



Together State of Children's Rights Report

Survey Response

Giving all children in Scotland an equal chance to flourish is at the heart of everything we do. By bringing together a network of people working with and for children, alongside children and young people themselves, we offer a broad, balanced and independent voice. We create solutions, provide support and develop positive change across all areas affecting children in Scotland. We do this by listening, gathering evidence, and applying and sharing our learning, while always working to uphold children's rights. Our range of knowledge and expertise means we can provide trusted support on issues as diverse as the people we work with and the varied lives of children and families in Scotland.

Children in Scotland's work is underpinned by a commitment to children's rights and we are pleased to contribute to Together's survey for its 2019 *State of Children's Rights* report.

The *State of Children's Rights* report is published annually and as such our contribution in the main reflects the work we have done over the past year. It focuses on the learning from our projects, our wider policy work and our engagement with children and young people themselves. We have contributed to six of the eight specific areas of the UNCRC that Together looked to gather information on.

GENERAL MEASURES OF IMPLEMENTATION

Q1.1 - Bringing legislation in line with the Convention

The Committee recommends that the UK and devolved governments should take measures to bring legislation in line with the Convention, and recommends that government undertakes a review to determine the extent to which existing legislation is in compliance.

Are you aware of specific areas of Scots or UK law that may not be in compliance with the UNCRC?

Where areas are not in compliance, can you provide evidence as to the impact this has on children and their rights?

Children in Scotland believes there are a number of areas where Scots and UK Law are not currently compliant with the UNCRC. It has not been possible to provide a comprehensive analysis of all legislation for this response, instead we have chosen to focus on those areas of legislation that we have been most closely involved with in the past few years.

The Age of Criminal Responsibility (Scotland) Bill that recently passed through Stage 3 in the Scottish Parliament will raise the age of criminal responsibility in Scotland to 12. While this is clearly an improvement on the previous situation, we know this is still out of step with international best practice and the views of the UN Committee on the Rights of the Child. Children in Scotland supports raising the Age of Criminal Responsibility to at least 14 and preferably to 16; we believe this would be more in line with the UNCRC.

At present children do not receive equal protection from assault as adults do in law. This legal discrepancy is incompliant with the UNCRC as it allows children to experience violence based on a defence of reasonable chastisement. The impact of the experience of physical punishment has been well-documented; an evidence review on the impact of physical punishment showed that it can contribute to an increased prevalence of mental health problems in the short-term and antisocial behaviour in adulthood¹. There is also little evidence that it works as a technique for disciplining children². The Equal Protection from Assault (Scotland) Bill will rectify this breach of rights and should support more positive outcomes for children and young people.

Children in Scotland is also aware that there are concerns about the capacity and best interests tests introduced by the extension of rights for children aged 12-15 years with additional support needs under the Education (Scotland) Act 2016. These tests have been seen as a potential barrier to children exercising their rights under this legislation. Children in Scotland appreciates these concerns but considers the support service established – My Rights, My Say – as an important mechanism for ensuring that children are aware of and can exercise their rights and challenge issues with their support and education. We do however believe an independent, legal statement about these rights and compliance with the UNCRC would be helpful.

Q1.2 - Revising and implementing a national action plan

The Committee recommends that the government should revise and ensure full implementation of its national and devolved strategies to cover all areas of the Convention.

Scottish Government published its 'Action Plan on Children & Young People's Rights' in December 2018. To what extent do you think the Action Plan will help to progress children and young people's rights across Scotland? Are any additional measures needed to ensure the actions have the intended impact?

¹ Heilmann, A., Kelly, Y. and Watt, R.G. (2015) Equally protected?: a review of the evidence on the physical punishment of children. London: NSPCC.

² Heilmann, A., Kelly, Y. and Watt, R.G. (2015) Equally protected?: a review of the evidence on the physical punishment of children. London: NSPCC.

Children in Scotland is an active contributor to several work strands laid out in the Scottish Government's 'Action Plan on Children & Young People's Rights'. We are supportive of the Scottish Government's work in this area and are particularly pleased to see the efforts to engage children and young people in many aspects of the action plan and in particular the upcoming rights awareness-raising programme.

However, we also have concerns around the scope of the action plan and the resources that have been attached to support it to meaningfully progress children's rights. For example, we are concerned about the level of resource attached to the Scottish Government's proposed rights awareness-raising campaign, which we view as being too low to deliver its ambition.

We also believe the Scottish Government could be more ambitious with future action plans in relation to how it will take forward specific policy and legislative actions that will progress children's rights.

Finally, we are of the view that the Scottish Government could be more rigorous in how it approaches reporting on children's rights. For example, the December 2018 report on progressing the human rights of children in Scotland produced by the Scottish Government ultimately provided a list of activity that had taken place but little assessment of areas where rights had been realised or progressed, or the impact of these developments on children and young people³. The report also did not appropriately deal with areas where rights have been breached or identify how the Scottish Government plans to deal with this.

