

Implementing & monitoring the UN Convention on the Rights of the Child (UNCRC) Post-Seminar Briefing 4: The UNCRC Going Forwards

This briefing supports a series of four seminars funded by the [Scottish Universities Insight Institute \(SUII\)](#) 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, and 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 final seminar brought together the previous seminars' learning and experience to develop commitments to progress UNCRC implementation in Scotland. The seminar looked at UNCRC accountability mechanisms and examined the use of data and indicators to measure the progress of children's rights. The session was informed by the newly appointed Children and Young People's Commissioner for Scotland, the Minister for Childcare and Early Years, members of youth councils, government officials, academia, civil society and the public sector. Throughout the day, there was discussion and broad agreement on the need for an action plan to outline the distinct steps that Scottish Government will take to progress the UNCRC, produced in collaboration with children, young people and wider civil society. This collective commitment will drive the culture change needed to make children's rights a reality for all children and young people.

Key messages

- Whilst there has been positive progress for children's rights in Scotland, the seminar series has also highlighted significant gaps in legislation, policy and practice.
- The UNCRC [General Measures of Implementation](#) set out the necessary framework for effective implementation of the UNCRC. The framework includes awareness and training, monitoring, action planning, budgeting and co-ordination.
- Monitoring and data collection can often be overlooked. With no agreed set of indicators to measure the progress of children's rights, implementation will remain patchy.
- More people are needed to champion children's rights across Scotland. People outwith the 'usual suspects' must be encouraged to get involved, such as business leaders, the media and those working in areas such as public budgeting, the environment, planning and transport.
- A widely owned National Action Plan for Children's Rights would support a cohesive and coherent approach and reflect real commitment to children and young people. It should include specific, measurable, achievable, resourced and time-bound actions, and a monitoring framework with an agreed set of indicators. This would support the requirements of the UNCRC's General Measures of Implementation and reinforce the measures already in place, such as the Children & Young People (Scotland) Act 2014, the [Child Rights and Wellbeing Impact Assessments model](#), the [annual children and young people's Cabinet meeting](#), and the [UN Committee's Concluding Observations](#).

What have we learnt through the ‘UNCRC in Scotland’ seminar series?

With the [Children and Young People \(Scotland\) Act 2014](#), the Scottish Government set out an ambition for Scotland to become ‘*the best place in the world to grow up*’. The SUll seminar series has highlighted significant advances made in Scotland that enhance rights protections for children and young people across legislation, policy and practice. Despite this, in many areas Scotland falls short of the internationally acceptable minimum standards set out in the UNCRC. Key points from each seminar are summarised below.

[Seminar 1: UNCRC in Law](#)

The 2014 Act brings the UNCRC into Scots law for the first time, but falls far short of incorporation. There are many domestic and international examples of the culture change that incorporating the UNCRC into law would bring to Scotland, examples in which children and young people have become recognised as rights holders and their views embedded into decision-making throughout legislation and policy. Incorporation does not result in courts being inundated with children’s rights cases. Without the incorporation of the UNCRC into Scots law, gaps remain in the protection of children’s rights.

[Seminar 2: UNCRC in Practice](#)

There are excellent examples of children and young people’s participation taking place across Scotland, but pockets of good practice are not embedded into a wider national strategic approach. Children and young people inform us that they are often not told if their participation has had any impact. The power of monitoring frameworks such as the [Council of Europe’s Child Participation Assessment Tool](#) can play a key role in embedding participation across a co-ordinated and resourced national child participation strategy.

[Seminar 3: UNCRC in Policy](#)

Effective, inclusive and meaningful participation should feed into policy-making processes alongside a focus on principles, processes, partnerships and public budgeting. Filtering all policy, legislative and budgetary decisions through a transparent, resourced and evaluated system of [Child Rights and Wellbeing Impact Assessments \(CRWIA\)](#) can ensure the promotion of data collection, cross-sectoral working, and the participation of children and young people. The 2014 Act Parts 1 and 3 reporting duties on public bodies and Ministers provide a significant opportunity to embed children’s rights into planning, reporting and evaluation as part of a long-term process to improve implementation of the UNCRC.

