

# Building Children's Futures

Using Children's Rights to recover from the Global Pandemic

The Research Report: Implementing Child Rights Impact Assessments



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# Contents

<b>1. Introduction and Methodology</b>	<b>2</b>
<b>2. Children’s Rights Framework and Child Rights Impact Assessments</b>	<b>4</b>
The UNCRC and Child Rights Impact Assessments (CRIA)	5
Children’s Rights and the European Union	5
European Network of Ombudspersons for Children and CRIAs	6
Ombudsman for Children Ireland and CRIAs	7
Irish Policy Framework and Child Rights Impact Assessments	7
<b>3. Impact</b>	<b>8</b>
Assessments	8
Child Rights Impact Assessments	9
European Impact Assessments	9
Environmental Impact Assessments	11
The Use of Child Rights Impact Assessments Internationally	11
<b>4. Crisis Law Making and European Responses to Children’s Needs during the Covid 19 Pandemic</b>	<b>16</b>
Conclusion and Lessons Learnt for Future Emergencies	24
<b>5. Child Rights Impact Assessment Tool</b>	<b>26</b>
Steps for carrying out a Child Rights Impact Assessment	27
Conclusions and Recommendations	27
Challenges of the Child Rights Impact Assessment process	29
<b>Child Rights Impact Assessment Template</b>	<b>31</b>
<b>Full CRIA</b>	<b>32</b>
<b>Appendix 1: Interview List</b>	<b>35</b>
<b>Appendix 2: Interview Questions</b>	<b>36</b>

# 1. Introduction and Methodology

This Report has been developed as part of the Building Children's Futures: Using Children's Rights to Recover from the Global Pandemic project which is funded by the EU Commission. The project is led by the Children's Rights Alliance in partnership with the Department of Children, Equality, Disability, Integration and Youth, Tusla, Ireland's Child and Family Agency and Children and Young People's Services Committees (CYPSC), Eurochild, UNESCO Child and Family Research Centre University of Galway, and Foróige.



Using Ireland as a case study, the project aim is to explore how a child rights-based approach, utilising Child Rights Impact Assessments (CRIAs), can be embedded in decision-making in times of emergency. A Child Rights Impact Assessment (CRIA) is a decision-making framework that helps decision-makers understand how children's rights, as laid out in the United Nations Convention on the Rights of the Child (UNCRC) and other international human rights treaties, may be affected by a proposal law, policy or decision.<sup>1</sup> This project focuses in particular on the needs of children and young people most disproportionately impacted by the pandemic so that best practice on child participation and on embedding rights are identified. Our vision is that research and resources produced as part of this project will result in officials and decision-makers at local, national and EU levels having a better understanding of how to consult with children and young people and develop solutions around their rights and needs.

In February 2024, Building Children's Futures -The Children's Report was published. The Children's Report was conducted by the University of Galway, working collaboratively with the Children and Young People's Advisory Group, and examined how decisions were made during the Covid-19 pandemic and the impact of these decisions on the lives of children and young people in Ireland.

To guide the development of this new Report, a project management group was established which comprised of representatives from the Department of Children, Equality, Disability, Integration and Youth; Children and Young People's Advisory Committees, Tusla, Ireland's Child and Family Agency; UNESCO Child and Family Research Centre, University of Galway; Foróige and a young person from the Children and Young People's Advisory Group.

This Report used a combined methodology of desk-based research and one-to-one semi structured interviews to identify best practice examples in Europe of applying a children's rights approach to decision-making. Thirteen interviews took place in total with stakeholders from eight different countries; Ireland, Scotland, Wales, Belgium, Italy, Austria, Finland and Sweden.<sup>2</sup>

This Report identifies best practice in responding to children's needs in Europe during the Covid-19 pandemic and reviews the use of CRIA across Europe. This Report also contains a Child Rights Impact Assessment template with associated guidance for how to use the tool.

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1 Payne L., ENOC Synthesis Report (ENOC 2020) 11.

2 See Appendix 1

# 2. Children's Rights Framework and Child Rights Impact Assessments

This chapter of the Report will outline where Child Rights Impact Assessments sit in the UN Convention on the Rights of the Child (UNCRC) framework, children's rights at the European Union level and the Irish policy context for Child Rights Impact Assessments.



