through Feels FM. As a result of this work and the views of young people, Scottish Government made three commitments: to ensure reducing mental health stigma is at the core of everything they do; creating environments where young people can trust adults; and giving young people tools to describe how they feel.

See Me recently launched Feels FM 2, a redesigned platform with new questions, developed with children and young people for children and young people. The team are in the process of capturing further evidence.

- **Read more about Feels FM here.**

Building a trusting environment



Our Hearings, Our Voice – establishing key principles

Our Hearings, Our Voice (OHOV) is an independent board for children and young people from across Scotland between the ages of 8-18, with experience of the Children's Hearings System. Involvement in OHOV is entirely voluntary. It is up to children and young people whether they want to take part and for how long, as well as what they want to be involved in.

At the core of OHOV is ensuring trusting, trauma-informed spaces for children and young people's participation. This includes supporting the development of trusting relationships between the project staff and the children and young people, and between the children and young people themselves. To achieve this, OHOV ensures that they set out time for their staff to play, be creative, dance on screen together with the children and young people, and also engage in fun activities such as baking something and meeting online to show each other what they've made.

In some instances, OHOV staff prepare activity boxes to send to the children and young people. This has included ingredients and a recipe to bake cupcakes and pastries. This has helped build trust and the children and young people say that receiving the box in the post has made them feel special. During the latter part of 2021, the children and young people and adults have been able to come together face-to-face on a number of occasions, including one overnight, to work, play and build their relationships.

Every child, young person and adult adopted a 'duck alias' to ensure their privacy so that the experiences they share will not be attributed to them. This involved choosing a model duck to represent themselves and giving it a name. The duck aliases helped to make children and young people who did not know anything about each other before the project feel safe to engage with each other.

OHOV pays the children and young people for their time – a way of demonstrating the value placed in their contribution and helping to address any power imbalance between them and support staff. Payment is usually made in the form of gift vouchers rather than cash. However, there are some exceptions where children and young people are paid in cash.

As a result of this trust-building work, the children and young people have felt safe and comfortable to share their experiences and influence decision making. A key focus for their work with organisations and decision makers has been their **40 Calls to Action for the Hearings System**. They have also felt empowered to participate in the recruitment of new board members for the Scottish Children's Reporter's Administration, as well as the Chief Executive of Children's Hearings Scotland and the forthcoming Chair of the Children's Hearings Scotland Board. OHOV board members have now begun building a trusting relationship with Sheriff David Mackie, Chair of the Hearings System Working Group, set up to **Keep the Promise** through redesign of the Hearings System.

- **Find out more about OHOV and the Duck Aliases here.**



Scottish Women's Aid – Yello!

Yello! were an expert group of five children and young people, aged 12-18, who had experience of domestic abuse. The group was recruited as part of the EU-funded Improving Justice in Child Contact Project (IJCC), and worked with Scottish Women's Aid on developing and informing children's policy and practice.

During the 18-month project, Yello! worked closely with Scottish Women's Aid to influence the Children (Scotland) Bill as it moved through Scottish Parliament.⁷⁸ Members met with the Minister for Community Safety to talk about their recommendations for strengthening the Bill. They also submitted written evidence to the Justice Committee, before meeting in person to talk about their experiences. An MSP who heard from Yello! said:

One of the most memorable parts of our journey in getting the bill to stage 3 was the evidence that the committee heard in private from young people from Yello!. They had experience of being ordered to attend [contact] centres, and their accounts were powerful and moving. One by one, we heard of the traumatic and unhappy experiences of court-ordered contact in which the young people had felt powerless to express what

⁷⁸ Scottish Parliament (no date). Children Scotland Bill. <https://bit.ly/3ugb4Pr> [Date accessed : 27.01.2022].

they really wanted. I was in awe of their bravery in telling their stories to a room full of adults. They have helped to shape the bill so that future generations will not have to endure their experience.

The achievements of Yello! were possible because the project was centred on trust, peer support and respect for children and young people's contributions. Scottish Women's Aid worked with children and young people who had an existing relationship with Scottish Women's Aid services, several of whom had been involved in previous Scottish Women's Aid participation projects. This helped establish trusting relationships. A supportive atmosphere was further promoted through team building sessions and fun activities before the substantive part of the project began. The children and young people always had their support workers present during the sessions as this made it easier to discuss sensitive issues and their experiences. The children and young people were also paid for each session to create a sense of respect for their time and contribution.

As a result of these efforts, a strong atmosphere of trust and respect was established within the group. An example of this can be seen in the relationship of peer support that arose naturally between the different ages involved in the project. The older children felt comfortable taking on more of a leadership role and supporting their younger peers to feel confident and empowered to be heard.

Involvement in the project developed participants' confidence and introduced them to a range of other opportunities. Members of the group went on to be involved in participation work with other organisations and charities, including being recruited as consultants to advise on the establishment of a young expert group in Children 1st's pilot of the Barnahus model in Scotland.⁷⁹ During lockdown, Yello! developed animations for other children and young people, sharing information on how they could access services and support if they were experiencing domestic abuse at home or in their intimate relationships. One member of Yello! was recruited into a paid role in a Women's Aid service as a result of her work in Yello! and other projects.

- **Read more about Yello! from one of its young experts here.**



Scottish Refugee Council – Guardianship ESOL support

As part of the Scottish Guardianship Service, the Scottish Refugee Council started regular online English for Speakers of Other Languages (ESOL) classes after speaking to young people in the Service about their experiences of lockdown. A few young people mentioned that they were waiting a long time to start college and that they felt bored, isolated and unable to progress their English development. The classes focus on conversation and vocabulary, with only small amounts of grammar in the classes catering to all levels. This is to keep the classes adaptable and inclusive so new students can join at any time, and there is no pressure if a young person misses a class. There are six, one-hour classes per week which are usually at 5:00pm so young people attending school or college can still attend. The classes are organised by level so everyone has at least two classes per week for their level and young people often attend multiple levels (e.g. Elementary & Intermediate). The total number of classes conducted as of early January 2022 are 256 classes with total attendance of 1,417.

⁷⁹ Children 1st (no date). Trauma-Free Justice, Care and Protection for Scotland's Children: Learning from the Barnahus Approach, p5. <https://bit.ly/3IWxxFf> [Date accessed: 27.01.2022].

Feedback from young people who attended the classes are:

I really enjoy the English class. In the first place get to know new refugees and learn about the Scottish accent, the culture in Scotland and the United Kingdom. Through this course, I learned a lot. Compared to college, I feel I improved a lot and learned from this course because we always enjoy studying this class and playing grammar games. The class helps the new refugees a lot. The class taught me a lot of things about the UK and Scotland when I came to Scotland for the first time. Also, I learned many new words in Scottish vocabulary, grammar and I always asked my teacher for help with any difficulty. So, I really feel this course is helpful for refugees, especially the new refugees who are coming here.

I like English class because it helps me improve my English. It also fun and helpful. It helps young people become confident in communication and easier live in Scotland also.

The biggest success has been how the instructor has managed to build relationships with many young people across the Guardianship service. This has made it easier to connect young people with employability support, volunteering, participation work, research and many other areas of the service. It is a lot easier to phone up a young person and explain the different things going on when they already know the instructor, and have built up a level of trust.

Scottish Refugee Council has begun developing Guardianship ESOL Support's website.



See Me – using check-ins before and after sessions

See Me works to end mental health stigma and discrimination. Before any meetings with children, they ensure the children feel equipped, confident and ready to participate in activities by offering a pre-activity and post-activity debrief. Post-activity debrief sessions encourage group members to share and offer their feedback on the sessions, what went well for them, what could maybe be improved upon next time round or any changes/suggestions they would like to make or add.

All participants can feel like their voice is not only involved in the delivery of activities but also the ongoing development and enhancement of inclusivity. It is also a really important space to ensure that anyone can get anything off their chest or talk through any elements of the session, especially now that a lot of their work is happening online.

- [Read more about See Me here.](#)

Inclusive online participation



A Place in Childhood – Participatory Action Research Project

A Place in Childhood (APiC) worked with young consultants to explore the challenges they had experienced due to the pandemic. Twenty-five young consultants (aged 10-17) led APiC through their experiences. They worked together over the course of three child-led online workshops in April and May 2020, sharing their experiences and making recommendations about what would make a big difference to their lives. The project was reconvened in early 2021 for a further six workshops to explore more recent experiences and future solutions more fully. This second part

was supported by the Children and Young People's Commissioner Scotland and used the hashtag #ScotYouthandCOVID2.

It was central to the project that the young consultants felt comfortable and had an authentic dialogue while engaging online. Children were recruited who had an existing relationship with APiC or who knew one of the other young consultants involved. The aim of this approach was to rapidly build an environment in which children felt comfortable taking part and trusted everyone involved. The project engaged a diverse group of children from a mixture of urban and rural areas. At each stage, APiC updated the young consultants on the progress of their recommendations through email, explaining to them the process involved in taking the project forward.

The project highlighted the challenges children faced as a result of the loss of social interaction, the changes with schooling, increased stress with family resources, an overload of screen-time and limited access to outdoor play and recreation. It also gave the young consultants opportunities to make recommendations around the transition to secondary school, health and wellbeing, motivation and school, dealing with uncertainty, climate change, and involving children in local issues. Young consultants were paid for their participation in workshops, to recognise the significant expertise they bring, as well as use of their own equipment and data. They were given the choice of being paid either through vouchers or a PayPal transfer.

As a result of this work, the children said they felt more included and less lonely at an exceptionally difficult time. One young consultant noted:

I think it's good, like hearing different people's opinions. Because when you've been locked in a place for so long, like, obviously, we're all restricted to like our areas. And I think we sort of think the world just revolves around [our area]. And then when you actually look at that you've got Glasgow, Stirling, Falkirk, Aberdeen, Edinburgh... And then I think it's good to hear people like, around about your age. You know, we're all going through the same thing. And it's just good to see and talk to people.

Another remarked:

I always come out of APiC meetings feeling like I've actually said things that will be listened to and matter, which is unfortunately rare when you're a part of groups at my age! The whole setup and way of discussion just really works and I look forward to seeing the outcomes of this project.

The project results were reported in national media, including one young consultant writing **a first person piece for The Scottish Sun** about their experiences and what needs to happen next for children. BBC Radio Scotland also interviewed a young consultant alongside the Children and Young People's Commissioner Scotland (CYPCS) on The Good Morning Scotland show. The APiC project leader also featured on the Summer Mornings call-in to discuss children's experiences of the pandemic.

Scottish Government released a statement on their support for children's needs on the day of release of #ScotYouthandCOVID2. APiC continues to advocate for the young consultants' asks, and have a third part of the project planned for 2022. This will widen engagement to work with young consultants to create a Scotland-wide child manifesto for recovery and increase engagement with decision makers.

- **Read more about the Participatory Action Research Project here.**

Recognising children's achievements

YouthLink Scotland – Participative Democracy Certificate

The Participative Democracy Certificate (PDC) acknowledges and develops communication, decision making and negotiation skills in the context of democratic engagement. Based on decision making in groups, it is worth two credits at Scottish Credit and Qualifications Framework (SCQF) Level 5. Each credit is based on 10 hours of learning activity. All YouthLink Scotland members are able to submit 20 portfolios for free every year.

PDC has received positive feedback from children and young people, including:

By taking part and completing my PDC Qualification it made a difference as it allowed me to meet other young people who were completing the qualification and make new friendships. I have also been able to add it to my CV, to help me find a job after higher education, which can significantly improve my CV by having it stand out.

It has made a difference to my confidence. I looked back at some old stuff I worked on and compared to now and I can see a real difference in my decision making as I am less hesitant when in the decision making process, and I found it very easy to fit around all my caring responsibilities.

Practitioners supporting children said:

For young carers taking part in Carers Trust Scotland activities, the PDC gives them formal recognition for the incredible commitment and hard work they demonstrate through volunteering with us. It is a nice way to give back to the young people and formally reward their work.

For us as an organisation, we can support young people through the process and offer this award as an addition to our voluntary opportunities. We are also able to report back to our funders on the development of young people; the PDC is a great addition to our monitoring and evaluation process.

The PDC has resulted in children and young people building their confidence as well as providing opportunities for them to gain qualifications and enhance their CV.

- **[Read more about Participative Democracy Certificate here.](#)**

Designing activities with children

Forces Children Scotland – Youth Participation Programme

This project aims to support Armed Forces children and young people to grow in confidence, develop their skills, and access opportunities to have their say about decisions, policies and services that affect them.

The Youth Participation Programme ensures that all aspects of the charity's work from services, planning and delivery to policy is directly informed and shaped by the voices and experiences of children and young people in Armed Forces families. For example, the Programme engages with

children and young people on an ongoing basis through seven local forums and a national forum (the national forum has 25 children and young people involved between ages of 12 to 24).

Group sessions and activities are co-developed with children and young people. The Youth Participation Programme has engaged and consulted with approximately 600 children and young people through both direct sessions and surveys since beginning in 2018. The contribution of the children and young people engaging in the Programme has led to important developments in Forces Children Scotland's services and projects. For example, children and young people expressed concerns about their mental health, wellbeing and ability to access services. This has led to the development of the Your Mind Matters Project. The project is working with children and young people to co-produce new mental health and wellbeing services for peers and wider families including a bespoke digital platform, as well as face-to-face, small group and peer support services.

Armed Forces children and young people also feel that there is often a lack of understanding of their lives amongst their civilian families. Currently, Forces Children Scotland is working with children to co-design a board game and a comic to help raise awareness about life in an Armed Forces family.

The children and young people felt like the Programme created a space for them to talk about their experiences as armed forces children. In their words, the children and young people said:

I really enjoyed today because I was able to speak openly and honestly and not get judged. Thank you so much this has made me realise how much an experience being in the armed forces is.

Enjoyed thinking about changes we can make.

- **Read more about the Youth Participation Programme here.**



Child Rights International Network – Climate Advisers

Child Rights International Network (CRIN) has piloted a new way of involving children more in their work, by bringing together a group of 14 Climate Advisers. These **Climate Advisers** are aged between 10-18, from different regions and backgrounds, who campaign on different environmental issues. CRIN recognised that it needed to listen to and promote children's views more and, as climate justice is an area in which children hold expertise and are leading by example, it was an ideal issue to pilot working with children as Advisers.

The Climate Advisers began by developing their own version of the **CRIN Code** which set out the values and principles to guide how they collaborated with CRIN and each other. Over the past year, together with CRIN's team, they shaped the organisation's new **Climate Justice Strategy** and inputted into CRIN's climate related work. CRIN has tried to promote the voices and perspectives of the Advisers, by supporting them to: publish opinion pieces in the media, speak at events, be included in an online **side-event to COP26** on the topic of children's access to environmental justice.

With the group of Climate Advisers now moving into its second year, CRIN is assessing what it has learned from its first year and reflecting upon next steps. CRIN is doing this by seeking feedback from the first cohort of Climate Advisers.

For CRIN, it has been a positive experience to work with these Climate Advisers, as their passion and knowledge on taking strong climate action continues to motivate and inspire staff. CRIN will continue to involve children in its climate work, as to address the climate crisis we all must listen to each other, recognise our own unique inputs and work together.

To quote one of the children about their expectations of the project:

We are all change-makers and must not wait for others to take action. This is the impact and power of the digital age we live in. By inspiring each other and challenging our boundaries, adults and children will jointly find solutions to achieve climate justice. Sagarika, United Arab Emirates.

- [Find out more about the Climate Advisers project here.](#)

Adapting to limited timescales



CELCIS – toolkits for project implementation

CELCIS has recently supported Scottish Government in developing guidance on changes to legislation around the rights of Care Experienced brothers and sisters. This work was led by and grounded in participatory work with children, young people and adults with experience of care. To ensure that as wide a number of children and young people were involved in the development of this guidance and for this to be possible in the timescale required, participation toolkits were developed for use by external partners.

CELCIS produced two toolkits. The first toolkit was for primary school-aged children working on their own, while the second was aimed at adult facilitators who were supporting groups of children to take part. The toolkits contained play, games and creative work. The toolkits accommodated for children to participate in different ways, such as via group meetings, online meetings, phone calls or sending emails. A mailbox was also set up so that children could contribute their views directly.

Sharing these toolkits to external partners enabled them to utilise their existing relationships with children and young people to gather children and young people's views. This approach led to the input from members of the Care Inspectorate Young Inspection Volunteers and Our Hearings Our Voice.

Using a network of external partners this project effectively gathered a large range of views within a short timeframe. Having two toolkits ensured children and young people were supported to participate in their preferred way, either as a group or as an individual.

- [Read more about the Toolkits for Project Implementation work here.](#)

Participation of younger children



Licketyspit – Have Your Say Through Play

Have Your Say Through Play is a children's human rights-based, fun way to support under-12s to explore and share their thoughts, feelings and ideas through Lickety Playcard Play.

This project was first developed in autumn 2020, as a way to consult children to share their experiences of the COVID-19. Licketyspit worked with six to 12-year-olds in their Children & Families Network which consists of families living in poverty in Glasgow and Edinburgh, including a high proportion of refugees and asylum-seeking families to develop the approach.

Have your Say Through Play was first piloted to facilitate children's participation in the UNCRC Incorporation Bill consultation. The sessions use imaginative story and play activities to enhance the right of children to be listened to, the right to play and other rights. During online sessions, the children involved are introduced to a fun activity that supports them to share their thoughts and experiences while still enjoying play. The games that have been adapted for Have Your Say Through Play include Flying Balloons, Sent A Letter To My Love, What's The Time Mr Wolf, Let's Bake A Cake. For example, children could be asked to imagine being on a flying balloon and to think about what they wanted to do and things around them. The project also uses reflective drawing to explore children's experiences.

As a result of this play-based approach, children have felt supported to open up and share their thoughts, concerns, feelings and aspirations:

This is the different rights (drawing of a cake). This one is the right for freedom and that one is the right to be loved, that one is the right for respect, that one is the right to privacy, that one is the right for education, the right to be heard and the right for a home, the right for clothes. Then you have the cake, there's a strawberry layer and a chocolate layer and then there's peach icing with sprinkles and you have some little edible pearls and then you have love, you have love-hearts all around because you have to have a lot of love for it to actually work, you have to have a lot of love and a lot of teamwork!

- **Read more about Have Your Say Through Play [here](#).**

Participation of early years children



Starcatchers – Wee People, Big Feelings Project

This project applies an approach that uses movement as a language and a medium of expression when working with early years children. It involves visiting nursery schools where most of the children are from armed forces families. The project is about understanding the impact of deployment – how children's emotions about this are reflected in their movements and expressions. It concentrated on using music and art to understand emotional resilience in children; how their emotions are translated into movements and the physical responses they have to the exercises being shared with them.

Staff also participate in skills training and contribute to creating activities that the children can take home. Alongside being in the nursery, the artist-in-residence also works with Starcatchers to develop resources which can be used by other settings, at home and in the community. These include Wee Inspirations idea cards, which provide fun and engaging ideas without a lot of kit, set-up or stress, and short videos that show some of the delivery in the nursery and explain its importance to emotional wellbeing and mental health.

In some of the sessions, the Starcatchers artist used a parachute which the children could sit or lie on. From there they could glide or be pulled around the hall. Most of the children felt relaxed

and asked for multiple turns. They felt really engaged with each other, dancing together and watching each other's movements.

Sahmed (name changed) didn't normally engage with the movement sessions and preferred to stay close to his key worker and watch. However, towards the end of the session, he put his favourite stuffed toy on the parachute to get carried around like the other children had been. Sahmed's keyworker commented that this was a big sign of trust for him. In the next session, he asked to slide on the parachute and fully engaged with rolling around on the floor with the other children. Since then, he's joined in with movement sessions – including choosing music, and dancing with the other children.

- [Find out more about the Wee People, Big Feelings project here.](#)



Starcatchers – Sprog Rock

Starcatchers' Sprog Rock project involved artists working with very young children to produce songs as part of an innovative gig experience. 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. For example, artists asked questions about what it feels like to be three years old and what it would be like turning four.

Exploring different musical styles with the young children helped them to understand the choices they had and what they wanted the gig to be like.

Young children were able to engage in inclusive decision making and create meaningful songs about their lives. They then had the opportunity to hear the songs being performed during the gigs, creating a sense of agency about their contribution being important.

- [Learn more about Sprog Rock here.](#)

Supporting children's direct engagement with decision makers



Rights Right Now! – engaging with the UNCRC Strategic Implementation Board

Rights Right Now! is a pilot project established to ensure that children are at the heart of the UNCRC Strategic Implementation Board's (SIB) collective leadership and decision making. The project was established in September 2021 and currently involves 14 children aged between 10 and 17. The project was originally known as the Interim Children and Young People's Consortium and renamed by the children to Rights Right Now! to reflect their work and create a sense of identity and ownership.

Rights Right Now! is coordinated by Together in partnership with six Together members: Aberlour, Carers Trust Scotland, Children in Scotland, Scottish Commission for Learning Disability, Scottish Youth Parliament, and Who Cares? Scotland. The project is underpinned by a commitment to safe, inclusive and trauma-informed practice. Partner organisations involved have pre-existing relationships with children who have been involved in engagement around the UNCRC Incorporation Bill. These organisations are committed to strengthening the SIB's capacity to involve children with a broad range of experiences and background in its work. In addition, the

project is supported by 17 Associate organisations, Professor Laura Lundy and The Observatory for Children's Human Rights in Scotland.

Meetings are attended by members of the SIB and the lead from the Empowering Children and Young People Team at Scottish Government. Children have valued the opportunity to engage directly with decision makers in a shared adult and child space:

(Moment you loved) getting to meet everyone- especially the SIB members.

Everyone was really nice to talk to and had a really encouraging atmosphere.

Members of Rights Right Now! have shared their views on the strategic actions included in Scottish Government's 2021-2024 Action Plan. They are currently involved in informing the development of a Scottish Government national awareness raising campaign aimed at ensuring that children and their families are aware and understand the UNCRC. Planned activity includes informing a national survey and the redesign of the children's rights booklet.

Members of the group have highlighted key issues and themes that are important to them which include: climate change, mental health, exams results, equality and equity, poverty and rights awareness which they would like to see action on.

Throughout this project children shared how important it was for them to have spaces like Rights Right Now! to engage with the government on issues that impact them:

Scottish Government should take into account children's opinions – this meeting is one way of doing it.

However, they have also recognised the need for accountability and for "action to be continued" following what they have shared.

Throughout the initial stages of the work, Together heard from children about the importance of having the time and space to develop relationships, build trust and have fun. These are necessary requirements for children to feel comfortable to share their views. This learning has been used to inform the development of future sessions. As the children have started to feel more comfortable in the space, they have started to take on more of a lead.

The Rights Right Now! project offers the opportunity to pilot a model on how children can be involved in governance at a strategic level. Key learning and recommendations will be used to inform the development of a longer-term project which will align, inform and influence the work of the SIB and the implementation of children's rights in Scotland.

Children are clear that they want the legacy for:

[T]his consortium (to be) as good as it can be for future children who get involved.

- More information on Rights Right Now! and how it uses inclusive communication to support participation can be found at p.73.



Scottish Parliament's Equalities and Human Rights Committee and Outreach Team – engagement with children on UNCRC incorporation

After the introduction of the UNCRC Incorporation Bill in the Scottish Parliament, the Equalities and Human Rights Committee (EHRC) expressed a desire to ensure children's voices informed their consideration of the Bill. The Scottish Parliament Outreach Team (Outreach Team) contacted different children's charities about gathering children's views on the UNCRC Incorporation Bill. The Outreach Team, with the help of the charities, produced child-friendly consultation materials including leaflets, easy read booklets, a facilitators' pack for adults working with children of different ages, and additional PowerPoint presentation for schools. The child-friendly consultation enabled children to respond in a way that suited them including through drawings, poetry, video and other formats.

Alongside this, EHRC held numerous online engagement sessions with children from different backgrounds, lived experiences and age groups, supported by the charities. These sessions were hosted by the children and supporting charities with EHRC members attending as guests. This was to ensure children felt ownership of the space and more at ease.

Together facilitated two sessions with its members (one for children under 12 and another for ages 12-18). For these sessions, the member organisations supported their children to prepare and plan the activities. EHRC also prepared a simple sheet with photos explaining who would be coming to the meeting and why. This helped the children feel prepared ahead of the session and recognise the adults when they arrived. During the online sessions, participants split into breakout rooms in which children led the breakout room activities with MSPs invited to take part. This allowed for activities that suited the age, stage and needs of the children involved – such as games, art activities or giving a short presentation. The children could choose how they wished to participate – they could speak aloud or write comments in chat if this felt more comfortable for them.

As a result of this work, EHRC received over 50 consultation responses from children, schools and youth groups (approximately one third of the total responses). Responses included drawings, poems, letters and stop-motion videos. Children emphasised the importance of being included in these discussions and child-friendly information so EHRC published a child-friendly version to accompany its Stage 1 report.

The child-friendly Stage 1 report helped ensure children knew what the MSPs had learned from their responses and activities, and how this would be taken into account in future stages of the UNCRC Incorporation Bill's progress through parliament. This is particularly relevant to the aforementioned 'feedback loop' issue and is a promising example of how a public authority has taken steps to address this challenge. The views children shared were key in informing amendments tabled at later stages of the Bill, such as an amendment to ensure child-friendly reports on the Children's Rights Scheme.

- [Read more about the Child Friendly Consultation here.](#)
- [Read the child-friendly Stage 1 report here.](#)



Children's Parliament – Climate Assembly

Climate change is a children's rights issue. Any plan or solution to tackle the climate emergency in Scotland must respond to the needs of everyone, including children. To aid this, from October

2020 Children's Parliament were invited to support the participation of children under the age of 16 in Scotland's Climate Assembly. To capture the diversity of views and experiences across Scotland, Children's Parliament worked with over 100 children aged 7-14 years old from 10 different schools. The children involved were of different genders, ethnic and socio-economic groups and from different areas.

The work was facilitated nationally online through a series of small group workshops and digital, interactive surveys. To further explore core climate change themes, 12 of the children as 'Climate Change Investigators' participated in smaller group calls, using pre-prepared 'mission packs' with creative activities to collate their views and ideas into Calls to Action.

The results of these calls were presented to the adult Assembly members through a series of short films, [found here](#). The children were also asked to share their feedback on the Assembly process, including how they would like to participate and receive information from the adults involved. In June 2021, the children's Calls to Action were laid out in Scottish Parliament as part of the Climate Assembly recommendations.

The positive impact of the children's involvement in the Climate Assembly was highlighted by the adult Assembly members and the Investigators, and in August 2021 the project moved into a new phase. This new phase involved 'Climate Changemakers', consisting of a group of 14 children across local authorities in Scotland, 12 Climate Assembly Investigators and supportive Children's Parliament staff. Climate Changemakers engaged with and influenced duty bearers to take forward their Calls to Action in Scottish Parliament and beyond.

They met with groups of Cabinet Ministers organised by core climate change themes to share their specific Calls to Action and to highlight the importance of children hearing meaningful feedback from adults on steps taken towards climate action.

On 29th October 2021, Children's Parliament worked with Scottish Youth Parliament and Scottish Parliament to coordinate a nation-wide day of climate surgeries called The Moment. Local decision makers met with children and young people in their communities across Scotland in climate surgeries to learn from their experiences and ideas on tackling the climate emergency. An interactive digital toolkit, [found here](#), was developed in collaboration with the Climate Changemakers to support children, young people and adult facilitators to engage with The Moment and other influencing events. The toolkit includes a national map documenting over 80 events from the day here. In November 2021, the 14 Climate Changemakers were also invited to participate in a series of events with children's rights experts and adult decision makers from around the world during COP26 in Glasgow. A Children's Parliament Twitter thread [here](#) summarises the outcomes and recordings of all the events.

- An impact report documenting the positive journey the 14 children have been on since October 2020 and the wide-reaching impact of their participation will be published on the Children's Parliament website in early 2022.

Carers Trust Scotland – Scottish Young Carers Festival

Carers Trust Scotland hosts the Scottish Young Carers Festival each year, where over 400 young carers come together to have fun, meet new friends and have a break from their caring role. The 2021 Festival was adapted to be held online in light of COVID-19. As in previous years, young carers played a central role in designing and leading the Festival.

Initial planning began with consulting young carers and their services, to ensure that any alternative Festival activities would be welcomed by young carers. Young carers were honest about 2020 activities and the need for greater content delivered in a different format. In response, a Festival **webpage** was launched with three different topics: Just Fun, Life Skills and Self Care. Young carers could access over 40 pre-recorded workshops including mindfulness, magic, comedy, arts and crafts and learning a language. Young carers also shaped the promotion of this content, with a group of five creating a promotional TikTok to ensure as many young carers as possible could access this material.

A central element of the Festival is ensuring young carers have the opportunity to have their voices heard and taken into account. Carers Trust Scotland hosted a 'Young Carer Voice: Consultation Event' which provided young carers the opportunity to discuss important issues and speak directly to key decision makers. This included Scottish Government officials, MSPs and local councillors.

When planning this event, Carers Trust Scotland worked with their Young Adult Carer Advisory Group who voted on the top five themes most important to young carers; these then became the themes of the consultation workshops. At the event, young carers chose which workshops they wanted to participate in: Education, Mental Health, Respite and Short Breaks, Young Carers' Rights or Rural Voice. Decision makers sat in on the workshops to listen to young carers' views and experiences. To ensure that young carers felt comfortable and supported to participate, the workshops were co-facilitated by young adult carers. The event concluded with a Q&A panel, where young carers could ask questions directly of decision makers, including the Minister for Mental Wellbeing and Social Care. Following the event, Carers Trust Scotland compiled a **report** to summarise the findings and shared this widely with stakeholders. A youth-friendly poster was designed to help close the feedback loop with young carers. The consultation findings will also steer the direction of Carers Trust Scotland's own work.

Finally, as part of the Scottish Young Carers Festival, Carers Trust Scotland also recruits a group of young carers, aged 16 – 18, to become the Media Ambassadors. Each year, they take part in training to create impactful films, capturing footage and consultation at the Festival itself. Carers Trust Scotland worked to ensure that flexibility and support were built into the project from the start, and consulted with young carers on what support they would need to take part, including access to devices. The 2021 Media Ambassadors created a storyboard and filmed this remotely, conducting online peer-led interviews with young carers across Scotland. Their film focuses on themes important to young carers including education, respite and loneliness. Their film was launched at the Carers Parliament in October 2021. The Media Ambassadors filmed a **short presentation** for this event where they discussed how they found the project and what they hope the film achieves. Carers Trust Scotland has shared the film at knowledge exchange events, through training with school staff and health and social care staff, on social media, with youth work services and Scottish Government officials. Carers Trust Scotland ensures that the Media Ambassadors are kept updated on these actions and how the organisation is measuring its impact.

The feedback from the young carers, among others, was:

I felt even more isolated than I felt pre-COVID from socializing, support services and reality. I felt even more out of touch to 'normal life' as my caring role increased even more and I felt even more consumed by caring and that that was my sole purpose of my life – like I didn't have a life outside of caring anymore. Through being a part of the project, it gave me a tie to normality, gave me something to do aside from caring, something else to focus on and able to talk to other people out with my household.
(Media Ambassador)



The **Young Advisers** are aged between 14 – 17. They are recruited annually for a term of between one and two years and come from all areas of Scotland, from the Scottish Borders to Orkney. There are currently 31 Young Advisers involved in three distinct groups: the Governance Group, the Mental Health Group and the European Network of Young Advisers (ENYA) Group.

If you think applying to be a Young Adviser means applying for yet another tick-box position for an organisation paying lip service to issues facing young people, you could not be more wrong. You're applying to a role which will place you at the heart of the strategic decision making of one of Scotland's foremost young people's organisations.

Taking a rights-based approach is a key factor in working with children and young people at the CYPCS office.

In carrying out his functions as set out in the Commissioner for Children and Young People (Scotland) Act 2003, the CYPCS and his team must have regard to the UNCRC especially around considering the views of children and young people. The CYPCS must also encourage them to be involved in his work and consult them on the work he plans to do. One of the ways he does this is through his Young Advisers groups.

The best bit about being a Young Adviser is that your views and thoughts are taken seriously and you do really shape the office's work.

To ensure a rights-based approach, Young Advisers are given information and training on the UNCRC including on General Comment 12. They use the **7 Golden Rules for Participation** as their principles for practice.

As well as having distinct roles in separate groups, all Young Advisers have a universal role within the office. They support the CYPCS and his team with their policy work and help with the recruitment of staff. Often sharing a platform with the CYPCS, they will speak to Parliamentary Committees and at other events. Most importantly, they keep the CYPCS and his team informed about what matters to children.

While it was daunting, it was a great experience, and it helped me to get to know and appreciate myself better. (Young Adviser speaking about his experience of co-hosting a webinar on children's rights alongside the Commissioner.)

Due to the limitations of COVID-19 and the inability to meet face-to-face, the current group of Young Advisers meet online. There have been positive and negative aspects of moving to a wholly digital way of working. Children and young people from more remote and rural areas have been able to take part more easily, for example, whereas online engagement was not suitable for all.

As a Young Adviser we have covered so much already, from talking to young people who are just as passionate as I am, to discussing what should be put into place for children as a result of coronavirus.

- **Find out more about the role of the Young Advisers [here](#).**



Play Scotland supported children and young people (aged 0-18) to share their views on the **review of Scotland’s Play Strategy**. This enabled children and young people to express their feelings about play opportunities generally, but also in light of the restrictions due to the COVID-19. The Play Strategy document was written in 2013 and the engagements took place from the end of 2020 through to February 2021.

The process included both qualitative and quantitative methods, with views being sought from children and young people from different age groups, backgrounds and different parts of the country. The views of children and young people with additional support needs and refugees/asylum seekers were also sought. Play Scotland did this mainly through online engagement in creative and playful ways. Over 340 children and young people took part in the survey.

Play Scotland’s findings highlighted COVID-19 had an enormous impact on children and young people’s lives. After the challenges of 2020, they wanted a return to the play they enjoyed. They wanted to be with their friends, see their extended families, play at school, at clubs and outdoors. Children and young people also wanted better play – with improvements to parks and play facilities which include everyone.

Some of the feedback included:

I don’t stop being a child, even with coronavirus. Don’t forget children.

There is nothing suitable for me as I have complex needs and can’t walk or talk. I have been forgotten about.

Give us more play time at school and make learning more fun.

I feel judged when out and about with a friend – as if adults think we should be at home and not enjoying anything at all.

The consultation with children and young people was shared with Scottish Government and was used to inform Scottish Government’s **Get into Summer Programme Framework**, which was in response to the COVID-19 pandemic. A budget of £20 million was committed to “help restore the wellbeing of children and young people during summer 2021”.⁸⁰ This led to a range of activities and opportunities for children and young people to re-connect, engage and play with their friend over the summer holidays in 2021.

- **The consultation summary can be found here.**
- **The consultation informed the Progress Review of Scotland’s Play Strategy (2021) which can be found here.**

⁸⁰ Scottish Government. (2021). Summer offer for children and young people - ‘Get Into Summer’ programme: CRWIA stage 1. <https://bit.ly/36ut66E> [Date accessed: 20.2.22].



SQA, Where's Our Say? – right to redress

Scottish Qualification Authority (SQA), *Where's Our Say?* is a youth-led group focused on the right to redress for those students who had their rights breached during the 2020 and 2021 SQA certification processes.

After the cancellation of exams in 2020 and 2021, many students sought to use the SQA appeals process to ensure they had their grades awarded appropriately. The initial SQA certification model was based upon algorithms, which led to many students being disadvantaged.⁸¹ When these algorithms were subsequently removed, the SQA created limited grounds upon which individuals could submit an appeal. SQA, *Where's Our Say?* wanted to ensure those impacted had an opportunity to share their views on decisions going forward. The group were active on **social media**, on television and in newspapers. Children were in charge of what the campaign told the media, and worked to show journalists that the way children are supported with media opportunities mattered. This led to children co-writing for **national newspapers**, as well as appearing on STV and BBC Scotland to discuss how they had been impacted by the SQA decisions in 2020.

Quite early on, we had assembled young people who joined zoom call with MSPs who wanted to raise what had been dubbed as a 'qualifications fiasco' in the Scottish Parliament. What made this event unique was that the politician's involvement was simply to listen to young people talk to their peers, young people led the entire thing. Even though, we had access to a range of experts in children's rights and the law to people with a background in politics, it was us, the group of young people, who had the final say on anything we did under our campaign banner, it was incredible to have these people next to us and not above us. (Rachael Hatfield, SQA, *Where's Our Say?*)

Members of SQA, *Where's Our Say* were invited to meet the Deputy First Minister and give evidence to Scottish Parliament's Education and Skills Committee. This allowed children to speak directly to decision makers. A group of children from around Scotland met with some of the Committee members via Zoom on the eve of the SQA Chief Executive appearing before the Scottish Parliament's Education and Skills Committee in January 2021. The elected officials listened to the children and specifically asked which questions they should be asking the SQA on their behalf. While some of the **questions posed by the children** were put to the SQA, the children had concerns after the session, feeling like their viewpoints had not been put across strongly enough. Therefore, the children wrote to the Scottish Parliament's Education and Skills Committee and asked them to raise issues with the SQA in writing, to ensure they got a response to their concerns. Following a written letter raising concerns on the behalf of SQA, *Where's Our Say?* they did indeed receive a response. Further, there was repeated mention of the SQA, *Where's Our Say* campaign in the Parliamentary Chamber with some MSPs highlighting the way the campaign had ensured the voices of those impacted were heard by decision makers. An event was jointly organised by SQA, *Where's Our Say?*, SYP and the CYPCS in June 2021. This session allowed the CYPCS to hear directly from children and with permission publish tweets. These tweets anonymously quoted children. They sought to highlight children's experiences and influence the Parliamentary debate on the SQA. This led to elected officials quoting children in the Parliamentary Chamber.

⁸¹ M. Priestley, M. Shapira, A. Priestley, M. Ritchie, C. Barnett. (2020). *Rapid Review of National Qualifications Experience*. <https://bit.ly/35JxXk0> [Date accessed: 20.1.22].