Q1.4 - Child Rights and Wellbeing Impact Assessments (CRWIA)

The Committee recommends the introduction of statutory child rights impact assessment when developing laws and policies affecting children, including in international development cooperation, and that these assessment results be published. The Scottish Government revised its Child Rights and Wellbeing Impact Assessment tool in February 2019.

Are you aware of CRWIA being used at a national or local level, or within your own work? If so, can you comment on the extent to which it supported rights-based decision-making and if anything else needs to be put in place to support their effectiveness?

Children in Scotland is aware of the use of CRWIAs within a range of national policy and legislation. Anecdotally we are aware that most Scottish Government pre-legislative consultations relating to children and young people have attempted to make use of the assessments and have shown this within the document. However, we do not think that they are currently used in the most effective manner. They are not used regularly enough, nor are they used as a proactive decision-making tool. We are concerned that they are often used to justify the decision that has been taken as opposed to a mechanism for informing the best possible decision to promote children's

³ <https://www.gov.scot/publications/progressing-human-rights-children-scotland-report-2015-2018/>

rights and wellbeing. We do not believe this is the most effective way of using CRWIAs to progress children's rights in Scotland.

We believe more work is required to ensure that CRWIAs are used more regularly. We also believe that far more effort should be made to involve children and young people at an early stage of policy or legislative development. Two recent reports on the use of CRWIAs provide a range of evidence on how CRWIAs have been used to date and how to make them more effective.

In particular the report by Backbier et al highlights five key points for the successful use of CRWIAs that we feel are particularly important to highlight⁴:

- Timing and consistency
- Accurate identification of (groups of) children
- Using the rights outlined in the United Nations Convention on the Rights of the Child (UNCRC) as a starting point
- Critical engagement with children and stakeholders
- Establish a review mechanism.

We encourage the Scottish Government and all others carrying out CRWIAs to make use of the learning and recommendations in these reports to support future plans to improve and embed the use of CRWIAs going forward⁵.

GENERAL PRICIPLES

Q2.1 - Participation

The Committee makes a recommendation to establish structures for the active and meaningful participation of children in decisions that affect them (from law-making through to service delivery). The Committee emphasises the need to involve particularly young children and children in vulnerable situations such as those with disabilities.

As part of the Action Plan on Children's Rights, Scottish Government has committed to create a

Strategic Participation Framework for Scotland. In you experience, what more could be done to ensure the routine and effective involvement of children and young people in the decisions that affect them at a local level - in schools, communities and within local authorities - and at a national level within Scottish Government and the Scottish Parliament?

Children in Scotland is an active contributor to the Strategic Participation Framework through its four working groups and is supportive of efforts to meaningfully involve children and young people in decision-making at all levels. We agree that a strategic approach to participation is required, to ensure that engagement with children and young people in decision-making is of high quality, is accessible to all and impactful. We believe that guidance

⁴ <https://www.togetherscotland.org.uk/media/1302/crwia-report-group-a-214.pdf>

⁵ <https://www.togetherscotland.org.uk/media/1302/crwia-report-group-a-214.pdf>

⁶ <https://www.togetherscotland.org.uk/media/1303/crwia-report-group-b.pdf>

and support from the Scottish Government is necessary to drive forward change in this area. However, we do have concerns about the level of ambition within the current framework, and do not believe that at present, the framework will be sufficiently directive in its approach. For example, web pages of case studies and resources, while helpful, are only likely to reach those already engaged and actively seeking to improve their practice. Far more consideration is required about how we achieve culture change with those who are less open to engaging with children and young people.

Children in Scotland draws on our own learning from a range of our projects that aim to involve children and young people in decisions that affect them, covering topics including:

- Brexit
- Education
- Heritage
- Media
- Health and Wellbeing
- Politics.

In May 2019 Children in Scotland launched our children and young people's Evidence Bank⁷. The online evidence bank of children and young people's views is a key tool for decision makers to identify what children and young people have spoken about in relation to their priorities and needs. We see the evidence bank as a way of informing change from the beginning of a decision-making process and to avoid duplication of work that has already been carried out. We consider the evidence bank a useful tool to support implementation of the Strategic Participation Framework

In addition, Children in Scotland has published our own Participation and Engagement guidelines to support practitioners who are carrying out engagement work with children and young people. We believe that the guidelines provide key information for practitioners that can support meaningful engagement. Wider use and roll out of the guidelines would be a key way to ensure more meaningful engagement of children and young people, and we have worked over the last couple of years to support uptake within our membership through training and promotion.

