



United Nations Convention on the Rights of the Child (Incorporation) Scotland Bill

October 2020

About Children in Scotland

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.

We welcome the opportunity to respond to the call for views from the Equality and Human Rights Committee. We are delighted that the long-standing commitment to incorporate the UN Convention on the Rights of the Child (UNCRC) will be realised through the **United Nations Convention on the Rights of the Child (Incorporation) Scotland Bill**. Incorporating the UNCRC into domestic law is the first stage in helping to support a culture where children's human rights are embedded, protected and fully realised.

Within our response we will refer to our previous body of engagement work that informed our August 2019 response to the Scottish Government consultation on [Incorporation of the United Nations Convention on the Rights of the Child into our Domestic Law in Scotland](#).

We recognise that the Bill is a complex piece of legislation. As a result, our response will draw on the expertise of Together (Scottish Alliance for

Children's Rights)¹ and the Children and Young People's Commissioner Scotland (CYPCS)² alongside other organisations who are leading child rights experts in Scotland.

1. Will the Bill make it easier for children to access their rights?

Full and direct Incorporation³ of the UNCRC as set out in the United Nations Convention on the Rights of the Child (Incorporation) Scotland Bill is a significant and progressive step towards ensuring that children and young people's rights are fully realised in Scotland.

The Articles outlined in the UNCRC cover all aspects of a child's life and set out how duty bearers need to work to ensure that children and young people can fully enjoy their rights. The UNCRC is the minimum standard of children's rights and should be viewed as a starting point from which the Scottish Government should seek to build and go above and beyond.

Legal incorporation will help support wider culture change by promoting greater recognition and respect for children's human rights by everyone but significantly key policy and decision-makers, including public bodies. It also helps to redress the power imbalance experienced by children and young people.⁴

Embedding children's rights and greater accountability will result in better outcomes for children and their families.

“Scotland is now building the momentum needed for culture change in which children's rights are truly recognised and realised”⁵

It is important to highlight the role that children and young people themselves have played in campaigning for the UNCRC to be incorporated into Scottish domestic law. Over recent years, many children and young people have already clearly voiced their opinion about incorporation. Scottish Youth Parliament's 2016-21 youth manifesto, *Lead the Way*, found that 76% of young people believed that the UNCRC should be fully incorporated into Scots law.⁶

“Incorporation of the UNCRC came from CYP.”⁷

¹ https://www.togetherscotland.org.uk/media/1727/crc_ehric_response_071020.pdf

² <https://cypcs.org.uk/wp-content/uploads/2020/02/UNCRC-Incorporation.pdf>

³ Insofar as the powers of the Scottish Parliament allow

⁴ <https://cypcs.org.uk/wp-content/uploads/2020/02/UNCRC-Incorporation.pdf>

⁵ <https://www.ucc.ie/en/law/news/does-legal-incorporation-of-the-uncrc-matter.html>

⁶ https://d3n8a8pro7vhmx.cloudfront.net/scottishyouthparliament/pages/283/attachments/original/1457781662/Lead_The_Way_Manifesto.pdf?1457781662

⁷ <https://childreninscotland.org.uk/wp-content/uploads/2019/09/CiS-UNCRC-report.pdf>

“This is the status quo. SYP has been campaigning for full incorporation – this is the floor.”⁸

We welcome the inclusion of many of the recommendations from the draft Children’s Rights (Scotland) Bill (as drafted by the Incorporation Advisory Group) within the Bill. The Bill takes a holistic approach to protecting children’s rights by including both proactive (preventative) and reactive measures to ensure the safeguarding and protect of children’s rights.⁹

“It is important to embed in legislation a preventive approach that ensures a human rights culture and comprehensive protection of children’s rights, before any violations occur.”¹⁰

To support a culture of children’s rights, children and young people need to be considered at the very early stages of decision-making. The creation of a Children’s Rights Scheme, Children’s Rights Wellbeing and Impact Assessments and obligations for public authorities are all mechanisms which will underpin a children’s rights culture. These elements form part of the Welsh approach.

