



Children's Rights and the UNCRC in Scotland:

An Introduction



Scottish Government
Riaghaltas na h-Alba
gov.scot

Contents

| | |
|---|----|
| Introduction to Guidance | 01 |
| Introducing the UNCRC | 03 |
| Children's Right to Participate in Decisions | 05 |
| Giving effect to the UNCRC | 08 |
| UNCRC (Incorporation) (Scotland) Bill | 11 |
| Supporting the realisation of the UNCRC | 13 |
| Child Rights and Wellbeing Impact Assessments | 19 |
| Sources for Further Guidance | 22 |

Introduction to Guidance

Who is this guidance for?

This guidance is issued by Scottish Ministers on a non-statutory basis to provide those involved in public service delivery in Scotland with an introduction to giving effect to children's rights as set out in the United Nations Convention on the Rights of the Child (UNCRC).

The Scottish Government recognises the vital role that those providing public services play in delivering for children, young people and their communities. The full realisation of children's rights requires proactivity on the part of all public services and those working with children and young people.

Children's rights are not just relevant to children and young person's services. All decisions made about and actions taken to deliver public services may impact on the rights and wellbeing of children and young people. It is vital to the realisation of children's rights for all those undertaking public functions to consider children's rights in their work. Consideration of children's rights should be evident across all public service delivery.

How do I use this guidance?

Along with other resources, this guidance intends to enable those delivering public services to consider the UNCRC in the delivery of their services and to take actions now to make children's rights real, including by considering completing Child Rights and Wellbeing Impact Assessments (CRWIAs) and meaningfully including children and young people in decision-making.

How was this guidance developed?

This guidance was developed in consultation with the UNCRC Short-Term Working Group on Guidance, which comprised representation from leaders in the children's rights sector, public authorities and the wider third sector.

The Group has formed to help develop this guidance in support of a commitment to embedding children's rights in public services and in due course, statutory guidance in relation to the incorporation of the UNCRC in Scots law, to the maximum extent possible. The minutes and terms of reference of the Working Group are available on the Scottish Government website.

“Scotland is leading the world in the advancing of children and young people's rights with the Incorporation of the UNCRC.”

Josh Kennedy MSYP
Children and Young People's Voices Matter

What will I learn?

The aims of this introductory guidance are to:

- Introduce human rights, children's rights and the UNCRC to those who are less familiar with it
- Raise awareness of the ambition for children's rights in Scotland, and set out the Government's actions to implement the UNCRC to date
- Provide an update on the UNCRC (Incorporation)(Scotland) Bill, including the Supreme Court judgment
- Set out the plans for further guidance and support for those delivering public services
- Introduce sources to help interpret the UNCRC articles
- Introduce a child rights based approach to giving effect to the UNCRC
- Highlight sources of expert advice

What are human rights?

Human rights are the basic rights and freedoms which we all have in order to live with dignity, equality and fairness, and to develop and reach our potential. Human rights are a list of things that all people – including children and young people – need in order to live a safe, healthy and happy life. Human rights are:

- Universal (they apply to everyone, regardless of who they are)
- Inalienable (they cannot be taken from you or given away)
- Indivisible (they are all equally important)
- Interdependent (breach of one impacts them all)

The European Convention on Human Rights (ECHR) has been incorporated into UK domestic law through the Human Rights Act 1998 (HRA).

Everyone, including children, have these rights, no matter what their circumstances. Under international law, States/Governments are obliged to respect, protect and fulfil human rights. Those delivering public services should respect human rights when they make decisions, plan services and make policies.

“If adults obey these rules, then millions of children could have much better lives than at present.”

Young person's response to SG consultation

Introducing the UNCRC

Children's Rights as Human Rights

Children and young people have the same human rights as adults. These are the same rights that protect everyone. They span the entire spectrum of civil, political, economic, social, cultural and environmental rights. Children and young people also have additional rights that recognise that childhood is a special, protected time, in which children must be allowed to grow, learn, play, develop and flourish with dignity.

Specific human rights for children are set out in the UN Convention on the Rights of the Child (UNCRC).

The Convention offers a vision of the child as an individual and as a member of a family and community. By recognising children's rights in this way, the Convention firmly sets the focus on the whole child.

It is important to be clear that adult and children's rights are equal, there is no hierarchy of human rights.

