



State of Children's Rights in Scotland

by Together

2023

Change...

All

ages

together

together

Scottish Alliance for Children's Rights

About Together

Together (Scottish Alliance for Children's Rights) is an alliance of 500 children's organisations, academics, interested professionals and individuals. Our vision is that all children have their human rights respected, protected and fulfilled. To achieve this, we work to inspire and enable everyone to put children's human rights at the heart of everything they do.

About this report

Together (Scottish Alliance for Children's Rights) prepared this report to inform the UN Committee on the Rights of the Child about the state of children's rights in Scotland. The report was submitted to the UN Committee in December 2022 to help it prepare for its review of the UK's children's rights record in May 2023.

The report updates the UN Committee on what has changed since it last reviewed the UK in 2016. It offers an independent, civil society perspective on areas of progress and where there are still gaps that need to be addressed. The report suggests recommendations that the UN Committee could make to the UK and Scottish Government to help address these gaps.

The content of this report reflects the situation as it stood in December 2022.

- **For more information about the UN Committee and its monitoring role please visit our website.**

Credits

This report was written by Maria Doyle and Naomi Sutton, with research support from Judi Martin. Particular thanks to Juliet Harris and our members for their editorial support.

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Artwork

The artwork used throughout this report was created by Members of the Children's Parliament (SC 026247).

Methodology

This report has been produced by Together (Scottish Alliance for Children's Rights). A large number of organisations and individuals have contributed, bringing together a range of skills, knowledge and understanding of children's rights across Scotland. This has included over 150 people who attended our 2022 webinar series, 83 survey respondents, over 40 expert reviewers, and the very many organisations who submitted evidence to underpin the findings and recommendations. It draws on children's views and experiences of their rights, gathered through Together's participation projects and engagement work supported by our members, such as the annual cabinet meeting with children and young people.

This investment of time and resources by so many of Together's members demonstrates the strength of commitment to children's human rights and the value placed on having progress scrutinised by the UN Committee.

Supporting organisations

This report embodies an overall consensus of opinion and may not necessarily represent in all respects or detail the views of every member of Together, nor every organisation, child or young person that has contributed to this report. Views expressed separately by Together's members, children and young people should also be taken into account. The following organisations support and endorse this report:

Aberlour

Action for Children

Adoption UK Scotland

Alcohol Focus Scotland

A Place in Childhood

Article 12 in Scotland

Barnardo's Scotland

Befriending Networks

Carers Trust Scotland

C-Change Scotland

CELCIS

Child Poverty Action Group in Scotland

Children in Scotland

Children's Health Scotland

Children's Parliament

Clan Childlaw

COJAC Centre

Contact

Children 1st

Children and Young People's Centre for Justice (CYCJ)

Child Rights International Network (CRIN)

Craigmillar Literacy Trust

Early Years Scotland

East Lothian Play Association

Edinburgh Children's Hospital Charity

Environmental Rights Centre for Scotland

Family Fund

Families Outside

Forces Children Scotland

Fostering Network

Girlguiding Scotland

Health and Social Care Alliance Scotland (the

ALLIANCE)

Home-Start UK (Scotland)

HOPE for Autism

Human Rights Consortium Scotland

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Inspiring Scotland

International Play Association

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Nourish Scotland

NSPCC Scotland

One Parent Families Scotland

Parenting Across Scotland

Partners in Advocacy

Play Scotland

Quakers in Scotland

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Royal College of Paediatrics and Child Health Scotland (RCPCH)

Royal Society for the Prevention of Accidents (RoSPA)

Salvesen Mindroom Centre

Save the Children

Scottish Childminding Association (SCMA)

Scottish Commission for Learning Disability (SCLD)

Scottish Independent Advocacy Alliance (SIAA)

Scottish Refugee Council

Scottish Women's Aid

Scottish Youth Parliament

See Me

Shared Parenting Scotland

Sight Scotland

Staf (Scottish Throughcare and Aftercare Forum)

Starcatchers

TACT (The Adolescent and Children's Trust)

The Speech Language Communication Company

Unicef UK

Upstart Scotland

Whizz-Kidz

With Kids

Who Cares? Scotland

YMCA

Young Scot

YouthBorders

YouthLink Scotland

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Glossary of Terms

ASN – Additional Support Needs

BAF – British Armed Forces

Care Experienced – anyone who has been or is currently in care or from a ‘looked-after’ background at any stage in their life, no matter how short it is.

Child/children – People under the age of 18

Children’s Commissioner – Children and Young People’s Commissioner Scotland

CHIS – Covert Human Intelligence Source

CRIE – Child Rights Impact Evaluation

CSO – Compulsory Supervision Order

CYCJ – Children and Young People’s Centre for Justice

CYPCS – Children and Young People’s Commissioner for Scotland

EACH – European Association for Children in Hospital

ECHR – European Convention on Human Rights

ELC – Early Learning and Childcare

EU – European Union

FGM – female genital mutilation

GIRFEC – Getting it Right for Every Child

HRA – Human Rights Act 1998

LGBTI – Lesbian, Gay, Bisexual, Transgender and Intersex

LGBTQI+ – Lesbian, Gay, Bisexual, Transgender, Queer, Intersex and other sexual orientations or gender identities

LOIPR – List of Issues Prior to Reporting. A list of questions the UN Committee on the Rights of the Child sends to a country ahead of reviewing its progress to implement children’s human rights.

NABA – Nationality and Borders Act 2022

NRPF – No recourse to public funds

RHSP – Relationships, sexual health and parenting

SGS – Scottish Guardianship Service

UN – United Nations

UNICEF – United Nations Children’s Fund

UN Committee – United Nations Committee on the Rights of the Child

UNCRC – United Nations Convention on the Rights of the Child

UNCRC Bill – shortened term for the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill

UNHCR – United Nations High Commissioner for Refugees

YOI – Young Offenders Institution

Young person/people – People between the age of 18 and 24

Introduction

This report has been compiled by Together (Scottish Alliance for Children's Rights) and endorsed by 78 organisations as the alternative report to the UN Committee on the Rights of the Child for Scotland (as part of the United Kingdom). It examines progress made since 2016 to further the UN Convention on the Rights of the Child (UNCRC) and take forward the UN Committee's Concluding Observations. It provides commentary and scrutiny of the UK State Report submitted in June 2022 and Scottish Government's Position Statement published in November 2022.¹

Particular effort has been made to draw upon children's views and experiences, gathered through Together's participation projects and engagement work supported by our members, such as the annual cabinet meeting with children and young people. Quotes from children are indicated in **blue** and quotes from parents/carers are indicated in **red**. The endnotes to this report contain a vast range of evidence to underpin our commentary.

We make 93 recommendations for improvements in UNCRC implementation. Responsibility for driving these forward lies across UK and Scottish Government, as well as local government and public bodies.

Devolution

It is essential that the context of devolution is taken into account when assessing UK implementation of the UNCRC. Whilst part of the UK, Scotland has a very different policy and legislative landscape and has considerable devolved powers over issues that affect the fulfilment of children's rights. For example, Scotland's education system, legal and justice system, NHS and local government are fundamentally distinct from the rest of the UK. Decisions in some areas can only be made by UK Government, such as the constitution, immigration, employment and aspects of social security. The interaction between reserved and devolved powers significantly impacts on the implementation of the UNCRC in Scotland. In October 2021, the UK Supreme Court found that the *UNCRC (Incorporation) (Scotland) Bill* had exceeded Scottish Parliament's powers and would require amendment before it could enter into force. See discussion at page 14.

Overview

Progress

Since 2016, there have been significant and welcome legislative and policy developments in relation to children's rights. This includes the *UNCRC (Incorporation) (Scotland) Bill* which, once constitutional issues are resolved, will incorporate the UNCRC into Scots law. Other developments include the *Children (Equal Protection from Assault) (Scotland) Act 2019* which prohibited physical punishment of children by their parents/carers and the *Children (Scotland) Act 2020* which aims to ensure children's views are heard in family court cases, gives more protection to victims of domestic abuse and places a legal duty on local authorities to support contact between Care Experienced siblings.

Strategies and action plans have been introduced on issues including UNCRC implementation, child poverty, health inequalities and transforming the care system.^{2,3} Children's views have been given greater prominence through the annual cabinet meeting with children and young people since 2017, The Year of Young People 2018, the Independent Care Review, and targeted consultation work supported by Scottish Parliament and Scottish Government.⁴

At UK level, we welcome the ratification of the Lanzarote and Istanbul Conventions and call for related reservations to be withdrawn.

Concerns

Despite such areas of progress, we outline significant issues that are undermining many of the steps taken to further children's rights at a legislative, policy and practice level. There is real concern regarding UK Government's plans to repeal the *Human Rights Act 1998* (HRA), the only mechanism through which children can seek legal redress for a number of their rights. We welcome Scottish Government's strong opposition to any attempt to repeal or undermine the HRA. The differing positions between UK and Scottish Governments highlight one of the many complexities of devolution. The UK's exit from the EU has weakened rights protection through loss of the EU Charter of Fundamental Rights, impacted families' ability to stay together, contributed to economic uncertainty and worsened staff shortages across healthcare.^{5 6 7 8}

Our members report a significant "implementation gap" between what is set out in law and policy, and what happens in practice. Often this is due to a lack of awareness of children's rights, gaps in involving younger children in decision making and inadequate resources. This problem affects a wide range of issues including implementation of additional support for learning legislation, sibling contact for Care Experienced children, access to family group decision making, statutory support for Care Leavers, ensuring children's views are heard in court and access to developmentally appropriate practice during early childhood, including support for parents/carers.

There is overwhelming evidence that children, particularly those whose rights are already most at risk, are disproportionately and seriously affected by the growing cost-of-living crisis and lasting impacts of COVID-19.^{9 10} Children's right to an adequate standard of living is being seriously impacted by social security cuts, freezes and benefits payments being reduced to recover debts.¹¹ Benefits sanctions continue to discriminate against disabled children, including children with learning disabilities, children in single parent families, those with young parents and/or in larger families. There has been an overwhelming increase in the number of children being forced to access food banks. Poverty is having a negative impact on all rights under the UNCRC and driving lifelong consequences, with particularly serious impacts across children's health, social connections, early development, education, play and learning. Cuts in legal aid and barriers to independent advocacy have resulted in children being unable to access justice.

Investigations by the Children and Young People's Commissioner Scotland have revealed significant concerns around the use of restraint and seclusion in schools, and children's rights in secure care.¹² An ongoing investigation is responding to concerns around access to mental health services.¹³

We reflect on issues where progress fails to meet the UN Committee's 2016 Concluding Observations: the age of criminal responsibility remains below international standards; children are deprived of their liberty and imprisoned in breach of principles that this should be as a last resort and for the shortest possible time; solitary confinement and pain inducing restraint are still used in Young Offenders Institutions; and children still have no right to withdraw from religious observance in schools. Although significant progress has been made, the UNCRC has still not been fully incorporated into Scots law and children remain largely unable to seek redress if their rights are violated. This report highlights a number of issues not indicated in the List of Issues Prior to Reporting but of significant concern, including: access to play, arts and cultural activities; developmentally appropriate practice in the early years; and concerns around inadequacy of safeguarding in detention facilities, unregulated sport and other settings.

Recommendations

Our report sets out 93 recommendations on further action required to implement the UNCRC and deliver tangible improvements in children's experience of their rights. A full list of recommendations is included in **Annex 1**.

We call on UK Government to commit to making the elimination of child poverty a national priority and to abolish retrogressive measures which are causing intense suffering for children and families. We welcome Scottish Government's efforts to minimise the impact of UK welfare policies but are clear that more should be done. Urgent action is needed if Scotland is to meet its child poverty reduction targets; to ensure access to children's mental health services, including prevention; and deliver lasting change for children whose rights are most at risk. There is a need for greater focus on prevention and on children's rights in early childhood.

Greater emphasis is needed on monitoring and evaluating the impact that legislative and policy developments are having on children's ability to realise their rights, and to support children's participation in this. Consistent, robust and disaggregated data collection is required in many areas, including to establish the numbers and experiences of children affected by imprisonment, disabled children, young carers, child victims and witnesses of violence, and destitute asylum seekers and migrants.

It is not yet clear what practical support, network or structures will be put in place to ensure children can seek redress following UNCRC incorporation. We strongly recommend that a greater commitment is made to ensure that children are listened to and have their views taken into account in decisions that affect them. This should include purposeful, participatory opportunities for all children in all areas of their lives, including within school and community settings. Greater effort is needed to ensure babies and young children, disabled children, Care Experienced children, children in conflict with the law, Black, Brown and minority ethnic children are involved in decision making. Disabled children, including children and young people with learning disabilities, need to be involved in decisions at all levels, from planning for transitions through to having their views taken into account in the development of government strategies and policies. We highlight the importance of high-quality independent advocacy to support the involvement of all children in decisions that affect them, particularly children whose rights are most at risk.

There are real opportunities ahead to address many of the recommendations in this report and to drive forward efforts to respect, protect and fulfil children's rights in Scotland. To bring about real change for every child, this needs to be supported by a genuine commitment to children's human rights by UK and Scottish governments and for this to be *translated into action*. Children are tired of "nice words" that make no difference in their lives. Much, *much* more is needed to address the cost-of-living crisis and numerous other barriers that are preventing children from accessing their rights.



Chapter 1.

General measures of implementation



Domestic legislation in line with UNCRC

Incorporation

In March 2021, Scottish Parliament unanimously passed a Bill to incorporate the UN Convention on the Rights of the Child (UNCRC).¹⁴ The UK Supreme Court ruled the Bill had exceeded Scottish Parliament's powers and could not become law until amended. Children and young people called on Scottish Government to produce a clear timeline at their 2022 meeting with the Scottish Cabinet.¹⁵ Scottish Government said its intention was to pass an amended Bill by the end of 2022. To date, the Bill has not returned to Scottish Parliament nor has Scottish Government published its proposed amendments. More than a year after the Supreme Court judgement, children still do not know when their rights will be protected in law.



Recommendation 1. *Scottish Government should urgently bring forward the amendments necessary to allow the enactment of the UNCRC (Incorporation) (Scotland) Bill.*

Optional Protocol 3

Despite a concluding observation and international calls, UK Government has not signed or ratified the Optional Protocol on a Communications Procedure.¹⁶ The State Report claims domestic law provides sufficient pathways for children to challenge breaches of their rights.¹⁷ However, the failure to incorporate the UNCRC into domestic law means it cannot be directly relied on in the courts. This leaves children with inadequate access to justice when facing breaches of their UNCRC rights. Scottish Government has called on UK Government to ratify the Protocol.^{18 19}




Recommendation 2. *UK Government should sign and ratify the Third Optional Protocol on a Communication Procedure with immediate effect.*



Human Rights Act

UK Government plans to repeal the *Human Rights Act 1998* (HRA) and replace it with a 'British Bill of Rights'.²⁰ The new Bill will make human rights conditional upon conduct, reduce access to the courts and remove the obligation on public authorities to give effect to legislation in a way that is compatible with rights under the European Convention on Human Rights (ECHR). Civil society organisations are clear that the proposals will significantly undermine children's rights protections.^{21 22} In the absence of UNCRC incorporation, the HRA provides the only mechanism through which children can seek redress for breaches of their human rights (albeit under the ECHR). An Independent Review commissioned by UK Government found the HRA had been a success and there was no case for radical overhaul.²³ UK Government has failed to properly consider the impact on the devolution settlements into which the HRA is embedded. There has been scant regard for operation of devolved judicial systems and engagement with the devolved governments has been poor, with many of their concerns ignored.

