



Statutory guidance on Part 3 of the UNCRC (Incorporation) (Scotland) Act 2024

Contents

1. Preface	3
2. Aim and scope of this guidance	4
3. Part 3 of the Act	5
3.1 Children’s Rights Scheme	5
3.2 Child Rights and Wellbeing Impact Assessments	5
3.3 Reporting duty of the Scottish Parliament	5
3.4 Reporting duty of listed authorities	6
3.5 Consequential amendments to the Children and Young People (Scotland) Act 2014	6
4. Reporting duties of listed authorities	7
4.1 Reporting cycles and due dates for children’s right reports	7
4.2 Developing baseline information	7
4.3 Consultation and engagement	9
4.4 Preparation for reporting	9
4.5 Requirement to produce a child friendly report	10
4.6 Potential links to other reports or plans	11
4.7 Governance	12
5. Publication requirements of reports	13
5.1 Duty to lay reports before Scottish Ministers	13
5.2 Publication of joint and/or combined reports	13
5.3 Accessibility considerations	14
5.4 Further engagement	14
6. Policy intention of children’s rights reports under section 18 of the Act	15
Annex A	16
A.1 Background to and incorporation history of the Act	16
A.2 Overview and key aspects of the UNCRC Act	19
Annex B – Frameworks for children’s rights reporting	23
B.1 UNCRC Clusters approach	23
B.2 Wellbeing approach: using the GIRFEC wellbeing indicators	27
B.3 Further approaches and considerations	29
B.4 External resources on accessibility	30
Annex C – Scottish Government use of children’s right’s reports	31
Annex D – List of links	32
Annex E – Glossary of key terms	34

1. Preface

This statutory guidance is issued by Scottish Ministers to provide further information on Part 3 of the [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#) (“the Act”). It is intended to fulfil Scottish Ministers’ duty under section 20 of the Act, to issue guidance on the reporting duty on listed authorities under Part 3, Section 18 of the Act.

Section 18 of the Act places a duty on listed authorities to publish a report as soon as practicable after the end of the reporting period. The report must cover the actions taken to ensure compliance with the duty under Section 6(1) of the Act during the reporting period and the actions it intends to take during the next reporting period to ensure compliance. In addition, a listed authority must report on the actions it has taken and intends to take during the next reporting period to secure better or further effect of the rights of children. The listed authorities to whom this duty applies are set out in section 19 of the Act.

Bodies who meet the definition of a public authority in sections 6(5), (6), (7) and (8) of the Act (please see Part 2 Guidance, section 4.3.2 for a definition of public authority under the Act) but are not listed in section 19 are not subject to reporting duties. Under section 19(2) of the Act, Scottish Ministers may by regulations add a public authority or a description of public authorities as a listed authority (or authorities), remove a listed authority (or authorities) or amend an entry for a listed authority (or authorities). Additions, deletions, or amendments to the section 19 listed authorities can only take place after consultation with the authority (or authorities) concerned or (as the case may be) the public authorities falling within the description of public authorities concerned, and such other persons as they consider appropriate. The modification must be carried out by regulations laid before the Scottish Parliament.

Section 17 of the Act sets out the amendments made to the Children and Young People (Scotland) Act 2014 (“the 2014 Act”). In particular, Part 1 (Rights of children) and Schedule 1 of the 2014 Act are repealed and this includes public authorities’ reporting duties under Part 1 Section 2 of the 2014 Act. Public authorities listed in Schedule 1 of the 2014 Act still have a duty to complete outstanding reports for the periods 2017-20 and 2020-23 as per section 2. Further information on arrangements to transition reporting from the requirements in the 2014 Act to section 18 of the UNCRC Act can be found in Chapter 5 of this guidance.

This guidance must be read in conjunction with the legislation to which it relates. It is not intended as a substitute for direct reference to the Act itself. Interpretation of the Act and its duties will ultimately be for the courts to decide in the event of any proceedings raised before them. If an individual listed authority is unclear on how to fulfil their section 18 duty, it is recommended that legal advice be sought in order to achieve clarity.

The Act received Royal Assent on 16 January 2024. Section 18 of the Act is due to come into force six months after Royal Assent, on 16 July 2024.

2. Aim and scope of this guidance

This guidance is issued by Scottish Ministers on a statutory basis to promote understanding, implementation and operation of Part 3 of the Act. The guidance will be of assistance to anyone who wishes to use it for this purpose, and especially to authorities listed under section 19 of the Act.

How is the guidance to be used?

This guidance is issued in order to support listed authorities in the implementation and operation of their duties under Part 3. It is intended to promote understanding of Part 3 of the Act and promote child rights respecting practice. It includes information to support listed authorities in the implementation and operation of their duties. Listed authorities retain discretion on the implementation and operation of their duties under Part 3 and may wish to consider this guidance in that regard.

How was the guidance developed?

This guidance was developed in consultation with representative public authorities, including those delivering public services, third sector organisations and children's rights bodies. In addition, feedback from a 12 week public consultation including children and young people, the Scottish Human Rights Commission and the Children and Young People's Commissioner Scotland will inform the final version.

3. Part 3 of the Act

Part 3 of the Act sets out the following:

- Duties on Scottish Ministers to prepare and publish a Children’s Rights Scheme
- Duties on Scottish Ministers to produce Child Rights and Wellbeing Impact Assessments (CRWIAs), in certain circumstances
- Reporting duty of listed authorities (see Chapter 4 of this Guidance for detailed information)
- Reporting duty of the Scottish Parliament
- Amendments made to the Children and Young People (Scotland) Act 2014, including the repeal of the current reporting duties under Part 1 (Rights of Children)

3.1 Children’s Rights Scheme

Section 14 (1) of the Act places a duty on Scottish Ministers to make, review and report on a Children’s Rights Scheme (‘the Scheme’).

The Scheme is an important part of the framework of the UNCRC Act’s requirements to provide regular consideration and scrutiny of the steps which Ministers must take to ensure that children’s rights are realised in practice and deliver improved outcomes for all children in Scotland.

With the Scheme, the Scottish Government seeks firstly to promote a proactive culture of everyday accountability for children’s rights, and secondly to establish a transparent mechanism for how children’s rights are embedded by Scottish Ministers.

3.2 Child Rights and Wellbeing Impact Assessments

As set out in section 14 (3)(i) of the Act, the Children’s Rights Scheme must include arrangements that are in place, or are to be put in place by Scottish Ministers to prepare and publish CRWIAs (defined in section 17(1) of the Act) in certain circumstances. There is no obligation within the Act on anyone other than Scottish Ministers to undertake CRWIAs, therefore, public authorities and other bodies have discretion over whether they choose to do so as part of their child rights based practice. Further information and resources to support organisations wishing to undertake a CRWIA can be found in section 4.2.1 on decision-making in [non-statutory guidance on taking a children’s human rights approach](#).

3.3 Reporting duty of the Scottish Parliament

Section 21 of the Act also places a duty on the Scottish Parliamentary Corporate Body to publish a report that covers the actions taken by the Parliament and its committees to secure better or further effect of the rights of children during the period covered by the report, and the actions they intend to take to secure better or further effect of the rights of children during the next period.

The Scottish Parliamentary Corporate Body must publish its report in such a manner as it considers appropriate and the main report must be accompanied by a version of the report that children can understand.

3.4 Reporting duty of listed authorities

Section 18 of the UNCRC (Implementation) (Scotland) Act 2024 will replace section 2 of the Children and Young People (Scotland) Act 2014¹, with a new child rights reporting duty for listed public authorities. This includes a new duty to submit reports to Scottish Ministers. Both the standard report and a child friendly version must be submitted.

The required content of the reports is set out in section 18(1) of the Act. This creates the requirement for listed public authorities to produce a children's rights report every three years which addresses the following four areas:

1. action taken in the previous reporting period to ensure compatibility with UNCRC requirements
2. action taken to deliver better or further effect to children's rights
3. actions that will be taken in the next 3 year reporting period to ensure continuing compatibility with UNCRC requirements
4. actions planned to secure better or further effect to children's rights

Section 19(1) of the Act details the listed authorities subject to the duties in section 18(1). The Scottish Ministers may by regulation modify section 19(1) by (a) adding a public authority or a description of public authorities as a listed authority (or authorities), (b) removing a listed authority (or authorities), or (c) amending an entry for a listed authority (or authorities). Scottish Ministers must consult the public authority or authorities concerned, and such other persons as they consider appropriate.