It is important to acknowledge that where violations occur children and their representatives should be entitled to seek remedy and redress. We are therefore pleased that complaints can be raised with courts if it is felt that children’s rights have been breached. Additionally, we welcome that courts will have the power to decide if legislation is compatible with the UNCRC and will have the option to strike down (pre-incorporation) or make a declaration of incompatibility (new legislation).

2. What do you think about the ability to take public authorities to court to enforce children’s rights in Scotland?

It is a core component of a human rights-based system that rights holders can seek remedy and redress if they feel their rights have been violated. As has been highlighted by Together, this is stated in Council of Europe Guidelines on Child Friendly Justice.¹¹

We are therefore pleased that Part 2 6(1) of the Bill states that it is unlawful for public authorities to act in a way that is incompatible with the UNCRC.¹² By applying to all public bodies, both at a local and national level, and other bodies carrying out “functions of a public body”, the legislation offers legal redress for children, their families and representatives if their rights have been

⁸ https://syp.org.uk/wp-content/uploads/2019/09/SYPs_response_to_UNCRC_consultation_.pdf

⁹ https://www.togetherscotland.org.uk/media/1727/crc_ehric_response_071020.pdf

¹⁰ <https://cypcs.org.uk/wpcy pcs/wp-content/uploads/2020/02/UNCRC-Incorporation.pdf>

¹¹ <https://rm.coe.int/16804b2cf3>

¹² <https://beta.parliament.scot/-/media/files/legislation/bills/current-bills/united-nations-convention-on-the-rights-of-the-child-incorporation-scotland-bill/introduced/bill-as-introduced-united-nations-convention-on-the-rights-of-the-child-scotland-bill.pdf>

breached. For example, if a child's right to education, healthcare or safe housing are infringed by public bodies children, their families and other representatives are now able to seek support from the legal system.¹³

We would like to highlight that seeking legal redress should be a last resort. As we have highlighted previously, preventative steps need to be taken to ensure that violations do not occur in the first place. Where violations have occurred, steps need to be taken to reach a resolution before escalation. However, we recognise that established legal mechanisms in place can act as a deterrent.

We recognise that the legislative system in Scotland is complex and as a result resource and support will be required to help children, their families and representatives to navigate this system.

We are pleased that there is acknowledgement that children and their families face specific barriers to realising their rights and accessing justice.¹⁴ Children and their representatives will require support to have their rights upheld by the legal system in any capacity. We refer to Together's response which highlights that the Bill will encourage the establishment of a child-friendly complaints mechanism. This will help ensure that issues can be resolved close to the source¹⁵.

Children and young people have a right to a say in decisions that affect them and these rights are set out in both International and domestic law. Article 12 of the UNCRC which forms one of the Four General Principles is one of the fundamental values which underpins the convention. It states:¹⁶

“State Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child” and in any “judicial and administrative proceedings”.

Children and young people will require significant support to be able to access justice and as a result measures will have to be in place to support children and young people to participate in this process.

The UN Committee on the Rights of the Child states that:

“These should include the provision of child-friendly information, advice, advocacy, including support for self-advocacy, and access to independent

¹³ <https://www.ucc.ie/en/law/news/does-legal-incorporation-of-the-uncrc-matter.html>

¹⁴ <https://beta.parliament.scot/-/media/files/legislation/bills/current-bills/united-nations-convention-on-the-rights-of-the-child-incorporation-scotland-bill/introduced/explanatory-notes-united-nations-convention-on-the-rights-of-the-child-scotland-bill.pdf>

¹⁵ https://www.togetherscotland.org.uk/media/1727/crc_ehric_response_071020.pdf

¹⁶ <https://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>

complaints procedures and to the courts with necessary legal and other assistance”¹⁷

This was something we emphasised in our response to the Children (Scotland) Bill in relation to children being heard in contact and residence cases, children’s hearings and family court cases.¹⁸ We highlighted the importance of those working in justice systems to have the appropriate training, guidance and resources to uphold children’s rights.

