

## Implementing & monitoring the UN Convention on the Rights of the Child (UNCRC) Post-Seminar Briefing 2: The UNCRC in Practice

This briefing supports a series of four seminars funded by the [Scottish Universities Insight Institute](#) which seek to improve - and address gaps - in the implementation and monitoring of the UNCRC in Scotland. Seminars examine the UNCRC from the perspectives of law, practice, policy and identify next steps for implementation. They are held in partnership between [Together \(Scottish Alliance for Children's Rights\)](#), the [Centre for Research on Families and Relationships](#) at the University of Edinburgh, and the [Centre for Child Wellbeing and Protection](#) at the University of Stirling.

This second seminar explored methods through which children and young people's views and experiences are – and should be – used in practice to inform legislative and policy developments (in line with UNCRC Article 12). Gerison Lansdown explored research developments and learning in children's participation over the past 25 years and outlined the Council of Europe's new Child Participation Assessment Tool as a model that could be adopted in Scotland. Children and young people from the Children's Parliament, Who Cares? Scotland and the Scottish Youth Parliament highlighted participation projects from across Scotland that are succeeding in influencing policy and practice. Threading throughout all the discussion at the seminar was the question – what measures need to be put in place to ensure that Scotland embraces a culture in which children and young people inform and influence decisions at a local, national and international level?

### Key messages

- Article 12 may be one of the most quoted of all children's rights, yet also one of the least understood. Meaningful participation of children and young people requires consistent and ongoing engagement and involvement, that is non-tokenistic and aim to ascertain representative views.
- Whilst listening is the first step, acting on what is heard is paramount to effect real change for children and young people.
- The behaviours and attitudes of adults towards children and young people greatly impacts on children's perspectives on their society, built environment and own capabilities.
- Whilst there are clear examples of effective participation models in Scotland, this engagement is *ad hoc* and not supported by a larger embedded strategic framework.
- Frameworks such as the Council of Europe's [Child Participation Assessment Tool](#) can play a key role in establishing and embedding a national culture in which children's rights are respected and children and young people are taken seriously.
- Scottish Government should take a strategic approach to participation which ensures a coordinated, resourced and best-practice approach across all national government departments. Public bodies should be encouraged to replicate this approach across local services. The Scottish Parliament should create opportunities for children and young people to build relationships with relevant Committees to explore and scrutinise specific areas of priority.

## What does the UNCRC Article 12 say about participation?

Children and young people have the right to say what they think should happen and have their opinions taken into account when adults are making decisions that affect them. To make this right real, government needs to ensure there are meaningful processes in place for children and young people's participation when designing laws, policies, programmes and services at local and national levels. The UN Committee on the Rights of the Child (the Committee) emphasises that specific attention should be given to involve younger children and children in vulnerable situations.<sup>1</sup> Article 12 has been identified by the Committee as '*one of the fundamental values of the Convention*', and a general principle to be considered in the interpretation and implementation of all other rights. Together with the other civil and political rights addressing respect for evolving capacities, freedom of expression, thought, conscience and religion, association, and to privacy and information (arts. 5, 13, 14, 5, 16, 17), Article 12 forms a package of rights that can be conceptualised as '*participation*'.

## What do children and young people tell us?

Children and young people are clear that taking their views and experiences into account improves their experiences in many different aspects of their lives - from school to family life, policing to health. Members of the Children's Parliament say that it is critical that Article 12 is understood as part of a package of 'universal and inalienable' rights which 'belong by right of being human'. Yet children and young people say that opportunities to be involved in genuinely participative processes are rare. Many activities labelled as 'participatory' fall short of the UN Committee's standards and can constitute a 'tick box' style of short-term consultation. This risks alienation and 'participation fatigue' on the part of children and young people as they fail to see their involvement lead to any meaningful change. This is damaging for those making legislative and policy decisions as well as for the children and young people themselves.

## What frameworks are in place to monitor participation?

Since the UNCRC first came into force 26 years ago, significant investment has been put into exploring how to translate Article 12 into practice. Until recently, surprisingly little progress had been made in the development of concrete indicators against which to hold States to account in fulfilling their obligations to children under Article 12. The Council of Europe's new [Child Participation Assessment Tool](#) addresses this gap. It identifies 10 indicators which set out the measures States need to undertake to make Article 12 a reality, and against which they can be held to account. The tool is accompanied by comprehensive [guidance](#) on how to undertake the assessment and who needs to be involved. The indicators fall into three clusters:

### Measures to **protect** the right to participate

1. Legal protection for children's right to participate reflected in national Constitution and legislation.
2. Child participation explicitly included in cross-sectoral national strategy to implement children's rights.
3. Independent children's rights institution in place and protected by law.
4. Mechanisms enable children to exercise right to participate safely in judicial & administrative proceedings.
5. Child friendly complaints procedures in place.

### Measures to **promote awareness** of the right to participate

6. Children's right to participate in decision-making embedded in training programmes for professionals.
7. Children provided with information about right to participate in decision-making.