3.5 Consequential amendments to the Children and Young People (Scotland) Act 2014

The Act repeals Part 1 (Rights of Children) and Schedule 1 of the Children and Young People (Scotland) Act 2014 that creates and defines reporting duties in relation to the UNCRC.

¹ This will be repealed by s.22 of the UNCRC Act.

4. Reporting duties of listed authorities

Under section 18 of Part 3 of the Act, listed authorities must report on actions they have taken and intend to take for the purpose of ensuring compliance with the duty under section 6(1) of the Act, as well as their actions to secure better or further effect of the rights of children. [Guidance on Part 2](#) is provided separately. Reports completed to fulfil section 18 duties are referred to as children's rights reports.

By requiring listed authorities to produce periodic children's rights reports on the actions taken as well as their plans for improving children's rights, the Act emphasises the dual importance of the legal duties alongside the need to provide evidence and planning of child rights respecting practice. Listed authorities may find it useful to read the guidance on Part 3 alongside that of Part 2 in order to obtain information and ideas on both aspects on which they need to report, i.e., actions taken and intended to ensure compliance with the duty under section 6(1) and to secure better or further effect of the rights of children. Listed authorities may also wish to refer to [non-statutory guidance on taking a children's human rights approach](#), to support them to embed child rights practice into their services.

In addition to the main report, listed authorities also need to prepare and publish a version of the report that children can understand. The Act is non-prescriptive on the format of the children's report, therefore listed authorities can explore with children and young people what would best meet their needs.

Once the reports have been published listed authorities must send a copy of the report to Scottish Ministers as soon as practicable. Further information on how to send your report to Scottish Ministers can be found in section 5.1.

4.1 Reporting cycles and due dates for children's right reports

Section 18(4) of the UNCRC Act defines the "reporting period" in relation to which reports under section 18 must be provided, as follows:

- the first reporting period is the period beginning with the day on which section 18 comes into force and ending on 31 March 2026,
- each subsequent period of 3 years.

Listed authorities must publish their children's rights report as soon as practicable after the end of each reporting period.

4.2 Developing baseline information

The duty under section 18 of the Act applies to reporting. However, it is unlikely that this duty can be fulfilled without consideration of wider listed authority responsibilities and actions taken in relation to planning and systematic collection of baseline and monitoring information and data.

The retrospective reporting duty applies to the reporting cycle that has just ended. For the first reporting period, this will be the period between commencement of section 18 and 31 March 2026. Listed authorities are required to reflect on the actions they have taken to secure better or further effect of children's rights during this period. Listed authorities may wish to consider reporting on the impact these actions have had on all children or a targeted group of children.

It may be helpful to use your children's rights reports developed under section 2 of Part 1 of the Children and Young People (Scotland) Act 2014 or data from the previous reporting cycles (2017 – 2020, 2020 – 2023) as a baseline to measure progress from.

In addition, the United Nations Committee on the Rights of the Child recommends the “collection of sufficient and reliable data on children, disaggregated to enable identification of discrimination and/or disparities in the realisation of rights.”²

Baseline information, evidence and data are likely to be readily available through existing sources within the listed authority or through other authorities. Examples of this may include The Promise Data Map or local authority joint strategic needs assessment that informs each area's Children's Services Plan. In some areas of children's rights, additional evidence might need to be gathered, for example, to understand which groups of children are most at risk of not having their rights met.

Listed authorities are encouraged to consider the following in collecting evidence:

- the number of children affected by specific areas of children's rights that fall within the responsibility of the listed authority, by their protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation; and socio economic status
- whether evidence exists for all groups of children
- the views and experiences of children in the areas being considered
- information collected by other relevant agencies or services
- whether specific questions can be added to broad public consultations
- whether commissioning and undertaking additional evidence collection is necessary where there may be significant gaps

In many public authorities, responsibility for leading children's rights work may sit with the services which work most closely with children. However, the scope of the UNCRC requirements is wider than just children's services. Therefore, listed authorities need to consider the actions taken by all the operational and support services they control and the impact their actions may have on children's rights. To ensure these actions are fully captured it may be useful to reflect on wider community planning processes such as Local Outcomes Improvement Plans (LOIPs), Children's Services Plans (CSPs), joint plans with health, and strategies for community safety or sports and leisure.

To help stakeholders understand why actions have been taken it is useful to provide some context. You may find the reflective questions set out in chapter 6 (Frameworks for children's rights reporting) of this guidance helpful in this process. For example, actions could be informed by feedback, complaints, risk assessments or consultation with children.

Where the action taken has resulted in a completed piece of work that secured better or further effect of the rights of children, it would be useful to see some reflection on what has gone well and how this might influence future rights initiatives.

2 Convention on the Rights of the Child, [General Comment No. 5](#) (2003)

4.3 Consultation and engagement

As part of the report development process it may be helpful to engage with infants, children and young people, and their parents/carers to verify findings and understand more fully the impact of actions. This engagement could assist in establishing what more could be done to secure better or further effect of the rights of children. It could also help to identify local priorities and particular areas or issues of concern. In addition, consultation can be helpful to get a sense of how audiences would like to see the report presented and published. For further guidance on participation with children, please refer to section 4.5 of the [non-statutory guidance on taking a children's human rights approach](#).

National organisations which are listed authorities under the Act may wish to consider reporting on how their actions secure better or further the effect of the rights of children at a national level and at a targeted level i.e. with a specific group of children or within a geographic area. National organisations may find it helpful to reflect on the National Performance Framework or reports produced under the Children and Young People (Scotland) Act 2014 on Children's Service Planning and Corporate Parenting to help identify priority areas for future initiatives and/or alignment with local initiatives where there are shared goals or formal partnership commitments to service delivery or improvement activity.

Involving children and young people in preparing children's rights reports

The participation of children and young people in all decisions that affect them and, in the processes, systems and services that they access is one of the UNCRC requirements through Article 12 (a child's right to be heard).

When developing children's rights reports you should consider engaging with infants, children and young people in line with a children's human rights approach. This means that listed authorities are expected to consider at an early stage how children will be meaningfully involved in developing reports, taking account of diverse experiences, views and circumstances. Approaches should be inclusive so that children can take part, regardless of age, disability, communication needs and circumstances (see also Appendix 4). Further guidance on supporting participation with children and young people can be found in the Scottish Government [guidance](#) on children and young people in decision-making.

Where a public authority has previously gathered the views of children through research or a consultation exercise and these are still relevant to the development and publication of children's rights reports then this information should be used.

4.4 Preparation for reporting

The Act is non-prescriptive about the format the children's rights report should take. However, it is important that the report should have a clear structure so stakeholders have assurance that statutory duties have been met. Before preparing a children's rights report, listed authorities may wish to consider the following:

- the [UNCRC assessment framework](#) and its applicability for developing children's rights reports (described in chapter 6 'Frameworks for children's rights reporting');
- the wellbeing indicators developed as part of the GIRFEC approach and their links with the UNCRC (see [Annex B.2](#)). Please note however that the Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, Included (SHANARRI) framework does not satisfy all incorporated articles. As such stakeholders will require to balance Scottish

Government policy on GIRFEC with the broader intentions of the Act.

- the CRWIA, originally developed for the Scottish Government which may offer a useful approach for local policy improvement (see section 4.2.1 on decision-making in [non-statutory guidance on taking a children’s human rights approach](#));
- the potential links between the section 18 duty and other plans. For example, in relation to Children’s Services Plan duties under Part 3 of the Children and Young People (Scotland) Act 2014, you may wish to refer to Children’s Services Planning [Guidance](#).

4.5 Requirement to produce a child friendly report

Section 18(4) of the Act states: “A report published under this section must be accompanied by a version of the report that children can understand”. The Act does not specify the format the report designed for children should take. There is no requirement or expectation that this be a written report and listed authorities may wish to use another format, particularly paying attention to the views of those for which it is intended.

Easy read and inclusive communication

In order to guarantee their rights, particularly Articles 2, 12, 13, 17 and 42 of the UNCRC, children and young people must have access to information in a format that they understand. When this does not happen, the child may not be able to exercise their rights effectively. For public services which have a direct or indirect impact on the lives of children and young people, consideration should be given to how children and young people are supported to access and understand information.