## The UNCRC and Child Rights Impact Assessments (CRIA)

The UNCRC was adopted by the United Nations General Assembly in 1989, and Ireland committed to promote, respect and protect Children's Rights when it ratified the UNCRC in 1992. The UNCRC covers all aspects of a child's life including health,<sup>3</sup> sufficient standard of living,<sup>4</sup> education,<sup>5</sup> leisure and play,<sup>6</sup> safety from violence,<sup>7</sup> and protection of their identity.<sup>8</sup> Special emphasis is given to four articles, known as the 'General Principles', which are fundamental to the implementation of all of the other rights contained within the UNCRC.<sup>9</sup> The four General Principles are non-discrimination,<sup>10</sup> best interest of the child,<sup>11</sup> right to life survival and development,<sup>12</sup> and the right to be heard and participate in decisions.<sup>13</sup>

Ireland operates a dualist legal system, meaning that international conventions must be given effect in domestic law by passing legislation in the Oireachtas (Irish Houses of Parliament) to be justiciable before the courts.<sup>14</sup> Elements of the Convention have been given legal effect, albeit in limited circumstances and settings, such as the constitutional amendment on children and through the Adoption Act 2010, the Child and Family Agency Act 2013, and the Children and Family Relationships Act 2015.

A CRIA is a decision-making framework that helps decision makers understand how children's rights, needs and best interests, as laid out in the UNCRC and other international human rights treaties, may be affected by a proposal law, policy or decision.<sup>15</sup>

When Ireland ratified the UNCRC in 1992, the State agreed to be reviewed every five years on its progress in implementing the rights in the Convention. Ireland was last examined by the Committee in 2023. In its Concluding Observations, the Committee recommended that:

"the State party fully incorporate the Convention into national legislation, conduct a comprehensive review of all its legislation to align it with the Convention and address any inconsistencies, and develop systematic child-rights impact assessment procedures for national and subnational legislation and policies relevant to children."<sup>16</sup>

## Children's Rights and the European Union

Article 3(3) of the Treaty on European Union establishes the objective for the EU to promote protection of the rights of the child.

The Charter of Fundamental Rights of the EU guarantees the protection of the rights of the child by the EU institutions and by EU countries when they implement EU law. Article 24 of the Charter sets out that:

1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.
2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.
3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.

3 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24.

4 *ibid*, Art 27.

5 *ibid*, Art 28.

6 *ibid*, Art 31.

7 *ibid*, Art 19.

8 *ibid*, Art 8.

9 Children's Rights Alliance, *United Convention on the Rights of the Child*, 2010, 3.

10 Article 2

11 Article 3; UNCRC 'General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1).

12 Article 6

13 Article 12.

14 *Irish Statute Book*, Irish Constitution, Article 29.6.

15 Payne L., ENOC Synthesis Report (ENOC 2020) 11.

16 UNCRC, *Concluding Observations (2023) UN Doc CRC/C/IRL/CO/5-6*, paras 6.

In June 2022, the Council of the European Union adopted conclusions on the rights of the child,<sup>17</sup> with a particular focus on the protection of children's rights in crisis or emergency situations. The Council calls on member states to develop comprehensive policies to fulfil the rights of all children without any discrimination, to increase efforts to prevent and combat all forms of violence against children, to strengthen justice systems so that they are compliant with the rights of children, and to increase opportunities for children to be responsible and resilient members of the digital society.

The European Strategy on the Rights of the Child was adopted by the Commission in 2021 to ensure the protection of the rights of all children, and secure access to basic services for vulnerable children.<sup>18</sup> The Commission put forward actions to better protect all children, to help them fulfil their rights and to place them right at the centre of EU policy making. The Strategy has six thematic areas: child participation in political and democratic life; socio-economic inclusion, health and education; combating violence against children and ensuring child protection; child-friendly justice; digital and information society; and the global dimension.<sup>19</sup>

## European Network of Ombudspersons for Children and CRIAs

The European Network of Ombudspersons for Children (ENOC) have engaged in extensive work on CRIAs. In 2020, a special Working Group, chaired by the Office of the Children and Young People's Commissioner Scotland, led work supported by Lisa Payne, an independent expert advisor on CRIA. The working group launched a special questionnaire to map the situation regarding CRIA within the membership and collected feedback from 30 ENOC members from across Europe. In 2020, a Synthesis Report was launched.<sup>20</sup> The Report found that there is no single, global model of CRIA in place. It also found that the effectiveness of CRIA is dependent on certain elements of good practice being recognised and addressed in the development and delivery of the CRIA model in use. These include:

- a clearly articulated purpose and rationale for CRIA;
- clarity about how, when and where CRIA fits into the policy-making environment, including a recognition that producing CRIAs has resource implications;
- using a template and guidance to ensure consistency in the application of the process;
- ongoing training and capacity building in children's rights, the UNCRC and CRIA;
- ready availability of reliable data to support the CRIA process;
- meaningful involvement of children and young people in the CRIA process;
- using CRIA reports to communicate assessment findings;
- making the CRIA available to external scrutiny through publication and stakeholder involvement;
- revisiting CRIA when monitoring and reviewing the implementation of a policy or law; and
- quality assurance, with access to internal and external expertise to support good practice.<sup>21</sup>

Based on the finding of the Report, in 2020 ENOC published a Position Statement aimed at providing guidance to States, national, regional, European and international authorities on how to implement CRIA and promote the visible integration of children's rights in decision-making.<sup>22</sup> ENOC also issued a Common Framework of Reference, which is a step-by-step guide that explains the basic concept and practice of carrying out a CRIA. It includes a detailed template to get started on undertaking CRIA and monitoring the impact of decisions, policies, laws or practice on children and young people's rights.<sup>23</sup>

17 European Union, Council Conclusions on the EU Strategy on the Rights of the Child <<https://data.consilium.europa.eu/doc/document/ST-10024-2022-INIT/en/pdf>> accessed 25 July 2024.

18 European Commission, Directorate-General for Justice and Consumers, EU strategy on the rights of the child, (Publications Office of the European Union 2021).

19 ibid.

20 Payne L., ENOC Synthesis Report (ENOC 2020)

21 Payne L., ENOC Synthesis Report (ENOC 2020) 5.

22 ENOC, Position Statement on "Child Rights Impact Assessment (CRIA) (November 2020).

23 ENOC, Common Framework of Reference on Child Rights Impact Assessment A Guide on How to carry out CRIA (ENOC 2020).



## Ombudsman for Children Ireland and CRIAs

During 2021, the European Network of Ombudspersons for Children and UNICEF invited Ombudspersons and Commissioners for Children across Europe and Central Asia to conduct a pilot CRIA about the impact of Covid-19 measures on children's rights.

The Ombudsman for Children's Office in Ireland took part in the pilot and conducted a CRIA, which they published in 2022.<sup>24</sup> The CRIA focused on the impact of school closures on children's rights and it showed that the negative impacts of school closures were particularly felt by children with disabilities, children who are homeless, children with mental health issues, children living in Direct Provision, and Traveller and Roma children. The CRIA found that school closures had primarily negative impacts on children's right to the highest attainable standard of health, including mental health. It also found that there were different perspectives on whether, and to what extent, children's best interests were considered by the Government when deciding to close schools.<sup>25</sup>

## Irish Policy Framework and Child Rights Impact Assessments

*Young Ireland*<sup>26</sup> is the National Policy Framework for Children and Young People in Ireland. It envisages an Ireland in which all children and young people can fully access their rights. It is focused on tackling the biggest challenges that affect children and young people and includes structures to help ensure children's rights are not overlooked when decisions are being made.<sup>27</sup> *Young Ireland* contains two specific actions on CRIAs including to 'collaborate with partners on the development of the prototype CRIA' in 2024 and to 'roll out the use of CRIA in Government and government agencies by 2028.'<sup>28</sup>

A 2023 report published by the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) with support from the European Commission and the Organisation for Economic Co-operation and Development (OECD), examined governance arrangements for tackling child poverty and improving outcomes for children.<sup>29</sup> The report made recommendations to support the Irish Government in successfully implementing CRIAs including:

- Strengthen capacity for data analysis and training on impact assessment methodologies within DCEDIY and across relevant departments to harness their full potential to inform evidence-based policymaking;
- Raise awareness among policymakers of the benefits and utility of utilising youth checks or child and youth rights impact assessments in their work;
- Ensure that these are utilised meaningfully rather than as a 'tick-box' exercise.<sup>30</sup>

24 Ombudsman for Children, Child Rights Impact Assessment – The Impact of School Closures on Children's Rights in Ireland (OCO 2022).