We believe that there is a range of ways in which the Scottish Government and Local Authorities could improve their engagement with children and young people. In our 2017 report to the Scottish Government on the Impact of Children and Young People on Policymaking we identified a range of recommendations to the Scottish Government that are applicable for local and national engagement work. The full list of recommendations can be accessed within the report⁸.

In our view there are also ways in which the Scottish Parliament specifically could improve how it engages children and young people in its decision-

⁷ <https://evidencebank.org.uk>

⁸ <https://www.gov.scot/publications/impact-children-young-peoples-participation-policy-making/>

making processes. We have long-standing concerns about the effectiveness of the Scottish Parliament committee system in relation to the engagement of children and young people. Often the methods applied in Scottish Parliament committees are not participative and can make it difficult for many children and young people to meaningfully engage. We were pleased to hear that the Scottish Parliament recently adopted the Agenda Day™ model to improve engagement with children and young people in committees.

As joint secretariat of the Cross-Party Group on Children and Young People, Children in Scotland and YouthLink Scotland are currently working to make sure that children and young people can be more meaningfully involved in the work of the CPG, including recruiting a number of children and young people to act as co-convenors. We hope this will give children and young people increased the opportunity to shape the agenda of the group and influence MSPs. We aim to have this in place by the start of the parliamentary term 2019-20.

CIVIL RIGHTS AND FREEDOMS

Q3.1 - Voting age

The Committee recommends that there should be consultations with children on the voting age and that this should be supported by active citizenship and human rights education.

To what extent has the lowering of the voting age in Scotland impacted on the civic participation of young people? What steps has the Scottish Government taken to improve awareness and education on citizenship issues? Please provide evidence of existing programs and support, their effectiveness and evidence of any gaps where possible. As it stands, young people aged 16 and 17 in Scotland can vote in all Scottish elections and referendums but are unable to vote in UK wide and European elections - what impact is this having on young people's right to be involved in the political process?

As part of our 25 Calls campaign Children in Scotland has advocated for a reduction in the voting age from 18 to 16 years for Westminster elections, bringing this in line with Holyrood election, local council elections and referendums in Scotland. The rules for Westminster elections have meant that young people aged 16 and 17 across the UK are unable to participate in UK-wide democratic processes, most notably the EU Referendum in 2016. It was clear children and young people felt excluded from such discussions. Our work, in partnership with Together, to support the Children and Young People's Panel on Europe aimed to, in part, respond to this democratic deficiency and support children and young people to have a say on matters relating to Brexit.

“Young people have to experience Brexit first hand. Nowhere near enough information was given to young people about what Brexit would mean for us.”⁹

“One of our rights is to be heard and respected and we want to exercise that!”¹⁰

However, being on such a small scale, the work of such groups as the CYP Panel on Europe, while important, can only play a small part in addressing deficiencies in children and young people’s influence on national policymaking. We therefore continue to call for the Scottish Government to be far more ambitious in its work to include children and young people, and respond to their needs, priorities and recommendations.

It was particularly disappointing therefore, when the Scottish Government announced that the new Citizen’s Assembly would only comprise those aged 16 and over. We viewed this assembly as an excellent opportunity to demonstrate age inclusive practice on a vitally important topic to children and young people. We will continue to press for the inclusion of children and young people’s voices within the work of the Citizens’ Assembly of Scotland, but cannot help but conclude that this was a golden opportunity lost, to the detriment of children and young people.

VIOLENCE AGAINST CHILDREN

Q4.1 - Restraint

The Committee recommends that the Scottish Government "Abolish all methods of restraint against children for disciplinary purposes in all institutional settings, both residential and non-residential, and ban the use of any technique designed to inflict pain on children; Ensure that restraint is used against children exclusively to prevent harm to the child or others and only as a last resort and systematically and regularly collect and publish disaggregated data on the use of restraint".

Can you provide research evidence and comment on the prevalence and impact of the use of restraint within education and residential settings? Have there been any changes in policy or practice in the use of restraint since 2016?

Children in Scotland has not been directly involved in work in relation to restraint however we are happy to take this opportunity to highlight the recent report carried out by the Children and Young Peoples Commissioner Scotland into restraint in Scottish schools. The report highlighted that, at the time of writing, four local authorities did not have policies on restraint, and other local authorities appeared to be unclear about policies on restraint¹¹. There also appear to be issues with authorities never recording incidence of

⁹ <https://evidencebank.org.uk/evidence/rights/listen-to-us-a-report-on-brexit-by-the-children-and-young-peoples-panel-on-europe/>

¹⁰ <https://evidencebank.org.uk/evidence/rights/listen-to-us-a-report-on-brexit-by-the-children-and-young-peoples-panel-on-europe/>

¹¹ <https://www.cypcs.org.uk/ufiles/No-Safe-Place.pdf>

restraint or only recording it on some occasions¹². The report also highlights the clear and damaging impact that use of restraint has on children who experience it¹³.

