



Glasgow
Council
for the
Voluntary
Sector

Summary

Draft Guidance on Part 1 - Duties of Public Authorities in Relation to the United Nations Convention on the Rights of the Child (UNCRC)

1. Overview

The UK Government signed the United Nations Convention on the Rights of the Child (UNCRC), a piece of international law which sets out children's rights and Government responsibilities towards children. Responsibility for implementing UNCRC in Scotland is devolved to the Scottish Government. The Children and Young People (Scotland) Act 2014 is a key part of the Scottish Government strategy to uphold the UNCRC and improve children's services.

If the Scottish Government is to deliver on its commitment, to make Scotland the best place in the world to grow up, it is crucial that children's rights are a primary consideration whenever decisions are being taken which will affect children and young people.

The Act establishes the new legal framework within which services are to work together in support of children, young people and families. The UNCRC provides children and young people with a series of individual rights, including the right to education, health, play and recreation, and an adequate standard of living.

Part 1 of the Children and Young People (Scotland) Act 2014 places a duty on a range of public bodies to report every three years on the steps they have taken to ensure children's rights, in line with the UNCRC.

The Scottish Government has produced draft non-statutory guidance to help public authorities to produce these reports, which is now open for consultation. This is a summary of the guidance. The full draft guidance can be found [here](#)

2. The UN Convention on the Rights of the Child

Everyone has human rights. These are the basic rights and freedoms to which we are all entitled in order to live with dignity, equality and fairness and to develop and reach our potential. Everyone, including children, have these rights, irrespective of their circumstances.

The [UN Convention on the Rights of the Child 1989](#) is a core human rights treaty which sets out an internationally agreed framework for the rights of all children and young people (up to the age of 18). Four General Principles underpin each and all of the specific rights outlined in the UNCRC:

- for rights to be applied without discrimination
- for the best interests of the child to be a primary consideration;
- for the right to life, survival and development; and
- for the right to express a view and have that view taken into account

The Articles provide a framework of standards, principles and guidance on implementation, which take into account specific childhood needs. The UNCRC also provides for specific groups of children by age, setting or those who need special protection or other forms of support. This includes:

- disabled children and those with additional support needs;
- children in urban and rural areas;
- looked after children;
- children who are affected by poverty; deprivation or homelessness;
- children affected by violence, drugs or alcohol;
- victims of abuse or exploitation including trafficking, economic or sexual; and
- child asylum-seekers or refugees.

The UNCRC establishes the concept of a child's "evolving capacities" (Article 5) which states that direction and guidance provided by parents and others with responsibility for the child, must take into account the capacities of the child to exercise rights on their own behalf.

3. Children and Young People Act Part 1

3.1 Duties on Scottish Ministers

The Act places duties on Scottish Ministers to:

- consider whether there are any steps which they could take secure or improve the UNCRC in Scotland (taking account of the views of children)
- promote public awareness and understanding in Scotland of the rights of the child, including amongst children; and
- report to the Scottish Parliament every three years on progress in relation to the above and what they intend to achieve over next three-year period. The first report is due in 2018.

3.2 Child Rights and Wellbeing Impact Assessment (CRWIA)

The Scottish Government has developed a model for Child Rights and Wellbeing Impact Assessment (CRWIA) for use across the Scottish Government. This aims to ensure that all ministers consider the extent to which proposed policies and legislation will impact on children in terms of their rights and wellbeing.

Since the views of children and young people are integral to the Child Rights and Wellbeing Impact Assessment process, the CRWIA guidance includes information to support the effective engagement with, and participation of children and young people, in national policy-making.

3.3 Duties on Public Authorities

The Act, from April 2017, places a duty on a range of public bodies (including all local authorities and health boards) to report every three years on the steps that they have taken to ensure children's rights are respected, protected enabled and fulfilled. A list of public authorities covered by the Act can be found at Appendix 2.

4. A framework for children's rights reporting

4.1 General Principles

Using the UNCRC clusters is an internationally recognised approach to the implementation, monitoring and reporting of children’s rights. It provides a useful approach to developing statutory Children’s Rights Reports. These can be linked to the Scottish Government’s GIRFEC Wellbeing Indicators (see Table 1 below).