25 Ombudsman for Children, Child Rights Impact Assessment – The Impact of School Closures on Children's Rights in Ireland (OCO 2022)7.

26 Government of Ireland, Department of Children, Equality, Disability, Integration and Youth; *Young Ireland: the National Policy Framework for Children and Young people 2023-2028* (DCEDIY 2023).

27 *ibid.*

28 *ibid* 29.

29 OCED, *Together for Children and Young People in Ireland, Towards a New Governance Framework* (OECD 2024).

30 *ibid.*

# 3. Impact Assessments

This chapter will outline what a Child Rights Impact Assessment (CRIA) is and the benefits of using the process. Many European countries have adopted a CRIA. This section will outline the different approaches taken by these countries to gain an understanding as to how they carry out the impact assessment on the ground. It will also outline other types of impact assessments that are in place at a European level which can provide insights for the mainstreaming of a Child Rights Impact Assessment Process.



## Child Rights Impact Assessments

A CRIA is a decision-making framework that measures the impact of a proposal on the rights, the needs and the interests of children.<sup>31</sup> Practically, it involves an analysis and a report.<sup>32</sup> The analysis is carried out using a toolkit to guide the assessment through step-by-step questions. The communicated findings of this analysis are the CRIA.<sup>33</sup>

CRIAs offer a proactive approach to upholding children's rights by considering children's rights as part of the decision-making process and, support the mainstreaming of international children's rights principles and standards into national and local planning, service design and delivery.<sup>34</sup> The impact assessment can identify which rights could be impacted by a decision, whether the impact will be positive, negative or neutral and what changes are needed to mitigate the negative impacts and maximise the positive impacts.<sup>35</sup> This helps support early identification of potential issues with a proposed measure and allows for preventative changes to be made to a law, policy or service while still in development, to mitigate the impact on children's rights.<sup>36</sup> The use of CRIAs can also strengthen the understanding of children's rights in decision-making, and can reduce the risk of breaching children's rights, by instead creating a proactive and protective mindset.<sup>37</sup> A CRIA takes into account that the impact of a decision may depend on the specific circumstances of the impacted children, and often focuses on children in vulnerable situations.<sup>38</sup> CRIAs can be conducted by national and/or local governments, as well as organisations, charities and specific services, to examine the potential impacts on children and young people of laws, policies, programmes and services as they are developed.<sup>39</sup>

The UN Committee on the Rights of the Child and UNICEF<sup>40</sup> have noted that having a CRIA process in place improves decision-making for children and young people, based on evidence and jurisdictions where CRIAs are already employed.<sup>41</sup> From the Scottish perspective where CRIAs have been in place for a number of years, one of the key benefits of adopting a CRIA is that they provide a child rights-based approach for strengthening decision-making, which can in turn reduce the likelihood of rights violations and can limit the need for revision further down the line.<sup>42</sup>

## European Impact Assessments

This section will outline other types of impact assessments that exist across Europe. As outlined below, many countries conduct CRIAs as part of an integrated impact assessment where individual assessments are carried out on different areas such as gender, equality and the environment at the same time. Looking to the other impact assessments that exist both at a European and national level can provide insights into how they are conducted which can be valuable when establishing a CRIAs on a national level.

### Council of European Child Participation Impact Assessment Tool

The Council of Europe has a specific Child Participation Assessment Tool with ten indicators, which is intended for governments to measure the implementation of the right of children to participate.<sup>43</sup>

The Council of Europe Child Participation Assessment Tool supports states to promote the participation of children and young people under the age of 18, and was piloted in Ireland.<sup>44</sup> The Assessment Tool provides a number of indicators which enable states to:

31 Payne L. ENOC Synthesis Report (ENOC 202) 11.

32 *ibid.*

33 *ibid.*

34 *ibid.*

35 *ibid.*

36 *ibid.*

37 *ibid.*

38 *ibid.*

39 Payne L., ENOC Synthesis Report (ENOC 2020) 11.

40 UNICEF, EU-UNICEF Child Rights Toolkit: Integrating Child Rights in Development Cooperation, 2014.

41 Payne L., ENOC Synthesis Report (ENOC 2020) 8.

42 Together, Scottish Alliance for Children's Rights, State of Children's Rights In Scotland (Together 2022) 167.

43 Council of Europe, Child Participation Assessment Tool, 2016 <<https://www.coe.int/en/web/children/child-participation-assessment-tool>> accessed 27 July 2024.