"I don,t like going to X cos school is mince and I don,t want to see the bad teachers and the teachers can,t hold me down on the oor no I did,nt like it and they would,nt let me get up and it was very scary I did,nt like it at all because they hur my neck and they hurt my arm and I had to to to the tolet and they would,nt let me get to the tolet I was dizzy when the teachers hurt on the floor

*It,s not good to pee on the oor and it was wet on my trousers that's bad teachers saying no tolet and I did,nt mean to but I was dizzy and it was hurt me that bad "*¹⁴

Children in Scotland believes full implementation of all the recommendations contained in the report is essential to ensure that the rights of children and young people are upheld.

FAMILY ENVIRONMENT AND ALTERNATIVE CARE

Q5.1 - Childcare

The Committee notes concern about the negative effect of the high cost of childcare.

Do current childcare provisions meet the needs of parents and carers? Please comment and provide evidence on the quality and accessibility of childcare.

Provision of childcare in Scotland must currently been seen within the context of the upcoming expansion of free early learning and childcare hours. We have particular concerns about the quality of provision following the expansion of hours. Children in Scotland has consistently argued for the need for staff qualified to degree level to ensure that early learning and childcare provision is of high quality and meets the needs of children. Evidence has shown the benefit of such provision on early social, behavioural and intellectual development.¹⁵

We know that Scotland faces issues delivering high quality early years services with highly qualified staff within the current levels of provision. We are unsure about how this skills gap will be filled in time for the expansion of hours, and this presents clear issues for the expansion to ensure high quality of provision. Children in Scotland is currently delivering the Open Kindergarten project, and we believe this may provide a sustainable model of provision that meets the needs of the whole family.

Since 2016, Children in Scotland has led the CHANGE project. The pathfinder project aims to find community-based solutions to childcare in Glasgow's East

¹² <https://www.cypcs.org.uk/ufiles/No-Safe-Place.pdf>

¹³ <https://www.cypcs.org.uk/ufiles/No-Safe-Place.pdf>

¹⁴ <https://www.cypcs.org.uk/ufiles/No-Safe-Place.pdf>

¹⁵ <https://dera.ioe.ac.uk/18189/2/SSU-SF-2004-01.pdf>

End. The project has highlighted the high level of cost associated with childcare in the early years, throughout primary and into secondary school. A recent report published by the project highlights that the cost of childcare presents a real issue for families. Some were having to turn down jobs as childcare costs were too high, others were working simply to cover costs¹⁶.

It is clear that there are issues with the accessibility and cost of childcare for many families. While the expansion of free hours for early years provision will tackle some of this issue, it will do little to support families with school-aged children. The Scottish Government must identify how it will provide ongoing support to meet the rights and wellbeing of the children, young people and families affected.

BASIC HEALTH AND WELFARE

Q6.1 - Health inequalities

The Committee calls for the development of comprehensive and multi-sectoral strategies on child health, using the maximum available resources and focusing on inequalities in health outcomes and access to services, addressing underlying social determinants.

Can you provide evidence or research on work to tackle health inequalities? This could relate to accessibility and quality of health services as well as health outcomes for different groups of children.

Scotland faces deep-rooted issues as a result of health inequalities. It currently experiences the worst health and widest inequalities in Europe. Recent data provided by the Scottish Government has shown that adults from the most deprived backgrounds live on average 26 years in good health¹⁷. The 2017 *State of Child Health Report* has shown that children and young people from more deprived backgrounds are more likely to smoke, be overweight or obese when entering school and report poorer wellbeing¹⁸.

Children in Scotland is currently delivering a peer research project in two areas of high deprivation in Glasgow and Dundee, looking at the role of place, space and community on health¹⁹. Sixteen young peer researchers are being supported to explore how the community that they live in impacts on their health. The young researchers have identified three key research topics to focus on throughout the project:

- Friends and family
- Littering
- Safety.

Recommendations will be made by the peer researchers to inform local and national decision-makers.

¹⁶ <http://change-childcare.org/wp-content/uploads/2019/01/Cost-of-Childcare-CHANGE-December-2018.pdf>

¹⁷ <http://www.gov.scot/Resource/0052/00529436.pdf>

¹⁸ https://www.rcpch.ac.uk/sites/default/files/2018-05/state_of_child_health_2017report_updated_29.05.18.pdf

¹⁹ <https://childreninscotland.org.uk/health-inequalities-participative-research-project/>

Q6.2 - Mental health

The Committee recommends that data on mental health and wellbeing of children be collected regularly. Also to rigorously invest in child and adolescent mental health services, and specifically recommends that placement of children in adult psychiatric wards be prohibited. Mental health strategies should pay particular attention to children in care. The Committee also calls for the views of the child to be taken into account in cases of mental health treatment of children below the age of 16. Please comment on availability of mental health support and prevention strategies targeting children and young people, particularly in relation to children at greater risk. Are views of children under 16 considered when they receive mental health treatment? Please provide evidence where possible.