These rights are further protected within Article 19 of the Universal Declaration of Human Rights: States should proactively disseminate information in the public interest and ensure that access is “easy, prompt, effective and practical”. Children have this right too, but their inclusive communication needs are often overlooked, resulting in lengthy, text based, and complex documents.

What is an easy read or inclusive version?

An easy read or inclusive version is created and designed to be understood by the children you wish to communicate with. The approach is about communicating with children to meet their needs and preferences. This applies to all types of communication including verbal and written exchanges, face-to-face, digital, and online interactions. Inclusive communication should also support other audiences to access information, for example, parents with additional support needs may require an easy read report.

Easy read or inclusive versions are usually much shorter than the original text and only aim to capture the main points rather than provide extensive detail. By providing key pieces of information, easy read or inclusive versions can support children’s understanding of what is in the original document and signpost readers to other sources if they wish to explore further.

Preparing and publishing an easy read or inclusive version of a children’s rights report can be done in a rights-respecting way, whereby the version is created in partnership with children, for example: co-designing materials via workshops; consulting on draft documents then editing based on children’s feedback; and regular check-ins to evaluate quality and identify areas for improvement that can be applied to future communications. For further guidance on participation and inclusive communication, including easy read documents, please refer to sections 4.5 and

4.3.1 of the [non statutory guidance on taking a children's human rights approach](#).

4.6 Potential links to other reports or plans

Children's rights reports can be produced and published jointly or combined with other reports.

Joint reporting

Under section 18(2) of the Act listed authorities have an option to report in partnership with one or more other listed authorities. This provision enables two or more listed authorities to prepare and publish a report prepared by them jointly.

This might be appropriate where listed authorities work together collaboratively in furthering the rights of children, for instance, as part of Community Planning Partnership, or as an Integration Joint Board or similar structure. It is for listed authorities to determine where this is appropriate. Where listed authorities choose to jointly fulfil their reporting requirements, we recommend the actions taken are clearly attributable to each partner.

Combined reporting

In preparing the report for publication, one or more listed authorities may also wish to identify opportunities for aligning their children's rights report with other statutory plans or reports. For example, Part 3 (Children's Services Planning) of the 2014 Act confers duties on local authorities and the relevant health board together with [specified service providers](#) and other local stakeholders to prepare and publish a Children's Services Plan setting out how outcomes will be improved for children, young people and families living in that area. Part 9 (section 61) of the 2014 Act, requires every corporate parent (which includes all local authorities and health boards) to publish a report for how it has exercised its corporate parenting responsibilities. Similar possibilities exist in relation to the statutory Early Learning and Childcare Plan, prepared under Part 6 of the 2014 Act and in relation to Part 2 of the Community Empowerment (Scotland) Act 2015. The 2015 Act places a range of duties on specified community planning partners in order to strengthen community planning (replacing provisions in the Local Government in Scotland Act 2003). The Community Planning Partnership (CPP) is required to prepare and publish a Local Outcomes Improvement Plan (LOIP) which, amongst other things, sets out the local outcomes the CPP has prioritised for improvement. Actions identified under the CPP may contribute directly or indirectly to achieving children's rights.

While there are a number of important differences in the requirements of the reports and plans above, and the reporting requirements of section 18 of the UNCRC Act, they share similar approaches and ambitions for collaborative working with the local community to improve outcomes for children, and to reduce inequalities. Aligning these planning systems, where possible, could bring benefits to both ensuring continuity and highlighting connections between plans, and enhancing the opportunity for giving better and further effect to the rights of children.

If listed authorities wish to align statutory reports/ plans, they must ensure that the reporting requirements set out in section 18(1)(a) and (b) are clearly identifiable within the body of the report/ plan. We recommend listed authorities consider a separate children's rights chapter or annex to make this information as clear as possible to share with Scottish Ministers. General commentary on children's rights not directly related to the section 18(1)(a) and (b) requirements would not satisfy the reporting requirements.

4.7 Governance

As well as determining timescales for the collection and analysis of data ahead of publication of the report, listed authorities will need to have in place robust governance and accountability processes in terms of both demonstrating their role as duty bearers in relation to children's rights and contributing to children's rights reporting as individual organisations, and in partnership where applicable. Listed authorities should ensure that their governing board members, chief officers and workforce are informed about, understand and can demonstrate their organisation's role as duty bearer in relation to children's rights.

5. Publication requirements of reports

Reports under the section 18 duty must be published in such a manner as the listed authority (or authorities) considers appropriate. The Act is not prescriptive about how a listed authority should meet the publication duty nor where material should be published.

Listed authorities should consider the key audiences for reports, for example, children, parents, the community, and Scottish Ministers, and they should identify appropriate methods to share the report.

Publication could include production of printed reports, publication on the listed authority's website or a more bespoke solution like the creation of a children's rights micro site or dedicated web page.

It is recommended that listed authorities update stakeholders on actions set out in the report. This would include details of work done and progress made regarding planned actions. For example, a dedicated page on a listed authority's website where progress and results of planned actions can be shared.

A child friendly version of reports must be made accessible alongside full reports, as mentioned below in more detail. For example, where a listed authority publishes a full report on a specific page of their website, this page must also provide access to the easy read or inclusive report. Moreover, listed authorities may consider sharing easy read or inclusive reports on other digital domains, e.g. via [Glow Connect – Scotland's digital learning platform](#), youth services, uniformed organisations, children's services partnerships and relevant third sector organisation webpages.

5.1 Duty to lay reports before Scottish Ministers

A listed authority (or where two or more authorities have prepared a report jointly, either or any of them) must, as soon as practicable after publishing the report, send a copy of it to the Scottish Ministers.

The purpose of this requirement is to increase transparency on UNCRC implementation and to provide the opportunity for analysis of good practice by listed authorities and identification of emerging policy and practice trends.

Reports should be sent to UNCRCIncorporation@gov.scot.

5.2 Publication of joint and/or combined reports

Where two or more listed public authorities have chosen to report jointly, or where the reporting requirements have been fulfilled through their inclusion in another plan or report, it is advised that they ensure the public are aware of the children's rights report and can access it easily.

Each of the parties to the joint report may want to consider having a clear strategy for publication and distribution of the report to its local audience of stakeholders. Supporting text that accompanies publication should make it clear that the report has been completed on a joint basis, who the reporting parties are, the rationale for why their report has been completed in this way and provide a contact for each reporting party.

Likewise, where the reporting requirements on children's rights have been included in another plan or report, this should be clear to stakeholders and easily accessible.

5.3 Accessibility considerations

To support all interested stakeholders to engage with the report it is important to consider how any accessibility needs can be met.

Listed authorities may consider consultation with stakeholders regarding publication formatting. This consultation will provide insight into stakeholder accessibility needs. Listed authorities can then take necessary actions to ensure the specific accessibility needs of their audiences are met.

Listed authorities could also consider alternative formats that improve accessibility to the report. For example, an easy read version, audio version or production in languages other than English. The place and format of publication should be easy for external stakeholders to find and user friendly.

5.4 Further engagement

Public authorities may also wish to create opportunities to engage children, families, communities, practitioners and civic society in discussions about the findings of children's rights reports once they are published. This process could provide mechanisms for evaluative feedback which can be used by listed authorities to inform action plans for the next reporting cycle.

6. Policy intention of children's rights reports under section 18 of the Act

Reporting requirements are an important mechanism in ensuring that children's rights are given full effect in practice. The reports produced in fulfilment of the section 18 duty of the Act will provide evidence of the contribution of listed authorities in Scotland to ensuring that children's rights are respected, protected and fulfilled. As such, these reports will help evidence how the listed authorities realise the shared ambition of making Scotland the best place to grow up.

It is the intention of Scottish Government that the children's rights reports, as prepared by listed authorities under the requirements in section 18, are made public. In addition, section 18 (5) of the Act requires a copy of the report to be sent to Scottish Ministers as soon as practicable after publishing.

Submission of reports provides the Scottish Government an opportunity to capture learning and share good practice examples. This will support ongoing quality improvement and innovation in relation to child rights based practice and compliance with the UNCRC requirements.