<sup>1</sup> CRC/C/GBR/CO/5: Para: 31(a)

### Measures to create spaces for participation

8. Children represented in forums, including own organisations, at school, local, regional & national governance level.
9. Child-targeted feedback mechanisms on public services in place.
10. Children supported to participate in monitoring of UNCRC & shadow reporting, & relevant Council of Europe instruments & conventions.

This tool provides a rigorous framework through which to review and strengthen structures supporting children and young people's participation. It offers a significant opportunity for the Scottish Government to assess the effectiveness of its commitment to children and young people's participation in legislative and policy developments.

### **So what participation models do we have in Scotland?**

The seminar explored the everyday reality of children and young people living in Scotland, and their views and experiences of their right to participate.

[The Children's Parliament](#) explores with children what it means to be happy, healthy and safe as a way to embed a right-based approach in practice. To promote awareness and understanding of the UNCRC, it focusses on relationships and encouraging positive approaches from adults when they interact with children. Specific rights are not prioritised, and it is made clear to children that their rights are not dependent on their behaviour. Echoing the third set of measures from the Council of Europe tool, the Children's Parliament emphasises the need to create spaces that reflect nurturing approaches and allow children to learn and experience their rights. An example is that of the [Aberdeen 'Imagineers'](#) through which 300 children considered their life in the community, at home and at school and explored the idea of human dignity. Twelve 'Imagineers' created a [film](#) and [mural](#) prompting adults to consider what their responsibilities are and what they can do to help children realise their rights. The project drew prolific support from elected officials in Aberdeen City and is integrating the Imagineer's findings into the Aberdeen's Children's Services Plan.

Another Children's Parliament example builds on [the UN Committee's recommendation to intensify efforts to tackle bullying and violence](#). Children from the Children's Parliament formed an investigation team to explore key ideas based on four important themes: human dignity, kindness, empathy and trust. The investigators created a dice game through which both adults and children can be encouraged to think about the issues children face in bullying behaviours. The game includes a series of ['I can' and 'I will' commitments](#) for adults to focus on awareness, creating spaces and environments to listen to children, and using the children's participatory model in their own fields.

Young people from [Who Cares? Scotland](#) discussed their [1,000 Voices campaign](#) through which the First Minister has committed to listen to 1,000 care experienced children and young people over the course of the Parliament. This campaign will inform an independent ['root and branch' review of the care system](#). It demonstrates the significant impact of empowering young people to speak about their own lives and experiences. The young people spoke about their experiences of the care system, and how being listened to and having an influence helped them to overcome their previous mind-set of being unimportant. With the right support, the young people were able to develop channels to interact with decision-makers and improve decision-making. Care-experienced young people feel great optimism about both the 'root and branch' review of the care system as well as the 1,000 Voices Campaign. They are clear that the review and the



campaign must focus on love, care and acceptance. Both should embed spaces for children and young people's participation, and must have a measurable, positive impact on the care system.

A key space for young people's participation in Scotland is the [Scottish Youth Parliament](#). Members of the Scottish Youth Parliament (MSYPs) played a key role in the UN Committee's 2016 examination of the UK. Very many of the Committee's [Concluding Observations](#) reflect issues that were highlighted by MSYPs in a [visit to Scotland by the Committee's Vice Chair, Amal Aldoseri](#), and in subsequent meetings with the Committee in Geneva. In March 2016, the Scottish Youth Parliament launched its [Lead the Way Manifesto](#) based on 72,744 responses from young people all over Scotland. This provides the Scottish Youth Parliament with an incredible mandate to represent the views of young people and to amplify their voices on the issues that affect their lives. Key messages from Lead the Way were raised through the UNCRC reporting process including the impact of welfare reforms, the minimum age of criminal responsibility and child poverty.

### **Calls for an embedded participation strategy in Scotland**

Whilst some progress has been made in Scotland – as recognised by the UN Committee in its 2016 [Concluding Observations](#) – too often decisions are still made by national and local government without proper consideration of their effect on children and young people. The seminar demonstrated many positive and effective models of participation but showed that these examples are often *ad-hoc* and inconsistent. Particular groups of children continue to be left out, including children with a disability, children living in poverty, minority ethnic children and Gypsy/Traveller children.

Scottish Ministers need to consider ways in which the UNCRC can be better implemented in Scotland and listen to the views of children and young people. Duties in the [Children and Young People \(Scotland\) Act 2014 Act](#) provide a useful framework through which national and local government can mainstream children and young people's participation rights into decision-making.

A strategic approach is needed to take forward the UN Committee's recommendations within the framework of the 2014 Act. A new Action Plan for children's rights should take a strategic approach to children and young people's participation and set out specific, measurable, achievable, realistic and timebound actions for progressing the UN Committee's recommendations. The Action Plan should draw from examples given at the seminar, such as the Council of Europe Tool and the example of Ireland, which has a [government unit explicitly for child participation](#) – the only such department in the world. Scottish Government should embed children and young people's participation into an action plan for children's rights as part of the roadmap to make Scotland '*the best place to grow up*'.

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