There is no doubt that children and young people's mental health has risen up the political agenda in Scotland within the last couple of years. This unfortunately has often been for negative reasons. Concerns about access to Child and Adolescent Mental Health Services (CAMHS) have been raised in a number of areas – with regard to the number of rejected or 'inappropriate' referrals, increased waiting times and worries about increased thresholds to CAMHS support before referrals are accepted. This can in practice mean that children and young people have to be very unwell before they can receive help.

The Mental Health Strategy (2017-27) lists 13 actions to specifically support children and young people's mental health, which the Scottish Government believes will address and enhance support. These include commissioning a review of rejected referrals (since undertaken by SAMH and NHS Information Service Division published in June 2018), rolling out mental health training for those working with children and young people and reviewing school-based counselling services. Since its publication in 2017, the Scottish Government has also provided funding for a Youth Commission on Mental Health (supported by Young Scot and SAMH) and a Children and Young People's Mental Health Taskforce 'to provide recommendations for improvements in provision for children and young people's mental health in Scotland and, in partnership, develop a programme of sustainable reform of services'. The Youth Commission published its final report in May 2019²⁰.

There has been no public commitment so far to include the views of children and young people within national mental health policymaking since the Youth Commission concluded its work. Children in Scotland views this as an unacceptable gap, particularly considering the ongoing existence of the Taskforce. We would recommend that future engagement with children and young people is essential, and must be wider in scope than the Youth Commission, to include younger children and a focus beyond mental health services into prevention and improvement.

²⁰ https://www.youngscot.net/wp-content/uploads/2019/05/YS_Youth_Commission_Mental_Health_FINAL.pdf

More generally, we believe that national policymaking relating to mental health is currently still too focused on the provision of specialist CAMHS services as opposed to on early support and prevention services that support the holistic needs of the child, young person and family. Children in Scotland strongly advocates for a greater focus on the social determinants of mental health including poverty and discrimination. We believe that the social determinants of health would be the most effective way to achieve positive changes in mental health and wellbeing for children and young people at a population-wide level.

Q6.3 - Child poverty

The Committee makes broad recommendations about implementing mechanisms to eradicate child poverty, which include setting concrete targets, measurable indicators and regular monitoring and reporting of child poverty reduction strategies. There is concern that the rate of child poverty remains high and disproportionately affects certain groups of children. Please comment on the impact of child poverty reduction strategies, paying particular attention to disproportionately affected groups of children. Please include evidence and research where available.

Scotland has ongoing issues with child poverty. Despite the introduction of the of the Child Poverty (Scotland) Act, recent Scottish Government figures showed that child poverty has increased from 230,000 to 240,000 children living in poverty over the past year²¹. Figures released by the Resolution Foundation also identified an increase in child poverty, suggesting that Child Poverty will increase by a further 6% by 2023-34²². A recent report by the UN Rapporteur on Extreme Poverty and Human Rights also highlighted the scale of the problem across the UK and in Scotland.

Children and young people themselves are clear about the impact this is having on their rights and wellbeing, and they also clearly felt that poverty is unfair.

“Children born into poverty is not fair in any way. Children like myself are very lucky because we are born into families who have everything they need to bring up a child, but I could easily have been born into poverty. What I’m trying to say is that it’s all luck of the draw what family you are born into and that’s not fair.”²³

Despite these figures, Children in Scotland remains strongly supportive of the Child Poverty (Scotland) Act and the statutory targets contained within it. Indeed, the increase in child poverty rates confirms the need for sustained action to ensure that children’s rights are upheld in this area.

Children in Scotland is aware of and involved in supporting a range of actions aimed at tackling child poverty. Our Children’s Sector Strategic and

²¹ <https://www2.gov.scot/Resource/0054/00546979.pdf>

²² <https://www.resolutionfoundation.org/app/uploads/2019/02/Living-Standards-Outlook-2019.pdf>

²³ <https://evidencebank.org.uk/evidence/rights/childrens-parliament-recommendations-to-scottish-cabinet/>

Policy Forum has been focusing on tackling child poverty over the past two years. Forum members have worked directly with the Scottish Government on a cross-directorate group that brings together work across Scottish Government to ensure policy coherence in tackling child poverty. Forum members have a specific role scrutinising the work of the Scottish Government and ensuring that directorates are working in harmony to meaningfully reduce child poverty.