Scrutiny of, observation and comment on the reports is also intended to come from children and young people themselves, families, practitioners, the wider community, public bodies and civil society. Listed authorities may find it helpful to give consideration of how, or if, they intend to respond formally and publicly to feedback or scrutiny. For example, this could include an ongoing programme of dialogue through local youth forums or published questions and answers.

Scottish Ministers are required to contribute (approximately every 5 years) to the UK Report to the UN Committee on the Rights of the Child³ and, because there is a very strict word limit on the contribution from Scotland, may also continue to publish their own separate report for stakeholders. Separate to the section 18 duty, Scottish Government may use material from individual reports (prepared under the section 18 duty) to help populate its own contribution to the UK response to the UN Committee on the Rights of the Child. As part of this process of utilising evidence from different sources, the Scottish Government may cite and illustrate activity within the reports prepared by listed authorities. Permission will be sought for specific mentions of activity relating to an authority and full acknowledgment will be given for their role.

³ All States parties are obliged to submit regular reports to the UN Committee on the Rights of the Child (UN Committee) on the steps they have taken to put the Convention into effect and on progress in protecting and promoting children's rights in their countries.

Annex A

A.1 Background to and incorporation history of the Act

This annex explains what children's rights are, and shares the history of incorporation in Scotland and the broader context of human rights in Scotland.

Children's Rights are Human Rights

The [Universal Declaration of Human Rights](#) is the foundation for international human rights law. It was adopted by the UN General Assembly in 1948 to provide common human rights standards for all peoples and nations in a post-war world. From this arose [nine core international human rights instruments](#) or treaties, including the [UN Convention on the Rights of the Child \(UNCRC\)](#). The UNCRC duplicates some of the rights found in other international instruments. This is because the UNCRC affirms and articulates the significance of these human rights for children up to the age of 18.

The UNCRC was adopted by the General Assembly of the United Nations in 1989 and was ratified by the UK Government in 1991. It is the most widely ratified human rights treaty in the world. The UNCRC was a landmark treaty, recognising the importance of childhood and the unique needs of children across the globe. It sets out the civil, political, economic, social, and cultural rights that all children, everywhere, are entitled to and it remains, to this day, a core international human rights treaty.

The UNCRC builds on the [Charter of the United Nations](#) (1945) which recognised that the inherent dignity and the equal and inalienable rights of all members of the human family are the foundation of freedom, justice, peace and social progress. It realises the [Universal Declaration of Human Rights](#) (1948), which states childhood is entitled to special care and assistance. It also explains how adults and governments must work together to make sure all children can enjoy all their rights. The UNCRC is a holistic children's rights framework that informs Scottish Government strategies and programmes to fulfil the rights of every child, regardless of the child's or their parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

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

- universal (they apply to everyone, regardless of who they are)
- inalienable (they cannot be taken from you or given away)
- indivisible (they are all equally important)
- interdependent (breach of one impacts them all)

The UNCRC consists of 54 articles, and these are where the rights of the child are stated within the treaty. Articles 1 to 42 contain the substantive rights and obligations which States Parties must uphold and give effect to and cover the child's civil, political, economic, social and cultural rights. These include:

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

Articles 43 to 54 concern procedural arrangements for the signature, ratification, and amendment of the UNCRC and the establishment of the Committee on the Rights of the Child (CRC) and the reporting process for States Parties. These articles have not been incorporated within the Act.

There are four articles in the UNCRC which are known as the "General Principles". These assist in interpreting all the other articles and can play a fundamental role in realising all the rights in the UNCRC for all children. These are also useful when considering how to give practical effect to taking a rights-based approach. They are:

- non-discrimination (Article 2)
- best interest of the child (Article 3)
- right to life, survival, and development (Article 6)
- right to express views and be heard (Article 12).

The mutually reinforcing nature of human rights means that children's civil, political, economic, social and cultural rights as expressed within the 54 articles of the UNCRC, all have equal status, so whilst the General Principles are a useful lens through which to consider the rights of children, they should not be considered paramount or in any way imply a hierarchy of rights.

The UK Government has also ratified the first optional protocol on the involvement of children in armed conflict and the second optional protocol on the sale of children, child prostitution and child pornography.

A third optional protocol which allows complaints to be made to the CRC has not yet been ratified by the UK Government, but the Act grants the Scottish Government the power to incorporate this and any other additional protocols if at some point they are ratified by the UK and have entered into force in the UK, or should it be possible to ratify this within the powers of Scottish Parliament at a later stage.

Childhood, defined as the period of life up to the age of 18, represents a time in our lives where we all require support from others to have a good quality of life, where our wellbeing and needs are provided for. The actions, or inactions, of government impact children more strongly than any other group in society and every area of government policy affects children to some degree. The additional rights afforded to children within the UNCRC recognise that childhood is a special time which must have additional protections.

The Scottish Government is committed to Scotland being the best place in the world for a child to grow up. A central part of our vision is the recognition of, respect for, and promotion of children's human rights. These include rights to be treated fairly, to be heard and to be as healthy as possible.

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

Incorporation history in Scotland

Scotland has a strong track record in implementing the rights of children by taking steps to respect, protect and fulfil children’s rights within law, policy, and practice. The Act builds upon a proud tradition of respecting children’s rights in Scotland that predates even the adoption of the UNCRC by the UN General Assembly in 1989, such as the pioneering and unique Children’s Hearings System, which became operational in 1971.

Examples of legislation and policy which have previously given effect to the rights and obligations within the UNCRC in Scotland include the Children and Young People (Scotland) Act 2014 (2014 Act) and ‘Getting it right for every child’ (GIRFEC) – the national approach in Scotland to improving outcomes and safeguarding, supporting and promoting the wellbeing⁴ of children and young people by offering the right help at the right time from the right people.

The Children (Scotland) Act 1995 and the Children (Scotland) Act 2020 provide a major part of the legal framework for child welfare and protection in Scotland and are based on the UNCRC. In addition, the Scottish Government respects, protects and fulfils children’s rights to help deliver the National Outcomes which underlie the [National Performance Framework](#), in particular that children “grow up loved, safe and respected, so that they reach their full potential”.

On 1 September 2020, the UNCRC (Incorporation) (Scotland) Bill was introduced to the Scottish Parliament and was passed unanimously by the Scottish Parliament on 16 March 2021. In October 2021, following referral by the UK Law Officers, the UK Supreme Court found certain of the provisions in the Bill to be outwith the legislative competence of the Scottish Parliament, as set out in the Scotland Act 1998. That judgment was addressed by returning a revised Bill to Parliament via the Parliamentary Reconsideration stage on 7 December 2023 when it was approved unanimously. It gained Royal Assent on the 16 January 2024 and the section 18 duty will come into force 6 months from Royal Assent, on 16 July 2024.

The UNCRC (Incorporation) (Scotland) Act 2024 will make Scotland the first country in the UK, and the first devolved nation in the world, to directly incorporate the UNCRC into domestic law and is a landmark piece of legislation in making sure Scotland is the best place to grow up.

Broader human rights context in Scotland

In Scotland, human rights are a devolved matter. The Scottish Parliament also has competence to observe and implement international human rights treaties. In Scotland, civil and political rights are protected by the [Human Rights Act 1998](#) which incorporated the [European Convention on Human Rights \(ECHR\)](#) into UK law and makes it unlawful for the Scottish Parliament to enact legislation that is incompatible with the rights defined in the Human Rights Act. Scottish Ministers cannot act in a way that is incompatible with those rights.

⁴ Scotland has a legislative and policy definition for wellbeing which is expressed through the aspiration that every child and young person will be Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, and Included (SHANARRI.)

The Scottish Government's vision is for a statutory human rights framework for Scotland that ensures the rights of every member of Scottish society are respected, protected and fulfilled, and that everyone can live with fundamental human dignity. Following on from the [recommendations of the National Taskforce for Human Rights Leadership](#) and a subsequent [public consultation](#), the Scottish Government will bring forward a new Human Rights Bill. The Bill will give effect to a wide range of internationally recognised human rights belonging to everyone in Scotland, within the limits of devolved competence, and strengthen domestic legal protections by making these rights enforceable in Scots law. In particular, the Bill will seek to bring an enhanced focus to the implementation of economic and social rights and will include specific rights for women, disabled people and people experiencing racism.

The UNCRC Act, which will ensure that children's rights are fully embedded in the law of Scotland, is a first step in achieving that larger ambition. The intent behind the Act is to ensure that the rights contained in the UNCRC are afforded the highest protection and respect possible within the current constitutional settlement.

