

Implementing & monitoring the UN Convention on the Rights of the Child (UNCRC) Post-Seminar Briefing 3: The UNCRC in Policy

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 third seminar explored how new policy developments – specifically the UNCRC duties placed on Ministers and public bodies through the [Children and Young People \(Scotland\) Act 2014](#) – can provide opportunities to further children's rights and their participation in policy developments. A common theme running through the day was the need for a strategic national approach to take forward the UNCRC within the framework of the 2014 Act and the [UN Committee's 2016 recommendations](#), and for public bodies to draw from a range of tools, resources and expertise to improve local implementation.

Key messages

- All policymaking impacts on children and young people, including in areas such as transport, justice, planning and the environment.
- Effective policy development requires coordination between national and local government, civil society, children and young people; child rights impact assessments (CRIA); systematic data collection; public budgeting; training and capacity building; and effective monitoring and evaluation.
- The [UNCRC](#) provides a legal and moral framework for policymakers with additional guidance available in the UN Committee's [General Comments](#). Child rights policymaking should follow the 5 'Ps': Principles, Processes, Partnership, Public budgeting and Participation.
- A transparent system of [Child Rights Impact Assessment \(CRIA\)](#) for all policy, legislation and budgetary decision-making should be mandatory across local and national government, and accompanied by training to ensure officials have the necessary skills, knowledge and understanding.
- CRIA should be adapted to the context in which it will be used, as seen in examples in Wales and Belgium. CRIA promote evidence gathering, cross-sectoral working and participation of children and young people and should be accompanied by effective monitoring and evaluation.
- New duties on public bodies under Part 1 and Part 3 of the [Children and Young People 2014 Act](#) offer a significant opportunity to embed child rights-based approaches to policymaking and planning. This is already taking place in some local authorities such as in [Aberdeen City Council](#).
- Part 1 and Part 3 reporting duties should be seen as part of a long-term process to improve implementation of the UNCRC, which continually builds on wide involvement of children and young people, embeds children's rights into planning and reporting, and ensures meaningful evaluation.
- Scotland needs a national action plan to set out the distinct steps that Scottish Government will take to progress the UN Committee's 2016 Concluding Observations and the Part 1 duties. Such a plan would provide a structure against which children and young people can hold government to account and a best practice example to public bodies.

What does the UN Committee say about embedding children's rights in policy?

The UN Committee on the Rights of the Child is clear that good implementation of the UNCRC needs *'visible cross-sectoral coordination to recognise and realise children's rights across Government, between different levels of government and between Government and civil society – including in particular children and young people themselves.'* The UN Committee goes on to say that *'Few, if any, government departments have no effect on children's lives, direct or indirect'*. This includes often overlooked issues that impact on children's rights in areas such as transport, justice, culture and the environment. Furthermore, *'rigorous monitoring of implementation is required which should be built into the process of government at all levels'*. For the UK, this means interaction between national, devolved and local government, civil society, and children and young people from across the four nations. The UN Committee is clear that having a National Strategy for implementing children's rights is key, including coordination of implementation, CRIA, data collection, budgeting, training, capacity building, cooperation with civil society, and monitoring by national human rights institutions.

How do we take a child rights-based approach to policy making?

Professor Laura Lundy articulated the five 'P's of child rights approaches to policy-making:

1. **Principles (and other provisions):** [2012 research for UNICEF UK](#) shows that policymakers often engage with just two of the four UNCRC general principles (best interests and participation), and tend not to understand the importance of covering all the other provisions of the CRC (ranging from child protection to play to health to education).
2. **Processes:** The UN Committee recommends that governments adopt CRIA for all policy and law. Whilst there is no specific model to approach this, any successful approach is dependent on good disaggregated data on children's lives.
3. **Partnership:** Government departments often act in distinct units with different priorities and budgets. Rights are interrelated and interdependent; denial of one right can impact on the enjoyment of others. Child rights policymaking requires interdepartmental collaboration.
4. **Public Budgeting:** All rights require resources, yet resources are limited. A child rights-based approach requires governments to implement children's rights progressively using the maximum available resources, as [articulated by the UN Committee](#). When developing or implementing policies, government should be able to: identify how much is spent on children and young people; check that resources are being spent effectively and efficiently; and involve children and young people in determining spending priorities.
5. **Participation:** A fundamental aspect of a rights-based approach is the involvement of children and young people in decision-making. Effective implementation of children and young people's participation was explored at the second 'UNCRC in Scotland' seminar and has been summarised in the [UNCRC in Practice briefing](#). Crucial to the participation process is consistent **feedback** which must be **fast, full, friendly** and **followed-up**.