Children in Scotland is also strongly supportive of the Scottish Government's recent announcement to bring forward the Scottish Child Payment. The new payment of £10 a month to eligible families is a significant step towards tackling child poverty in Scotland, Scottish Government modelling suggests it will lift 30,000 children out of poverty²⁴. However, we also believe this must continue to be supported by a range of ongoing work to tackle, reduce and prevent child poverty.

It is worth highlighting that work is also required at a UK level to increase the financial support provided to families to ensure children's rights are met. Children in Scotland strongly supports reform to aspects of Universal Credit such as the Two Child Limit, which are clearly contributing to breaches of children's human rights in Scotland. We are also supportive of an increase in Child Benefit at a UK level.

Q6.4 - Child hunger

The Committee recommends that school meal programmes should be regularly monitored and assessed.

How are issues of child hunger and good child nutrition being addressed and monitored, including the use of food banks and programmes to address 'holiday hunger'? What evidence can support this?

Child hunger is a growing and pervasive problem in Scotland. Evidence from the Trussell Trust has shown that 210,605 food parcels were given out in Scotland in 2018-19²⁵. Children in Scotland is clear that poverty is the key underlying cause of this. To tackle child hunger in Scotland action must be taken immediately to reduce child poverty.

Children in Scotland is also a key partner in the award-winning Food, Families, Futures project. Food, Families, Futures supports holiday clubs in local authorities across Scotland to develop holiday clubs that provide opportunities for children and families to play and learn while also providing a free meal. Children in Scotland views such provision as meeting a need for children and families, as we know that the summer holidays can be an especially challenging time for families, particularly those in receipt of free school meals²⁶.

²⁴ <https://www.gov.scot/publications/scottish-child-payment-factsheet/>

²⁵ <https://www.trusselltrust.org/wp-content/uploads/sites/2/2019/04/twitter-EOY2019-regional-breakdown-map-724x1024.png>

²⁶ Kellogg's (2015) Isolation and hunger: the reality of school holidays for struggling families, Manchester: Kellogg's, P.2

However, holiday clubs such as those provided under the Food, Families, Futures model cannot be expected to provide a sustainable response to child hunger. As we have previously alluded to, sustained action to reduce and prevent child poverty is the key policy lever that must be utilised here.

Q6.5 - Children with disabilities

The Committee recommends that a comprehensive strategy is set up for the inclusion of children with disabilities. Children with disabilities should be provided with comprehensive support for transition to adulthood, from a sufficiently early stage, by coordinating legislation, policy and programmes across relevant sectors, and ensure fully-informed decision by children with disabilities on their personal choice in the transition, by involving them in the design of services and by providing advice and information on available options.

To what extent are children and young people with disabilities being involved in decision-making that affects them? Please comment and provide evidence on support available or lacking for disabled people when transitioning to adulthood.

Children in Scotland is aware that children and young people with disabilities are often left out of decision-making that affects them. The Young Ambassadors for Inclusion are a national Scottish Government-funded group that aims to support children and young people with additional support needs to be heard in national decision-making about education policy and delivery. This is an important opportunity for children and young people to inform national decisions about how their rights to education are being met.

The My Rights My Say service also provides opportunities for children and young people with disabilities to be involved in decisions that affect them. We have outlined our view on how the service can support children to exercise their rights and the improvements that could be made to support this further in our response to section 1.1.

Our recent report *Not Included, Not Engaged, Not Involved* also highlights the issues faced by children with autism in realising their rights. We will discuss this further in Q7.3.

Q6.7 - Environmental pollution

The Committee has raised concerns of the impact of air pollution on children's right to the highest attainable standard of health and adequate standard of living. The Committee recommends a clear legal commitment, with adequate resourcing, to reduce air pollution levels, especially in areas near schools and residential areas.

What data or anecdotal evidence can you provide of examples where environmental pollution is disproportionately affecting children?

Children in Scotland is very aware of how important the issue of environmental pollution, and climate change more broadly, is for children and young people. It was clear from the recent school strikes that many children feel passionately about environmental issues and are rightly

concerned about national governments' lack of action to address global warming, one of the biggest threats to children and young people's future security and wellbeing.

"Car fumes worry me! Adults need to get on it!"²⁷

Children in Scotland and YouthLink Scotland were key delivery partners in First Minister's Question Time Next Generation. The project gave children and young people the opportunity to ask questions of the First Minister across two live broadcast events. A design team of 10 children and young people helped develop the events and selected all the questions put to the First Minister. The questions received highlight how the environment has risen up the agenda for children and young people, and a range of questions focusing on the environment were asked across the two events, including questions relating to climate change, use of plastics and littering.

Going forward more work is required by the Scottish Government to engage with children and young people in relation to the environment, and the steps that can be taken across Scotland to achieve a more environmentally sustainable future.