The Act has the intent of delivering a proactive culture of everyday accountability for children's rights across public services in Scotland. As part of this, public authorities must take proactive steps to ensure compliance with children's rights in their decision-making and service delivery.

A.2 Overview and key aspects of the UNCRC Act

This annex explains the definition of key aspects of the UNCRC Act and signposts to further information.

Meaning of the 'UNCRC requirements'

Under the Act, public authorities are required not to act incompatibly with the UNCRC requirements. The term 'UNCRC requirements' is defined by section 1 of the Act as the rights and obligations set out in the [schedule of the Act](#).

The Act has incorporated the direct text of the UNCRC to the maximum extent possible within the powers of the Scottish Parliament. Some aspects of the text have been 'carved out' and do not appear in the Act. Those 'carved out' elements refer to reserved matters under the Scotland Act 1998 that are outwith the legislative competence of the Scottish Parliament.

This includes, for instance, Article 11(2) of the UNCRC which relates to the reserved matter of international relations, and Article 38(3) which relates to the reserved matter of defence. In some instances, only a phrase has been affected, for example in Article 7(1) the text "the right to acquire a nationality" has been removed as this relates to the reserved matter of immigration. All text from within the UNCRC and the First and Second Optional Protocols which was within the legislative competence of the Scottish Parliament has been included.

The UNCRC requirements apply across the entire system of government and public administration in Scotland, and to any bodies across the public, third and independent sectors, where they too meet the definition of a 'public authority' as defined in sections 6(5), (6), (7) and (8) of the Act. This is covered more extensively in the Section 4 of the Part 2 Guidance.

In addition, section 3 of the Act provides Scottish Ministers "power to modify the schedule" in certain circumstances. For example, if the UK government ratified the Third Optional Protocol of the UNCRC, the section 3 power would enable Ministers to modify the schedule of the Act to also include the Third Optional Protocol to the maximum extent possible.

Section 2(3) of the Act contains a table setting out how certain references in the schedule should be read, for example: in which provisions certain terms are to be understood as referring to the United Kingdom or to Scotland.

Description of section 6 compatibility duty in Part 2 of the UNCRC Act

As the UK has ratified the UNCRC, compliance is in any event expected under international law obligations, unless the legislation prevents a public authority from acting compatibly.

Section 6 places a duty on public authorities not to act incompatibly with the UNCRC requirements in schedule 1 of the Act. This includes failures to act, that would result in an incompatibility with the UNCRC requirements. The UNCRC requirements are explained in section 3.3 of the [Part 2 guidance](#).

This means action could be taken by a court against a public authority in respect of a breach of their duties if they act incompatibly when the duty applies.

The circumstances in which a public authority can be found to have acted unlawfully on this basis are where an action or failure to act is incompatible with the UNCRC requirements.

This duty applies when public authorities are carrying out ‘relevant functions’ which are defined in the Act as:

(2) In subsection (1), a “relevant function” means a function that—

- it is within the legislative competence of the Scottish Parliament to confer on the authority, and
- is conferred by—
 - (i) an Act of the Scottish Parliament,
 - (ii) a Scottish statutory instrument originally made wholly under a relevant enabling power,
 - (iii) a provision in a Scottish statutory instrument originally made partly under a relevant enabling power, provided that the provision itself was either—
 - (A) originally made under the relevant enabling power, or
 - (B) inserted into the instrument by an Act of the Scottish Parliament or subordinate legislation made under a relevant enabling power, or
 - (iv) a rule of law not created by an enactment

Legislative Competence- 2(a)

To be within the competence of the Scottish Parliament a function must not relate to reserved matters. The UNCRC requirements in schedule 1 to the Act, as detailed at section 1.3 of this guidance, are of assistance here. The articles or aspects of the articles of UNCRC which are reserved are not included in the UNCRC requirements. The legal duty therefore does not apply to any reserved functions, but public authorities can still choose to act compatibly unless the source of the reserved function prevents them from doing so.

Common law functions- 2(iv)

The “rule of law” refers to what is known as “common law”. Common law refers to case law developed over time by decisions made by the courts – this can also be referred to as judicial precedent, or case law. Courts can interpret legislation and set out findings which explain how public authorities must comply with their statutory duties. An example of this is how the courts have interpreted the duty not to act incompatibly with the ECHR, as set out in the Human Rights Act. Individual public authorities should seek their own legal advice in relation to how case law may impact upon how they should carry out their functions. When a public authority is carrying out functions derived from common law powers, they will always be required to not act incompatibly with UNCRC requirements.

Legislation- 2(b)

The word “legislation” means the same as the word “enactment”. The types of legislation to which the duty applies are specified as functions⁵ enacted by the Scottish Parliament, or enacted by virtue of the Scottish Parliament delegating its power to make legislation to Scottish Ministers. This means that the duty will apply to stand alone provisions in Acts of the Scottish Parliament (ASPs), or subordinate legislation which are made using powers from an ASP.

Legislation may amend other pieces of legislation; when it does, text inserted into one enactment by another enactment is generally considered to form part of the enactment into which it is inserted, rather than being considered to be part of the enactment which inserted the text. The definition of the compatibility duty proceeds on this basis, and means that the duty does not apply to text inserted by ASPs (or subordinate legislation made under powers in a ASPs) **into** other enactments (such as UK Acts or subordinate legislation made under powers in a UK Act).

To help determine whether the duty applies, a public authority would need to identify whether the statutory function in question was enacted by the Scottish Parliament or the UK Parliament.

UK Act amendments to ASPs

As a result of this approach to statutory interpretation, amendments to ASPs by UK legislation **are** covered by the duty. However, to avoid affecting the UK Parliament’s ability to make law for Scotland, provision is made to remove such amendments from the scope of the section 6 duty, **if** the UK legislation which makes the amendment is worded in a way that the authority is required or entitled to act incompatibly.⁶

Secondary legislation

Scottish Statutory Instruments(SSIs) made using powers solely from ASPs are also covered by the duty.

SSIs made **partly** under a power conferred by an Act of the Scottish Parliament and **partly** under a power conferred by an Act of UK Parliament are within the scope of the Act. However, only functions conferred by provisions which were enacted solely by virtue of the power conferred by the Act of the Scottish Parliament, plus provisions inserted directly into the instrument by an Act of the Scottish Parliament, are subject to the duty.

5 listed in sub-paragraphs (i) to (iii)

6 Section 6 (4) of the [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#)

In summary, this means that:

- functions conferred by Acts of UK Parliament,
- statutory instruments made solely under powers conferred by Acts of Parliament, and
- provisions of Scottish statutory instruments made under a power conferred by an Act of Parliament are not subject to the duty.

As functions in reserved areas are already excluded, the definition of “relevant function” in relation to Scottish statutory instruments mainly serves, in practice, to exclude devolved functions created by or under the authority of the UK Parliament.

Summary of coverage in legislation

In summary, the duty will apply to devolved functions created by legislation of the Scottish Parliament and does not extend to devolved functions created by legislation of the UK Parliament. There is however no barrier to a public authority choosing to act compatibly under all or any of their devolved functions, unless the legislation itself makes it unlawful to do so.

Acting compatibly under section 6

To meet the section 6 duty means not to act incompatibly with the UNCRC requirements.

Annex B – Frameworks for children’s rights reporting

This chapter seeks to support listed authorities in the fulfilment of section 18 reporting duties by suggesting a number of frameworks and considerations to support reporting.

The framework options suggested in this chapter promote a structured, proportionate approach to evidencing action taken to meet compatibility and giving further or better effect to children’s rights. Listed authorities may wish to consider how each framework would apply to the scope of their functions, when determining which, if any, they may adopt.

The UNCRC Assessment Framework

The UNCRC articles provide for every aspect of a child’s life from birth up to the age of 18 years. The range of articles provides duty bearers with a structure for informed dialogue and assessment of the range of issues and circumstances that affect children in Scotland. They therefore provide the basis for both Scottish Government and public authorities realising, or giving further effect to, children’s rights.

To assist in fulfilling the requirements for State periodic reports, the different articles of the UNCRC are grouped into clusters. This is the structure that is recommended for reports to the UN Committee on the Rights of the Child and one that the UK Government, and the Scottish Government in its contribution to the UK Government, follow. An example of how the Scottish Government uses this framework can be found in the [Scottish Position Statement](#) on children’s rights.