We recognise the sensitivities and appropriateness of children raising complaints and interacting with the legal system. We are therefore pleased that the Bill gives power to the Children and Young People’s Commissioner Scotland (CYPCS) to take legal action and raise legal actions on behalf of children where they feel their rights have been breached by a public authority.

At our 2019 Children’s Rights discussion day we heard from children and young people about the importance of having a range of different sources of support to help uphold and protect children’s rights.

“Everyone in the community has a responsibility to uphold rights”¹⁹

Young people identified a range of sources for helping them to defend their rights including politicians, charities, lawyers, advocacy workers and the office of the Children and Young People’s Commissioner.

3. What more could the Bill do to make children’s rights stronger in Scotland?

As we have highlighted, the Bill provides a solid foundation from which to build for children’s rights to be fully realised in Scotland. Nevertheless, there are still areas where the Bill could be strengthened. We draw on the expertise of Together’s response which covers these areas for development in more detail.

Due Regard Duty

In our 2019 response we supported the inclusion of a “due regard duty” to accompany the “duty to comply” which was outlined by the draft Children’s Rights (Scotland) Bill. Additionally, a number of respondents to the 2019 consultation expressed that public authorities should have “due regard” to children’s rights to promote a child-rights based approach to decision-making.²⁰ The “due regard duty” is also one of the key characteristics of the

¹⁷ UN Committee on the Rights of the Child (2003). [General Comment No. 5: General measures of implementation of the Convention on the Rights of the Child](#), paragraph 24

¹⁸ <https://childreninscotland.org.uk/wp-content/uploads/2019/11/Children-Scotland-Bill-Consultation.pdf>

¹⁹ <https://childreninscotland.org.uk/wp-content/uploads/2019/09/CIS-UNCRC-report.pdf>

²⁰ United Nations Convention on the Rights of the Child: Consultation Analysis 2019

Welsh model of incorporation where ministers take **“balanced consideration of issues, in this instance the articles of the UNCRC.”**²¹ We acknowledge that the Scottish Government has considered the inclusion of a “due regard duty” and has decided not to include this duty to avoid duplication and confusion. However, we would echo the call of leading children’s rights organisations that this helps strengthen a proactive approach by encouraging decision-makers to consider the UNCRC at the earliest of stages in the decision-making process.

General Comments and Additional Interpretation

We would reiterate the call in our 2019 response that the General Comments and Observations made by the UN Committee are very important and should be given consideration by both public authorities and courts. We are disappointed that these have not been given special status and would like to see them included as part of Section 4 of the Bill. We would also like to highlight that children and young people felt that the role of the UN Committee on the Rights of the Child ensures that there is **“consistency internationally” and means it is “easier to spot faults” and “say if something is wrong”**.²²

Child-Friendly Complaints

As has been acknowledged children and young people experience barriers when trying to access justice. We therefore would like to see the Bill commit to creating the conditions to support children and young people to access justice by establishing a child-friendly complaints mechanism similarly to the Welsh children’s rights scheme. This would mean that children and their representatives could access child friendly information about who they can go to if they have concerns. We heard from children during our children’s rights discussion day about the importance of being able to raise concerns with someone you have a relationship with and **“you trust”**.²³ We would like to see this recognised by the Scottish Government in a similar way to Wales.

“children and young people... may wish to contact any adult that they trust and who is able to spend time supporting them”²⁴

Child Rights Wellbeing Impact Assessments (CRIWA)

The Bill states that CRIWAs must be provided for new Bills, certain statutory instruments and “decision of a strategic nature relating to the rights and

²¹ https://www.equalityhumanrights.com/sites/default/files/the_impact_of_legal_integration_of_the_un_convencion_on_the_rights_of_the_child_in_wales_eng.pdf

²² <https://childreninscotland.org.uk/wp-content/uploads/2019/09/CiS-UNCRC-report.pdf>

²³ <https://childreninscotland.org.uk/wp-content/uploads/2019/09/CiS-UNCRC-report.pdf>

