



Consultation on Scotland's Ten-Year Strategy for the Learning Provision for Children and Young People with Complex Additional Support Needs 2017 - 2026

August 2017

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 360 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 November 2016 and sets out recommendations to the Scottish and UK Government that should be taken forward to ensure children in Scotland have their rights under the UNCRC respected, protected and fulfilled.¹

In relation to the overall 10 Year Strategy - are there any areas missing, requiring strengthening, or which are not required and could be removed?

Overall, Together welcomes Scotland's Strategy for the Learning Provision for Children and Young People with Complex ASN and its reference to working within the framework of the UNCRC. The Strategy would be strengthened by:

- **Explicitly referencing the UN 2016 Concluding Observations relating to children and young people with complex ASN;**
- **Undertaking a CRWIA on the Strategy to assess its impact on the rights and wellbeing of children, in line with duties under the Children and Young People (Scotland) Act 2014;**
- **Embedding the views and experiences of children and young people with complex ASN into the Strategy's development, implementation and monitoring structures going forward, in line with Article 12;**
- **Ensuring that workforce training to support children and young people with complex ASN is effectively and sufficiently resourced and embeds a child rights approach;**
- **Setting out a monitoring and evaluation framework that has specific, time-bound and achievable outcomes.**

¹ Together (Scottish Alliance for Children's Rights) (2016). [State of Children's Rights in Scotland](#).

UN recommendations for children and young people with complex ASN

Scotland's Ten-Year Strategy for the Learning Provision for Children and Young People with Complex Additional Support Needs 2017-2026 highlights children's rights and the UNCRC as part of the legislative and policy framework within which the Commissioning Process will operate. In 2016, the UN Committee on the Rights of the Child (UN Committee) made a series of [150 recommendations](#) (known as Concluding Observations) to set out where the UK – including Scotland – is falling short in implementing the UNCRC. In its 2016 [State of Children's Rights report](#), Together consulted with its broad membership to articulate these Concluding Observations as Scotland-specific recommendations, many of which refer to support for children and young people with complex ASN. These recommendations provide a comprehensive roadmap ranging across the Strategy's priorities including the provision of a comprehensive and integrated package of services for transition to adulthood, the availability of ASN resources, and consideration of the intersectional groups of children and young people with additional support needs. Mapping the UN recommendations onto the Strategy would ensure a comprehensive approach to ensuring the rights of all children and young people with complex ASN are met.

CRWIA

The Strategy engages a range of children's UNCRC rights, including article 3 (best interests), article 2 (non-discrimination), 5 (evolving capacities), 12 (right to be heard) and 23 (additional support for children with a disability).²

Under Part 1 duties of the Children and Young People (Scotland) 2014 Act³, public authorities are required to give due consideration to ways in which the UNCRC can be better implemented and to take account of the views of children and young people. Together recommends that a full Child Rights and Wellbeing Impact Assessment (CRWIA)⁴ is carried out to inform the development and implementation of the Strategy. A full CRWIA will ensure the Strategy is systematically underpinned by the UNCRC and will identify opportunities to further progress children's rights as well as identifying any gaps in support for children and young people with complex ASN. A CRWIA would ensure that all groups of children and young people with complex ASN are considered across the four key priorities set out within Scotland's National Improvement Framework, as well as strengthen the evidence base for decisions around national commissioning, in line with the Strategy's objectives.

The CRWIA should reflect the views and experiences of children and young people with ASN. It should take note of the UN Committee's General Comments, particularly:

- [General Comment No. 1](#) on the aims of education
- [General Comment No. 9](#) on the rights of children with disabilities
- [General Comment No. 12](#) on the right to be heard
- [General Comment No. 14](#) on best interests of the child

² See <http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>

³ [Children and Young People \(Scotland\) Act 2014](#), Part 1.

⁴ A child rights impact assessment model has been developed; see <http://www.gov.scot/Topics/People/Young-People/families/rights/child-rights-wellbeing-impact-assessment>

General Comments provide an authoritative interpretation from the UN Committee on how to implement the UNCRC, with in-depth advice on specific issues. They will prove invaluable in enabling scrutiny of the Strategy and will support examination of areas where positive impacts on children's rights can be enhanced, and negative impacts mitigated.

Together looks forward to the publication of the CRWIA on the Strategy and encourages this exercise to be undertaken as soon as possible. The implementation of the Strategy should be informed and developed in line with any emerging recommendations as a result of the CRWIA. Such an approach will ensure an intersectional analysis of the Strategy's objectives which takes into account the rights and views of all children and young people with complex ASN.

Participation of children and young people with complex ASN

Together welcomes the inclusion in the Doran Review of UNCRC Article 12 on taking into account the views of children into decision-making.⁵ Participation of children and young people should also be embedded within the ten-year Strategy to ensure that learning provision considers the life conditions and prospects of children and young people with complex ASN. Giving children's views weight is particularly important in the elimination of discrimination, prevention of bullying and disciplinary measures.⁶ Children with additional support needs are twice as likely to experience social exclusion by their peers,⁷ and 76% of children with a learning disability have been bullied at school.⁸

Together's members have highlighted that transitions are an issue for children with long term or life-limiting conditions. In decisions about transitions, the right of the child to be heard has to be assured as these decisions deeply affect the child's best interests. The Children and Young People (Scotland) Act 2014 states that the authority which is handling a young person's transition should have regard for the views of the child when preparing their plan.⁹ Taking into account a young person's needs and aspirations has been shown to improve outcomes during transitions.¹⁰ Scottish legislation such as the Children and Young People (Scotland) 2014 Act and the Social Care (Self-Directed Support) (Scotland) Act 2013¹¹ promotes independence and choice so that young people are more actively involved in this decision-making. However, this approach is not always fully realised and children and young people with ASN sometimes feel that the organisational processes involved with their transition are prioritised over their needs, as opposed to the overall processes being person-centered.¹²

Children and young people with complex ASN must be supported to participate in decision-making, with properly resourced auxiliary aids, services and workforce training provided to do so. Ensuring that Article 12 is met will benefit the four key priorities central to the outcomes of the Strategy –

⁵ [The Doran Review](#). See page 72.