Michael Marra MSP stated:

Policy folk like to speak about getting it right for every child, and we might want to consider whether that is happening. We should listen to some of the voices that have been highlighted by the Children and Young People's Commissioner today.

Verity says: "Some friends are getting resit periods. We are not having resits at our school so it will be so much harder to get the percentage that we'll need".

Anja says: "Young people in December unfortunately let their guard down due to the announcement of exam cancellations and were left panicking come March when they were informed they would need to sit formal assessments".

Liam says: "Why are we here now? Why didn't anyone listen?"

Those are powerful words from the children who will be affected by the issue.

SQA, Where's Our Say? helped provide an opportunity for children to be heard during a global pandemic when opportunities for meeting others were often restricted. Children were able to share their views with other children from across Scotland in the media and directly with decision makers. This engagement led to the views of children helping to shape rights-based decisions.

- **Find out more about SQA, Where's Our Say? [here](#).**



Our Hearing Our Voice – feedback loop

The independent children and young people's board at Our Hearing Our Voice (OHOV) created 40 Calls to Action for the children's hearings system to promote awareness of children's rights. Members of the board are aged between 8 and 18 years old.

In October 2021 which marked the first anniversary of the 40 Calls to Action, OHOV used this as a 'hook' to reach out to the different partner organisations asking them to share what they have done to progress the calls to action, what they intend to do, the activities they have undertaken that is related to each call. Some of the partners responded by taking some actions.

For example, the Scottish Children's Reporter Administration wrote a report to the children and young people advising them in a language they understand about the changes they have made in relation to the children and young people, highlighting who is responding to the needs of children and young people and in what ways. The National Network of Advocacy Providers in the Hearings System have also used the 40 calls to design and implement an outcomes tool in relation to how effective advocacy is in the children hearing system. They have also written to the children and young people to explain in detail how they have used the tool. Children's Hearings Scotland have also met with the children and young people to explain how the 40 Calls have impacted on their practice and future strategy.

The support of partners in promoting the calls to action have highlighted the importance of advocacy in promoting the experiences and rights of children and young people in the Children's Hearing System, and also helped practitioners shape how they engage with children and young people in the system.

- **Read more about the 40 Calls to Action [here](#).**

Sharing practice between organisations



CELCIS – Participation Network

The Participation Network is a nationwide community of people who care about the meaningful involvement of children and young people in the decisions that affect them. It is a space for people to collaborate and learn from each other, acting as a community of practice to encourage positive change and collaboration. The Network aims to ensure that participation is carried out in ways that are safe, ethical and meaningful, with events and meetings covering many aspects of participation. The Network continues to grow and expand with well over several hundred members, including an international reach since meetings have been carried out online over the COVID-19 Pandemic.

Behind the quarterly events, there is a steering group of volunteer stakeholders, responsible for helping to plan and shape the events, with representation from across the children's sector, including both children, young people and adults, some of whom are care experienced. The Steering Group have been instrumental in the development of the network and in creating resources from the events that are accessible to anyone working in participation.

Discussion notes from the breakout rooms are circulated to attendees, and more recently, resources have been created and published on the Participation Network webpage after events. Often, guest speakers are recorded so that 'bitesize' learning videos can be published on the website. As further events and meetings are held, the resources developed from events will grow to reflect themes around current and emerging participation practice, and support learning in these areas.

With such a wide range of members, attendees are able to hear different voices from across the sector so that they can share practices, learn from different participation approaches and support the development of good participation practice. Through the Network, members can tackle topics such as trauma-informed practice in children's rights, in which embedding participation is crucial, but which require practitioners to have the skills and support to ensure they are confident to bring in participatory approaches.

- **Read more about the Participation Network project [here](#).**



Who Cares? Scotland – Participation Community of Practice

Who Cares? Scotland set up the Participation Community of Practice before the pandemic, to support development officers who run youth and community groups for Care Experienced people, to share resources and learning.

During COVID-19, participation work fell sharply, as Care Experienced children and young people either did not want to be on Zoom or many had access problems due to digital exclusion. During this time, the Participation Community of Practice grew larger and became more important, as Care Experienced, previously participation workers mostly had experience running in-person spaces to connect with Care Experienced members of Who Cares? Scotland. The Participation Community of Practice enabled an exchange of creative ideas and resources to deliver engagement in digital ways. It also raised awareness within the organisation about how to create high-quality participation work.

2.6 Top tips

The case studies above show the steps that organisations are already taking to implement the nine basic requirements of participation set out by the UN Committee. The following section maps key messages from the case studies against each of the requirements.

As stated by the UN Committee, all participatory processes with children must be:⁸²



1. Transparent and informative:

- **Provide children with accessible information** about their right to be heard, how participation will take place, its scope, purpose, how their views will be used, feedback loop, and potential impact. When working with external organisations, this could involve requiring the external organisations to submit a proposal that children can consider and suggest changes to in advance of any project commencing;
- **Create ongoing communication with the children** to ensure engagement is ongoing and not one-off. Share details of meetings and resources in advance to help children feel prepared.



2. Voluntary

- **Ensure children are aware of their options and can exercise choice.** Make sure they know they can leave any session or the project if they wish;
- **Encourage children to take part** but do not pressure them to express a view.



3. Respectful

- **Ensure children are equal partners in all projects.** Engage them on their own terms. Ensure opportunities for children to initiate ideas and take the lead. Support them to reach the goals they have set;
- **Value children's time and expertise.** This could involve compensating them through cash, vouchers or ordering their favourite food for sessions;
- **Foster an atmosphere of peer support** between children of different ages.



4. Relevant

- **Unpick issues to help children understand what these mean for their lives,** in turn ensuring they can draw on their knowledge, skills and abilities;
- **Engage children in what interests them.** This could include setting up smaller focus groups within a project that children can choose from;
- **Engage children in the ways that work for them.** Not all children will want to engage in the same way, so offer children a range of ways to take part and support other methods that children come up with.



5. Child-friendly

- **Ensure adequate time to plan projects,** working methods, information and resources so that these are adapted to children's needs. Ensure these are led as far as possible by what children involved want and are comfortable with;

⁸² CRC/C/GC/12: Paras: 132-134.

- **Ensure that participation is relationship-based and built on trust.** This helps build children's confidence and empower them to take part. Trust between the adults and children, and between the children themselves, can be encouraged through fun activities like playing games, baking together, making something creative or dancing. Some children may want to have a familiar support worker around;
- **Create space to 'check-in' at the start of sessions and to give feedback afterwards.** Ensure that children can express what they like or don't like about a project, allowing changes to be made;
- **Explore various innovative ways** to give children a platform and to enable them to have an input in decisions that affect their lives. This could involve using social media options like Tik Tok and snapchat to engage with their peers. Attention must be paid to online safety and age restrictions of these platforms;
- **In meetings with decision makers and other adults:**
 - **Try to ensure the children are not outnumbered.** Try to 'bring children in' in a way that is encouraging but does not place pressure on them to participate if they do not want to;
 - **Encourage decision makers to meet with children in their spaces.** Children should not always be expected to come into 'adult spaces' which may feel intimidating;
 - **Encourage decision makers to provide child-friendly information about who they are in advance of meetings.** For example, photos and introductory text or a short video;
 - **Support decision makers learn how to engage with children.** For example, providing guidelines in advance of the meeting which tell them to avoid jargon, use analogies that are relevant to children etc.



6. Inclusive

- **Take proactive steps** to engage children facing barriers to participation. For example, this could include providing digital devices and data SIMS to children who need them, and partnering with charities who support particular groups of children to ensure their needs are met;
- **Support children to create a group agreement** at the start of a project and revisit this regularly. This should set out the way children want to work together. A group agreement can help both children and adults understand that people go at different paces, have different backgrounds and experiences and that everyone's contribution is valued;
- **Make provision for inclusive communication methods.** For more detail on inclusive communications see Chapter 3.



7. Supported by training

- **Prioritise children's rights training** for all new and existing staff. Implement an ongoing development programme that translates children's rights into practice, and helps staff understand methods for different ages, stages and support needs;
- **Develop resources and learning opportunities** for staff on children's participation, engagement strategies and communication. This should support staff to adapt their practices for different ages, stages, and support needs;
- **Involve children in designing training and resources for adults.**



8. Safe and sensitive to risk

- **Ensure children know they have a right to be protected from harm** and know what to do if something is worrying them;
- **Minimise the risks children may face.** For example, if children are sharing sensitive personal experiences, you could protect their right to privacy by using cartoon aliases in any publications;
- **Ensure all staff have up-to-date child protection training** and know how to respond in situations of concern.



9. Accountable

- **Build a feedback loop into all projects**, including those with external organisations. Adults must follow up with children about how their views have been considered, what action is being taken and why. If action has not been taken, children should be informed of this and why;
- **Carry out self-evaluation as a team** of projects, strategies and processes of different aspects of participation to determine what is successful and where children need more support.

2.7 Resources

- UN Committee (2009). **UNCRC General Comment 12 on the Right of the Child to be Heard.**
- CYPSCS (no date). **7 Golden rules for participation.**
- Lundy, L. (2007). **The Lundy model of child participation.**
- Lundy, L. (2020). **Keynote speech: 'Voice is not enough': The Lundy model and early childhood (video)**
- CELCIS (no date). **Participation resources.**
- Scottish Government (2020). **Decision making: children and young people's participation.**
- Council of Europe (2020). **Handbook on children's participation for professionals working for and with children.**
- European Commission (2012). **Creating child-friendly versions of written documents: A guide**
- Joining Forces (2021). **Policy Brief: Children's Rights to be Heard: We're Talking; Are You Listening.**



Chapter 3: **Inclusive communications**

Autistic Kids
Need to
Be Heard



3.1 Introduction

Children's views and experiences are at the heart of child rights-based approaches. Within the United Convention on the Rights of the Child (UNCRC), Article 12 sets out children's right to express their views and have these taken into account in matters that affect them. Article 13 sets out children's right to seek and receive information. Access to information is essential to children's participation as it helps them build confidence and feel comfortable sharing their views.

Successful participation, within a child rights-based approach, requires inclusive communication. This means, sharing opportunities for children to participate in a way that everyone can engage with and understand. It also includes supporting children to use a range of ways to communicate to express their views and receive information. This may include using Easy Read, British Sign Language, Makaton, braille and interpreters. Inclusive communication is essential to realising children's right to participate in decision-making and to be free from discrimination.



Non-discrimination – Article 2 UNCRC

1. *States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*
2. *States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.*

This chapter will explore why inclusive communication is essential, looking specifically within the context of Scotland and what this currently looks like in practice.

- Refer to Chapter 2 for information on children's participation more broadly.

3.2 Why is inclusive communication important?



The child is made of one hundred. The child has a hundred languages, a hundred hands, a hundred thoughts, a hundred ways of thinking of playing, of speaking [...] The child has a hundred languages (and a hundred hundred hundred more).⁸³

Children have infinite ways to express their ideas, thoughts, feelings and frustrations. By employing different ways to communicate, we can create environments and opportunities for all children to understand their rights and the world around them, and to access services on an equitable basis.

Without employing inclusive communication techniques, a child may be unaware of the supportive services available to them. Inclusive communication techniques assist children to respond to activities and questions and failing to implement such techniques can result in difficulties expressing one's needs and choices effectively. This in turn can impact the quality of service delivery.

In addition, awareness of the importance of inclusive communication can help service providers be aware of children's rights and the importance of children's views being sought and listened to. This especially applies to children who are assumed to be unable to contribute because they are unable

⁸³ Regillo Emilia Approach (no date). 100 languages. <https://bit.ly/3oira7r> [Date accessed: 19.1.22].

to or have not yet learnt to talk. Inclusive communication can help service providers better equip themselves from the outset to assist children with different communication support needs, this can result in services being more cost effective, user friendly and fit for purpose.

deafscotland strongly advocates for inclusive communications, reasoning:

 *Communication is the key to people enjoying their human rights and the key to integration in society, so must be fully inclusive. The impact of failing to enable the right to communicate and depriving people of the opportunity to communicate breaches human rights law.⁸⁴*

What have children said?

 *Decisions should be accessible so people can understand.⁸⁵*

 *Information about rights in schools needs to be accessible and inclusive.⁸⁶*

Recognising the importance of inclusive communication, children have suggested some methods that could be implemented to ensure this:

 *We like the idea of a child-friendly version of Child Rights and Wellbeing Impact Assessment, but the original should be easy to understand too. There should be other accessible formats of these.⁸⁷*

 *Language is important, use everyday language, use pictures, graphics etc. And keep things clear and simple. Needs to be accessible without diluting the content.⁸⁸*

 *Find different ways to express and communicate.⁸⁹*

Some children have shared their views on the duties held by government and public authorities:

 *Government could put more things in place for people with support needs/accessibility needs.⁹⁰*

⁸⁴ deafscotland (2019). Briefing Participation, Consultation and Communication, p.4. <https://bit.ly/3ojr5Q0> [Date accessed: 19.1.22].

⁸⁵ Scottish Youth Parliament (2019). Response to the Scottish Government's Consultation on Children's Rights: Consultation on incorporating the United Nations Convention on the Rights of the Child into our domestic law in Scotland, p.11. <https://bit.ly/3JdAwJJ> [Date accessed: 19.1.22].

⁸⁶ Together (2020). UNCRC (Incorporation) (Scotland) Bill Scottish Parliament Community Outreach – Virtual Session with 12-18-year olds. <https://bit.ly/3LfqlWT> [Date accessed: 19.1.22].

⁸⁷ Scottish Youth Parliament (2019). Response to the Scottish Government's Consultation on Children's Rights: Consultation on incorporating the United Nations Convention on the Rights of the Child into our domestic law in Scotland, p.14. <https://bit.ly/3JdAwJJ> [Date accessed: 19.1.22].

⁸⁸ CYCJ and Staf (2020). Equalities and Human Rights Committee UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with young people and Committee Members CYCJ & Staf (Scottish Throughcare and Aftercare Forum), p.3. <https://bit.ly/3IXKO06> [Date accessed: 19.1.22].

⁸⁹ CYCJ and Staf (2020). Equalities and Human Rights Committee UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with young people and Committee Members CYCJ & Staf (Scottish Throughcare and Aftercare Forum), p.3. <https://bit.ly/3IXKO06> [Date accessed: 19.1.22].

⁹⁰ Children in Scotland (2019). Children and Young People Consultation on the Incorporation of The United Nations Convention on the Rights of the Child (UNCRC), p.8. <https://bit.ly/3ITPcgl> [Date accessed: 17.1.22].

 *Authorities should talk to/with them, not at them.*⁹¹

One child shared the impact that not using inclusive communication could have:

 *If a child can't speak English, they won't be able to speak up about their worry or complaint.*⁹²

What has the UN Committee said?

General Comments

The United Nations Committee on the Rights of the Child (UN Committee) has produced a range of General Comments relevant to inclusive communication. These say, “children should be provided with whatever mode of communication they need to facilitate expressing their views.”⁹³

To establish children’s right to freely express views, it requires, “recognition of, and respect for, non-verbal forms of communication including play, body language, facial expressions, and drawing and painting, through which very young children demonstrate understanding, choices and preferences.”⁹⁴

The UN Committee recognises the rights of children in early childhood are frequently overlooked, or rejected as inappropriate on the grounds of age and immaturity. Therefore, the UN Committee reemphasises the fact children of all ages, can “make choices and communicate their feelings, ideas and wishes in numerous ways, long before they are able to communicate through the conventions of spoken or written language.”⁹⁵ To support this, the UN Committee calls on “adults to show patience and creativity by adapting their expectations to a young child’s interests, levels of understanding and preferred ways of communicating.”⁹⁶

UNCRC Concluding Observations (2016)

When the UN Committee last examined the UK’s children’s rights record, it made a range of recommendations relevant to inclusive communications.

The UN Committee asked the UK and devolved governments to adopt a human rights-based approach to disability, setting up a comprehensive strategy for the inclusion of disabled children.⁹⁷ The UN Committee was also clear in its Concluding Observations that governments should ensure full respect of the rights of disabled children to express their views and to have their views given due weight in all decision making that affects them, including on access to and choice of personal support and education.⁹⁸

UNCRC List of Issues Prior to Reporting (2021)

In February 2021, the UN Committee asked the UK and devolved governments for an update on what measures they had taken to promote meaningful participation of children, to ensure there is

⁹¹ CYCJ and Staf (2020). *Equalities and Human Rights Committee UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with young people and Committee Members CYCJ & Staf (Scottish Throughcare and Aftercare Forum)*, p.5. <https://bit.ly/3IXK006> [Date accessed: 19.1.22].

⁹² *Children’s Parliament (2019). A consultation on incorporating the UNCRC into domestic law in Scotland*, p.18. <https://bit.ly/3INQ6eK> [Date accessed: 19.1.22].

⁹³ CRC/C/GC/9: Para 32.

⁹⁴ CRC/C/GC/12: Para 12.

⁹⁵ CRC/C/GC/7/Rev.1: Para 14.

⁹⁶ CRC/C/GC/7/Rev.1: Para 14(c).

⁹⁷ CRC/C/GBR/CO/5: Para: 57.

⁹⁸ CRC/C/GBR/CO/5: Para: 57(a).

adequate support for children to be heard and for due consideration to take place.⁹⁹ Specifically, the UN Committee asked what measures were being taken to promote meaningful participation for younger children and disabled children, within the family, the community, school and the realm of local and national policymaking and decision making affecting children, including on climate change.¹⁰⁰ An essential element of this is inclusive communication.

3.3 The context in Scotland

Scottish Government's 2018-21 Action Plan aspired to create a Scotland where all children's views are heard, and children were empowered to be human rights defenders. Scottish Government committed to recruit a group of young leaders to organise and co-facilitate events and local discussion groups in different locations across Scotland, focusing specifically on engaging with seldom heard groups of children.¹⁰¹

Around the same time, inclusive communications started to feature in legislation passed by the Scottish Parliament. This included:

- Social Security (Scotland) Act 2018;¹⁰²
- Consumer (Scotland) Act 2020;¹⁰³
- Coronavirus (Scotland) Act 2020.¹⁰⁴



When the UNCRC Incorporation Bill was introduced to the Scottish Parliament, there were calls for a similar approach to be taken. The Health and Social Care Alliance Scotland (the ALLIANCE), in partnership with deafscotland and supported by Together, strongly advocated for inclusive communications to feature on the face of the Bill.¹⁰⁵ The campaign was successful, and an amendment was made to provisions on the Children's Rights Scheme.

When preparing the Children's Rights Scheme, Scottish Government must set out arrangements to "use, and promote the use of, inclusive ways of communicating that ensure that children are able to receive information and express themselves in ways that best meet their needs (in relation to speech, language or otherwise)".¹⁰⁶

In its 2021-24 Action Plan, Scottish Government makes further reference to inclusive communication.¹⁰⁷ It says it will work with the Children and Young People's Interim Consortium (since

⁹⁹ CRC/C/GBR/QPR/6-7: Para 15(a).

¹⁰⁰ CRC/C/GBR/QPR/6-7: Para 15(b).

¹⁰¹ Scottish Government (2018). *Progressing the human rights of children in Scotland: 2018-2021 action plan*, p.3 <https://bit.ly/3ol1ZB7> [Date accessed: 17.1.22].

¹⁰² Part 1, Section 4. *Social Security (Scotland) Act 2018*. <https://bit.ly/3s6ShDv> [Date accessed: 19.1.22].

¹⁰³ Part 1, Section 7. *Consumer (Scotland) Act 2020*. <https://bit.ly/3okRwp4> [Date accessed: 19.1.22].

¹⁰⁴ Part 2, Section 9. *Coronavirus (Scotland) Act 2020*. <https://bit.ly/35Cd4Hf> [Date accessed: 19.1.22].

¹⁰⁵ Together (2021). *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill: Joint briefing on the Stage 3 debate*, p.3. <https://bit.ly/3s88cBr> [Date accessed: 19.1.22].

¹⁰⁶ Section 11(3)(f). *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill*. <https://bit.ly/3s58NDU> [Date accessed: 19.1.22].

¹⁰⁷ Scottish Government (2021). *Progressing the human rights of children in Scotland: action plan 2021 to 2024*. <https://bit.ly/3uko2f5> [Date accessed: 17.1.22].

renamed Rights Right Now!) to help ensure the promotion and use of inclusive communication with children around the UNCRC Implementation Programme.^{108 109} Specifically, the 2021-24 Action Plan says Scottish Government will “produce child-friendly and accessible versions of guidance, rights reporting publications and other resources ... This will include booklets, session plans, animated videos and other such mediums as requested by children and young people.”

- More information on Rights Right Now! and how it supports inclusive participation can be found at p.73.

By embedding inclusive communication, Scottish Government will simultaneously advance National Outcomes on the inclusion of children in decisions about their lives,¹¹⁰ non-discrimination¹¹¹ and building inclusive, empowered and resilient communities.¹¹²

3.4 Overcoming challenges

This section will explore challenges faced when implementing inclusive communication techniques and how organisations have sought to overcome these.

Knowledge and skills to implement inclusive communications

- 👤 *Trainee teachers don't class British Sign Language as necessary as part of their learning. British Sign Language is absolutely needed. It gives children and young people an opportunity to express themselves visually and what's more amazing than that?*¹¹³

Training adults to implement inclusive communications can enhance communication with children who are at an increased risk of having their rights breached. Learning how to use actions, gestures, body language, facial expressions, signs, spoken word, objects, photographs, drawings, symbols, written word, technology and more can ensure children's communication style is recognised, respected, consistently interpreted and responded to. A young person with Additional Support Needs (ASN) shared a successful example of this:

- 👤 *My ASN teacher would take me out mountain biking and we shared that interest. He was so understanding. He made a scale about how I was feeling 1-10 and we changed it to bikes – ‘what bike are you today?’ to show how I was feeling and that helped a lot. This was great especially in a busy school with kids all around so they wouldn't know what we were talking about.*¹¹⁴

Parents and carers may also have communication support needs, so learning can also be transferred to inclusively communicating with parents.

¹⁰⁸ Scottish Government (2021). *Progressing the human rights of children in Scotland: action plan 2021 to 2024*, p.9. <https://bit.ly/3uko2f5> [Date accessed: 17.1.22].

¹⁰⁹ Together (No date). *Rights Right Now*. <https://bit.ly/34bpPIC> [Date accessed: 17.1.22].

¹¹⁰ Scottish Government (no date). *National Outcomes: Human Rights*. <https://bit.ly/3lYcBxu> [Date accessed: 30.01.22].

¹¹¹ Scottish Government (no date). *National Outcomes: Human Rights*. <https://bit.ly/3ugcQQx> [Date accessed: 30.01.22].

¹¹² Scottish Government (no date). *National Outcomes: Communities*. <https://bit.ly/3okYz00> [Date accessed: 17.1.22].

¹¹³ Children and Young People's Evidence Bank (no date). *Human Rights in the Classroom*. <https://bit.ly/3s3oT0Q> [Date accessed: 17.1.22].

¹¹⁴ Highland Children and Young People's Forum (2016). *Moving on – life after school*, p.18. <https://bit.ly/3ol1ZRD> [Date accessed: 17.1.22].

Despite these advantages, funding challenges (since exacerbated by COVID-19) have limited the knowledge, capacity or opportunities to upskill staff to learn about the best methods for inclusively communicating with children.

Steps taken to overcome these challenges

Free taster sessions have been run to build organisations' knowledge of inclusive communication and its importance. These have developed awareness of inclusive communication techniques to support the inclusion of babies and very young children. Organisations have also shared how inclusive communication has supported children by sharing their positive experiences on social media and on web platforms.

To confidently implement techniques to support inclusive communication, organisations have applied for funding partnership projects to support the upskilling of their staff. Others have invested in their staff to become trainers themselves. This latter approach has led to staff becoming qualified trainers to train staff within their own organisation. Communication Support Policies have been implemented to support staff to adopt a consistent approach within their practice when working with children. This has enabled staff to follow policies and procedures which support inclusive communication.

Please see the following case studies for more detailed examples:

- Licketyspit at p.46;
- HOPE for Autism at p.70;
- Sight Scotland at p.72;
- Rights Right Now! at p.73;
- Starcatchers at p.73.

Building awareness of opportunities to participate

 *It is important to recognise that young people with lived experience have the potential to bring a lot more qualified expertise than the adults they are potentially working with that don't have that lived experience.¹¹⁵*

Inclusive communication is an essential tool to build children's awareness of opportunities, events and services available. It gives *all* children the chance to communicate their views and experiences. Seldom heard children, such as children with learning disabilities, Gypsy/Traveller children, LGBTQI+ children, early years children, Care Experienced children, and young carers all have unique expertise and experiences which can better inform policy, practice and laws. Embracing children's expertise by public bodies and civil society can help avoid the following:

 *Young people are painfully aware when opportunities they are given to contribute to discussions are tokenistic and know that they are asked so that those asking can just tick boxes to make them look inclusive.¹¹⁶*

¹¹⁵ Intercultural Youth Scotland (2020). *The Equalities and Human Rights Committee UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with young people and Committee Members Intercultural Youth Scotland (IYS)*, p.1. <https://bit.ly/343Nafq> [Date accessed: 17.1.22].

¹¹⁶ Intercultural Youth Scotland (2020). *The Equalities and Human Rights Committee UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with young people and Committee Members Intercultural Youth Scotland (IYS)*, p.2. <https://bit.ly/343Nafq> [Date accessed: 17.1.22].

Steps taken to overcome these challenges

Inclusive communication works to ensure children are aware of opportunities to participate at all times. Therefore, this helps to avoid children feeling like they are only given opportunities to participate in discussions when organisations want to look inclusive.

Moreover, to ensure that children feel valued and included in discussions, inclusive communication should be used in feedback loops to ensure *all* children understand how their views have been taken into account. Efforts to do this include: using child-friendly language, formats and interpretation to meet children's needs, supporting children to share feedback with other children, developing animations and creating posters.

The impact of not doing this can be shown in the examples given by two Members of Scottish Youth Parliament (MSYPs).¹¹⁷

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

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

- Refer to Chapter 2.4 for more information on creating effective feedback loops.

Please see the following case studies for more detailed examples:

- See Me at p.42;
- Scottish Youth Parliament at p.74.

Targeting inclusive communications

Children find out about their rights and/or opportunities to share their views in a range of ways, by speaking to teachers at school, interacting with social workers in community centres, talking with peers on online platforms and more.

Targeting specific spaces used by children who are at an increased risk of having their rights breached, can prevent their views from being lost, misinterpreted, diluted or even dismissed. This is because these supportive spaces can help children be aware of and talk about specific issues they may not otherwise feel comfortable talking about. As one child notes:

 *Schools play a vital role in teaching children and young people to enact their rights and participate in a critical role in society. To promote the UNCRC, the school can get all the pupils, teachers, staff and even the community involved by doing presentation for each school year, adding posters around the school, encourage children to find more info about it. Also making sure that parents know their own child's rights.*¹¹⁸



¹¹⁷ Scottish Youth Parliament, *Starcatchers and Children's Parliament* (2021). *Together State of Children's Rights webinar A focus on participation*. <https://bit.ly/343CYDD> [Date accessed: 19.1.22].

¹¹⁸ Caldervale High School (2020). *Response to the UN Convention on the Rights of the Child Bill*. <https://bit.ly/3L6qlrO> [Date accessed: 17.1.22].

An organisation highlighted:

 *Limited resources in these spaces can sometimes make it difficult to pursue relationships that raise children and young people's awareness and involvement, and staff turnover can also impact rapport being built between the children, young people and the organisation.*

Steps taken to overcome these challenges

Overcoming some of the challenges associated with working in spaces where there are limited resources, requires perseverance, flexibility and a strong commitment to inclusive communication. As a Member of Scottish Youth Parliament states:

 *We recognise it is not always suitable for young people to attend certain meetings and attend certain groups, but we do believe there is always a way. Efforts can be made to engage young people indirectly, this brings more accessibility and a very similar level of participation. But the most important thing remains, young people are being heard.¹¹⁹*

A range of platforms have been used by organisations to target groups of children and encourage them to participate, examples include: TikTok, Facebook, Instagram and Snapchat, surveys, texts, WhatsApp and videos. Using existing forums, networks and relationships rather than setting up new ones, has also supported the inclusion of children in consultation work.

Peer-research has been used to uncover issues and priorities that may not be raised when adults speak to children. Supporting children to undertake peer-research enables them to take more of a lead with the project and support the way it is delivered. This can aid the awareness of the project and thus inclusivity, as children can promote certain issues and projects via their own networks.

- Refer to Chapter 2 on Participation for more information.

Please see the following case studies for more detailed examples:

- Children in Scotland at p.38;
- Children's Health Scotland at p.76.

3.5 Case studies

The following case studies offer a snapshot of what organisations are already doing to implement inclusive communication. Many show the links between inclusive communication and inclusive participation. **You can access further case studies on Together's blog.**



Hope for Autism – skills and knowledge around inclusive communication methods

HOPE for Autism (HOPE) aims to make a positive difference to the lives of autistic people. It does this by building the self-confidence of autistic children, young people and their families by providing social groups for ages 2-25, peer support, individualised family supports and training and information sessions for external partners and families.

Many autistic children, young people and adults experience significant challenges in communication and social skills. These challenges can prevent successful participation in school

¹¹⁹ Scottish Youth Parliament (2021). Cabinet Blogs – Engaging Young People in Decision-Making. <https://bit.ly/3ojOq4H> [Date accessed: 17.1.22].

and in other activities, thus, lessening their involvement in recreational activities that have health and wellbeing benefits. It also impacts on their civic participation, such as voting and volunteering, which are valuable to society.

HOPE staff have undertaken training to become the first Communication Accessible accredited organisation in Scotland. This training focuses on alternative methods used to communicate through Augmentative and Alternative Communication (AAC) systems. This includes the use of Picture Exchange Communication Systems (PECS), Makaton, visual keyrings with Boardmarker symbols, schedule boards and Talking Mats. Some staff members are now qualified trainers to support other staff members to deliver inclusive communication more consistently. For example, one staff member is now a Makaton Tutor and teaches staff, children and young people the Core Vocabulary. HOPE also has plans to train parents and carers in the use of Makaton. This training has given HOPE's staff the skills and confidence to engage more effectively with people who experience communication difficulties.

During the COVID-19 pandemic, HOPE continued to support autistic people using a variety of communicative tools. Some families were provided with social stories and visual aids that have helped them to manage the changes in their routine, the use of facial masks in public, and the closure of schools and places of interest. The use of Makaton videos has helped one person to understand and cope with a family bereavement. HOPE also supports families to engage in remote activities that the organisation delivers. It does this by providing digital resources and one-to-one training to enable children, young people and their families to communicate digitally with HOPE staff and with each other. This has reduced the feelings of isolation for many.

HOPE also implemented a new Communication Support Policy to support staff to adopt a consistent approach within their practice when working with children and young people. This has enabled staff to adhere to the Communication Access Initiative's standards and identify gaps in their communication support.

As part of HOPE's Communication strategy, HOPE will be sharing a Makaton video sign of the week with staff, children, young people and adults. Looking forward, HOPE plans to encourage the use of Makaton with community partners, help them to understand the challenges for autistic people and introduce them to a more inclusive communication approach.

- **Find out more about HOPE for Autism's work [here](#).**
- **Find out more about the Community Access Initiative [here](#).**
- **Boardmarker symbols can help children, young people to identify their needs and support staff to convey instructions. More information about Boardmarker symbols can be found [here](#).**
- **Schedule boards support the children with transitions and prepare them for moving from one activity to another. This can help to reduce the anxiety that can be induced through the transition. More information about schedule boards can be found [here](#).**
- **Augmentative and Alternative Communication is a range of strategies, devices, systems and tools to help people to communicate in other ways besides talking. More information about AAC can be found [here](#).**

- **Picture Exchange Communication Systems supports children and young people who experience cognitive, physical and communication challenges. More information about PECS can be found [here](#).**
- **Makaton is a unique programme that uses speech, signs and symbols to enable people to communicate. More information about Makaton can be found [here](#).**
- **Talking Mats is a visual communication system devised by Speech and Language Therapists to help people to communicate. More information about Talking Mats can be found [here](#).**



Sight Scotland – skills and knowledge around inclusive communication methods

Sight Scotland supports children with different communication needs. The inclusive approach taken by Sight Scotland is best shown through Lucia's experience. Lucia has grown up with visual impairment and complex needs as a result of a brain haemorrhage that struck when she was two years old. Doctors were uncertain as to what Lucia's capacity for speech and vision would be.

Following a fun summer at Kidscene (Sight Scotland's after school and holiday club based at the Royal Blind School campus in Edinburgh), Lucia started attending the Royal Blind School (which is part of Sight Scotland) at the beginning of the 2021-22 school term.

The Royal Blind School staff are fully trained to provide specialist education for children with visual impairment. Inclusive communicative techniques used include braille and tactile methods of learning, Canaan Barrie on-body signing and assistive technology. Children's school experience is about much more than classroom-based learning and as such, staff focus on experiential learning, multi-sensory lessons and exploration through play. This helps to build children's confidence, not just in education but practically and socially too. As Lucia's mum notes:

There's so much expertise, and an understanding of what destinations for school leavers might be. They can help guide a family in helping that young person make decisions as they grow up.

In Lucia's case, a tailored programme was created, combining one-to-one sessions, lessons with her classmates and therapy. In simple terms, daily feedback is given to Lucia's parents, to keep her parents informed of Lucia's progress and support.

This tailored approach has enabled Lucia to settle into her new school routine and residential placement. Lucia is now a very verbal and active 16-year-old who loves the outdoors. As her mum has said:

Lucia is interacting with a variety of people – not just the pupils and the teaching team, but the therapists as well. I'm quite astonished at just how much blending learning there is and support between education and therapy, such as with speech and language therapy, which now seems to be well embedded in the curriculum for Lucia. It's been really lovely to see that, as well as her interactions with the teachers and in other activities she's doing, like mobility sessions. I can see that Lucia is really happy [...] Lucia's got a lovely room and the building is so nice [...] It's a warm atmosphere, and I think she felt relaxed and that it was a happy place quite quickly. She's now made a particular friend where she's living, too. She's told me she likes being there. It's all exciting and new, and she seems to be stepping up to that and building her

confidence [...] It's just lovely to see her there, happy, confident and relaxed; at play and at dinner, interacting with lots of people and having a nice time with people who are interested in getting to know her.

Lucia's father, Callum, commented:

The transition so far has gone really well and everyone is heartened by just how resilient Lucia is proving to be in adapting to her new life away from home during the week. She really is blossoming.

At the Royal Blind School and with Sight Scotland I can relax in the knowledge that the people working with Lucia will be able to understand her, work out how they can best support her and how they can push and stimulate her that little bit more to try and learn new things.

- **Learn more about Lucia's story and the Royal Blind School [here](#).**



Starcatchers – engagement signals

Starcatchers has previously developed a suite of engagement signals that could be used in understanding how young children are responding to creative experiences.

The research focused on using a child's expressions and gestures to identify seven 'engagement signals'. Starcatchers has used them internally to understand what younger children, both verbal and non-verbal, are thinking and to inform the development of Starcatchers' work. The engagement signals approach is about tracking children's expressions and building their agency to take decisions as they grow. There were aspects based on theatre engagement and participatory engagements.

They are also in the early stages of developing an arts-based methodology that could be used to support practitioners, decision makers and policy planners to understand what babies are saying and how to incorporate this into decision making.

- **Read more about the Engagement Signals work [here](#).**



Rights Right Now! – using inclusive communication to support inclusive participation

Rights Right Now! is a pilot project established to ensure that children are at the heart of discussions around UNCRC Implementation. The group works alongside the Scottish Government UNCRC Strategic Implementation Board (SIB).

The project was established in September 2021 and currently involves children aged 10-17. The children have a wide range of experiences and are supported by six Together members that are the Rights Right Now! partner organisations: Aberlour, Carers Trust Scotland, Children in Scotland, Scottish Commission for Learning Disability, Scottish Youth Parliament, Who Cares? Scotland.

Rights Right Now! is a diverse group, both in terms of age range, lived experience and previous involvement in national participation groups resulting in a mixed method approach to engagement. Recognising there is no 'one size fits all' approach to inclusive participation,

the Together team meets with the six partner organisations to review the methodologies and approaches planned ahead of each session. This enables Together to adapt each session based on feedback received. The methodologies used for this project are individual to the context and group of children Together is working with.

In addition, children are sent resource packs which include pens, paper and creative materials to help them feel equipped to participate in each session. They can use these resources to communicate in any way which works best for them.

A visual agenda and information pack set on tailored coloured backgrounds are sent out well in advance of the session. Coloured backgrounds or overlays are used to improve readability for members Rights Right Now!. These visual agendas support children to feel prepared for each session as they include activities and questions, and it gives children foresight into what support they may want from Together or Together's members. In advance of sessions, support workers from each partner organisation meet with children to go through questions and activities to help them feel prepared and comfortable to participate.

During meetings, jamboards and group chats are used to support communication in a variety of ways, and supportive adults are always on hand to assist children's participation if they need it. At the start of the project children worked together to establish what a safe space would look and feel like through the development of a group agreement. The agreement highlighted key values, principles and practical concerns to be considered as part of the development and delivery of sessions.

To support all of the adults in the space, including the Together team, partners, members of the SIB and Scottish Government officials, 'a top tips' document for working with the children was developed. This document includes key things highlighted within their group agreement and is viewed as a living document.

After each session, child-friendly meeting notes are shared with partners, which are then disseminated to the children. This is to ensure that the children are aware about what information has been captured and shared with the SIB and support the feedback loop. Platforms have been set up for them to offer feedback on how each session went and areas that can be improved upon.

- [Read more about Rights Right Now! here.](#)



Scottish Youth Parliament – Children and Young People's Mental Health and Wellbeing Joint Delivery Board

Via the Children and Young People's Mental Health and Wellbeing Joint Delivery Board, Scottish Government and Scottish Youth Parliament (SYP) have worked together to support children and young people to contribute to decisions and reforms that could impact their mental health.

To support inclusive participation, the Board co-created with SYP a paper setting out principles for participation and engagement of young people. This document took into account the varying needs of different young people and what inclusive communication methods might be appropriate in different cases.