44 *ibid.*

- undertake a baseline assessment of the current implementation
- help identify measures needed to achieve further compliance by states,
- measure progress over time.<sup>45</sup>

The Assessment Tool can be used across government ministries, local authorities, the courts and judicial systems, with relevant professionals working with children, with academic and civil society partners, and with organisations of children and young people.<sup>46</sup> The Assessment Tool is accompanied by an Implementation Guide, a roadmap and detailed guidance on information collection, focus groups and using the results for reporting to the UN Committee for the Rights of the Child.

## EU Youth Checks

The EU Youth Check<sup>47</sup> is a strategy instrument to help ensure the inclusion of youth voices in policy-making processes within the European Union.<sup>48</sup> It is a tool used to make sure that the needs and expectations of young people are taken into consideration when developing policies that can impact them.<sup>49</sup> The EU Youth Check is part of the framework of the EU Youth Strategy 2019-2027 and focuses on unifying youth policies within the EU by submitting every topic to a youth perspective.<sup>50</sup> The basis of the check is consulting young people, making an impact assessment and preparing mitigation measures if a negative impact is found.<sup>51</sup>

To implement youth-friendly policies, Austria, France, Germany and Flanders in Belgium have adopted the Youth Checks.<sup>52</sup>

After policies are developed, Youth Checks are carried out – rather than before as is the case with a CRIA.<sup>53</sup> This is an example of post-ante regulatory

impact assessment that a country can apply to include the considerations of children and young people more systematically into policy development and legislation, and which helps identify the intended and unintended consequences of legislation.<sup>54</sup> Each country has implemented the Youth Check in different ways which are set out below.

## Germany

Germany has also implemented the Jugendcheck, which contributes to more youth-oriented legislation and raises awareness about the needs of young people.<sup>55</sup> The Jugendcheck is conducted by the Competency Center Youth Check (ComYC), an institution that measures the impact a legislative proposal has on young people.<sup>56</sup> This assessment tool considers eleven impact dimensions and six areas of life, determining the specific impacts on different age groups. This Jugendcheck in Germany has proven effective in drawing attention to the concerns of young people and has gained support across party lines. While it is not a youth participation tool, it has successfully raised awareness of the concerns of young people and their rights, among policymakers, public administrators, and the expert community.<sup>57</sup>

## France

France has implemented the youth check, known as the 'Clause d'Impact Jeunesse' to ensure 'equality among all young people and promote intergenerational justice'.<sup>58</sup> This impact assessment tool, announced in 2016, aims to support young people gaining employment and autonomy while providing access to public services without discrimination.<sup>59</sup> In addition, the Advisory Council for Youth Policies makes suggestions to the government and presents activity reports.<sup>60</sup> Despite a relatively low number of youth tests performed compared to the number of drafted policies, efforts are being made to improve the process by including initiatives

45 *ibid.*

46 *ibid.*

47 Also referred to as EU Youth Test.

48 European Union, EU Youth Strategy 2019-2027 <[https://youth.europa.eu/strategy\\_en](https://youth.europa.eu/strategy_en)> accessed 27 July 2024.

49 *ibid.*

50 *ibid.*

51 *ibid.*

52 For more information on this see Appendix 1: Youth Checks.

53 OECD, *Delivering for youth: How Government can put young people at the centre of the recovery*, OECD Policy Response to Coronavirus (COVID-19), (OECD 2022).

54 The EU Youth Test/Check; see [European Youth Portal | European Youth Portal \(europa.eu\)](https://youth.europa.eu/) for more information.

55 <https://www.jugend-check.de/wp-content/uploads/2024/01/komjic-broschuere-jugend-check-en-barrierefrei.pdf>> Accessed 30 July 2024.

56 *ibid.*, 2.

57 *Ibid.*, 14.

58 La Clause D'Impacte Jeunesse Officialisee <<https://irev.fr/actualites-0/la-clause-dimpact-jeunesse-officialisee>> accessed 27 July 2024.