EDUCATION, LEISURE AND CULTURAL ACTIVITIES

Q7.1 - Relationship, Sexual Health and Parenthood education

The Committee recommends that meaningful sexual and reproductive health education is part of the mandatory school curriculum for all schools, including access to information and support for LGBT children.

What evidence is available about the adequacy and effectiveness of current Relationship, Sexual Health and Parenthood education and what gaps can be identified?

Children in Scotland is strongly supportive of inclusive Relationship, Sexual Health and Parenthood education for all children and young people. We have been pleased to see support from the Scottish Government for the TIE (Time for Inclusive Education) campaign's work to ensure that we have LGBT inclusive education and for the 33 recommendations put forward by the campaign²⁸.

We have also been supportive of LGBT Youth Scotland's guidance on supporting transgender children and young people in Scottish schools. The guidance was developed in partnership with children and young people and had support from many children's sector organisations.

We are concerned that the pause on the introduction of the Gender Recognition (Scotland) Act and Scottish Government plans to replace LGBT Youth Scotland's guidance on supporting transgender young people in schools with guidance from the Scottish Government will result in delays to

²⁷ <https://evidencebank.org.uk/evidence/rights/childrens-parliament-recommendations-to-scottish-cabinet/>

²⁸ <https://www.gov.scot/publications/lgbti-inclusive-education-working-group-report/pages/4/>

support for young trans people. We are equally concerned that the stigma faced by trans young people in schools and the impact on their rights to access education and their health and wellbeing will be impacted more broadly by these decisions.

Q7.2 - Educational attainment gap

The Committee recommends that efforts are enhanced to reduce the effects of the social background or disabilities of children on attainment and to guarantee the right of all children to a truly inclusive education.

Can you provide evidence on how best to address inequalities in educational attainment, paying particular attention to certain groups of children such as Gypsy/Traveller children, disabled children and children with Additional Support Needs?

Children in Scotland believes that the most effective way to tackle the educational attainment gap is to fund high quality early years provision and to tackle child poverty. There is a range of evidence that shows that gaps in cognitive development are often already prevalent at the age of 3 and have widened by the age of 5²⁹. We believe that attempts to tackle the attainment gap must reflect this evidence and aim to work with children and families to prevent the attainment gap from occurring in the first place. This requires a mix of sustained poverty reduction measures as we have discussed previously and also high-quality early years provision and parenting support.

At the May 2019 meeting of the Voices Forum, Children in Scotland discussed the topic of the attainment gap with our membership. Children in Scotland's members interact with the Scottish Attainment Challenge regularly from a range of different perspectives.

The issue of the attainment gap for children and young people with additional support needs featured heavily in discussions at this meeting. A key concern for Children in Scotland members was the current measures of attainment which many felt were incorrect for measuring the progress of children and young people with additional support needs³⁰. Many members felt it would be useful to have an increased focus on tackling the experience gap for children and young people with additional support needs. Children in Scotland would encourage more focus in this area to ensure that we are meeting the wider holistic needs of all children and young people within Scottish Education rather than focusing on certain aspects in isolation.

Q7.3 - Informal exclusions

The Committee recommends the practice of "informal exclusions" be abolished from schools.

What evidence is available on the prevalence and impact of informal exclusions taking place and what comments can you provide on the background of children most affected?

²⁹ Changes in Child Cognitive Development, Bradshaw, 2011

³⁰ <https://childreninscotland.org.uk/wp-content/uploads/2019/04/Voices-summary-march-2019.pdf>

Children in Scotland manages the Enquire service, Enquire is the Scottish Advice Service for Additional Support for Learning and has long been aware of potential issues around the use of informal or 'unlawful' exclusions in Scotland.

In August 2018 we published our *Not Included, Not Engaged, Not Involved* report with partners Scottish Autism and the National Autistic Society. The report explored the experience of more than 1500 parents of children with autism of informal exclusions and identified clear breaches of the rights of children with autism to accessing education. The survey results highlighted that 13% of children and young people had experienced informal exclusions within the past year while 34% had experienced it in the past two years³¹. Furthermore 28% of parents that responded to the survey identified that their children had been placed on a part-time timetable in the past two years³². Eighty-five per cent also noted that their child did not receive adequate support to catch up on work³³.

The responses to the survey also showed the clear impact these informal exclusions were having on children and young people's wellbeing and ultimately their rights in other areas.