We know that children and young people face unique barriers to realising their rights. Their future often depends on the action taken by adults to implement their rights in practice. As children their voices can be unheard, or more easily dismissed.

For that reason, the UNCRC recognises that children are human beings with fundamental rights that are written into international law. It also makes clear that special action needs to be taken to ensure those rights are respected, protected and fulfilled.

As one of the core United Nations (UN) human rights treaties, the UNCRC helps to safeguard the dignity and the equal and inalienable rights of all children and young people. It does this by making sure that important rights set out in other international human rights treaties are applied in a way that is relevant and appropriate to the needs of children and young people. The UNCRC makes clear that in all actions concerning children, the best interests of the child shall be a primary consideration.

What is the UNCRC?

The [UN Convention on the Rights of the Child](#) (UNCRC) is the internationally mandated children's rights treaty that informs our strategies and programmes. It sets out the rights that all children and young people in the UK have and outlines what children need to give them the best chance of growing up happy, healthy and safe. It also explains how adults and governments should work together to make sure all children can access all their rights. The UNCRC defines the child as a person under 18 years of age.

General Principles of the UNCRC?

There are four articles in the UNCRC that are seen as special.

They are known as the "General Principles" and they help to interpret all the other articles.

- Rights should be applied without discrimination (Article 2)
- Best interests of the child to be a primary consideration (Article 3)
- Right to life, survival and development (Article 6)
- Right to express a view and have that view taken into account (Article 12)

What are the Optional Protocols of the UNCRC?

The UNCRC has three Optional Protocols.

These set out extra provisions which have been written after the treaty was adopted.

- [an Optional Protocol on the sale of children, child prostitution and child pornography.](#)
- [an Optional Protocol on the involvement of children in armed conflict,](#) and
- [an Optional Protocol on a communications procedure.](#)

A state that signs up to the UNCRC isn't required to sign up to its Optional Protocols.

Currently, the UK is signed up to the first two Optional Protocols, but not to the third Optional Protocol on a communications procedure.

What rights do children have under the UNCRC?

The UNCRC contains **42** articles that cover all aspects of a child's life and set out the civil, political, economic, social and cultural rights that all children in the UK have.

Examples of these are:

- The right of the child and young people to be heard and have their opinion considered (Article 12)
- Freedom from violence, abuse and neglect (Article 19)
- The right to a proper house, food and clothing (Article 27)
- Access to primary and secondary education (Article 28)
- The right to play and to rest (Article 31)

It sets out children's **individual rights** - such as to a name and nationality, and to an adequate standard of living - alongside additional rights for specific groups of children, such as disabled children, children who have been exploited or mistreated, refugee and migrant children, children in custody, and children in care. The Scottish Government has made a [guide for children and young people](#) about their specific human rights under the Convention.

“Children's rights are important because they are essential to make a child's life liveable.”

Member of Children's Parliament in [“What kind of Scotland?”](#)



Children's Right to Participate in Decisions

A right to participate in decisions which affect you

Under Article 12 of the UNCRC, every child and young person who is capable of forming his or her own views has the right to express those views freely in all matters affecting him or her, with those views being given due weight in accordance with the age and maturity of the child and young person. Section 1 of the Children and Young People (Scotland) Act 2014 places duties on Scottish Ministers in respect of the UNCRC, including by embedding the requirements of Article 12.

In order to fulfil the rights under Article 12 where children and young people's views are not known on a matter that is likely to have an impact on them, those delivering public services should take steps to obtain their views. Part 1 Guidance on the Children and Young People (Scotland) Act 2014 explains in more detail rights based duties and expectations in relation to public bodies, including engagement with children and young people.

Evolving capacity in the UNCRC

A child or young person's capacity includes, among other things, their ability to understand different choices and make decisions.

As children grow and develop, they tend to develop the ability to make more decisions for themselves. In the UNCRC, this is referred to as a child's "evolving capacities".

Children's capacity develops gradually, and it doesn't happen at the same speed for everyone – it depends on things like a child's experiences, education and maturity, as well as the complexity and magnitude of the decision being made.

Legal capacity in Scots Law

The Age of Legal Capacity (Scotland) Act 1991 makes provisions in Scots law as to the legal capacity of persons under the age of 18 years to enter into transactions and the setting aside and ratification by the court of transactions entered into by such persons, among other things.