 "Generally, I feel that after a decade or two of progress, we are in the middle of the 'backlash'. Which is not great!"²⁴



Recommendation 3. *UK Government should not repeal the Human Rights Act 1998. It should abandon the Bill of Rights and ensure existing human rights protections are upheld.*



Recommendation 4. *If the Bill of Rights proceeds, Scottish Government should legislate to preserve existing human rights protections to the maximum extent possible.*

Comprehensive review of legislation

Together members are concerned that a range of Scottish and UK legislation is incompatible with the UNCRC.²⁵ This includes:

- **Criminal Procedure (Scotland) Act 1995:** 16- and 17-year-olds are defined as adults so do not have access to children's safeguards. Under 18s can be sent to adult prisons. Children aged 12 and over can be given life imprisonment.
- **Regulation of Investigatory Powers (Scotland) Act 2000:** police can use children as covert human intelligence sources, putting them at significant risk of harm.
- **Age of Criminal Responsibility (Scotland) Act 2019:** minimum age of criminal responsibility at 12 falls below international standards.
- **Marriage (Scotland) Act 1977:** allows marriage at 16 years old.
- **Education (Additional Support for Learning) (Scotland) Act 2004:** no right to effective remedies for children under 12.
- **Education (Scotland) Act 1980:** compulsory religious worship in schools. Children have no right to withdraw.
- **Coronavirus legislation:** numerous incompatibilities were highlighted in an independent child rights impact assessment conducted by the Children and Young People's Commissioner Scotland.²⁶

Together has urged Scottish Government to take a robust and systematic approach to identify and address incompatibilities. The independent Legislative Gap Analysis conducted in Jersey offers valuable learning for Scotland.²⁷



Recommendation 5. *Scottish Government should commission an independent, comprehensive audit to identify areas of legislative incompatibility and commit to take action based on its recommendations.*

Ratification and reservations

We welcome UK Government's ratification of the Istanbul and Lanzarote Conventions. We are concerned by the reservation that prevents application of the Istanbul Convention to migrant women.²⁸



Recommendation 6. *UK Government should ensure full implementation of the Istanbul and Lanzarote Conventions and withdraw its reservation to the Istanbul Convention.*

Child Rights Impact Assessment (CRIA)

Scottish Government has undertaken Child Rights and Wellbeing Impact Assessments (CRWIA) on a voluntary basis since 2015.²⁹ It developed its own model and accompanying guidance.³⁰

Scottish Government has published a number of CRWIAs but quality varies and it can be difficult to access further information about their use.³¹ Issues include CRWIA not being commenced early enough, gaps in children's involvement,³² insufficient data collection, not considering all relevant UNCRC rights, and lack of ongoing monitoring and evaluation.^{33 34}



*"[CRIA] should be routine and shouldn't make the process last extra time. It shouldn't be just a tick-box exercise."*³⁵

Numerous decisions during COVID-19 were not subject to CRWIA making it difficult to ascertain whether (and to what extent) children's rights were considered.³⁶ Scottish Government has started centralising a list of CRWIAs on its website.³⁷ While this is welcome, the resource is not exhaustive. There can be several months delay between CRWIA being completed and published which makes timely scrutiny difficult. Children and young people have called for accessible CRWIAs:



*"We like the idea of a child-friendly version of CRWIAs, but the original should be easy to understand too. There should be other accessible formats of these."*³⁸

As currently drafted, the UNCRC Bill will make CRWIA mandatory for Scottish Government when introducing new legislation or making certain strategic decisions.³⁹ Whilst there is an expectation that wider public bodies will undertake CRIA to fulfil their duty to not act incompatibly with the UNCRC,⁴⁰ this is not mandatory and their use and quality remains patchy across services and regions.⁴¹



Recommendation 7. *Scottish Government should ensure that all child rights impact assessments are published promptly and made accessible to enable scrutiny by civil society and children.*

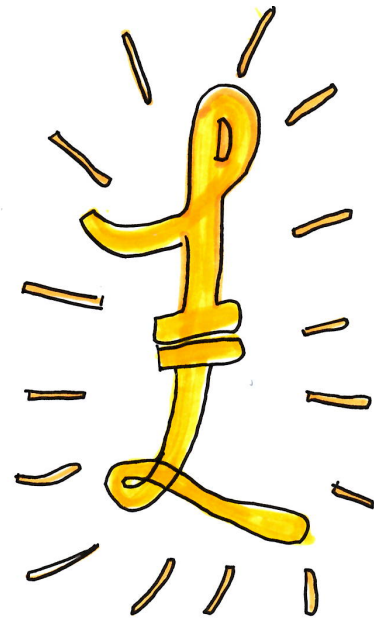


Recommendation 8. *Scottish Government should promote the use of child rights impact assessments across all levels of government, ensuring public bodies know how to apply a children's rights approach to policymaking and create meaningful opportunities for children's participation in decision making.*


Allocation of resources

The way in which budgets are currently constructed makes it very difficult to identify what is spent on children – at national and local level – and on groups of children whose rights are most at risk.^{42 43} There is limited focus on outcomes, making it difficult to ascertain whether the maximum available resources have been spent most effectively. Scottish Parliament’s interactive budget tool increased accessibility but has not been updated since February 2020.^{44 45} Gaps in data disaggregation – for example on type of disability – mean there is inadequate consideration of certain groups of children when budgetary decisions are made.⁴⁶

Scottish Government has noted several ways in which it promotes rights-based budgeting, including the use of CRWIAs and the Equality and Fairer Scotland Budget Statement.^{47 48} While these are important, more needs to be done to embed children’s rights considerations from the outset of budgeting processes, including the use of child rights impact assessments and children’s participation.⁴⁹ Scottish Government has committed to further exploring participatory, wellbeing and child rights-based approaches to budgeting.⁵⁰



Participatory Budgeting

 “The government doesn’t have the money to get it wrong, so should invest in listening to [children and young people] to get it right.”⁵¹



Recommendation 9. **UK and Scottish Government should take a child rights-based approach to budgeting, including participatory budgeting and comprehensive CRIAs. There should be consistent mechanisms to transparently and regularly measure the allocation and effective use of resources for children’s rights in budgets, including the use of Child Rights Impact Evaluations (CRIES).**⁵²

Access to justice

Child-friendly complaints

Existing complaints structures are designed for adults and inappropriate for children who find them intimidating, lengthy and inaccessible.⁵³ Non-verbal children face particular barriers in having their views heard. There is a lack of child-friendly information, difficulties in accessing independent advocacy, and complaints processes are often not independent. Children say they can face intimidation if they make a complaint – especially children who are marginalised, such as children from minority ethnic backgrounds, children with care experience⁵⁴ and neurodivergent children who may require communication support.

🗣️ “[Existing] complaints procedures don’t work – organisations tend to protect their staff.”

🗣️ “It must be independent advocacy – if it’s attached to the council, their carers, etc., children and young people won’t use or trust it.”⁵⁵

When enacted, the UNCRC Bill will require Scottish Government to set out what it is doing to promote child-friendly complaints processes and ensure children’s access to justice.⁵⁶ It will also give the Children’s Commissioner and Scottish Human Rights Commission powers to intervene and bring legal proceedings on children’s rights grounds,⁵⁷ significantly expanding the Commissioner’s current powers of investigation.⁵⁸

Scottish Government is expected to consult on advocacy provision for children in 2023.

💡 **Recommendation 10.** **UK and Scottish Government should ensure all children have access to child-friendly complaints processes, including independent advocacy. Children should be involved in the design and creation of comprehensive complaints mechanisms that meet their individual needs.**


Legal aid and representation

Children face multiple challenges in accessing effective legal representation, including barriers to legal aid, poor access to solicitors in rural areas and ‘out-of-hours’, and few solicitors skilled at communicating with children.⁵⁹ In certain situations, a parent/carer’s financial circumstances are taken into account when assessing eligibility for legal aid which can render the child ineligible. This is particularly problematic in situations where the child is in contention with their parent/carer. Many children will not seek legal aid if that means having to disclose this to their parent/carer.⁶⁰ Members are concerned that the only time children are routinely offered a lawyer is in the care system when secure accommodation is being considered. Referral to the Children’s Hearings System on offence grounds does not automatically mean a solicitor is involved, even though a child accepting offence grounds counts as a “conviction”⁶¹ and can have lasting consequences. Children who are below the age of criminal responsibility but subject to police powers face additional issues in accessing legal representation.



There is a significant gap between what children need from their lawyers and what they usually experience. Legal aid does not fund the time that children need with their lawyers to build a relationship, empower their decision making and prepare them for hearings.⁶² Civil society organisations have called for numerous improvements in children’s access to legal aid and the quality of legal representation.^{63 64 65} Children have emphasised the importance of lawyers who genuinely care, who know and understand trauma, the care system and learning disabilities.⁶⁶

 “They should tell you that they are there for you [and] they are there to do what you tell them to do.”⁶⁷

 **Recommendation 11.** *Scottish Government should ensure all children have access to free, confidential, independent legal aid and assistance, can access justice and challenge decisions that affect their rights.*

Children’s experiences of legal processes

Children face multiple barriers in accessing court and report poor experiences when they do. Court processes and children’s hearings can feel intimidating – even when adaptations have been made.^{68 69 70} There is currently a two-tier system, whereby over-16s who are subject to a compulsory supervision order (CSO) have access to the children’s hearings system, whereas over-16s without a CSO go via the adult court system. Scottish Government has made a commitment to ensure all under-18s have access to the Children’s Hearings System but this has not yet been implemented.⁷¹ Members report challenges securing special measures in court such as the use of screens, pre-recorded evidence, evidence by video link or separate entrances.⁷²

 **Recommendation 12.** *Scottish Government should ensure all children have access to all judicial forums⁷³ and improve access to special measures in accordance with the Council of Europe Guidelines on Child-friendly Justice.*

Dissemination, training and awareness raising

The State Report and Scottish Government Position Statement outline some of the welcome steps Scottish Government has taken to increase awareness and understanding of the UNCRC amongst adults and children.^{74 75} Members continue to report gaps in knowledge of decision makers at national and local government level, judges, court officials, professionals, parents, carers and children themselves. Key issues include: translating knowledge of rights into practice; building professionals’ knowledge of child development, babies’ and young children’s rights; and supporting parents’/carers’ understanding of the complementary role of parents’ rights in supporting children’s rights. Children have offered guidance for adults on how to put their rights into practice.^{76 77}

Scottish Government says it continues to promote wide awareness of the Common Core of Skills, Knowledge & Understanding and Values of the Children’s Workforce, which we understand is currently being reviewed.⁷⁸ Evidence from our members suggests further work is needed to embed this. The Scottish Government is funding the development of a Skills and Knowledge Framework in conjunction with civil society to support duty bearers to implement the UNCRC. Continued commitment is needed to ensure public authorities embed the framework.⁷⁹





Recommendation 13. *Scottish Government should develop and implement a programme to ensure broad awareness and understanding of the UNCRC and other human rights treaties amongst children and their families.*



Recommendation 14. *Scottish Government should ensure all professionals working with children and those making decisions that affect children, including civil servants and public authority staff, have a good understanding of children's human rights and are supported to put these into practice.*

Data collection and monitoring

Significant gaps and inadequate data collection persist across multiple issues including: early child development; restraint and seclusion; child victims and witnesses of violence; care experience; children with learning disabilities, autism or neurodevelopmental differences; young carers; children affected by parental imprisonment; and children in armed forces families.

Common issues include: little or no official data collected on certain groups of children, rendering them 'invisible' to decision makers; collecting data which fails to represent children's lives and the things that are important to them; lack of disaggregation which hinders identification of inequalities; inconsistencies in data collection approaches between different local authorities rendering comparison difficult; issues around quality and accuracy; not gathering qualitative data from children; and reliance on "snapshot" data rather than longitudinal studies to gain deeper understanding of children's outcomes and experiences.⁸⁰ Children say they often do not know how their information is collected, stored and used – raising doubts around fully informed consent:⁸¹



"It's important to remember that these are not just numbers – these are real people."⁸²

There is no specific set of nationally applicable child rights indicators to monitor UNCRC implementation.



Recommendation 15. *Scottish Government should develop a comprehensive child rights data collection and evaluation system, including measurable child rights indicators, to generate high-quality and comparable disaggregated data at all levels of government, particularly with regard to children whose rights are most at risk.*



2

Chapter 2: **Age of the child**

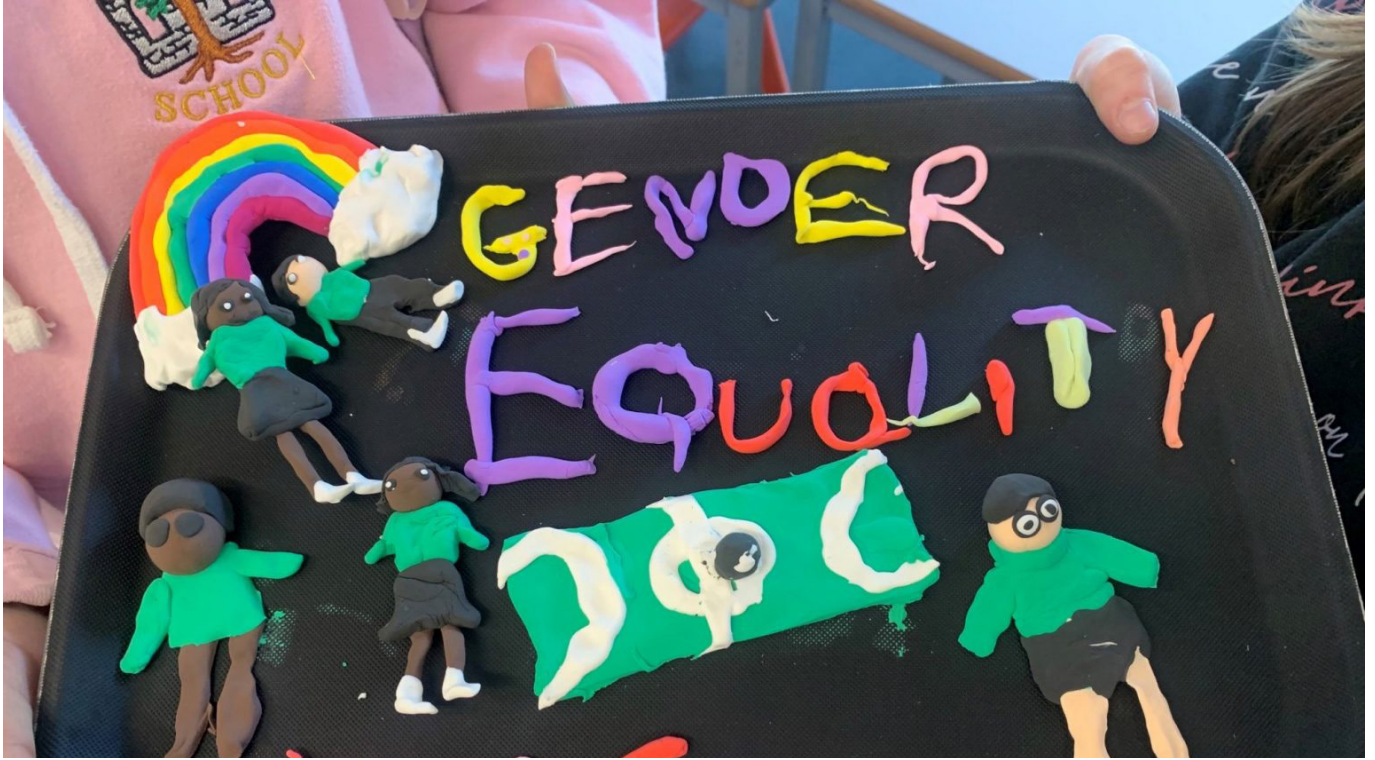


Change...

All ages together

Minimum age of marriage

The minimum age of marriage is 16.⁸³ This falls short of the international standard of 18 and behind England and Wales.⁸⁴ The State Report notes Scottish Government's intention to consult on "whether" the age should be increased.⁸⁵ This suggests a gap in understanding between "protection" and "participation" rights.



Recommendation 16. *Scottish Government should legislate to raise the minimum age of marriage to 18.*

Inconsistent definition of a child across Scots law

The age of legal capacity in Scotland is 16.⁸⁶ This has led to an inconsistent definition of a child elsewhere in Scots law, policy and practice. For example, justice legislation allows 16- and 17-year-olds to be tried in adult courts and detained in Young Offenders Institutions (YOIs).⁸⁷ Mental health law allows 16- and 17-year-olds to be defined as adults with incapacity and deprived of their liberty in adult wards.⁸⁸ Care Experienced children's access to support can depend on their age and the legal basis for their care. This means many 16- and 17-year-olds are often excluded from safeguards for children.

Scottish Government has made a welcome commitment to end the placement of under 18s in YOIs. A comprehensive, independent audit is required to ensure that *all* law complies with the UNCRC, including the definition of a child as set out in Article 1 UNCRC (see discussion at page 15).



Recommendation 17. *Scottish Government should ensure all under 18s are recognised as children in relevant legislation, policy and practice, taking account of their evolving capacities.*



3

Chapter 3.

General principles

THE COMFORT



BULLYING
IS WRONG



Do you
want to
play?

Yeah!



I can't
get the
answer

Thanks!