²⁴ <https://senedd.wales/Laid%20Documents/GEN-LD9732%20-%20Children's%20Rights%20Scheme%202014-22042014-255569/gen-ld9732-e-English.pdf>

wellbeing of children". We would like further clarity on what constitutes a "strategic decision". In line with Together we would like to see the removal of the discretion given to ministers to determine what are "strategic decisions" and to allow for the publication of all CRIWA's.²⁵

Commencement Date

We would highlight that there currently is not a commencement date on the Bill however we note that the Financial Memorandum states that the Scottish Government will develop a three-year implementation programme. The current impacts of COVID-19 have impacted every aspect of children's lives and have further entrenched existing inequalities.²⁶ As a result we believe that there shouldn't be a delay in order for there to be the establishment of a strong legal framework that enshrines children's rights as a responsibility for all public bodies.²⁷

However, we are also keenly aware of the current strain on public services due to the impact of COVID-19. In our response to the 2019 consultation we highlighted that during consultation events our members raised important concerns in relation to the implementation of new legislation and the resources available to support implementation. We are pleased that a fund will be made available to support public authorities to undertake implementation activities relevant to their context and to support capacity building and awareness raising and allow for implementation to take effect as soon as possible. However, we would emphasise that additional funding may be required beyond the three-year period.

4. If you work for an organisation or public authority, what resources do you need to help children and young people access their rights? Will you require additional resources or training to implement the Bill, for example to make or respond to challenges in court?

One of Children in Scotland's key strategic priorities is to champion the participation and inclusion of children and young people. We do this through the delivery of training and working directly with organisations to ensure that the voices of children and young people are being considered in decision-making processes, including public sector organisations.

For example, in 2018 we worked with the General Teaching Council (GTCS) for Scotland to engage with children and young people to help inform the development of their new Professional Standards.²⁸ In 2019 we worked with

²⁵ https://www.togetherscotland.org.uk/media/1727/crc_ehric_response_071020.pdf

²⁶ <https://cypcs.org.uk/wp-content/uploads/2020/07/independent-cria.pdf>

²⁷ <https://childreninscotland.org.uk/child-rights-or-public-health-theres-no-choice/>

²⁸ <http://www.gtcs.org.uk/web/files/the-standards/Children-In-Scotland-Review-of-Professional-Standards.pdf>

children and young people to help shape the direction of the Crown Estate Scotland's Corporate Plan.²⁹

We recognise that children and young people are not always meaningfully engaged in the development of public services including planning, design, development, delivery and evaluation of those services.

Last year our National Third Sector GIRFEC Project (NTSG)^{*30} highlighted the need for refreshed Children's Services Planning guidance to strengthen the voices of children, young people and their families to ensure their voices are at the centre of the planning process.³¹ In 2019 the NTSG project partnered with the Children and Young People's Improvement Collaborative (CYPIC) to deliver sessions to support children and young people's participation in the children's planning process. The sessions were designed to provide an opportunity for self-evaluation, to develop a theory of what needs to happen to deliver change and to take an opportunity to consider how to evidence improvement work that is being undertaken.

We believe we can play a key role in helping to support the meaningful participation and engagement of children and young people and look forward to working with the Scottish Government, public authorities and the children's sector to ensure children's voices are at the centre of decision-making process and therefore supporting the full implementation of the UNCRC.

5. Are there any relevant equalities and human rights issues related to this Bill, or potential barriers to rights that you think we should look at?