The Board also created a designated position – Engagement Officer – whose sole role was to support children and young people’s engagement on the Board. This helped ensure MSYPs were able to engage and supported adjustments to be made to make participation more inclusive. For example, the Engagement Officer indicated to the MSYPs what papers were a priority ahead of meetings and helped in translating any technical terms into child-friendly ones. They were also present to explain and challenge any non-youth friendly language during meetings.

As a result of these efforts, MSYPs felt empowered and supported to participate, knowing that the space was set up to support them and value their views.

To quote an MSYP:

Being able to be involved in decision making at a policy level was a really good opportunity and meant that young people were able to shape the policies which would impact them.

- **Read more about the Children and Young People’s Mental Health and Wellbeing Joint Delivery Board [here](#).**



Children's Health Scotland – steps taken to ensure inclusive communications are targeted

At Children's Health Scotland, an award-winning Self-Management Service is offered for children with long-term health conditions. This service is set up to support children to talk about a range of issues with others such as their health, worries and stress management. The service focuses on taking a child-centred, inclusive and flexible approach before, during and after sessions. To achieve this, information is gathered beforehand to create a safe, friendly and welcoming space for all. This is done in numerous ways and includes scheduling 1:1 time before the sessions begin so that staff can know the child or young person's interests and hobbies, understand their needs, and any accommodations that they may need to make. During the session, drawing, listening, idea sharing are used, so children can learn how to manage their physical health and mental wellbeing independently.

Sessions are split into two age groups; this allows opportunities for children to build social and communication skills and have appropriate peer support with other children who face similar health experiences and challenges.

Staff are keen to be led by the children. They use Mentimeter to check on the children's wellbeing throughout and to explore what children have found helpful and what they would benefit from in future sessions. An online resources box is used to collate information about other organisations that Children's Health Scotland could and/or do work with. This allows for additional signposting throughout if further support is needed.

Children are also invited to join the Self-Management Service CONNECT Hub, where Children's Health Scotland are able to contact children to let them know about opportunities to have their views heard on important issues.

The Self-Management Service has proven successful, as one young person said:

I've gained more confidence around new people and talking about my condition.

In addition, children have utilised the Self-Management Service CONNECT Hub to work in partnership with the likes of Scottish Government, the Genetics Alliance UK and the Royal College of Paediatrics and Child Health.

- **Learn more about this work here.**

3.6 Top tips

This section sets out key messages on inclusive communication drawn from the case studies above. **For general tips on participation, including how to make this inclusive, please see Chapter 2.**



- **Invest in training for staff and volunteers on inclusive communication methods.** Training should build their understanding of the importance of inclusive communication as well as practical skills;
- **Consider inclusive communication at all times**, whether providing information, planning an event, meeting or engagement activity. Wherever possible, involve children in this process to better understand and respond to their communication requirements.
- **Be flexible and adaptive** – children may want to express themselves in different ways.

- **Perseverance is key** – small, simple changes to the way you communicate will make a big difference to your service delivery. Some changes may take longer, but will deliver positive outcomes, including more satisfying experiences for children as well as cost efficiencies.
- **Ensure children receive feedback in a manner that is accessible to them.** Children need to know how their views have been used to inform decisions. Ensure children are reported back to in a manner which is child-friendly and inclusive.
- **Gather data and monitor how children are engaging with your service or project.** This can support you to fully understand the range of children’s communication support needs. Data collected should be qualitative and quantitative.
- **Develop relationships** – getting to know the children you work with better can enable you to understand different aspects of their personality and develop a greater understanding of how to effectively communicate with them.

3.7 Resources

- Inclusive Communication (no date). **Scotland’s Inclusive Communications Hub.**
- Scottish Government (2011). **Principles of Inclusive Communication.**
- Scottish Accessible Information Forum (2014). **Making Information Accessible.**
- Scottish Accessible Information Forum (2014). **Making Information Accessible Checklist.**
- European Commission (2012). **Creating child-friendly versions of written documents: A guide.**
- UK Government (2021). **How to produce communications that include, accurately portray, and are accessible to disabled people.**
- Royal College of Speech and Language Therapists (no date). **The Box Training: a free e-learning tool designed for professionals working in the justice sector to identify communication issues and develop skills to work successfully with individuals who have such issues.**
- Royal College of Speech and Language Therapists (no date). **Inclusive Communication Overview.**
- Widget Symbols (2021). **Guide to good symbol content.**
- Talking Mats (no date). **Our resources.**
- Mencap (no date). **A guide to creatively involve people with profound and multiple disabilities (PMLD) in decision making.**
- CHANGE People (2016). **A guide to producing easy read documents.**
- Call Scotland (no date). **Help disabled children to overcome barriers to learning created by their environment and to fulfil their potential.**
- Now Hear me (no date). **Information for professionals: Augmentative and Alternative Communication.**
- I CANS (no date). **Talking Point: Information to help you understand and support children’s speech, language and communication.**



Chapter 4:

Situations where a child's rights are at risk of not being fulfilled

BULLYING
IS WRONG



Do
it
yourself

Yeah!



I can
get the
answer



Thanks!

I can
help
you



Let's
talk about
things and
be kind to
each other



racism
is always
unacceptable



No
lonely
People

WE ARE HERE TO HELP



4.1 Introduction

Children with certain characteristics, identities and/or experiences face an increased risk of not having their rights fulfilled. This impacts a broad range of children, including those who are disabled, from minority ethnic backgrounds, Gypsy/Traveller, migrant, asylum-seeking, refugee, Care Experienced, part of the LGBTQI+ community, girls and young women. Rights violations can include barriers in accessing services, lack of support, bullying, stereotyping and negative public attitudes.

Robust data collection and monitoring are *essential* to identify these children, understand their needs and enable **proactive and reactive measures** to realise their rights.

4.2 Why is data collection and monitoring important?

Effective data collection and monitoring enables us to:

- Identify children (or groups of children) whose rights are at risk;
- Understand the impact of decisions on these children, including the nature and scale of a particular issue and how this affects children with multiple, intersecting identities;
- Identify what measures need to be put in place to uphold children's human rights;
- Evaluate and monitor the impact of these measures;
- Make evidence-based adaptations to these measures as necessary.



Failing to collect accurate data risks certain children becoming 'invisible'. This makes it impossible to design solutions that meet their needs and prevent breaches of their rights.

The themes in this chapter link closely with the right to be free from discrimination under Article 2 of the UNCRC and are reflected across a range of other international treaties.¹²⁰ Discrimination can be direct or indirect and is both a cause and effect of poor data collection.

Non-discrimination – Article 2 UNCRC

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

¹²⁰ E/C.12/GBR/CO/6: Para: 37.; CRPD/C/GBR/CO/1: Para: 15.; A/HRC/36/9: Paras: 134.81, 134.165.; A/RES/70/1: Targets: 10.2 and 10.3.

Direct and indirect discrimination

Direct discrimination occurs when a child is treated unfairly for an explicit reason. For example, if a school rejects the admission of a child because they have cerebral palsy, this is direct discrimination.

Indirect discrimination happens when something applies to everyone in the same way, but it affects some people unfairly. For example, if a school makes class trips conditional upon good attendance, then this indirectly discriminates against pupils with long-term medical conditions who have missed school for health reasons.

These examples are in the context of education, but direct and indirect discrimination can occur in all areas of a child's life.¹²¹

What have children said?

Children have recognised that some of their peers are at increased risk of rights breaches. They have recognised the universality of children's human rights and the importance of these being upheld without discrimination of any kind:

-  *Children with darker skin shouldn't be treated differently from anyone.*¹²²
-  *It is important that looked after children think they are loved. Even if they are in care, they all have the right to be loved.*¹²³
-  *No child should be discriminated by public authorities for their religion, ethnicity, gender etc. No child should feel biased towards e.g. teachers. Every child deserves protection and support.*¹²⁴
-  *[I]t is important to note that level of access to rights differs disproportionately amongst groups with protected characteristics ranging from young Black and PoC people, those with disabilities, Roma travelling communities, LGBTQI+, kids in care or that are carers and so on. It is important to approach this conversation from an understanding of equity not equality and to recognise how intersectionality plays a role in how much we are enabled to access certain rights.*¹²⁵

Children have emphasised the importance of creating inclusive environments for all children:

-  *When children get shown respect and kindness, it makes you feel happier and have a happier day. It makes you feel like a normal human being, rather than like a wee person with no worth.*¹²⁶

¹²¹ Contact (no date). Disability discrimination in school. <https://bit.ly/34fK2Ng> [Date accessed: 17.01.22].

¹²² Children's Parliament (2019). Report on the Children's Parliament consultation on the Progressing Children's Rights in Scotland Action Plan 2018-2021, p.13. <https://bit.ly/31muMbT> [Date accessed: 17.01.22].

¹²³ Children's Parliament (2020). A consultation with children with care experience to inform the recommendations of the Independent Care Review, p.9. <https://bit.ly/3IWxDwB> [Date accessed: 17.01.22].

¹²⁴ Caldervale High School (2020). Response to the UN Convention on the Rights of the Child Bill. <https://bit.ly/3L6qlrO> [Date accessed: 17.01.22].

¹²⁵ Intercultural Youth Scotland (2020). The Equalities and Human Rights Committee UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with young people and Committee Members Intercultural Youth Scotland (IYS), p.2. <https://bit.ly/343Nafq> [Date accessed: 17.01.22].

¹²⁶ Children's Parliament (2017). Children's Parliament Investigates Bullying, p.4. <https://bit.ly/3oivYcQ> [Date accessed: 17.1.22].

 *Everyone's different and everyone needs different things. So no one can really say, 'well, that'll help' because some people might not be able to do that. So it'd be neat to kind of ask people what they need.*¹²⁷

Collecting and monitoring data enables us to create a clear picture of how direct and indirect discrimination impacts the rights of children and assists us in identifying groups who are at increased risk of having their rights breached. By learning from children's experiences, we can create solutions that meet their needs and prevent breaches of their rights. As one child fittingly stated:

 *Children and young people are experts in their own experience.*¹²⁸

What has the UN Committee said?

General Comments

In General Comment 5, the UN Committee on the Rights of the Child (UN Committee) directs countries to “actively identify” individual children and groups of children who are at risk of having their rights breached, and to implement special measures to ensure their rights are realised.¹²⁷ These measures may include changes in legislation, administration and resource allocation, as well as educational measures to change attitudes. Importantly, the UN Committee emphasised that non-discrimination does not mean identical treatment. Instead, special measures ought to be put in place to diminish or eliminate conditions that cause discrimination.¹³⁰

The UN Committee is clear that effective data collection, dissemination and monitoring are essential to upholding the rights of all children.¹³¹ Such data must be, “sufficient and reliable”, disaggregated to enable identification of discrimination and/or disparities in the realisation of rights, and cover all children up to the age of 18.¹³² Collection must be coordinated across all regions, ensuring nationally applicable rights-based indicators. The UN Committee highlighted that, in many cases, only children themselves are able to indicate whether their rights are being fully realised. As such, qualitative as well as quantitative data are key to building a more complete picture.¹³³ The UN Committee has recommended collaboration with research institutions as well as engaging children as peer researchers, with appropriate support and safeguards.¹³⁴

Data collection must be accompanied by evaluation (to assess progress and identify problems), and dissemination including child-friendly reports (to enable engagement). The UN Committee is clear that effective evaluation requires the development of child rights-based indicators.¹³⁵

The UN Committee has offered guidance in relation to specific contexts and groups of children in a range of General Comments.¹³⁶ For example, in General Comment 19 on public budgeting, the UN

¹²⁷ *A Place in Childhood* (2021). #ScotYouthandCOVID2 Children and Young People's Participation Through Crisis A Research Report, p.54. <https://bit.ly/35yhEX2> [Date accessed: 17.01.22].

¹²⁸ *Children in Scotland* (2019). *Children and Young People Consultation on the Incorporation of The United Nations Convention on the Rights of the Child (UNCRC)*, p.9. <https://bit.ly/3ITPcgl> [Date accessed: 17.01.22].

¹²⁹ CRC/GC/2003/5: Para 12.

¹³⁰ CRC/C/GC/18/Rev.1.

¹³¹ CRC/GC/2003/5: Para 48.

¹³² CRC/GC/2003/5: Para 48.

¹³³ CRC/GC/2003/5: Para 50.

¹³⁴ CRC/GC/2003/5: Para 50.

¹³⁵ CRC/GC/2003/5: Paras 48-50.

¹³⁶ See for example: CRC/C/GC/9 (disabled children); CRC/C/GC/22 (children in the context of international migration); CRC/C/GC/15 (health); CRC/C/GC/24 (child justice system); CRC/C/GC/19 (public budgeting).

Committee indicates the importance of data collection to assess the situation of certain children to inform spending decisions.¹³⁵

UNCRC Concluding Observations (2016)

In its most recent review of the UK's children's rights record, the UN Committee called on the UK to strengthen its awareness raising and other preventive activities against discrimination and stigmatization. The UN Committee called on the UK and devolved governments to take temporary special measures for the benefit of children in "vulnerable situations".¹³⁶

UNCRC List of Issues Prior to Reporting (2021)

In February 2021, the UN Committee asked the UK for an update on progress ahead of its next review. This included specific questions on data collection and non-discrimination.¹³⁷

The UN Committee asked for an update on efforts to improve the collection and quality of disaggregated data for all areas of the UNCRC, including specific data on children who are: Care Experienced, disabled, asylum-seeking and migrants. There should also be data on mental health, violence, food insecurity, malnutrition, and education.¹³⁸

The UN Committee sought details on what measures the UK and devolved governments are taking to eliminate discrimination across a range of areas, including health, education, alternative care, and child justice. It asked for details on measures to address discrimination faced by children living in poverty, Gypsy/Traveller children, minority ethnic children, disabled children, Care Experienced children, asylum-seeking, refugee and migrant children, and LGBTI children. The UN Committee also sought information on what the UK and devolved governments are doing to receive and address complaints of discrimination against children.¹³⁹

4.3 The context in Scotland

The Equality Act 2010 requires public bodies across the UK to have due regard to the need to eliminate discrimination and advance equality of opportunity across nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.¹⁴⁰ However, not all children who are at risk of having their rights breached fall within the protected characteristics set out in the Equality Act 2010.

The UNCRC Incorporation Bill aims to ensure that the rights of *all* children are realised. During the passage of the Bill, a group of charities called for specific recognition that some children are more at risk of having their rights breached and that action is needed to address this.¹⁴¹ These charities supported a range of children, including those with learning disabilities, Care Experience, children with experience of (or who are at risk of experiencing) domestic abuse, and children with a parent in prison. Through their efforts, an amendment was secured to the Children's Rights Scheme. When preparing the Children's Rights Scheme, Scottish Government must specify arrangements to, 'identify and address any situation where a child's rights are (or are at a significant risk of) not

¹³⁷ CRC/C/GC/19: Para 61.

¹³⁸ CRC/C/GBR/CO/5: Para 22(c).

¹³⁹ CRC/C/GBR/QPR/6-7.

¹⁴⁰ CRC/C/GBR/QPR/6-7.

¹⁴¹ CRC/C/GBR/QPR/6-7.

¹⁴² Section 4. Equality Act 2010. <https://bit.ly/34fK33M> [Date accessed: 17.1.22].

¹⁴³ Together (2021). *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill: Joint briefing on the Stage 3 debate*, p.3. <https://bit.ly/3s88cBr> [Date accessed: 19.1.22].

being fulfilled'.¹⁴⁴ The charities were clear that improved data collection and monitoring were key to 'identify' and 'address' such situations.

In its 2021-24 Action Plan on Children's Rights, Scottish Government said it would strategically target and work proactively on specific issues where more could be done for children's rights. It committed to working with internal and external stakeholders to identify these situations, including engaging with children and drawing from Together's State of Children's Rights reports.¹⁴⁵ Scottish Government also noted it was scoping the development of an Evaluation and Monitoring Framework to link action to impact, utilise existing data, identify gaps and work to address these.¹⁴⁶ Whilst Scottish Government has developed the GIRFEC outcomes and SHANARRI wellbeing indicators, there is no specific set of nationally applicable child rights indicators to monitor UNCRC implementation.¹⁴⁷ By improving data collection and monitoring, Scotland can expect to deliver improved policy and decision making for children whose rights are most at risk. In this manner, effective implementation of the Children's Rights Scheme will support the realisation of many of Scotland's National Outcomes.¹⁴⁸ These include:

- *We grow up loved, safe and respected so that we realise our full potential.*
- *We respect, protect and fulfil human rights and live free from discrimination.*
- *We live in communities that are inclusive, empowered, resilient and safe.*
- *We are creative and our vibrant and diverse cultures are expressed and enjoyed widely.*
- *We tackle poverty by sharing opportunities, wealth and power more equally.*

4.4 Overcoming challenges

Data collection and analysis

Responses to our survey highlighted a range of internal and external issues around data collection. These posed a significant barrier to identifying the needs of certain groups of children and designing appropriate solutions to prevent rights breaches.

Quotations in this section are from survey participants unless otherwise indicated. Quotations have been attributed to NGOs, academic institutions or public authorities where this information was given.

External issues in data collection included:

- Little or no official data collected about certain children, rendering them 'invisible' to decision makers;
- Failures to disaggregate data make it difficult to identify inequalities;

¹⁴⁴ Section 11(3)(aa) United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill. <https://bit.ly/3s58NDU>. [Date accessed: 17.1.22].

¹⁴⁵ Scottish Government (2021). *Progressing the human rights of children in Scotland: action plan 2021 to 2024*, p.6. <https://bit.ly/3uko2f5> p.6 [Date accessed: 17.1.22].

¹⁴⁶ Scottish Government (2021). *Progressing the human rights of children in Scotland: action plan 2021 to 2024*, p.9. <https://bit.ly/3uko2f5> [Date accessed: 17.1.22].

¹⁴⁷ Scottish Government (no date). *Getting it right for every child (GIRFEC)*. <https://bit.ly/34bJ30z> [Date accessed: 17.1.22].

¹⁴⁸ Scottish Government (no date). *National Outcomes*. <https://bit.ly/3oi0UKn> [Date accessed: 17.1.22].

- Inconsistencies in data collection processes between different local authorities and services which made comparison difficult;
- Issues around quality and accuracy;
- Issues around transparency and delays (or lack) of official response to requests for information;

 *There could be a greater focus in public service complaints systems on recording and publishing data on complaints about whether children's rights have been upheld.*

(NGO)

- Failure to collect qualitative data, particularly children's experiences in their own words, to offer a more detailed picture;

 *There is a lack of data that captures children's rights from their perspective, as opposed to what researchers or government thinks is important to address.*

(NGO)

- Data collected by 'household' in certain instances, rather than disaggregated according to the children affected (examples given included food insecurity and certain welfare benefits);
- Data collected on a one-off 'snapshot' basis, rather than longitudinal studies which track the same cohort over time to better understand their experiences and outcomes.

Internal issues in data collection included:

- Knowing where to start and what data to collect;

 *A challenge we face is knowing what data to collect in relation to children's rights and how to do this in a way that involves children and young people. I think there is a lack of data on the impact of social isolation or loneliness on families and how this impacts on very young children and babies.*

(NGO)

- Difficulties in recording own data that is accurate, detailed and up-to-date and then translating this into useful outputs;
- Infrastructure and capacity issues;

 *At present we don't have the means to collect reliable data – we will be looking at this through a new CRM system.*

(NGO)

 *It is extremely challenging to collect data on a regular basis that is accurate, detailed and up-to-date. We have our own bespoke database which records the majority of our work, but it can be extremely complex to then interpret that into external outputs, or create conclusions for influencing rights-based practice change.*

(NGO)

 *Our current record management system was developed some time ago and doesn't always allow us to fully record what needs to be done to uphold children's human rights.*

(NGO)

- Lack of resources, particularly around collecting qualitative data;
- Challenges in gathering the views of seldom heard groups, including disabled children;

 *Engaging [children] with ASN within highlighting children's rights issues.*
(NGO)

- Sensitivity and privacy – balancing the need to disaggregate and monitor outcomes with individuals' right to data protection and privacy, as well as the freedom to self-identify;
- Difficulties with surveys as a method of engagement to ascertain children's views, including lack of engagement and lack of trust in the process.

Several respondents spoke of challenges around data analysis. They noted that even when data was collected, their organisation lacked the skills and knowledge to know how to interpret, understand it and identify gaps.

Steps taken to overcome these challenges

Where official data was lacking, charities reported submitting Freedom of Information (FOI) requests, parliamentary questions or undertaking their own research. However, they were clear that these efforts were a drain on their capacity and resources which were already stretched. Some said they relied on interns and volunteers where possible. However, these organisations were clear that the onus needed to be on local and national government and other public authorities to improve their data collection and monitoring, rather than relying on charities to fill in the gaps.

Several organisations were working to gather qualitative data, including children's experiences in their own words. Some were supporting children to act as peer researchers, to discover the issues affecting other children. One benefit of this approach was that children tended to be more open and honest about their experiences when interviewed by another child rather than an adult (with whom they might modify their responses).

See the following case studies for more detailed examples:

- Kinloss Primary School and Forces Children at p.98;
- A Place in Childhood at p.100;
- Children in Scotland at p.100.

Some respondents were making a significant investment in improving their internal data collection, analysis, and dissemination systems.

See the following case studies for more detailed examples:

- CELCIS at p.99;
- Children 1st at p.101;
- Scottish Women's Aid at p.101.

Challenges facing particular groups of children

Survey respondents identified a range of children who are at particular risk of having their rights breached. This included young carers, children affected by parental imprisonment, Care Experienced children, asylum-seeking and refugee children, victims of child trafficking, children with learning disabilities, armed forces children, children with visual impairment, children in contact with the justice system and many others.

This section shares some examples and, where possible, the additional steps that organisations have taken to address or prevent these breaches. We have grouped children with certain characteristics or experiences together. However, we recognise that many children will share experiences and characteristics across several of these groups. This analysis is indicative only and does not reflect all the situations where children's rights are at particular risk:

Children experiencing poverty

Challenges faced by children and families living in poverty can be underreported due to the stigma they experience.^{149 150} This can deter children and families from asking for support.¹⁵¹ For example, one parent said they were worried that if they accepted help with their finances from social work services, this would be used against them in Children's Hearings.¹⁵²



Another parent explained their reluctance to ask for help from a food bank, saying "I felt in there they were judging me. I wouldn't go back." As such, this parent said they only eat one meal a day so that their children can have all three.¹⁵³

Material deprivation can place children at an increased risk of having a range of their rights breached. For example, reliance on food banks can restrict food choices and variation in diet. This can hinder children's nutrition and their ability to fulfil their full physical, mental, spiritual, moral and social potential.¹⁵⁴ Financial difficulties purchasing educational materials can impact children's right to education. As one parent remarked:

 *[T]hey need a school bag, stationary, books, but it is all needing to come out of what I have. It doesn't cover it.*¹⁵⁵

- Other examples of the impact poverty can have on children's rights, such as play can be found at p.89.

Steps taken to overcome these challenges

Organisations have aimed to build trusting relationships with families they support by working with the whole family and using relationship-based practice. The following features have been identified as components to success: listening, trust, authenticity, commitment, humour, fun and flexibility. This approach has successfully led to families being more accepting of help and support.¹⁵⁶

Organisations have sought to ensure school communities, local authorities and policymakers understand the impact of poverty on children's rights, so they can make adjustments to ensure

¹⁴⁹ Treanor, M. (2020). *Child Poverty: Aspiring to Survive*. Policy Press and Bristol.

¹⁵⁰ Walker, R. (2014). *The Shame of Poverty*. Oxford University Press.

¹⁵¹ *includem* (2021). *VOICES Families' Experiences of Poverty & Services*, p.9. <https://bit.ly/3okzCmt> [Date accessed: 18.1.22].

¹⁵² *includem* (2021). *VOICES Families' Experiences of Poverty & Services*, p.9. <https://bit.ly/3okzCmt> [Date accessed: 18.1.22].

¹⁵³ *includem* (2021). *VOICES Families' Experiences of Poverty & Services*, p.9. <https://bit.ly/3okzCmt> [Date accessed: 18.1.22].

¹⁵⁴ Article 27(3). *UNCRC*.

¹⁵⁵ *includem* (2021). *VOICES Families' Experiences of Poverty & Services*, p.10. <https://bit.ly/3okzCmt> [Date accessed: 18.1.22].

¹⁵⁶ *includem* (2021). *VOICES Families' Experiences of Poverty & Services*, p.10. <https://bit.ly/3okzCmt> [Date accessed: 18.1.22].

children's rights are fully realised. Any approaches taken to do this have been framed as a children's rights and an equity issue. Organisations have done this to avoid further stigmatisation of children and families 'known' to be on lower incomes.

See the following case studies for more detailed examples:

- Save the Children at p.102;
- Child Poverty Action Group in Scotland p.103.

Children in the digital divide

The COVID-19 pandemic brought into sharp focus the number of children who are digitally excluded. This includes children in low-income families, young carers, refugee and asylum-seeking children, and Gypsy/Traveller children.

Children in low-income families are at greater risk of being indirectly discriminated against through digital exclusion. This exclusion can be due to being unable to afford digital devices, poor availability of spaces to use digital devices and limited digital literacy.¹⁵⁷

The ability to have a safe space to use technology has affected the ability for young carers to participate with services, as one organisation said:

 *During the pandemic, young carer services found it increasingly difficult to engage with young carers via online platforms in some areas. Young carers were reluctant to talk about issues they may be having due to other family members particularly the person they care for overhearing them, this would have an impact on their right to a Young Carers Statement as it was not a true reflection of their outcomes.*

(NGO)

Similarly, for refugee, asylum-seeking and migrant children coming from countries where speaking out could be dangerous, it could be challenging to build their confidence in using technology that would support their participation.

Heavy reliance on technology for support can be difficult for Gypsy/Travellers living in much of rural Scotland as internet access can be patchy. In terms of parents/guardians supporting their children when they are mobile, a number may themselves require support to engage with technology. One practitioner identified the importance of providing services to diminish or eliminate conditions that cause discrimination:

 *These children deserve the exact same opportunities and support as their peers in the settled community and while we were in the throes of lockdown, the only way forward was via digital solutions.¹⁵⁸*

Some organisations highlighted that online participation offered new advantages to engage with and support children at risk of having their rights breached. Without the need for transport to seek the support of organisations, this not only benefited children in terms of time saved, but it also reduced organisations' expenditures.

¹⁵⁷ Parenting Across Scotland (no date). Issues for parents during the Coronavirus outbreak, p.2 <https://bit.ly/3L3ywp6> [Date accessed: 18.1.22].

¹⁵⁸ Tammi, L. (2020). Across the great divide: The impact of digital inequality on Scotland's Gypsy/Traveller children and young people during the COVID-19 emergency. *International Journal of Roma Studies*, 2(2), 52-65.

 Many of our members who live more rurally have been able to utilise online forms of participation spaces.

(NGO)

Steps taken to overcome these challenges

Some organisations sought and received additional funding to purchase digital devices and data sims. This enabled children to continue to engage in services, stay connected with their learning and learn how to use digital devices via training. Other organisations worked to support children, their parents and carers to build digital skills.

Please see the following case study for a more detailed example:

- Article 12 in Scotland at p.104.

Children's access to inclusive play

Parks and green spaces offer children the chance to play and exercise. These spaces can help children's wellbeing, learning and development, having a positive effect on their relationships, educational performance and both physical and mental health.^{159 160} Despite these well-established benefits, access to high-quality green space is not equally driven. A smaller proportion of adults (and presumably children) in deprived areas lived within a five-minute walk of their nearest green space compared to those in the least deprived areas (58% compared to 68%).¹⁶¹ Limited opportunities to access outside space particularly affects children living in disadvantaged areas and directly subjects them to 'green poverty'.¹⁶² Green poverty can affect children's development in a number of ways.¹⁶³ Not having enough chances to play can impact children's language development, imagination and social skills.¹⁶⁴



Green spaces in more deprived areas are likely to be of poorer quality in contrast to those in the least deprived areas. Some of these spaces may have a bad reputation and be labelled 'problem spaces'.

 Children have a right to play... [but] when adults or teenagers are drunk [in the park], children will feel unsafe or scared or children will just run away.¹⁶⁵

¹⁵⁹ Larson, L.R., Whiting, J.W. and Green, G.T. (2013). Young people's outdoor recreation and state park use: Perceived benefits from the parent/guardian perspective. *Children Youth and Environments*, 23(3), 89-118.

¹⁶⁰ McCormick, R. (2017). Does access to green space impact the mental well-being of children: A systematic review. *Journal of Pediatric Nursing*, 37, 3-7.

¹⁶¹ Scottish Government (2019). *Scotland's People Annual Report 2018*, p.199. <https://bit.ly/3uecf1M> [Date accessed: 17.1.22].

¹⁶² McNeil, C. et al. (2020). *Children of the pandemic*. Institute of Public Policy Research. [Date accessed: 17.1.22].

¹⁶³ McCormick, R. (2017). Does access to green space impact the mental well-being of children: A systematic review. *Journal of Pediatric Nursing*.

¹⁶⁴ Cherrie, M.P.C. et al. (2018). *Green space and cognitive ageing: A retrospective life course analysis in the Lothian Birth Cohort 1936*. *Social Science & Medicine*.

¹⁶⁵ Children's Parliament (2019). *Children's Parliament investigates: an alcohol-free childhood* For Alcohol Focus Scotland, p.15. <https://bit.ly/3okYGtl> [Date accessed: 17.1.22].

Parents and carers are also far less likely to think it is safe for their child to play in these spaces, risking children's right to play.¹⁶⁶

Moreover, children living in more deprived areas are less likely to have access to private gardens.¹⁶⁷ Social distancing restrictions in light of COVID-19 led to the closure of many public play areas and resulted in an increased risk of children's right to play being breached. As one parent reflected:

 *I'm in a wee flat, so we don't even have a garden that we could even go out and play in. So, it's just trying to find out what to do in the house, like hide and seek, just anything to try and keep him occupied.*¹⁶⁸

Remarking on their experience throughout the pandemic, children said:

 *Places all shut, nothing to do.*

 *So lonely.*

 *Nowhere to play that's safe.*¹⁶⁹

Indoor play spaces offer an alternative solution for many children living in more deprived areas. However, these spaces can be inaccessible to some families due to cost, as one parent said:

 *Many people think £10 is not a lot of money but an extra £10 a week could like totally change the world. That £10 a week could be your bus fare and your child's entry into the soft play, and you've done something with your child, you've had a day out with your child.*¹⁷⁰

Disabled children also face multiple barriers to play – whether this is at home, at nursery, school, early learning and childcare or in the community. Disabled children face barriers due to accessibility issues, including a lack of inclusive play equipment, appropriate venues that are close to home, skilled staff and appropriate transport. Once again, COVID-19 restrictions further exacerbated these barriers, as children remarked:

 *There is nothing suitable for me as I have complex needs and can't walk or talk. I have been forgotten about.*¹⁷¹

 *Please allow for ASN clubs to continue.*¹⁷²

¹⁶⁶ Children in Scotland (2020). *Health Inequalities: Peer research into the role of communities*, p.29. [Health-Inequalities-Report-Chris-Ross.pdf \(childreninscotland.org.uk\)](#) [Date accessed: 17.1.22].

¹⁶⁷ Forest Research (2021). *Why society needs nature Lessons from research during Covid-19*, p.6. [Why_Society_Needs_Nature_4FUC2GT.PDF \(forestresearch.gov.uk\)](#) [Health-Inequalities-Report-Chris-Ross.pdf \(childreninscotland.org.uk\)](#) [Date accessed: 17.1.22].

¹⁶⁸ Save the Children (2021). *Dropped into a cave*, p.25. <https://bit.ly/3INQ2f0> [Date accessed: 17.1.22].

¹⁶⁹ Play Scotland (no date). *Children and young people's consultation 2021: Play in a COVID-19 context*, p.6. <https://bit.ly/34fK086> [Date accessed: 17.1.22].

¹⁷⁰ Save the Children (2021). *Dropped into a cave*, p.13. <https://bit.ly/3INQ2f0> [Date accessed: 17.1.22].

¹⁷¹ Play Scotland (no date). *Children and young people's consultation 2021: Play in a COVID-19 context*, p.6. <https://bit.ly/34fK086> [Date accessed: 17.1.22].

¹⁷² Play Scotland (no date). *Children and young people's consultation 2021: Play in a COVID-19 context*, p.11. <https://bit.ly/34fK086> [Date accessed: 17.1.22].

Steps taken to overcome these challenges

General Comment 17 emphasises the importance of creating play spaces which are accessible and inclusive to all to ensure disabled children can access their rights under Article 31 UNCRC.¹⁷³ In the throes of COVID-19, children's access to play has been challenging. Some organisations adapted to this by seeking funding to provide emergency support to enable parents and carers to take their child or children out to play.¹⁷⁴ Other organisations advocated for inclusive play spaces which can be adapted to children of all ages.¹⁷⁵ Organisations advocated for play spaces to be safer for children.¹⁷⁶ A wide variety of toolkits and guides have been developed so stakeholders can create inclusive, play spaces for all.¹⁷⁷

See the following case studies for more detailed examples:

- Play Scotland Play Scotland and ScrapAntics CIC at p.104;
- Children's Parliament and Alcohol Focus Scotland at p.105.

Children with additional support needs

In 2016, the UN Committee called on the UK to take a human rights-based approach to disabilities, including setting up a comprehensive strategy for the inclusion of disabled children.¹⁷⁸ This recommendation echoes other treaty bodies, UPR recommendations and the Sustainable Development Goals (SDG).^{179 180}

Article 23 of UNCRC creates a legal obligation to, “ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.”

This obligation is reflected in the Children and Young People (Scotland) Act 2014, which introduced a commitment to provide 600 funded hours of Early Learning and Childcare (ELC) for all three- and four-year-olds and eligible two-year-olds.¹⁸¹ In 2016, Scottish Government announced it would double the funded entitlement to 1140 hours by August 2020 (later extended in light of COVID-19).¹⁸² The Programme for Government 2021-22 sets out Scottish Government's ambition to provide funded early learning to all one- and two-year-olds.¹⁸³

Equitable access to funded ELC for children with learning disabilities is also set out in Education (Additional Support for Learning) (Scotland) Act 2004, placing duties on local authorities to identify, meet and continue to review the needs of all children, including disabled children under the age

¹⁷³ CRC/C/GC/17: Para 16.

¹⁷⁴ Save the Children (2021). *Dropped into a cave*, p.4. <https://bit.ly/3INQ2f0> [Date accessed: 17.1.22].

¹⁷⁵ Play Scotland (no date). *Inclusive Play Design*. <https://bit.ly/3s90mHB> [Date accessed: 17.1.22].

¹⁷⁶ Children's Parliament (2019). *Children's Parliament investigates: an alcohol-free childhood For Alcohol Focus Scotland*. <https://bit.ly/3okYGtl> [Date accessed: 17.1.22].

¹⁷⁷ Play Scotland (no date). *Resources*. <https://bit.ly/3uul3CB> [Date accessed: 17.1.22].

¹⁷⁸ CRC/C/GBR/CO/5: Para 57.

¹⁷⁹ CRPD/C/GBR/CO/1: Paras 11, 21, 27 and 31.

¹⁸⁰ A/RES/70/1: Target: 10.2

¹⁸¹ Part 6. *Children and Young People (Scotland) Act 2014*. <https://bit.ly/3upFWNz> [Date accessed: 17.1.22].

¹⁸² Scottish Government (2016). *A Blueprint for 2020: The expansion of early learning and childcare in Scotland*, p.4. <https://bit.ly/3saKAMv> [Date accessed: 17.1.22].

¹⁸³ Scottish Government (2021). *A fairer, greener Scotland: Programme for Government 2021-22*, p.10.

of three.¹⁸⁴ Moreover, the Equality Act 2010 places a duty on local authorities to make reasonable changes to the care and learning environment to meet any Additional Support Needs (ASN) that a child may have.¹⁸⁵

Despite these pieces of legislation, many ELC settings have inadequate resources for reasonable adjustments to be made and as such, there is limited access for children with ASN to have their right to education fulfilled in a supportive environment. A parent cites the unwelcome experience her child faced:

 *The attitude of the nursery when I would pick up my older child was stinking. [...] My older child was welcome because she could zip up her jacket, but he was looked down on.*

Parents and carers of children with ASN cite other barriers which subsequently place their children at an increased risk of having their right to education breached. These include local authorities not funding one to one support within the extended hours; local authorities not allowing split/blended placements to include a mix of mainstream and specialist provisions; difficulties finding information about support and entitlements in a complex system that involves many different services; lack of training on inclusion and how to work with children with learning disabilities for early years practitioners.

One organisation said, “communication is a human right and a gateway to the equal enjoyment of all other rights.”¹⁸⁶ Children with ASN may have speech, language and communication needs. Failure to accommodate these different language needs can result in children with ASN facing extra barriers when it comes to sharing their worries and concerns about their rights. They may be viewed by adults as unable to take part in decision making and excluded by organisational structures. As such, children with ASN are less likely to think that adults take their views into account when making decisions that affect them compared to non-disabled children (45% compared to 58%).¹⁸⁷ As such, this too can place their rights at an increased risk by preventing them from taking a central role in decisions about their life.

- Refer to Chapter 3 for more information on inclusive communications.

Steps taken to overcome these challenges

Centred in human rights, organisations continue to advocate for local and national governments, third and private sectors to support children with ASN from childhood into early adulthood, whilst recognising the capabilities and talents and the challenges people with ASN face. This means, supporting and involving children with ASN to play a full part in their communities through inclusive communication and participatory approaches.

- Refer to Chapter 3 for more information on inclusive communications.

Please see the following case study for a more detailed example:

- Scottish Commission for People with Learning Disabilities at p.144.

¹⁸⁴ Section 1(3) of the 2004 Act was amended by the Education (Additional Support for Learning) (Scotland) 2009 Act to ensure that additional support is not limited to educational support, but can include multi-agency support from health, social services and voluntary agencies, for example.

¹⁸⁵ Section 20. Equality Act 2010.