“The annual meeting between the Cabinet and children and young people is a unique and valuable way for us to relay the priorities of our generation to decision-makers. That the Scottish Government have committed to continuing the meeting on an annual basis for this parliamentary term is very positive, and I hope it becomes a permanent fixture of the Government's calendar.”

Jack Dudgeon MSYP

Children and Young People's Voices Matter

Progressive Realisation and Maximum Available Resources

Article 4 of the UNCRC introduces the concept of 'progressive realisation' in relation to economic, social and cultural rights such as the rights to nutrition, clothing and housing. This means there must be progress made over time towards the full realisation of children's rights. To comply with these rights in international law it must be shown that the rights have been progressed using the "maximum extent of available resources". This means generating, allocating and spending resources in a way that is effective and efficient for the realisation of children's rights.

There is also an obligation in international law in relation to children's economic and social rights which are not subject to progressive realisation or the availability of resources. For example, the provision of the minimum essential levels of the rights, such as the provision of primary education and ensuring that children can enjoy their rights without discrimination.



“Our views are important, we see the world in an imaginative and positive way. We need to be valued for what we can offer the world now as children, and not just as citizens to be.”

**Member of Children's Parliament in
“What kind of Scotland?”**

Parents and Families

The UN Convention on the Rights of the Child explicitly recognises the central role played by parents and families in ensuring that children grow up healthy, happy and safe.

It recognises that families need protection and assistance to support the rights and wellbeing of children.

Rights within the UNCRC require governments to recognise parental responsibilities and provide resources and support to help them fulfil their responsibilities, including assisting parents and carers to ensure children are provided with an adequate standard of living.



“Role models are important. Everyone needs someone to follow and inspire them.”

**Member of Children's Parliament
in “What kind of Scotland?”**

Giving effect to the UNCRC

Ambition for Children's Rights in Scotland

The Scottish Government is committed to Scotland being the best place in the world for a child to grow up. The National Outcome for children and young people is that children grow up loved, safe and respected, so that they reach their full potential. A central part of our vision is the recognition of, respect for, and promotion of children's human rights. These include rights to be treated fairly, to be heard and to be as healthy as possible.

Our vision is a Scotland where children's human rights are embedded in all aspects of society. A Scotland where policy, law and decision-making take account of children's rights and where all children and young people have a voice and are empowered to be human rights defenders.

All individuals and organisations in Scotland can help children and young people to enjoy their rights and fulfil the ambition of making Scotland the best place to grow up.

Children's rights in policy

Scotland has a proud tradition of respecting children's rights, which predates even the adoption of the UNCRC by the UN General Assembly in 1989. For example, our pioneering and unique children's hearings system has operated since 1971.

Children's rights are embedded right across Scotland's policy and legislative landscape. Children's rights are featured in the National Performance Framework including the National Outcome for Children and Young People, that children grow up loved, safe and respected, and so that they reach their full potential.

There are also a number of examples of how children's rights provide a foundation for policies, as they do for the [Getting it right for every child](#) approach and [The Promise](#).

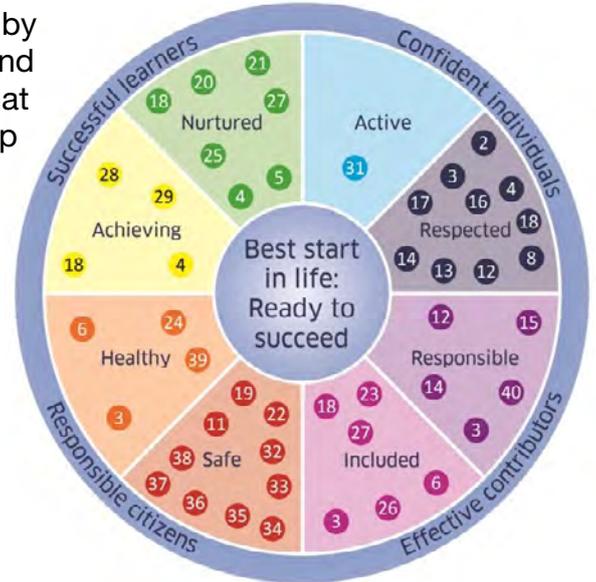


Getting it right for every child

With the UNCRC as its foundation, [Girfec](#) provides Scotland with a consistent framework and shared language for promoting, supporting, and safeguarding the wellbeing of children and young people. A [report](#) by Professor Jane Aldgate demonstrates how Getting it right for every child fully supports the implementation of UNCRC in Scotland.