I can
help
you



Let's
talk about
things and
be kind to
each other



Racism
is always
unacceptable



No
lonely
People

WE ARE HERE TO HELP




Non-discrimination

Children continue to face age discrimination in law and practice. The State Report notes protections under the *Equality Act 2010*⁸⁹ – yet children continue to be excluded from some of its provisions.⁹⁰ This allows shopkeepers to restrict the number of children entering their premises,⁹¹ lower benefits payments to under 18s and unequal wages.⁹² Children have called for an end to age discrimination in the minimum wage and action to address negative public and media attitudes.^{93 94}



Children continue to face discrimination related to their background, experiences or identities, despite the actions outlined in the State Report.⁹⁵ Ending discrimination has been a recurring priority for children and young people at the annual cabinet meeting, raising calls on gender equality,⁹⁶ anti-racism,⁹⁷ and supporting LGBT and disabled children.⁹⁸ Discrimination continues to impact children living in poverty, young carers,⁹⁹ Care Experienced children,¹⁰⁰ young refugees and migrants,¹⁰¹ children in conflict with the law,¹⁰³ young parents, children with a parent in prison,¹⁰⁴ and children in armed forces families.¹⁰⁵ Many children experience discrimination in relation to multiple intersecting identities.

Girls have highlighted their experiences of sexism, stereotypes, gendered bullying, gender-based violence and a lack of support to talk about their experiences.^{106 107 108} Girls as young as nine report being intimidated by boys and told rape jokes about their mothers.¹⁰⁹ Over a third of girls and young women have been in an abusive relationship, while a majority say they are not supported to learn about healthy relationships at school and that statutory support services are inaccessible.¹¹⁰

 *“Start young! You can be a baby to learn about consent, like that it’s okay to say no to being hugged... kids are never too young to know how they should be treated, bring them up confident.”¹¹¹*


LGBTI young people’s experiences are worsening over time.¹¹² LGBTI young people continue to be affected by bullying and hate crime, and feel homophobia, biphobia and transphobia continue to be a problem in their local areas and nationally. While LGBTI young people are more likely to feel supported when coming out than in the past, visibility continues to carry risks.¹¹³ Scottish Government has committed to reform the law on gender recognition and a Bill is currently before Scottish Parliament.¹¹⁴

Gypsy/Traveller children continue to face discrimination, negative stereotyping and social stigmatisation.¹¹⁵ Organisations have called on the media to use their power in a positive way.¹¹⁶ Discrimination is especially acute in secondary schools and may lead to lower levels of enrolment, poor attendance and early exit from formal education.¹¹⁷

Black, Brown and minority ethnic children face institutional racism in education, justice and other settings.¹¹⁸ Children’s experiences are often minimised while support services do not always meet their needs.¹¹⁹ Racist attitudes are often held by other children, with 48% of school staff aware of pupils expressing misconceptions, stereotypes or negative attitudes relating to racism.¹²⁰ Organisations have noted gaps in data disaggregation with categories such as “Black-British” being




too wide to identify issues affecting more specific identities.¹²¹ Asylum-seeking children frequently face racism and further discrimination associated with language barriers, as well as their exclusion from state benefits like the Scottish Child Payment.¹²²

 *“We should teach younger kids about racism so when they’re older they can help stop racism.”¹²³*

 *“An example of when people have been showing equity with all kinds of races is when we are playing football they are showing teamwork and including everyone.”¹²⁴*

Disabled children and children with complex communication needs continue to experience discrimination in public attitudes and access to services. Disabled people feel attitudes have worsened during the pandemic, particularly affecting children.¹²⁵ Disabled children are more likely to experience bullying. Parents/carers of children with learning disabilities report significant inequity in access to specialist childcare that meets their child’s needs (see page 44). There is a shortage of accessible housing provision for disabled children (see page 57).

Children living in poverty often experience bullying related to their clothes, possessions, and not being able to go away on holiday. Cost barriers can mean they are excluded from school trips and activities (see page 55).

-  **Recommendation 18.** ***UK and Scottish Government should ensure children have equal legislative protection from age discrimination.***
-  **Recommendation 19.** ***UK and Scottish Government should ensure that existing and developing human rights frameworks identify and uphold the rights of those children whose rights are most at risk.***
-  **Recommendation 20.** ***UK and Scottish Government should take further steps to prevent and address gender stereotypes and address bullying and discrimination experienced by children, including children living in poverty; disabled children; LGBTQI+ children; young carers; Care Experienced children; young refugees, asylum seekers and migrants; Black, Brown and minority ethnic children; children in conflict with the law; children with a parent in prison; and children in armed forces families.***

Best interests of the child

The best interests principle is included in a patchwork of legislation. The *Children’s Hearings (Scotland) Act 2011* says the child’s welfare should be the paramount consideration.¹²⁶ The *Children (Scotland) Act 2020* includes a duty to consider the child’s best interests as a primary consideration when allowing access to information.¹²⁷ Scottish Government says the intention behind the 2020 Act is to “further ensure that the child’s best interests are at the centre of any contact and residence cases.”¹²⁸ Our members note significant gaps between law and practice. Organisations supporting child victims of domestic abuse say children are often pushed into contact arrangements with the abusive parent due to sexism entrenched in the justice system, despite such contact being against the child’s wishes and best interests.^{129 130}

There are significant concerns about the best interests of children in the justice system. Decisions often appear to be driven by costs rather than best interests, including placement of children in Young Offenders Institutions over secure care; reliance on police stations as a “place of safety” over alternatives; and extensive use of strip searching.¹³¹

There is no specific requirement for Scottish courts to take a child's best interests into account when considering whether to imprison a parent.¹³²



Recommendation 21. *Scottish Government should ensure the best interests of the child is a primary consideration in all legislative, judicial and other matters that affect them, except where a higher standard already applies.*

Right to life, survival and development

Scotland has a higher mortality rate for under-18s than any other Western European country, with over 300 children dying each year and a quarter of these deaths preventable.¹³³ In the absence of a national system to support consistent reviewing and learning from children's deaths, Scottish Government commissioned the establishment of a national hub.¹³⁴ Mortality rates are higher among children in areas of socio-economic deprivation, with evidence this gap is widening.^{135 136} The premature mortality rate is 12 times higher for children with intellectual/learning disabilities, rising to 17 times higher for girls and young women.¹³⁷ Care Experienced people are at a higher risk of premature death than the general population (between 2.7 and 5 times greater).¹³⁸ In 2021-22, 14 children under the age of 15 died due to unintentional injuries.¹³⁹ Members have called for better health promotion and action to reduce accidents at home and in the community.^{140 141} Significant concerns have been raised following the suicides of children and young people in detention settings.¹⁴²

Significant inequalities persist in early childhood development, driven by poverty and exacerbated by COVID-19 lockdown which reduced children's access to playgroups and new experiences. Greater focus and investment is needed in the early years to prevent and address these inequalities and to ensure developmentally appropriate practice. See pages 61-62 for further discussion on early learning and page 55 for discussion on child poverty.



Recommendation 22. *Scottish Government should take urgent steps to address high infant and child mortality rates, and accidental injuries, taking into account underlying factors such as poverty, disability, care experience and COVID-19.*



Recommendation 23. *Scottish Government should increase investment in prevention and early intervention services, particularly in the early years, to address inequalities in early childhood development.*

Views of the child

The State Report incorrectly says it was informed by widespread consultation with children across the UK.¹⁴³ Consultation was limited to children in England and does not necessarily reflect the views or experiences of children in devolved jurisdictions. UK Government must do more to ascertain and take into account the views of children in Scotland, Wales and Northern Ireland, particularly in relation to reserved matters.

Scottish Government has secured some progress in relation to the promotion and implementation of Article 12 through a combination of legislative and policy developments. The *Children (Scotland) Act 2020* seeks to ensure children's views are taken into account in family court processes and children's hearings. Scottish Government has taken steps to involve children in decision making, including the annual cabinet meeting and establishing an Interim Consortium to give children

oversight of the UNCRC Implementation Programme.¹⁴⁴ Scottish Government's 2021-24 Action Plan commits to develop a rights-based approach to children's participation, including inclusion of seldom heard groups.¹⁴⁵ It has since published guidance on involving children in decision making,¹⁴⁶ and commenced partnership work with Scottish Youth Parliament to design a model for rights-based participation across government and public bodies.¹⁴⁷ Despite these developments, there is a lack of evidence as to the extent to which children's participation has an impact on decision making.

Once in force, the *UNCRC (Incorporation) (Scotland) Bill* will require Scottish Government to set out arrangements to "ensure that children are able to participate in the making of decisions that affect them".¹⁴⁸ Scottish Government must also consult with children before publishing certain reports and produce child-friendly versions.

Despite these positive developments, children continue to express frustration that their views are not listened to or taken seriously by decision makers.^{149 150} Key issues for children include tokenistic approaches, a lack of feedback loop, failure to include seldom heard groups – especially younger children, difficulties in accessing independent advocacy, and a sense that participation can sometimes feel forced/pressured rather than voluntary.^{151 152}

👤 "Adults always say we are not right as we are still 'children'."¹⁵³

👤 "Only 5% of kids get heard and it needs to be more."¹⁵⁴

Our members face challenges when supporting children's engagement with decision makers, including: traditional perceptions of children, resistance to change, short-term and inconsistent project funding, unsuitable spaces, not understanding that rights-based participation takes time, support and resources.¹⁵⁵ There is an over-reliance on children's charities to "do participation for them" – often due to lack of local participatory frameworks or mechanisms in place. A further issue is adults choosing certain groups of children for certain opportunities, rather than children choosing what opportunities they would like to be involved in. The above issues contribute to the exclusion of children whose rights are most at risk, including disabled children, babies and early years, Care Experienced and minority ethnic children. Members have called for enhanced training to support decision makers and professionals to embed rights-based approaches to participation.



Recent legislation sets out a right for Care Experienced children to participate in children's hearings related to their siblings, yet barriers include limited awareness of this right and complex arrangements which do not easily facilitate participation.¹⁵⁶

Early years and 'middle childhood' children need to be at the heart of UNCRC implementation, not on the fringe. Members are clear about the essential role of play in ensuring the meaningful, rights-based participation of pre-school and primary aged children in decision making. Significant steps are needed across institutions and individuals to recognise the importance of play and undertake the training and partnerships necessary to put it at the heart of UNCRC implementation.¹⁵⁷

Children made recommendations drawing on their experience of engaging with Scottish Government on the UNCRC Implementation Programme.¹⁵⁸ They called for meetings that do not clash with school or dinner time; greater opportunities for children to lead; child-friendly information; improved feedback loop; compensating children for their time and expertise; and for decision makers to spread the word with colleagues.¹⁵⁹ There has been a significant delay between this pilot and plans to establish a longer-term consortium. It is crucial that learning from the initial pilot informs the next phase, supporting children's participation at the centre of the UNCRC implementation programme and their scrutiny thereof.



Recommendation 24. *UK Government should do more to ascertain and take into account the views of children in Scotland, Wales and Northern Ireland, particularly in relation to reserved matters.*



Recommendation 25. *Scottish Government should put in place the structures, processes and support needed at all levels and areas of government to ensure children are at the heart of decision making, taking active steps to ensure a rights-based approach, particularly focusing on the inclusion of younger children and those whose rights are at risk.*



Recommendation 26. *Scottish Government should ensure that children whose rights are at risk have access to well-resourced independent advocacy services to support their right to be heard.*



Chapter 4:

Civil rights and freedoms



"The sun,
the moon,
water
and
a breeze"

Com
Dawn

munity
walk

NATURE'S FUTURE

Religious observance

Schools are under a statutory duty to provide ‘religious observance’ to pupils with a focus on Christianity.^{160 161} Parents/carers have a right to withdraw their child but no progress has been made towards the Committee’s 2016 recommendation to ensure pupils have an equivalent right.^{162 163 164} Scottish Government states that “religious observance is not compulsory” in light of the parental right to withdraw.¹⁶⁵ This fails to see the situation from the child’s viewpoint, whereby religious observance becomes *de facto* compulsory if they take a different view from their parent/carer. Likewise, a child has no recourse if they wish to engage in religious observance but their parent/carer has withdrawn them. While the State Report notes Scottish Government is currently examining whether to review the policy, progress has been slow and engagement limited to private meetings with organisations, not children and young people.



Recommendation 27. *Scottish Government should commit to legislative change to ensure children can independently exercise the right to withdraw from religious observance. Children should play a central role in informing this change.*

Freedom of assembly

Mosquito devices

There is no ban on the use of mosquito devices, despite repeated recommendations from the UN Committee.^{166 167} devices can cause irritation, pain, anxiety and distress in children, particularly babies and disabled children who may struggle to verbalise their experience. While Scottish Government has spoken against the devices and local authorities no longer use them,¹⁶⁸ they continue to be installed by private individuals and businesses.¹⁶⁹ Scottish Government has said that restricting the sale of mosquito devices is a trade issue reserved to UK Government. The Public Petitions Committee invited Scottish Government to consider banning their use under health powers.¹⁷⁰ No ban has been introduced.



Recommendation 28. *UK Government should ban the sale and use of mosquito devices. Scottish Government should take steps within its devolved powers to end the use of mosquito devices.*

Right to privacy

Anonymity

Legislation offers protection for the identity of under-18s in court proceedings¹⁷¹ and children’s hearings.¹⁷² Publication is permitted if a judge deems this in the public interest.¹⁷³ Members are concerned this exception contravenes children’s human rights and have called for stronger protection on anonymity.¹⁷⁴



Recommendation 29. *Scottish Government should ensure lifelong anonymity for offences committed by children.*

Stop and search

Together welcomed the 2017 Code of Practice which ended non-statutory (consensual) stop and search, clarified the rules for statutory stop and search, and strengthened data collection and publication. Statutory stop and search powers remain widely used although the number of searches has been in decline since 2019.¹⁷⁵ Police Scotland now publishes all incidents of stop and

search noting the age, gender, location, ethnic origin and whether something was found. Despite a recommendation by the UN Committee in 2016, the data does not include information on disability or socio-economic background.¹⁷⁶ Between April 2021 - March 2022, 3,851 stop and searches were conducted on children between ages 10-17.¹⁷⁷ Of these, 73% were 'negative' (nothing found), compared to 64% negative rate when searching adults.¹⁷⁸ Results for the previous two years show a similar pattern.¹⁷⁹ This suggests police may be applying a lower threshold of reasonable suspicion in relation to children. Ninety-four percent of searches were on white children – the latest census (2011) indicated 96% of the Scottish population was white.¹⁸⁰ It is difficult to assess potential racial profiling as the 2022 census results are not yet available. Members report police targeting of known justice-experienced children when they are simply going about town.¹⁸¹



Recommendation 30. *Scottish Government should ensure consistent application of the 2017 Code of Practice and address the disproportionate targeting of children.*



Recommendation 31. *Scottish Government should ensure that data collection and publication on stop and search is disaggregated in line with UN Committee's 2016 recommendation – including disability and socio-economic background.*

Strip searches

Freedom of information data shows police conducted 3067 strip searches on children in police custody between 2017-21.¹⁸² Strip searches are invasive, traumatising and in the overwhelming majority of cases nothing is found.¹⁸³



*"I was 14 the first time they strip searched me and put me in the cells. The police officer who did it, stood watching a crying and shaking 14-year-old girl and said 'if you don't do it we will do it for you.' I was 16 when I spent Christmas Eve in the cells all night after being strip searched again. I spent the night in tears scratching my face and pulling my hair out."*¹⁸⁴

In the context of stop and search powers (i.e. outwith custody), police conducted 285 strip searches on children aged 7-17 in the five-year period for which data is available (2017-22).¹⁸⁵ Data shows a drop in strip searches in 2021-22. The majority of strip searches were on boys. Girls accounted for 16% of standard searches but 27% of strip searches. While the sample is small, this represents an increase on previous years and must be kept under close review.

The above figures do not include strip searches conducted in settings such as Young Offenders Institutions (YOIs) or secure care. Although secure care centres advise they no longer use strip searching, members shared anecdotal evidence of recent strip searches and children reluctant to go on home visits due to fear of strip searching on returning to the unit. In 2019, Scottish Government announced that it would stop the routine body searching of under 18s in custody.¹⁸⁶ YOIs have advised they no longer do random searches, but intelligence-led searches still occur. There is a lack of available data on intelligence-led searches.



Recommendation 32. *Scottish Government should ensure any searching of a child is conducted and reported in line with all human rights obligations, particularly ensuring it is not used disproportionately on girls in any area.*



Chapter 5: **Violence against children**



Windy you

I stand up for all rights- especially wee children who don't know their rights yet

Listen to what children have to say!

back! us! Protect us! Defend what's important!

Sometimes I feel unimportant. Stop neglecting us listen to what we have to say!

DEFENDING OUR RIGHT TO BE PROTECTED FROM HARM

STOP bullying Jessica Now Bob

People not talking our views seriously

The right to go on the road!

Don't be mean!

They're not letting him go on his road!

Protect children from war!

Before After!

hee eeeeep!

Billy R.I.P.

Timothy

The children rights are being taken away!

The children rights are being taken away!

The children rights are being taken away!

