



## School Premises Regulations

### Response from Together (Scottish Alliance for Children's Rights)

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

Together (Scottish Alliance for Children's Rights) is an alliance that works to improve the awareness, understanding and implementation of the UN Convention on the Rights of the Child (UNCRC) and other international human rights treaties across Scotland. We have over 600 members ranging from large international and national non-governmental organisations (NGOs) through to small volunteer-led after school clubs and interested professionals. The views expressed in this submission are based on wide consultation with our members but may not necessarily reflect the specific views of every one of our member organisations. Views expressed separately should also be taken into account.

#### Introduction

Together (Scottish Alliance for Children's Rights) welcomes the opportunity to respond to the proposed amendments to the School Premises (General Requirements and Standards) (Scotland) Regulations 1967. Children and young people consistently identify toilets, quiet spaces, accessibility, bullying and the sensory quality of school environments as rights issues affecting attendance, wellbeing and inclusion.<sup>1 2 3 4</sup>

In line with the Scottish Government's duty to ensure compatibility with the United Nations Convention on the Rights of the Child (UNCRC), our submission draws upon the Convention itself, the UN Committee on the Rights of the Child's (UN Committee) General Comments and the 2023 Concluding Observations for the UK, each identified in Section 4 of the UNCRC (Incorporation) (Scotland) Act 2024 as recognised sources for interpreting the UNCRC requirements. Our response is further informed by the experience and evidence shared by our member organisations, children, young people and their families.

We note concern that these proposals have been drafted in a way that means they fall outside the scope of the UNCRC (Incorporation) (Scotland) Act 2024. Since the proposals are set to amend a regulation passed before devolution, they are outside the compatibility duty and remedy provisions of the UNCRC Act.<sup>5</sup> We call into question why the amendments have been drafted in such a way.

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<sup>1</sup> 'State of Children's Rights in Scotland' (2024) Together – Scottish Alliance for Children's Rights [socrr2024\\_final.pdf](#)

<sup>2</sup> 'National Discussion on Education – Scottish Youth Parliament Response' SYP <https://syp.org.uk/wp-content/uploads/2023/01/National-Discussion-Consultation-Response-Final-Dec-22.pdf>

<sup>3</sup> 'Inclusive school environments – beyond the classroom' (October 2024) Inclusion Ambassadors [IA Inclusive-spaces-summary-paper\\_10.24-Final.pdf](#)

<sup>4</sup> 'Education Report 2023' (2023) LGBT Youth Scotland [LiS Education Report 2023](#)

<sup>5</sup> Under section 6(2) of the UNCRC (Incorporation) (Scotland) Act 2024, the "compatibility duty" applies only to functions conferred by Acts of the Scottish Parliament (or certain instruments made under them). It does not apply to provisions in pre-devolution UK Acts, even where those provisions have been inserted or amended by an Act of

We welcome that the Scottish Government has already started work on a Child Rights and Wellbeing Impact Assessment (CRWIA) and call on them to consider the rights issues outlined in our response. We have highlighted several aspects of the proposals where we have concerns that there may be incompatibilities with the UNCRC in Questions 6, 9, 24 and 25. We also have serious concerns that the proposals have not been drafted to be within scope of the UNCRC Act.

The proposed amendments impact the right to play (Article 31), as clarified in General Comments No. 17 and 26, which emphasise the need for outdoor spaces that support diverse forms of play and outdoor learning. The adequacy of outdoor space requirements should therefore be fully assessed through a CRWIA.

We also draw attention to risks related to the right to education (Articles 28 and 29), the right to privacy (Article 16) and the right to the highest attainable standard of health (Article 24) freedom from discrimination (Article 2) and the rights of disabled children (Article 23) supported by the Concluding Observations, General Comments and Together's own research with children and their families, particularly concerning the proposals on sanitary facilities. Evidence indicates that disabled children as well as trans, non-binary and intersex children may be disproportionately affected if the measures are implemented in ways that do not ensure inclusivity, impacting both wellbeing and educational outcomes. Please refer to our response to Question 9 for more detail.

**We call on the Scottish Government to:**

- Review the rights issues raised by the Regulations
- Continue to produce and publish a comprehensive CRWIA, fully informed and influenced by the views of children and young people
- Review the drafting of these proposals to bring them within scope of the UNCRC Act

**Sites for playing fields**

**Question 6:** Do you agree that if there is a mixture of grass pitches and SP then the area required in some circumstances can be less than that currently defined for grass pitches? If not, why not?