How can we continue to progress children’s rights in Scotland?

The [UNCRC General Measures of Implementation](#) outline the legislative, policy, institutional, budgetary and statistical actions which countries must undertake for effective implementation. Professor Tara Collins highlighted some of their essential elements:

1. [Education, awareness and training](#): Children’s rights cannot progress if there are only a restricted number of people who know about them. In accordance with [UNCRC Article 42](#), children’s rights must be “*widely known, by appropriate and active means, to adults and children alike*”. This includes decision-makers and professionals such as teachers, judges, lawyers and child welfare officials. Public awareness campaigns, such as the [Every Child campaign](#) in the Canada, can ensure that children’s rights are widely known by children, young people and adults.
2. [Monitoring](#): The collection and analysis of data should be a collaborative effort that draws from the capacity and expertise of all stakeholders. Monitoring should be carried out in a participatory manner at local, regional and national levels within and across the range of government departments and civil society (including children and young people) in relation to laws, policies, programs and activities. Monitoring can inform understanding of the changing realities of children’s rights, identifying improvements and areas to redress.

3. **Plans of action:** The General Measures of the UNCRC set out the need for an action plan for children's rights to be taken forward at the national level to ensure effective co-ordination. The production of an action plan is the responsibility of national government and should involve children, young people, service providers and civil society. It should set out how recommendations from the UN Committee, other international treaty bodies and the Universal Periodic Review will be addressed and include specific, measurable, achievable, realistic and time-bound actions and a monitoring framework.
4. **Budgeting:** Budgeting is a routine government activity yet connections are rarely made between budget allocations and their impact on children's rights. A [UN General Comment on Public Budgeting](#) elaborates on the importance of taking a children's rights approach to budgeting. The [Children's Budget project of the Institute for a Democratic South Africa](#) was an important international leader in this area before closing in 2013.
5. **Co-ordination:** Co-ordination across governmental departments, NGOs networks and independent human rights institutions is necessary to maximise efforts related to children's rights and to avoid duplication. Efforts should be made to engage those who are not yet involved in supporting UNCRC progress including the media, business, faith communities and especially children and young people.

Taken together, greater action on the General Measures should provide Scotland's focus for advancing the UNCRC comprehensively.

Using data and monitoring – how do we measure progress?

The extent to which children and young people are able to enjoy their rights can be measured through qualitative data such as stories and narratives, preferably told by children themselves. Such data needs to be complemented by quantitative data. A statistical indicator can extend qualitative information by asking such questions as 'how many?', 'how often?' and 'to what extent?' When used in combination with qualitative data, the evidence gathered can reveal a wider, deeper, more nuanced picture.

Indicators give a representative overview, a robust and valid account, a reliable explanation, and can directly identify gaps and issues in the data. Dr Morag Treanor spoke of the need for indicators across civil society and local government to track changes and improvements in the implementation of children's rights.

One example of the value of quantitative data to progress children's rights draws from [Growing up in Scotland](#) (GUS) data¹. Using the data, Dr Treanor considered the percentages of children aged 7 and 8 years old who report being 'smacked'² by their parents. The data shows that half of all children still report being smacked and that gender and poverty are statistically significant; boys are 'smacked' more than girls and children from lower socioeconomic groups are 'smacked' more than children from higher socioeconomic backgrounds. Boys living in poverty experience the highest proportion of 'smacking', with 25% 'often' or 'always' smacked. This data could be used both to progress and monitor children's rights in Scotland. For example, the finding that half of all children still report being smacked, despite the [evidence of the harmful impact of smacking](#), could support the [proposed Bill on equal protection from assault](#) which aims to remove the legal defence of "justifiable assault" in using physical punishment against children.

¹ Growing Up in Scotland (2012 – sweep 7, n= 3,353)

² The GUS data refers to 'smacking'. However, 'equal protection from assault' is more accurate and preferred. There is concern that the harmful physical punishment of children is both trivialised and normalised by using 'smacking'.