Torture and other cruel, inhuman or degrading treatment or punishment

Use of harmful devices

Tasers continue to be drawn and fired at children, including in the presence of children aged five and eight.^{187 188} Concerns have been raised around data recording and transparency.¹⁸⁹ The use of spit hoods is at police discretion where considered “reasonable, proportionate and absolutely necessary”.¹⁹⁰ It is unlikely that these conditions can ever truly be fulfilled, especially as they have been described by children as traumatic and distressing. A similar criterion is applied by police officers in England, where there is a disproportionate use of spit hoods on Black, Brown and minority ethnic children.¹⁹¹ Continued use of these harmful devices is discriminatory, distressing, and places the wearer at risk of asphyxiation.¹⁹²



Recommendation 33. *Scottish Government should ban the use of tasers, spit hoods and other harmful devices on children, and ensure that Police Scotland regularly publishes disaggregated data on their use and any complaints about police conduct.*

Restraint and seclusion

Restraint, seclusion and other restrictive practices continue to be used across a wide range of settings, including schools, secure care, residential childcare, mental health and justice settings.¹⁹³ There is evidence that restraint and other restrictive practices are being used in response to low level incidents and to protect property, rather than as a last resort where necessary to protect the safety of the child or others. These practices continue to be disproportionately used against disabled children, including children with learning disabilities and autism.¹⁹⁴

A 2018 investigation by the Children and Young People’s Commissioner Scotland (CYPCS) identified 2,674 incidents of restraint and seclusion in Scottish schools. It found significant gaps in reporting and monitoring.¹⁹⁵ In separate research, 86.5% of families reported their child had been physically injured by restrictive intervention.¹⁹⁶ Following these findings, Scottish Government agreed to produce new guidance. It published a consultation on draft guidance in 2022, but the timeline for implementation is unclear.¹⁹⁷ An investigation between 2019-21 found hundreds of children are still affected by restraint and seclusion in schools.¹⁹⁸ Use of restraint and seclusion in residential childcare has fallen due to efforts of the Scottish Physical Restraint Action Group and others.¹⁹⁹

Scottish Government must work at pace to introduce statutory guidance clarifying accountability, reporting and monitoring across multiple settings. Training and quality assurance standards are important to proactively support children, enabling them to communicate how they are feeling and to avoid feeling distressed.²⁰⁰



Recommendation 34. *Scottish Government should develop and implement statutory, human rights-based guidance on the use, monitoring and scrutiny of the use of restraint across all settings, supported by rights-based training and a clear complaints procedure for children and families.*



Recommendation 35. *Scottish Government should end the use of seclusion and isolation.*

Equal protection

Children now have the same legal protection from assaults as adults.²⁰¹ Little research has been conducted to explore the impact of this change.



Recommendation 36. *Scottish Government should monitor cultural attitudes towards corporal punishment and use findings to inform positive parenting support which is rooted in the views and experiences of children.*

Violence, abuse and neglect

Child protection

Child protection policy is part of a continuum of supportive measures to ensure that children are safe and cared for, under the 'Getting it Right for Every Child' (GIRFEC) approach. Key to this approach is providing children and their families with the right support, before difficulties escalate and require formal child protection measures. This relies on access to high quality family support. See page 45 for further information.

Scotland's child protection policies, practices and legislation have been described as a 'cluttered landscape'.²⁰² This makes it harder for practitioners to understand what practice to follow, and for children and their families to understand what rights they have. Practitioners have also reported being unaware of the services they can refer children to, services being ill-suited to children, long delays and referral processes being difficult to navigate.²⁰³ See page 45 for discussion of children's social work services.



Recommendation 37. *Scottish Government should ensure that children's rights form the legislative basis of the child protection system and that children and families have access to the information and support necessary to claim their rights.*

Violence against women and girls

Violence against women and girls remains endemic.²⁰⁴ It is both a cause and consequence of gender inequality, further entrenched through structural inequalities around race and poverty. In 2021-22, 64,807 incidents of domestic abuse were recorded, of which 81% involved a female victim and male perpetrator.²⁰⁵ The true scale of violence is likely much higher due to under-reporting and gaps in recording.²⁰⁶ Domestic abuse has significant and long-lasting impacts on women and children's mental health²⁰⁷ and is a key driver of enforced homelessness.²⁰⁸ The *Domestic Abuse (Scotland) Act 2018* reflects an understanding of domestic abuse as a course of conduct and introduced a statutory aggravator where children are affected. In 2020-21, there were 90 convictions for this aggravation.²⁰⁹ There is no specific offence of domestic abuse in relation to children.²¹⁰

Scottish Government's *Equally Safe* strategy aims to prevent and eradicate violence against women and girls.²¹¹ A working group on gender-based violence in schools is creating a framework to prevent and address gender-based violence.²¹² Children have called for specific actions to end gender stereotyping with the aim of changing societal views of girls and women, and for safe ways to report

incidents that happen at school.²¹³ Girls are worried about having a “restorative chat” with the perpetrator which is often the only outcome available to them.²¹⁴



 “The teachers say they’ll keep an eye on boys that frighten and hassle us, but they never do. The boys just know they can get away with it.”²¹⁵

Women's aid services are facing unprecedented demand while most funding has been the same for a decade.²¹⁶ There are considerable concerns that children's views are not heard or sufficiently taken into account in family law proceedings. Children can feel pushed into contact with an abusive parent despite expressing a clear view against this and contact not being in their best interests.²¹⁷ Effective implementation of the *Children (Scotland) Act 2020* will be key to ensuring that children's views – at all ages – are sought and taken into account.

Further action is needed to embed women and children's rights across *all* policies, practices and laws, and to invest in primary prevention.²¹⁸ Scottish Government's commitment to incorporate CEDAW alongside UNCRC implementation is welcome and should recognise the interlinkage between women and children's rights to avoid implementation being progressed in silos. Further action is required around awareness raising and ensuring properly resourced support services are available and accessible to all who need them.²¹⁹



See related discussion on girls' experiences of discrimination at page 26 and harmful practices at page 41.



-  **Recommendation 38.** *Scottish Government should strengthen efforts to prevent and address violence against women, girls and all children, working collaboratively with women, children and supporting organisations to maximise the benefits of UNCRC and CEDAW incorporation.*
-  **Recommendation 39.** *Scottish Government should ensure child victims have access to properly resourced, child-friendly support services and information, and ensure children, families and practitioners know how to access these.*

Online technologies

Digital technology has opened new ways for children to learn and socialise but also introduced new threats.²²⁰ Cyberbullying impacts between 21% and 29% of children.²²¹ Online harms have a significant impact on children's health. The *Online Safety Bill* aims to tackle certain forms of harmful online content but does not tackle issues such as 'breadcrumbing' and 'deepfake' pornography.²²² ²²³ Whilst the UK Bill is welcome, Scottish Government should be doing more to protect children at devolved level, including improving digital literacy skills for children, young people, parents/carers and professionals.

-  **Recommendation 40.** *UK Government should ensure online platforms have strong safety features to protect children.*
-  **Recommendation 41.** *Scottish Government should ensure child victims of online abuse have access to therapeutic support and recovery services, and take steps to improve digital literacy of children, parents, carers and professionals.*

Unregulated sport

Members have raised safeguarding concerns around unregulated sport. Accountability for promoting child protection lies with sports governing bodies but only extends to affiliated sports clubs and licensed coaches/instructors. There is no similar provision for unaffiliated organisations (such as private sports clubs, dance schools and leisure centres), individuals operating outside of an affiliated club network, or hosts who lease their facilities to clubs or organisations without safeguarding checks. In the absence of regulation or oversight from a sports governing body, local authority or leisure trust, children in these environments could be at greater risk of harm. There is a need to map the extent of unregulated sports provision for children and devise a framework to ensure they are kept safe from harm.

While relationships between coaches and those aged 16-17 is prohibited by coach codes of conduct, it is not currently an offence for a coach to have a relationship with young athletes aged 16+ in their care. England has introduced legislation to address this issue. Scottish Government consulted on the issue in 2019-20 but there has been no progress since.

Further issues include a lack of culture for children's participation and engagement in determining the activities of their club, and a lack of awareness of children's rights amongst coaches who are often volunteers.



Recommendation 42. *Scottish Government should map the extent of unregulated sports provision for children and devise a legislative framework to ensure that children are safe from harm across all settings.*

Knife crime and violence

The national initiative "No Knives, Better Lives" works with local organisations to provide information and support.²²⁴ The campaign aims to raise awareness of the consequences of carrying a knife and provides information and resources for schools and other settings, as well as health advertising campaigns. The number of children who have been found carrying a weapon following a stop and search has stayed relatively stable between 2017-22.²²⁵



Recommendation 43. *Scottish Government should continue to resource local work to provide information, early intervention, and support on knife crime and violence.*

Support services, detection and prosecution

Child victims and witnesses of crime

Child victims and witnesses experience trauma of having to repeat what has happened to them up to 14 times.²²⁶ Children face long delays in accessing trauma-informed support, leading to lifelong impacts on their mental health, educational achievement and family relationships. Together welcomes Scottish Government's vision to create a Bairns' Hoose (Barnahus).²²⁷ Draft standards have been produced but several elements remain unclear. For example, repeated references like "where practical to do so" creates uncertainty as to whether the Bairns' Hoose will be a physical building with co-located services under one roof.²²⁸ Nor do they provide clarity on whether children can give evidence in court proceedings from a Bairns' Hoose.

The current Bairns' Hoose model does not support children who are accused of offending behaviour. These children are often victims and witnesses themselves, having experienced abuse, neglect or trauma and adversity in their childhoods. A children's rights-based approach requires the rights of all children to be safeguarded from the moment they meet the justice system.^{229 230} To be effective, this

will require consistent and intensive attention to implementation, including sustained and significant planning and resourcing.



Recommendation 44. *Scottish Government should ensure the National Bairns' Hoose Standards have children's human rights at their core, and ensure all children who have experienced violence, trauma and abuse have access to justice, care, protection and recovery support.*

Harmful practices

The *Female Genital Mutilation (Protection and Guidance) (Scotland) Act 2020* introduced FGM protection orders and provided a basis for statutory guidance.²³¹ Scottish Government is expected to begin developing this guidance in spring 2023. The Bill has been criticised for not placing a duty on healthcare professionals to report FGM to the police as is required in England.²³²

The UK's *Health and Care Act 2022* criminalises practices of virginity testing and hymenoplasty.²³³ Scottish Government states there is no evidence of such practices taking place in Scotland.²³⁴ Efforts should be taken to gather data to better protect the rights of those who may be at risk.

Forced marriage is a criminal offence yet continues to affect children.^{235 236} Twenty-six percent of cases that the Forced Marriage Unit supported in 2020 involved children.²³⁷ Further efforts must be made to prevent, investigate and prosecute cases where harmful practices have taken place. Scottish Government has not outlined what it is doing to ensure child victims of harmful practices have access to appropriate remedies.



Recommendation 45. *Scottish Government should strengthen data collection on harmful practices to better inform development of preventative and protective measures.*

Intersex genital mutilation (IGM)

Scottish Government has provided limited information on action to prevent unnecessary medical or surgical treatment of intersex children, provide counselling and access to remedies.²³⁸



Recommendation 46. *Scottish Government should provide further information on steps taken to prevent unnecessary medical or surgical treatment of intersex children, provide counselling and access to remedies.*



Chapter 6.

Family environment and alternative care




Childcare and shared parenting


Childcare


Provision of early learning and childcare (ELC) has risen on the political agenda yet issues remain around availability, quality, consistency, accessibility and staff morale. Scottish Government increased funded entitlement from 600 to 1,140 hours from August 2022.²³⁹ All three and four-year-olds are eligible, regardless of parents' employment status, and some two-year-olds (families in receipt of no or low-income benefits and those with care experience). While this investment is welcome, implementation issues include a postcode lottery in accessing provision, and a disconnect between public nurseries and those in the private, voluntary and independent sector.²⁴⁰ Currently, each local authority has a different rate for purchasing childcare places from partners so it is fundamental that local authorities take a joined up approach to ensure fairness and equality.²⁴¹ Uptake among eligible two-year-olds remains lower than other age groups.²⁴² Scottish Government must work to address this gap, particularly given the potential additional difficulties that two year olds with care experience and/or low income may face. Action is needed to address gaps in Care Experienced parents' knowledge about their child's eligibility from age two and to ensure families do not feel stigmatised or at risk of additional scrutiny if they take up the offer.²⁴³




Childcare staff (the majority of whom are women) say they are not valued by society and that low pay leads to these feelings being internalised by staff.²⁴⁴ Children's rights and child development are not mandatory parts of ELC training although there are pockets of good practice. Insufficiencies remain in childcare for under-tuos, after school care for five- to 14-year-olds, families in rural areas, parents with atypical work patterns, and disabled children.^{245 246} While Scottish Government has made a commitment to flexible childcare that meets parent/carers' needs,²⁴⁷ members note this is often not the case in practice.²⁴⁸ Childcare remains a barrier to accessing work and further education, in turn making it difficult for families to move out of poverty. It is essential that parents/carers have genuine choice and flexibility as to location, hours and which days. Young parents attending college have said they need to leave classes early as local nurseries do not offer childcare after 3pm.

 *"I don't have many friends at school but I have more here, and I cannot wait every day to see them."*²⁴⁹

 *"X is happy to be with his peers and he gains so much more confidence as he is encouraged to socialise with his peers, with the help of staff. This helps with acceptance within the community."*²⁵⁰

 *"How can I go back to work, what will I be able to have that will be good childcare. I have the older one with disability and younger one in primary. I am being caged. I am a lone parent, I am helping them – dropping them off and picking them up, attending appointments so this is a really hard task."*²⁵¹

 **Recommendation 47.** **Scottish Government should ensure that affordable, accessible, flexible, high quality and rights-focused early childhood education and care is available to families with children of all ages, focusing particularly on provision for those with low income, rural areas, parents with atypical work patterns and children with additional support needs.**

Shared parenting

Women continue to do twice as much childcare as men.²⁵² UK parental leave policies are the least generous in Europe and uptake remains very low.^{253 254} Fathers who do take leave, say they face workplace discrimination and that employers expect them to continue working despite being on leave.²⁵⁵



Recommendation 48. *UK and Scottish Government should provide further incentives to encourage men to take parental leave, such as non-transferrable leave, and encourage men to participate equally in childcare responsibilities.*²⁵⁶

Care Experienced children

Family support

Children living in poverty are disproportionately likely to enter the care system.^{257 258} The Promise²⁵⁹ called for increased support for families experiencing poverty and set out 10 principles for family support, including that it is underpinned by children's rights, community-based, timely, focuses on families' strengths, is relationship-based and non-stigmatising.²⁶⁰ Civil society organisations have consistently emphasised the importance of early, community-based support to resolve issues early without the need for more powerful interventions.²⁶¹

The *Children and Young People (Scotland) Act 2014* says a range of services and support must be available to children and families to help them stay together where it is safe to do so.²⁶² This includes parenting support and family group decision making. Evidence from members suggests availability of family group decision making has improved in certain areas but that consistency is needed nationwide.²⁶³

Social work services continue to face serious financial pressures, labour shortages and demographic changes. Staff workloads are increasingly unmanageable leading to safety concerns for children, staff burnout and 'moral distress' at being required to work in ways that conflict with their professional values. The workforce is ageing, with 19% approaching retirement age. One in four graduating social workers leave within six years citing factors such as stress and high caseloads.²⁶⁴ Children's social workers change frequently, preventing them from building the strong, trusting relationships that are essential to support children's recovery from trauma. There have been calls for social work services to have a more proactive role in tackling poverty, rather than limited attention given through assessments.²⁶⁵

Experiences of care

Care Experienced children continue to face significant challenges in having their rights upheld, including: stigma and discrimination; insufficient access to attuned support with mental health and wellbeing; poverty; lack of child-friendly information; gaps in professionals' knowledge of children's rights; failures to ascertain and take account of children's views (particularly for young and disabled children); placement instability; delays in permanence; being separated from or experiencing barriers to spending time with their siblings and other important people in their lives; issues around privacy; inequalities in educational experiences and outcomes; inconsistent access to advocacy support; processes that are not built around the



child; inadequate support for children to understand and realise their rights; and inconsistent access to support to which care leavers are entitled.