For the purposes of children’s rights reports, a framework based on the CRC [Cluster Approach](#) can facilitate reporting. This approach is explored in more detail below, where the cluster approach is explained and linked to reflective statements to help establish progress.

B.1 UNCRC Clusters approach

The UNCRC clustering approach groups the articles of the convention into clusters to support reporting and to present a more holistic approach to children’s rights. The proposed clusters are:

1. definition of the child
2. general measures of implementation
3. general principles of the UNCRC
4. civil rights and freedoms
5. violence against children
6. family environment and alternative care
7. basic health and welfare
8. education, leisure and culture
9. special protection measures

Using the UNCRC clusters is an internationally recognised approach to the implementation, monitoring and reporting of children’s rights. Each cluster includes a number of thematically linked articles. This more holistic approach reflects the interrelated and indivisible nature of articles within the treaty. The approach is robust as the full scope of the UNCRC is covered but proportionate to reporting requirements. Further information on how the articles relate to the clusters can be found on the [CRC Clusters](#) page of the UNICEF website.

Listed authorities following this approach may wish to use the following questions (or similar) to consider their compatibility, progress and future plans in each relevant cluster area:

- What do we provide or undertake in relation to this cluster/and/or UNCRC article?
 - How are we progressing in this area of activity?
 - What is working well, how do we know this?
 - Where are there gaps or areas for improvement?
 - What future actions do we intend to take to build on strengths, address weaknesses or target children furthest from having their rights met?
 - How will we know if our actions are compatible in this cluster?
- What evidence do we have to help us give fuller and further effect to the rights of children?
 - What is our baseline information?
 - Is there evidence on outcomes for children?
 - How is our evidence informed by the views and experiences of children?
- What next steps or actions do we need to take arising from the initial questions?

When reviewing the clusters, listed authorities may wish to consider which (if not all) are applicable to their functions, and therefore, subject to the section 6(1) duty to not act incompatibly with the UNCRC requirements.

The “UNCRC requirements” in section 6 of the Act means the rights and obligations set out in Part 1 of the Convention and certain articles of the first and second Optional Protocols to the UNCRC. There is no duty on listed authorities to report on compliance with matters which fall outwith this definition. Listed authorities should also consider if the relevant articles of the first and second Optional Protocols are relevant to their activities. In these instances, reporting could be included in a relevant cluster or as additional information.

Each cluster of articles is explained below and there are examples of the type of reflective statements that can be used to evidence action taken and planned to meet section 6(1) compatibility requirements and/or demonstrate actions taken and intended to be taken to secure better or further effect of the rights of children.

Examples of reflective statements

Cluster (ii): General measures of implementation

- We ensure that our visions and values promote the rights of the child and that these are reflected in all our public documents and statements (Article 4)
- We are committed to the implementation of UNCRC rights, through complying with rights provisions and duties within the UNCRC Act and other relevant legislation and policy as identified (Article 4)

- We proactively consider children's rights in service planning, engaging with and undertaking consultation with relevant stakeholders (including children and parents/carers) (Article 4)
- We ensure that the services we provide for children conform to established national standards and provide high quality services and staffing (Article 4)
- We have a skilled and competent workforce committed to upholding children's rights. Training on children's rights is available to our staff and elected members (where appropriate) and is provided for those in senior, managerial and practitioner roles (Article 4)
- With reference to policy and service delivery, we take our commitment to children's rights into account in decisions on resource allocation (Article 4)

Cluster (iii): General principles of the UNCRC

- We can demonstrate how the principle and practice of non-discrimination have been considered in our services (Article 2)
- We can show through evidence, including disaggregated data, that children from marginalised groups are able to access their rights (Article 2).
- We respect children's rights to develop to their full potential in early learning and childcare settings, school, home and community (Article 6)
- Children are encouraged and supported to express their views about the planning, provision and delivery of our services that affect them (Article 12)
- We use a range of measures to seek children's views about matters that affect them and always consider the child's views in determining what is in the child's best interests (Articles 3 and 12)
- We ensure that communication or learning difficulties are not considered an exception to the requirement to obtain and consider the views of the child (Articles 2 and 12)
- Children 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 signpost children who want to make a complaint, and/or those acting on their behalf, to clear and transparent complaints processes (Article 3 and 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)
- We seek out and use examples of the best approaches to engaging with children in order to support their right to have their voices heard (Article 12)

Cluster (iv): Civil rights and freedoms

- We support children's freedom of association through the provision of public spaces where they can meet safely (Article 15)
- Information sharing is proportionate and appropriate and complies with the Data Protection Act while recognising a child's right to privacy (Article 16)
- Information materials are available in a range of formats and in specific settings in order to meet the needs of individual children (Article 17)
- Children are not subject to any form of treatment, which is deemed to be inhuman or degrading and have access to legal and other assistance in instances where they are detained (Article 37)

Cluster (v): Violence against children

- We provide support to promote children's recovery from their experience of violence including abuse and neglect, maltreatment and exploitation (Article 39)
- We seek and take account of children's views prior to making decisions in child protection and other processes (Article 12)
- Approaches to managing behaviour and discipline in school and in other settings such as residential care and foster care are appropriate and positively support children (Article 28 (2))
- We take measures to ensure that no form of cruel, inhuman or degrading treatment to children is tolerated in our services (Article 37 (a))

Cluster (vi): Family environment and alternative care

- We consider children's evolving capacities, making sure that all younger children can access their rights (Article 5)
- We seek and take account of children's views prior to making decisions that affect them (Article 12)
- Children who are looked after have access to the services they need and have a say in decisions about where they live (Article 9)
- We provide support and services to parents/carers in order that they can care for their children (Article 18)
- We provide support to children who experience complex family circumstances (e.g., young carers; children with experience of domestic abuse; children who have a parent in prison) (Article 18)
- Our management team is informed of their duties and fulfils their responsibilities as corporate parents (Article 18)
- All placements of children who are looked after are subject to regular review (Article 25).

Cluster (vii): Basic health and welfare

- We provide early learning and childcare services which benefit both children and their parents/carers (Article 18(3))
- We actively promote the right of disabled children to have access to a range of services and have choice and control over the services they receive e.g., education, health care, play and leisure services etc. (Article 6 and 23)
- We ensure that children have access to the high-quality health care they need, and this extends to preventative health care services (Article 24)
- We ensure that children with long-term health conditions have access to the services and support they need (Article 24)
- We provide resources and support for children to enjoy good mental health (Article 24)
- We provide support to children and families, where this is within our authority responsibilities, to assist with meeting children's essential needs in relation to food, clothing and housing (Article 27)

Cluster (viii): Education, leisure and culture

- We aim to ensure that no children experience any form of discrimination in their education, regardless of their circumstances (Article 28)
- We ensure that all children access their right to an education that develops their abilities to their fullest potential (Article 29)
- We ensure that early learning and childcare and school environments support children's participation in all aspects of the Curriculum for Excellence (Article 28)
- We provide children with access to play and leisure opportunities and address barriers to inclusive play and leisure. There are sufficient high quality outdoor play and recreation places for children to access including spaces suitable for disabled children (Article 31)
- Children have access to and can participate in a range of arts and cultural opportunities (Article 31)

Cluster (ix): Special protection measures

- We assess the numbers and situation of children and their families who are asylum seekers, refugees or migrants in order to provide them with services and support (Article 22)
- We ensure that children at risk of sexual exploitation or drug use have access to the child protection and specialist support and services they require (Articles 33 and 34)
- We provide support to children in response to their needs so that they do not enter the criminal justice system, as far as possible (Articles 37 and 40)
- We ensure that children who enter the criminal justice system have the right to legal representation and fair treatment (Article 40)

B.2 Wellbeing approach: using the GIRFEC wellbeing indicators

Getting it right for every child (GIRFEC) is the national approach in Scotland to improving outcomes and supporting the wellbeing of our children and young people by offering the right help at the right time from the right people. The aim is to help them to grow up feeling loved, safe and respected so that they can realise their full potential. GIRFEC supports children, young people and their parent(s) and carers to work in partnership with the services and people who can support them, such as teachers, doctors and nurses. The Children and Young People (Scotland) Act 2014 places key elements of GIRFEC in statute. In particular, section 96 provides eight wellbeing indicators – Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, and Included (sometimes known by the acronym SHANARRI and discussed further in Chapter 6 below).