The right to play is enshrined in Article 31 of the UNCRC, which requires the Scottish Government to “encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity”. The UN Committee expands on this obligation in General Comment No. 17, which states that playgrounds, play landscapes and equipment must be safe and regularly inspected, they must be designed to enable all children to play and participate equally. Play spaces must provide opportunities for all forms of play. The UN Committee also highlights the importance of involving children in the development of legislation, policy and practice relevant to the fulfilment of their Article 31 rights.<sup>6</sup>

Together calls into question whether these requirements have been adequately considered within the current proposals. Decisions relating to outdoor space size requirements and the

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the Scottish Parliament. As a result, where functions remain in statutes such as the Children (Scotland) Act 1995, public authorities are not bound by section 6 when exercising them, and children cannot use sections 7 or 8 of the UNCRC Act to seek a remedy.

<sup>6</sup> UNCRC General Comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts [General comment no. 17 \(2013\) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts \(art. 31\)](#), para 58(g)

differing treatment of synthetic versus grass pitches, should include consideration of children's views on how these changes could affect their access to play and recreational activities. We also emphasise, echoing the UN Committee, the essential role of school playgrounds both during and outside school hours, particularly in light of decreasing tolerance of children playing in other public outdoor spaces (General Comment No. 17).<sup>7</sup> The UN Committee further addresses in General Comment No. 26 the importance of outdoor spaces in delivering education on environmental values.<sup>8</sup> The Scottish Government should assess whether the proposal implicitly promotes increased use of synthetic pitches, which may restrict children's play and education due to safety issues, maintenance requirements or limited permissible usage.

Overall, we urge that this proposal continues to undergo a comprehensive CRWIA to identify children whose rights are at risk and to determine what mitigations must be incorporated into the Regulations to safeguard their rights under Article 31.

### **Washing accommodation for pupils**

**Question 9:** Do you agree that these proposals cover the modern requirements for toilet and washing facilities? If not, why not?

The proposed update to the regulations on school sanitary facilities may not yet sufficiently meet the needs of all children in Scotland. Together urges the Scottish Government to undertake a comprehensive CRWIA to examine the implications of the existing regulation and suggested changes. Such an assessment is essential to identify which groups of children may be at heightened risk of rights infringements and to ensure appropriate mitigations are put in place.

Together has identified trans and non-binary children as one of the groups most at risk under the current proposals. The draft regulations provide no explicit clarification as to whether the terms "boys" and "girls" are to be interpreted in a trans-inclusive manner. LGBT Youth has reported that young people have told them being able to use the toilet that they feel most appropriate is important to their wellbeing at school.<sup>9</sup> This is of particular concern given that the Scottish Government's 2025 revised guidance for supporting transgender pupils in schools states that "as the law stands, the facilities require to be made available on the basis of biological sex"<sup>10</sup>, referencing the existing School Premises Regulations 1967, guidance already implemented by Edinburgh City Council.<sup>11</sup> Any approach that restricts children from accessing sanitary facilities that align with their gender identity could be incompatible with Scotland's obligations under the UNCRC.

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<sup>7</sup> UNCRC General Comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts [General comment no. 17 \(2013\) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts \(art. 31\)](#), para 37

<sup>8</sup> UNCRC General Comment No. 26 (2023) on children's rights and the environment, with a special focus on climate change [General comment No. 26 \(2023\) on children's rights and the environment, with a special focus on climate change](#), para 54

<sup>9</sup> 'Built for us' LGBT Youth Scotland [Built for us? - LGBT Youth Scotland](#)

<sup>10</sup> 'Supporting transgender pupils in schools: guidance for education authorities and schools – revised' (29 September 2025) Scottish Government <[Supporting transgender pupils in schools: guidance for education authorities and schools – revised - gov.scot](#)>

<sup>11</sup> 'Support for Transgender Pupils in Schools Update' ( 2 September 2025) The City of Edinburgh Council [Item 8.2 - Support for Transgender Pupils in Schools Update.pdf](#)

The Committee, in its 2023 Concluding Observations to the UK, called for clear guidance on the inclusion of trans and gender-questioning children in schools and emphasised that such guidance must “fully respects their rights, including their rights to identity and to privacy”.<sup>12</sup> General Comment No. 1 further provides that school environments must be “consistent in all respects with the dignity of the child”.<sup>13</sup> Proposals that prevent children from using the sanitary facilities of their choice risk violating these core principles.

Evidence gathered through Together’s Rights on Track campaign shows that restrictions on toilet access for any child can result in physical health issues, heightened stress and anxiety and reduced school attendance.<sup>14</sup> Requiring a child to choose between gender-neutral facilities and those assigned based on sex at birth may also compel them to reveal aspects of their identity to peers or staff, undermining their right to privacy.

