

UNCRC Incorporation Bill

Presentation to Children, Young People and Education Executive

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

Passed Unanimously



BACKGROUND

- The [UNCRC \(Incorporation\) \(Scotland\) Bill](#) was introduced to the Scottish Parliament on 1st September 2020 and was passed unanimously on 16th March 2021.
- The main purpose of the Bill is bringing the UNCRC into Scots law.
- The First Minister said the Bill would incorporate the UNCRC into Scots law ["fully and directly"](#)

Vision

- The Scottish Government is committed to fully realising the human rights of all people in Scotland.
- It is committed to building a Scotland where respect for human rights forms the bedrock of society and the institutions which govern and deliver public services for the people of Scotland.
- The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill represents a significant step on the road to fully realising that future for Scotland
- a future based on tolerance, equality, shared values and respect for the worth and human dignity of all people



WHAT THE HELL DOES THAT MEAN?

By Incorporation into Scots Law it means



- Children's rights are legally protected.
- Public authorities are legally required to respect and protect children's rights in all the work that they do
- Children, young people and their representatives could use the courts in Scotland to enforce their rights.

The Bill seeks to make sure Children's Rights are part of everyday life in Scotland.




The Bill also does things to make sure that Incorporation works.

- Public authorities must not act in a way that's incompatible with the UNCRC requirements
- Courts will have powers to decide if legislation is compatible with the UNCRC requirements
- The Scottish Government can change laws to make sure they are compatible with the UNCRC requirements
- The Children and Young People's Commissioner in Scotland would have power to take legal action if children's rights under the UNCRC are breached
- The Scottish Government must publish a Children's Rights Scheme to show how they are meeting UNCRC requirements and explain their future plans for children's rights
- The Scottish Government must review how the Scheme is working every year
- Other public authorities mentioned in the Bill must report every three years on what they have done to meet the UNCRC requirements
- [Explanatory notes](#)



UK Government referred UNCRC Incorporation (Scotland) Bill to Supreme Court

- On the 12th April the UK Government decided to refer the UNCRC (Incorporation) (Scotland) Bill to the Supreme Court on the basis that some aspects may exceed the powers of the Scottish Parliament.
 - The UK Government is concerned that parts of the Bill may go beyond the powers of the Scottish Parliament.
 - Relating to constitutional law - it does not relate to the policy intention behind the Bill.
 - This means the Bill will not receive royal assent, which allows it to become law, until the UK's highest court has considered the challenge.
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Supreme Court – So now what?

- The vast majority of work in relation to implementation can and is continuing to go ahead
- The Scottish Government believes that the UNCRC Bill will be a catalyst for change in all aspects of public life, supporting full realisation of all children's rights in practice.
- The [financial memorandum](#) set out the high level plans for a three year implementation programme, covering three strands, which have been, and will continue to be, further developed in partnership with stakeholders.

Leadership

- The Scottish Government has an important role in role modelling child rights respecting practice in Scotland's public services.
- A key part of this involves providing governance and collective leadership to the implementation programme.
- This strand also includes establishing mechanisms for monitoring and evaluating the implementation programme and developing capability in the Scottish Government to fulfil its new obligations under the [UNCRC Bill](#), including the compatibility duty, the Children's Rights Scheme and use of [Child Rights and Wellbeing Impact Assessments](#).
- A key aspect of this strand is ensuring policy alignment of children's rights with policies across government, such as with GIRFEC and the delivery of [The Promise](#).
- [Policy](#) work to prepare for the successful implementation of the Bill in relation to court and tribunal rules, as well as considering current legislation, guidance, policy and practice with respect to the UNCRC Bill requirements.