Independent advocacy plays a key role in supporting Care Experienced children to claim their rights. A postcode lottery means many children do not have access to the support they need. An advocacy worker in northern Scotland said they had over 30 referrals on their waiting list but no capacity to address this.²⁶⁶

The Promise set out over 80 conclusions on what needs to change to support Care Experienced people, including children.²⁶⁷ Scottish Government established The Promise Scotland with the aim of implementing these conclusions by 2030.²⁶⁸ Recent changes include legislating to keep children together with their siblings where it is safe to do so, supporting contact where siblings cannot live together, and supporting siblings' participation in Children's Hearings. These legislative changes are welcome but will require effective implementation – including training, support and resources – if they are to deliver change. Training should include carers as well as professionals, and children must have access to child-friendly information and support so they know and understand their rights. Evidence from advocacy workers shows inconsistent practice by adults, and experiences for children, in terms of how and whether they see and spend time with their brothers and sisters in a child-centred way. Concerns include the time children can spend together being too short or infrequent, practical issues due to children living far apart (including cross-border), lack of accountability if contact does not happen, children and advocacy workers' views not taken seriously, and a tendency on the part of some social workers to supervise contact, restricting children's natural interactions and expression.²⁶⁹ Where adult supervision is needed, children often prefer this to be provided by a family member, carer or another adult they feel more comfortable with. Adopted children are not covered by the new legislation meaning many have no contact with birth siblings.²⁷⁰ There is a shortage of foster carers who are able to accommodate sibling groups.²⁷¹

Many Care Experienced children face multiple placement moves, disrupting their relationships, education and access to services. Members report children being relocated to another health board area whilst waiting for mental health care, meaning they are “sent to the back of the queue”.²⁷²

Leaving care

Many care leavers face abrupt transitions from care settings to adult life, without adequate preparation or support. This inevitably leads to challenges and difficulties compared to the experience of their peers who move away from home more gradually, returning as and when they need to, and can rely on robust support from family and those they have grown up alongside.

Care leavers are disproportionately impacted by poverty and over-represented in homelessness figures.²⁷³ Legislation sets out care leavers' rights to advice, assistance and support, including the right to remain in their current placement until they turn 21 through 'Continuing Care'.²⁷⁴ When implemented well, Continuing Care supports young people to feel part of the family, regardless of setting, which is the single most important factor in improving outcomes and life chances for Care Experienced young people.²⁷⁵ Research shows the legislation is not being implemented consistently between, or even within, local authorities.²⁷⁶ There are gaps in professionals' knowledge, children not made aware of their rights (or made aware too late), and cases of children who have been encouraged to leave care at 16 and lost access to support. Care leavers have shared their hopes that UNCRC incorporation will encourage accountability and prevent rights breaches.²⁷⁷ Scottish Government can go further to ensure full implementation of care leavers' rights under current legislation, including through sufficient funding, resources, awareness raising and training. Young care leavers should be actively involved in all stages of preparing for, planning and evaluating their support.²⁷⁸



Recommendation 49. *Scottish Government should take steps to ensure full implementation of The Promise, including conclusions relating to family support, placement stability, sibling contact, children's participation in planning and decision making, and support for care leavers.*

Young carers

Young carers are a hidden population. Estimates of around 44,000 likely fall short as many young carers do not identify as a 'carer'. The 2020 Census included questions on unpaid caring responsibilities but this was often completed by adults on behalf of the household who may not recognise their child's caring role. Many children are unaware of their rights and how to access support.

Young carers face a range of challenges such as poor mental health, impact on education, accessing breaks and support services.²⁷⁹ Transitions are difficult – with Young Carers feeling guilt and worry for leaving home or going on to further education.²⁸⁰ Some changes have had a positive impact – such as free bus travel and the Young Carer Grant which has encouraged young carers to purchase things they would not normally – such as driving lessons, new hobbies or learning a musical instrument.²⁸¹



"If I were to take a break I'd worry about everything and feel selfish and guilty."²⁸²



Recommendation 50. *Scottish Government should ensure that all young carers are identified as early as possible and are made aware of – and able to access – appropriate support throughout school and in the community.*

Children with a family member in prison

An estimated 27,000 children are affected by a parent's imprisonment.²⁸³ Having a parent in prison has a major impact on children's human rights, yet they are often overlooked. Children face stigma, psychological distress, invasions of privacy and widespread disruption to their lives with lifelong effects. Recent research highlights the economic impact on families, both through loss of income and the additional costs of prison visits including transport and food.²⁸⁴ The cost of visiting can limit how often families can go, with a knock-on impact for children's relationship with their imprisoned parent. Families welcomed free mobile minutes offered during lockdown while Prison Visitor Centres were closed but were disappointed this did not continue.²⁸⁵ Families have called for a range of improvements, including data-collection, accessible information, free transport passes for prison visits, and improved financial support.²⁸⁶

There is no specific requirement for Scottish courts to take a child's best interests into account when considering whether to imprison a parent.²⁸⁷



Recommendation 51. *Scottish Government should ensure full implementation of the Council of Europe Guidelines to uphold the rights of children with imprisoned parents, including improved data collection, and ensuring access to holistic, trauma-informed support, including through provision of accessible information.²⁸⁸*

Children in armed forces families

An estimated 100,000 children have a parent or sibling in the armed forces.²⁸⁹ They face a variety of challenges, including frequent moves, interrupted learning, anxiety and worry when a member of their family is deployed, and issues associated with the transition to civilian life when the parent(s) leaves the forces.

Scottish Government does not publish national, disaggregated data on the number of children in forces families. While attempts have been made to understand the breakdown of forces children in schools, this is not a standardised data collection process, relies on self-identification and does not include physical, mental health or educational outcomes.²⁹⁰ The lack of data is a barrier to developing policy and services which meet children's needs. Children in forces families feel overlooked and report difficulties in having their voices heard by decision makers. Children have identified a range of measures that would help them, including buddy systems in schools, local networks, schools learning more about forces life, dedicated clubs and activities.²⁹¹



Recommendation 52. *Scottish Government should ensure that all children in armed forces families are identified as early as possible and are made aware of – and able to access – appropriate support throughout school and in the community.*



Chapter 7:

Disability, basic health and welfare



Health and health services


Health inequalities

Children's health in Scotland remains amongst the poorest in Europe.²⁹² Poverty is a key determinant of health inequality, with impacts visible from birth. Children in the most deprived areas are:

- Twice as likely to have low birthweight.^{293 294}
- More likely to have at least one developmental concern by 30-months-old.²⁹⁵
- Less likely to be a healthy weight.²⁹⁶
- Less physically active.²⁹⁷
- More likely to have tooth decay.²⁹⁸
- More likely to have poor mental health.^{299 300}
- More likely to have some chronic conditions.³⁰¹
- More likely to be hospitalised with unintentional injuries.^{302 303}

Tobacco marketing targets deprived areas.³⁰⁴ Children in these areas face around six times as much exposure to tobacco marketing³⁰⁵ and are significantly more likely to become life-long smokers.³⁰⁶ Women in the most deprived areas are 11 times as likely to smoke during pregnancy.³⁰⁷ Children and civil society have raised concerns about the impact of vaping, calling on Scottish Government to implement a public health campaign and tighten rules on advertising.^{308 309}

Children continue to raise the often negative impact alcohol can have on their experiences at home, school and in the community.³¹⁰ At the 2020 cabinet meeting, they called on Scottish Government to make alcohol less visible for children and to stop people drinking in public spaces.³¹¹ Scottish Government is consulting on welcome proposals to restrict alcohol advertising and promotion.³¹²

 *"No one asks us about alcohol and suddenly when you think about it, you realise it's all around you all the time."*³¹³




Children view poverty as one of the biggest barriers to health and have shared ideas for action, including free activities, increasing benefits payments, increasing community participation and access to youth work.³¹⁴ Members are concerned that the cost-of-living crisis could mean low income families are unable to prioritise safety equipment and have called on Scottish Government to produce a home accident prevention strategy, alongside improved training and awareness for professionals and parents/carers.³¹⁵

A range of other factors significantly impact children's health outcomes, often in conjunction with poverty – including sex, race, migration status, Care Experience and disability. These factors can influence what services and support is required. For example, while Care Experienced children are as likely to have diabetes as their peers, they have a higher number of potentially avoidable hospitalisations, suggesting more support is needed to help them manage their condition.³¹⁶

Disabled children experience substantial health inequalities. Children with learning/intellectual disabilities face diagnostic “overshadowing” whereby clinicians overlook or wrongly attribute symptoms to the child's disability rather than a separate condition.³¹⁷

Black, Brown and minority ethnic children are more likely to have missing or incomplete information in their 27-30-month review when compared to white children.³¹⁸ Gaps in information could mean their support needs not being identified and addressed.

While Scottish Government has introduced a range of health strategies and expanded provision of health visitors,³¹⁹ many of the inequality gaps noted above are widening. Children are worried about the impact of Brexit on access to medicines, medical staff numbers, and have called for more child-friendly information about their health.³²⁰ Urgent action is needed to tackle the root causes of health inequality, as well as its effects.


 **Recommendation 53.** *Scottish Government should ensure contributory factors behind child health inequality, particularly poverty, are prioritised in public health planning and provide long-term, stable funding for early intervention and preventative support to protect and fulfil children's right to health.*

 **Recommendation 54.** *Scottish Government should ensure children's engagement in the ongoing alcohol marketing consultation and future action to implement its findings.*

Breastfeeding

The UK has one of the lowest breastfeeding rates in Europe.³²¹ Babies in the most deprived areas are half as likely to be breastfed at 6-8 weeks than the least deprived areas. This gap is narrowing but exclusive formula feeding (i.e. no breastfeeding) remains high at 55% when compared to other countries and recommended targets.³²² Many mothers would like to breastfeed, or to breastfeed for longer, but face problems or find it difficult.³²³ There is a lack of qualified breastfeeding support, and an over-reliance on volunteer peer supporters who play a crucial role but are not available in every area. A contributing factor behind low breastfeeding rates is targeted marketing of formula milk.³²⁴ Breastfeeding rates are linked to ethnicity, with white mothers less likely to breastfeed than other ethnicities.³²⁵

The cost-of-living crisis and increase in food insecurity is making it difficult for some women to breastfeed or to feel confident that their breast milk is providing all the nutrients that their child needs.³²⁶ Many food banks do not offer formula milk, due to their interpretation of UNICEF Baby Friendly Guidance.³²⁷ The cost of formula has increased significantly and there are reports that this is forcing parents to water it down.³²⁸ There is a need for clearer guidance about the availability of formula milk in food banks for mothers who are unable to breastfeed. Members have urged Scottish Government to increase Best Start Foods in line with food price inflation.³²⁹

 **Recommendation 55.** *Scottish Government should take action to ensure babies' right to nutrition is met and that mothers, particularly those living in poverty, are supported to meet their babies' needs.*

Nutrition and food security

Children raised concerns about food security at the 2020 cabinet meeting. They called on Scottish Government to ensure children have access to good food inside and out of school, and to ensure healthy food is made more affordable and accessible.^{330 331}

 *"Although children have a right to food, not all children in Scotland have enough food."*³³²

Twenty-six percent of households with children experienced food insecurity in October 2022.³³³ This represented a 50% increase since April 2022, double the increase compared to households

without children.³³⁴ The Trussell Trust distributed 81,052 emergency food parcels to children in 2019-20. The rate has since fallen – with some evidence linking this to the introduction of the Scottish Child Payment in February 2021 – yet it remains high at 70,040 in 2021-22.³³⁵ Benefits delays, reductions and lack of support are key factors driving food bank use. Food security is lowest amongst single parent households, those with younger children, households with a disabled family member, and those on low incomes.³³⁶ The cost-of-living crisis is forcing many more families to rely on food banks. Members who offer meals during the school holidays say stigma prevents families accessing their services – offering other activities alongside food provision has helped ensure children and families’ dignity.



 *“The right to food has been lost by some children in the holidays. I have four brothers and sisters so it’s very expensive to feed us!”³³⁷*

The rate of child obesity has remained fairly constant over the last 10 years. While childhood obesity has fallen in the least deprived areas, it has increased in the most deprived areas – demonstrating widening inequality hidden by headline data.³³⁸



Recommendation 56. ***UK and Scottish Government should take urgent steps to uphold children’s right to food, ensuring free school meals and holiday provision that is accessible, adequate, available and upholds children’s dignity.***



Mental health

Mental health services across Scotland are in crisis, affecting both children and their parents/ carers. Access to support is significantly compromised by high thresholds for referral to child and adolescent mental health services, long waiting times and a lack of provision for young children. Scottish Government intends that 90% of children will be seen within 18 weeks of referral, yet this target has consistently been missed.³³⁹ More than 20% of referrals are rejected,³⁴⁰ referral criteria vary across Scotland and the system is difficult for children and their supporters to understand. Children say there is a postcode lottery in accessing support, particularly in rural areas, and they often have to travel long distances to access support in the nearest town or city. They have called for greater focus on *prevention*, rather than reliance on intervention at crisis point, and greater involvement in the development of resources for children and young people.³⁴¹ ³⁴² Children have clear views on what is needed to support mental health from a holistic perspective, including access to clubs, activities and green space.³⁴³ Action is needed to address the multiple barriers children may face in accessing these.

Children living in poverty, young carers,³⁴⁴ children with a parent in prison,³⁴⁵ Care experienced,³⁴⁶ disabled³⁴⁷ and LGBTI children have poorer mental health and face additional barriers in accessing support.³⁴⁸ Frequent placement moves for Care Experienced children can mean they are “sent to the back of the queue”. While headline data shows the ‘inequality gap’ in adolescent mental health is narrowing, this is a result of levelling down (i.e. a more rapid rise in poor mental wellbeing in less deprived groups).³⁴⁹

Members have highlighted the urgent need to explicitly link action on child poverty and parental mental health,³⁵⁰ and the potential to alleviate the mental health crisis in the long-term by greater attention to children’s wellbeing during the early years.



-  **Recommendation 57.** *Scottish Government should ensure all children have consistent access to adequately resourced mental health services so that they receive timely and effective support.*
-  **Recommendation 58.** *Scottish Government should ensure all children have access to high quality, preventative, community mental health services.*

Child-appropriate health services and transitions

There are numerous areas of healthcare where under-18s are expected to accept care that is designed for adults, despite Scottish Government’s endorsement of the EACH Charter.³⁵¹

Age-Appropriate Care guidance recommends that 14- to 16-year-olds admitted to hospital should be offered the choice between a children’s ward or an adult ward, and from 16 onwards the expectation is for admission to adult healthcare. Transfer from paediatric to adult outpatient clinics is in the hands of specialist teams and may occur from age 14 resulting in loss of access to child centred services.

Adult inpatient facilities have no obligation to comply with the EACH Charter and rarely provide for access to education, play/leisure activities, the option of parent/carer presence at all times or care in settings where others of similar age are accommodated. There is no requirement for information to be provided in a format that helps the child understand or share their views. While two city-based hospitals have ‘Adolescent Units’ this is not the case in other hospitals.

There remains a reliance on all children being linked to statutory education services to permit joint working with Social Work and Health while those children who leave school before the age of 18 no longer fit that category.

Young people often have poor experiences when transitioning from child to adult services due to insufficient support and coordination.³⁵² Young people have shared ideas on how to improve their experience of transitions, including taking a holistic approach, making the process less complex, improving young person-friendly information, signposting to local services and enhancing social connections between adult and child services.³⁵³



Recommendation 59. *Scottish Government should review current healthcare provision and policy for 16- and 17-year-olds to ensure all children have access to age-appropriate care and that young people transitioning into adult services are supported by suitably trained staff in an age-appropriate environment.*





Recommendation 60. *Scottish Government should seek children and families' views on accessing health services and how services could and should be adapted to uphold their rights, supported by child-friendly information.*


Standard of living

Child poverty

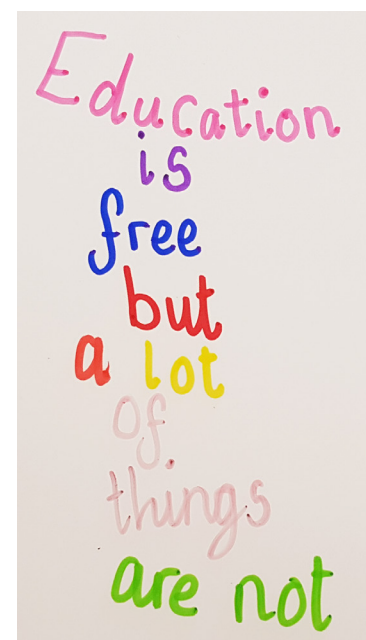
Child poverty has significantly increased, driven by benefit cuts and increasingly precarious employment. One in four children (260,000) now live in poverty – the majority (68%) of whom are in working families.^{354 355} Families are facing an increasingly acute income crisis, exposed to soaring inflation with little or nothing they can cut back on. Without urgent action at UK and devolved level, the percentage of children living in poverty is predicted to reach 29% by 2023³⁵⁶ and 38% by 2030.³⁵⁷ Some children are at greater risk, including those in families affected by disability, single parent households, young mothers, households with a baby under one,³⁵⁸ children in kinship care,³⁵⁹ minority ethnic households,³⁶⁰ children with a family member in prison,³⁶¹ and those in larger families (three or more children).^{362 363} Many of these identities will intersect.³⁶⁴ Families with disabled children are under intense pressure due to soaring energy costs to run their child's medical equipment.³⁶⁵


 *"Everything is very expensive and lots of families can't afford what they need."³⁶⁶*


 *"It's all luck of the draw what family you are born into and that's not fair."³⁶⁷*

 *"I think she is sad because she is poor and I want to give her money."³⁶⁸*


Children living in poverty are less likely to reach their full potential due to lack of resources, money, experiences, access to learning and play opportunities. Costs associated with school – such as uniforms, gym kits, stationery and school trips are unaffordable for many families.^{369 370} Children consistently raise poverty as one of (if not “the”) biggest problem they face.^{371 372 373 374} Meanwhile, some parents are discouraging outdoor play due to the high costs of washing clothes, or because families cannot afford spare shoes for their child to wear.³⁷⁵



 *"I've experienced it [bullying] personally because I wear the same shoes since P7... they say you must be poor, asking if I have enough money."³⁷⁶*

 *"I wanted to go to the Holiday Club but it was meant to snow and rain! The youth worker said wear waterproof shoes but I phoned to cancel because there were holes in the soles of my shoes. They went out and bought me a lovely pair of boots with fur on them. I thought I was just to borrow them but they said they were mine and I could keep them. That was really kind. Thank you."³⁷⁷*


Scottish Government has taken considerable steps to mitigate against the impact of the cost-of-living crisis, including introducing and increasing the Scottish Child Payment and additional measures to reduce stigma. Broader actions include the Tackling Child Poverty Delivery Plan, increased school clothing grant, and the Improving the Lives of Scotland's Gypsy/Travellers Action Plan. Given the scale of the current crisis, these actions are not proving sufficient – Scottish Government is not on track to meet its child poverty reduction targets.^{378 379 380 381} There is a need for relationship-based family support, provided on a needs basis, that combines practical, emotional and financial support.