The “[SHANARRI](#)” wellbeing indicators are also informed by UNCRC rights and requirements. They are overlapping and connect areas that are fundamental to understanding what children and young people need in order to grow, develop and thrive.

Where a child's rights have been respected, protected and fulfilled, their wellbeing should improve. Embedding the UNCRC in policy and practice is a key way to help advance children's wellbeing.



Children's rights in existing legislation

There are already a number of pieces of Scottish legislation which implement the UNCRC in Scots law, such as the Children (Scotland) Act 1995, which provides a major part of the legal framework for child welfare and protection in Scotland.

Part 1 of the [Children and Young People \(Scotland\) Act 2014](#) embeds UNCRC rights in Scottish legislation and places children's rights duties on Scottish Ministers and public authorities. The 2014 Act is an example of so-called 'rights-based' legislation and is a milestone for children's rights in Scotland.

It places a duty on specified public authorities and Scottish Ministers to report every 3 years on the steps they have taken in that period to secure better or further effect of the requirements of the UNCRC. The first set of reports were due as soon as practicable after 1 April 2020.

Part 1 (section 2) of the 2014 Act places a duty on a range of listed public bodies (including all local authorities and relevant health boards) and Scottish Ministers to report, as soon as practicable after the end of each three-year period, on the steps they have taken to better secure, or give further effect to, the UNCRC requirements.

This is also reflected within the review criteria of Part 3 Children and Young People (Scotland) Act 2014 Statutory Guidance (Children's Services Planning). This requires the local authority and health board (working in partnership with Children's Services Planning Partners) to use children's rights to inform the structural, procedural and outcome framework of their plan, making full use of children, young people, and families' suggestions to convey a shared sense of ongoing engagement and ownership.



UNCRC (Incorporation) (Scotland) Bill

Since the ratification of the [United Nations Convention on the Rights of the Child](#) by the UK Government in 1991, the UK has been under an obligation in international law to comply with it, but children and young people across the UK have not been able to go to court to enforce their rights directly.

On 1 September 2020, the UNCRC Bill was introduced to the Scottish Parliament. The purpose of the Bill was to bring the UNCRC into Scots law and to put in place measures to achieve a culture of everyday accountability for children's rights across public services in Scotland. The UNCRC Bill would make Scotland the first country in the UK, and the first devolved nation in the world, to directly incorporate the UNCRC into domestic law. It would make it unlawful for public authorities to act incompatibly with the incorporated UNCRC requirements, giving children, young people and their representatives the power to go to court to enforce their rights.

The UNCRC Bill was passed unanimously by the Scottish Parliament on 16 March 2021, but could not be made law because of a legal challenge brought by UK Government Law Officers. The Supreme Court has now ruled that certain parts of the Bill fall outwith the competence of the Scottish Parliament.

The Scottish Government is committed to protecting the rights of children and young people and remains committed to the incorporation of the UNCRC to the maximum extent possible, as soon as practicable. We are urgently and carefully considering the implications of the judgment and how best to take that work forward. However, the vast majority of work needed to progress UNCRC implementation can and is continuing.

This non-statutory introductory guidance on implementing the UNCRC is being made available now, as we consider the judgment.

“Incorporation will mean protections that need to be guaranteed and safety for children and young people. It is easier to look at a written document that says that these are the things I should have, rather than kind of guessing what you think you should have. This is empowering for me as a young person.”

**Young person's response to SG
Consultation on UNCRC incorporation**

What does the Bill aim to do?

Ministers are carefully considering the Supreme Court judgment, and the implications for the UNCRC Bill. If the UNCRC Bill proceeds, some of the provisions will need to be revisited. The Bill, as passed by the Scottish Parliament on 16 March 2021, says that:

- Public authorities will not be allowed to act in a way which is incompatible with the UNCRC requirements.
- Children, young people, and their representatives will have the power to go to court to enforce their rights.
- Courts will have powers to decide if legislation is compatible with the UNCRC requirements.
- Existing legislation will have to be read in a way which is compatible with the UNCRC requirements wherever possible.
- Scottish Government will be able to change laws to make sure they are compatible with the UNCRC requirements.
- The Children and Young People's Commissioner Scotland and Scottish Human Rights Commission will have powers to take legal action to protect children's rights.
- Scottish Government will have to publish a Children's Rights Scheme to show how it is meeting the UNCRC requirements and explain its future plans to progress children's rights.
- Scottish Government will have to review how the Children's Rights Scheme is working each year.
- Other authorities listed in the Bill will have to report every three years on what they are doing to meet the UNCRC requirements.



