

Consultation Response, October 2020: *UN Convention on the Rights of the Child Bill*

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

Yes, if implemented in a way that is accessible for children and young people. As stated in previous consultations on incorporation, we recommend that opportunities are created to ensure that children and young people [particularly those whose voice is seldom heard or amplified] and relevant agencies, NGOs and Civil Society Organisations are fully involved in the development processes. This will help to ensure that the final Act fully represents those it seeks to protect.

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

A 'duty to comply', and particularly a duty to ensure policy and practice is compliant, will facilitate equality and continuity of access to the rights as set out in the *UNCRC*, thus ensuring that all children and young people can enjoy their human rights. Further, a legal duty would enable legal redress in cases of non-compliance. Indeed, as public authorities are likely to be the first [or indeed only] point of contact for children and young people, such a regime will be crucial. Children, young people [and/or their advocates should the child or young person request it] must be able to bring cases in their own right, where actions are not compatible with *UNCRC* requirements. Allowing the courts the power to strike down or make a declaration of incompatibility with regards to any legislation deemed to be incompatible with the *UNCRC*, will help to ensure that the rights of children and young people are continually moving forwards.

What more could the Bill do to make children's rights stronger in Scotland?

The framework of incorporation should give equal weight and attention to General Comments, Concluding Observations and opinions made by the *UNCRC Committee*. This will ensure that duties and provisions remain 'live' and relevant to changes and developments at the international level. Furthermore, this would ensure that legislation surrounding children and young people in Scotland is subject to continual scrutiny and recommendations made by the *UNCRC Committee* are given due consideration on a regular basis. Training and awareness-raising of the suite of devolved matters, and where the *UNCRC* sits within them, will be also be required.

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

Article 12 in Scotland and many others have consistently recommended in the past that a suite of trainings and awareness-raising events at all levels are required. This should be ongoing during - and following - incorporation. Children and young people, and those advocating for their rights, should be at the heart of the design and delivery of this. Additional funding should be directed towards relevant stakeholders already involved with *UNCRC* awareness-raising and

The Reporting Process, in order to ensure that the children and young people they represent can be fully informed, empowered and prepared to confidently multiply their knowledge among their peers.

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

Digital inequality has long been an issue for children and young people from marginalised groups, the COVID-19 pandemic has highlighted just how much of a barrier to participation this is. In order for children and young people from these groups to fully participate in consultation and the shaping of the Bill, this needs to be addressed. Digital inequality is particularly prevalent within children and young people living in the Gypsy/Traveller community with recent research “on how the chasmic digital divide is impacting on young Gypsy/Travellers’ ability to continue their formal learning” during the COVID-19 pandemic (Tammi, 2020) demonstrating that of seventy [70] families supported during lockdown fewer than ten percent [10%] had access to the internet and none had access to a ‘fit for purpose’ laptop/tablet/PC.

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

This will serve to strengthen the human rights of children and young people in Scotland and encourage [or, if required, enforce] compliance and compatibility. Patchy provision and interpretation would fall short of the spirit and intention of universality and indivisibility.

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

Introducing a Children’s Rights Scheme will ensure the monitoring and evaluation of progress and compliance by all stakeholders. It is important that this monitoring and evaluation is transparent, reporting annually on this will make this more accessible and enable dialogue around what works, what doesn’t and any changes to be made. *Article 12 in Scotland* also strongly agrees with the requirement for the *Scottish Government* to make a statement regarding compatibility with the *UNCRC* when bringing forward any new legislation.

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

Consideration should be given to increasing the age from 18, to 25, for marginalised, seldom-heard and disenfranchised groups of children and young people.