Links between wellbeing indicators and the articles of the UNCRC

Wellbeing indicator	Articles of the UNCRC
SAFE	(11) abduction and non-return of children (19) protection from violence, abuse and neglect (22) refugee children (32) child labour (33) drug abuse (34) sexual exploitation (35) abduction, sale and trafficking (36) other forms of exploitation (37) inhumane treatment and detention (38) war and armed conflicts
HEALTHY	(3) best interests of the child (6) life, survival and development (24) health and health services (39) recovery and rehabilitation of child victims
ACHIEVING	(4) Governments must do all they can to make sure every child can enjoy their rights in systems that promote and protect these rights (18) parental responsibilities and state assistance (28) right to education (29) goals of education
NURTURED	(4) Governments must do all they can to make sure every child can enjoy their rights in systems that promote and protect these rights (5) parental guidance and a child’s evolving capacities (18) parental responsibilities and state assistance (20) children deprived of a family (21) adoption (25) review of treatment in care (27) adequate standard of living
ACTIVE	(3) best interests of the child (23) children with disabilities (31) leisure, play and culture
RESPECTED	2) non-discrimination (3) best interests of the child (4) Governments must do all they can to make sure every child can enjoy their rights in systems that promote and protect those rights. (5) parental guidance and a child’s evolving capacities (8) protection and preservation of identity (12) respect for the views of the child (13) freedom of expression (14) freedom of thought, belief and religion (16) right to privacy

	(17) access to information; mass media (18) parental responsibilities and state assistance (30) the right to learn and use the language, customs and religion of their family
RESPONSIBLE	(3) best interests of the child (12) respect for the views of the child (14) freedom of thought, conscience and religion (15) freedom of association (40) juvenile justice
INCLUDED	(3) best interests of the child (6) life, survival and development (18) parental responsibilities and state assistance (23) children with disabilities (26) social security (27) adequate standard of living

Table 1

Public authorities may wish to report on 'reflective statements', taking account of the UNCRC articles.

4.2 Examples of reflective statements

- We can demonstrate how the principle and practice of non-discrimination have been taken into account in our services. (Article 2)
- We use a range of ways to seek children and young people's views about matters that affect them and always consider the child's views in deciding what is in their best interests (Articles 3 and 12)
- Children and young people have access to independent advocacy where they find it more difficult to claim their rights or if their rights have been violated. (Article 12)
- We ask children and their parents/carers routinely about matters that affect them and provide feedback on how their views have been acted on. (Article 12)

These examples should be used as a basis of consideration by public authorities, in consultation with other stakeholders including children and young people, parents and carers, and third sector organisations.

4.3 Process of preparing a children's rights report

In order to produce Children's Rights Reports, public authorities should establish baseline information which will inform the reports, considering:

- the age, gender, ethnicity, disability, and deprivation levels of the children and young people who will be affected;
- the numbers and groups of children and young people who are affected by the specific areas of children's rights;
- whether evidence exists for all groups of children and young people;
- the views and experiences of children and young people in the areas being considered;
- the availability of information collected by other relevant agencies or services;
- whether specific questions can be added to broad public consultations; and
- Whether commissioning and undertaking additional evidence collection is necessary where there are significant gaps.

4.4 Consultation and engagement

Consultation exercises should include the staff of public authorities as well as other stakeholders including other authorities, third sector organisations and wider civic society as well as children and young people and parents and carers.

4.5 Informing children, families, communities and practitioners

Public authorities may wish to develop further Information on the new duty to support wider understanding of children's rights and reporting among children and young people, families, communities and practitioners.

4.6 Structure of the report

The structure and format of the Children's Rights Report could include:

- high level statements of ambition and intent relating to the UNCRC;
- baseline information about the population and situation of children and young people;
- analysis of changes over time and monitoring of progress relating to the public authorities responsibilities in realising children's rights;
- areas where children's rights have not progressed and there are gaps and where improvements are required;
- examples of effective practice; and
- what is to be done by whom and when, as a result of the report

4.7 Publication of the report

Reports should be published "as soon as practicable" after the end of the three-year period and consideration should be given to producing the reports in a variety of formats, including social media. The responsible authority should make the report available to scrutiny to stakeholders.

Appendix 1 - UNCRC

This is a simplified version of the United Nations Convention on the Rights of the Child. It has been signed by 191 countries. The convention has 54 articles in total. Articles 43 – 54 are about how governments and international organisations will work to support children's rights.