⁶ [General Comment No. 12](#).

⁷ Naylor, P.B. (2012). [Prevalence of Bullying in Secondary School by SEN type](#). Economic and Social Research Council; See also: Department for Children, Schools and Families (2009). [The characteristics of bullying victims in schools](#). National Centre for Social Research.

⁸ ENABLE Scotland (2016). [IncludEd in the Main?!](#)

⁹ Scottish Government (2014). s.35 Children and Young People (Scotland) Act 2014.

¹⁰ ARC Scotland (2016). [Principles of Good Transitions 3](#).

¹¹ Scottish Government (2013). [Social Care \(Self-Directed Support\) \(Scotland\) Act 2013](#).

¹² Autism Network Scotland (2015). [Exploring Transitions: Digging Deeper Roadshow Report](#).

raising attainment, achieving equity, improving health and wellbeing, and developing skills for learning, life and work.

Training of the workforce

Children with complex ASN need access to a wider variety of high quality, well-resourced and quickly accessible services, with adequate provision in both special and mainstream education.¹³ Together welcomes the emphasis placed by the Doran review on the need for a highly trained and experienced team to support the child or young person with complex ASN, and for these specialists to be adequately available. Specialist services should be made known to children and young people with complex ASN through effective awareness-raising, dissemination of information and with adequate resourcing in place to ensure access.

In particular, children's organisations are concerned about the lack of mandatory training for teachers in supporting children with complex ASN, which often results in certain behaviours not being understood.¹⁴ The exclusion rate per 1,000 pupils for those with ASN is more than four times higher than those who have no additional support needs¹⁵ and children and young people with ASN are disproportionately subject to informal exclusion.¹⁶ Children often feel they are being 'punished' because of their additional support needs, rather than supported.¹⁷

There is currently no government policy that provides children with additional support needs who attend local authority education or care facilities with protection from restraint and seclusion.¹⁸ This is problematic for children with complex ASN who may attend mainstream schools. These children may have communicative behaviours that are not understood and, without clear guidance, inappropriate responses are likely to occur. There is an urgent need to address this policy gap to ensure the safety and wellbeing of all children.

Evidence also suggests a lack of adequate support and training for school staff who administer medicines and health care procedures in schools.¹⁹ Workers providing these services in schools report that their confidence and competence is impaired by inadequate training, leaving them uncomfortable administering medicines or health care procedures.²⁰ Research shows that families of children and young people with common health conditions and even straightforward medication requirements have experienced serious difficulties in ensuring that these are provided safely, regularly and willingly in schools.²¹

¹³ Scottish Children's Services Coalition (2016). [Manifesto for Scottish Parliament](#).

¹⁴ Together (Scottish Alliance for Children's Rights) (2016). [State of Children's Rights in Scotland](#). See page 119.

¹⁵ Scottish Government (2016). [Summary statistics for attainment, leaver destinations and healthy living](#). No. 6: 2016 Edition.

¹⁶ Enable Scotland (2015). Education (Scotland) Bill – stage 1: [Response to call for views by the Education and Culture Committee](#).

¹⁷ From Partners in Advocacy casework experience. See page 123, Together (Scottish Alliance for Children's Rights) (2016). [State of Children's Rights in Scotland](#).

¹⁸ Scottish Parliament (2015). [National Guidance on Restraint and Seclusion in Schools, petition](#).

¹⁹ Stone, K. & Doyle, S. (2013). ['No barriers to medication at school': The Administration of Medicines and Health Care Procedures in Schools: The views of parents and carers](#).

²⁰ RCN and UNISON (2012). [Supporting pupils with health needs in schools](#).

²¹ Birnie, S. (2014). [Making Connections – Realising our potential](#). Supporting Children and Young People with Type 1 Diabetes in Education.

Training needs to be systematic and ongoing, and embed the status of children as rights holders alongside the enhancement of specialist learning provisions for children and young people with complex ASN. Existing resources to support this include the [Common Core of Skills, Knowledge & Understanding and Values for Scotland's workforce](#), the values of which are taken from the [Getting It Right for Every Child](#), an approach recognised in the framework of the Strategy. There should be periodic evaluation of the effectiveness of training, including the extent to which it has contributed to actively promoting the enjoyment by children of their UNCRC rights.

Embedding a child rights approach into training of learning provision for children and young people with complex ASN would support the public authorities outlined in this consultation in fulfilling their duties under the Children & Young People (Scotland) Act 2014 to report on steps taken to secure better or further effect of the UNCRC.²²

Monitoring and evaluation

Together notes that an evaluation and planning framework for improvement will be developed following agreement of the Strategy. Together urges Scottish Government to set out resourced, specific, time-bound and achievable targets throughout the ten-year period in relation to the full range of support needed to improve the learning provision of children and young people with complex ASN, in both human and financial terms. As with the development and implementation of the Strategy itself, monitoring and evaluation frameworks should incorporate the views of children and young people with complex ASN.

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²² Children and Young People (Scotland) Act 2014.
<http://www.legislation.gov.uk/asp/2014/8/section/2/enacted>