



Scottish Government Consultation

Empowering Schools: A Consultation on the Provision of the Education (Scotland) Bill

January 2018

About Together

Together (Scottish Alliance for Children's Rights) is an alliance of children's charities that works to improve the awareness, understanding and implementation of the UN Convention on the Rights of the Child (UNCRC) in Scotland. We have over 380 members ranging from large international and national non-governmental organisations (NGOs) through to small volunteer-led after school clubs. Our activities include collating an annual *State of Children's Rights* report to set out the progress made to implement the UNCRC in Scotland. The most recent report was launched in December 2017 and features over 40 case studies of where public bodies have taken steps to further children's rights. The report should act as an encouraging tool for public bodies to draw from when exploring how to embed children and young people's rights into their own policy and practice. This is particularly timely as the duties established in Part 1 of the Children and Young People (Scotland) Act 2014, which require public bodies to report every three years on the steps they have taken to further children and young people's rights, commenced in 2017 with the first reports to be published in 2020.

Together has chosen to respond to Part 1 (Headteachers' Charter), Part 2 (Parental and Community Engagement), and Part 3 (Pupil Participation).

The views expressed in this submission are based on the UNCRC and do not necessarily reflect the specific views of every one of our member organisations.

Part 1: Headteachers' Charter (Questions 1-7)

The Cabinet Secretary for Education and Skills is clear that 'our education system must enable children to achieve their full potential regardless of their background'.¹ We welcome his statement that the Scottish Government accepts the responsibility to 'work with [our] partners in local government to create the culture and capacity for teachers and practitioners to improve the learning outcomes in their classrooms'.

¹ Scottish Government (2017). Empowering Schools: A Consultation on the Provisions of the Education (Scotland) Bill, p.1. [Date accessed: 29.1.18]. https://consult.gov.scot/learning-directorate/education-scotland-bill/user_uploads/sct1017199316-1_p6.pdf

In our response, Together (Scottish Alliance for Children's Rights) does not take a specific position on the merits of introducing a Headteacher's Charter. Instead, we concentrate on how such a Charter could be used to embed rights-based practice across Scotland's schools.

The United Nations Convention on the Rights of the Child (UNCRC)² sets out the rights of children and young people. Through the UK Government's ratification, the Scottish Government is bound in international law to respect, protect and fulfil children's rights in line with the UNCRC. This has been translated into domestic law through the provisions of Part 1 of the Children and Young People (Scotland) Act 2014. The Scottish Government has committed to translate the rights set out in the UNCRC into practical, real life experiences for children, and to enable them to exercise their rights. As such, the UNCRC should underpin any powers or duty placed on Headteachers to support them to deliver a consistently high standard of rights-based education. The UNCRC should also provide the foundation from which Headteacher inform all decisions, from governance structures through to staffing, and budgeting.

Article 29 of the UN Convention on the Rights of the Child sets out the aims of education. It states that:

1. *'States Parties agree that the education of the child shall be directed to:*
 - (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;*
 - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;*
 - (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;*
 - (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;*
 - (e) The development of respect for the natural environment.'*

Part 1(a) of Article 29 has been incorporated into Scots Law through the Standard in Scotland's Schools etc Act 2000.³ The remaining principles of Article 29 have been highlighted by the UN Committee as being 'of far-reaching importance' and 'linked directly to the realisation of the child's human dignity and rights.'⁴ Together therefore recommends that the development of the Headteacher's Charter is used as an opportunity to further embed Article 29.

The UN Committee's General Comment No. 1 elaborates on the rights laid out in Article 29. It states that:

² The United Nations Convention on the Rights of the Child.
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

³ Standard in Scotland's Schools etc. Act 2000. Section 2.1.
<https://www.legislation.gov.uk/asp/2000/6/crossheading/provision-of-school-education-right-of-child-and-duty-of-education-authority>.

⁴ CRC/GC/2001/1 : Para 1.
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2001%2f1&Lang=en.

'The education to which every child has a right is one designed to provide the child with life skills, to strengthen the child's capacity to enjoy the full range of human rights and to promote a culture which is infused by appropriate human rights values. The goal is to empower the child by developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence.'

Together recommends that the full range of aims of education as articulated in UNCRC Article 29 and the accompanying General Comment 1 is fully embedded into the Headteacher's Charter. This will shape the ethos and culture of educational institutions into one in which children and young people's rights are placed at the centre of all decision-making. It would also reaffirm the value of providing support to parents that empowers them to raise their child in a manner which fulfils their rights enshrined in the UNCRC. In doing this, all children and young people should benefit from equally high standards of learning regardless of age, socioeconomic status, ethnicity, or gender.