The Convention operates on 4 guiding principles:

- non-discrimination;
- right to life, survival, and development;
- doing what is in the best interest of the child;
- and meaningfully engaging children and youth.

Article 1 - Everyone under 18 has all of these rights.

Article 2 - You have the right to protection against discrimination. This means that nobody can treat you badly because of your colour, sex or religion, if you speak another language, have a disability, or are rich or poor.

Article 3 - All adults should always do what is best for you.

Article 4 - You have the right to have your rights made a reality by the government.

Article 5 - You have the right to be given guidance by your parents and family.

Article 6 - You have the right to life.

Article 7 - You have the right to have a name and a nationality.

Article 8 - You have the right to an identity.

Article 9 - You have the right to live with your parents, unless it is bad for you.

Article 10 - If you and your parents are living in separate countries, you have the right to get back together and live in the same place.

Article 11 - You should not be kidnapped.

Article 12 - You have the right to an opinion and for it to be listened to and taken seriously.

Article 13 - You have the right to find out things and say what you think, through making art, speaking and writing, unless it breaks the rights of others.

Article 14 - You have the right to think what you like and be whatever religion you want to be, with your parents' guidance.

Article 15 - You have the right to be with friends and join or set up clubs, unless this breaks the rights of others.

Article 16 - You have the right to a private life. For instance, you can keep a diary that other people are not allowed to see.

Article 17 - You have the right to collect information from the media – radios, newspapers, television, etc. – from all around the world. You should also be protected from information that could harm you.

Article 18 - You have the right to be brought up by your parents, if possible.

Article 19 - You have the right to be protected from being hurt or badly treated.

Article 20 - You have the right to special protection and help if you can't live with your parents.

Article 21 - You have the right to have the best care for you if you are adopted or fostered or living in care.

Article 22 - You have the right to special protection and help if you are a refugee. A refugee is someone who has had to leave their country because it is not safe for them to live there.

Article 23 - If you are disabled, either mentally or physically, you have the right to special care and education to help you develop and lead a full life.

Article 24 - You have a right to the best health possible and to medical care and to information that will help you to stay well.

Article 25 - You have the right to have your living arrangements checked regularly if you have to be looked after away from home.

Article 26 - You have the right to help from the government if you are poor or in need.

Article 27 - You have the right to a good enough standard of living. This means you should have food, clothes and a place to live.

Article 28 - You have the right to education.

Article 29 - You have the right to education which tries to develop your personality and abilities as much as possible and encourages you to respect other people's rights and values and to respect the environment.

Article 30 - If you come from a minority group, because of your race, religion or language, you have the right to enjoy your own culture, practice your own religion, and use your own language.

Article 31 - You have the right to play and relax by doing things like sports, music and drama.

Article 32 - You have the right to protection from work that is bad for your health or education.

Article 33 - You have the right to be protected from dangerous drugs.

Article 34 - You have the right to be protected from sexual abuse.

Article 35 - No one is allowed to kidnap you or sell you.

Article 36 - You have the right to protection from of any other kind of exploitation.

Article 37 - You have the right not to be punished in a cruel or hurtful way.

Article 38 - You have a right to protection in times of war. If you are under 15, you should never have to be in an army or take part in a battle.

Article 39 - You have the right to help if you have been hurt, neglected, or badly treated.

Article 40 - You have the right to help in defending yourself if you are accused of breaking the law.

Article 41 - You have the right to any rights in laws in your country or internationally that give you better rights than these.

Article 42 - All adults and children should know about this convention. You have a right to learn about your rights and adults should learn about them too.

Appendix 2 - Who are the public bodies?

- A local authority
- Children's Hearings Scotland
- Scottish Children's Reporter Administration
- A health board
- A "special health board" (a board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978)
- Healthcare Improvement Scotland
- Scottish Qualifications Authority
- Skills Development Scotland
- Social Care and Social Work Improvement Scotland (the Care Inspectorate)
- Scottish Social Services Council
- Scottish Sports Council (SportScotland)
- Chief Constable of the Police Service of Scotland
- Scottish Police Authority
- Scottish Fire and Rescue Service
- Scottish Legal Aid Board
- Mental Welfare Commission for Scotland
- Scottish Housing Regulator
- Bord na Gaidhlig
- Creative Scotland