¹⁸⁶ deafscotland (2020). *Communication for All: inclusion for people affected by deafness: Impact of Covid-19 Emergency and working towards a better recovery*, p.1 <https://bit.ly/3IYcTo4> [Date accessed: 17.1.22].

¹⁸⁷ Scottish Government (2019). *Scotland's Wellbeing – Measuring the National Outcomes for Disabled People*, p18. <http://bit.ly/36LcW3g> [Date accessed: 17.1.22].

Children in asylum-seeking and refugee families

 *This right [to asylum] is very important. It's almost like a tree – a tree without good strong roots is nothing. The right to remain here is the roots to everything else.*¹⁸⁸

Based on their immigration status, asylum-seeking families have No Recourse to Public Funds. This means they have no entitlement to the majority of welfare benefits, including income support, housing benefits and a range of allowances and tax credits. This direct discrimination places children's rights at risk.

Identifying how to effectively target the issues children are living with is challenging when there is little disaggregated data published by the Home Office, particularly on unaccompanied asylum-seeking children.

Steps taken to overcome these challenges

Several organisations provided specialised support for asylum-seeking, refugee and migrant children. They emphasised that viewing asylum-seeking, refugee and migrant children as children first and foremost, but with specific experiences that give rise to specific needs is a vital first step to overcome these challenges. Instead of asking – 'what are these children not entitled to?', the question should be – 'What can I do that is in the child's best interests?'

Essential information about the rights and entitlements of asylum-seeking, refugee and migrant children enable them to understand and defend their rights and challenge any discriminatory practice. Building confidence and peer relationships that offer support can further enable this. This is because:

 *A child might be more confident to speak up and then the problem can be solved.*¹⁸⁹

- Refer to Chapter 3 for more information on inclusive communications.

Please see the following case study for a more detailed example:

- Scottish Guardianship Service at p.106.

Children who experience racism, ethnic discrimination, xenophobia and related intolerance

Children who experience racism, ethnic discrimination, xenophobia and related intolerance face poorer health outcomes, a higher likelihood of experiencing poverty and poor living conditions. Symptoms of structural, systemic and institutional racism, ethnic discrimination, xenophobia and related intolerance prevents the equal realisation of children's rights.



¹⁸⁸ Together (2021). Scotland 'All Our Rights in Law' Conversation events with children and young people, p.4. <https://bit.ly/3sh0mFQ> [Date accessed: 17.1.22].

¹⁸⁹ Children's Parliament (2019). A consultation on incorporating the UNCRC into domestic law in Scotland, p.12. <https://bit.ly/3INQ6eK> [Date accessed: 17.1.22].

Young Gypsy/Travellers have shared their experiences of facing direct discrimination:¹⁹⁰

-  *On YouTube under the videos on 'Traveller Traditions' there are really awful comments.*
-  *We used to have bricks thrown at us and called names every day at one site.*
-  *On one site when we were shifting [moving on] last week, there were men who came to where we were camped and were throwing metal poles at our trailers.*

The prominence of racist bullying or ethnic discrimination is profound, with 56% of secondary school teachers in Scotland saying they were aware of pupils in their school who had experienced bullying based on race or ethnicity.¹⁹¹

If discrimination is left unaddressed, this can have a negative impact on children's values and attitudes, making it difficult for them to appreciate and respect the diverse range of people they will meet and interact with. It can create tension over children's decisions to challenge (or not challenge) racism faced by friends and fellow students; and perceptions that prejudice, disrespect, and bullying will not be addressed, increasing the risk of experiencing bullying and reluctance to report incidents.

One practitioner reflected on the impact racism has on children:

-  *Encountering racism and hearing about racism against others had a clear negative impact on many of the children and young people's mental health. This manifested in various ways, including feelings of isolation, hurt, anger, loss of motivation; constant worrying; hypervigilance; unsettlement; and self-doubt.*¹⁹²

In Scotland's public sector, research has shown very few organisations regularly provide training that directly addresses race equality issues. More commonly, this training forms part of a short e-learning programme on generic equality matters.¹⁹³ Unfortunately, evidence shows that short e-learning programmes are not effective for creating behaviour change to tackle racism, ethnic discrimination, xenophobia and related intolerances.¹⁹⁴

Steps taken to overcome these challenges

Anti-racism education is essential as it helps children and adults to learn about the harmful consequences of racism and encourages them to actively challenge it wherever it occurs. In addition, anti-racism education develops an understanding of Scotland's role in empire, colonialism and transatlantic slavery, and the diversity of Scottish society in the past. It helps learners understand how Scotland's colonial past plays a role in their current everyday lives, acknowledging the successes and impact of Minority Ethnic historical figures, in relation to Scottish and global history. Similarly, other resources have been developed for practitioners to use within schools to raise awareness and understanding of the history, culture and traditions of the Scottish Gypsy/Traveller community and work with children to identify and seek solutions to the key 'flashpoints' of discrimination that occur between Gypsy/Travellers and the 'settled' community.¹⁹⁵

¹⁹⁰ See Me Scotland. (2020). *Time to talk: Take Ten*. <https://bit.ly/3BAFpJY> [Date accessed: 18.2.22].

¹⁹¹ Equality and Human Rights Commission (2015). *Prejudice-based bullying in Scottish schools: a research report*, p.43. <https://bit.ly/3sa9JH7> [Date accessed: 17.1.22].

¹⁹² Intercultural Youth Scotland (2021). *Speaking Our Mind*, p.1. <https://bit.ly/3KZKhN8> [Date accessed: 17.1.22].

¹⁹³ Coalition for Racial Equality and Rights (2021). *Race Equality Training in Scotland's Public Sector: Ten standards for training from an anti-racist perspective*. <https://bit.ly/3IVLuDh> [Date accessed: 17.1.22].

¹⁹⁴ Paluck, E.L. et al. (2021). *Prejudice Reduction: Progress and Challenges*. *Annual Review of Psychology*, 72:1, 533-560.

¹⁹⁵ Article 12 (2017). *A Gypsy/Traveller perspective on history, culture and traditions of the community in Scotland*. <https://bit.ly/3L5RULi> [Date accessed: 17.1.22].

It is important to recognise that children with lived experience have the potential to bring a lot more qualified expertise than the adults they are potentially working with that don't have that lived experience.”¹⁹⁶ Taking this approach has the effect of respecting generations of experience, history, and present inequalities.

Ongoing anti-racism training should also take place across all organisations working with children. These organisations should enforce a clear anti-racist stance, whilst not acting “with a need for personal satisfaction or recognition... because they believe their help [to Black and POC communities] is the only solution.”¹⁹⁷

The Coalition for Racial Equality and Rights has set out ten standards for organisations to use in planning and commissioning race equality training. These standards aim to ensure race equality training within organisations is based on robust evidence and meets the needs of their workforce to make a real difference in addressing racism and racial inequality.

These ten standards for training from an anti-racist perspective include:¹⁹⁸

1. Training is based on robust anti-racist principles.
2. Training is part of a wider programme of work to proactively reduce racial inequalities and address racism within the organisation.
3. Training objectives are set using a strong evidence base and training needs analysis.
4. Senior managers hold responsibility for ensuring training is appropriate and impactful, and this is reflected in their objectives or work plan.
5. Training is carried out by experienced and competent race equality trainers.
6. The type of training to be provided will meet the training objectives.
7. Trainers work with the organisation to create a training plan tailored to meet its needs.
8. The mechanism for delivering training is effective.
9. Training content and delivery is based on evidence about the effectiveness of training approaches.
10. Evaluation is built into the training plan, well implemented and used to inform future work.

Organisations ought to take similar steps to address related intolerance including ethnic discrimination and xenophobia.

Children experiencing mental health stigma

Children and young people are afraid of being judged, dismissed and not taken seriously by adults if they say they are struggling with their mental health. Only 37% of young people aged 15-25 would tell someone if they were finding it difficult to cope with their mental health.¹⁹⁹

¹⁹⁶ Intercultural Youth Scotland (2020). *The Equalities and Human Rights Committee UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with young people and Committee Members Intercultural Youth Scotland (IYS)*, p.1. <https://bit.ly/343Nafq> [Date accessed: 17.1.22].

¹⁹⁷ Intercultural Youth Scotland (2020). *The Equalities and Human Rights Committee UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with young people and Committee Members Intercultural Youth Scotland (IYS)*, p.1. <https://bit.ly/343Nafq> [Date accessed: 17.1.22].

¹⁹⁸ Coalition for Racial Equality and Rights (2021). *Race Equality Training in Scotland's Public Sector: Ten standards for training from an anti-racist perspective/*. <https://bit.ly/3IVLuDh> [Date accessed: 17.1.22].

¹⁹⁹ See Me (no date). *Young People's Mental Health*. <https://bit.ly/349GBI4> [Date accessed: 18.1.22].

 Too many young people feel they can't speak about how they are feeling, often because they worry about being judged or dismissed.... To help young people recover from mental health conditions they need to be able to speak about it, to get care and support quickly.²⁰⁰

Steps taken to overcome these challenges

Schools, local authorities, colleges and universities have challenged stigma and discrimination for children in a variety of ways including undergoing Scottish Mental Health First Aid training,²⁰¹ creating lesson plans which are age and stage appropriate to assist others to identify the signs and symptoms of mental health conditions and how to seek support and practice self-care. These lessons were guided by See Me's 'What's On Your Mind?' resource which is adaptable for different classes' needs.²⁰² To complement these measures, some schools have run anti-mental health stigma and discrimination makeovers, publishing posters and displays to encourage children to get help before they reach crisis point.²⁰³

See the following case studies for more detailed examples:

- Forces Children Scotland at p.44;
- Aileymill Primary School and See Me at p.107;
- Education Service in North Ayrshire at p.107;
- NHS Dumfries and Galloway at p.108.

Care Experienced children

 [T]here is a lot of stigma attached to Care experienced.²⁰⁴

Books and TV shows are full of stereotypes about children in care – and this influences how we think, Care Experienced children's relationships and inclusion in communities.²⁰⁵ One care leaver shared their experience:

 [e]xcluded from education, never prioritised, worst communities for housing from the age of 16, health needs never prioritised by others...²⁰⁶

Steps taken to overcome these challenges

Organisations have sought to challenge negative views via public education.²⁰⁷ Schools provide an ideal setting to improve attitudes, understanding and perceptions of Care Experienced people, whilst also creating a ripple effect, for wider community learning. Creating a school environment that is supportive and inclusive can improve educational outcomes for Care Experienced pupils which remain lower in contrast to their non-care experienced peers.²⁰⁸



²⁰⁰ See Me (2019). School Pupils and Teachers Across Lanarkshire and North Ayrshire to Get Mental Health Stigma Training. <https://bit.ly/3IUFOof> [Date accessed: 18.1.22].

²⁰¹ Scotland's Mental Health First Aid (no date). SMHFA programme. <https://bit.ly/3J1kr9P> [Date accessed: 18.1.22].

²⁰² See Me (no date) What's on your mind?. <https://bit.ly/3IXudJX> [Date accessed: 18.1.22].

²⁰³ See Me (no date). It's okay. <https://bit.ly/35NgqaN> [Date accessed: 18.1.22].

²⁰⁴ Who Cares? Scotland (2020). Equalities and Human Rights Committee UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with young people and Committee Members Who Cares? Scotland, p.4. <https://bit.ly/34eo0dP> [Date accessed: 18.1.22].

²⁰⁵ Independent Care Review (2020). The Promise. <https://bit.ly/348Pmly> [Date accessed: 18.1.22].

²⁰⁶ Scottish Parliament (2020). UNCRC Bill consultation response. <https://bit.ly/3ujAMSV> [Date accessed: 18.1.22].

²⁰⁷ Who Cares? Scotland (2019). Public Education Campaign – our experience. <https://bit.ly/3ujAPy5> [Date accessed: 18.1.22].

²⁰⁸ Who Cares? Scotland (no date). Statistics. <https://bit.ly/3L1ZnSg> [Date accessed: 18.1.22].

Further work has been completed to encourage a change of narrative about Care Experienced children. The use of the framing recommendations developed by the FrameWorks Institute's research aims to shift public attitudes and improve the life chances of children and their families.²⁰⁹

See the following case study for a more detailed example:

- Who Cares? Scotland at p.108.

Children experiencing homophobia, biphobia and transphobia

LGBTQA+ children and young people often face homophobia, biphobia and transphobia. This takes place in multiple settings including at home, in their local community and at school. From a survey of 684 LGBT children and young people (aged 13-25), 71% said homophobia was a problem in their local area and 79% said that transphobia was a problem in their local area.²¹⁰ COVID-19 lockdown measures exacerbated the discrimination LGBTQA+ children and young people experience, as many told LGBT Youth Scotland that their identities were being invalidated, and that they were being misgendered and dead named by people they live with.²¹¹

Discrimination faced by LGBTQA+ children and young people can negatively impact their access to secure housing. Violence, abuse, or rejection in the family home has contributed to a disproportionate number of homeless young people being from the LGBTQA+ community.²¹² Homelessness can also impact access to things like healthcare and medication.²¹³

Within a school environment, 82% of trans young people reported experiencing bullying in school and 95% of those who experienced bullying said that this affected their educational attainment, 29% said they left education because of it.²¹⁴ As young people in the LGBTQA+ community reflected:²¹⁵

 *The incident I personally experienced resulted in a lot of mental health problems that interfered with my school performance, and I eventually moved school to leave behind the bad experience and any association with it.*



 *Due to the fact I was bullied in high school and the staff did nothing to stop this despite many reports I developed... depression... and anxiety. My deteriorating mental health meant that I spent a lot of time unable to function... My academic achievement suffered... [This has] now affected me going on to university and I have instead had to go to college.*

²⁰⁹ FrameWorks Institute (no date). Each and Every Child initiative. <https://bit.ly/35wwNrR> [Date accessed: 18.1.22].

²¹⁰ LGBT Youth Scotland (2017). Life in Scotland for LGBT Young People, p.9. <https://bit.ly/37W6vLS> [Date accessed: 18.1.22].

²¹¹ LGBT Youth Scotland (no date). How COVID-19 is affecting LGBTQAIA+ young people living in Scotland. <https://bit.ly/3ukjzsw> [Date accessed: 18.1.22].

²¹² LGBT Youth Scotland (no date). How COVID-19 is affecting LGBTQAIA+ young people living in Scotland. <https://bit.ly/3ukjzsw> [Date accessed: 18.1.22].

²¹³ LGBT Youth Scotland (no date). How COVID-19 is affecting LGBTQAIA+ young people living in Scotland. <https://bit.ly/3ukjzsw> [Date accessed: 18.1.22].

²¹⁴ LGBT Youth Scotland (2017). Life in Scotland for LGBT Young People, p.15. <https://bit.ly/37W6vLS> [Date accessed: 18.1.22].

²¹⁵ LGBT Youth Scotland (2017). Life in Scotland for LGBT Young People, p.9. <https://bit.ly/37W6vLS> [Date accessed: 18.1.22].

LGBTQA+ organisations have reported challenges around limited uptake for their training. This creates a ‘catch-22’ situation whereby they want to raise awareness but have limited revenue to put on sessions due to poor uptake.

Steps taken to overcome these challenges

Organisations have taken similar steps here as those taken to address mental health stigma, racism, ethnic discrimination, xenophobia and related intolerance. To promote training sessions and encourage greater uptake, organisations have sought to tailor their training events, utilise networks and social media, and identify key stakeholders who can reach potential audiences on the organisations’ behalf. Where possible, organisations try to email contacts directly or use word of mouth.

Moving training sessions online has furthered audience reach for LGBTQA+ organisations. Online training sessions have enabled those who live in remote areas and disabled people to attend training sessions with ease. This shift has reduced the training session costs for both attendees and organisations.

4.5 Case studies

The following case studies offer a snapshot of what organisations are already doing to support children whose rights are at risk of being breached. They are grouped loosely by theme, although many of the examples cut across these themes. **You can access further case studies on Together’s blog.**

Data collection, analysis and dissemination

The following examples show organisations that have successfully identified (or are working to identify) children at risk of having their rights breached. This has enabled them to better understand the environment they are working in and develop systems to prevent children’s rights being breached.



Kinloss Primary School and Forces Children Scotland – supporting children in armed forces families

Children with a parent or sibling in the armed forces face a variety of challenges and difficulties. However, gaps in data collection prevent their needs from being identified and addressed. This can lead to a range of their rights being breached.²¹⁶

In 2019, Kinloss Primary School began collecting data to understand issues such as attainment, attendance, health and wellbeing in the context of belonging to an armed forces family. The school is located close to Kinloss Barracks and a high proportion of its pupils are in armed forces families.

Analysis of this data supported policy changes, operational changes, targeted interventions, cultural change, and identification of staff training needs within the school. These changes resulted in positive outcomes not only for armed forces pupils but the wider school community.

Forces Children Scotland has commended this work as an example of good practice which demonstrates the considerable benefits that data collection can deliver. The charity’s Advisory Group, which includes school and local authority staff, continually strives to strengthen and

²¹⁶ Royal Caledonian Education Trust (2017). Teen Talks, p.2. <https://bit.ly/3ojnnGF> [Date accessed: 18.1.22].

promote the case for data collection. Kinloss Primary School has been a key partner in this work and instrumental in supporting work at Forces Children Scotland around data collection.

A further key driver in developments around data collection has been the work of the National Transitions Officer (NTO) who is currently seconded from Forces Children Scotland to the Association of Directors of Education in Scotland (ADES). The NTO has carried out extensive work around data collection at the local authority level. This has been central to the development of a SEEMIS system through which schools are encouraged to capture data on the number of armed forces children, and the system's capacity to capture data on children in armed forces families in education.

- **Read more about Kinloss Primary School's work here.**
- **Read more about Forces Children Scotland's work here.**

CELCIS: PACE Programme – Quality Improvement methodology

PACE (Permanence and Care Excellence) was CELCIS's national Quality Improvement programme. Through the programme, CELCIS supported 27 out of 32 Scottish local authority partnerships to reduce timescales in providing a permanent home for babies, children and young people. The programme was funded by Scottish Government.

CELCIS supported the local authorities to use Quality Improvement methodology to understand how the current systems were operating (by collecting and analysing baseline data). Quality Improvement is a model and a methodology to support positive change, in this case, in the different services involved in ensuring that Care Experienced children feel safe, secure and stable in their homes. It supports people at all levels of an organisation, from those who work in services to senior leadership to test new ways of working.

They would test new ways of working to improve their processes and practice to improve timescales for children having a permanent and loving home. This testing process ensured that before being implemented as 'usual practice', there was evidence that any new ways of working were in fact improvements to the system – rather than merely changes to the system. These improvements would in turn improve decision making and outcomes for children.

Early in the programme, CELCIS identified gaps and differences in how data was being collected and analysed across different local authorities and social work information systems. This made it difficult to identify how local systems were operating in order to uphold children's rights and ensure they had a safe, secure and loving home with the minimum of delay.

CELCIS worked to ensure that the data from different local authority partnership areas was comparable and compatible and devised a system to do this, in order to create a national picture.

CELCIS also promoted the use of data visuals to better represent the journey of a child's life, showing when different decisions were being made or when key events in a child's life took place. This approach was very effective in representing the child's lived experience and communicating the urgency for change to local authority partners. It also supported decisionmakers to understand the impact of delays on individual children.

The Quality Improvement methodology used was shown to be effective in this area and fitted with Scottish Government's wider strategy for public service reform. Data measurement was an integral and pivotal part of the improvement process. It was used to track each child on their journey to physical, emotional and legal permanence, allowing local learning to support the process of change. CELCIS notes that data was critical to evaluating and guiding improvement, and it supports improvements to be made on a national, local and individual child level.

- **For more information about PACE click here.**
- **Find out more about using Quality Improvement methodologies here.**

A Place in Childhood – using qualitative data to build a clearer picture

A Place in Childhood (APiC) has been supporting children to express their views on the environment around them. The charity identified gaps in existing data which made it difficult to identify children whose rights were at risk of not being upheld, especially in a planning context where there is a heavy reliance on statistical data for impact assessments.

Firstly, the quantitative data available was too narrow to accurately reflect children's day-to-day experiences if relied on in isolation. For example, data disaggregated by the Scottish Index of Multiple Deprivation (SIMD) obscures the experiences of children living in cities where areas of relative deprivation and wealth lie side by side and children frequently cross into other areas to play, visit friends or go to school. By contrast, SIMD data zones in rural areas may cover multiple villages which are relatively far apart, thus obscuring the different experiences that children in each village have. APiC identified that there was a lack of qualitative data which captured children's rights from their own perspective – as opposed to what planners or decision makers thought was important to address for children.

To overcome these issues, APiC worked with children to build 'experiential maps' of their area. This involved going on walks with the children so they could show adults what they felt was important, without this being directed by adults.

The maps produced valuable qualitative data which gave a much clearer picture of children's experiences of their rights – including where rights were at risk – giving the organisation (and Scottish Government) a better picture of how to ensure rights are realised for all children in a certain area.

- **An example of an experiential map produced with children can be found here.**

Children in Scotland – children as peer researchers

Children in Scotland works with children as peer researchers to promote their participation in matters that concern them. Their peer research approaches ensure that the children take more of a lead in projects and become partners in its delivery. The peer research model adopted by Children in Scotland uncovers issues and priorities that would ordinarily not be raised when adults (however skilled) speak to children. Its aim of involving children as peer researchers is to support and uphold the rights of children.

An example of the peer research approach is the Participation through the Pandemic Project (see case study on pp.38) and the Health Inequalities project.

In the Health Inequalities project, Children in Scotland worked with children aged 10-18 living in areas of high deprivation in Glasgow and Dundee. The children were supported to carry out a participative research project that explored how community and place impact the health of children and the choices that they make about this.

Sixteen peer researchers conducted focus group discussions and visually documented their communities as part of the research. The peer researchers were also supported to develop the final report and animation for the project.

The children involved talked about the positive impact the project had on them and how it made them think about the places they lived. As one child remarked:

It was fun and we got to learn new things. It was exciting and it always felt like an equal relationship working with the team from Children in Scotland. It helped us think about the places we live in, in a different way and working towards the things that we can change.

The findings and recommendations developed by the peer researchers were shared with local and national decision makers to influence change and encourage increased engagement of children in future local planning.

- **Read more about the Health Inequalities project [here](#).**



Children 1st – data collection infrastructure

Children 1st is developing a new information management system that is grounded in (and has an explicit focus on) children's human rights. A core element of the new system is that it will record children and families' own perspectives on what they want and need from their relationship with Children 1st. This cross-cutting baseline will enable Children 1st to conduct regular reviews on how it is performing against these expectations. These reviews will also be recorded in children and families' own words.

Whilst this system is still in development, Children 1st intends that it will capture the valuable conversations and relationships that develop between children, families and their workers. The charity hopes the system will enable it to measure and assess the extent to which children's rights are being protected and upheld across the services it delivers in partnership with public bodies, enabling gaps to be identified and promptly addressed.

- **Read more about Children 1st [here](#).**



Scottish Women's Aid – data collection infrastructure

Scottish Women's Aid undertakes a range of data collection activities. This includes an annual "census day" whereby Women's Aid services across Scotland submit data on the number of women and children they have supported that day and why they have sought support. From this data, Scottish Women's Aid can build a picture of a typical day across its network. For example, recent Census Day data has shown that on any given day, over a thousand women and over 500

children are receiving support from a Women's Aid service in Scotland. This support includes refuge accommodation, information and advice, counselling, peer support and more. In addition to this, Scottish Women's Aid also collects data through surveys completed by regional services. Regional services can also submit data they have collected to Scottish Women's Aid. Quality data collection is crucial to Scottish Women's Aid's policy and lobbying work.

As a result of its data collection, Scottish Women's Aid has been able to identify gaps in protection, draw attention to the experiences of women and children experiencing domestic abuse, and make powerful calls for change.

Scottish Women's Aid is developing a new data collection system that will allow all local groups to feed into a centralised system that amongst other things will capture numbers of women and children using services, their experiences, and data on the number who leave services and later return. This system will automate a lot of the data collection process, reducing the workload on local Women's Aid groups who will no longer have to manually input their data. It will also help increase the overall quality of data collected, help Scottish Women's Aid identify data gaps, and highlight issues and trends in real-time as they arise. Scottish Women's Aid is currently working with developers and their network of members to create a bespoke system that will help them capture the data they need to inform their work.

- **Read more about this work by Scottish Women's Aid [here](#).**

Supporting particular groups of children

Save the Children – supporting children experiencing poverty

During the pandemic, Save the Children responded to the material needs of families with young children experiencing financial crisis by distributing emergency early years grants – to a value of £340 per family. Grants were available to families who were referred from community-based partner organisations across eight local authorities, and who were experiencing financial hardship with a child under the age of six.

Data collected for the Dropped into a Cave report showed how the pandemic affected 18 parents across seven local authorities financially, emotionally and practically, and how this had impacted their children. The report showed that families were particularly vulnerable to financial shocks such as the pandemic if they displayed one or more characteristics of the six priority groups in the child poverty action plan.²¹⁷ These groups include families headed by a lone parent, families with three or more children, families with a child under one, families with a disabled parent and/or child, families with a minority ethnic background and families with a mother under the age of 25. Where two or more of these characteristics converged, the risk of experiencing poverty was particularly high.

Data collection in the Dropped into a Cave report has informed Save the Children Scotland's policy and influencing work as the Scottish Parliament enter a new session. The report has been shared with all new and returning MSPs and particularly with members of the Social Justice and Social Security Committee. It has formed the basis of in-depth discussions and

²¹⁷ Scottish Government (2018). Every child, every chance: tackling child poverty delivery plan 2018-2022. <https://bit.ly/35KrTYz> [Date accessed: 18.1.22].

ongoing influencing to increase financial, practical and emotional support available to families experiencing poverty.

- **Read the Dropped into a Cave report here.**



Child Poverty Action Group (CPAG) in Scotland – supporting children experiencing poverty

The Cost of the School Day project involved children, parents and carers identifying the cost barriers that stand in the way of taking part at school, learning, and developing friendships at school. They were asked for their policy and practice ideas to overcome these. By involving and listening to children and families The Cost of the School Day Toolkit and short films were created.^{218 219} Developing these resources has meant schools are better at identifying the cost of the school day and financial ‘pinch points’ throughout the year.

Schools are also supported to break down these hidden barriers to participation and learning by implementing more affordable uniform policies, better provision of devices, links with welfare rights services, poverty-aware communication with parents and carers, support with applications for free school meals and clothing grants, and universal toast and snacks. Schools are also rethinking dress down days and trip policies.

A 2019 evaluation from NHS Health Scotland (now Public Health Scotland) found that Cost of the School Day helps to increase understanding of child poverty and school costs, reduce cost barriers to participation in and after school, reduce financial pressures for families, improve promotion and uptake of entitlements and overall help with the development of poverty sensitive school policies and practises.²²⁰

It really helped to formalise our thinking about ways of removing barriers so that all children can have the very best start to life. The work gave the children a further platform through which to share their views and make a difference. (Primary Head Teacher)

Young people said that they were thinking about things that wouldn’t have occurred to them that were a barrier for other people, and then they started talking about discrimination within the school community... it just made them think about things, it was quite thought provoking for them. (Secondary Depute Head Teacher)

At a national policy level, the introduction of policies aimed at tackling the Cost of the School Day are welcome. Policies which focus on relieving financial pressures may include scrapping curriculum costs, increasing the minimum clothing grant level and universal free school meals for primary aged children.

- **Read more about the Cost of the School Day here.**
- **Access the Cost of the School Day Toolkit here.**
- **Watch the short films here.**

²¹⁸ Child Poverty Action Group (no date). The Cost of the School Day Toolkit, Updated 2021. <https://bit.ly/3s88ich> [Date accessed: 18.1.22].

²¹⁹ Child Poverty Action Group (no date). The Cost of the School Day Films. <https://bit.ly/34c0z51> [Date accessed: 18.1.22].

²²⁰ Public Health Scotland (2020). Evaluation of the Cost of the School Day programme, p.86. <https://bit.ly/3J2Jo4N> [Date accessed: 18.1.22].



Article 12 in Scotland – overcoming the digital divide for young Gypsy/Travellers

Article 12 in Scotland is an organisation that works to uphold the rights of young Gypsy/Travellers. During the pandemic, it provided learning and development support to young Gypsy/Travellers via the provision of digital devices and data and online one-to-one and group tutoring. Of the twenty-four families supported only 8% had an internet connection or a data package with just one family having access to a working device.

The provision put in place by the organisation ensured that the children's right to education was upheld. This support was warmly welcomed by parents and children alike:

Thanks for the chrome book. I didn't know how to use it at first but now I do it's easy and I really like it. I like my lessons as they are one on one which is better than school. I like learning using these.

I'm so glad Article 12 [in Scotland] sent my kids the laptops. It showed we weren't forgotten about. That we mattered. The kids love them and are much better at using them than me.

Through monitoring the measures, Article 12 in Scotland identified high levels of engagement and commitment amongst the young males participating in the flexible learning opportunities, something which has proved difficult to achieve in the past. This indicated a preference for flexible or blended learning policy and practice – something that Article 12 in Scotland was able to take into account in its activities.

- [Read more about this work by Article 12 in Scotland here.](#)



Play Scotland and ScrapAntics CIC – ensuring children's access to inclusive play

In summer 2020, Play Scotland collaborated with ScrapAntics CIC to deliver 'Loose Parts Play' sessions across Dundee. Loose parts play involves using free, everyday objects to promote children's play in the context of COVID-19. This 'loose parts play' has been found to improve creativity, boost social and problem-solving skills and support inclusion. These sessions were delivered to children on school grounds which were identified as community 'hubs'. The children who came along were key workers' children or identified as at risk by the local authority. As their peers and friends were at home whilst they were at school during the holidays, this was one of the challenges faced in the project.

A lot of the children were saying 'I'm sick of being in school, I've had enough'. In that group, I could tell they were feeling a bit fed up and emotional. They all loved the loose parts and got really into it but at the start... the children were feeling a bit down.

Play opportunities were provided to an average of 216 children per week over the summer holidays. A large range of everyday items were made available. Items included: drainpipes, barrels, pallets, golf balls, telephones, chairs on caster wheels and fabric. Sessions were facilitated by two or three playworkers depending on the number of children attending each hub. Children aged four to 14 years old took part in the activities.

Throughout the project, data was collected via:

1. Children's evaluation – using a simple 'sticks and stones' activity to try to capture children's

perceptions at the start and end of each play session (the evaluation was optional, and children often chose not to complete this task).

2. Daily observation questionnaires were completed by the playwork team after each session.
3. Weekly group interviews to capture the playwork teams' key observations.

As a result of the project, free play was found to support children's emotional, physical, and cognitive development. Children wanted to play, and they made use of free play opportunities offered. This reduced financial pressure on parents and carers to buy conventional toys and play was found to be inclusive as children from different schools, ages and abilities all played together. Children who were going to be moving into secondary school after the holidays made friendships with older children who were already at high school.

Learning from the project informed the development of a toolkit for 'Loose Parts Play' during COVID-19. This will support parents, carers and communities to help realise children's right to play.

- **Read more about the Loose Part Play and access the toolkit here.**



Children's Parliament and Alcohol Focus Scotland – ensuring children's access to inclusive play

In 2018, six experienced Members of Children's Parliament (MCPs) co-designed and delivered workshops to 200 children aged 8-11 years old from primary schools in Tranent, Edinburgh, Benbecula, Inverness and Blairgowrie. The workshops explored which rights children felt needed more protection in Scotland, in order to inform Children's Parliament's submission to the UN Committee's bi-annual Day of General Discussion (DGD).

The UN Committee holds DGDs to gather children and organisations that work with and for children, to discuss particular issues relating to children's rights. They help develop a deeper understanding of the content or implications of the UNCRC.

In the workshops, the children were invited to create artwork, stories, poems or songs to highlight rights violations experienced by children across Scotland. The impact of alcohol featured prominently, demonstrating children's recognition of the potential for alcohol to infringe upon their human rights.

Five giant 6ft x 6ft papier-mâché shields were created by the children, reflecting the five key themes: defending the right to play, to education, to have a decent standard of living, to participate and be oneself, to be protected from harm and to be loved and cared for. One of the shields highlighted images of broken glass and bottles left in play parks being a key barrier to children's right to inclusive play.

These shields aimed to encourage Scottish Government and local authorities to recognise and support the role of children as human rights defenders within policy and practice and to highlight the importance of protecting children's rights. The success of these shields can be shown through the extent of their travels, as these have been exhibited internationally at the DGD; nationally at the Children's Parliament National Sitting in November 2018,²²¹ the Human Rights Day Takeover at Scottish Parliament in December 2018,²²² and locally at a stakeholder event in East Lothian

²²¹ Children's Parliament (2018). Children's Parliament National Sitting 2018. <https://bit.ly/3oi198f> [Date accessed: 18.1.22].

²²² Scottish Parliament (2018). Human Rights Take Over!. <https://bit.ly/3ugOkP5> [Date accessed: 18.1.22].

in May 2019.²²³ Before making their permanent home at Ross High School in East Lothian, the shields were exhibited at the World Community Development Conference in Dundee in June 2019.^{224 225}

Children's Parliament has continued to build on this work, including through a project titled 'It's all around you, all of the time' which focuses on children's concerns about the visibility of alcohol in their lives.²²⁶ Identifying ways in which adults could promote every child's right to an alcohol-free childhood, including by stopping people drinking in public places and took their asks to Scottish Cabinet.

- **Read more about the shields here and here.**
- **Find out more information about the alcohol-free childhood work here.**



Scottish Guardianship Service – supporting unaccompanied asylum-seeking children

The Scottish Guardianship Service is delivered by Aberlour and the Scottish Refugee Council. It offers a bespoke, one-to-one service whereby separated children arriving in Scotland alone are matched with a professional, independent advocate (a guardian). The guardian is a trusted person who supports the child or young person to navigate the many bewildering and overwhelming processes they find themselves within, including the asylum process, National Referral Mechanism, criminal justice and child protection and welfare processes.

The overarching role of the guardian is to help children to understand what is happening and to help them participate and have their views heard in all these processes. Guardians can work across all of these systems, supporting children's understanding along the way. They do this by explaining things in a child-friendly way, answering any questions and supporting children in health appointments and meetings with the likes of lawyers and Home Office officials.

The service also provides a sense of community, introducing children to others their age who have been through similar experiences to build new friendships, and helping them to realise their potential, thrive and build new lives in Scotland. Guardians work closely with adults in the lives of the separated children – such as residential workers, lawyers, social workers and foster carers – to demystify the immigration process and promote children's rights. This includes providing these adults with tailored information about the asylum process and child trafficking.

Guardians make sure children understand and participate in the sometimes overwhelming processes that must be followed; being by the side and on the side of children during often years of uncertainty. By providing this support, adults surrounding the child can better identify rights issues and act to address these. In turn, adults can begin to answer the question 'What can I do that is in this child's best interests?'

- **Read more about this work here.**

²²³ Children's Parliament (no date). Children as Human Rights Defenders. <https://bit.ly/35xMY8i> [Date accessed: 18.1.22].

²²⁴ Ross High School (no date). Ross High School. <https://bit.ly/3s9hIEu> [Date accessed: 18.1.22].

²²⁵ WDCDC2019 Planning Group (2019). World Community Development Conference. <https://bit.ly/3ohq9MG> [Date accessed: 18.1.22].

²²⁶ Children's Parliament (2019). Children's Parliament investigates: an alcohol-free childhood For Alcohol Focus Scotland. <https://bit.ly/2GGyOID> [Date accessed: 18.1.22].



Aileymill Primary School and See Me – supporting children who experience mental health stigma

In 2018, Aileymill Primary School implemented a ‘Meet, Treat & Greet’ mental health workshop for children, parents and carers. For this, five specialists were invited to deliver short presentations on their roles and experiences, followed by a question and answering session. Specialists included a See Me Early Years Practitioner, a community psychiatric nurse, a play therapist, a local minister and a Mental Health Lead who spoke about his experience and journey to empowering a mental health movement within schools.

Since running the ‘Meet, Treat & Greet’ workshop, pupils have become more confident and empowered in relation to their mental health. Parents and carers are now better at recognising signs of deterioration in their own mental health. They report feeling more confident to talk about mental health, recognising the school as a beacon of support for them, as well as for their children. As such, many have come forward seeking support for themselves. Thanks to Aileymill Primary School’s project, parents, carers and pupils now know where to turn and how to seek mental health support.

- **Read more about this work at Aileymill Primary School here.**



Education Service in North Ayrshire – supporting children who experience mental health stigma

In February 2019, the Education Service in North Ayrshire developed the Mental Health Operational Group (MHOG). The MHOG is a multi-disciplinary group consisting of partners from the children’s sector including, health, social care, education and third sector partners. It aims to take a local authority approach to challenge mental health stigma and discrimination, by meeting on a quarterly basis throughout the year.

It does this by exploring and monitoring the activities and initiatives being carried out and implemented across the local authority to support children who experience mental health stigma. In doing so, guidance for good practice is created to support individuals and organisations that have a role in supporting the mental health and wellbeing of children, parents and carers. It also provides opportunities for organisations to come together and learn from each other and share resources.

Due to having one centralised group working towards the same outcome – to support the mental health and wellbeing of children – the MHOG has successfully delivered the following outcomes:

1. *Outside agencies have shared programmes being delivered in other authorities (e.g. Action for Children’s Blues Programme).²²⁷*
2. *Child and Adolescent Mental Health Services (CAMHS) have shared resources that have been distributed to schools.*
3. *Training opportunities have been identified and actioned (for example suicide prevention SafeTalk and Scottish Mental Health First Aid programmes).^{228 229}*

- **Read more the MHOG here.**

²²⁷ Action for Children (no date). The Blues Programme. <https://bit.ly/3seCMJP> [Date accessed: 18.1.22].

²²⁸ Grassroots (no date). safeTALK: Suicide Alertness For Everyone. <https://bit.ly/3IXu8G9> [Date accessed: 18.1.22].

²²⁹ Scotland’s Mental Health First Aid (no date). SMHFA programme. <https://bit.ly/3J1kr9P> [Date accessed: 18.1.22].