 *“I worry about my children. I don’t care if I go without a meal or two. See, as long as my kids have got, that’s all I worry about. And there is some nights me and Dad go without dinners, so my children have.”³⁸²*



Welfare reform

UK Government’s ‘two child limit’ and ‘benefit cap’ continue to exacerbate child poverty. Both policies limit the amount of income households can receive regardless of their need. UK Government has not undertaken any impact assessment of the impact of welfare reform on children.³⁸³ Long waiting times mean children and families’ physical and mental health are put at risk. Meanwhile, UK Government is reducing benefits payments to cover debts.³⁸⁴ Children have called for an increase in the minimum wage, benefits, and extra support for young carers and families with disabled children.³⁸⁵

Scottish Government has taken steps within devolved powers to mitigate this impact, such as the Scottish Child Payment, rent freeze and commitment to a non-stigmatising approach. These changes are not enough to offset the effect of UK Government reforms nor the scale of the current challenge.³⁸⁶

 *“Universal Credit is not enough, given the crowd I have at home and the bills I have to clear, and the transport here and there. It’s just not enough.”³⁸⁷*



-  **Recommendation 61.** *UK and Scottish Government should ensure children and families have access to a rights-based, non-stigmatising social security system which provides an effective safety net for all in society.*
-  **Recommendation 62.** *UK Government should abolish the two-child limit and benefit cap, and reinstate the £20 weekly uplift to Universal Credit.*

Housing

11,804 children were assessed as being in homeless households in 2020-21.³⁸⁸ Thirty-two children become homeless every day.³⁸⁹ Thousands are trapped in temporary accommodation, living in inappropriate, cramped conditions. Many families spend months – or even years – in so-called temporary accommodation. The average duration for families with children is 343 days, significantly longer than those without (207 days).³⁹⁰ People are not being offered accommodation when they are legally entitled and many are placed in accommodation which does not meet their needs or the law.³⁹¹ Members have shared case studies of overcrowding, unsuitable conditions and the desperate situations families are in – including a family who had to sleep in a car with their six-month-old baby; a father who had to share a bed with his child for two years; and a family placed in hotel accommodation for six weeks without any access to cooking facilities.³⁹²

An estimated 70,000 children are on social housing waiting lists.^{393 394} A shortage of supply is forcing families to move elsewhere to access provision, disrupting children's education and friendships, or to go into insecure private tenancies. Members told us of a family in central Scotland offered temporary homeless accommodation in Blackpool, and a parent who had to commute over an hour each way to get their child to school, incurring significant costs and restricting their ability to find work. Countless other families are living in poorly maintained private tenancies, affected by damp and disrepair. The cost-of-living crisis is compounding existing issues, making it difficult for families to heat their homes and impacting on children's health. Young people and charities have called on Scottish Government and local authorities to do more to provide social housing.³⁹⁵ Scottish Government has now committed to funding this but progress is slow.^{396 397}


Some children are at greater risk of not having their housing rights met, including disabled children, asylum-seeking and refugee children and Gypsy/Traveller children. Families affected by disability face challenges in securing appropriate and accessible housing,³⁹⁸ while Gypsy/Traveller children experience insecure and unsuitable sites.³⁹⁹ For challenges affecting asylum-seeking and refugee households see page 70.




Recommendation 63. ***UK and Scottish Government should implement a strategy to address the housing crisis, which includes human rights budgeting and preventative spend at its heart. This should include improving availability of affordable and accessible housing, timely access to support, and a safety net at points of transition which disproportionately impact care leavers.***

Climate change and healthy environment

Decision makers often do not take account of the impact of climate change and air pollution on children's rights. Children from deprived areas are disproportionately affected by air pollution and more likely to live near major roads.⁴⁰⁰ Meanwhile, emissions data shows Scotland is falling behind its legislative targets.⁴⁰¹ Positive changes have included investment in public transport – including free travel for under 21s although uptake has been inconsistent.⁴⁰²

 *“Making the ice melt, trees are getting chopped down, there's rubbish in the ocean. This kills wildlife. It's hurting the planet which we need to live healthy.”⁴⁰³*

Children want to learn more about environmental issues, including climate change, and measures for ensuring children are fully consulted in environmental decision making.⁴⁰⁴ They have clear ideas on how to protect their health, that of the planet, and ensure their right to a healthy environment.^{405 406} They must be actively involved in identifying solutions and policy and legislative changes to the environmental emergency.

 “We have technology we can use against climate change – the name of the technology is a tree!”⁴⁰⁷



The Glasgow Climate Conference provided a significant focal point for engagement with children. Over 2000 children took part in ‘The Moment’ and met decision makers across Scotland to talk about their climate calls to action.⁴⁰⁸ While focal points for engagement are welcome, there is frustration at the slow pace of resulting action.



Recommendation 64. *UK and Scottish Government should ensure children’s rights are considered when developing and implementing all strategies to reduce environmental degradation and climate change, and all children have the opportunity to actively participate in policy development.*



Chapter 8:

Education, leisure, culture



Education, including vocational training

Educational attainment

Poverty continues to drive significant inequality in educational attainment. Children in the least deprived areas outperform peers in the most deprived areas across literacy and numeracy with the gap evident in pre-school and widening throughout primary.⁴⁰⁹ Children find schools are overly focused on assessment and academic qualifications, at the expense of supporting their wider development.⁴¹⁰ There is a role for the youth work sector in supporting alternative qualifications and informal learning.⁴¹¹

“It’s really about just the curriculum and exams and there isn’t much outside of the curriculum for me to do. I feel like we’re just working towards examinations only.”⁴¹²

COVID-19 had a significant impact on children’s education. The move to online learning particularly impacted children living in poverty, disabled, minority ethnic, Gypsy/Traveller, Care Experienced children and children in asylum seeking families. Many experienced digital exclusion although experiences have been mixed with some children benefiting from a hybrid approach.⁴¹³ Exams were cancelled and replaced with teacher estimates. Children criticised Scottish Government and the qualifications body for implementing a system which prejudiced those in deprived areas and for failing to consult with children.⁴¹⁴

Whilst many developments are taking place in relation to education reform, more needs to be done to ensure this work is rooted in Article 29 UNCRC.⁴¹⁵ A National Discussion is underway to explore the future of education, following a consultation with children.⁴¹⁶ It is essential that children’s views are heard in the National Discussion, including those whose right to education is less likely to be realised in the current system, including disabled and Care Experienced children, those with a history of non-attendance (including anxiety-based absence) or exclusion, and those who have left school at age 16. Appropriate resources need to be put in place to support children less likely to be heard to participate, and their parents and carers.



Recommendation 65. *Scottish Government should take urgent steps to close the poverty-related attainment gap, including by recognising digital exclusion as a children’s rights issue and ensuring universal digital and internet access for all school-age children.*



Recommendation 66. *Scottish Government should ensure the education reform programme is informed and developed by the views and experiences of children, with particular regard to those whose rights are most at risk.*

Early learning

There are concerns that the UK’s early school starting age and focus on literacy and numeracy conflicts with early child development, prevents children reaching their full potential, is at odds with their right to play, has long-term impacts on their mental health and may widen the attainment

gap.⁴¹⁷ Primary 1 children are required to sit national standardised assessments which puts pressure on schools to teach literacy and numeracy to four- and five-year-olds whether they are developmentally ready or not. While Scotland's Early Years Framework echoes the UN Committee's definition of early childhood (birth to eight), education for three (and some four) year olds is determined by the Early Learning and Care department whilst policy from school starting age (four or five) is determined by the Education department. While the former pays attention to developmentally-appropriate practice, the latter is less rights-focused.⁴¹⁸ There is considerable evidence that developmentally-appropriate, high-quality early childhood education and care improves disadvantaged children's experiences and outcomes in education and contributes to lifelong well-being.⁴¹⁹ Some members have called on Scottish Government to learn from approaches in Canada and Australia where a more holistic approach is taken to assessing children's overall development.⁴²⁰



Some progress has been made. Playful learning is part of the curriculum, Scottish Government has published non-statutory guidance⁴²¹ and supported a national position statement on outdoor play and learning.⁴²² Implementation challenges persist due to levels of staff understanding, adult:child ratios and inadequate facilities. Members have called for a more comprehensive, rights-based approach to play in learning contexts. Scottish Government should invest in upskilling the early years workforce, bring more trained teachers into early years settings and more ELC-trained staff into early primary classes. They should also address training for staff across all settings ensuring they have rights-based engagement and play as their foundation. Some members have called for a transition to statutory, relationship-centred, play-based kindergarten stage for three- to seven-year olds.⁴²³ It is notable that there has been a marked reduction in parent/carers presence in education settings since the COVID-19 pandemic⁴²⁴ which has made family engagement more challenging for schools.⁴²⁵ With parental engagement increasingly recognised as pivotal to children's learning outcomes and wellbeing, Scottish Government should strongly endorse whole-family holistic activities in schools and nurseries, and provide the resources to support children's access to these opportunities.



Recommendation 67. *Scottish Government should ensure rights-based, relationship centred, play-based pedagogy is embedded into early childcare and education settings and invest in the early years and education workforce, to ensure it has knowledge and understanding of children's rights, child development and play-based pedagogy.*



Recommendation 68. *Scottish Government should strongly endorse whole-family holistic activities in schools and nurseries, including outdoor play and learning, and provide the resources to support children's entitlement to a minimum core and progressive realisation of these opportunities during their early learning and primary education.*

Inclusive education

Action is needed to ensure an inclusive learning environment for all children, with particular regard to girls,⁴²⁶ LGBTQI+ children and children with additional support needs.

Over 30% of pupils have a recorded additional support need (ASN). The definition is broad, including factors related to learning environment, family circumstances, disability, health need, social and emotional factors. Almost 40% of pupils with ASN come from the three most socio-economically deprived areas.⁴²⁷ Although ASN pupils' attendance and qualification rates have improved, they remain lower than their peers.⁴²⁸ Reported challenges include gaps in support and training for staff, class size, noise levels, sensory stimulation, bullying and exclusions (see below). While Scottish Government has introduced some changes – including a statutory right to a Coordinated Support Plan when certain tests are met – implementation is inconsistent.⁴²⁹ Issues include lengthy delays in assessment (some children wait up to two years for formal diagnosis), gaps in resourcing and workforce development.⁴³⁰ Children say teachers do not take undiagnosed mental health conditions seriously, and often dismiss anxiety as being an “excuse” to skip class. Many autistic children are out of school and receiving little or no educational support.⁴³¹

Following an independent review, Scottish Government published an action plan on additional support for learning.⁴³² The actions are welcome but progress towards achieving them has been slow. Members express frustration that long-term reforms will not benefit children currently in education who are desperately in need of support.

Children with learning/intellectual disabilities face particular barriers in accessing their right to education. Schools cultivate low expectations contributing to low attainment, there are shortages in specialist staff, and lack of implementation of alternative and augmented communication (particularly in secondary schools).⁴³³ Children have called on schools to recognise wider forms of achievement.⁴³⁴ Children with long-term conditions and those absent from school due to ill health can struggle to access education.⁴³⁵ Disabled children face additional challenges at transition between different stages of education. We are concerned by anecdotal evidence that disabled children, including those with mental health conditions, are being encouraged to leave school at 16 and in some cases before.⁴³⁶



Recommendation 69. *Scottish Government should ensure disabled children and those absent from school due to ill health or with other needs receive the support they need to realise their right to education in line with Article 29.*



Recommendation 70. *Scottish Government should take action to ensure consistent implementation of additional support for learning legislation, including meeting the commitments set out in the Additional Support for Learning Action Plan.⁴³⁷*

School exclusions

While permanent exclusions are rare, temporary exclusions – such as the use of part-time timetables remain commonplace. In 2020-21 there were 8,323 temporary exclusions (a rate of 11.9 per 1,000 pupils) and one permanent exclusion.⁴³⁸ Gaps in recording persist, despite Scottish Government guidance that all incidents of exclusion must be recorded.⁴³⁹ Exclusion disproportionately affects children with additional support needs, and Care Experienced children (who are 6.5 times more likely to be excluded).⁴⁴⁰



Recommendation 71. *Scottish Government should significantly reduce the number of children excluded from school on a temporary or permanent basis, and prohibit the use of unlawful exclusions.*



Recommendation 72. *Scottish Government should ensure that children who are not attending school are supported to continue their education.*

Bullying

Gypsy/Traveller children, LGBTQI+ children, children in poverty, Black, Brown and minority ethnic children continue to disproportionately experience bullying and harassment.⁴⁴¹

⁴⁴² Research shows high awareness amongst teachers about racism in schools, but a lack of training inhibits their ability to address this.⁴⁴³ The vast majority were supportive of anti-racism being included in the curriculum. Members working with younger children say most bullying takes place away from adult support – including online and in the playground. Members have called for proactive teaching on inclusion as a preventative measure from early years onwards.

For more discussion and recommendations see pages 26-27 on non-discrimination.



“So what I would do if somebody is bullying somebody else I would go up to the person that’s bullying them and say to them I don’t think you should be doing that because I think that’s making them a bit hurt or sad.”⁴⁴⁴



Relationships, sexual health and parenting education

Care Experienced children, LGBTQI+ children and children with learning/intellectual disabilities continue to face barriers in accessing Relationship, Sexual Health and Parenting (RSHP) education. Care Experienced children are often removed from classes to meet social work and support staff (often with the intention of not missing ‘academic’ classes). This has a particular impact on children in kinship care who are often placed with older relatives who are less likely to have these conversations at home.⁴⁴⁵ Children with learning disabilities face gatekeeping, an over-protective approach and assumptions that they won’t go on to have relationships.⁴⁴⁶ Only 25% of LGBTI children who had received formal sex education had seen LGBTI topics discussed within them.⁴⁴⁷

Members report ongoing issues around parents withdrawing their children from RSHP, reluctance to use correct terminology for body parts, and an over-reliance on LGBT teachers to drive forward inclusive RSHP rather than mainstreamed commitment.



Recommendation 73. *Scottish Government should ensure the provision of mandatory, age-appropriate and inclusive relationships, sexual health and parenting education, with particular regard to Care Experienced and disabled children.*

Right to play, leisure and cultural activities

Children continue to face barriers to realising their right to play, arts, leisure and cultural activities – particularly children living in poverty,⁴⁴⁸ disabled children⁴⁴⁹ and those living in rural areas.⁴⁵⁰ Challenges include workforce development, resourcing, a need for culture change and issues relating to the physical environment, such as lack of accessible spaces.