We argued for a range of policy solutions, many of which are applicable to all children and young people with additional support needs, not just those with Autism. The recommendations include:

- Stop the use of unlawful exclusions and inappropriate use of part-time timetables
- Reduce the number of formal exclusions of children with additional support needs
- Improve the availability of specialist teachers
- Review the availability of appropriate placements for autistic children
- Enhance programmes of initial teacher training and Continuing Professional Development to improve understanding of autism
- Reinstate a minimum number of hours of education for children out of school
- Improve access to online learning
- Use of whole-school approaches to raise awareness and understanding of pupils with additional support needs, including autism.³⁴

Children in Scotland is pleased that the Scottish Government is considering all recommendations within the report. We believe that all must be taken forward to meet the rights of children and young people with additional support needs in education.

³¹ <https://www.notengaged.com/download/SA-Out-Of-School-Report.pdf>

³² <https://www.notengaged.com/download/SA-Out-Of-School-Report.pdf>

³³ <https://www.notengaged.com/download/SA-Out-Of-School-Report.pdf>

³⁴ <https://www.notengaged.com/download/SA-Out-Of-School-Report.pdf>

We also believe that wider research is required to explore the experiences of children and young people with a range of other additional support needs to identify whether their rights to education are being met.

Q7.4 - Bullying

The Committee recommends intensified efforts to tackle bullying and violence in schools, particularly for children in vulnerable groups and paying increased attention to online bullying through digital media and children's rights and training.

With particular attention on the effects of online bullying, what examples and evidence can you provide on the impact of bullying and efforts to tackle it?

In 2017 Children in Scotland produced a report for the Equalities and Human Rights Committee that explored the impact of prejudice-based bullying and harassment. The report highlighted the scale of such bullying in Scotland and the clear impact this was having. The report also highlighted that the online space had opened up new avenues for bullying to take place³⁵.

Respect Me's contribution to our 25 Calls project has reaffirmed some of the positive work being undertaken in Scotland to address bullying³⁶. Anti-bullying work is underpinned by Respect for All, Scotland's national approach to anti-bullying, and it is clear that this provides a positive, rights-based framework for tackling and preventing bullying in Scotland. However, in its Call, Respect Me also highlighted the scale of bullying faced by LGBT children and young people and children and young people from BAME backgrounds³⁷. It is clear more must be done to reduce the prevalence of bullying in Scotland, with many children and young people still experiencing breaches of their rights.

The need for action was reaffirmed in a response to this call by Face Equality Scotland, which highlighted bullying experienced by children and young people who have visible differences³⁸.

"The feelings of isolation, hurt and anger towards myself for being different and to the people doing this to me are feelings nobody should ever have."³⁹

Children and young people who attended the annual cabinet meeting also highlighted the need for progress in tackling bullying in Scotland as they felt it could have a very damaging effect on children and young people.

*"Bullying makes children feel horrible, abandoned and left alone. You feel like no-one ever cares about you"*⁴⁰

³⁵ https://childreninscotland.org.uk/wp-content/uploads/2017/09/Report_Bullying_June_2017.pdf

³⁶ <https://childreninscotland.org.uk/call-16-work-together-to-build-cultures-where-every-voice-is-valued-and-create-a-society-free-from-bullying/>

³⁷ <https://childreninscotland.org.uk/call-16-work-together-to-build-cultures-where-every-voice-is-valued-and-create-a-society-free-from-bullying/>

³⁸ <https://childreninscotland.org.uk/25-calls-response-nobody-should-ever-feel-isolated-hurt-or-angry-at-themselves-for-being-different/>

³⁹ <https://childreninscotland.org.uk/25-calls-response-nobody-should-ever-feel-isolated-hurt-or-angry-at-themselves-for-being-different/>

⁴⁰ <https://evidencebank.org.uk/evidence/rights/childrens-parliament-recommendations-to-scottish-cabinet/>

Q7.5 - Rest, leisure and play

The Committee recommends that efforts are strengthened to guarantee the right of the child to rest and leisure and to engage in age-appropriate play and recreational activities in safe, accessible, inclusive spaces and with the implementation of play and leisure policies with sufficient and sustainable resources.

Are children's rights to recreation, culture and play adequately resourced and accessible for children of all backgrounds? Please provide evidence of existing opportunities and barriers.

Children in Scotland believes that opportunities for play are an essential part of child development and achieving positive outcomes for children and young people. The Scottish Government's play strategy outlines many positive actions that promote this.

Children in Scotland is also hopeful that the recently passed Planning (Scotland) Act will provide greater opportunities within the planning system to develop play and leisure spaces for children and young people. The reformed planning system provides a new legal duty to engage children and young people in the development of Local Development Plans. We see this a key opportunity to engage children and young people in decisions about their local area and to ensure their right to play is represented within this.

However, we have some concerns about the compatibility of the Scottish National Standardised Assessments introduced by the Scottish Government with play-based learning in the early stage of education. We believe that it would be more appropriate to measure progress in P1 through professional teacher judgement, by a teacher who knows the child and has seen their development over a period of time.