The importance of the relationship between children's rights and wellbeing is central to the 2014 Act, and to realising Scottish Ministers' commitments to children. It is suggested that listed authorities explore their own organisational understanding of the interaction between children's rights and the wellbeing indicators in advance of undertaking children's rights reporting in order to establish consensual views of the two inter-related concepts.

The publication [Children's Rights Legislation in Scotland: A Quick Reference Guide](#) provides helpful guidance on the relationship between rights and wellbeing:

“The UNCRC is a set of substantive, legal and procedural standards that focus on the role of the State in ensuring that these standards are met. It is the overarching framework within which all policy that affects children and young people should be developed, and within which child wellbeing sits.”

The above Quick Reference Guide goes on to describe wellbeing as “a measure of the quality of a child’s life”. It is understood in relation to objective measures (such as income, health status, being a victim of crime, educational achievement) and subjective measures (such as life satisfaction or reported levels of happiness).”

The diagram below shows how wellbeing indicators relate to specific UNCRC articles. This is an interpretation of the interaction between wellbeing indicators and UNCRC articles which can be used flexibly by listed authorities. It should be noted that UNCRC articles may relate to more than one wellbeing indicator, e.g. Article 3 (Best interests of the child).

Identifying the links between children’s rights and wellbeing will be particularly useful for listed authorities who wish to align their section 18 duties on children’s rights reports with their Part 3 duties under the Children and Young People (Act) 2014 on Children’s Services Plans.

It may also be useful for other public authorities using the wellbeing indicators or another framework such as the National Health and Wellbeing Outcomes to identify which articles of the UNCRC would apply to their responsibilities.

For further guidance on the GIRFEC approach please refer to the [GIRFEC resources home page](#).

As an alternative to the UNCRC clusters framework outlined above, listed authorities may also want to consider use of the [SHANARRI wellbeing indicators](#) that form part of the GIRFEC model. With the UNCRC as its foundation, GIRFEC provides Scotland with a consistent framework and shared language for promoting, supporting, and safeguarding the wellbeing of children and young people.



Diagram: UNCRC Rights and SHANARRI⁷

7 Scottish Government, [UNCRC: the foundation of Getting it right for every child](#), 2013

[Online training developed by Children's Health Scotland](#) explains how SHANARRI supports children's rights. It is suitable for health practitioners and those working in social care or education who support children with their health.

Listed authorities who are choosing to include their children's rights reporting within the body of another report, such as a Children's Services Plan, may wish to use an approach which clearly links its strategic priorities as well as aspects of planned service delivery, and improvement activity to relevant UNCRC articles and wellbeing indicators. However, listed authorities who choose this approach must still clearly outline how they have met their duties under section 6 of the UNCRC Act.

B.3 Further approaches and considerations

An alternative, or complimentary addition to the frameworks set out above, would be for a listed authority to report on the functions being delivered with reference to compatibility with the UNCRC requirements and action taken to give secure better or further effect of the rights of children woven throughout.

Below we have listed some examples of what this might look like

- the report could consider the topics set out under the Children's Rights Scheme, considered key to the implementation of children's rights
- similarly, a framework which covers the key markers of implementation, such as equality, accountability, leadership, awareness raising, capacity building and participation may be useful as a structure, or topics for inclusion. These themes are included in the Children's Rights Scheme and in the [Welsh Approach – The Right Way](#)
- it may be possible to create a framework that looks at how children's rights are being either implemented on a service-by-service basis or banded around age groups of children
- listed authorities may wish to pay particular attention to reporting on the actions taken to achieve compatibility and/or better and further effect in rural vs urban areas and the impact this has on children's rights in different contexts
- where organisations have specific strategies in place to target support for children whose rights are at risk, for example asylum seekers and refugees, disabled children or those in contact with the law, they may wish to consider drawing this out within their report. It would be helpful to understand how target groups of children have been identified and how actions taken or planned differ from the general population of children
- consideration may be given to where partnership working is required or is making improvements in the realisation of children's rights

Listed authorities may wish to consider inclusion of case studies to further illustrate their work to ensure compliance with the UNCRC requirements or better or to give better or further effect to children's rights.

B.4 External resources on accessibility

External resources which may be helpful in considering accessibility:

- Mencap – [Communicating with people updated \(1\).pdf \(mencap.org.uk\)](#)
- Sensory Trust – [Developing inclusive communication - Sensory Trust](#)
- Disability Justice Project – [Accessible information and communication discrimination guide - Disability Justice](#)
- Seldom-heard Groups: [A Practical Guide to Including Seldom-Heard Children and Young People in Decision-Making](#), provides a practitioners' toolkit
- Wheel of Apps: [Apps to support those with complex additional support needs](#)
- Disability Equality Scotland and Sense Scotland: [Scotland's Inclusive Communication Hub](#)
- [Disability Equality Scotland: Easy Read Information and Guidance](#)
- Enquire: [Enquire – the Scottish advice service for additional support for learning](#)
- Principles of Inclusive Communication (Scottish Government, 2011): [Principles of Inclusive Communication: An information and self-assessment tool for public authorities \(Scottish Government, 2011\)](#)
- Strathclyde University: [Voice from Birth to Seven Years](#)
- Children in Scotland: [Meaningful Participation of Children and Young People - Principles and Guidelines](#)
- Disability Information Scotland: [Disability Information Scotland website](#)

The UK Government has published [guidance on publishing accessible documents](#).

Annex C – Scottish Government use of children’s rights reports

Section 18(5) requires listed authorities to send a copy of the published reports to Scottish Ministers following publication. The Scottish Government recognises the value of the reporting process to increase transparency and accountability around progress on children’s rights. In turn these actions help drive cultural change across listed authorities and wider society ensuring that children’s rights are given effect fully in practice.

Therefore, the Scottish Government can consider the content of the submitted reports to promote learning and good practice. This may include some of the following activities:

- development of good practice case studies for inclusion in training materials, communication, or events
- development of intelligence or insight into emerging issues or trends
- identification of areas where further guidance or training may be required
- supporting learning and development in relation to good practice in the creation of accessible reports for children and young people
- supporting the wider evidence base that demonstrates Scotland’s progress in meeting and progressing children’s rights

This section of the guidance will be updated as the reporting process develops, and lessons are learned from the first set of reports.

Annex D – List of links

3.2 Child rights and wellbeing impact assessments

- [Non-statutory guidance on taking a children’s human rights approach](#)

4. Reporting duties of listed authorities

- [Non-statutory guidance on taking a children’s human rights approach](#)

4.2 Developing baseline information

- [UN Committee on the Rights of the Child \(CRC\) - General Comment 5](#)

4.3 Consultation and engagement

- [Non-statutory guidance on taking a children’s human rights approach](#)
- [Decision-making: children and young people’s participation - guidance](#)

4.4 Preparation for reporting

- [UNCRC Assessment Framework](#)
- [Non-statutory guidance on taking a children’s human rights approach](#)
- [Children Services Planning Guidance](#)

4.5 Requirement to produce a child friendly report

- [Non-statutory guidance on taking a children’s human rights approach](#)

4.6 Potential links to other reports or plans

- [Children and Young People \(Scotland\) Act 2014 - Part 3](#)

5. Publication requirements of reports

- [Glow Connect – Scotland’s digital learning platform](#)

A.1 Background to and incorporation history of the Act

- [Universal Declaration of Human Rights](#)
- [Nine core international human rights instruments](#)
- [UN Convention on the Rights of the Child \(UNCRC\)](#)
- [Charter of the United Nations](#)
- [National Performance Framework](#)
- [Human Rights Act 1998](#)
- [European Convention on Human Rights \(ECHR\)](#)
- [Recommendations of the National Taskforce for Human Rights Leadership](#)
- [Public Consultation on a Human Rights Bill for Scotland](#)

A.2 Overview and key aspects of the UNCRC Act

- [Schedule of the UNCRC Act](#)
- [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#)

B. Frameworks for children’s rights reporting

- [Scottish Position Statement](#)
- [UNICEF - CRC Clusters](#)

B.1 UNCRC Clusters approach

- [UNICEF - CRC Clusters](#)