We are aware that children and young people can experience a range of barriers to having their rights fully realised. We would highlight the barriers children and young people with additional support needs experience. We highlighted some of our specific concerns in relation to education in our response to the Review of the Implementation of Additional Support for Learning in Scotland³² and in the report *Not Included, Not Engaged, Not Involved*.³³ Additionally, the Independent Children's Rights Impact Assessment on the Response to COVID-19 Scotland highlighted concerns around: health and wellbeing, home learning environment, attainment,

²⁹ <https://childreninscotland.org.uk/wp-content/uploads/2020/05/Crown-Estate-Consultation-Report-2020.pdf>

³⁰ Now Supporting the Third Sector Project (STTS)

³¹ <https://childreninscotland.org.uk/wp-content/uploads/2019/07/Response-to-the-SGs-Consultation-on-CSP-Statutory-Guidance-Final.pdf>

³² <https://childreninscotland.org.uk/wp-content/uploads/2020/01/ASN-review-CiS-response.pdf>

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

impact of the family environment and weakness in educational planning to support children with ASNs.³⁴

Additionally, the UN Committee on the Rights of the Child has highlighted children with additional support needs and younger aged children are often underrepresented in efforts to engage in decision-making.³⁵ As a result we think it is important that this is recognised and reflected in guidance surrounding implementation of the UNCRC.

As has been highlighted by Together, we would also advocate for an intersectional approach to human rights and would support the incorporation of other international treaties which cross over, including: the UN Convention on the Rights of Persons with Disabilities (for disabled children), the Convention on the Elimination of All Forms of Discrimination against Women (for girls and young women), and the Convention on the Elimination of Racial Discrimination (for ethnic minority children).³⁶

6. What are your views on the provisions in the Bill that allow the courts to strike down legislation judged to be incompatible with the UNCRC?

We welcome the power of courts to decide if legislation, prior to incorporation, is unlawful ('strike down power'). This means that legislation will no longer be able to take effect, stopping future violations from occurring. We are pleased that this is in line with the Scotland Act 1998 and goes further than the current powers granted to UK courts through the Human Rights Act 1998 which only have the power to issue a 'statement of incompatibility'.³⁷ However we would echo Together's view that the power is limited in that it only applies to legislation prior to incorporation.³⁸

We are pleased that courts will be able to make a declaration of incompatibility for new legislation introduced after incorporation. This will give ministers time to make amendments to the legislation which makes it compatible with the UNCRC. These powers build a legal infrastructure which places children's rights at the centre.

7. What are your views on the Children's Rights Scheme and the requirement on public authorities to report?

As has been discussed, incorporation of the UNCRC supports a proactive and preventative approach to safeguarding and protecting children's rights. The development of a Children's Rights Scheme sets out the arrangements that ministers have made, or plan to make, to comply with obligations under the

³⁴ <https://cypcs.org.uk/wpcypcs/wp-content/uploads/2020/07/CRIA-appendix-disability-asns.pdf>

³⁵ https://www.togetherscotland.org.uk/pdfs/Concluding_Observations_2016_FINAL.pdf

³⁶ https://www.togetherscotland.org.uk/media/1727/crc_ehric_response_071020.pdf

³⁷ https://www.togetherscotland.org.uk/media/1342/uncrc_incorporation_response_final.pdf

³⁸ https://www.togetherscotland.org.uk/media/1342/uncrc_incorporation_response_final.pdf

Bill. The Scheme provides a mechanism for implementation and monitoring which is essential for “rights-based decision-making”.³⁹ The scheme also bears resemblance to the Child Rights Scheme in Wales⁴⁰ where children, young people, the children’s commissioner and wider society have the opportunity to engage and influence it’s development.

We are pleased that the Bill sets out a duty for ministers to consult with children and young people on the development of the scheme. Meaningful participation and engagement of children and young people will need to be embedded, to ensure successful implementation of the UNCRC. To strengthen the commitment to child participation we believe this should be made more explicit in Part 3 11(3)⁴¹. At our children’s rights discussion day, we heard directly from children and young people about the importance of being involved in decision-making processes.

“CYP have the right to be heard in decisions that affect them”

Children and young people also expressed the importance of different groups of children and young people being involved, particularly those groups who experience barriers to engagement. Guidance will need to be developed to support children and young people’s meaningful engagement. We will go into more detail in question 8.

Additionally, we would like an explicit commitment to the meaningful engagement of children in rights awareness raising, rights based budgeting and preparation of the CRIWA.⁴² These elements are fundamental to supporting implementation and are key characteristics of the Welsh children’s rights scheme. We would also like to see the creation of a ‘child friendly complaints mechanism’.