Part 2: Parental and Community Engagement (Questions 8-10)

In any reform to the Scottish Schools (Parental Involvement) Act 2006, or more broad changes to parental involvement in the school community, the role of engaging parents and carers in protecting and respecting children's rights should be paramount.

The role of the parent in guaranteeing and promoting the rights of the child is enshrined throughout the UNCRC. The preamble to the UNCRC states:

*'the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.'*⁵

The importance of parental support is further emphasised in several UNCRC articles including:

- Article 5 (Government's responsibility to respect the rights and responsibilities of parents)
- Article 18 (Government's must lend appropriate assistant to parents & guardians)
- Article 27 (parents are responsible for ensuring their child has an adequate standard of living)

Article 5 in particular sets out the responsibilities on governments to support families in helping to fulfil the rights of their children:

'States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.'

Any efforts made to enhance the Scottish Schools (Parental Involvement) Act 2006 should therefore reinforce the rights enshrined in the UNCRC and focus on building relationships between parents, carers and the school community that will protect and respect childrens' rights.

⁵ UN Convention on the Rights of the Child (1989).

Part 3: Pupil Participation (Questions 11 and 12)

Question 11

Should the Bill include a requirement that all schools in Scotland pursue the principles of pupil participation set out in Chapter 3? Should this be included in the Headteachers' Charter?

Together agrees that the Bill should include a requirement that all schools pursue principles of pupil participation. Such a duty would support the implementation of the duty included in Part 1 of the Children and Young People (Scotland) Act 2014 to 'take steps to secure better or further effect in Scotland of the UNCRC requirements' as well as 'promote public awareness and understanding of the rights of children'.⁶ As such, it is essential that any such duty enshrines the jurisprudence of the UN Committee on the Rights of the Child, such as those outlined in 'General Comment 12: The Right of the Child to be Heard.'⁷ Paragraph 134 of the General Comment states that 'all processes in which a child or children are heard and participate must be:

- Transparent and informative
- Voluntary
- Respectful
- Relevant
- Child-friendly
- Supported by training
- Safe and sensitive to risk
- Accountable.'

Using these principles to underpin any participation duty would ensure that participation is 'effective, ethical, and meaningful.'⁸ It would also give rise to the fulfilment of several other of the Committee's recommendations for participation including encouraging child-led initiatives, promoting the active role of children in a participatory learning environment, and creating a social climate which stimulates cooperation and mutual support needed for child-centered learning interaction.⁹

Together agrees that, should a Headteacher's Charter be implemented, a requirement that all schools pursue principles similar to those outlined in the UN Committee's General Comment 12 on pupil participation should be included.

⁶ Children and Young People (Scotland) Act 2014. Section 1.1.

⁷ CRC/C/GC/12: Para 134.

⁸ CRC/GC/12 : Para 132.

⁹ CRC/C/GC/12

Question 12

What are your thoughts on the proposal to create a general duty to support pupil participation, rather than specific duties to create Pupil Councils, committees etc...?

Together supports the creation of a general duty to support pupil participation. This should work to ensure that pupil participation is embedded in all aspects of school life.

Such a duty should encourage schools to focus on creating an ethos where pupil participation is embedded throughout the school culture. Children have highlighted the importance of this, and say they 'want to be involved day-to-day, both individually and collectively, in the classroom and across school, on matters of teaching and learning.'¹⁰ They have also highlighted that, in the classroom, participation is not only about having the opportunity to have their views heard on key issues, but also about feeling respected by adults, not being shouted at, and being treated with dignity.¹¹ A general duty should encourage schools to develop meaningful participation structures that suit their specific needs, and ensure all pupils are supported to participate in a wide-range of decisions if they so wish.

Together recommends that the duty should set out processes of participation that should be followed in all aspects of the school community. This should be supplemented by guidance that would support schools to take a consistent, child-led and rights-based approach to participation and support education leaders to develop their understanding of what participation looks like and what outcomes should be achieved. Such guidance could highlight potential models of participation, what the outcomes of participation should be, and demonstrate through case studies what effective and meaningful participation of children and young people looks like. Guidance should clearly illustrate the importance of not only empowering children and young people to have their views heard, but also and using these views to influence decisions throughout the school community.

Additional

Together recommends that a full Child's Rights Wellbeing and Impact Assessment is undertaken to inform the development of the Bill as it passes through Parliament.

For further information, please contact Joanna Shepherd, Assistant Policy Officer

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¹⁰ Children's Parliament (2017). What Kind of Scotland? P.20. [Date accessed: 29.1.18].

<https://www.childrensparliament.org.uk/wp-content/uploads/WhatKindofScotlandOnline2017.pdf>

¹¹ Children's Parliament (2017). What Kind of Scotland? <https://www.childrensparliament.org.uk/wp-content/uploads/WhatKindofScotlandOnline2017.pdf>