NHS Dumfries and Galloway – supporting children who experience mental health stigma

CAMHS Young People's Mental Health Forum uses art to express themselves, challenge stigmatising attitudes and behaviours associated with mental health. The group is made up of a small number of young people who are either currently accessing CAMHS or have accessed it in the past.

The 'Be Kind' mental health awareness project focuses specifically on self-stigma and public stigma through the creation of a short animation and an educational workbook. This allows the young people involved in the group to share their ideas, advice, and experiences of mental health. Most of all, they hope their work will help and reassure other children and young people going through their own mental health journey. Over 51 people attended the project's online launch, and the young people were all amazing and a credit to themselves.

This whole experience has been incredible, with so many more opportunities that we have been able to get involved in, speaking with policymakers, sharing our experiences within a national webinar, co-producing and designing resources alongside health professionals. I am excited about being a part of the change.

Participation work creates change; the difference participation projects are beginning to have on CAMHS is that young people are now working alongside health professionals to co-design and co-produce resources, projects and the service together. Separate research has highlighted the positive impact that art created by people with mental health issues can have on raising public awareness, changing perceptions and empowering people to challenge stigma and discrimination.

This group has honestly been one of the best things that have happened, without it, I don't know where I would be! Being involved has improved my mental health and my confidence, there is no way even a couple of months ago, I couldn't have talked in front of as many people, I would have been scared that people would judge me.

- **Watch the 'Be Kind' animation [here](#).**



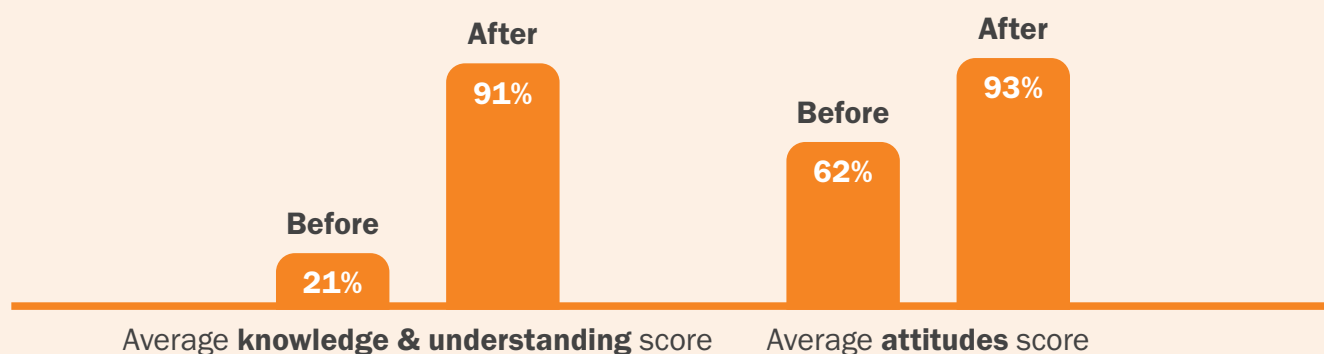
Who Cares? Scotland – supporting Care Experienced children

The Communities that Care project began in 2016 as a five-year project. The Renfrewshire-based project aimed to ensure that Care Experienced people are accepted, included and have a sense of belonging within their communities. Across eight different schools, pupils, parents, carers, teachers and other school staff were involved in the project, which aimed to build awareness of what care experience is and how to be more supportive of Care Experienced people.

Sessions were delivered to pupils and at the start of the project, they were asked to anonymously indicate what they knew about care experience. Using a 4-point-scale pupils were asked to share their perception of Care Experienced people, indicating the extent to which they felt that going into care is a young person's fault. Responses were used to form a baseline against which to measure progress. The data collected ascertained limited awareness and confusion between Care Experienced people and young carers.

Following a series of awareness-building sessions, pupils were asked the same questions. Pupils' knowledge and understanding of what care experience is and what life is like for Care Who Cares? Scotland – supporting Care Experienced children 108 State of Children's Rights in Scotland 2022

Experienced people more than tripled. Similarly, pupils' perception of Care Experienced people had also improved – this time by 51%:



Further monitoring was carried out 6 months after the sessions, which highlighted 87% of pupils thought it was socially desirable to be nice to Care Experienced people. This indicates a sustained positive attitude towards Care Experienced people following Who Cares? Scotland's original input.

Over the five years of the project:

- 129 sessions were delivered to over 6,000 pupils during Personal and Social Education (PSE) time;
- 59 lunchtime drop-in sessions were facilitated;
- 87 teachers from four Renfrewshire schools and 2,600 students completed their initial teacher education. In addition to working within schools, the project also created opportunities for Care Experienced pupils to come together within their community and have fun, learn about their care identity and to develop a deeper sense of belonging.

As a result of the project, Care Experienced children reflected that they felt more accepted and included within their schools:

They [peers] used to always ask questions about like why I stayed with my Nana and they didn't get what it meant. I feel like, I think now they understand more and now they don't look at you as if you're weird. Because it [the project's input to the class] helped. I think it's really good for everybody to learn about Who Cares because it's a good thing. You do good.

By increasing awareness of care experience and ensuring that Care Experienced children (and those around them) understand the different types of care, the project enabled those working with Care Experienced children to support them to access the supportive services around them. Having the opportunity to access supportive services from Who Cares? Scotland and other organisations, this positively impacted Care Experienced children's overall wellbeing – as one headteacher from a primary school said:

One of the children in primary 7 didn't identify herself as Care Experienced because she was always in the care of her maternal grandmother.... but simple things like financial support or clubs that she wouldn't have normally been able to get to you know we were then able to use.

- [Read more about the Communities that Care project here.](#)

4.6 Top tips

The evidence and case studies highlight that data collection, analysis and monitoring are key both to *identifying* situations where children's rights are at risk and *addressing* these situations to ensure children's human rights are upheld.



- Shape data collection by what **needs to be known**, rather than what data is available (but do use what is available, where it suits);
- Develop **collaborative approaches** to data collection, analysis and monitoring which include children;
- Ensure data builds a **comprehensive picture** – children's views and experiences expressed in their own words must be gathered in addition to quantitative data;
- Use **child rights-based indicators** to analyse data;
- **Share resources and toolkits** that challenge discriminatory practices;
- **Utilise networks** to promote anti-stigma and discrimination training;
- **Use spaces which children and adults regularly use to raise awareness** of how to challenge discrimination;
- Be **mindful of language** to avoid compounding negative attitudes and stigma.

4.7 Resources

- Together (2021). **State of Children's Rights webinar recordings and slides.**
- GlobalChild (no date). **A global monitoring tool to implement the UN Convention on the Rights of the Child.**
- UN Development Programme (no date). **Human Development Index.**
- UN Development Programme (no date). **Human Development Data Centre.**
- Connecting Scotland (no date). **Supporting everyone in Scotland to get online.**
- Play Scotland (no date). **Inclusive Play Design.**
- See Me (no date). **Resources to end discrimination and stigma.**
- Scottish Government (2017). **Respect for All: national approach to anti-bullying.**
- Scottish Government (2016). **Race equality framework for Scotland 2016 to 2030.**
- Educating Scotland (no date). **Promoting and developing race equality and anti-racist education: an overview.**
- Scottish Refugee council (no date). **Direct Support.**
- respectme (no date). **Anti-bullying practice.**
- respectme (no date) **publications, videos, and campaign resources offer practical advice and guidance for adults and children.**
- LGBT Youth (2020). **Addressing Inclusion.**
- LGBT Youth (no date). **Advice Centre: Hate Crime.**
- Equality Advisory and Support Service (no date). **Access information, advice and support on discrimination and human rights issues and the applicable law.**
- Frameworks Institute UK (no date). **Toolkit to change narratives.**



Chapter 5:

Access to justice



5.1 Introduction

Children's access to justice is about children being able to claim and enforce their rights if they are at risk or have been breached. It is vital to think of access to justice as a spectrum of proactive, preventative and reactive measures – this ranges from accessing child-friendly information about rights, getting support from an independent advocate all the way through to court action. Some of these components are set out in the image below.

Spectrum of access to justice



A wide range of UNCRC articles are relevant to children's access to justice, including:

Best interests of the child – Article 3 UNCRC

1. *In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*
2. *States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.*
3. *States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.*

Right to be heard – Article 12 UNCRC

1. *States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*
2. *For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.*

Right to legal and other assistance – Article 37 UNCRC

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Right to recovery – Article 39 UNCRC

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

5.2 Why is access to justice important?

Access to justice ensures children can claim and enforce their rights. An effective system means children know about their rights and how to claim them. It means if concerns arise, these are resolved promptly and close to the source.

Access to justice can create a positive culture change across organisations and services working with and for children. This can ensure service providers proactively take a rights-based approach to decision making from the outset. Establishing child-friendly complaint mechanisms is an example of this.

The prospect of being held to account, paying a fine or having reputational damage helps focus minds and prevent rights breaches from occurring. An example of this could be reactive measures brought about via court action.

What have children said?

Children have said it can be difficult to make a complaint because they are sometimes viewed negatively for doing so. They say the process of making a complaint can be confusing and they do not always have the knowledge, skills or confidence required:

 Children might be afraid to speak up.²³⁰

Children are clear that in a rights-respecting world, they would know what their rights are and what to do if they were breached. Children say they need a range of ‘tools’ to challenge breaches of their rights. These tools can help them feel empowered:

 A child might be more confident to speak up and then the problem can be solved.²³¹



²³⁰ Children's Parliament (2019). 'All rights are important, so all rights should be law' – A consultation on incorporating the UNCRC into domestic law in Scotland, p17. <https://bit.ly/3INQ6eK> [Date accessed: 02.02.22].

²³¹ Children's Parliament (2019). 'All rights are important, so all rights should be law' – A consultation on incorporating the UNCRC into domestic law in Scotland, p17. <https://bit.ly/3INQ6eK> [Date accessed: 02.02.22].

Child-friendly complaints mechanisms, accessible information and supportive adults who can help children claim their rights are all ‘tools’ children need:

 *All adults, like teachers and PSAs need to know children’s rights so they understand what’s going on and what the child’s rights are if they make a complaint.*²³²

*I know my rights well, when I had a care plan review meeting I didn’t feel confident and [...] listened to [...] I found it hard to speak up. I needed an advocate there to say that I need to be heard.*²³³

*Children and young people need to know about their rights so that they can speak out when they are not being upheld. Adults should help children and young people to do so [and] advocate for them.*²³⁴

Children suggest local politicians, advocacy workers, social workers, council members and helplines should all be aware of children’s rights and should be able to assist children in seeking justice:

 *Everyone in the community has a responsibility to uphold rights.*²³⁵

Children recognise that some issues can be dealt with closer to home, while others need to be addressed by adults or organisations with more power.²³⁶ In the most serious cases, children want formal routes (such as the courts) to be available. They say support should be available for children who take this route:

 *Children should have someone to talk to who can take the government or whoever to court and the children don’t have to go directly.*²³⁷

*I should be able to go to the highest court in the land if my rights are not being upheld. I deserve the same choices as everyone else.*²³⁸

What has the UN Committee said?

General Comments

In General Comment 5, the UN Committee on the Rights of the Child (UN Committee) said “[f]or rights to have meaning, effective remedies must be available to redress violations. This requirement is implicit in the Convention.”²³⁹

²³² Children’s Parliament (2019). ‘All rights are important, so all rights should be law’ – A consultation on incorporating the UNCRC into domestic law in Scotland, p.13. <https://bit.ly/3INQ6eK> [Date accessed: 02.02.22].

²³³ Who Cares? Scotland (2020). The Equalities and Human Rights Committee UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with young people and Committee Members and Who Cares? Scotland, p.5. https://archive2021.parliament.scot/S5_Equal_Opps/General%20Documents/UNCRC_Outreach_Session_Who_Cares_Scotland_Confirmed.pdf [Date accessed: 19.1.22].

²³⁴ Children in Scotland (2019). Children and Young People Consultation on the Incorporation of The United Nations Convention on the Rights of the Child (UNCRC), p.18. <https://bit.ly/3ITPcgl> [Date accessed: 17.1.22].

²³⁵ Children in Scotland (2019). Children and Young People Consultation on the Incorporation of The United Nations Convention on the Rights of the Child (UNCRC), p.14. <https://bit.ly/3ITPcgl> [Date accessed: 17.1.22].

²³⁶ Children’s Parliament (2019). ‘All rights are important, so all rights should be law’ – A consultation on incorporating the UNCRC into domestic law in Scotland, p.16. <https://bit.ly/3INQ6eK> [Date accessed: 02.02.22].

²³⁷ Children’s Parliament (2019). ‘All rights are important, so all rights should be law’ – A consultation on incorporating the UNCRC into domestic law in Scotland, p.19. <https://bit.ly/3INQ6eK> [Date accessed: 02.02.22].

²³⁸ Who Cares? Scotland (2020). Navigating the world of rights, p.31. <https://bit.ly/3ukvDdm> [Date accessed: 19.1.22].

²³⁹ CRC/GC/2003/5: Para 24.

Barriers in access to justice and long-drawn-out processes can seriously compromise a child's ability to assert their rights. The UN Committee reiterates the importance of ensuring that there are child-friendly procedures in place through which children, and those advocating on behalf of children, can access justice.

These themes are echoed in the Council of Europe Guidelines on Child-Friendly Justice.²⁴⁰ Related points have been raised by the UN Human Rights Council,²⁴¹ and in the International Covenant on Civil and Political Rights²⁴² and UN Convention on the Rights of Persons with Disabilities.²⁴³

UNCRC Concluding Observations (2016)

At the UK's last review, the UN Committee made a range of recommendations around children's access to justice. This included calling on the UK and devolved governments to ensure due weight is given to the views of children in responses to violence, including in criminal and family law proceedings.²⁴⁴ The UN Committee also called on the UK and devolved governments to expedite the review of legal aid reforms and to involve children in this process to ensure that the reforms did not negatively affect children's access to justice.²⁴⁵

UNCRC List of Issues Prior to Reporting (2021)

In February 2021, the UN Committee asked the UK and devolved governments for an update on progress. Specifically, it asked for information on the measures taken to monitor and address complaints of discrimination against children;²⁴⁶ assess the impact of legal aid reforms on children's access to justice;²⁴⁷ ensure access to appropriate remedies;²⁴⁸ and ensure that children in residential settings have access to an independent complaints mechanism.²⁴⁹

The UK and devolved governments are expected to report to the UN Committee on their progress in June 2022.

5.3 The context in Scotland

Children and civil society have made repeated calls to the UK Government to sign up to the UNCRC's Optional Protocol on a communications procedure.²⁵⁰ This Protocol allows the UN Committee to hear complaints that a child's rights have been violated. Children from countries that ratify the Protocol can use the treaty to seek justice if the nation's legal system has not been able to provide a remedy for the violation. The UK Government has confirmed it has no plans to ratify the protocol.²⁵¹

²⁴⁰ Council of Europe (2010). *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice*, CM/Del/Dec(2010)1098/10.2abc-app6. <https://rm.coe.int/16804b2cf3> accessed: 19.1.22].

²⁴¹ A/HRC/25/L.10.

²⁴² Article 2(3). *International Covenant on Civil and Political Rights*.

²⁴³ Article 13. *United Nations Convention on the Rights of Persons with Disabilities*.

²⁴⁴ CRC/C/GBR/CO/5: Paras: 43(d).

²⁴⁵ CRC/C/GBR/CO/5: Para: 31(b).

²⁴⁶ CRC/C/GBR/QPR/6-7. Para: 13(d).

²⁴⁷ CRC/C/GBR/QPR/6-7. Para: 15(c).

²⁴⁸ CRC/C/GBR/QPR/6-7. Para: 23.

²⁴⁹ CRC/C/GBR/QPR/6-7. Para: 25(c).

²⁵⁰ A/RES/66/138.

²⁵¹ UK Ministry of Justice (2017). *United Nations Universal Periodic Review United Kingdom, British Overseas Territories and Crown Dependencies, Annex to the response to the recommendations received on 4 May 2017*, p12. <http://bit.ly/36NKfm1> [Date accessed: 19.1.22].

In the Scottish context, there is no single lead policy on advocacy. Instead, access to justice is intertwined with many separate policy and legislative areas, including the Mental Health (Scotland) Act 2015,²⁵² Patient Rights (Scotland) Act 2011,²⁵³ Education (Additional Support for Learning) (Scotland) Act 2009,²⁵⁴ Children's Hearings (Scotland) Act 2011²⁵⁵ and Children and Young People (Scotland) Act 2014.²⁵⁶

The UNCRC (Incorporation) (Scotland) Bill ('UNCRC Incorporation Bill') supports children to bring breaches of their rights before the Scottish courts. Once it has entered into force, the UNCRC Incorporation Bill will give children, their representatives, Children and Young People's Commissioner Scotland and Scottish Human Rights Commission the ability to bring a case to Scottish courts.^{257 258} The UNCRC Incorporation Bill gives courts the power to grant a range of remedies if a breach is established. In addition to this, within the Children's Rights Scheme, Scottish Ministers must promote complaints handling procedures that children can understand and use, and ensure that children have effective access to justice.²⁵⁹ Other authorities listed in the Bill must report every three years on what they are doing to meet the UNCRC requirements.²⁶⁰

The National Performance Framework sets out the vision for a Scotland where everyone can stand together to challenge unfairness using equalities legislation, law and practice, and justice systems are proportionate, fair and effective.²⁶¹

To progress the rights of children, Scottish Government's Action Plan for 2021-24 aims to work with the Scottish Public Services Ombudsman (SPSO) to develop a child-friendly complaints process. This aims to ensure children can access their rights, review with stakeholders existing advocacy arrangements for children to access their rights, and consider how to strengthen the provision of advocacy to children who need it.²⁶²

- Refer to Chapter 5.8 for more information on SPSO's work to date.

5.4 Independent advocacy

Independent advocates are human rights defenders, they seek to address any imbalances of power, support children to understand their rights and make their wishes known. They are independent in that they are not connected to service providers.²⁶³

²⁵² Part 1, Section 27. *Mental Health (Scotland) Act 2015*. <https://bit.ly/3L00sZ9> [Date accessed: 19.1.22].

²⁵³ Section 18. *Patient Rights (Scotland) Act 2011*. <https://bit.ly/343NpqQ> [Date accessed: 19.1.22].

²⁵⁴ Section 10. *Education (Additional Support for Learning) (Scotland) Act 2009*. <https://bit.ly/3J2JoBP> [Date accessed: 19.1.22].

²⁵⁵ Part 12, Section 122(4). *Children's Hearings (Scotland) Act 2011*. <https://bit.ly/3ujAviR> [Date accessed: 19.1.22].

²⁵⁶ Part 4, Section 30 and Part 5, Section 43. *Children and Young People (Scotland) Act 2014*. <https://bit.ly/3L670r1> [Date accessed: 19.1.22].

²⁵⁷ Part 2, Section 7. *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill*. <https://bit.ly/3s58NDU> [Date accessed: 19.1.22].

²⁵⁸ Part 2, Section 10 and Section 10A. *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill 2019*. <https://bit.ly/3s58NDU> [Date accessed: 19.1.22].

²⁵⁹ Part 3, Section 11 (3)(ba) and (3)(bb). *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill*. <https://bit.ly/3s58NDU> [Date accessed: 19.1.22].

²⁶⁰ Part 3, Section 15(4). *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill*. <https://bit.ly/3s58NDU> [Date accessed: 19.1.22].

²⁶¹ Scottish Government (no date). *National Performance Framework: Human Rights*. <https://bit.ly/3ugcQXx> [Date accessed: 19.1.22].

²⁶² Scottish Government (2021). *Progressing the human rights of children in Scotland: action plan 2021 to 2024*, p.7. <https://bit.ly/3uko2f5> [Date accessed: 17.1.22].

²⁶³ Scottish Independent Advocacy Alliance (no date). *What is independent advocacy?*. <https://bit.ly/3ukv2sk> [Date accessed: 19.1.22].

Depending on the issue, independent advocates may consist of parents, youth workers, lawyers or professional independent advocates. Independent advocates aim to prevent rights breaches from occurring and to stop situations from escalating. It is therefore unsurprising that when children have talked about these supportive adults, they have said that in a perfect world there would be “lots of them”.²⁶⁴

Why is independent advocacy important?

 *Advocacy services are very important to ensure children and young people are supported to claim their rights.*²⁶⁵

A key characteristic of independent advocacy is that the advocates are structurally, financially, and psychologically separate from service providers and other services.²⁶⁶ As one social worker notes:

 *There are no blurred boundaries. They are clear about their role and whose views they're representing. They are clear they are not representing their own views.*²⁶⁷

Independent advocates are especially important when individuals or groups are not heard, are at risk or are discriminated against. This can happen where support networks are limited or if there are barriers to communication. Independent advocacy provides children with non-legal means of redress and enables children to stay engaged with services that are struggling to meet their needs.

Care Experienced young people have acknowledged the importance of advocates being ‘independent’ from other service providers:

 *[Existing] complaints procedures don't work – organisations tend to protect their staff (Children and Adolescent Mental Health Services, mental health, education).*

 *It must be independent advocacy – if it's attached to the council, their carers, etc., children and young people won't use or trust it.*²⁶⁸

As one individual with Care Experience said about their experience:

 *I made a couple of complaints about my experience of through care, but it was detrimental that I did. I had some issues brought it up, but I got punished for it. They started not returning my calls or would know I needed to get a document in on a certain date and would intentionally wait until it was too late to tell me.*²⁶⁹

Others shared their positive experiences having the support of advocacy workers and how they built confidence:

 *Had a couple of Advocacy Workers. ... I used to be shy. Advocacy workers helped build my confidence and trust. Advocacy Worker helped me with my siblings, they put me in touch*

²⁶⁴ YouthLink Scotland (2019). *Young People's Response to the Consultation on Incorporating the UN Convention on the Rights of the Child (UNCRC) into Scots Law*, p.2. <https://bit.ly/3oIDmUL> [Date accessed: 19.1.22].

²⁶⁵ Together (2021). *UNCRC (Incorporation) (Scotland) Bill Scottish Parliament Community Outreach – Virtual Session with 12-18-year-olds*. <https://bit.ly/3LfqlWT> [Date accessed: 19.1.22].

²⁶⁶ Scottish Independent Advocacy Alliance (no date). *What is independent advocacy?*. <https://bit.ly/3ukv2sk> [Date accessed: 19.1.22].

²⁶⁷ Our thanks to A Place in Childhood for providing this quote.

²⁶⁸ Who Cares? Scotland (2020). *Navigating the world of rights*, p.31. <https://bit.ly/3ukvDdm> [Date accessed: 19.1.22].

²⁶⁹ Who Cares? Scotland (2020). *Navigating the world of rights*, p.29. <https://bit.ly/3ukvDdm> [Date accessed: 19.1.22].

 with a lawyer to get in touch with my sibling's Clan Law. ... I now have a relationship with my siblings. ... The Advocacy Worker does not know how much of a difference they can make.²⁷⁰

*Having the right person, one adult to make a big change.*²⁷¹

 Advocacy helped with my confidence, helped me challenge if my rights were being affected.²⁷²

 Advocacy helped me in my confidence and ability to state my rights and say no that's not right.²⁷³

 It feels like a weight has been lifted from you when you get to talk about something that is important to you.²⁷⁴

Challenges when accessing independent advocacy

Across Scotland, access to independent advocacy has been described as a 'postcode lottery' and where advocates are available, children's eligibility to access their services is often narrowly defined based on the age and additional support needs of the child. In addition, some independent advocates are only contracted to deliver statutory work at the acute end of the issue, whereby rights breaches have already taken place. If independent advocates were accessible and used as an early intervention, this could possibly negate the need for more formal, reactive measures.

Steps taken to overcome these challenges

Ensuring independent advocacy is accessible to everyone regardless of age, stage, ethnicity, additional support needs or any other reason is essential. Some organisations have tried to secure extra funding to widen their remit for advocacy services and have taken part in national discussions with Scottish Government to increase the availability of independent advocates.

Developing awareness of organisations that offer independent advocacy and advice, such as Clan Childlaw, Scottish Child Law Centre and the Scottish Independent Advocacy Alliance have enabled children to be signposted to their services.

The National Practice Model outlines the role of advocacy workers in the children's hearings system to achieve 'The Promise'.^{275 276} It requires advocates to have:

- Strong understanding of childhood experience and commitment to children's rights;
- Solid knowledge base of policy and legislation related to children;
- Working knowledge of procedures related to Children's Hearings;
- Expertise in advocacy practice;

²⁷⁰ Who Cares? Scotland (2020). Response to the Equality and Human Rights Committee Call for views on United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, p.2. <https://bit.ly/3IVPAeO> [Date accessed: 17.1.22].

²⁷¹ Who Cares? Scotland (2020). Response to the Equality and Human Rights Committee Call for views on United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, p.3. <https://bit.ly/3IVPAeO> [Date accessed: 17.1.22].

²⁷² Who Cares? Scotland (2020). Response to the Equality and Human Rights Committee Call for views on United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, p.4. <https://bit.ly/3IVPAeO> [Date accessed: 17.1.22].

²⁷³ Who Cares? Scotland (2020). Response to the Equality and Human Rights Committee Call for views on United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, p.4. <https://bit.ly/3IVPAeO> [Date accessed: 17.1.22].

²⁷⁴ Children's Parliament (2019). Report on the Children's Parliament consultation on the Progressing Children's Rights in Scotland Action Plan 2018-2021, p.17. <https://bit.ly/31muMbT> [Date accessed: 17.1.22].

²⁷⁵ Who Cares? Scotland (no date). Advocacy in the Children's Hearings System: national practice model guidance document. <https://bit.ly/3IRaxY6> [Date accessed: 17.1.22].

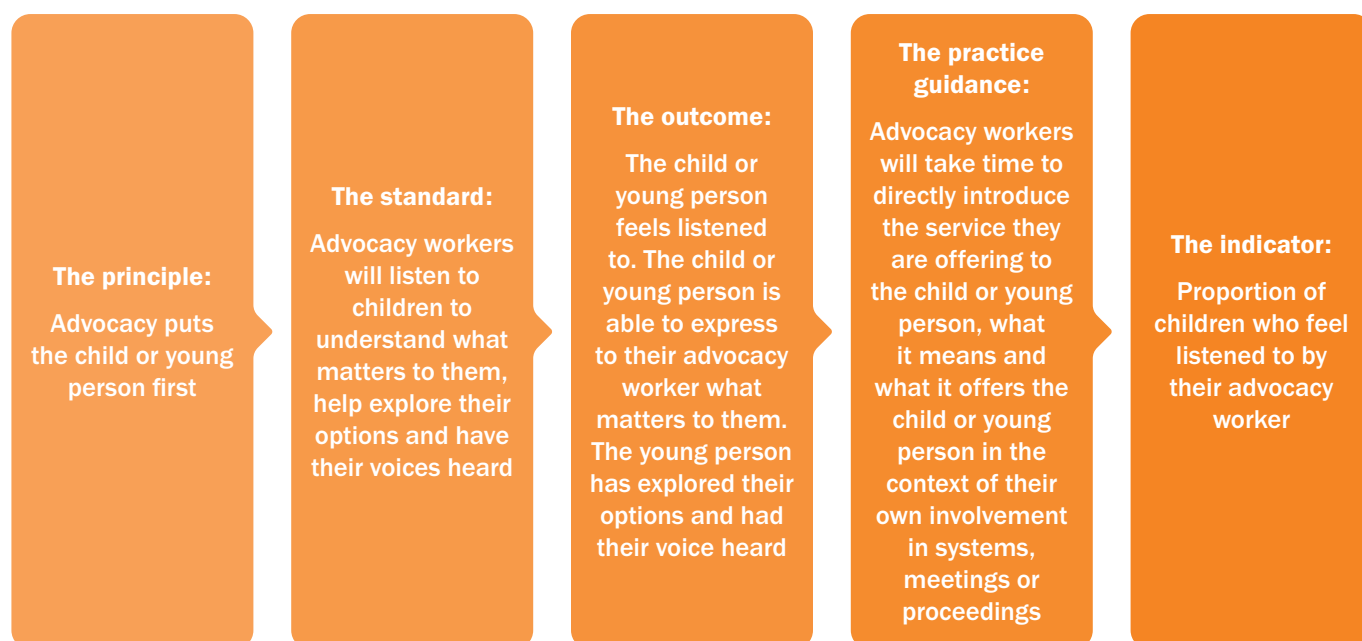
²⁷⁶ Independent Care Review (2020). The Promise. <https://bit.ly/348Pmly> [Date accessed: 18.1.22].

- Skills in working with children, to ensure consistent excellence of practice and delivery of advocacy within the Children's Hearings System across Scotland.

The National Practice Model specifies the core values and beliefs of advocacy in the Children's Hearings System and supports advocacy workers and organisations with detailed, practical guidelines.

The Principles and Standards put into clear, concise language, the underlying beliefs and behaviours children should be able to expect from advocacy. Each Principle and its underlying Standards are accompanied by a set of Practice Guidelines and a set of Indicators. These Principles, Standards, Outcomes, Indicators and Guidance can be used to underpin similar models that organisations can implement to overcome these challenges.

- **Examples of promising practice following the National Practice Model can be found here.**



See the following case studies for more detailed examples:

- Partners in Advocacy at p.125;
- Salvesen Mindroom Centre at p.127;
- Mind Of My Own app at p.130.

5.5 Child-friendly complaints processes

Child-friendly complaints processes are means by which children can complain if they feel their rights have been or are about to be breached. They are specifically adapted to meet children's needs. A resolution to these complaints can be achieved both formally and informally.

Informal complaints can take the form of a service provider meeting with the child and their advocacy worker to discuss their concerns and rectify the issues they have raised to the child's satisfaction. Independent advocacy workers support children to navigate these complaints processes and inform children of their rights should their complaints not be upheld.

Formal complaints consist of procedures children can follow. The building blocks of these processes require these processes to be accessible to all children and responsive. This means every complaint submitted should receive a response showing that the complaint has been taken seriously and acted upon – and if not, stating the reasons why and offering other avenues for redress or support relevant to the situation. Complaint processes should also be timely, as one Care Experienced adult reflected:

 *Why is the process so long? I'll make time for it, but a young person or child, will they understand that process and have that patience? It's so long. There needs to be a child-friendly way to challenge things, it's very tailored to adults who make the rules and not the ones who experience them.*²⁷⁷

This sentiment was echoed by young people too:

 *I think the process needs to be easier to challenge, waiting for a response for an email for 3 weeks is still quite long.*²⁷⁸

Fairness is another component of a successful child-friendly complaints mechanism. It implies ensuring that complaints are dealt with thoroughly and impartially. Fairness requires services acting in the best interests of the child – they must not protect their own interests to the detriment of a child's access to justice.

 *Yeah, I was made to feel like I was in the wrong for making a complaint. I'm sorry but this is my life, those decisions you make directly affect my life. I have to deal with the consequences where they can switch off at night.*²⁷⁹

Why are child-friendly complaints important?

Child-friendly complaints processes are an essential element of upholding children's right to an effective remedy. Alongside providing children with the opportunity to seek remedy and redress for breaches or potential breaches of their rights, complaints mechanisms also offer a prime opportunity for organisations to collect and disaggregate data to improve their services. As one child stated:

 *If a lot of people complain about things then the council will have to listen.*²⁸⁰

The nature of the complaint and complainant provide critical information about the challenges children are confronted with and can reveal groups of children who face an increased risk of having their rights breached. They also help the institution to unveil important gaps in the system that require broader intervention and learn about which children might be excluded. It can also highlight loopholes in legislation that require legislative reform and provide organisations with real-life examples of the effects of policy inadequacies.

- Refer to Chapter 4 for more information on data collection, monitoring and analysis.

²⁷⁷ Who Cares? Scotland (2020). Response to the Equality and Human Rights Committee Call for views on United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill. <https://bit.ly/3IVPAeO> [Date accessed: 17.1.22].

²⁷⁸ Who Cares? Scotland (2020). Navigating the world of rights, p.29. <https://bit.ly/3ukvDdm> [Date accessed: 19.1.22].

²⁷⁹ Who Cares? Scotland (2020). Navigating the world of rights, p.29. <https://bit.ly/3ukvDdm> [Date accessed: 19.1.22].

²⁸⁰ Children's Parliament (2019). A consultation on incorporating the UNCRC into domestic law in Scotland, p.17. <https://bit.ly/3INQ6eK> [Date accessed: 17.1.22].

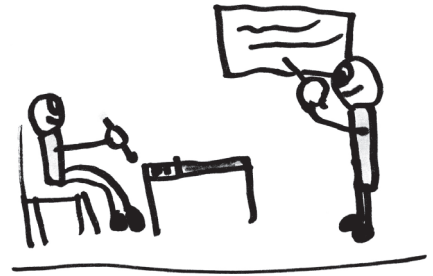
Challenges when making a complaint

Alongside long waiting times, unsatisfying outcomes and negative consequences when making a complaint, the use of adult-focused language also inhibits children from complaining:

 *Children shouldn't have to speak in a way that adults do just to have their views heard. It's important that our voices are listened to. Don't dismiss us – we experienced it, and we know what we're talking about. If we feel like we aren't being listened to, it can make us not want to speak to people or take part in things.*²⁸¹

Good teacher
helpful
good listener
good explaining
caring

Some organisations we heard from noted that children can be deterred from making a complaint because they 'don't want to make a fuss', are unaware of their rights and so cannot identify when their rights have been breached, or alternatively, they are preoccupied with other issues impacting their rights. Distrust in the complaint system and proximity to whom the child is complaining about are also additional challenges.



 *For me personally, I was 8 and used to go to children's panels and I didn't understand my rights. It was all adults talking, using words I didn't understand. The environment wasn't child friendly, I felt that I couldn't talk about if my human rights weren't being met, I couldn't say anything about my home with that person I live with sitting next to me, can I really express what my rights are without causing offence and damaging my childhood home any further than it already is?*²⁸²

Steps taken to overcome these challenges

Involving children in the design of the child-friendly complaint mechanism from the outset will help ensure that it is accessible to children and responds to their needs. Children's first-hand experiences are a valuable way on how to: make mechanisms more accessible to children; handle complaints, publicise the mechanism and increase its visibility with children; and provide information and give feedback to children. Continuous staff training on child-friendly complaints handling can help staff to assist children to make a complaint, ensuring staff have a clear understanding of what a 'complaint' is and how to respond to them in an appropriate time frame and manner.

This is essential as, unlike adults, when children complain it is likely to be less formal, not in writing, hidden in a question or appearing to be a general reflection:

 *A phone call, a simple question sent by email or a request for an explanation [...] of a human right or legal issue can often reveal a bigger issue and therefore needs to be treated as a potential complaint. Many children would typically prefer asking questions "for someone else" or "in general" instead of directly saying "I have a problem". Very often these questions are not real questions but requests for help.*²⁸³

²⁸¹ Scottish Women's Aid and Improving Justice in Child Contact (2019). Young Expert Group (YELLOW!) Response to Call for Views on the Children (Scotland) Bill. <https://bit.ly/3L5tw2W> [Date accessed: 17.1.22].

²⁸² Who Cares? Scotland (2020) Who Cares? Scotland's Response to the Equality and Human Rights Committee Call for views on United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill. <https://bit.ly/3IVPAeO> [Date accessed: 17.1.22].

²⁸³ UNICEF (2019). Child-friendly complaint mechanisms, p.9. <https://uni.cf/35JyiDi> [Date accessed: 20.1.22].

See the following case studies for more detailed examples:

- Children in Scotland, Enquire, Partners in Advocacy and Cairn Legal at p.124;
- Starcatchers at p.126;
- SQA Where's Our Say? at p.126;
- Care Inspectorate at p.128.

5.6 Access to legal representation, court action, remedy and redress

Remedies and redress can take different forms, such as an order for a public authority to do something or to stop doing something, or financial compensation. To seek these remedies, court action may be required. In such cases, children are likely to need legal support and representation.

Why is access to legal representation, court action, remedy and redress important?

 *Not all children should be expected to know what they are doing in court, like really young children.*²⁸⁴

Decisions of national and international courts can create clarity, provide remedies and redress for children whose rights have been breached and act as a form of deterrent for violations. Ideally, action is taken to prevent or stop breaches to children's rights from occurring before children need to take court action. However, this is not always possible as children face a range of barriers in accessing legal assistance and the courts.

Challenges in accessing legal representation, court action, remedy and redress

One of the greatest challenges for children accessing legal representation and being involved in court systems is fear about what to expect. When children are asked to describe what a lawyer is and what a court looks like, they will often draw pictures of a man in a gown and long wig with a jury in a room, images they may have seen on television. Breaking down these preconceived ideas can take time.

Court processes can also be expensive, slow, full of procedural challenges and ill-suited to responding to violations of children's rights. In addition, seeking access to justice through court action would only be allowed in situations where statute allows for it. For example, if a public authority has breached a child's human rights, they may be able to bring a claim under the Human Rights Act 1998.²⁸⁵

In some circumstances, children may not recognise that their rights have been breached until months or years later. In other cases, children may not want to take judicial action straight away. This may prove problematic if the proceedings are subject to strict time limits.²⁸⁶

Steps taken to overcome these challenges

Free legal advice services via telephone and email have been set up by the Scottish Child Law Centre and Clan Childlaw. These services specifically support children with legal matters that they

²⁸⁴ Children's Parliament (2019). *A consultation on incorporating the UNCRC into domestic law in Scotland*, p.19. <https://bit.ly/3INQ6eK> [Date accessed: 17.1.22].

²⁸⁵ Section 7. *Human Rights Act 1998*. <https://bit.ly/35Jykeo> [Date accessed: 20.1.22].

²⁸⁶ Ali, S.Z.B.M. (2021). *Human Rights Act 1998: A study on how the human rights act 1998 has impacted children's rights in the United Kingdom in anticipation of Scotland's implementation of the UNCRC (Incorporation) (Scotland) Bill and future incorporation of international human rights treaties*, p.6 <https://bit.ly/3Iud5F1> [Date accessed: 20.1.22].

may face, such as with their residence, contact, conflict with the law, education, health, social work, confidentiality, access to files and more.²⁸⁷ Other organisations without legal expertise can raise awareness of and refer children to these services.