National and international examples of child-rights based policy frameworks

Participation Strategies

Ireland has the only [National Children's Participation Strategy](#) globally, to which every government department has committed. It utilises the [Lundy Model of Participation](#) as a 'checklist' to address space, voice, audience and influence when involving children and young people in decision-making.

Child Rights Impact Assessment (CRIA)

CRIA is seen by the UN Committee to ensure that '[all the provisions of the Convention are respected in legislation and policy development and delivery at all levels of government.](#)' CRIA are used to assess the impact systematically on children and young people of proposed laws, policies or budgetary allocations, as measured against the articles of the UNCRC and domestic human rights frameworks.

CRIA look through a 'child rights lens': raising awareness and understanding of the UNCRC; bringing engagement with children and young people and other stakeholders into the assessment process; helping governments to identify and avoid or mitigate negative impacts for children and young people; increasing the legitimacy of decisions through greater transparency in policy development; and contributing towards the monitoring of the UNCRC.

Although impact assessments tend to follow a common set of stages, there is no single, global model of CRIA in place. Governments are able to create bespoke models suited to their specific requirements that address local priorities and objectives. [In 2014, six EU States had requirements in place for a CRIA](#): Austria, Belgium (Flanders), Finland, Italy, Sweden and the UK (Wales). Both the [Flemish](#) and [Welsh](#) models have been evaluated and show some weaknesses in their approach, including a minimalist focus on UNCRC compliance, the impact of time limitations, and a tendency to justify decisions that have already been made.

There is little evidence of the impact of CRIA on children's rights, as no research comparing the individual models and full potential of CRIA has taken place. Yet if carried out properly following the steps above, CRIA can impact significantly on realising children's rights through both the outcome and the process itself.

To improve and embed effective impact assessment practice, the impact assessment process should:

1. Be **mandatory**, becoming a properly resourced, expected and accepted part of government machinery;
2. Be **apolitical** so that the CRIA genuinely informs ministerial decision-making rather than acting primarily as a vehicle to communicate it;
3. Have a **clear template and guidance**, helping officials and ensuring consistency;
4. Be supported by **ongoing UNCRC training** and facilitated access to additional resources including interpretive materials published by the UN Committee;
5. Be overseen by a **central expert team** in government with the capacity to advise and support, and authority to quality assure CRIA;
6. Be started as **early as possible** through systems that initiate the CRIA at the beginning of the policy development process;
7. Be **evidence-based** and, when the need to consult further is identified, **involve children and young people**;
8. Be **published in a form that is accessible** to children and young people, parents/carers and other stakeholders;
9. Benefit from **external scrutiny** through an advisory group with children's rights expertise.

What steps have been taken in Scotland?

Use of CRWIA at a national level

Since 2015, the Scottish Government has used its own [Child Rights and Wellbeing Impact Assessment \(CRWIA\)](#) model. Gita Sharkey from the Rights and Participation Team outlined the 6-stage CRWIA process. Experiences of carrying out CRWIA in Scottish Government have demonstrated the need for understanding, capacity and support of the assessment process across departments, including recognition that meaningful CRWIAs can be used to demonstrate UNCRC progression under Part 1 duty reports and as positive evidence at the next UK UNCRC examination. CRWIA has aided Scottish Government policymakers to prioritise and improve decisions, and make active links across departments and directorates. Anticipated benefits are a wider knowledge and awareness across government in relation to children's rights, including the extent to which children and young people's participation proves an invaluable element of policy improvement.

Pauline McIntyre from the [Children and Young People's Commissioner for Scotland](#) office spoke of how using CRWIA informed deliberations on raising the age of criminal responsibility. A CRWIA was produced and published alongside the Advisory Group's [final report and recommendations](#). It proved helpful in highlighting the potential impact proposals might have on different groups of children and young people (e.g. looked after children or children with additional support needs). It also helped to balance the rights of different groups, for example children who are victims as well as those who demonstrate harmful behaviour. The CRWIA gave Advisory Group members confidence to move into new ways of working, which reassessed assumptions and enabled a child-rights based approach grounded in evidence from an early stage.