Supporting the realisation of the UNCRC

UNCRC Implementation Programme

The cultural change required to ensure that children's rights are fully and progressively realised in practice starts with those delivering public functions for the people of Scotland. The Scottish Government has developed a three-year UNCRC Implementation Programme running from April 2021 to March 2024 to ensure that children's rights are respected, protected and fulfilled in Scotland.

The programme priorities have been shaped by listening to children and young people and their families, public bodies, third sector organisations and academics. It aims to deliver change in all aspects of public life, supporting full realisation of all children's rights in practice.

UNCRC Strategic Implementation Board

The Scottish Government has established a [Strategic Implementation Board](#) to champion the UNCRC Implementation Programme with collective responsibility across public bodies and the third sector for successful implementation.

The Board includes representation from leaders in the children's rights sector, public authorities and the wider third sector. Across the range of members are those who represent the views of duty bearers and the views of rights holders.

The experiences, ideas, feedback and views of children, young people and their families will inform decision making across all levels of governance through a programme of meaningful and inclusive participation.

“Scottish Government should take into account children's opinions – this meeting is one way of doing it.”

Member of Interim Children and Young People's Consortium



Plans for further support

To ensure that public services are appropriately supported in delivering the step-change in respecting, protecting and fulfilling children's rights, the Scottish Government will continue to work collaboratively with public authorities and third sector partners to ensure that future guidance on the UNCRC is accessible and best meets the needs of duty-bearers and the rights of the children and young people they serve.

The Scottish Government is working in partnership with the UNCRC Short-Term Working Group for Guidance to produce accessible guidance. In addition to guidance, capacity-building support and other complementary materials will be made available:

Scoping is underway for a Children's Rights Skills and Knowledge Framework, with accompanying Training Plan, to build capability across all sectors and workforces of Scotland. Planning is also underway for a National Improvement Programme (NIP), which will provide support for implementing the Children's Rights Skills and Knowledge Framework in improvement projects in local communities. We are also securing support from a range of partners with extensive skills, expertise and knowledge in embedding children's rights.

More detail on the full package of support will be made available before the end of 2021.



Sources to aid interpretation

There are many sources that may be useful for those delivering public services when considering how to apply the UNCRC to their policy and practice.

The UN Committee on the Rights of the Child, a body set up by the UN to monitor the progress that States make in keeping their human rights promises under the UNCRC, issues General Comments, Concluding Observations, views and findings under the third Optional Protocol (yet to be ratified by the UK) and recommendations following days of general discussion.

These are all sources that can assist in interpreting the UNCRC. They are available on the United Nations High Commissioner for Human Rights ([OHCHR](https://www.ohchr.org/)) website. These sources provide guidance but are not legally binding in international law.

These sources are in addition to the experience and practice that already exists across public services and the courts in applying the UNCRC at present.

Members of the Children's Parliament discussed the need to make UNCRC rights real in Scotland in December 2019:
<https://www.youtube.com/watch?v=hncO9xpcOGo>



General Comments

[General Comments](#) provide interpretation and analysis of the UNCRC articles to help States understand how the UNCRC can be put into practice. For example, [General Comment 12](#) specifically focuses on a child's right to be heard.

Concluding Observations

The UNCRC requires countries which have adopted the UNCRC to report on the steps they have taken to implement the Convention. The Committee on the Rights of the Child review these reports and produce a set of country-specific suggestions and recommendations known as 'Concluding Observations', highlighting positive practice and recommending areas for improvement. The Scottish Government was last examined by the Committee on the Rights of the Child in May 2016, as part of UK reporting.

Days of General Discussion

[The Committee holds general meetings](#) every two years, focused on a specific article of the UNCRC or a related subject. These meetings are an opportunity to develop a deeper understanding of the contents and implications of the UNCRC. In recent years, the committee has raised the rights of all children regarding international migration (2012) and the child's rights in relation to digital media (2014).