Independent advocacy workers and other trusted adults can help children by explaining complex legal processes in child-friendly ways, by using easy-read materials and developing bespoke materials that are personalised according to their interests. These supportive adults can also take the time to talk to children about what to really expect, help to dispel myths and support the child to fully engage in the process in a way that works for them.

See the following case study for a more detailed example:

- included at p.130.

5.7 Case studies



Children in Scotland, Enquire, Partners in Advocacy and Cairn Legal – My Rights, My Say

My Rights, My Say is funded by Scottish Government. It supports children aged 12-15 with additional support needs to exercise their rights to be involved in decisions about their support in school. It is independent, confidential, easy to use, and supports children to speak up about what they need to learn.

Children aged 12-15 can access support from My Rights, My Say through the website referral page, or parents, carers and professionals can do this for them.²⁸⁸ An easy-to-use flowchart adapts the referral page to triage the person who is making the referral and for whom the referral is for. Once referred, the staff working in the service are all trained to support children to express their views and needs in relation to their learning and adapt their approaches to ensure those with communication needs are included and empowered.

My Rights, My Say provides free learning materials to further children's understanding and awareness of their rights, template letters that children can use to write to their education authority to inform them that they are exercising their rights under ASL legislation and training materials for adults so they can act as informal advocates.

My Rights, My Say has helped children such as Rehan, who is a young carer.

Rehan's school was unaware that he cared for his older brother at home. Rehan told his advocacy worker that he wanted to let the school know what life was like for him as a young carer. Rehan said that he found it hard to keep on top of his schoolwork and this was making him very anxious. The advocacy worker, at Rehan's request, arranged a meeting with his pastoral care teacher.

Rehan's teacher was pleased he had decided to tell the school what he needed and praised his courage in letting the school know he was a young carer. Rehan and the teacher discussed strategies and aids for extra support and agreed which ones would work best for Rehan. The school offered to inform all of the teachers of Rehan's caring responsibilities. They told him if he ever needed to leave class for some downtime, he could do so without any trouble.

²⁸⁷ The Scottish Child Law Centre (no date). Youth Hour. <https://bit.ly/3ukv2Zm> [Date accessed: 20.1.22].

²⁸⁸ My Rights My Say (no date). Get in Touch. <https://bit.ly/3sdJSxQ> [Date accessed: 20.1.22].

The pastoral care teacher told Rehan he could come and speak to him at any time if things were getting too much for him. He also suggested he would speak to Rehan's English and maths teachers about getting extra help.

Rehan was extremely happy with the outcome of his advocacy. Rehan said:

Advocacy really helped me when I was struggling with a lot of things at home and school and trying to multi-task. It helped ease my stress having someone to talk to when I was worried about school. The school met my needs and were great, which was all thanks to advocacy. I wouldn't have done it by myself. My advocacy worker let school know about my needs, the year head met me and told me if there was anything I needed I could talk to him. This relieved stress for me, knowing I have other people that can help me when I am stressed. It has opened doors that I wouldn't have had before, it has really helped me.

- **Learn more about My Rights, My Say here.**



Partners in Advocacy – using independent advocacy to support children's views being heard and respected

Partners in Advocacy provides independent advocacy to support people to have their views heard, their opinions respected and to be involved in the important decisions that affect their lives. How independent advocates successfully support children can be demonstrated by sharing the experience of 'James' (name changed).

James is aged 17 and has self-referred for advocacy support to raise a complaint with a homecare provider. He lived in his own tenancy and had a support package in place to assist him with ordinary living tasks.

When the advocacy worker met James, he shared his concerns about the homecare service provider, specifically two support workers. He told his advocacy worker that the support workers would order food for themselves with his money if he wanted to have a takeaway; they teased him about his condition and made him feel anxious and uncomfortable; and he was concerned that when accompanied on shopping trips, they would add items into his basket that he had to pay for.

The advocacy worker asked James if he would like to make a complaint to the service provider, and she provided him with information from the company's website about how to do so. He agreed to take his issues further, and with the support of his advocacy worker, compiled a letter to the manager of the service, detailing his concerns and providing dates and examples of when these situations had occurred. The advocacy worker informed James of the timescales involved and when to expect a response, and in the meantime, asked if he would prefer not to have these staff in attendance from now on. James asked his advocacy worker to call the Manager of the service to make this request; she contacted the Manager and outlined James's complaint, which had been sent to the provider's Head Office. The Manager agreed to temporarily replace the two workers in question, pending a full investigation of the complaint.

A meeting was convened by the service provider, and James and his advocacy worker attended. James felt supported by his advocacy worker and confident enough to express his views and concerns.

The management team had investigated and upheld the majority of his complaints. Both staff members were suspended and subject to disciplinary proceedings, and an apology was issued to James from the director of the company, in addition to a change in policy to provide additional scrutiny of support workers. Two new support workers were identified to work with James; a follow-up visit from his advocacy worker found him to be happier, confident, and more in control of his life.

- [Learn more about Partners in Advocacy here.](#)

Starcatchers – empowering children to make a complaint

Starcatchers is an arts and early years organisation. By using creative arts and play, Starcatchers developed a Wee Inspirations suite of at-home activities to promote self-expression for children in their early years. By engaging and observing babies' facial expressions, gaze, movement and sounds, young children are expressing themselves and learning that they are being listened to and valued. Supporting a child's sense of agency can aid their sense of choice and learning that they have a right to have their views heard. This belief is empowering when it comes to challenging rights breaches and is an integral part of children feeling confident to make a complaint.

By sharing Wee Inspirations, Starcatchers engaged with thousands of families across Scotland, as well as with those in the early learning and childcare workforce. Starcatchers continues to produce Wee Inspirations now, tying in to key milestones and cultural celebrations, as well as linking to other pieces of the company's activity. With a sustainable and equitable approach, Wee Inspirations keeps access at its heart, connecting families and the early years' workforce to arts and creative experiences for the youngest children.

- [Learn about Wee Inspirations here.](#)

SQA Where's Our Say? – empowering young people to make a complaint and highlighting failures in providing access to justice

After the cancellation of exams in 2020 and 2021, many students sought to use the Scottish Qualifications Authority (SQA) appeals process to ensure they had their grades awarded appropriately. The initial SQA certification model was based upon algorithms, which led to many students being disadvantaged.²⁸⁹ When these algorithms were subsequently removed, the SQA created limited grounds upon which individuals could submit an appeal.²⁹⁰ There was a risk that appealing could lead to grades being reduced on appeal.²⁹¹ For children who wanted to submit an appeal on discrimination grounds, they had to complain about the potential discrimination they faced to the discriminator themselves.²⁹² This was because the complaints processes were set within schools, local authorities and the SPSO. Additionally, many of these bodies did not have child-friendly complaint mechanisms in place, resulting in exceptionally long appeal processes. This combined approach, left many children in limbo, unable to go to university and young

²⁸⁹ M. Priestley, M. Shapira, A. Priestley, M. Ritchie, C. Barnett. (2020). Rapid Review of National Qualifications Experience. <https://bit.ly/35JxXk0> [Date accessed: 20.1.22].

²⁹⁰ CYPCS (2021). Letter to Cabinet Secretary: SQA 2020 Appeals Model. <https://bit.ly/3L1heZv> [Date accessed: 20.1.22].

²⁹¹ Scottish Qualifications Authority (2021). National Qualifications Appeals: Information for Centres. <https://bit.ly/3ukvMhc> [Date accessed: 20.1.22].

²⁹² Education and Skills Committee (2020). 21st Meeting 2020, Session 5. <https://bit.ly/3saKPan> [Date accessed: 20.1.22].

carers, disabled children, Care Experience or extenuating circumstances were disproportionately affected. As one young person reflected:

I feel that I have been robbed of that chance through no fault of my own and there is no pathway to resolve this damaging issue that will affect Scottish students in the long term.

Another young person said the exam process had been “a kick in the teeth.”

In an independent review commissioned by Scottish Government, the Panel concluded “the decision to limit grounds for appeal seems to us to be both unnecessary and counter-productive”.²⁹³

SQA Where’s Our Say? a youth-led group, advocated for the rights of students and sought to empower others to make an appeal. The group did this by writing to the Deputy First Minister as the Cabinet Secretary for Education to ask him to intervene and use his statutory power to direct the SQA to accept appeals from those who had been disadvantaged.²⁹⁴ SQA Where’s Our Say? developed a powerful response and ‘key asks’ after exam results day 2020, attended online forums to share their views and their concerns with the Children and Young People’s Commissioner – Bruce Adamson, elected officials and members of the Education and Skills Committee.²⁹⁵ SQA Where’s Our Say? worked with advocates to help ensure that the Education and Skills Committee within the Scottish Parliament was aware of the failure of the SQA processes. The group also encouraged other children to use their right to appeal. This work was celebrated in the Scottish Parliamentary chamber as respecting children’s right to have their views heard.

- **Keep up-to-date with SQA Where’s Our Say? here.**



Salvesen Mindroom Centre – supporting children and young people to navigate complaints processes

Salvesen Mindroom Centre’s Children and Young People Service provides issue-based advocacy for neurodivergent children and young people, aged up to 25. The service aims to ensure that all children it supports can take part in decisions affecting their lives. This often involves supporting children and young people to navigate complaints processes to have their views heard and challenge decisions they disagree with. This anonymised case study draws on the experiences of several children the service has supported:

‘David’ had experienced significant difficulties in accessing assessment and support from social work. We worked with him to establish what he felt the key issues were, how he wanted to address them and what he hoped to achieve. Discussions with the social work team did not result in the outcomes David hoped for so we explained the options available to him, including his right to make a formal complaint, and he decided that this was what he wanted to do.

We supported David to access the Local Authority’s complaints procedure and explained this using language he could understand. We supported him to write a complaint in his own words.

²⁹³ M. Priestley, M. Shapira, A. Priestley, M. Ritchie, C. Barnett (2020). Rapid Review of National Qualifications Experience 2020, p.30 <https://bit.ly/35JxXk0> [Date accessed: 20.1.22].

²⁹⁴ SQA Where’s Our Say? (2020). SQA: Where’s Our Say Part 1. <https://bit.ly/3saKQLt> [Date accessed: 20.1.22].

²⁹⁵ Education and Skills Committee (2020). 21st Meeting 2020, Session 5. <https://bit.ly/3saKPan> [Date accessed: 20.1.22].

David's complaint was assigned to a Complaints Officer. With David's consent, we gave the Complaints Officer an overview of how best to support David's communication. We then supported him to meet with the Complaints Officer to share his account of the situation. The Complaints Officer explained what would happen next and provided regular updates.

When the investigation had been completed, as well as providing a written report with the outcome, the Complaints Officer agreed to have another meeting with David to explain the decision to him. David's complaint was upheld, and the Complaints Officer gave David choice and control around what he wanted to happen next, within the agreed recommendations, ensuring his rights and needs were central to all decision making.

David said that this process enabled him to be fully involved in decisions about his support. David felt heard in a situation where previously he felt overlooked, and ultimately, he was able to access the support he required from social work to help him lead a full and active life.

- **Find out more about Salvesen Mindroom Centre's services for children and young people [here](#).**
- **Discover more information on how Salvesen Mindroom Centre promotes children's rights and participation, including how its work aligns with the UNCRC [here](#).**

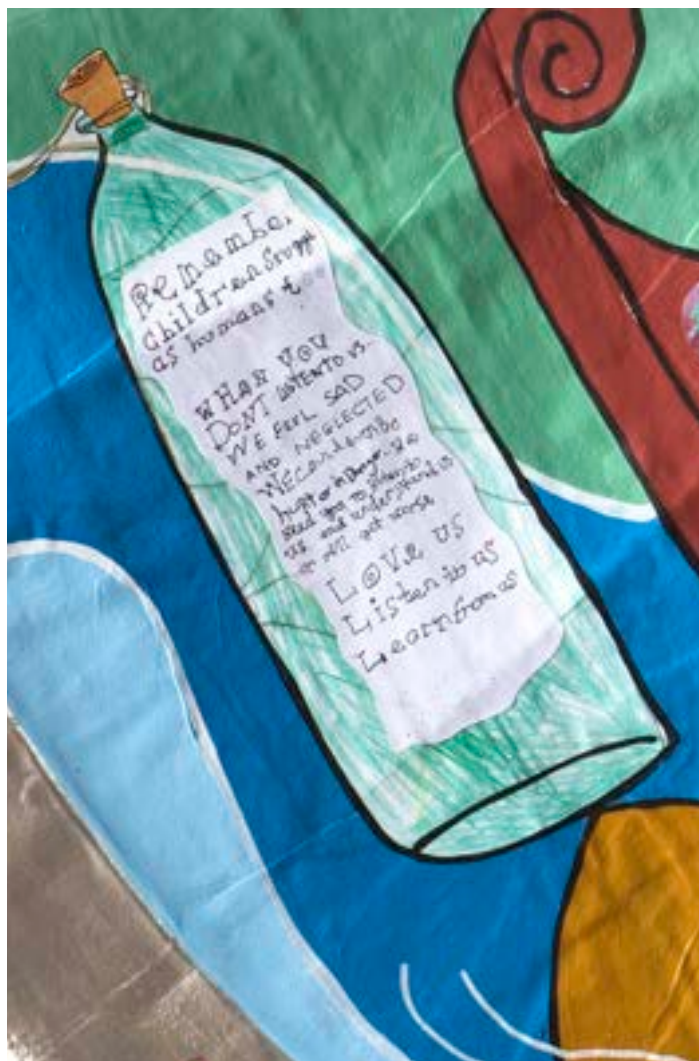


Care Inspectorate – supporting children to complain using a “text-to-complain” service

The Care Inspectorate's role is to make sure that every child experiencing care in Scotland gets the best quality of care that meets their needs, choices and protects their rights. This is whether they live at home with their families, live in a children's home, are fostered or adopted, stay in secure or school care accommodation or use respite services.

The Care Inspectorate undertakes a wide range of regulatory activities for inspecting and improving the standards of care for children in Scotland. One such area is the complaints function for children being looked after away from home in a service registered. This also included independent schools.

The Care Inspectorate found that the number of children who directly raised concerns through the complaints process was extremely low with only six recorded during 2017. The Care Inspectorate sought to identify the issues with the help of its Young Inspection Volunteers, Who Cares? Scotland, and Care Visions.



The Young Inspection Volunteers and Care Inspectors said there were multiple reasons why children did not raise concerns. These included:

- Poor experience of raising concerns;
- Did not know how to raise concerns;
- Do not know their rights;
- Felt they would not be believed;
- Care Inspectorate used as a threat to children that they will be moved;
- Feeling that children deserved to be treated badly because of their own behaviours;
- A lack of visual prompts within services about what the Care Inspectorate does;
- Children could feel put off if they needed to make a voice call;
- Children used different platforms or were unable to access the modes of communication used by the Care Inspectorate. For example, writing a letter, visiting in person or using the internet.

To empower children to access the complaints process, the following action was co-designed with the Young Inspection Volunteers and implemented:

- A text-to-complain service, where a child would text a number to complain. The person who receives the text is likely the person who will investigate their complaint. Whereas, previously, children who made a complaint would have to go through the Contact Centre before being directed to the Care Inspectorate. This hopes to improve children's experiences when raising concerns;
- Deliver information sessions on the text-to-complain and the complaints services to advocacy services;
- Child-friendly leaflets to raise awareness of the complaints process.

One of the young inspection volunteers co-produced a video as part of the Year of Childhood to encourage the use of the 'Text to Complain' service.

Since April 2021, children and young people have made five direct complaints using the text-to-complain services. Through other advocacy services, 13 referrals to the Care Inspectorate have been made. This shows improved awareness of the complaints mechanisms by advocacy services and Young Care Inspectorate Volunteers have been able to distribute leaflets out to people in care. When a complaint is made, the child receives acknowledgement within three working days and is kept informed of the methods used to resolve the complaint. The service also ensures a follow-up to the children on any delays, findings and the outcome of their complaints.

Wider awareness of the complaints service has meant more services have worked to improve their complaints processes because they know that if the Care Inspectorate investigates and upholds a complaint then this could lead to the service being regraded. This can impact the services' reputation.

- **[Learn more about the text-to-complain service here.](#)**



Mind Of My Own app – communicating children’s views in a way that suits them

Mind Of My Own is a suite of apps that help children communicate their views in a way that suits them. Available in 100 languages, children can create their own account, which can be used on any device at any time. This means children can use the app to say how they are feeling, what support they need and tell their social worker about things that are important to them.

One of the communication tools from Mind Of My Own is an app called ‘Express’ which has been co-designed to help children as young as two and those with additional support needs to express their views, wishes and feelings in a fun digital way that is easy for workers to understand and evidence. This app can be a useful way to gather children’s views for their education, health and care plans. Workers can use the app to discover what a child is thinking, and they are also able to use Mind Of My Own’s secure service portal to view and download performance data, app metrics and an overview of the information that children have provided to the organisation. This feedback can help workers to improve the services they are providing and to gather the thoughts and feelings of children in real-time.

Organisations must buy a licence to use Mind Of My Own. The apps are free for children to download and use.

What children have said:

I love Mind Of My Own. The apps have helped me express my feelings. Thank you!

A child with Aspergers said:

I finally found a way to feel confident and tell someone what was happening to me. I got help.

Case study from schools:

I used Express with a young person aged 13 whom I haven’t worked with before. Through the use of the app, I gained an understanding of her frustrations regarding her health and how it’s affecting her education. Using Mind Of My Own really encouraged her to open up about her disorder and how it affects her emotions and her resistance to go to school. This is something we may not have found out so early without the use of Mind Of My Own. As her support worker, I will be putting a plan together to support her with her anxiety and anger, as well as accepting her illness and feeling a valued member of her school despite her disability.

- **Find out more about the Mind Of My Own app [here](#).**



includem – supporting children to make a complaint

Includem works with social services, schools and criminal justice services to identify children and young people (aged 0-25) who could benefit from the organisation’s support.

When interacting with includem’s services, all children and young people are given a welcome pack which includes leaflets explaining their right to complain and the multiple ways in which they can do this.

Children can choose how they wish to make a complaint – for example, through includem’s helpline or via WhatsApp. They can also choose whom they wish to make their complaint to. Affording children this flexibility enables them to feel more comfortable making a complaint to someone who they trust.

Children have said they feel more able to raise concerns as they arise and that these are resolved quickly, resulting in very few situations escalating to the point of a formal complaint. Children and young people are given permission to raise concerns from the outset and know that it is their plan so they are confident in asking for what they need to make a positive difference in their life.

- **Find out more about includem’s complaints process [here](#).**

5.8 Watch this space!



Scottish Public Services Ombudsman – working towards embedding children’s rights in public service delivery and complaints

When a complaint is made against (most) public services and it does not get resolved through the public services’ complaints procedure, the complaint goes to SPSO.²⁹⁶ Operating at the final stage of the complaints process, SPSO will play an important role in ensuring the UNCRC Incorporation Bill is fully implemented by public authorities. This is because SPSO has the powers to set, monitor and enforce complaint handling standards for organisations under its jurisdiction.

SPSO recognises that ‘traditional’ approaches will need to be adapted to support the implementation of the UNCRC Incorporation Bill given the complex life journeys of many children. To do this, SPSO is currently being funded by Scottish Government through the Scottish Parliamentary Corporate Body. This funding is being used to develop, set and monitor child-friendly complaints procedures and guidance for organisations.

SPSO plans to conduct strategic stakeholder engagement to gather information on different types of complaints that involve children. Such complaints processes may involve complaints made by children themselves (with support as needed), complaints made on behalf of children with their permission (e.g. by their parents, carers or third-party advocates) and complaints concerning children (made by their parents, carers or third-party advocates without knowledge, permission or input from the children).

Each of these complaints handling approaches must have children’s human rights at its heart to make it child-friendly. To do this, SPSO is planning to undertake broad stakeholder engagement to identify and understand key issues, develop relationships with key strategic partners and inform different child-friendly complaint approaches.

SPSO recognises that this work is at an early stage and it will take a couple of years to complete, so watch this space!

- **SPSO invites interested individuals to get involved in this stakeholder engagement. To do so please contact the SPSO via CSA@spso.gov.scot**

²⁹⁶ This does not include, for example the Police or Judiciary, but SPSO will be consulting with them.

5.9 Top tips

Child-friendly complaints

To ensure every complaints system is child-friendly with children's human rights at its core, here are some top tips! These have been drawn from the evidence and case studies above.



- **Knowledge of rights.** It is important that every person in the complaints system, from children right through to support workers and judges, understands children's rights. Information for children must be age and stage appropriate and meet any accessibility needs;
- **Co-design systems with children for children.** Think systematically and create a 'joined up' system to manage complaints. Children should not be left negotiating multiple systems to seek remedy for what might be multiple and interlocking problems. When designing complaint systems, children's participation is essential. Children should have a say concerning when, how and where they want to be heard, and also have the possibility to not be heard if that is their wish. Child participation also extends to what remedy and redress they would like to see;
- **Build awareness of complaints systems.** It is essential children know how to make a complaint and for adults to understand how they can support children to do so. Organisations should undertake awareness raising activities or signpost children to organisations who can support them;
- **Support children's access to independent advocates** who can support them to understand complaints processes and express their views;
- **Respect for the child's dignity.** The complaint mechanism needs to ensure that the child's dignity is respected throughout the process. This means children's views must not be undermined in any way, they are treated with respect and information to the questions being asked is provided;
- **Best interests of the child.** At every step of the complaints handling process, the child's best interests must be examined and considered. To help you to identify the child's best interest, you can do the following:
 - Listen to the child's views and take these into account;
 - Ensure that decision making involves consultations with several actors from various disciplines and from the child's environment as relevant. Obtaining different perspectives, including that of the child, is the best way to consider different facets of the question and find a balanced outcome;
 - Consider the various factors at play, concerning the child's characteristics but also the child's environment;
 - Assess and anticipate the impact of the decision on the child's development over the long term.



- **Respond in a timely manner.** Make sure the complaint handling process is swift and effective. If the complaint is formally submitted, acknowledge this and inform children you have received their complaint. Let children know how long it will take you to handle their complaint and provide them with updates at each stage and its outcome. When providing updates, ensure these are all provided in a way in which that child can understand;
- **Adaptive communication technique.** Communication with children must be adjusted to suit their age, development and needs. This may involve using cards and images (for younger children in particular), translating legal concepts into simple words, using sign language, or using an interpreter. See Chapter 3 for more information on inclusive communications;
- **Active listening.** Pay close attention to what children are saying and do not trivialise the child's views. Systematically check to see if the child has understood properly their situation and that you too have understood the child correctly. You can do this by asking follow-up questions. Throughout the process, explain the roles and functions of adults involved within the system to ensure the child is informed about who they are sharing their views with and how these views will be used;
- **Minimise power imbalance.** This includes avoiding formalities, sitting at the child's level, paying attention to body language, tone of voice and terms used;
- **Confidentiality and its possible limits.** Ensure children know where their data is stored, their rights to access personal data, request rectification and to have their data erased. Explain in a child-friendly way the rules on disclosing information and confidentiality;
- **Non-discrimination and attention to children whose rights are most at risk.** To uphold the principle of non-discrimination, all children must have access to complaints. You can work to do this by:
 - Having a welcoming attitude, treating children with respect and taking their views seriously;
 - Addressing physical and geographic barriers which prevent children from accessing services, for example ensure there are lifts available for disabled children and internet devices for children from rural areas;
 - Using alternative means to communicate with children with sensory impairments or children who do not speak English. For example, by using interpreters. Refer to Chapter 3 for further information on inclusive communications.

Legal representation, court action and redress



- **Organisations should support their staff, volunteers and members to build their knowledge and understanding** of children's rights and the implications of incorporation as regards court actions. This will enable organisations to hold public authorities accountable for their implementation of the UNCRC Incorporation Bill;
- **Organisations with legal expertise** should support other organisations to build their knowledge and understanding of strategic litigation so they are empowered to advocate for children's rights through the courts;
- **Organisations should strive to dispel any myths and inform children of key information** such as the likely duration of proceedings, possible access to appeals, possible consequences, the availability of the services (health, psychological, social, interpretation and translation, and other) which can be provided and other special arrangements available to protect as far as possible the best interests of the child.

5.10 Resources

- Council of Europe (2010). **Guidelines for Child-Friendly Justice.**
- UNICEF (2019). **Child-friendly complaint mechanisms: Tools to support child-friendly practices.**
- Morrison, F., McCormack, M. and Tisdall, K. (2021). **Embedding Systems of Child-Friendly: Complaints, Remedy and Redress in Scotland.**
- Scottish Government (2012). **Common Core of Skills, Knowledge & Understanding and Values for the “Children’s Workforce” in Scotland.**
- Clan Childlaw (no date). **Webinars & Toolkits on legal problems during COVID-19.**
- Clan Childlaw (no date). **Leaflets on laws affecting children.**
- Clan Childlaw (no date). **Get legal help for a child or young person.**
- Scottish Independent Advocacy Alliance (no date). **Find an advocate.**



Chapter 6:

Raising awareness of rights

negative
listen to what
we have to say!

Dove for Peace

Chocolate
for comfort

DEFENDING
OUR RIGHT
to BE
PROTECTED
FROM HARM

The children's
rights defending
Angel

Foundation

Are our

Jewels
(Rights)

Before

After

heeeeee
up!

We are
here
we hold
your

we are
here
we hold
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6.1 Introduction

Everyone in Scotland must know about and understand children's rights to ensure they are realised for all children. This means children, and all adults whose decisions impact them. If children as well as families and carers do not know about their rights, they cannot claim them or hold government, public bodies and organisations to account. As a result, their rights can remain unrealised. Children should be supported to learn about their rights in a way that is accessible – using everyday language, pictures and graphics can support this process.

Adults and families also need to learn about what children's rights mean and how they can help to realise them in their daily lives. Children's rights practitioners, professionals and decision makers also need to understand what children's rights mean, how they matter in every decision and how to ensure that their work, plans and decisions respect, protect and fulfil children's rights.



Awareness raising – Article 42 UNCRC

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

6.2 Why is raising awareness of rights important?

The rights enshrined within the UN Convention on the Rights of the Child (UNCRC) need to be well known and its binding obligations fully understood at all levels of government and the judiciary – as well as by children and their families across Scotland.²⁹⁷ Raising awareness and understanding of children's rights changes how children's rights are perceived and applied in society. It builds the capacity of children as rights-holders to claim their rights and increases the capacity of duty-bearers to fulfil their obligations.²⁹⁸ Awareness raising efforts must go beyond those working directly with children, to build understanding that everyone in society has a role to play in progressing children's rights.²⁹⁹

For children to develop their personality, talents, mental and physical abilities and live to their fullest potential, their rights must be understood by all, respected and promoted.³⁰⁰ This can only be achieved when everyone understands what children's rights are, what they mean in the everyday lives of children and what needs to be done to promote these rights.³⁰¹ Children themselves need to understand that the law, through their rights, guarantees them protection and the freedom to “grow up in a family environment, in an atmosphere of happiness, love and understanding”.³⁰² To achieve this, raising awareness is important to enable children and adults to understand what the government needs to do and what actions adults can take to support children to develop and meet their full potential.

²⁹⁷ CRC/GC/2003/5: Paras: 66-70.

²⁹⁸ Together (2020). *Making Children's Human Rights Real : Turning a Vision into a Reality for Every Child in Scotland*, p18. <https://bit.ly/3ugSXsA> [Date accessed : 17.01.2022].

²⁹⁹ Together (2020). *Making Children's Human Rights Real : Turning a Vision into a Reality for Every Child in Scotland*, p21. <https://bit.ly/3ugSXsA> [Date accessed : 17.01.2022].

³⁰⁰ Article 42. *United Nations Convention on the Rights of the Child*. <https://bit.ly/3lUF4nZ> [Date accessed : 17.01.2022].

³⁰¹ UNICEF (no date). *Child's Rights and Why They Matter*. <https://uni.cf/3ulBjnw> [Date accessed : 17.01.2022].

³⁰² Preamble. *United Nations Convention on the Rights of the Child*. <https://bit.ly/3lUF4nZ> [Date accessed : 17.01.2022].

What have children said?

Children feel strongly that they need to learn more about their rights and how the UNCRC affects their lives.³⁰³ They are aware that understanding the meaning of rights is the first step to making them real and believe that they should be taught more about children's rights.

 *If you're educated you know your rights, and it gives you a better start in life.*³⁰⁴

 *I think we should learn about children's rights in school more, but it should be taught in a fun way and not just reading through a list of rights.*³⁰⁵

 *I think more people in Scotland (especially kids) need to know about their rights. If something unfair happens, then they know what to do.*³⁰⁶

 *I feel like there's a lack of understand what the rights of the child are in young people – there could be work done including it in PSE in the curriculum for excellence, it's as important as LGBT education and sex education.*³⁰⁷



Children feel that adults generally need to learn about children's rights to ensure that they respect and promote their realisation.

 *People need to try and understand that we're not just kids and adults shouldn't jump to conclusions, adults need to properly learn the rights as well and make things easier to understand for young people.*³⁰⁸

 *Decision makers and policymakers need to know about the UNCRC so they can assess the impact of decisions on children's rights.*³⁰⁹

 *Not everyone knows about the UNCRC. To improve this they should tell more people about it and do special assemblies about the UNCRC in schools.*³¹⁰

 *Teachers, doctors and other people working with children should have a course on children's rights when they are training.*³¹¹

³⁰³ Scottish Government Social Research (2013). *Children and Young People's Experiences of, and Views on, Issues relating to the Implementation of the UNCRC*, p10. <https://bit.ly/3KZm1ed> [Date accessed : 26.10.2021].

³⁰⁴ Children in Scotland (2019). *Children and Young People Consultation on the Incorporation of The United Nations Convention on the Rights of the Child (UNCRC)*, p8. <https://bit.ly/3ITPcgl> [Date accessed 12.01.2022].

³⁰⁵ Children's Parliament (2019). *Report on the Children's Parliament consultation on the Progressing Children's Rights in Scotland Action Plan 2018-2021*, p20. <https://bit.ly/31muMbT> [Date accessed 12.01.2022].

³⁰⁶ Member of Children's Parliament (2018). *Getting It Right for Every Child : Progressing the Human Rights of Children in Scotland: A Report 2015-2018*, p21. <https://bit.ly/31e8msV> [Date accessed 12.01.2022].

³⁰⁷ UNICEF (no date). *Child's Rights and Why They Matter*. <https://uni.cf/3ulBjnw> [Date accessed : 17.01.2022].

³⁰⁸ CYCJ (2020). *UNCRC (Incorporation) (Scotland) Bill Outreach Virtual Session with Young People and Committee Members*. <https://bit.ly/3IXK006> [Date accessed 12.01.2022].

³⁰⁹ Children in Scotland (2019). *Children and Young People Consultation on the Incorporation of The United Nations Convention on the Rights of the Child (UNCRC)*, p18. <https://bit.ly/3ITPcgl> [Date accessed 12.01.2022].

³¹⁰ Children in Scotland (2019). *Children and Young People Consultation on the Incorporation of The United Nations Convention on the Rights of the Child (UNCRC)*, p7. <https://bit.ly/3ITPcgl> [Date accessed 12.01.2022].

³¹¹ Children's Parliament (2019). *A Consultation on Incorporating the UNCRC into Domestic Law in Scotland*, p12. <https://bit.ly/3INQ6eK> [Date accessed 12.01.2022].

Children also want the government to do more to fulfil its responsibility of raising awareness about children's rights.

 Government could raise awareness of children's rights.³¹²

What has the UN Committee said?

UNCRC Concluding Observation (2016)

The Concluding Observations made by the UN Committee on the Rights of the Child (UN Committee) in 2016 included a number of recommendations around awareness raising and training, such as countering discrimination³¹³ and harmful practices.³¹⁴

The UN Committee recommended that the UK and devolved governments strengthen awareness raising on the rights of the child, ensure the prevention of discrimination and stigmatisation and, where necessary, put in place special measures to protect children in vulnerable situations.³¹⁵

The UN Committee has also recommended that the UK and devolved governments take steps to train professionals, collect data, set up awareness raising programmes and protection measures to prevent harmful practices against children.³¹⁶

UNCRC List of Issues Prior to Reporting (2021)

In February 2021, the UN Committee asked the UK and devolved governments to provide information on the measures they have adopted in ensuring awareness raising programmes are made available to children, as well as further information about the training of relevant professional groups on children's rights and the provisions of the UNCRC.³¹⁷

The UK and devolved governments are expected to report to the UN Committee on their progress in June 2022.

6.3 The context in Scotland

The Children and Young People (Scotland) Act 2014 placed an awareness raising duty on Scottish Ministers. It placed reporting duties on Ministers and public bodies to set out what steps are being taken to further understanding of children's rights.³¹⁸ This was to ensure that the awareness of children's rights and understanding of the UNCRC obligations were improved across public authorities.

In its 2018-21 Action Plan, Scottish Government committed to develop and deliver "an ambitious programme to raise awareness and understanding of children's rights across all sectors of society in Scotland".³¹⁹

³¹² *Children in Scotland (2019). Children and Young People Consultation on the Incorporation of The United Nations Convention on the Rights of the Child (UNCRC)*, p8. <https://bit.ly/3ITPcgl> [Date accessed 12.01.2022].

³¹³ *CRC/C/GBR/CO/5: Para: 22(c)*.

³¹⁴ *CRC/C/GBR/CO/5: Para: 47(b)*.

³¹⁵ *CRC/C/GBR/CO/5: Para: 22(c)*.

³¹⁶ *CRC/C/GBR/CO/5: Para: 47(b)*.

³¹⁷ *CRC/C/GBR/QPR/6-7: Para: 9*.

³¹⁸ *Section 1. Children and Young People (Scotland) Act 2014*. <https://bit.ly/3okzIKR> [Date accessed : 17.01.2022].

³¹⁹ *Scottish Government (2018). Getting It Right for Every Child : Progressing the Human Rights of Children in Scotland : An Action Plan 2018 to 2021*, p3. <https://bit.ly/3uIB5wG> [Date accessed : 17.01.2022].

The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill ('UNCRC Incorporation Bill') builds on this aim by including several sections aimed at building awareness of children's rights. When preparing the Children's Rights Scheme, Scottish Government must set out arrangements to "raise awareness of and promote the rights of children".³²⁰

In its updated 2021-24 Action Plan, Scottish Government committed to drive a culture change on the knowledge and implementation of children's rights. Scottish Government plans to raise awareness and train public authorities on the UNCRC and children's rights across Scottish Government and its agencies. This includes the production of guidance to be used by public authorities and those undertaking functions that are of a public nature on how to implement the UNCRC.³²¹ The first phase of introductory guidance was published in November 2021.³²² Scottish Government also plans to enable all children in Scotland to be aware of and understand their rights and to also ensure that everyone in Scotland understands what children's rights are and how to realise them.³²³

Coordinated and mainstreamed efforts to increase awareness and understanding of the UNCRC among children, adults, and all those working with or for children, parents, carers and the wider public is vital. These actions will simultaneously advance a broad range of National Outcomes, including around the inclusion of children in decisions about their lives,³²⁴ non-discrimination³²⁵ and building inclusive, empowered and resilient communities.³²⁶

6.4 Overcoming challenges

Our survey and interview data highlighted the challenges organisations and children face in relation to awareness and understanding of children's rights.

Lack of knowledge of children's human rights

Knowledge of children's human rights and what these mean in practice is limited amongst children, adults and practitioners.³²⁷ Most people understand that children have rights but may not fully understand what these are, what rights mean and how it is everyone's role to ensure that they are met. In terms of training opportunities, some professionals working with and for children felt that there are only few opportunities available to them. In situations where these training opportunities are made available, staff and adults who could benefit from them say they have competing demands and sometimes struggle to find the time. Charities that organise training have found it difficult to promote online events during COVID-19. Some survey and interview participants also noted it could be difficult to know what training would be useful for them.



³²⁰ Section 11(3)(b). *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill*. <https://bit.ly/3s58NDU> [Date accessed : 18.01.2022].

³²¹ Scottish Government (2021). *Getting It Right for Every Child : Progressing the Human Rights of Children in Scotland : An Action Plan 2021 to 2024*, p5. <https://bit.ly/3uko2f5> [Date accessed : 17.01.2022].

³²² Scottish Government (2021). *United Nations Convention on the Rights of the Child implementation: introductory guidance*. <https://bit.ly/3L4CHRY> [Date accessed: 02.02.22].

³²³ Scottish Government (2021). *Getting It Right for Every Child : Progressing the Human Rights of Children in Scotland : An Action Plan 2021 to 2024*, p5-6. <https://bit.ly/3uko2f5> [Date accessed : 17.01.2022].

³²⁴ Scottish Government (no date). *National Outcomes: Human Rights*. <https://bit.ly/3lYcBxu> [Date accessed: 30.01.22].

³²⁵ Scottish Government (no date). *National Outcomes: Human Rights*. <https://bit.ly/3ugcQQx> [Date accessed: 30.01.22].

³²⁶ Scottish Government (no date). *National Outcomes: Communities*. <https://bit.ly/3okYz00> [Date accessed: 17.1.22].

³²⁷ Amnesty International UK (1 September 2021). *What Are Child's Rights?*. <https://bit.ly/3ugbd5r> [Date accessed : 19.01.2022].

The pandemic has exacerbated the challenges faced in raising awareness of children's rights. The closure of schools and other platforms due to COVID-19 restrictions have limited the opportunities for children to learn about their rights. It has been particularly difficult to communicate effectively with younger children about their rights. Online awareness raising becomes more challenging when dealing with rights that people are not usually knowledgeable about, for example, the right to leisure.³²⁸

In some instances, some rights are deemed more important than others due to a lack of a holistic understanding of children's rights. Some practitioners and decision makers are aware of children's rights on a surface level but lack in depth knowledge of how these relate to their work or how they could demonstrate it with confidence to support children in promoting and realising these rights. In addition, some organisations struggle to support parents in understanding their role in realising their child's rights.

At the moment, some organisations find the legal and policy landscape on children's rights confusing. They struggle to differentiate children's rights provisions in the UNCRC from programmes initiated by Scottish Government to implement children's rights. Organisations say it can be challenging to promote children's rights if key government policies or mechanisms refer to the UNCRC more as an 'add on' rather than being grounded in it. This could be made easier if government policies and mechanisms were grounded in the UNCRC from the outset.