Important lessons on data and monitoring:

1. There are **two types of indicators**: 1) Structural indicators measure legal or policy provisions such as removing the defence of ‘justifiable assault’. 2) Process indicators link structure to outcomes such as in the use of public campaigns. Examples of **culture change tracked through process indicators** include declining smoking habits, the use of seatbelts and reductions in drink driving. Similarly, social attitude surveys could measure culture changes over time in equal protection from assault.
2. Public bodies under the [Children and Young People \(Scotland\) Act 2014](#) have a duty to report on steps taken to progress the UNCRC. They must report every three years, with the first report due in 2020. There is no requirement to collect baseline data so a comparative analysis cannot be undertaken until 2023. Public bodies could still take the opportunity to develop baseline data to report against in 2020.
3. Public bodies should draw from numerous cross-cutting frameworks to **identify an appropriate set of indicators**, such as the [Sustainable Development Goals](#), [Scotland’s National Performance Framework](#), the [UN Committee’s 2016 Concluding Observations](#) and the 2017 [Universal Periodic Reporting \(UPR\) recommendations](#) for the UK.
4. **Disaggregated data** such as gender, age, ethnic and socioeconomic background is essential to track accountability and implementation of children’s rights.
5. **Accessibility** is of paramount importance for public awareness and understanding of UNCRC monitoring. Reports should be disseminated widely and published in a format which children and young people can access, including the use of social media.
6. It is essential to embed and make space for the **participation of children and young people** in monitoring and evaluation processes, including in the choice of subject matter itself and the formulation of questions. Children and young people must always be made aware of what differences their involvement has made.

What can we all do to champion children’s rights?

Individuals and organisations

The role of individual champions is instrumental to further children’s rights. Small and achievable goals can drive the culture change needed to make children’s rights real. Delegates made ‘I will...’ pledges to make commitments as individuals and organisations which have been grouped into the following themes (please click through):

Awareness-raising
and understanding

Ideas-sharing and
partnerships

Participation of children
& young people

Delegates also made a series of ‘You will...’ pledges addressed to a range of duty bearers across the sectors:

To public
bodies

To Ministers

To teachers

To the
Commissioner

To Scottish
Government

Children and Young People's Commissioner for Scotland

Bruce Adamson is the newly appointed [Children and Young People's Commissioner for Scotland](#), starting his six-year term in May 2017. The role of the Commissioner's office as an independent human rights institution is set out in the UNCRC's [General Comment 2](#).

The Commissioner – appointed by the Scottish Parliament -- is under a [statutory duty](#) with a protected budget to promote and safeguard the rights of all children and young people in Scotland. This allows the Commissioner's office to set its own priorities based on collaboration with Scotland's civil society and through listening to children and young people. It gives the Commissioner the capacity to hold Scottish Government to account as duty bearers to ensure that Ministers and officials are fulfilling their obligations under the UNCRC. The Commissioner also has a role in working with and supporting public bodies to ensure they have the awareness, understanding and tools: to consider children's rights in budgeting arrangements, service delivery, and to include children and young people in those decisions; to support and strengthen civil society; and to work with academics to develop evidence and tools for monitoring and evaluation.

Under [Part 2](#) of the 2014 Act, the Commissioner has the power to investigate matters on behalf of individual and groups of children and young people. These investigations are an opportunity to report to Parliament and make a public stand where children's rights violations occur.

This is an opportune time for the Commissioner to begin his role. There are recent UN Committee Concluding Observations and 2017 recommendations from the Universal Periodic Review (UPR) issued to the UK. Alongside other Treaty Body recommendations across human rights there is a clear mandate to take forward the UNCRC. The 2014 Act enshrines the UNCRC in law and there have been many discussions held with public bodies on how to take forward their UNCRC reporting duties under the Act. Whilst there are many others to engage across the judiciary, the general public, the media, and the private sector, the conversation has been started.

Scottish Government

Mark McDonald MSP, Minister for Childcare and Early Years, set out his vision of actions to be taken forward by the Scottish Government to further implement the UNCRC.