Communications issued under Optional Protocol 3

The UNCRC has three Optional Protocols. These set out extra provisions which have been written after the treaty was adopted. Optional Protocol 3 allows children to make a complaint to the Committee on the Rights of the Child if they believe their rights under the UNCRC have been violated. The Committee then considers the case and communicates its views to the parties concerned. Optional Protocol 3 has not been ratified by the United Kingdom. The [communications issued by the Committee](#) may be of use in interpreting the UNCRC requirements

Decisions of the Courts

While there is no international court responsible for the interpretation and implementation of the UNCRC, a number of courts, including courts in the UK and abroad, have referred to the UNCRC in their decisions.

It may be that these rulings can assist in interpreting the UNCRC.

Child Rights-based Approach

Developed by the Child Friendly Cities & Communities programme at the UK Committee for UNICEF (UNICEF UK), a [child rights-based approach](#) brings together the general principles of the UNCRC and the international human rights framework to offer a practical tool for working with and for children and young people.

The tool helps to translate the UNCRC into practice by guiding the user through seven principles. It places children and young people at the centre of policy development and the design, delivery and evaluation of services, and has been proven to lead to better outcomes.

Full details on taking a [child rights-based approach to policy and practice](#).

A child rights-based approach is made up of seven principles. They offer guidance by describing the quality of care and provision that each child should experience when using services that are grounded in children's rights.

- **Dignity** - Each child is a unique person with intrinsic worth and should be respected and valued in all circumstances.
- **Best interests of the child** - Determining and doing what is best for a child, with that child, at that time and in that situation.
- **Non-discrimination** - Each child is treated fairly and protected from discrimination.
- **Life, survival and development** - Each child is able to develop, thrive, achieve and flourish.
- **Participation** - Each child is heard in matters affecting them and participates in the lives of their family, community and wider society.
- **Interdependence and indivisibility** - Each child enjoys all rights enshrined in the UNCRC, whatever the circumstances.
- **Transparency and accountability** - Dependable, open and accountable relationships and dialogue between Local Government, communities, families and children and young people is essential in the collective goal of securing children's rights.

“Children have opinions and they should not be overlooked just because of their age.”

**Member of Children's Parliament
in [“What kind of Scotland?”](#)”**

Engaging Children and Young People in decision making

Under Article 12 (UNCRC), every child who is capable of forming his or her own views has the right to be heard in matters affecting them. General Comment 12 from the UN Committee on the Rights of the Child sets out its view that there are nine basic requirements for effective participation.

Effective participation must be:

- Transparent and informative
- Voluntary
- Respectful
- Relevant to children and young people
- Child-friendly
- Inclusive
- Supported by training
- Safe and sensitive to risk
- Accountable

The Scottish Government wants to make it the norm for children and young people to be involved in decision-making across Scotland, so that they are at the heart of decisions that affect them at local and national levels. This is in line with Article 12 of the UNCRC and we are therefore developing a strategic approach to children and young people's participation, as part of our work on children's rights. This approach is part of our Year of Young People 2018 legacy.

We have also developed a [guide](#) to support those who have or want to engage with children and young people as part of their decision-making.

Further information on the skills and values needed to work with children can be found in the [Common Core](#) and the Children and Young People's Commissioner Scotland's [7 Golden Rules for Participation](#).

“Children would get the right support if people actually listened to children and asked them how they're feeling.”

Young person's response to SG consultation

Child Rights and Wellbeing Impact Assessments

The Scottish Government's Child Rights and Wellbeing Impact Assessment (CRWIA) is a key tool that those engaging with, or who make decisions which may impact upon, children can use to support a child rights-based approach.

The CRWIA is a purpose built policy and legislation impact assessment (IA) designed for use by Scottish Government, public bodies and services with an impact on children and young people's wellbeing; however, it can be used by anyone including those commissioned to deliver public services, and the third sector.

CRWIAs use two frameworks in the assessment. The UN Convention on the Rights of the Child (UNCRC) is used for assessing impact. The child wellbeing indicators are used to measure impact. The CRWIA covers individual children and groups of children up to the age of 18 and has been developed based on the Equality Impact Assessment (EQIA). The use of CRWIAs also encourages the participation of children and young people in decision-making. It is intended to help us champion the interests of children, as well as challenge us to think about what more we can do to place children and young people at the centre of our policies.



Why do we need CRWIAs?

The reach of the UNCRC is far wider than Equalities legislation although some categories of individuals may be covered by both, for example those with protected characteristics under the **Equality Act 2010**.