A further challenge was some decision makers' and practitioners' lack of readiness to embrace change. This was a key barrier to implementing child rights-based approaches and also constituted a challenge in developing awareness about children's rights. Practitioners in some sectors, particularly those who do not work directly with children, are not always knowledgeable about children's rights and this can mean they are unable to prioritise children's rights in their practice. Some organisations noted that decision makers can often adopt 'tick-box' approaches at the end of policy processes instead of proactively trying to ensure that their proposals are driven by children's rights. Some decision makers can also perceive child rights-based approaches as burdensome and only the responsibility of those providing children's services. The slow pace in changing the existing culture to make it more adaptable to children's rights-based approaches constitutes a challenge for organisations championing children's rights.

Steps taken to overcome these challenges

Most organisations have adapted their modes of engaging with children and raising awareness to fit the virtual space. Through training and the development of resources on children's rights, organisations have ensured that children, adults, practitioners and decision makers are constantly given clear and accessible information. This information covers both what these rights



are and how to adopt child's rights-based approaches in practice. Other organisations said they had employed staff who specialise in human rights to help review and structure their work, produce practice guides, tool kits, policies and assessment tools.

³²⁸ Equality and Human Rights Commission (20 November 2020). Government Must Do More to Safeguard Children's Rights and Protect Them from the Impact of the Pandemic. <https://bit.ly/3sa9RGB> [Date accessed : 19.01.2022].

Some organisations said they conduct ongoing evaluations of staff knowledge and awareness. This helps them identify staff training needs and respond accordingly. This approach has helped to ensure that their workforce has the knowledge, skills and confidence to deliver projects promoting children's rights. Some organisations said they also provide training materials and online courses for external organisations when working with them on specific projects.

See the following case studies for more detailed examples:

- Young Scot and Children in Scotland at p.144;
- Scottish Commission for People with Learning Disabilities at p.144;
- UK Committee for UNICEF at p.145;
- Scotland and St Paul's Youth Forum at p.146;
- Barnado's Scotland at p.147;
- Scottish Childminding Association at p.147;
- Child Rights International Network at p.148;
- includem and EachOther at p.149;
- CELCIS at p.151;
- Children in Scotland at p.151.

Exclusion of some groups of children whose rights are at risk

Children whose rights are most at risk of being breached continue to be excluded from decisions that affect them. This is often due to limited understanding of their rights on the part of adults, as well as a lack of understanding of how best to support their participation. Organisations reported additional challenges around ensuring these children know their rights and how to claim them.

Refugee and asylum-seeking children are often viewed by their migration status first, rather than as children who are rights-holders. In immigration processes,³²⁹ they are often overlooked in decision making due to poor access to interpreters and the complexity of immigration procedures. At times, their rights and needs are not taken into consideration especially in instances where budgets constrain access to interpreters.³³⁰

Early years children, particularly pre-and non-verbal children, are often left out of the conversation due to a lack of understanding of their needs and how to engage with them. Organisations promoting the rights of early years children said it was a challenge when decision makers did not understand their methodology.

The engagement of younger children was significantly affected by COVID-19 restrictions. For example, art, which is a primary method of engaging younger children, usually depends on face-to-face interaction. Organisations said it had also been difficult to access funding to raise awareness of the value of art and play in helping children know their rights and build their agency.

³²⁹ Hek, R. (2005). *The Experiences and Needs of Refugee and Asylum Seeking Children in the UK: A Literature Review*, p.16-20. <https://bit.ly/2uMKctA> [Date accessed : 19.01.2022].

³³⁰ Hek, R. (2005). *The Experiences and Needs of Refugee and Asylum Seeking Children in the UK: A Literature Review*, p.52. <https://bit.ly/2uMKctA> [Date accessed : 19.01.2022].

Limited awareness of the rights of children with additional support needs was another key challenge. This affected decision makers, practitioners and the wider public.³³¹ Some practitioners said they lacked confidence in how to support disabled children's participation and wanted further training to help build their knowledge and understanding.

- Refer to Chapter 3 for further information on inclusive communications.
- Refer to Chapter 4 for further information on supporting children whose rights are at risk.

Steps taken to overcome these challenges

Organisations said they were working hard to raise awareness and understanding of the rights and needs of particular groups of children. This included amplifying the views and experiences of children as a way of helping adults understand the issues they face.

Organisations also spoke of work they were doing to build the capacity of children to understand and claim their rights. This included organising training workshops, learning activities and child-friendly information.

Please see the following case studies for more detailed examples:

- Scottish Commission for People with Learning Disabilities at p.144;
- Article 12 in Scotland at p.148;
- includem and EachOther at p.149;
- Licketyspit at p.150;
- CELCIS at p.151;
- Children and Young People's Centre for Justice at p.152.

Lack of funding opportunities

Our survey and interviews found that a lack of funding and resources was another barrier to raising awareness of children's rights. Lack of resources posed challenges both for establishing and sustaining awareness raising efforts aimed at adults and children.³³² Organisations said this had constrained their efforts to demystify and dispel the perceived burden associated with child rights-based approaches which can sometimes be held by decision makers.

Steps taken to overcome these challenges

Organisations are increasingly seeking funding for awareness programmes to engage with practitioners in promoting their understanding of children's rights. They emphasise the need for specific guidance that is clear on the rights of younger children for children's rights practitioners, government bodies and the general public. They also advocate for increased funding and training opportunities to ensure more awareness on the rights of children.



³³¹ Riddell, S., Gillooly, A., Harris, N. and Davidge, G. (2019). *Autonomy, Rights and Children with Special Needs: A New Paradigm? The Rights of Children with Special and Additional Support Needs in England and Scotland*, p.iii. <https://bit.ly/36H8VNi> [Date accessed : 19.01.2022].

³³² Landsdown, G. (2011). *Every Child's Right to be Heard : A Resource Guide on the UN Committee on the Rights of the Child General Comment No.12*, p.155-157. <https://uni.cf/3IUWFFP> [Date accessed : 19.01.2022].

6.5 Case studies

The following case studies offer a snapshot of what organisations are already doing to raise awareness and understanding of children's human rights. **You can access further examples on Together's blog.**

Young Scot and Children in Scotland – Activate Your Rights

Activate Your Rights was a project commissioned by Scottish Government in 2019 and led by Young Scot and Children in Scotland. It supported a group of 20 children to research, design, test and publish engaging and innovative resources on children's human rights.

The children from across Scotland, aged 8-17, reviewed and developed resources on children's rights. As part of the project, Children in Scotland consulted with younger children and practitioners working with this age group to help develop children's rights resources for this demographic.

The Activate Your Rights pack was developed as part of the project to raise awareness of children's rights under the UNCRC among children. It includes a facilitator's pack with a range of activities co-designed with children to help ensure they are aware of and understand their rights. The pack will help educators support children to identify their rights and recognise when they are being upheld, and will empower them to defend their rights and ask for support to ensure they are recognised.

- **Read more about Activate Your Rights here.**

Scottish Commission for People with Learning Disabilities – Human Rights Town App

In 2021 the Scottish Commission for People with Learning Disabilities (SCLD) worked with a group of people with learning disabilities from across Scotland to form the Human Rights Town App Development Group to co-produce an app called Human Rights Town.

This interactive app focuses on raising awareness of the Articles of the United Nations Convention on the Rights of Persons with Disabilities.

The Human Rights Town App Development Group is a mixed group comprising of children and adults. The youngest member of the App Development group was 12 years old. The two youngest members were recruited to join the group through SNAP (Special Needs Action Project) in Inverness and they were supported to take part in groups by workers from SNAP.

Using the key principles of co-production, SCLD worked alongside the Human Rights Town App Development Group, recognising individuals' talents in assigning roles in the app's development, including roles of writing scenarios, recording voice overs and user testing the app.

Critical to the app's development was having a range of experiences to feed into its development. This meant making sure the app represented the voices of children with learning disabilities. This was of particular importance when developing scenarios around the right to education and children's experiences in school of systemic bullying.

The children involved in the app were involved at all stages in the development. This included the youngest member writing scenarios for the app and recording voice overs. This also included

presenting at the app launch for over 100 people. When asked at the app launch event about their experiences of being part of the app development group, they said:

This app will help people who are interacting and working with people with learning disabilities because they will know how to treat people with learning disabilities properly and with respect.

It will help people with learning disabilities to be treated as human beings and not labelled as their diagnosis.

The app will also help people with learning disabilities get the confidence to stand up for their human rights.

What helped SCLD involve children?

1. Links with and support from existing projects working with children (SNAP);
 2. Flexibility of a school allowing one young person to attend day meetings;
 3. Flexibility of SCLD and App Development Group members in setting up evening meetings where day time meetings were not possible;
 4. One-off voucher payment to all participants for their contribution;
 5. The welcoming and supportive nature of all members of the app development group as well as their hard work and dedication;
 6. Use of accessible methods of communication for meetings including Easy Read presentations and documents for meetings.
- **Find out more about the Human Rights Town App [here](#).**



UK Committee for UNICEF (UNICEF UK) – Rights Respecting Schools Award

UNICEF UK's Rights Respecting Schools Award supports schools across the UK to embed children's rights in their ethos and culture, using the UNCRC as a guide.

Through support, stewardship, training and resources, UNICEF UK works with schools that sign up for the Award to create safe and inspiring places to learn, where children are respected, their talents are nurtured, and they are able to thrive.

This achievement recognises schools that embrace the principles of the UNCRC, evidence the knowledge and understanding of children's rights in the leadership, practice and ethos of the school and also foster positive relationships and the empowerment of children.

Nearly half a million children in Scotland go to a Rights Respecting School and almost 1,500 nursery, primary, secondary and special schools are working through the Award.

As a result of the programme, children said their voices are heard and valued, they feel safe and cared for and they can tell someone if something's not right.

If we feel something is not fair, we have the opportunity to make a change. Like Article 12 (of the UNCRC) says, we can share what we think, making our school a happier and more pleasant place to work and learn.

Both children and teachers said they are treated with respect and feel a culture of kindness across the school community.

Rights have changed the way I teach, it has strengthened my relationships with pupils because everything is founded on respect.

The programme has also helped develop children's confidence in themselves and in their abilities to change the world for better.

I feel learning about rights has made my kids much more well-rounded people because they don't just think about themselves, they are so much more aware of everyone else around them and why making a difference is important.

Without knowing about my rights, I would not be the person that I am today. I used to be quiet, but now I am confident and feel inspired to help others feel the same.

- **Read more about the Rights Respecting Schools Award [here](#).**



A Place in Childhood at St Philomena's Primary School, in partnership with Sustrans Scotland and St Paul's Youth Forum – using gaming platforms to raise awareness of rights

A Place in Childhood (APiC) supports children to raise stakeholders' awareness and understanding of what a child-friendly neighbourhood looks like. It engages their partners in realising child-friendly neighbourhoods and communities for children that extends beyond creating playgrounds.

Sustrans Scotland is a charity making it easier for people to walk and cycle for everyday journeys. Flourishing Molendinar was funded by Places for Everyone whose aim is to create safe, attractive, healthier places by increasing the number of trips made by walking, wheeling and cycling. All Places for Everyone schemes are funded by Scottish Government through Transport Scotland.

APiC collaborated with Sustrans Scotland and St Paul's Forum, to work with 10 pupils in mainstream and enhanced nurture provision aged 9-11, at St Philomena's Primary school. The pupils visualised their ideas for a child-friendly neighbourhood on Minecraft, and designed new public spaces that would meet their and other people's needs. The children used Minecraft as a creative tool to realise their visions of a place for everyone, where play, leisure, food, and community celebration are prioritised.

Since many children were already familiar with Minecraft, the platform enabled them to lead the project, and evened up power dynamics between the adults and children. Decision makers liked the ideas and were able to engage better with the children because their ideas had been visualised in both imaginative and realistic ways. This helps show the power and value of children's meaningful involvement in projects, and gave St Paul's Youth Forum designs to consult with the wider community on.

Depute Head Teacher St Philomena's Enhanced Nurture Provision said:

The project has allowed our pupils' voices to be heard within their local community. This unique approach has allowed the children to develop their skills for learning, life and work in the real world and in a virtual setting.

Meanwhile, a local councillor who visited the children during the project noted:

I have been blown away by the engagement and insight of this young team of urban designers and the enthusiastic way in which they have been a part of planning their own neighbourhood. Local ownership and involvement from an early stage really is how we help people build communities they can be proud of. It will be fantastic if we can see real life infrastructure projects that local children can point to and say, we designed that, that's ours.

Two children involved in the project said:

I wanted to be part of the project as I want my local community to be a safer place to grow up.

Being part of the project has made me realise that I would like to do this kind of thing for my job when I am older.

- **Read more about the Minecraft project [here](#).**



Barnardo's Scotland – establishing an internal process of improving awareness on children's rights

Barnardo's Scotland has implemented a children's rights workforce development programme to develop a workforce that is confident to embed a rights-based approach to policy and practice. This involves supporting staff to understand and use rights-based language, how to approach complex situations where they encounter conflicting rights – for example, where a child's right to privacy may need to be 'breached' to prevent harm and ensure their protection. Staff are supported to embed decision making that is rights-based, proportionate to the individual circumstances of each situation/child, and includes the view of the child with regular review and evaluation. The workforce development programme features three levels. This includes a basic level one e-learning module for all staff, with additional classroom-based learning for level two, further enhanced at level three for staff working directly with children, young people and families. Service specific children's rights training is also available to services covering a wide range of issues relevant to the UNCRC.

As a result of the workforce development programme staff have felt better equipped to ensure that children's human rights are promoted and protected, decision making is rights-focused and children have access to internal and external sources of support to ensure their rights are upheld.



Scottish Childminding Association – learning resources for childminders

Scottish Childminding Association (SCMA) has developed accessible learning resources grounded in the UNCRC for childminders. The resources include webinars, e-learning courses and access to a professional network that helps childminders build their confidence around children's human rights.

The webinar is designed to include videos and engaging visuals. It is grounded in key provisions of the UNCRC and how these can be embedded into practice. It also incorporates resources for childminders focusing on the right to play and rest. The webinar is intended to inspire as well as raise the knowledge and confidence of childminders about children's rights and what taking a

rights-based approach in practice means. It will help childminders to adopt child rights-based approaches in their work.

SCMA also has a specific course, 'Children's Rights: Participation in Practice' which demonstrates how child-led participation supports children's rights in practice. Through these resources, SCMA is increasing the knowledge and understanding of childminders, who in turn will teach children and inspire them about rights so that they not only understand what rights are but also engage with their parents about their rights.

As a result of these resources, childminders have said they feel more confident about how to promote children's rights in their practice, as well as helping children themselves to understand what their rights are.

- [Read more about the learning resources here.](#)

Article 12 in Scotland – supporting children to learn about their rights

Article 12 in Scotland works together with partner organisations, public bodies, practitioners, local and national government to raise awareness and facilitate the engagement of marginalised and seldom-heard young people, particularly young Gypsy/Travellers, in decision making processes that impact on their daily lives. Article 12 works to provide the necessary knowledge and tools to empower marginalised and seldom-heard young people to speak for themselves, their peers and their communities – as the experts on their own lives and realities.

A case representing their work is that of a child (X), who was no longer in mainstream education and wanted to enrol in Article 12 in Scotland's non-formal learning programme. Article 12 in Scotland provided X with a new Chromebook, portable broadband which could be used anywhere and stationery to help with their learning. X met with Article 12 on a weekly basis to work on building up various skills such as literacy, numeracy, IT, listening and talking, confidence building and learning around the UNCRC, equalities and rights. Article 12 also developed a learning plan to guide X through their sessions and ensure that they have information before agreeing to decisions. Article 12 allows X to have control of what they want to learn and which skills they want to build on.

X has excelled in the topics being taught and has also become more aware of their rights since starting with Article 12 in Scotland. X has hugely increased confidence in expressing their feelings about their rights and talking about what rights they feel are not being met. In addition to this, they also show great empathy and understanding of other people's rights – no matter what background they come from.

- [Read more about Article 12 in Scotland here.](#)

Child Rights International Network – animated poetry

Child Rights International Network (CRIN) works to communicate about children's human rights in an accessible and engaging way, particularly using arts. CRIN commissioned an animated poem responding to the military recruitment of children and its impact on their rights, and presented the poem alongside an army recruitment advert. The piece was intended to offer an alternative narrative to the one promoted to children in army recruitment adverts, and to encourage critical

thinking about armed forces recruitment and its relationship to children's human rights. CRIN promoted the poem to children on social media, and also worked with the Quaker Peace Education team to create an English Literature lesson plan around it, so schools can engage students in critical thinking about the issue through the medium of poetry. The lesson plan was piloted in a workshop held by Quaker Peace Education, CRIN and the poet Potent Whisper with a group of children aged 15-16 from Newham Woodcraft Folk. In the workshop children interviewed the poet and CRIN about the piece, and shared their own responses to the poem and the issue of armed forces recruitment. The workshop recording was used to help disseminate the poem and lesson.

Through this piece of work, CRIN was able to communicate the various ways military recruitment impacts on children's human rights to a broader audience. Children who participated in the workshop gave positive feedback about the session and the poem:

Thank you for running this workshop, I think it was really interesting and informative, and also the poem was really good, very inspiring.

It feels really nice as young people to have our voices listened to, and the poem was amazing.

- **Read more about the animated work here.**



includem and EachOther – raising awareness through co-produced film

Children and young people supported by includem were involved in the production of a documentary by EachOther to highlight the link between school exclusions and prison and the impact on children's rights.

The documentary arose from an ad campaign #EducationNotExclusion led by young people on the London Underground. The campaign saw young people cover maps of the Northern Line's route with a replica map that showed the different stops on a young person's journey to prison following their exclusion from school.

EachOther contacted the young people who had initiated the campaign and hired them as consultants on the documentary. The young consultants wanted to bring a broader group of children and young people into the project and identified includem as a Scottish organisation they wanted to work with.

Includem supported five children and young people (aged 14-18) with experience of exclusions to share their personal experience. The children and young people were supported to understand and tell their stories through online training sessions and during their support from their includem worker. Due to the pandemic the planned filming in Glasgow was not possible. Instead, the children and young people were sent recording equipment to verbally record their story.

To protect their identities, a cartoon artist designed characters that represented the children and young people. These allowed the children and young people to recognise themselves whilst being protected from risks of being involved in the film. All of the children and young participants were paid the London living wage for their involvement. It was extremely important to EachOther that Excluded was voiced entirely by the children and young people. For the children and young people involved who were supported by includem, they said that telling their story and suggesting

improvements was liberating but it had longer lasting positive impacts for each of them. They all spoke of how being truly heard improved their self-esteem and confidence. Hearing each other's experiences built their empathy and made them feel connected. They all wanted to be involved in more projects. One young person went on to be part of inclusion recruitment panels, while another talked about their experience of bereavement, exclusion and the justice system at an online conference of justice and education professionals.

- **Watch the documentary [here](#).**



LicketySpit – children teaching adults about their rights

In May 2020, LicketySpit supported 10 of its Storyplay Champion children to lead 20 minutes of Storyplay at a stakeholder event on Making Rights Real. They were invited to take part by the Glasgow Council for the Voluntary Sector (GCVS) and Supporting the Third Sector project.

LicketySpit worked with the children to carefully prepare them for the event. This was crucial to ensure the children felt comfortable participating in front of its 80+ adult attendees and leading them in play.

The children introduced, explained and led the Storyplay activities at this online session, demonstrating a children's rights-based approach in practice and raising awareness of children's often under-estimated capacity for taking ownership of UNCRC implementation. The children spoke about what children's rights mean to them and why play is important. They led us in the Funky Chicken game and dressing up, before showing us how they 'Have Your Say through Play!' through the "What's the Time Mr No Rights Wolf?" game.

As a result of the event, attendees were able to see what a child rights-based approach looks like in practice. LicketySpit has received universally positive feedback and appetite for further events like this in the children's sector. Participants said:

Love drama-based exploration. Cracks open so many avenues to explore what's going on for children, letting them express what sometimes they don't understand.

Fun!!! great way to create empathy and connect with a child who may be reluctant or unable to understand their feelings and responses.

LicketySpit have great enthusiasm and allow Children and Young People to completely be themselves and express this through play which is fantastic.

We could do dancing cause then people would feel more excited to do stuff and they'll feel more happy. (9-year-old)

I want to do Mr Wolf because it's fun and we get to hear new rights from other people. (9-year-old)

The big bad wolf said that he'll block the school and then I argued about how we shouldn't block the school because if we block the school well basically the world wouldn't even function that well, because without school we won't be able to do maths which we need for counting things and maths is in everyday things...and we also need literacy to learn words to say, and also how to write. (10-year-old)

The children will not be able to read (why's that important?) so we can learn things brand new. (6-year-old)

- **Read more about Making Children's Rights Real across Scotland event here.**
- **Read more about the Storyplay Champions and their different projects here.**



CELCIS – Massive Open Online Courses

Centre for Excellence for Children's Care and Protection (CELCIS) continued to offer a range of short Massive Open Online Courses (MOOCs). This includes Caring for Vulnerable Children (CFVC), which was created in collaboration with the School of Social Work and Social Policy at the University of Strathclyde. The course had over 100,000 joiners from 146 countries, with the majority from the UK. Three other MOOCs were created in collaboration with International Taskforces. These MOOCs have had approximately 50,000 joiners from 182 countries with the minority being from the UK.

Each course was designed to develop and enhance the knowledge and skills of participants to uphold the rights of children through a range of participatory and interactive learning methods, including short films, interviews with experts from across the world, discussion boards and quizzes. The diversity and number of interacting learners enabled contribution on an international scale and across a wide breadth of professional and personal experiences, meaning knowledge and experience of supporting children could be expanded upon and applied to the contexts of upholding rights in practice in children's lives around the world.

For example, the course 'Caring for Vulnerable Children' considered what is meant by risk and vulnerability, covering topics including attachment, development, communication and love. Using the UN Guidelines as a framework, 'Getting Care Right for All Children' examined how the unnecessary placement of a child in alternative care could be prevented and how children who are leaving care could best be supported. The course 'Caring for Children Moving Alone' explored the principles outlined in the UN Guidelines for the Alternative Care of Children, and identified specific risks, vulnerabilities and support needs for unaccompanied and separated children on the move. 'COVID 19: Adapting Child Protection Case Management' was developed in 2020 to support those who were responding to the needs of children to uphold the rights of children in need of protection in the emerging COVID-19 pandemic.



Children in Scotland – UNCRC training for organisations

Children in Scotland offers tailored UNCRC training to different organisations. This has been effective in promoting awareness of the UNCRC, highlighting the duties that public bodies will have once it is incorporated into Scots law and providing organisations the space to plan how they will embed the UNCRC in their work.

Over summer 2021, Children in Scotland has been delivering UNCRC training to local authorities through their respective Third Sector Interfaces. This training follows a three-pronged approach: firstly, attendees complete an e-module in their own time that provides an overview of the UNCRC, why it matters and further reading. Then attendees attend a training session delivered by two Policy staff that looks at the articles in the UNCRC in detail, the status of the UNCRC Incorporation Bill, examples of participation work and breakout discussions so they can gain ideas from each

other and plan how to embed the UNCRC in their work. Lastly, the attendees have a third session with a policy staff member and discuss their next steps.

Participants indicated that the training gave them a better understanding of the UNCRC and helped them understand what they and their colleagues can do to get ready for incorporation:

It has given me lots of ideas how to progress embedding the UNCRC into daily practice and increase participation across all our services. (Participant)

The e-module is free for anyone to use (you will need to register a new account on the Children in Scotland eLearning Hub).

- **Find out more about the e-module [here](#).**



Children and Young People's Centre for Justice – raising organisational awareness through employment of young people

The Children and Young People's Centre for Justice (CYCJ) has employed young people with lived experience who are helping raise awareness of children's rights issues across the organisation. Creating these employment opportunities has enabled CYCJ to pay greater attention to children's rights within various stages of the justice system in Scotland. Through their work, the three young people in question were able to engage directly with peers from a range of settings and experiences, and through discussion and activities were able to create a guide which explains the issues that are relevant within each stage of the Whole System Approach. This guide explains to children and young people what to expect, what their rights are, what help they can receive and other relevant information.

Adopting a co-production model allowed for issues to be raised that may otherwise have been overlooked by those who have not personally experienced the Whole System Approach, and led to the creation of a guide that is far more accessible to the target audience. Working alongside the young people has had a number of benefits for CYCJ, with fresh perspectives and insights being provided that have shaped future plans, and reinforced the importance of using CYCJ's position of influence to create spaces for children and young people to influence decisions. One such space is the co-production of a website by children and young people, for children and young people.

- **Find out more about the website [here](#).**

6.6 Top tips



- **Support and work directly with children and their families** to understand children's rights, recognise when their rights are being overlooked or ignored and how to protect them. Information for children should be in an accessible, child-friendly format. As far as possible, children should be involved in the design of these resources;
- **Support children to recognise the positive impact of telling their story, being listened to and having their opinions valued;**
- **Provide information and advocacy around children's rights** in an encouraging and supportive manner;

- **Prioritise training on children’s rights for all staff and volunteers.** A training needs analysis will help identify specific areas in need of development. Monitor and evaluate progress against this initial baseline and adapt your approach as necessary;
- **Promote a culture of support and mentoring** within your organisation so that staff can support each other’s development;
- **Develop training, support and awareness raising programmes for external audiences** to help build their knowledge of child’s rights-based approaches. As far as possible, involve children in the design of these programmes and resources;
- **Build trusting relationships with children** as relationship-based support is essential to disseminating information. Build networks to support the most marginalised children to engage with decision makers;
- **Look for opportunities to bring partners along** on a journey to realise child-friendly neighbourhoods/communities.

6.7 Resources

- UN Committee (2003). **General Comment 5 on the General Measures of Implementation of the Convention on the Rights of the Child.**
- Together (2020). **Making Children’s Human Rights Real : Turning a Vision into a Reality for Every Child in Scotland.**
- UNICEF (no date). **Child’s Rights and Why They Matter.**
- Scottish Government Social Research (2013). **Children and Young People’s Experiences of, and Views on, Issues relating to the Implementation of the UNCRC.**
- Equality and Human Rights Commission (2020). **Government Must Do More to Safeguard Children’s Rights and Protect Them from the Impact of the Pandemic.**
- Landsdown, G. (2011). **Every Child’s Right to be Heard : A Resource Guide on the UN Committee on the Rights of the Child General Comment 12.**



Chapter 7:

Child rights budgeting



Change...

All ages together

7.1 Introduction

Child rights budgeting means taking children's human rights into account when making decisions about spending money or allocating resources. The aim of a child rights budget is to enable the realisation of rights for *all* children. Child rights budgeting exists alongside several other mutually reinforcing budget frameworks such as gender budgeting and participatory budgeting. There have been calls to bring these frameworks together, harnessing the strengths of each.³³³

Child rights budgeting is not only about considering children's human rights when making decisions, but also embedding human rights standards into the *process* through which these decisions are reached. These principles include participation, non-discrimination, transparency and accountability. Accordingly, children and their families should be included in identifying the changes needed to secure their rights and decision makers should target resources towards these issues as far as possible.

While child rights budgeting is not enough on its own to realise children's human rights, it is an essential part of a larger process to make children's rights real.

National and local governments should conduct child rights budgeting, as well as services, charities and other organisations.



7.2 Why is child rights budgeting important?

Child rights budgeting helps ensure that their best interests are a primary consideration in resource allocation. It improves the quality of decision making, in turn leading to better outcomes for children and their families. In times of budgetary pressures, child rights budgeting helps to identify the maximum available resources to support implementation of children's rights.

 *Budgets are a key sign of a government's values. So, if human rights are not in there, what's being said is that they are not a value worth counting.*³³⁴

*Taking a human rights approach to budgeting supports and challenges those making budgetary decisions on the delivery of goods and services, to ensure that they are acceptable by all, not a one size fits all.*³³⁵

What have children said?

Children have recognised the benefit that including them in budgetary decision making can bring, including in times of economic difficulty:

³³³ Flegg, A. and Ferrie, J. (2021). *Introduction to Human Rights Budgeting*, p2. <https://bit.ly/3ofb1Je> [Date accessed: 18.01.22].

³³⁴ Nolan, A. (2014). *Human Rights Budget Work*, SNAP Innovation Forum. <https://bit.ly/3ugbllr> [Date accessed: 13.12.21].

³³⁵ Flegg, A. and Ferrie, J. (2021). *Introduction to Human Rights Budgeting*, p3. <https://bit.ly/3ofb1Je> [Date accessed: 18.01.22].

 *The government doesn't have the money to get it wrong, so should invest in listening to [children and young people] to get it right.*³³⁶

Children have identified that certain people face greater challenges in having their rights upheld. They say additional resources should be directed to supporting these groups:

 *Put more money into supporting low-income families.*³³⁷

*Put funding towards support for disabled people.*³³⁸

*Going forward, we stress the importance of resources. We can no longer bid only to attain equality, we must achieve equity. It is known already that the Black and PoC community experience a gap in employment, positive destinations, housing and healthcare. To, again, fulfil the potential of [the UNCRC Incorporation Bill], the practice of the bill's rights should consider the equity of materials and resources for young Black and PoC people.*³³⁹

The Independent Care Review focused on budgeting in its Follow the Money report. This elaborated on a child rights budgeting plan to meet the wider recommendations of the review. Children involved in the review were clear that they must not be profited from and that 'value' in the care system should be measured in terms of children's outcomes and experiences.³⁴⁰

What has the UN Committee said?

The UN Committee on The Rights of the Child (UN Committee) has called on states to implement children's human rights by utilising the "maximum extent of their available resources".³⁴¹ This means generating, allocating and spending resources in a way which is effective and efficient for the realisation of children's rights.

Some UNCRC rights are described as "economic, social and cultural rights". This includes the right to health, social security, education, adequate housing and the right to take part in cultural life. The UN Committee has recognised that a lack of resources can prevent public bodies from fully respecting, protecting and fulfilling these rights. As a result, the UN Committee has identified the following concepts:

- **Minimum core** – the minimum, essential level of a right that all governments must guarantee, regardless of resources;
- **Progressive realisation** – once the minimum core is reached, governments should make further progress over time towards the full realisation of children's rights;
- **Non-regression** – governments should ensure there is no regression in children's rights protection.

³³⁶ Children in Scotland (2019). *Children and Young People Consultation on the Incorporation of the United Nations Convention on the Rights of the Child (UNCRC)*, p14. <https://bit.ly/3ITPcgl> [Date accessed: 13.12.21].

³³⁷ Children's Parliament (2019). 'All rights are important, so all rights should be law' – A consultation on incorporating the UNCRC into domestic law in Scotland, p13. <https://bit.ly/3INQ6eK> [Date accessed: 13.12.21].

³³⁸ Children's Parliament (2019). 'All rights are important, so all rights should be law' – A consultation on incorporating the UNCRC into domestic law in Scotland, p13. <https://bit.ly/3INQ6eK> [Date accessed: 13.12.21].

³³⁹ Intercultural Youth Scotland and Equalities and Human Rights Committee (2020). *Outreach Virtual Session with young people and Committee Members*, pp6-7. <https://bit.ly/343Nafq> [Date accessed: 13.12.21].

³⁴⁰ The Independent Care Review (2020). *Follow the Money*. <https://bit.ly/3ofcMfR> [Date accessed: 13.12.21].

³⁴¹ Article 4 UNCRC.

General Comments

In General Comment 5, the UN Committee is clear that all levels of government should ensure decisions are made with the best interests of children as a primary consideration and that children should be protected from the adverse effects of economic policies or financial downturns. Children should be visible in state budgets to ensure clarity and enable effective scrutiny.³⁴²

General Comment 19 includes guidance in relation to children's rights and business, calling for the use of open, inclusive and accountable budgets and resource allocation to ensure all children have their rights met.

UNCRC Concluding Observations (2016)

The UN Committee made specific recommendations about child rights budgeting following its last review of the UK in 2016.³⁴³ This included implementing a tracking system for the allocation and use of resources for children through government budgets; transparent and participatory budgeting processes which include children; targeted budget lines to address child poverty and inequalities; regular child rights impact assessments (CRIA) of budget decision making processes; establishing mechanisms to monitor and evaluate distribution of resources. In early 2021, the UN Committee asked the UK and devolved governments for an update on their progress.^{344 345}

7.3 The context in Scotland

Scotland's Human Rights Budgeting Working Group was established in 2018 with funding from the EU Commission. The Group – which included members of the Scottish Human Rights Commission, the Health and Social Care Alliance Scotland and academia – has produced a range of resources, briefings and workshops to advance knowledge and understanding of rights-based budgeting.³⁴⁶

As Together reported in 2019, the way in which budgets are currently constructed in Scotland makes it very difficult to identify what is actually spent on children at national and local level – and also on particular groups of children whose rights are at risk.³⁴⁷

In its 2018-21 and 2021-24 Action Plans on Children's Rights, Scottish Government noted several ways in which it was promoting rights-based budgeting.^{348 349} This included the use of Child Rights and Wellbeing Impact Assessments (CRWIAs) by officials and preparing an Equality and Fairer Scotland Budget Statement to accompany the draft Budget. While these are important, more needs to be done to embed children's rights consideration from the outset of budgetary processes. Scottish Government committed to further explore participatory, wellbeing and child rights-based approaches to budgeting, drawing on lessons learned from case studies produced by UNICEF and the World Bank.³⁵⁰

³⁴² CRC/GC/2003/5: Paras: 51-52.

³⁴³ CRC/C/GBR/CO/5: Paras: 13(a), (b), (c), (d), (e).

³⁴⁴ CRC/C/GBR/QPR/6-7: Para: 7.

³⁴⁵ CRC/C/GBR/QPR/6-7: Para: 36.

³⁴⁶ Scottish Human Rights Commission (no date). *Human Rights Budget Work*. <https://bit.ly/3IZEBAK> [Date accessed: 13.12.21].

³⁴⁷ Together (2019). *State of Children's Rights Report*. <https://bit.ly/3L67wVZ> [Date accessed 19.11.21].

³⁴⁸ Scottish Government (2018). *Progressing the Human Rights of Children in Scotland: An Action Plan 2018-2021*, p4. <https://bit.ly/3uLB5wG> [Date accessed: 18.01.22].

³⁴⁹ Scottish Government (2021). *Progressing the human rights of children in Scotland: action plan 2021 to 2024*, p8. <https://bit.ly/3uko2f5> [Date accessed: 18.01.22].

³⁵⁰ Scottish Government (2021). *Progressing the human rights of children in Scotland: action plan 2021 to 2024*, p8. <https://bit.ly/3uko2f5> [Date accessed: 18.01.22].

The UNCRC (Incorporation) (Scotland) Bill ('UNCRC Incorporation Bill') introduces a new duty around child rights budgeting. It specifies that the Children's Rights Scheme must set out arrangements for Scottish Ministers to "consider the rights of children in the Scottish Government's budget process".³⁵¹

Child rights budgeting will be key to achieving a wide range of Scottish Government's National Outcomes, including poverty, health and education.³⁵²

7.4 Overcoming challenges

Our survey and fourth webinar explored the challenges organisations have experienced or witnessed around rights-based budgeting. Responses included reflections on organisations' own knowledge and practice, as well as observations about national and local government budget processes.

Quotations in this section are from survey participants unless otherwise indicated. Quotations have been attributed to NGOs or public authorities where this information was given.

Awareness, understanding and access to information

Results showed that rights-based budgeting is a key area in need of development. Respondents noted confusion around terminology and multiple budgeting models. These included 'outcome-based budgeting', 'rights-based budgeting', 'gender budgeting', 'wellbeing budgeting' and 'participatory budgeting'. It was felt that these approaches had much in common, but that confusion over how they relate to one another risked a fractured approach:

 *There is a risk that we have a fractured approach to achieving the change we all want, with a confusion of messages, proposals and arguments. This could limit progress.*
(NGO)

 *[I]t is now essential these mutually reinforcing frameworks are unpacked and brought in line with one another. To alleviate cognitive overload for public bodies in Scotland and ensure these frameworks reinforce one another, the Group has also recently been exploring how these frameworks interact with one another, where key differences lie, and where they can learn from one another.*³⁵³

Several respondents noted a lack of training and support on rights-based budgeting – both in terms of what it is and how to conduct it. They called for this to be addressed:

 *We think that more awareness training on rights based budgeting can be achieved. It is needed across the board in Scotland.*
(NGO)

 *We don't have a specific child rights budgeting approach so having access to information or templates or examples would be useful.*
(NGO)

³⁵¹ Section 11(3). UNCRC (Incorporation) (Scotland) Bill. <https://bit.ly/3s58NDU> [Date accessed 13.12.21].

³⁵² Scottish Government (no date). National Outcomes. <https://bit.ly/3oi0UKn> [Date accessed: 18.01.22].

³⁵³ Flegg, A. and Ferrie, J. (2021). Introduction to Human Rights Budgeting, p2. <https://bit.ly/3ofbIJe> [Date accessed: 18.01.22].

Steps taken to overcome these challenges

Our survey revealed that child rights budgeting is relatively ‘new’ to many organisations but they are committed to learning more about it in order to improve their practices. Several organisations had started work around budgeting. Sometimes this work was framed in terms of another budgeting ‘model’ – such as wellbeing or participatory budgeting – yet the links with a child rights approach were clear.

Please see the following case studies for more detailed examples:

- Northern Star, the Wellbeing Economy Alliance and Perth & Kinross Council at p.161;
- Children in Scotland at p.162.

Children’s participation

Several respondents noted the lack of children’s participation in budget processes, often stemming from decision makers’ lack of awareness or understanding:

 *[one challenge is] overcoming a risk averse culture where budget holders are wary of handing over power to [children and young people] on how budgets are spent.*

(NGO)

Steps taken to overcome these challenges

Organisations said they were working to ensure that decision makers who allocate budgets hear directly from children on a routine basis. Where direct contact with children is not possible, organisations said they relied on advocacy briefings, conducting children’s consultations and cultivating strong relationships with decision makers to ensure children’s views and rights issues were still communicated.