In line with Ministerial duties under Part 1 of the 2014 Act, Scottish Ministers are required to submit a report to Parliament which will set out steps taken to further the UNCRC, and set out plans to further children's rights for the next three years. The first report is due in 2018. The Minister set out the Scottish Government's intention to integrate a set of actions into the 2018 report. The Minister outlined how the integration of the 2018 report with actions would cut across all of government, alongside increased activity to promote awareness and understanding of the UNCRC across departments. Progress against the 2018 report will be reviewed by civil society and by the Commissioner in holding Scottish Government to account.

The delegates were encouraged to hear that Ministerial officials are being made aware of issues and opportunities through a children's rights lens, including the impact that governmental policy has on children and young people outside of children's services. Other relevant bodies within Local Authorities will be encouraged to take a similar approach.

Awareness raising within government should include the meaningful participation of children and young people in the decision-making that affects them. A clear example of where this has been taken forward is through the first Scottish Cabinet meeting held in February 2017 with children and young people from the Scottish Youth Parliament and the Children's Parliament. As a result of this meeting, the Deputy First Minister John Swinney MSP committed to ['meaningfully and credibly engage with children and young people at a national level and ensure they are at the heart of decisions which affect them'](#).

Although the First Minister has committed to making the children and young people's cabinet meeting an annual event, the Minister for Childcare and Early Years agreed that much more needs to be done, noting that often vulnerable groups of children and young people are still not heard. Civil society and public bodies play an important role in facilitating meaningful participation with all groups of children and young people such as those with a disability, those belonging to ethnic minorities and younger children. The Minister delivered an open invitation to all those working with and for children and young people to ensure that these groups are meaningfully involved in decision making and directly engaged within politicians representing the children's local areas. Identifying the need for the upcoming [Independent Care Review](#) -- driven by the experiences and testimony of care experienced children and young people -- was given as an example of best practice in participation and the engagement of children and young people directly with government. More widely, the Minister intends for a 2018 programme of engagement which coincides with the [Year of Young People](#) to be carried out in child-friendly environments. Such a programme would be used to best effect through a national participation strategy as part of an action plan for children's rights.

An understanding of children's rights across the policy landscape can be taken forward by actively pursuing the use of Child Rights and Wellbeing Impact Assessments (CRWIA) which look at policy impacts on children's rights but are currently undertaken at a Ministerial level on an *ad hoc* basis. The Minister acknowledged that more needs to be done to include children and young people in the CRWIA process.

What next? Opportunities and looking forward

The 'UNCRC in Scotland' seminar series explored Scotland's international, national and local record in implementing the UNCRC, aiming to make cross-sectoral commitments to children's rights to mark the start of a renewed drive going forward. Whilst national and local governments have a clear responsibility to take forward children's rights, civil society (including children and young people), the private sector and academics should also all play their part in taking forward the UNCRC. We all have a significant role in supporting government to fulfil children's rights, supporting children and young people to realise their rights, and holding government to account.

The seminars have provided several valuable [resources](#), including a package of briefings written in partnership with the Scottish Youth Parliament and Glasgow Youth Council that set out next steps to address gaps in children's rights. A suite of Treaty Body and international recommendations, the 2014 Act, the CRWIA model, Cabinet meetings with children and young people and a First Minister who speaks positively about human rights means that Scotland has a breadth of opportunities that must be brought together to form a strategic National Action Plan for Children's Rights. A plan for children's rights which sets out forward-looking actions is markedly different from cyclical monitoring and reporting, as identified by the UNCRC's General Measures of Implementation. Explicitly identifying such a plan demonstrates a positive commitment to children's rights that would be shared across Ministerial departments and at all levels of government. Through monitoring processes, it would inform decision-makers where children's rights are being progressed and where they are falling short. It would ensure that all groups of children and young people are involved in decisions across policy, practice and legislation. Equipped with such a road map, we may create a Scotland that really is 'the best place in the world to grow up'.

For more information contact Together (Scottish Alliance for Children's Rights)

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