Children with additional support needs are also a group at risk. The Inclusion Ambassadors have said that shared school spaces, such as toilets, can be overwhelming or difficult to navigate. They advocate that schools should provide environments that feel safe, accessible and supportive.<sup>15</sup> Toilets and other washing facilities should be designed in a way that reflects the needs of all pupils. Under the UNCRC the government is required to ensure that the rights of disabled children to enjoy a full and decent life and to participate actively in the community (Article 23). To achieve this the UNCRC Committee details that schools must undergo necessary alterations to make them as accessible as possible for children with disabilities.<sup>16</sup> These alterations include facilities such as toilets and other washing facilities.

These concerns engage several UNCRC rights, including:

- The right to the highest attainable standard of health (Article 24), given the physical and emotional health risks associated with restricting access to appropriate and accessible facilities.
- The right to education (Article 28 and 29), as stress, anxiety or health issues caused by inaccessible distressing, or restricted facility use may lead to missed learning time and reduced engagement.
- The right to privacy and dignity (Article 16), where children may be forced to disclose sensitive personal information or use facilities that feel unsafe or inappropriate.
- Non-discrimination (Article 2) there should be measures in place to ensure that groups such as disabled children or trans and non-binary children can access school environments on an equal basis with other children.

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<sup>12</sup> Concluding observations on the combined 6th and 7th periodic reports of the United Kingdom of Great Britain and Northern Ireland : Committee on the Rights of the Child, [Concluding observations on the combined 6th and 7th periodic reports of the United Kingdom of Great Britain and Northern Ireland](#) ; para 47(g)

<sup>13</sup> UNCRC General comment No. 1 The Aims of Education (2001), [a\) General Comment No. 1: The Aims of Education \(article 29\) \(2001\) | OHCHR](#) para 8

<sup>14</sup> ‘#RightsOnTrack’ Together – Scottish Alliance for Children’s Rights [#RightsOnTrack | Together Scotland](#)

<sup>15</sup> ‘Inclusive school environments – beyond the classroom’ (October 2024) Inclusion Ambassadors [IA Inclusive-spaces-summary-paper 10.24-Final.pdf](#)

<sup>16</sup> UNCRC General Comment No. 9 (2006) The rights of children with disabilities [General comment no. 9 \(2006\), The rights of children with disabilities](#), para 40

In line with an inclusive and rights-respecting approach to sanitary provision, Together also stresses that sanitary disposal units should be available in all toilet facilities. This is essential to ensure that children who menstruate, including those who prefer to use boys' facilities, can manage their periods safely and with dignity.

Overall, we strongly encourage the continuation of a full and comprehensive CRWIA to assess and mitigate the rights risks identified above and to ensure that any additional groups of children who may be adversely affected are properly considered and protected.

## Wellbeing spaces

**Question 11:** Do you agree that wellbeing spaces, including nurture spaces, should be included in the regulations? If not, why not?

Together enthusiastically supports the inclusion of wellbeing spaces, including nurture spaces, in the regulations. Their inclusion upholds the right to education, which encompasses the development of their personality, talents, and mental and physical abilities to their fullest potential (Article 29), their right to rest, leisure and play (Article 31) and the right of children with disabilities to a full and decent life (Article 23).

Children with additional support needs have the right to enjoy a full and decent life and to receive support that enables their active participation in the community, including education (Article 23). For children with additional support needs, sensory sensitivities or anxiety, access to quiet or wellbeing spaces may be essential to meaningful participation in school life. The Inclusion Ambassadors highlight that busy spaces like corridors, playgrounds and dining halls can be overwhelming and that schools should provide quiet or designated spaces where pupils can regulate, decompress and feel safe.<sup>17</sup>

All children are entitled to the highest attainable standard of health, including mental health and wellbeing. School environments that are noisy, crowded or stressful may negatively affect a child's mental health. Wellbeing spaces can support emotional regulation and reduce stress and help create calmer learning environments.

The Children's Parliament have consulted with children on the need for safe spaces in schools to create a more welcoming environment, prevent bullying and reduce mental health problems.<sup>18</sup> Some of the quotes from their participants include:

"There needs to be nurture spaces for children with additional support needs and other children who need them. It's important that these kids have their own space, but all children also need a space. Making it a separate thing is important because everyone needs some calm down time. Some children do need it more and they might not want everyone coming in."

"A nurture space can be one teacher, a room or one seat in the lunch hall. The real meaning of a nurture space is that it makes you feel calm."