Members have called for a more comprehensive, rights-based approach to play that can be practised and promoted at national and local level. This should recognise adults' role in supporting play – including independent group play – recognising that children learn at different rates and may need support as they explore how to play well together.⁴⁵¹ Members are clear that the best way for children to learn to share, to listen, take turns, encourage each other, relax, eschew comparison, and embrace inclusive rights-based values, is by being given the tools and opportunities to learn in a safe space supported by rights-aware adults. Adventurous play helps counter anxiety in young children.⁴⁵²

 *"When I come here I feel like you can be you and feel free and you can laugh."*⁴⁵³

 *"Before she was shy now she can stand and face the crowd!"*⁴⁵⁴

Children report play parks that are poorly maintained, have broken bottles and dog dirt.⁴⁵⁵ Children in the most deprived areas have less access to green space and poorer quality play spaces that parents/carers are less likely to consider safe to use.⁴⁵⁶ Disabled children continue to face barriers due to lack of venues that are close to home, lack of skilled staff, lack of transport, cost issues and lack of accessibility (including availability of toilets and changing facilities). Similar barriers exist regarding access to cultural and artistic activities. Public library provision has reduced significantly since 2010,⁴⁵⁷ and access to cultural programmes has been reduced, with a disproportionate impact on children from disadvantaged communities and disabled children.



While Scottish Government offered a range of free activities following COVID-19 lockdown, evaluation showed lack of provision for disabled children and those with other support needs.⁴⁵⁸ The following year, funding was moved into childcare activities, which focused on the needs of working parents rather than a child's right to play, rest, leisure and cultural activities. Children have spoken about the importance of youth work in helping them claim their rights and alleviating impacts of poverty,⁴⁵⁹ and the importance of protecting the youth work budget.⁴⁶⁰ Scottish Government's National Youth Work Strategy is two years behind schedule but its launch is expected imminently.

 *"It's fun to have fun and forget about all your problems and a space away from school and not to think about school."*⁴⁶¹

Children want to be involved in decisions about their local community but are often not consulted. As a result, available spaces do not always meet the needs of all children. More needs to be done to ensure communities are child-friendly. It is essential that children are heard in planning decisions – particularly younger children, disabled children and those whose rights are most at risk. Play Sufficiency Assessments, informed by the views of children and young people should feed into local development plans.



Recommendation 74. *Scottish Government should take action to embed a rights-based approach to play, the arts, leisure and cultural activities, including youth work, with particular attention to the implementation of General Comments 17 and 20 in relation to early years, disabled children, children in rural areas and children living in poverty.*



Recommendation 75. *Scottish Government should take action to ensure children's rights are embedded in planning decisions, including through direct engagement with children and further implementation of the Place Standard tool.⁴⁶²*



Chapter 9: **Special protection measures**



Asylum-seeking, refugee and migrant children

UK Government continues to prioritise immigration control over children's best interests. Routes for children to safely and legally apply for asylum in the UK have been closed⁴⁶³ and remaining routes are highly restrictive and difficult to navigate, particularly for unaccompanied children. UNHCR has stated that the *Nationality and Borders Act 2022 (NABA)* undermines the 1951 Refugee Convention.⁴⁶⁴ It creates a two-tier system for refugees meaning that refugees travelling to the UK through third countries via irregular routes (Channel crossings for example) have limited rights to family reunion.⁴⁶⁵ Anticipated plans to reform the asylum system are likely to further restrict legal routes for asylum-seekers.⁴⁶⁶

UK Government is seeking to permanently remove some asylum-seekers to Rwanda despite the risk of human rights violations.⁴⁶⁷ Age-disputed children incorrectly assessed as adults will be caught up in this unethical policy.⁴⁶⁸ France and the UK have recently reached a bi-lateral agreement to increase police patrols across the Channel.⁴⁶⁹ These approaches fail to provide appropriate protection and assistance to asylum-seeking children and breach the principle of non-refoulement.



Recommendation 76. *UK Government should abandon the 'hostile environment' policy, repeal the Nationality and Borders Act 2022 and ensure children have safe and legal routes to apply for asylum in the UK.*

Age assessments



*"It was really unpleasant. Really not nice. They were saying bad words and not believing my age. They were laughing at me, saying you are lying."*⁴⁷⁰

NABA introduced new provisions on age assessments, referring to the use of 'scientific methods' as a routine assessment procedure.⁴⁷¹ Age assessments are being carried out with a wide margin of error with hundreds of children being wrongly assessed as adults, including child survivors of rape.^{472 473} The new provisions also remove data protection safeguards, resulting in serious concerns about social workers having to share children's personal information with immigration authorities.⁴⁷⁴

Scottish Guardianship Service (SGS) provides unaccompanied children with independent support in navigating immigration and welfare processes as well as helping the child build social connections and resilience. SGS can only accept referrals when a child is accepted into the care of social work. Age disputes and incorrect age assessments often delay or prevent children's access to this invaluable support.



Recommendation 77. *UK and Scottish Government should ensure age assessments are only carried out in limited circumstances where absolutely necessary, and are subject to strict safeguards.*



Recommendation 78. *Scottish Government should ensure that all age disputed children have access to an independent guardian through SGS until they have exhausted all legal avenues to be recognised as a child.*

Family reunion

The Refugee Family Reunion Policy only applies to adult applicants, meaning that many refugee children in the UK are unable to reunite with their families.⁴⁷⁵ NABA further restricts family reunion rights, shifting responsibility for refugee protection to other states and criminalising new arrivals.⁴⁷⁶ This removes one of the main safe routes for refugee children outside the UK, leaving them more likely to take dangerous journeys.⁴⁷⁷



Recommendation 79. *UK Government should allow unaccompanied or separated children who have been granted refugee status or humanitarian protection the right to sponsor their parent or main carer to reunite with them, and make UK family reunion rules less restrictive to allow children at risk to join extended family members such as grandparents and adult siblings in the UK.*

Access to basic services

Asylum-seeking families have no recourse to public funds (NRPF) meaning they cannot apply for welfare benefits, regardless of need or level of income. Available financial support is not enough to avoid destitution, particularly in light of spiralling costs.⁴⁷⁸ Asylum-seeking families face substandard accommodation, poor mental health, and barriers in accessing essential services such as healthcare and education.^{479 480} Home Office policies⁴⁸¹ mean families and unaccompanied children can be moved to different local authority areas, compounding feelings of isolation and disempowerment. Support services in rural areas can be particularly difficult to access.⁴⁸²

There has been a significant increase in the number of individuals seeking asylum in the UK being accommodated in hotels, army barracks and unsanitary housing.⁴⁸³ Children and families are being accommodated for many months (in some cases ten months) despite UK Government policy stating a maximum of six weeks. Significant concerns have been raised about living conditions and the impact this has on children and families' health.⁴⁸⁴ If families are not claiming asylum together, then children may be placed in accommodation in a different city or region to a parent.⁴⁸⁵



Recommendation 80. *Scottish Government should mitigate against the impact of the hostile environment, ensuring children and families subject to immigration control are not discriminated against when accessing services, including appropriate housing, healthcare, education and employment and have access to appropriate practical, emotional and medical support.*



Recommendation 81. *UK Government should ensure children and their families are not subject to a status of No Recourse to Public Funds (NRPF).*



Recommendation 82. *UK and Scottish Government should ensure children and their families who are seeking asylum or have been granted refugee status or humanitarian protection have access to safe, sanitary and appropriate long-term housing which promotes their integration into communities. Unaccompanied asylum-seeking children should not be placed in a hotel on anything other than an emergency short-term basis.*

Administration of child justice

Minimum age of criminal responsibility

Whilst the minimum age of criminal responsibility has recently been increased from age eight to 12,⁴⁸⁶ it remains below international standards.⁴⁸⁷



Recommendation 83. *Scottish Government should increase the minimum age of criminal responsibility to at least 14 at the earliest opportunity and review the operation and implementation of the new police powers in the Age of Criminal Responsibility (Scotland) Act 2019.*

Children in adult courts

Children continue to be prosecuted in adult courts and not all 16- and 17-year-olds in conflict with the law can be referred to a Children's Hearing.⁴⁸⁸ Scottish Government has proposed increasing the maximum age of referral to the Children's Reporter so older children have their cases dealt with in the children's hearing system rather than through court.⁴⁸⁹ It is critical that children understand and receive advice on the longer-term disclosure implications of accepting offences at a children's hearing.⁴⁹⁰ See discussion and recommendations at pages 18-19 and at page 23.

Life imprisonment

Whilst new sentencing guidelines that recommend that an "individualistic approach" when sentencing under 25s are to be welcomed,⁴⁹¹ it is concerning that the full range of sentencing options still includes life imprisonment for children in the most serious of cases.




Recommendation 84. *Scottish Government should prohibit the option of granting life imprisonment of children for offences committed while they are under the age of 18.*


Deprivation of liberty and secure care

Scotland has five dedicated secure care units that provide a safe and secure environment to young people at risk of harming themselves or others.⁴⁹² Services aim to offer a controlled, safe and secure environment for the care and education of children referred from the Courts and Children's Hearing Panels. Due to a lack of secure care placements, many children are ending up in Young Offenders Institutions (YOIs). This gives rise to concerns around safeguarding, governance and accountability, as well as placing children in an area where they have no local support from family or friends. Concerns have been raised that cost rather than the 'best interests' of the child is driving decision making.⁴⁹³ Members have raised serious concerns around children's access to education during and upon leaving secure care.

Children from outwith Scotland are being deprived of their liberty in residential care settings in Scotland. As a result of the differing legal protections in Scotland, these children are not subject to the full oversight, support and human rights protections of the Scottish statutory system. For example, a child living in Scotland can only be deprived of their liberty in secure accommodation which is approved by Scottish Ministers and is subject to strict safeguarding of rights. When a child is being considered for a secure placement they must be represented by a lawyer. By contrast, children from outwith Scotland who are deprived of their liberty in Scotland, are usually deprived of their liberty in privately owned non-secure facilities which are not currently authorised, inspected, or regulated to detain children. Regulations introduced by Scottish Government⁴⁹⁴ to address this issue do not adequately protect children's rights and allow placements to become long-term unauthorised detentions in breach of ECHR Article 5.

Children in conflict with the law continue to be deprived of their liberty in adult prisons. The proportion of children on remand is significantly higher than the adult population on remand (84% compared to 26%).⁴⁹⁵ Children report spending over 22 hours in their cells⁴⁹⁶ with significant impacts on their mental health.^{497 498 499} Children spending less than two hours outside of their cell per day more than meets the minimum threshold of "solitary confinement" as defined by international instruments.^{500 501} In YOI Polmont, many children report the use of solitary confinement and describe being "put in the digger" for days.⁵⁰²


 **Recommendation 85.** *Scottish Government should ensure there is sufficient availability of secure care placements. Children from outwith Scotland should never be placed in care in Scotland unless it is in their best interests and subject to the same statutory safeguards as children living in Scotland.*

 **Recommendation 86.** *Scottish Government should embed in law that children will only be deprived of their liberty as a last resort and for the shortest possible time and are never subject to solitary confinement nor detained due to lack of alternative accommodation, unjustified bail conditions or homelessness.*

Accessing advice and support in detention

Children in conflict with the law face considerable issues accessing legal advice and representation including: knowing there was a legal issue, understanding that a lawyer might be able to help, having the resources and opportunity to contact a lawyer, having the trust and confidence needed to seek legal support.⁵⁰³ An investigation into the treatment and care provided in YOIs resulted in a recommendation to ensure advocacy services are available for young people in detention.⁵⁰⁴

Many children report feeling stressed and anxious in custody yet find it difficult to see relevant health or social care professionals.⁵⁰⁵ Whilst a majority of children feel staff encourage them to attend education, training or work, foreign national children report limited access to education, books, or resources in their own language.⁵⁰⁶

 **Recommendation 87.** *Scottish Government should fully implement child justice standards, as per General Comment 24, to ensure there is systematic child rights training to all adults within the child justice system and mental health support, education and accessible information for children in conflict with the law about their rights.*

Children used as covert human intelligence source (CHIS)

Scottish Government report to never using CHIS.⁵⁰⁷ This is critical as power imbalances between children and the State, combined with the level of risks involved would be incompatible with the UNCRC.

 **Recommendation 88.** *Continue to prohibit use of children as CHIS both formally and informally.*

Optional Protocol on the sale of children, child prostitution and child pornography

The National Guidance for Child Protection is non-statutory⁵⁰⁸ and needs to be revised to ensure full alignment and compatibility with the UNCRC. Gaps in Scotland's legal and policy protections for child trafficking victims have resulted in a number of child victims being detained in prison.⁵⁰⁹ The *Nationality and Borders Act 2022* will further reduce identification and protection measures for child victims of exploitation.⁵¹⁰

 **Recommendation 89.** *UK and Scottish Government should ensure child trafficking victims are provided with appropriate support and benefit from protection against arrest, charge, detention and prosecution.*

Children in armed conflict

The UK is one of only 16 countries in the world to recruit children from age 16 into the armed forces.^{511 512} The British Armed Forces (BAF) recruited approximately 2,400 16- and 17-year-olds each year, three-quarters of whom join the army.⁵¹³ In 2021-22, 23% of total intake to the armed forces was 16- and 17-year olds.⁵¹⁴ There are significant concerns that the recruitment of children is often not based on voluntary and fully informed consent. Recruitment information emphasises benefits while downplaying risks and seeks to exploit adolescent vulnerabilities.⁵¹⁵ Army recruitment disproportionately targets children whose rights are already most at risk – such as children living in poverty.⁵¹⁶ Official data on armed forces visits to Scottish schools is lacking. Neither the armed forces, the Ministry of Defence, schools, nor local authorities publish this. Local authorities have very different arrangements regarding consultation with parent/carers about visits and not all agree that parents and pupils should be able to opt out of armed forces activities.⁵¹⁷

After an initial voluntary discharge window (subject to restrictions), enlisted children are obliged to complete a minimum service period which is up to two years longer than what is required by adult recruits.⁵¹⁸ The *UK Armed Forces Bill* was a missed opportunity to raise the minimum age of recruitment to 18 and to implement better safeguards, particularly for those whose rights are most at risk.⁵¹⁹



In 2021, research into the BAFs revealed that more than one in eight girls aged under 18 were victims of a sexual offence, a rate ten times higher than that for adult female personnel.⁵²⁰ Similar findings have been identified across all three forces.⁵²¹ The Army Foundation College is a dedicated training base for recruits aged under 18 and the Military Police investigated 22 sexual offences against recruits during 2021.⁵²² Between 2014-20, recruits at the College and their parents/carers made 60 complaints of violent behaviour by staff, including assault and battery.⁵²³

In 2021, the UN verified 23,982 grave violations and 6,310 of these involved the recruitment and use of children.⁵²⁴ Many of these grave violations took place in places of conflict, including in Yemen.⁵²⁵ Figures show at least £42.6 million worth of arms were exported from the UK to Saudi Arabia between July and September of 2021.⁵²⁶ Many of these will be used in the war in Yemen with significant and wide-ranging rights implications for children.



Recommendation 90. *UK Government should raise the minimum age for recruitment into the armed forces to 18 years old and change the minimum terms of service for army recruits to ensure those who enlist are not made to serve for a minimum period longer than enlisted adults.*



Recommendation 91. *UK and Scottish Government should ensure armed forces recruitment is fully voluntary and based on informed consent.*



Recommendation 92. *Scottish Government should publish disaggregated data on armed forces visits to schools and give children and their parents/carers the power to decide whether to take part in armed forces visits in schools.*



Recommendation 93. *UK and Scottish Government should ensure responsible business conduct in the arms sector in line with the Guiding Principles on Business and Human Rights.*



Annex 1: **Summary of recommendations**

1. General measures of implementation

Domestic legislation in line with UNCRC

Incorporation

- **Recommendation 1:** Scottish Government should urgently bring forward the amendments necessary to allow the enactment of the UNCRC (Incorporation) (Scotland) Bill.

Optional Protocol 3

- **Recommendation 2:** UK Government should sign and ratify the Third Optional Protocol on a Communication Procedure with immediate effect.

Human Rights Act

- **Recommendation 3:** UK Government should not repeal the Human Rights Act 1998. It should abandon the Bill of Rights and ensure existing human rights protections are upheld.
- **Recommendation 4:** If the Bill of Rights proceeds, Scottish Government should legislate to preserve existing human rights protections to the maximum extent possible.

Comprehensive review of legislation

- **Recommendation 5:** Scottish Government should commission an independent, comprehensive audit to identify areas of legislative incompatibility and commit to take action based on its recommendations.

Ratification and reservations

- **Recommendation 6:** UK Government should ensure full implementation of the Istanbul and Lanzarote Conventions, and withdraw its reservation to the Istanbul Convention.

Child Rights Impact Assessment

- **Recommendation 7:** Scottish Government should ensure that all child rights impact assessments are published promptly and made accessible to enable scrutiny by civil society and children.
- **Recommendation 8:** Scottish Government should promote the use of child rights impact assessments across all levels of government, ensuring public bodies know how to apply a children's rights approach to policy-making and create meaningful opportunities for children's participation in decision making.