Empowered Children & Young People

- Ensuring that children, young people and their families can claim their rights is central to delivering a Scotland where human rights are made real. This strand focuses on children's rights awareness-raising and children and young people's participation, including work with families and communities.
- The awareness-raising activities aim to support children and young people across Scotland to be human rights defenders and challenge breaches of their and others' rights.
- Consideration is being given to a fund for participation which will support development of a sustainable approach to the strategic participation of children and young people in decision-making, and to enable the voices of those children and young people who are seldom heard to be proactively sought out listened to.
- This strand also includes the delivery of a social marketing campaign to raise the profile and support for children's rights across Scottish society

Embedding Children's Rights in Public Service

- To ensure that public services are appropriately supported in delivering the step-change in respecting, protecting and fulfilling children's rights that this Bill seeks to deliver, the Scottish Government is committed to developing guidance in partnership with public authorities.
- They intend to publish initial guidance to help raise awareness of the Bill and support public authorities and other duty bearers to make immediate preparations for commencement.
- They will deliver fuller guidance around the time of commencement to support a child's rights approach more broadly, and they anticipate this could include best practice examples, sources of support and further information on a number of areas, such as: [raising awareness of children's rights](#), participation, child friendly complaints, undertaking CRWIA and children's rights approach to budget-making, as well as making links with the Community Empowerment (Scotland) Act 2015 and the Equality Act 2010.
- They also propose to publish guidance in relation to the reporting duty placed on listed authorities under section 15 of the Bill, ahead of the end of the first reporting period in March 2023. In addition to guidance, as part of the Implementation Plan, They are considering other methods to support public authorities, for instance through workforce development and capacity building, and opportunities to support them with regards to improvement and innovative practice in relation to children's rights

- Scottish Government will support public authorities with a package of measures, including statutory guidance, capacity building and other complimentary materials, to help public authorities prepare for commencement of their duties, as set out in the Bill.
- It is intended that guidance, to support public authorities and those undertaking functions of a public nature in fulfilling their duties under the Bill, will be provided as part of the Implementation Plan.
- This will be developed in partnership with those bodies affected. For guidance to be accessible and best meet the needs of duty bearers and rights holders.



Readiness for commencement (Part 2 – Duties on public authorities)

- This set of guidance will assist public authorities to understand the purpose of the Bill, consider their status as a public authority, assess their functions, and undertake a process to review current compatibility and readiness.
- SG aim to publish this guidance at least 3 months prior to commencement.



Progressive realisation of children's rights (Part 2 – Duties on public authorities)

- Guidance looking beyond compatibility.
- Deeper more comprehensive guidance in support of best practice in fulfilling and giving better and further effect to children's rights
- To have in place in the autumn in line with original timescales



Child's Rights Reporting (Part 3 - Reporting duty of listed authorities)

- Listed authorities must prepare and publish reports on a three-yearly basis on what they have done to comply with the duty in section 6(1) of the Bill to give better or further effect to the rights of children and the actions it intends to take during the next reporting period






GIRFEC

Getting It Right For Every Child

FALKIRK



The Children's Commission Children's Rights & Engagement Group

- The Children's Commission Leadership Group will oversee Part 1 of the Children & Young People (Scotland) Act – Children's Rights and UNCRC Incorporation
- The group asked CYP what mattered to them, and infographics of their views were produced for:
- [Integrated Children's Services Plan](#)
- [Children's Rights Plan](#)
- [SHANARRI](#)

Please pick which themes we should include



64%

Mental Health & Wellbeing



58%

Your Future

Most important top five:



74%

Article 28:
I have the right to an education



70%

Article 12:
I have the right to be listened to and taken seriously



62%

Article 6:
I should be supported to live and grow



62%

Article 27:
I have the right to a proper house, food and clothing



60%

Article 31:
I have the right to relax and play

The Children's Commission Children's Rights & Engagement Group

The Group will continue to engage CYP to:

- Develop our plans
- Develop an engagement approach for services and the community planning partnership
- Education Groups, CLD Groups and MSYPS are already engaging. (See Images)
- Support Implementation of Rights Respecting Schools – 36 involved so far
- Support the Implementation of The Promise

The group will also roll out UNCRC Awareness raising for community planning partnership



#KeepThePromise



Scottish Government working Group
UNCRC (Scotland) Incorporation Bill
Guidance

4 members of the
Scottish Youth Parliament



UNCRC
Incorporation
(Scotland) Bill
goes much further
than Children's
Services, this
covers every
element of Public
Service



Falkirk Council



falkirk
COMMUNITY PLANNING
PARTNERSHIP