Reporting

We welcome the requirement for public authorities to report every 3 years on the scheme and measures taken to comply with the UNCRC. We believe that this builds on and enhances the existing requirements to report as part of the Children and Young People (Scotland) Act 2014. We would refer to Together’s response that the “list of authorities” should be expanded to include more wider ranging bodies to ensure that reporting on children’s rights covers all sectors. For example, we note that the Care Inspectorate is not included within the “list of authorities” when the Scottish Qualifications Authority is and they are both classed as executive non-departmental public

³⁹ <https://cypcs.org.uk/incorporation/our-work-on-uncrc-incorporation/consultation-response-incorporation-of-the-uncrc-into-scots-law/>

⁴⁰ <https://senedd.wales/Laid%20Documents/GEN-LD9732%20-%20Children's%20Rights%20Scheme%202014-22042014-255569/gen-ld9732-e-English.pdf>

⁴¹ https://www.togetherscotland.org.uk/media/1342/uncrc_incorporation_response_final.pdf

⁴² https://www.togetherscotland.org.uk/media/1342/uncrc_incorporation_response_final.pdf

bodies.⁴³ However, we are aware that some bodies are not listed because they are classed as “agencies of the Scottish Government” and come within the scope of Scottish Minister’s reporting.⁴⁴ This needs to be made clearer within the guidance.

8. Is there anything else you want to tell us about the Bill?

The Bill to incorporate the UNCRC is a progressive step towards the full realisation of children’s rights. Its impact will be determined by how successfully it is implemented. The children we spoke to highlighted that even when laws are in place they **“can be broken but shouldn’t be”**⁴⁵ A range of different measures will need to be put into place in order to support full implementation. We are pleased that resource have been set aside in the Financial Memorandum to support identified initiatives. However, we would emphasise that culture change takes time and note that funding may be required beyond the three-year period to support public authorities to meaningfully involve and embed the voices of CYP. This will require significant changes to structures, policy and practice. Meaningful engagement with children and young people should be an ongoing process and structures should be able to facilitate beyond the three-year implementation period.

Meaningful engagement

Meaningful participation should be embedded throughout the development of a Scottish Children’s Rights Scheme and any additional activities to support the full incorporation and implementation of the UNCRC. We are pleased that the Scottish Government has established a Strategic Participation Framework and view this as a starting place to build capacity to support the participation of children and young people at all levels of decision-making. Children and young people should be supported to participate in decision-making in all relevant contexts and at all levels of their lives. These include, but are not limited to: family, alternative care, education and school, health care, prevention strategies and national and international settings.⁴⁶

To support children and young people to actively engage with policy and decision-making processes and to support co-design processes, accessible and age-appropriate resources for children, young people and families are essential.

Our principles and guidelines for participation and engagement provide key information for practitioners and policymakers in the planning, delivery and

⁴³ <https://www.gov.scot/publications/national-public-bodies-directory/pages/executive-non-departmental-public-bodies/>

⁴⁴ https://www.togetherscotland.org.uk/media/1342/uncrc_incorporation_response_final.pdf

⁴⁵ <https://childreninscotland.org.uk/wp-content/uploads/2019/09/CiS-UNCRC-report.pdf>

⁴⁶ <https://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>

follow up of any project.⁴⁷ Disseminating this example of good practice would be a helpful action in supporting more meaningful engagement of children and young people.

We often hear from children and young people that they experience 'consultation fatigue'. Repeated consultation with children and young people can lead them to feel disempowered and can discourage them from engaging in future opportunities to share their views and experiences. We would encourage the Scottish Government to consider how it can make better use of evidence of what children and young people have already said about the issues that affect them to inform policymaking. Evidence of what works for children and young people can be found in our Children and Young People's Evidence Bank.⁴⁸ We acknowledge that many organisations recognise the importance of championing the voices of children and young people and have embedded children's views in their work. The Evidence Bank is a central resource that highlights the direct views and experiences of children and young people contained in a range of public reports. It can be used as an important resource to complement direct engagement work surrounding policy development.