B.2 Wellbeing approach: using the GIRFEC wellbeing indicators

- [Children's Rights Legislation in Scotland: A Quick Reference Guide](#)
- [GIRFEC resources home page.](#)
- [SHANARRI wellbeing indicators](#)
- [Online training developed by Children's Health Scotland](#)
- [UNCRC: the foundation of Getting it right for every child](#)

B.3 Further approaches and considerations

- [Welsh Approach – The Right Way](#)

B.4 External resources on accessibility

- [Communicating with people with a learning disability - guidance - Mencap](#)
- [Developing inclusive communication guidance- Sensory Trust](#)
- [Accessible information and communication discrimination guide - Disability Justice](#)
- [A Practical Guide to Including Seldom-Heard Children and Young People in Decision-Making and practitioners toolkit](#)
- [Apps to support those with complex additional support needs](#)
- [Scotland's Inclusive Communication Hub](#)
- [Disability Equality Scotland: Easy Read Information and Guidance](#)
- [Enquire – the Scottish advice service for additional support for learning](#)
- [Principles of Inclusive Communication: An information and self-assessment tool for public authorities - Scottish Government](#)
- [Voice from Birth to Seven Years](#)
- [Meaningful Participation of Children and Young People - Principles and Guidelines - Children in Scotland](#)
- [Disability Information Scotland website](#)
- [Guidance on publishing accessible documents - UK Government](#)

Annex E – Glossary of key terms

Acts of the Scottish Parliament (ASPs)

An Act of the Scottish Parliament is primary legislation scrutinised and passed by the Scottish Parliament.

Appropriate remedy

A remedy, in the context of court proceedings, means when a court determines that there has been an unlawful act that requires addressing. Examples of a remedy include enforcing a right, imposing a penalty, or making an order to compensate an individual or individuals for the harm inflicted upon them as a result of the unlawful act. Remedies can be pursued to enforce human rights.

The UN Basic Principles and Guidelines on the Right to a Remedy provide a number of remedies where human rights have been breached, including, restitution, rehabilitation, satisfaction, and a guarantee of non-repetition

An “appropriate” remedy in the context of the UNCRC requirements refers to the adequate, effective and prompt remedy for breaches of children’s rights .

Article

The [UNCRC](#) sets out children’s rights across a series of 54 “Articles”. The first 42 Articles cover all aspects of a child’s life and set out the civil, political, economic, social and cultural rights that all children have. Articles 43–54 cover how adults and governments must work together to make sure all children can enjoy all their rights.

ASP Amendment to a UK Act

An Act of the Scottish Parliament can insert provisions into Acts of the UK Parliament, or amend or repeal provisions in an Act of the UK Parliament, when they relate to matters devolved to the Scottish Parliament. When this happens, the inserted or amended provisions then form part of the UK Act of Parliament itself, because this is the ‘operative’ part of the legislation.

Child

For the purposes of the duties outlined in this guidance, an individual is a child until their 18th birthday.

Children’s human rights approach

This approach uses the UN Convention on the Rights of the Child as the framework for working with and for children and young people. It has the goal of promoting and securing the full range of children’s human rights and places children and young people at the centre of policy development, as well as the design, delivery and evaluation of services.

Children’s services plan

This refers to the document which must be prepared every three years by a local authority and the relevant health board, under the terms of Part 3 (Children’s Services Planning) of the Children and Young People (Scotland) Act 2014.

Child rights and wellbeing impact assessment (CRWIA)

A Child Rights and Wellbeing Impact Assessment (CRWIA) is a process, tool and report which is used to identify, research, analyse and record the anticipated impact any proposed decision, including policy, projects, service and budgeting decisions relating to the rights and wellbeing of children and young people. Therefore, CRWIAs (and other impact assessments) should be used to inform decision making and thus should be started as early as possible in the development process so necessary changes can be made from evidence gathered.

From 16 July 2024, Section 17 of the UNCRC Act will legally require all Scottish Ministers to prepare and publish a CRWIA in respect to all new Bills, most Scottish Statutory Instruments, covid-19 related school closures, and all decisions of a strategic nature that relate to the rights and wellbeing of children. While the s.17 duty does not apply to public authorities, CRWIAs are a useful tool to aid decision making and could assist Public Authorities in preparing their children's rights report under section 18 of the Act.

Children's rights scheme

The UNCRC Act requires Scottish Ministers to publish a Children's Rights Scheme setting out the arrangements Ministers have made or propose to make to ensure compliance with the compatibility duty and to secure better or further effect of the rights of children more generally. Ministers must consult on the Scheme, lay it before the Scottish Parliament, and thereafter publish it. Scottish Ministers will then be required to report on the Scheme, including actions being taken by the Government in respect of it, on a regular basis. The Scheme aims to aid transparency and scrutiny of how the Scottish Ministers fulfil their obligations under the Act.

Children's rights reports

This refers to the reports that certain listed public authorities have a duty to prepare under Part 3 (section 18) of the Act.

Concluding observations

After reviewing the steps States Parties have taken to implement the UNCRC, the Committee on the Rights of the Child will, in a closed meeting, agree on written "Concluding Observations" which include suggestions and recommendations.

The Concluding Observations usually contain the following: introduction; positive aspects (including progress achieved); factors and difficulties impeding the implementation; principal subjects for concern; suggestions and recommendations addressed to the State party.

Days of General Discussion

Days of general discussion (DGDs) are organised by the UN Committee to foster a deeper understanding of the contents and implications of the Convention for specific articles or topics. They are held every two years.

Representatives of governments, non-governmental organisations, United Nations human rights mechanisms, United Nations bodies and specialised agencies, national human rights institutions, the business sector, as well as individual experts and children are invited to take part. A full list of previous DGDs is available [here](#).

Functions of a public nature

Public functions are generally understood to be functions performed for the collective benefit of the general public. For Human Rights and Equality Duties, the term ‘public function’ “refers to things that a public body or someone acting on its behalf does when delivering a public service or carrying out activities that are public in their nature. (see section 4.3.2 in Part 2 guidance: Definition of public authority).

General comments

“General comment” means a publication prepared by the Committee under its rules of procedure⁸.

The Committee adopts [general comments](#) based on specific articles, provisions and themes of the UNCRC to assist States Parties in fulfilling their obligations under it.

Committee members may propose at any time that a general comment relating to a specific article, provision or theme be prepared. The Committee sometimes decides to develop a general comment on an article, provision or theme that has been discussed earlier in one of its days of general discussion (DGD).

Optional Protocol

An Optional Protocol is an additional UN legal agreement that complements and adds to an international treaty after its original adoption.

The UK Government has ratified two of the three Optional Protocols to the UNCRC. The first Optional Protocol is on the involvement of children in armed conflict and the second Optional Protocol is on the sale of children, child prostitution and child pornography.

Public Authority

Bodies who meet the definition of a public authority in section 6(5) of the Act (see section 4.3.2 in Part 2 guidance: Definition of public authority).

“Core” public authorities carry out functions which are clearly of a public nature (such as social care, housing, health and education which are publicly funded). For these authorities there is no need to distinguish between private and public functions as all of their functions are considered to be of a public nature. Many of these are listed authorities under section 16 of the Bill and examples include local authorities, government departments, the police and health authorities.

“Hybrid” public authorities are those who carry out a mixture of public and private functions. This may include bodies from the private, voluntary and independent sector. Their functions will only fall within the scope of the Bill in relation to their functions which are of a public nature. “Hybrid” public authorities who carry out a mixture of public and private functions will need to assess when and how the duty applies to their functions.

State Party

For the purpose of this guidance, the references to “State Party” or “States Parties” are to be read as “Any Scottish public authority or cross border public authority carrying out Scottish functions other than any function that relates to the inclusion of persons in non-executive posts on boards of Scottish public authorities with mixed functions or no reserved functions”⁹

⁸ [Rules of procedure and working methods | OHCHR](#)

⁹ [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#) – section 2(3) first row of table

UNCRC

This refers to the United Nations Convention on the Rights of the Child. This is the international treaty which sets out the civil, political, economic, social and cultural rights to which all children are entitled.



© Crown copyright 2024

OGL

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

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

This publication is available at www.gov.scot

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

ISBN: 978-1-83521-922-5 (web only)

Published by The Scottish Government, February 2024

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1411014 (02/24)

W W W . g o v . s c o t