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<sup>17</sup> 'Inclusive school environments – beyond the classroom' (October 2024) Inclusion Ambassadors [IA Inclusive-spaces-summary-paper 10.24-Final.pdf](#)

<sup>18</sup> Evidence from the Children's Parliament consultation was shared directly with Together.

"The teachers should have conversations with the children about how to make the whole school a nurture space."

Outlining that the call for such spaces has come directly from children utilising their right to be heard (Article 12). It also displays a need to ensure that there is continued involvement of children in the development of nurture and wellbeing spaces in schools.

## Equality

**Question 24:** Please tell us about any potential equality impacts, either positive or negative, that you consider the proposals in this consultation may have, with reference to the 'protected characteristics' listed above. Please be as specific as possible.

For reasons stated in Question 9 the proposed update could discriminate against those who fall under the protected characteristic of disability as the proposal has not addressed how shared facilities such as toilets may be overwhelming or distressing for children with additional support needs. The proposal should contain more measures that aim to make these facilities equally accessible for all children.

Additionally, the proposals could be discriminatory of those that fall under the protected characteristic of gender reassignment. Restriction on the use of toilet and wash facilities can negatively impact children who are trans, intersex, gender non-conforming and those who may be perceived to be trans and increases the risk of transphobia through the enforcement of such regulations.

No policy should lead to discrimination or harm. The current wording of the proposal would create a risk of both. For further detail please refer to our answer in question 9.

## Child Rights and Wellbeing

**Question 25:** Are there any aspects of a child's rights or wellbeing that you think might be affected either positively or negatively by the proposals covered in this consultation?

Together wishes to draw attention to the Scottish Government's duty to ensure full compatibility with the UNCRC. Section 4 of the UNCRC (Incorporation) (Scotland) Act 2024 sets out the recognised sources of UNCRC requirements, including the UN Committee on the Rights of the Child's General Comments and Concluding Observations. These documents provide authoritative guidance on the interpretation and implementation of children's rights. It is therefore essential that all policies and regulatory proposals are demonstrably aligned with these sources in order to uphold and fulfil the rights of all children across Scotland.

We note concern that these proposals have been drafted in a way that means they fall outside the scope of the UNCRC (Incorporation) (Scotland) Act 2024. Since the proposals are set to amend a regulation passed before devolution, they are outside the compatibility duty and remedy provisions of the UNCRC Act. We call into question why the amendments have been drafted in such way.

We urge the Scottish Government to identify and address the rights risks emerging from the proposed Regulation and to complete and publish the Child Rights and Wellbeing Impact Assessment (CRWIA) prior to further progression. As highlighted in our response to Questions 6, 9 and 24, several aspects of the proposals present potential incompatibilities with obligations under the UNCRC.

In particular, the proposed changes affect the right to play (Article 31), as clarified in General Comments No. 17 and 26, which emphasise the need for outdoor spaces that support diverse forms of play and outdoor learning. The adequacy of outdoor space requirements should therefore be fully assessed through a CRWIA.

We also draw attention to risks related to the right to education (Articles 28 and 29), the right to privacy (Article 16), the right to the highest attainable standard of health (Article 24), freedom from discrimination (Article 2) and the rights of disabled children (Article 23), supported by Concluding Observations, General Comments No. 1 and 9 and Together's own research with children and their families particularly concerning the proposals on sanitary facilities. Evidence indicates that trans, non-binary and intersex children as well as children with disabilities may be disproportionately affected if the measures are implemented in ways that do not ensure inclusivity, impacting both wellbeing and educational outcomes. Please refer to our response to Question 9 for more detail.

We welcome that the Scottish Government has already started work on a CRWIA and call on them to consider rights issues outlined in our response. The continuing assessment in the CRWIA should examine the differential impacts of the proposals on different groups of children and identify which groups may be at heightened risk, including (but not limited to) LGBTQ+ children. It should also include meaningful and accessible opportunity for direct engagement with children and young people. Such participation is essential to fulfilling their right to be heard and ensuring that their best interests are a primary consideration in decision making.

The CRWIA should additionally set out clear plans for routine monitoring and review once the proposals are implemented, as well as robust mechanisms for accountability, redress and access to justice in situations where children's rights may be adversely affected in practice.

Together urges the Scottish Government to fully consider the rights issues highlighted in our response to Questions 6, 9 and 24 and to ensure that these concerns, alongside the findings of a comprehensive CRWIA, inform revisions to the proposed changes. This is necessary to secure compatibility with the rights and obligations set out under the UNCRC. We also call into question why the amendments have been drafted in a way that falls outside the scope of the UNCRC (Incorporation) (Scotland) Act 2024.

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