The UNCRC considers all individual children or groups of children, for example by age band or setting, or those who are eligible for special protection or assistance, e.g. pre-school children, children with additional support needs, children in hospital, children in rural areas, looked after children (children in care), young people who offend, children affected by violence, drugs or alcohol, poverty or deprivation, homelessness, victims of abuse or exploitation (trafficking, economic or sexual), child asylum-seekers or refugees.

CRWIAs should also consider the potential impacts on children in different groups and in a range of different situations.



Support to undertake a CRWIA

Scottish Government has developed [guidance](#) for the preparation of CRWIAs which includes information on the following:

- When to use a CRWIA
- Benefits of using a CRWIA
- The three-stage CRWIA process
- Publishing a CRWIA
- Involving others in your CRWIA

Although originally produced for internal use by the Scottish Government, it is also suitable for use by public authorities, those commissioned to deliver public services and third sector organisations. It sets out the steps that can be taken to provide evidence that proper consideration has been given to the impact that a policy or measure will have on children and young people up to the age of 18. Find out more about [children's rights and the CRWIA](#) on the SG website.

Examples of CRWIAs

The following are examples of when undertaking a CRWIA supported rights respecting decision-making and practice:

CRWIA for [Minimum Age of Criminal Responsibility \(2019\)](#)

The CRWIA on Minimum Age of Criminal Responsibility, published in March 2016, recommended that direct consultation with children and young people take place as part of the development of the policy. Throughout June and July 2016, a series of events were held with various groups of children and young people across Scotland including those who would be affected by the change as well as those who have had negatives experiences from contact with the criminal justice system from an early age – as perpetrators and as victims. This involvement encouraged Scottish Government Justice officials to work with the Children's Parliament and the Scottish Youth Parliament to consult with children and young people on the next area of policy they were considering – stop and search powers – with officials present at those consultation sessions.

CRWIA for [Stop and Search Code of Practice \(Appointed Day\) \(Scotland\) Regulations 2017:](#)

Another example of how considering children's rights ensured better decision-making is the Stop and Search Code of Practice (Appointed Day) (Scotland) Regulations 2017. Following public consultation and discussions with stakeholders, including children and young people's organisations, which was taken into consideration by the CRWIA, Scottish Government officials identified a need to include a separate section dealing exclusively with children and young people within the Stop and Search Code of Practice. This was subsequently discussed by Independent Advisory Group members. A separate section has been incorporated in the final version of the Code (chapter 7).

Sources for Further Guidance

Children and Young People's Commissioner

In line with principles set out by the United Nations, the [Commissioner for Children and Young People \(Scotland\) Act 2003](#) established this role, with the first Commissioner taking up post in 2004. Their role is to promote and safeguard the rights of children, with particular emphasis on the UNCRC. Part 2 of the Children and Young People (Scotland) 2014 Act introduced an individual investigations function to the role of the Commissioner, providing a limited mechanism through which children can seek an investigation into violations of their UNCRC rights. The Commissioner has a role to:

- Promote awareness and understanding of the rights of children and young people
- Support children and young people's rights to be protected in the law
- Promote best practice by service providers

The Children and Young People's Commissioner Scotland has set out their key priorities for 2020-24 in their Strategic Plan.

Bruce Adamson has been the Children and Young People's Commissioner in Scotland since 2017.



Together (Scottish Alliance for Children's Rights)

[Together](#) is an alliance of Scottish children's charities – alongside individuals and professionals – who share a vision that all children and young people growing up in Scotland have their human rights respected, protected and fulfilled.

Their members range from small playgroups and afterschool clubs through to parenting organisations and large international charities. They work together to inspire and enable everyone in Scotland to put children and young people's human rights at the heart of everything they do. They do this by:

- Taking proactive steps to build awareness of children's human rights across their membership, duty bearers and children and young people.
- Building members' capacity to embed children's rights-based approaches and use equality and human rights to influence change.
- Supporting their members to ensure children whose rights are most at risk are empowered to participate and influence decisions that affect them.

Together's activities include webinars, training, resources, peer support, and collaborating on their annual State of Children's Rights reports and submissions to UN bodies.



together
Scottish Alliance for Children's Rights



Scottish Government
Riaghaltas na h-Alba
gov.scot

© Crown copyright 2021

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-80201-207-1 (web only)

Published by The Scottish Government, November 2021

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS909226 (11/21)

W W W . G O V . S C O T