Advocacy and Support Services

It is essential that children and young people are supported to share their voice and experiences. As a result, barriers need to be removed to enable them to do this. Children and young people require help, support and access to independent advocacy in order to raise claims. We are aware the advocacy services are not universally accessible to all and would therefore encourage resource to change this situation.

Children in Scotland supports the delivery of the My Rights, My Say advocacy provided as part of this service. The My Rights, My Say service exists to ensure that children with additional support needs aged 12-15 are able to exercise their rights as set out within the Education Act (Scotland) 2004 (as amended). The services offered recognise that children and professionals may need a range of support in order to make children's rights to additional support for learning a reality and the same will be true of full incorporation of the UNCRC. Children have the right to request an advocate to help them share their views about their support at school. However, some children will not have the confidence or ability to take this initiative. The Children's Views service is then available for professionals to request independent support to seek a child's views to uphold their right to be involved in decisions about their life. Finally, for children who need to seek redress by taking a claim to the ASN Tribunal, free, independent legal representation is available for children to use. These

⁴⁷ <https://childreninscotland.org.uk/wp-content/uploads/2019/09/CiS-Participation-2019.pdf>

⁴⁸ <https://evidencebank.org.uk/>

services are delivered in partnership, alongside advice and information provided by Enquire. Children in Scotland believes that a similar model of integrated support services to enable children to access their rights and seek redress if needed would be beneficial in ensuring that the UNCRC is successfully embedded across Scotland.

Children's Rights Budgeting

To support the successful implementation of the UNCRC we would like to see a commitment to children's rights budgeting. Public budgeting for children's rights formed one of the 2016 General Comments of the Committee on the Rights of the Child.⁴⁹ We would like to have seen reference to child rights budgeting in the financial memorandum.

Rights Awareness Initiatives

At our children's rights discussion day we heard about the importance of rights awareness being universal. Children identified a range of different people who needed to become more familiar with children's rights, including children, young people, teachers, parents, politicians and other duty bearers.

We welcome the commitment to support rights awareness amongst public services as set out in the financial memorandum. For example, the development of rights awareness and capacity building activities to practitioners in the public sector. The children and young people we spoke to were clear that duty bearers need to be aware of children's rights in order **"to enforce them"**.⁵⁰

Additionally, rights awareness programmes for children and young people should identify who is a duty bearer and their roles and responsibilities as set out in law.

As part of one of the initiatives set out in Progressing the Human Rights of Children in Scotland: An Action Plan⁵¹ we supported Young Scot with the Activate Your Rights project. The project was co-designed by children and young people and led to the development of a pack of resources to help children and young people to understand and protect their rights.⁵² The materials are designed to prepare nursery, primary and secondary school teachers, youth workers and other educators ahead of incorporation.

⁴⁹ General comment no. 19 (2016) on public budgeting for the realisation of children's rights (art.4)

⁵⁰ <https://childreninscotland.org.uk/wp-content/uploads/2019/09/CiS-UNCRC-report.pdf>

⁵¹ <https://www.gov.scot/binaries/content/documents/govscot/publications/progress-report/2019/11/progressing-human-rights-children-scotland-action-plan-2018-2021/documents/progressing-human-rights-children-scotland-action-plan-2018-2021-progress-report-2019/progressing-human-rights-children-scotland-action-plan-2018-2021-progress-report-2019/govscot%3Adocument/progressing-human-rights-children-scotland-action-plan-2018-2021-progress-report-2019.pdf?forceDownload=true>

⁵² <https://youngscot.net/learning-resources#activate-your-rights>

It is important that children are aware of their rights at the earliest age. As a result, all awareness raising activity needs to be designed from the early years onwards and should be extended to include parents and their wider family.

Awareness of children's rights needs to be made universal. It is important that this extends beyond those working directly with children and young people or who have this as part of their role and remit. For UNCRC to be fully implemented everyone needs to be aware to implement protections and challenge violations when they take place.

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