Allocation of resources

- **Recommendation 9:** UK and Scottish Government should take a child rights-based approach to budgeting, including participatory budgeting and comprehensive CRIAs. There should be consistent mechanisms to transparently and regularly measure the allocation and effective use of resources for children's rights in budgets, including the use of Child Rights Impact Evaluations (CRIES).

Access to justice

Child-friendly complaints

- **Recommendation 10:** UK and Scottish Government should ensure all children have access to child-friendly complaints processes, including independent advocacy. Children should be involved in the design and creation of comprehensive complaints mechanisms that meet their individual needs.

Legal aid and representation

- **Recommendation 11:** Scottish Government should ensure all children have access to free, confidential, independent legal aid and assistance, can access justice and challenge decisions that affect their rights.

Children's experiences of legal processes

- **Recommendation 12:** Scottish Government should ensure all children have access to all judicial forums⁵²⁷ and improve access to special measures in accordance with the Council of Europe Guidelines on Child-friendly Justice.

Dissemination, training and awareness raising

- **Recommendation 13:** Scottish Government should develop and implement a programme to ensure broad awareness and understanding of the UNCRC and other human rights treaties amongst children and their families.
- **Recommendation 14:** Scottish Government should ensure all professionals working with children and those making decisions that affect children, including civil servants and public authority staff, have a good understanding of children's human rights and are supported to put these into practice.

Data collection and monitoring

- **Recommendation 15:** Scottish Government should develop a comprehensive child rights data collection and evaluation system, including measurable child rights indicators, to generate high-quality and comparable disaggregated data at all levels of government, particularly with regard to children whose rights are most at risk.

2. Age of the child

Minimum age of marriage

- **Recommendation 16:** Scottish Government should legislate to raise the minimum age of marriage to 18.

Inconsistent definition of a child across Scots law

- **Recommendation 17:** Scottish Government should ensure all under 18s are recognised as children in relevant legislation, policy and practice, taking account of their evolving capacities.

3. General principles

Non-discrimination

- **Recommendation 18:** UK and Scottish Government should ensure children have equal legislative protection from age discrimination.
- **Recommendation 19:** UK and Scottish Government should ensure that existing and developing human rights frameworks identify and uphold the rights of those children whose rights are most at risk.
- **Recommendation 20:** UK and Scottish Government should take further steps to prevent and address gender stereotypes and address bullying and discrimination experienced by children, including children living in poverty; disabled children; LGBTQI+ children; young carers; Care

Experienced children; young refugees, asylum seekers and migrants; Black, Brown and minority ethnic children; children in conflict with the law; children with a parent in prison; and children in armed forces families.

Best interests of the child

- **Recommendation 21:** Scottish Government should ensure the best interests of the child is a primary consideration in all legislative, judicial and other matters that affect them, except where a higher standard already applies.

Right to life, survival and development

- **Recommendation 22:** Scottish Government should take urgent steps to address high infant and child mortality rates, and accidental injuries, taking into account underlying factors such as poverty, disability, care experience and COVID-19.
- **Recommendation 23:** Scottish Government should increase investment in prevention and early intervention services, particularly in the early years, to address inequalities in early childhood development.

Views of the child

- **Recommendation 24:** UK Government should do more to ascertain and take into account the views of children in Scotland, Wales and Northern Ireland, particularly in relation to reserved matters.
- **Recommendation 25:** Scottish Government should put in place the structures, processes and support needed at all levels and areas of government to ensure children are at the heart of decision making, taking active steps to ensure a rights-based approach, particularly focusing on the inclusion of younger children and those whose rights are at risk.
- **Recommendation 26:** Scottish Government should ensure that children whose rights are at risk have access to well-resourced independent advocacy services to support their right to be heard.

4. Civil rights and freedoms

Religious observance

- **Recommendation 27:** Scottish Government should commit to legislative change to ensure children can independently exercise the right to withdraw from religious observance. Children should play a central role in informing this change.

Freedom of assembly

- **Recommendation 28:** UK Government should ban the sale and use of mosquito devices. Scottish Government should take steps within its devolved powers to end the use of mosquito devices.

Right to privacy

Anonymity

- **Recommendation 29:** Scottish Government should ensure lifelong anonymity for offences committed by children.

Stop and search

- **Recommendation 30:** Scottish Government should ensure consistent application of the 2017 Code of Practice and address the disproportionate targeting of children.

- **Recommendation 31:** Scottish Government should ensure that data collection and publication on stop and search is disaggregated in line with UN Committee's 2016 recommendation – including disability and socio-economic background.

Strip searches

- **Recommendation 32:** Scottish Government should ensure any searching of a child is conducted and reported in line with all human rights obligations, particularly ensuring it is not used disproportionately on girls in any area.

5. Violence against children

Torture and other cruel, inhuman or degrading treatment or punishment

Use of harmful devices

- **Recommendation 33:** Scottish Government should ban the use of tasers, spit hoods and other harmful devices on children, and ensure that Police Scotland regularly publishes disaggregated data on their use and any complaints about police conduct.

Restraint and seclusion

- **Recommendation 34:** Scottish Government should develop and implement statutory, human rights-based guidance on the use, monitoring and scrutiny of the use of restraint across all settings, supported by rights-based training and a clear complaints procedure for children and families.
- **Recommendation 35:** Scottish Government should end the use of seclusion and isolation.

Equal protection

- **Recommendation 36:** Scottish Government should monitor cultural attitudes towards corporal punishment and use findings to inform positive parenting support which is rooted in the views and experiences of children.

Violence, abuse and neglect

Child protection

- **Recommendation 37:** Scottish Government should ensure that children's rights form the legislative basis of the child protection system and that children and families have access to the information and support necessary to claim their rights.

Violence against women and girls

- **Recommendation 38:** Scottish Government should strengthen efforts to prevent and address violence against women, girls and all children, working collaboratively with women, children and supporting organisations to maximise the benefits of UNCRC and CEDAW incorporation.
- **Recommendation 39:** Scottish Government should ensure child victims have access to properly-resourced, child-friendly support services and information, and ensure children, families and practitioners know how to access these.

Sexual exploitation and abuse – online technologies

- **Recommendation 40:** UK Government should ensure online platforms have strong safety features to protect children.

- **Recommendation 41:** Scottish Government should ensure child victims of online abuse have access to therapeutic support and recovery services, and take steps to improve digital literacy of children, parents, carers and professionals.

Unregulated sport

- **Recommendation 42:** Scottish Government should map the extent of unregulated sports provision for children and devise a legislative framework to ensure that children are safe from harm across all settings.

Knife crime and violence

- **Recommendation 43:** Scottish Government should continue to resource local work to provide information, early intervention, and support on knife crime and violence.

Support services, detection and prosecution

Child victims and witnesses of crime

- **Recommendation 44:** Scottish Government should ensure the National Bairns' Hoose Standards have children's human rights at their core, and ensure all children who have experienced violence, trauma and abuse have access to justice, care, protection and recovery support.

Harmful practices

FGM and forced marriage

- **Recommendation 45:** Scottish Government should strengthen data collection on harmful practices to better inform development of preventative and protective measures.

Intersex genital mutilation (IGM)

- **Recommendation 46:** Scottish Government should provide further information on steps taken to prevent unnecessary medical or surgical treatment of intersex children, provide counselling and access to remedies.

6. Family environment and alternative care

Childcare and shared parenting

Childcare

- **Recommendation 47:** Scottish Government should ensure that affordable, accessible, flexible, high quality and rights-focused early childhood education and care is available to families with children of all ages, focusing particularly on provision for those with low income, rural areas, parents with atypical work patterns and children with additional support needs.

Shared parenting

- **Recommendation 48:** UK and Scottish Government should provide further incentives to encourage men to take parental leave, such as non-transferrable leave, and encourage men to participate equally in childcare responsibilities.

Care Experienced children

- **Recommendation 49** Scottish Government should take steps to ensure full implementation of The Promise, including conclusions relating to family support, placement stability, sibling contact, children's participation in planning and decision making, and support for care leavers.

Young carers

- **Recommendation 50:** Scottish Government should ensure that all young carers are identified as early as possible and are made aware of – and able to access – appropriate support throughout school and in the community.

Children with a family member in prison

- **Recommendation 51:** Scottish Government should ensure full implementation of the Council of Europe Guidelines to uphold the rights of children with imprisoned parents, including improved data collection, and ensuring access to holistic, trauma-informed support, including through provision of accessible information.

Children in armed forces families

- **Recommendation 52:** Scottish Government should ensure that all children in armed forces families are identified as early as possible and are made aware of – and able to access – appropriate support throughout school and in the community.

7. Disability, basic health and welfare

Health and health services

Health inequalities

- **Recommendation 53:** Scottish Government should ensure contributory factors behind child health inequality, particularly poverty, are prioritised in public health planning and provide long-term, stable funding for early intervention and preventative support to protect and fulfil children's right to health.
- **Recommendation 54:** Scottish Government should ensure children's engagement in the ongoing alcohol marketing consultation and future action to implement its findings.

Breastfeeding

- **Recommendation 55:** Scottish Government should take action to ensure babies' right to nutrition is met and that mothers, particularly those living in poverty, are supported to meet their babies' needs.

Nutrition and food security

- **Recommendation 56:** UK and Scottish Government should take urgent steps to uphold children's right to food, ensuring free school meals and holiday provision that is accessible, adequate, available and upholds children's dignity.

Mental health

- **Recommendation 57:** Scottish Government should ensure all children have consistent access to adequately-resourced mental health services so that they receive timely and effective support.
- **Recommendation 58:** Scottish Government should ensure all children have access to high quality, preventative, community mental health services.

Child-appropriate health services and transitions

- **Recommendation 59:** Scottish Government should review current healthcare provision and policy for 16- and 17-year-olds to ensure all children have access to age-appropriate care and that

young people transitioning into adult services are supported by suitably trained staff in an age-appropriate environment.

- **Recommendation 60:** Scottish Government should seek children and families' views on accessing health services and how services could and should be adapted to uphold their rights, supported by child-friendly information.

Standard of living

Child poverty

- **Recommendation 61:** UK and Scottish Government should ensure children and families have access to a rights-based, non-stigmatising social security system which provides an effective safety net for all in society.
- **Recommendation 62:** UK Government should abolish the two-child limit and benefit cap, and reinstate the £20 weekly uplift to Universal Credit.

Housing

- **Recommendation 63:** UK and Scottish Government should implement a strategy to address the housing crisis, which includes human rights budgeting and preventative spend at its heart. This should include improving availability of affordable and accessible housing, timely access to support, and a safety net at points of transition which disproportionately impact care leavers.

Climate change and healthy environment

- **Recommendation 64:** UK and Scottish Government should ensure children's rights are considered when developing and implementing all strategies to reduce environmental degradation and climate change, and all children have the opportunity to actively participate in policy development.

8. Education, leisure, culture

Education, including vocational training

Educational attainment

- **Recommendation 65:** Scottish Government should take urgent steps to close the poverty-related attainment gap, including by recognising digital exclusion as a children's rights issue and ensuring universal digital and internet access for all school-age children.
- **Recommendation 66:** Scottish Government should ensure the education reform programme is informed and developed by the views and experiences of children, with particular regard to those whose rights are most at risk.

Early learning

- **Recommendation 67:** Scottish Government should ensure rights-based, relationship centred, play-based pedagogy is embedded into early childcare and education settings and invest in the early years and education workforce, to ensure it has knowledge and understanding of children's rights, child development and play-based pedagogy.
- **Recommendation 68:** Scottish Government should strongly endorse whole-family holistic activities in schools and nurseries, including outdoor play and learning, and provide the resources to support children's entitlement to a minimum core and progressive realisation of these opportunities during their early learning and primary education.

Inclusive education

- **Recommendation 69:** Scottish Government should ensure disabled children and those absent from school due to ill health or with other needs receive the support they need to realise their right to education in line with Article 29.
- **Recommendation 70:** Scottish Government should take action to ensure consistent implementation of additional support for learning legislation, including meeting the commitments set out in the Additional Support for Learning Action Plan.

School exclusions

- **Recommendation 71:** Scottish Government should significantly reduce the number of children excluded from school on a temporary or permanent basis, and prohibit the use of unlawful exclusions.
- **Recommendation 72:** Scottish Government should ensure that children who are not attending school are supported to continue their education.

Bullying

- **Recommendation 73:** Scottish Government should ensure the provision of mandatory, age-appropriate and inclusive relationships, sexual health and parenting education, with particular regard to Care Experienced and disabled children.

Right to play, leisure, arts and cultural activities

- **Recommendation 74:** Scottish Government should take action to embed a rights-based approach to play, the arts, leisure and cultural activities, including youth work, with particular attention to the implementation of General Comments 17 and 20 in relation to early years, disabled children, children in rural areas and children living in poverty.
- **Recommendation 75:** Scottish Government should take action to ensure children's rights are embedded in planning decisions, including through direct engagement with children and further implementation of the Place Standard tool.

9. Special protection measures

Asylum-seeking, refugee and migrant children

Legal framework

- **Recommendation 76:** UK Government should abandon the 'hostile environment' policy, repeal the Nationality and Borders Act 2022 and ensure children have safe and legal routes to apply for asylum in the UK.

Age assessments

- **Recommendation 77:** UK and Scottish Government should ensure age assessments are only carried out in limited circumstances where absolutely necessary, and are subject to strict safeguards.
- **Recommendation 78:** Scottish Government should ensure that all age disputed children have access to an independent guardian through SGS until they have exhausted all legal avenues to be recognised as a child.

Family reunion

- **Recommendation 79:** UK Government should allow unaccompanied or separated children who have been granted refugee status or humanitarian protection the right to sponsor their parent or main carer to reunite with them, and make UK family reunion rules less restrictive to allow children at risk to join extended family members such as grandparents and adult siblings in the UK.

Access to basic services

- **Recommendation 80:** Scottish Government should mitigate against the impact of the hostile environment, ensuring children and families subject to immigration control are not discriminated against when accessing services, including appropriate housing, healthcare, education and employment and have access to appropriate practical, emotional and medical support.
- **Recommendation 81:** UK Government should ensure children and their families are not subject to a status of No Recourse to Public Funds (NRPF).
- **Recommendation 82:** UK and Scottish Government should ensure children and their families who are seeking asylum or have been granted refugee status or humanitarian protection have access to safe, sanitary and appropriate long-term housing which promotes their integration into communities. Unaccompanied asylum-seeking children should not be placed in a hotel on anything other than an emergency short-term basis.

Administration of child justice

Minimum age of criminal responsibility

- **Recommendation 83:** Scottish Government should increase the minimum age of criminal responsibility to at least 14 at the earliest opportunity and review the operation and implementation of the new police powers in the Age of Criminal Responsibility (Scotland) Act 2019.

Life imprisonment

- **Recommendation 84:** Scottish Government should prohibit the option of granting life imprisonment of children for offences committed while they are under the age of 18.

Deprivation of liberty and secure care

- **Recommendation 85:** Scottish Government should ensure there is sufficient availability of secure care placements. Children from outwith Scotland should never be placed in care in Scotland unless it is in their best interests and subject to the same statutory safeguards as children living in Scotland.
- **Recommendation 86:** Scottish Government should embed in law that children will only be deprived of their liberty as a last resort and for the shortest possible time and are never subject to solitary confinement nor detained due to lack of alternative accommodation, unjustified bail conditions or homelessness.

Accessing advice and support in detention

- **Recommendation 87:** Scottish Government should fully implement child justice standards, as per General Comment 24, to ensure there is systematic child rights training to all adults within the child justice system and mental health support, education and accessible information for children in conflict with the law about their rights.

Children used as covert human intelligence source (CHIS)

- **Recommendation 88:** Continue to prohibit use of children as CHIS both formally and informally.

Optional Protocol on the sale of children, child prostitution and child pornography

- **Recommendation 89:** UK and Scottish Government should ensure child trafficking victims are provided with appropriate support and benefit from protection against arrest, charge, detention and prosecution.

Children in armed conflict

- **Recommendation 90:** UK Government should raise the minimum age for recruitment into the armed forces to 18 years old and change the minimum terms of service for army recruits to ensure those who enlist are not made to serve for a minimum period longer than enlisted adults.
- **Recommendation 91:** UK and Scottish Government should ensure armed forces recruitment is fully voluntary and based on informed consent.
- **Recommendation 92:** Scottish Government should publish disaggregated data on armed forces visits to schools and give children and their parents/carers the power to decide whether to take part in armed forces visits in schools.
- **Recommendation 93:** UK and Scottish Government should ensure responsible business conduct in the arms sector in line with the Guiding Principles on Business and Human Rights.



Annex 2: **Endnotes**

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