Another example of CRWIA was given by Graham Robinson from the Scottish Government's Planning and Architecture department. [Places, People and Planning](#) is a consultation on the future of the planning system, for which a draft EQIA and CRWIA are being undertaken. The CRWIA has linked the department with a range of practitioners with experience of engaging children and young people, including [Article 12, Children's Parliament](#) and [Planning Aid Scotland](#) regarding lived spaces and environments, and [Young Scot](#) on co-designing a survey on key elements of the proposals that may impact on children and young people. The increased understanding of children's rights and capacity-building catalysed through carrying out CRWIA has been significant, and will impact positively on the Planning Bill due for publication later in 2017.

Public body reporting duties (Part 1 and Part 3)

Further duties under [Part 1 of the 2014 Act](#) require public bodies to report every 3 years on the steps they have taken to secure better or further effect of the UNCRC's requirements. In close parallel, [Part 3 of the 2014 Act](#) relates to children's services planning, placing duties on a range of public bodies to ensure that the local planning and delivery of services is integrated and dedicated to safeguarding, supporting, and promoting child wellbeing. Both duties commenced from April 1st 2017 and the first reports are due in 2020. Dr Susan Elsley, author of the [guidance for Part 1](#), outlined how public bodies can satisfy this duty through the preparation of a specific report, including relevant information in another report or by working in partnership with other public bodies to publish a joint report. It is essential that the core principles of the reports are underpinned by a child rights based approach, are accessible, contain the right information, strongly embed children and young people's involvement, and are usable by a wide range of stakeholders. Child rights-based frameworks are suggested in the guidance, along with practical suggestions about the ways in which children and young people can be involved. Preparatory work needed to guide the report structure includes baselining existing information, mapping further evidence requirements, assessing how the evidence is informed by children and young people's views and experiences, and identifying the gaps.

Public body implementation (Part 1 and Part 3)

Knowledge, awareness and understanding of children's rights and the new public body reporting duties are patchy and varied across Scotland. Public bodies need to develop a variety of approaches to engage with and implement the UNCRC. Gayle Gorman, Director of Education and Children's Services at Aberdeen City Council, spoke about how the local authority is embedding a child-rights based approach into its structures and processes at all levels.

Participatory work in Aberdeen City has included gathering a team of Children's Parliament '[Imagineers](#)' who have created their vision for Aberdeen of the future and a list of requests to make of civic leaders and decision makers to improve their lives. Practical approaches such as the [Rights Respecting Schools](#) programme, establishing children's voices groups, youth work and staff development programmes will inform adult decision makers about the UNCRC and the role they have to play in supporting and upholding children's rights. The Council's Children and Young People [Digital Ideas Hub](#) allows a flexible two-way process of dialogue between children and young people, and senior officials. The details of Aberdeen City Council's participation work is captured in Gayle's [presentation](#).

Importantly, the Integrated Children's Services plan was built on 18 months of preparation. Data were collected, analysed and returned to children and young people to ensure it reflected their experiences. Although such high intensity programmes can be challenging, the Aberdeen experience demonstrates the value of empowering children to meaningfully inform policy planning and development.

What more needs to be done at a national and local level?

Further work to embed quality CRWIA at a national and local level

Discussions among delegates on the next steps that should be taken in Scotland to embed children's rights into policy-making were in-depth and diverse. The use of CRWIA at a national level was welcomed although there was recognition that this should be progressed at a public body level, particularly to inform the development of Children's Services Plans in line with Parts 1 and 3 of the 2014 Act. This needs to be accompanied by widespread training, in line with the [Common Core of Skills, Knowledge, Understanding and Values](#), to ensure that policymakers have the skills, knowledge and understanding to undertake CRWIA. It is important that CRWIAs are published widely and timeously to enable civil society scrutiny. A quality assurance framework is needed to ensure effectiveness – this should include an independent evaluation of CRWIA, similar to that undertaken in Wales.

Action Plan for Children's Rights

Scotland lacks a strategic approach to UNCRC implementation. A new Action Plan for children's rights is needed to set out specific, measurable, achievable, realistic and timebound actions for progressing the UNCRC and embed a strategic approach to participation. The Action Plan should draw from examples of strategic frameworks given at the seminar such as that of Ireland's leading National Children's Participation Strategy, and from the UN Committee's 2016 Concluding Observations which have been translated into Scotland-specific recommendations through Together's [State of Children's Rights 2016 report](#). Only through taking a strategic approach to UNCRC implementation, in line with the UN Committee's recommendations, will Scotland be able to lead the way in furthering the UNCRC.

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

Email: info@togetherscotland.org.uk Tel: 0131 337 9015

Website: www.togetherscotland.org.uk Twitter: @together_sacr