One small NGO noted it had started to conduct community-wide consultations to identify where resources should be allocated. However, it recognised that more could be done to ensure this work took a child rights-based approach. Others highlighted the work they were doing to include children in budgetary decisions.



Please see the following case studies for more detailed examples:

- Northern Star, the Wellbeing Economy Alliance and Perth & Kinross Council at p.161;
- Children and Young People’s Centre for Justice at p.162.

Accessing funding and information

Organisations expressed frustration that funders’ failure to adopt child rights budgeting was leading to a reduction of resources for projects which helped uphold children’s human rights.

Meanwhile, access to information and data was a challenge for those trying to scrutinise national or local government budgets on children’s rights grounds. One public authority noted that transparency

in national budgets remained an issue. Whilst welcoming the announcement of funding to support implementation of the UNCRC Incorporation Bill, they noted:

 *Scottish Government funding has been made available for UNCRC incorporation, but it is still unclear how this will be accessed and by whom.*

(Public authority)

Steps taken to overcome these challenges

Organisations said they were seeking to diversify their funding streams in order to continue vital projects. This included seeking multiple additional sources of funding to support lockdown work, such as purchasing digital devices and data for children whose rights are most at risk.

Organisations said they were directing what limited funds they had towards supporting children whose rights were most at risk.

7.5 Case studies



Northern Star, Wellbeing Economy Alliance & Perth & Kinross Council – Love Letham Commission

In 2021, the Wellbeing Economy Alliance published its Wellbeing Economy Policy Design Guide.³⁵⁴ This guide looks at how to design economic policies that put the wellbeing of people and the planet first. A series of hubs have now been established across the world to pilot the report's recommendations. This includes a pilot to build a children's wellbeing budget in Perth & Kinross.

Northern Star is working with Perth & Kinross Council to build a children's wellbeing budget for Letham – an area of Perth in the 20% most deprived neighbourhoods according to the Scottish Index of Multiple Deprivation.³⁵⁵ The project is in the planning phase with the aim of establishing a participatory structure which is led by children. The pilot will use a strengths-based approach and have the voices of local children at its core.

Northern Star has been working with schools, children's groups and charities to co-create sessions that can be used with children to envision what would make Letham the best place for them to grow up. These sessions will involve a variety of activities that go beyond surveys to engage children in the ways that they want to work. The sessions are being delivered through schools and community groups across the area so that as many children as possible can influence this visioning stage.

Children will also be involved in the analysis of this data – identifying what issues need to be prioritised. They will shape what the Love Letham Commission process looks like – which may include acting as peer researchers to gather the views of their friends and classmates, and taking part in community events to gather wider views on emerging themes. The children will use what they discover from their peers to develop key asks of local decision makers, notably Perth & Kinross Council. Decision makers from the local authority will be involved in meeting with the children and co-creating responses to their asks.

³⁵⁴ Wellbeing Economy Alliance (2021). Wellbeing Economy Policy Design Guide. <https://bit.ly/3LOG2Rr> [Date accessed: 13.12.21].

³⁵⁵ Scottish Index of Multiple Deprivation (2020). Letham. <https://bit.ly/3L3IFD1> [Date accessed: 01.02.22].

Whilst still in the planning phase, it is envisaged that the participatory structure could involve two ‘separate but equal’ groups on the basis of age. This would enable sessions, activities and meetings to be adapted to the needs of younger and older children alike. The pilot is exploring how best to ensure early years and children from seldom heard groups are included but has already engaged with children aged 2-18 and is on track to involve around 200 children and young people from Letham in the visioning activities.

- [Learn more about the pilot here.](#)



Children in Scotland’s Children’s Sector Strategic Forum – researching children’s rights budgets

The Children’s Sector Strategic Forum, managed by Children in Scotland, is a forum of 30 senior members from across the children’s sector who come together to influence national policy on areas of shared concern. The forum has been working to encourage Scottish Government to adapt an outcomes-based budgeting approach. This will help ensure that decisions about how to support children and families are based on realising children’s rights and improving their outcomes, rather than following ‘traditional patterns’ of service and sector spend.

In 2020, the Forum – alongside Carnegie UK Trust and the Cattanach Trust – commissioned Dr Katherine Trebeck to explore how the Scottish Government budget could be conceived, crafted and deployed in order to improve the wellbeing and rights of Scotland’s children. The resulting report was published in spring 2021. It outlines some of the fundamental components required from a Scottish Government budget in order to improve children’s outcomes. Scottish Government welcomed the recommendations and further discussion. Children in Scotland, the Forum and wider partners are continuing to press for change within Scottish Government to ensure that future budgeting decisions are based on realising children’s rights and securing improved outcomes. They have agreed to feed into further Scottish Government work around children’s wellbeing outcomes and indicators, as an important step towards outcomes-based budgeting.

- [Read the report Being Bold: Building Budgets for Children’s Wellbeing.](#)



Children and Young People’s Centre for Justice – Inclusion as Prevention

Inclusion as Prevention (IAP) is a five-year initiative between South Lanarkshire Council, Action for Children, Dartington Service Design Lab and Children and Young People’s Centre for Justice (CYCJ). The IAP vision is to reduce the potential for children and young people to be involved in offending behaviours and other negative outcomes. It aims to test out what happens when you meaningfully include those who are most often excluded and explore whether this can lead to a reduction in negative outcomes.

IAP focuses on co-production and collaboration with children and young people, communities and partners, testing out ways to improve how services can be provided to better meet the needs of children, young people and families. The aim is to share power and responsibility across all partners. Children, young people, their families and professional workers should feel able to participate, know that their views are heard and be empowered by engagement in the development of policy and practice. Sustainability through the actions of redesigning systems and shifting spend from an often crisis driven approach to one driven by children’s rights is central to the aim of IAP.

As a result of work to date, the project has completed two tests of change: one involving systems leadership training where practitioners designed small tests within their sphere of influence and another which was a football group for boys. Summary reports sharing the methodology, impact and potential for sustainability will be shared in due course.

Six further tests of change are ongoing with a planned series of interim and final summary reports to come. These are:

1. Series of animated videos highlighting support for children and young people who are experiencing grief to spread awareness and inform children and young people how they can access support;
2. Domestic Abuse workshop with a focus on gender-based violence, based on the results of a survey to be carried out early this year;
3. Peer support workshop aiming to prevent offending behaviours and highlight available supports;
4. Co-design of training opportunity for Children and Families Social Work Team, involving social work staff and Care Experienced young people;
5. Support group for young people with an absent carer in their lives;
6. Transition support for families completing Intensive Family Support.

Recent events and presentations have included:

- A child and young person-led Q&A session via IAP Instagram;
- Presenting the work of IAP at the Youth Justice Conference in the summer of 2021;
- Presenting where IAP sits in terms of early and effective intervention at the CYCJ Early and Effective Intervention forum in the autumn.

Within the five-year project, the partners are currently moving from phase 2 where they were led by what was emerging from engagement, co-production activities, building relationships, and learning. This new phase – phase 3 – will require a shift in direction to a more strategic concerted approach to ensure sustainability and legacy beyond the lifespan of the project.

- [Read more about Inclusion as Prevention here.](#)

7.6 Top tips



- **Make a clear commitment** to ensuring adequate human and financial resources are allocated to support your organisation to implement children's rights;
- **Include children:** work with children to assess necessary action and direct budgets to target these issues as far as possible. Involve children in grant-making;
- **Prioritise children's rights through commissioning:** incorporate the principles of a child rights-based approach throughout all processes where work is commissioned;
- **Empower children's participation in budget processes:** by providing them with information and training, in a language and format appropriate to their individual needs;
- **Gather relevant data:** child rights budgeting requires gathering disaggregated data to identify specific issues and groups whose rights are most at risk;

- **Review progress regularly**, including involving children. The effects of budgeting decisions on children's rights must be monitored, frequently reviewed and adaptations made to address areas of concern.

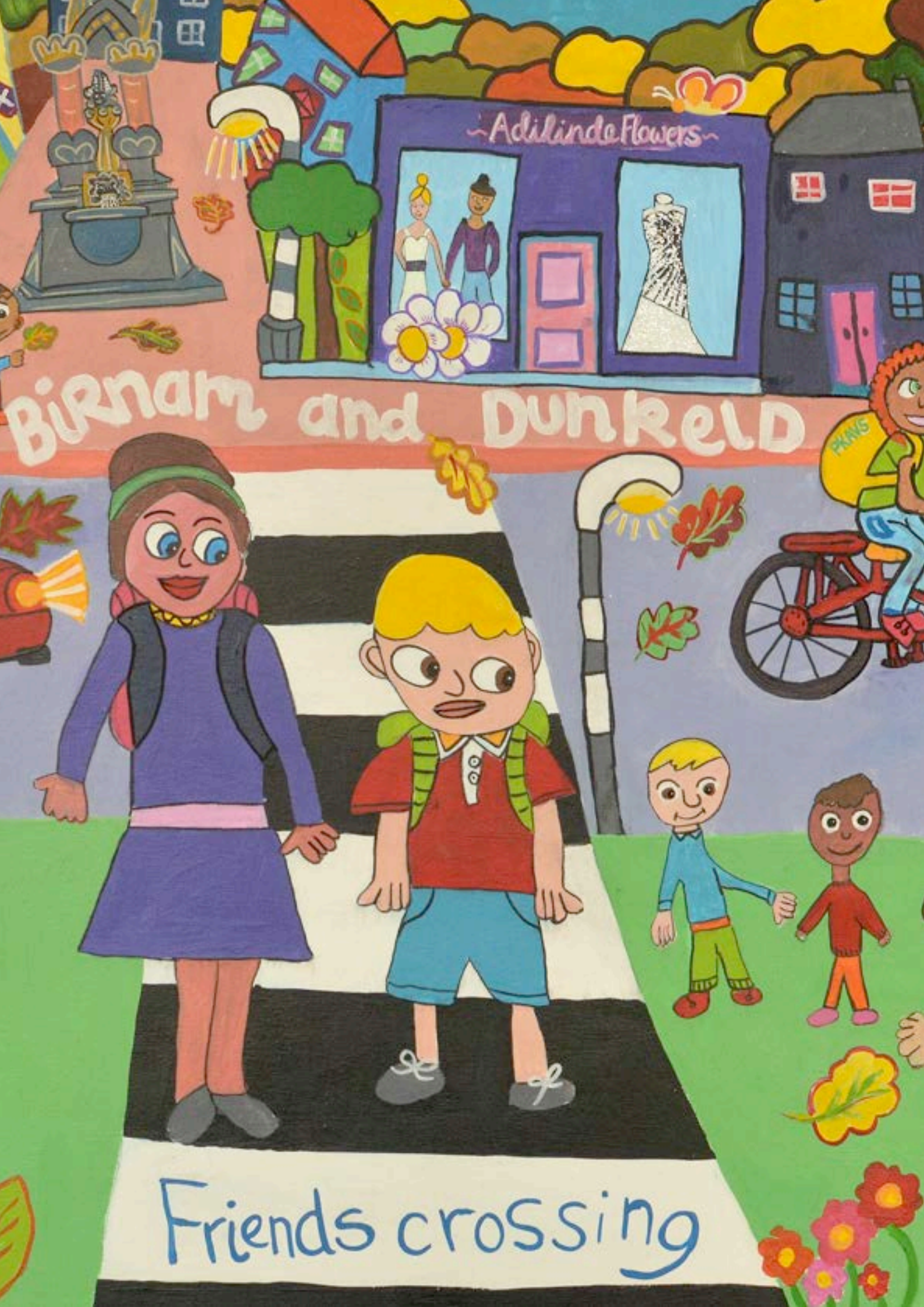
7.7 Resources

- UN Committee (2016). **General Comment 19 on public budgeting for the realization of children's rights.**
- Queen's University Belfast, Centre for Children's Rights (2016). **Child-friendly version of General Comment 19.**
- Together (2021). **Webinar recording and slides.**
- 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 (no date). **Human Rights Budget Work.**
- Eurochild (no date). **Childonomics.**
- O'Connell R et al (2014). **Applying an International Human Rights Framework to State Budget Allocations.**
- OHCHR (2017). **Realising Human Rights Through Government Budgets.**
- Ellie Craig MSYP (2021). **Participatory budgeting for a rights based approach to recovery.**
- Wellbeing Economy Alliance (2021). **Wellbeing Economy Policy Design Guide.**
- PB Scotland (2021). **Participatory Budgeting Scotland Framework.**



Chapter 8:

Child rights impact assessment



Burnham and Dunkeld

Friends crossing

8.1 Introduction

A child rights impact assessment (CRIA) is a tool that helps people understand how a proposed law, policy or decision might affect children's human rights. CRIsAs can be conducted by national and local government, as well as organisations, charities and specific services.

In the Scottish context, you might also see these referred to as Child Rights and Wellbeing Impact Assessments (CRWIA).

8.2 Why are CRIsAs important?

CRIsAs are key to upholding children's human rights. They help mainstream international children's rights principles and standards into national and local planning, service design and delivery.

Using a CRIA helps people identify which rights could be impacted by a decision, whether the impact will be positive, negative or neutral, what evidence or data is available, and what changes are needed to mitigate the negative impacts and maximise the positive impacts.

CRIsAs help identify potential issues early, enabling preventative changes to uphold children's human rights. They provide a rights-based basis for strengthening decision making, in turn reducing the likelihood of rights violations and limiting the need for change further down the line.

Children's participation is essential for effective rights-based policy-making and should accordingly be interlinked with CRIA. The CRIA process provides an opportunity for children's views to be taken into account early on in the policy-making process – either through existing research or through commissioning further work.

Children should not only be involved in specific CRIsAs but also within the governance mechanisms that review, support and scrutinise these, and other processes, policies and legislation. As highlighted by the Independent Care Review, taking account of children's views helps to ensure that services meet the needs of those they exist to serve rather than the needs of the system, and creates a forum to hold government to account.³⁵⁶

- Refer to Chapter 2 for more information on children's participation in decision making.

What have children said?

Children are clear that CRIsAs must not be one-off and must be meaningful:

 *This should be routine and shouldn't make the process last extra time. It shouldn't be just a tick-box exercise.*³⁵⁷



³⁵⁶ Independent Care Review (2020). *The Promise*, Chapter 2: Voice. <https://bit.ly/348Pmly> [Date accessed: 18.01.22].

³⁵⁷ Scottish Youth Parliament (2019). *UNCRC Incorporation Consultation Response* citing anonymous notes from discussion day with MSYPs. <https://bit.ly/3IULOSO> [Date accessed: 18.01.22].

They recognise that a sound understanding of the United Nations Convention on the Rights of the Child (UNCRC) is key to effective impact assessments:

 *Decision-makers and policymakers need to know about the UNCRC so they can assess the impact of decisions on children's rights.*³⁵⁸

Children have also called for CRIAs to be written in accessible language and available in a range of formats:

 *We like the idea of a child-friendly version of CRWIs, but the original should be easy to understand too. There should be other accessible formats of these.*³⁵⁹

- Refer to Chapter 3 for more information on inclusive communications.

What has the UN Committee said?

General Comments

The UN Committee on The Rights of the Child (UN Committee) has called on countries to adopt a continuous process of impact assessments to predict the effects of proposed laws, policies and budgetary allocations on children's rights. In General Comment 5, it said impact assessments should be built into government processes at *all* levels and utilised as early as possible in policy development.³⁶⁰

The UN Committee noted that self-monitoring and evaluation is an obligation for governments but that independent scrutiny (such as by non-governmental organisations (NGOs), academic institutions and parliamentary committees) is also essential.

UNCRC Concluding Observations (2016)

The UN Committee has made several recommendations to the UK regarding CRIAs.³⁶¹ In 2016, it called on the UK to introduce a legal requirement (at both UK and devolved levels) to systematically conduct CRIAs when developing laws and policies that affect children.³⁶² Transparency and scrutiny are key. The UN Committee called for the results of these CRIAs to be published with accompanying information on how the results had been taken into consideration.³⁶³

LOIPR (2021)

In February 2021, the UN Committee asked the UK and devolved governments for an update on what was being done to establish a CRIA procedure for all legislation and policies affecting children, including in response to the COVID-19 pandemic.³⁶⁴

The UK and devolved governments are expected to report to the UN Committee on their progress in June 2022.

³⁵⁸ *Children in Scotland (2019). Children and Young People Consultation on the Incorporation of the United Nations Convention on the Rights of the Child (UNCRC), p18. <https://bit.ly/3ITPcgl> [Date accessed: 13.12.21].*

³⁵⁹ *Scottish Youth Parliament (2019). UNCRC Discussion Day. <https://bit.ly/3IULOSO> [Date accessed: 01.02.22].*

³⁶⁰ *CRC/GC/2003/5: Paras: 45-47.*

³⁶¹ *CRC/C/GBR/CO/5: Para 10(a),(b), 13(d), 31(b), 51.*

³⁶² *CRC/C/GBR/CO/5: Paras: 10(a), 13(d).*

³⁶³ *CRC/C/GBR/CO/5: Paras: 10(b).*

³⁶⁴ *CRC/C/GB/QPR/6-7.*

8.3 The context in Scotland

Scottish Government has been undertaking CRIA on a voluntary basis since 2015. It developed its own model: the Child Rights and Wellbeing Impact Assessment (CRWIA). Official guidance is clear that CRWIA should be used on *all* legislation and policy that impacts children, not just children's services.

While Scottish Government has published a number of CRWIAs, quality varies and it can be difficult to access further information about their use. Over the COVID-19 pandemic period, a number of legislative decisions were not subject to a CRWIA or Equality and Human Rights Impact Assessment which means there is no evidence of children's rights considerations in measures which had (and in certain cases continue to have) a considerable impact on their daily life. A centralised database that allows for update with new CRWIAs from Scottish Government and other public authorities would be more open, efficient and interactive allowing for better scrutiny.³⁶⁵

In its 2018-21 Action Plan, Scottish Government made a commitment to evaluate the use of CRWIAs.³⁶⁶ This commenced in 2021 with the aim of further supporting and promoting their use.³⁶⁷ Scottish Government published refreshed CRWIA guidance in November 2021.³⁶⁸

The UNCRC (Incorporation) (Scotland) Bill creates two duties in relation to CRWIAs. Firstly, the Children's Rights Scheme must include the arrangements for Scottish Ministers to "prepare and publish child rights and wellbeing impact assessments".³⁶⁹ Secondly, the Bill places a duty on Scottish Government to prepare and publish CRWIA for new legislation and decisions of a "strategic nature".³⁷⁰

Effective use of CRWIA will help Scottish Government deliver on the full range of National Outcomes, notably education, health and poverty.³⁷¹

8.4 Overcoming challenges

Our survey and interviews explored the challenges organisations have experienced or witnessed around CRIAs and how they are overcoming these. Responses included reflections on organisations' own knowledge and practice, as well as observations of CRIAs undertaken by others – including by Scottish Government.

Quotations have been attributed to NGOs or public authorities where this information is known.

³⁶⁵ LLM Human Rights Clinic (2019). *Recommendations and Notes on Scottish Children's Rights and Wellbeing Impact Assessments*. <https://bit.ly/2teQYI6> and <https://bit.ly/36LOIFQ> [Date accessed: 18.01.22].

³⁶⁶ Scottish Government (2019). *Progressing the Human Rights of Children in Scotland: 2018-2021 Action Plan*, p3. <https://bit.ly/2RIYB2P> [Date accessed: 17.11.21].

³⁶⁷ Scottish Government (2019). *Progressing the Human Rights of Children in Scotland: An Action Plan 2018-2021 Progress Report 2019*, p12. <http://bit.ly/2RHSPyE> [Date accessed: 17.11.21].

³⁶⁸ Scottish Government (2021). *Children's Rights and Wellbeing Impact Assessment Guidance*. <https://bit.ly/3L34fGR> [Date accessed: 18.01.22].

³⁶⁹ Section 11(3)(e). *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill*. <https://bit.ly/3s58NDU> [Date accessed: 17.11.21].

³⁷⁰ Section 14. *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill*. <https://bit.ly/3s58NDU> [Date accessed: 17.11.21].

³⁷¹ Scottish Government (no date). *National Outcomes*. <https://bit.ly/3oi0UKn> [Date accessed: 18.01.22].

Awareness and understanding

Results showed gaps in awareness of CRIAs, the reasons for undertaking them and their importance. Whilst many organisations knew about CRIAs, they said they had limited practical experience which contributed to low confidence. In particular, some respondents expressed doubts around their ability to identify the potential positive, negative and neutral impacts of a law, policy or decision:

 *The main challenge we face is knowing how to conduct CRIA or how to access CRIA if for example a local authority has undertaken one.*

(NGO)

 *Low completion rates due to lack of awareness/ this being introduced relatively recently.*

(Public authority)

Some organisations had started (or were about to begin) CRIAs of their internal policies, procedures and strategies. Several felt daunted by the perceived scale of the task ahead. There was a perception of CRIAs as “quite [a] complex process” and organisations reported challenges in accessing relevant information, guidance and templates to assist with undertaking them:

 *Accessing templates so a common language can be used across the [sector]. This would help make them more accessible, demystify the process and make completion and reaction to any issues arising more efficient.*

(NGO)

Respondents noted that the quality of publicly available CRIAs varied widely and there was a lack of good practice examples to follow. Some felt there were limited opportunities to access peer mentoring to benefit from other’s experience and guidance.

 *Challenges have been: accessing relevant information, guidance and templates...developing a process to test a new CRIA process and support staff to complete them with rigour.*

(Public authority)

Steps taken to overcome these challenges

Respondents from both public authorities and NGOs said they had invested in CRIA training for their staff. Some had sought this training externally whilst others had developed their own internal training offer. Some public authorities noted they had a designated member of staff who supported the development of CRIAs and developed colleagues’ confidence in completing these.

Several NGOs said Scottish Government’s CRWIA model and guidance was a useful starting point but it did not always suit their specific needs as third sector organisations. Some had developed (or were working to develop) their own, bespoke approach to CRIA, drawing on elements from Scottish Government’s model.

Please see the following case studies for more detailed examples:

- Children in Scotland at p.173;
- Families Outside at p.174;
- CRIA in Wales at p.175.

Access to data

Respondents noted difficulties in conducting CRIAs due to gaps in available data. This made it difficult to predict the nature and scale of potential impacts, as well as identifying groups of children who might be particularly affected:

 *In planning, for instance, a lot of relevant evidence isn't very accessible to policymakers and isn't Scotland-specific or intersectional enough.*

(NGO)

 *Some gaps in external quantitative data for children and young people.*

(Public authority)

Steps taken to overcome these challenges

Organisations reported a range of responses such as submitting Freedom of Information (FOI) requests, parliamentary questions and undertaking their own research. However, they were clear that these efforts were a drain on their already stretched capacity and resources. They were clear that the onus should be on local and national government to improve their data collection, publication and monitoring.

Ensuring early and effective CRIAs that engage children

Some respondents noted difficulties in ensuring CRIAs are undertaken in a timely manner, poor understanding of how to engage children in the process, and lack of CRIAs being properly embedded within organisations. These factors were all viewed as increasing the risk of CRIAs being treated as tokenistic, tick box exercises.

 *[CRIAs] tend to be conducted after the policy is drafted, and seem [to be] used to defend a direction not formulated initially to further equality.*

(NGO)

Several organisations felt caught by what they saw as competing interests of: (a) conducting CRIA as early and quickly as possible; (b) the need for rigorous, detailed assessment, including the participation of children; and (c) ensuring the process was easy for staff to use.

Previous research has noted gaps in children's involvement in CRIA processes, particularly in the later stages. This research called for the participation of children that moved beyond mere 'consultation' towards closer involvement with a clear feedback loop.³⁷² Issues around engaging children in CRIA processes were noted by some survey respondents:

 *Consulting/engaging directly with children and young people (very young children) can be challenging due to their age.*

(Public authority)

Some public authorities noted that CRIAs were just one of several impact assessments they had to conduct and felt completing these separately had implications for process and quality.

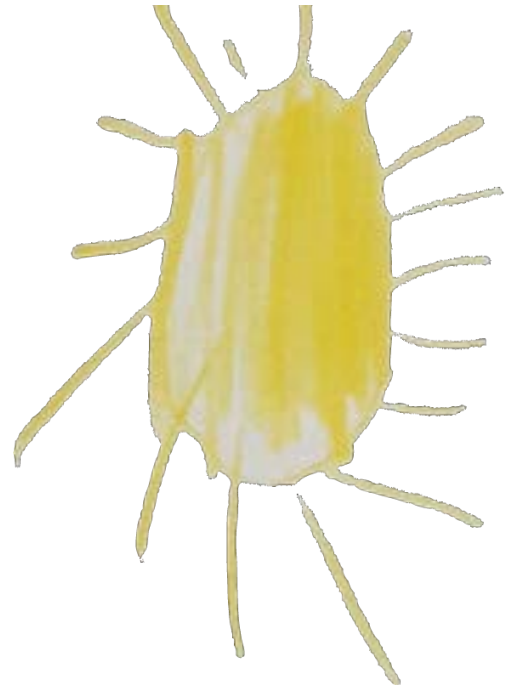
³⁷² LLM Human Rights Clinic (2019). *Recommendations and Notes on Scottish Children's Rights and Wellbeing Impact Assessments*. <https://bit.ly/2teQYI6> and <https://bit.ly/36LOIFQ> [Date accessed: 18.01.22].

Steps taken to overcome these challenges

Some NGOs highlighted existing frameworks which could support rights-based decision making. Whilst not specifically impact assessment processes, these allowed for a 'lighter touch' process which could be conducted quickly. The approaches included the PANEL and FAIR principles.

For PANEL, organisations considered:

- **Participation** – people and groups should be involved in decisions that affect their rights;
- **Accountability** – people and groups should be listened to and changes should be made if something has gone wrong;
- **Non-discrimination** – people and groups should be offered equal opportunities to be involved and share their views;
- **Empowerment** – everyone should know about their rights and should be supported to be involved in decisions about their lives;
- **Legality** – decisions and processes used by public services should be based on human rights law.



For FAIR, organisations considered:

- **Facts** – what are the facts of the situation? How long has it been going on for? What is the impact on the people being involved?
- **Analyse** the rights at stake;
- **Identify** changes necessary to improve the decisions being made and identify who is responsible for making these;
- **Record and review** – review the previous principles and adjust the answers to the principles above as time goes on.

On children's participation, some NGOs noted they sit on working groups to offer opportunities for Scottish Government to consult with children when possible. Others noted that while they don't yet directly involve children in the development of internal policies, they do involve them in the production of key documents such as strategic plans. Internal policies are then used to operationalise the overarching strategy that children have shaped.

- Refer to Chapter 2 for more information on supporting children's participation in decision making.

On the issue of multiple impact assessment processes, one public authority said it was considering integrating these processes:

 *We are currently looking at unifying the existing [Equality Impact Assessment] system with CRIAs; completing both would be challenging and may decrease meaningful commitment to them and participation with children.*

(Public authority)

Some public authorities noted that CRIA were just one of several impact assessments they had to conduct and felt completing these separately had implications for process and quality.

Please see the following case studies for more detailed examples:

- Children and Young People's Centre for Justice and Children and Young People's Commissioner Scotland at p.174;
- A Place in Childhood and Play Scotland at p.175.

Monitoring and evaluating CRIs

Evidence from interviews suggested that CRIs were sometimes treated as one-off exercises rather than as an ongoing process. There were calls for greater monitoring and evaluation of CRIs to ensure that children's rights were being upheld to the maximum extent.

Steps taken to overcome these challenges

One organisation noted that staff had conducted CRIs of its internal policies and procedures. It stated that progress was being reviewed on a six-monthly basis.

Some organisations that had been involved in CRI processes had collated their learning and suggestions to assist others.³⁷³

Please see the following case study for more detailed examples:

- Children in Scotland at p.173.

8.5 Case studies



Children in Scotland – developing a bespoke CRI model

Children in Scotland has developed its own approach to CRI. This is based on Scottish Government guidance with some adaptations. For example, the organisation simplified the model and removed the Scottish Government's focus on wellbeing to ensure the process was rights-focused.

Children in Scotland is taking a staged approach to applying CRI to all its internal policies and procedures. All organisational policies have a reviewing and updating schedule of between one and three years depending on the policy, so the charity is undertaking CRI at the point at which policies become due for review. The first policies to be reviewed were Children in Scotland's data protection, ethical income and lone working policies. Staff responsible for writing and updating internal policies have received training on the charity's CRI approach. Children in Scotland has committed to review progress on a six-monthly basis.

The process has already proved helpful in terms of recognising the positive impact of the charity's policies on child rights, and where it can strengthen this further. Children in Scotland emphasises the importance of locating CRI within a wider improvement and organisational development approach like this. By embedding CRI in this way, it can prevent them from being used as 'tick box' exercises.

- **Find out more information about Children in Scotland's CRI approach [here](#).**

³⁷³ Observatory of Children's Human Rights Scotland (2020). *Conducting Children's Rights Impact Assessments: Learning in Action*. <https://bit.ly/35NgCH3> [Date accessed: 01.02.22].

Families Outside – developing a bespoke CRIA model

Families Outside has developed a bespoke impact assessment process to use within the organisation. The charity says it faced numerous challenges when planning its approach. Firstly, available practice examples were predominantly from national government and accordingly more focused on legislation and strategic policy. Secondly, given that the organisation was one of the first to develop its own impact assessment tool, there were limited opportunities for external peer mentoring to support staff. Families Outside also noted challenges in designing a rigorous process that was also easy to use across the organisation. It found both the Scottish and Welsh Governments' CRWIA processes to be useful when designing its own process.

The charity has recently tested the tool on its accredited training modules. Families Outside's accredited training modules increase the knowledge and skills of professionals. As a result of carrying out the CRWIA process, some amendments were made to the content to reflect the importance of children's rights in legislation.

While it is unlikely future training products aimed at professionals would undergo a CRWIA, the test helped to define some of the boundaries of when and where a CRWIA should be used, the time requirement from staff to complete the process and to demonstrate the positive impact a CRWIA can have on ensuring children's rights are reflected. Families Outside is now looking to finalise their CRWIA procedure and train staff in how to carry out the process.

Children and Young People's Centre for Justice and Children and Young People's Commissioner Scotland – children's participation in CRIA

The Children and Young People's Centre for Justice (CYCJ) contributed children's evidence to inform the Independent Child Rights Impact Assessment of Scotland's response to COVID-19. The Independent CRIA was commissioned by the Children and Young People's Commissioner Scotland and led by the Observatory of Children's Human Rights Scotland.

Evidence was gathered as part of a wider engagement project with children and young people with experience of the justice system on the impact of COVID-19. Different approaches were used to gather the views, experiences and insights of different participant groups. This meant the approach was tailored to meet the needs of children currently or previously involved with the justice system, and with experience of different settings. Methods included using consistent topic guides and information for children and young people to support conversations. These resources were developed by CYCJ based on issues previously raised by children and young people in the Youth Just Us steering group (aged 16-25). Resources were tailored for children in the community, in secure care and in HMP YOI Polmont. CYCJ encouraged practitioners to use guides flexibly, allowing children and young people to direct discussions based on the topics they were most interested in or concerned about.

Evidence was gathered through a variety of means (direct engagement, phone, text, email). In each of these approaches, consistent information about the project, consent, anonymity and how the information would be used was shared with all participants.

As a result of this engagement, the Independent CRIA accurately reflected the key issues of concern to children and young people with experience of the justice system. These included isolation and lack of contact, boredom and lack of activity. A finding of particular concern was the impact of changes to the operation and processes across the justice system and some children feeling afraid of or targeted by the police. Others detailed more positive responses.

The Independent CRIA drew from children's views and experiences to shape a series of recommendations, some of which have since been implemented including: amending Coronavirus legislation to ensure that children are treated differently to adults and not criminalised for failing to comply, and prioritising children's cases when courts reopen.

- **Learn more about CYCJ's project here.**
- **Learn more about the Independent CRIA here.**
- **Read the child-friendly version of the Independent CRIA here.**



A Place in Childhood and Play Scotland – children's participation in Play Sufficiency Assessments

A Place in Childhood (APiC) and Play Scotland have been working on the development of Play Sufficiency Assessments, which will soon be a new legal requirement through the Planning (2019) Scotland Act. These assessments, focusing on children's right to play, will be used by planning officials to consider both the quantity and quality of available play space in local areas. Whilst a distinct tool from CRIA, there is learning to be drawn from the Play Sufficiency Assessment model which is currently under development.

APiC and Play Scotland are clear that children's views and participation are integral to effective Play Sufficiency Assessments – the same is true of CRIA. The organisations are working to ensure that these assessments are not purely desk-based, but that planners engage directly with children when conducting them.



CRIA in Wales – raising Welsh Ministers' awareness and understanding of CRIA

To ensure effective CRIA, those who conduct them must have knowledge and understanding of the UNCRC and CRIA process, as well as the skills and capacity to work closely with children so they can understand the real lived impact of their decisions. This applies regardless of whether the CRIA is being conducted by national or local government, by a specific service or charity.

The Rights of Children and Young Persons (Wales) Measure 2011 places a duty on Welsh Ministers to have "due regard" to the UNCRC when exercising any of their functions.³⁷⁴ A training approach has been developed for Welsh Ministers and Officials to enable them to discharge this duty. Ministers can access online training on children's rights and on CRIAs, as well as resources and support. Exemplar CRIAs are also provided. This ongoing support and guidance, beyond initial training, has been recognised as crucial.³⁷⁵



³⁷⁴ Section 1. Rights of Children and Young Persons (Wales) Measure 2011. <https://bit.ly/3IZTL9w> [Date accessed: 13.12.21].

³⁷⁵ Section 1. Payne, L. (2019). Child Rights Impact Assessment as a policy improvement tool. *International Journal of Human Rights* Vol 23 (3), p409.

8.6 Top tips

Several key messages can be drawn from the evidence and case studies above. Organisations should seek to:



- **Ensure staff understand** what CRIAs are and why they are important. This requires complementary capacity-building around children's human rights;
- **Recognise the direct and indirect impact** that decisions can have on children's rights. Decisions which are not immediately focused on children can still have a significant impact on their daily lives;
- **Adopt a CRIA model** that enables effective scrutiny, whilst also working for the needs of your organisation and the children involved. Models should avoid unnecessary repetition or being overly prescriptive in terms of their structure. Models could be an adaption of existing templates or simplified approaches;
- **Ensure CRIAs are started as early as possible** in the decision making process;
- **Ensure children are involved** in the CRIA design, implementation, monitoring and evaluation. This must involve providing children with accessible information and participation opportunities. Refer to chapters 2 and 3 for more information;
- **Gather relevant data**, including disaggregated data and children's own views and experiences, to enable identification of differing impacts on certain groups;
- **Rights and wellbeing** – effective CRIA models should focus on realising children's rights as the means to maximise their wellbeing;
- **Draw out actionable recommendations** to help decision makers understand what they should do;
- **Publish your CRIAs, including a child-friendly version;**
- **Monitor and evaluate CRIAs.** CRIAs should be a continuing point of reference – they should not be treated as one-off exercises;
- **Capture your own learning** to improve your practice and approach in carrying out future CRIAs. Share this learning with others to help them improve.



8.7 Resources

Scottish Government's CRWIA model

- Scottish Government (2021). **CRWIA template.**
- Scottish Government (2021). **CRWIA Guidance for Scottish Government Officials.**
- To find CRWIAs that have been published search for '**CRWIA**' or '**child rights and wellbeing impact assessment**' on **Scottish Government's website.**

Wider CRIA resources

- Observatory of Children's Human Rights Scotland (2020). **Conducting Children's Rights Impact Assessments: Learning in Action.**
- European Network of Ombudspersons for Children (2020). **Child Rights Impact Assessments (CRIA).**
- European Network of Ombudspersons for Children (2020). **Guide on How to Carry Out a CRIA.**
- Children's Commissioner Wales (no date). **Simplified CRIA Tool.**
- UNICEF UK (2017). **Child Rights Impact Assessments.**
- Together (2021). **Webinar slides and recording.**



Appendix: **Credits**

The State of Children's Rights report 2022 represents an overall consensus of opinion amongst Together's members and supporters. It does not necessarily represent in all respects or detail the views of every member of Together, nor every organisation that has contributed to this report. Views expressed separately by Together's members and supporters should also be taken into account. Thanks go to the following organisations for sharing their experiences to inform the preparation of this report:

Aberlour

A Place in Childhood

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

Ailemill Primary School

Argyll and Bute Council, Health and Social Care Partnership

Article 12 in Scotland

Barnardo's Scotland

British Institute for Human Rights (BIHR)

Care Inspectorate

Carers Trust Scotland

CEA (Committed to Ending Abuse)

CELCIS

Children 1st

Children 1st – Safeguarders Panel Team

Children in Scotland

Children's Health Scotland

Children's Parliament

Clan Childlaw

Close the Gap

CPAG Scotland

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CRIN

Children and Young People's Centre for Justice (CYCJ)

CYPCS

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Dr Tracy Kirk, University of Stirling, Lecturer in Child and Family Law

Enquire

Families Outside

Family Fund

Forces Children Scotland

ForcesWatch

Health and Social Care Alliance Scotland

HOPE for Autism

includem

Kinloss Primary

Licketyspit Theatre Company

Mind of My Own

NHS Dumfries and Galloway/ CAMHS Be Kind Project

Northern Star
Our Hearings, Our Voice
Partners in Advocacy
Play Scotland
Police Service of Scotland
Quakers in Scotland
Rachael Hatfield, SQA Where's Our Say?
RoSPA
Salvesen Mindroom Centre
Save the Children
Scottish Childminding Association
Scottish Commission for People with Learning Disabilities (SCLD)
Scottish Independent Advocacy Alliance
Scottish Public Services Ombudsman (SPSO)
Scottish Refugee Council
Scottish Women's Aid
Scottish Youth Parliament
See Me
Shared Parenting Scotland
Sight Scotland
St Paul's Youth Forum
St Philomena's RC Primary School
Starcatchers
Sustrans Scotland
The Aarskog Foundation
The Fostering Network
UNICEF UK
Who Cares? Scotland
YouthLink Scotland

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