59 *ibid.*

60 *ibid.*

by the parliament, updating the impact study,<sup>61</sup> and introducing indicators for monitoring bills in the long-term.<sup>62</sup>

## Belgium (Flanders)

In Belgium, specifically in Flanders, multiple instruments have been put in place to ensure the impact of draft parliamentary acts on young people is assessed. One of these instruments is JoKER (Youth, Child, Impact, and Report), which has been in existence since 2008.<sup>63</sup> JoKER focuses not only on youth policy but also on the broader context of children's rights.<sup>64</sup> The instrument is prepared by the competent administration/Minister and is applicable to draft parliamentary acts that are relevant to people under 25 years of age.<sup>65</sup> The process takes into consideration five specific questions related to the impact on young people, and practical examples are provided. In Belgium, the emphasis is on recognising children and young people as active citizens.<sup>66</sup>

## Environmental Impact Assessments

Under the EU's Environmental Impact Assessment (EIA) Directive, major building or development projects in the EU must first be assessed for their impact on the environment. This is done before the project can start.<sup>67</sup> This EU legislation was implemented in Ireland by the Planning and Development Acts 2000-2020. Environmental Impact Assessments involve assessing the environmental effects of the project and determining whether the project should be permitted to proceed or not.<sup>68</sup> The process involves many steps similar to CRIAs: the preparation of an Environmental Impact Assessment Report (EIAR) by the applicant, consultations with

the public, relevant prescribed bodies and any other affected Member States, and an examination and analysis of the EIAR and other relevant information leading to a reasoned conclusion by the competent authority on the likely significant effects of the proposed development on the environment.<sup>69</sup> An EIA does not in and of itself dictate the outcome of the development or decision of the authority, but it is an important process in decision-making procedures and sustainable development.<sup>70</sup>

## The Use of Child Rights Impact Assessments Internationally

### Scotland

The Scottish Government has undertaken Child Rights Impact Assessments since 2015.<sup>71</sup> CRIAs have been used to support the implementation of Part One of the Children and Young People (Scotland) Act 2014 which requires all Scottish Ministers to give better or further effect to the requirements of the CRC; take account of the relevant views of children of which they are aware; promote public awareness and understanding of the rights of children; and report every three years to the Scottish Parliament on what they have done to fulfil these duties.<sup>72</sup>

The Scottish Government has developed their own CRIA tool and accompanying guidance.<sup>73</sup> The process is referred to as a Child Rights and Wellbeing Impact Assessment (CRWIA), so as to focus on, and include, wellbeing in the decision-making analysis.<sup>74</sup> In 2024, Scotland incorporated the UNCRC into its laws at a national domestic level.<sup>75</sup> As part of this it became mandatory for the Scottish Government to

61 The impact study is the equivalent of the CRIA template – an assessment tool and process

62 ibid

63 Children's Rights Alliance Interview with the Office of the Children's Rights Commissioner, Flanders, on the 24 October 2023. European Union, European Youth Portal, The EU Youth Test/Check: what is it and why should it be implemented in all Member States?; | European Youth Portal (europa.eu), accessed 9 May 2024. [The EU Youth Test/Check: what is it and why should it be implemented in all Member States? | European Youth Portal \(europa.eu\).](#)

64 ibid

65 ibid

66 ibid

67 EU's Environmental Impact Assessment (EIA) Directive (2011/92/EU as amended by 2014/52/EU)

68 Environmental Protection Agency, Who We Are, [www.epa.ie](http://www.epa.ie), accessed 12 March 2024.

69 Environmental Protection Agency ; Environmental Impact Assessment <Environmental impact assessment | Environmental Protection Agency (epa.ie)> accessed 12 March 2024.

70 Department of Housing, Planning and Local Government, Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, 2018.

71 CRIA have been used to support implementation of Part one of the Children and Young People (Scotland) Act 2014 which requires all Scottish ministers to give better or further effect to the requirements of the CRC; take account of the relevant views of children of which they are aware; promote public awareness and understanding of the rights of children; and report every three years to the Scottish Parliament on what they have done to fulfil these duties.

72 Children and Young People (Scotland) Act 2014

73 Scottish Government, Children's Rights and Wellbeing Impact Assessment Guidance <<https://bit.ly/3L34fGR>> accessed 27 July 2024.

74 Together, Scottish Alliance for Children's Rights, State of Children's Rights In Scotland (Together 2022) 167.

75 United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024

carry out CRWIAs when introducing new legislation or making certain strategic decisions.<sup>76</sup>

The first step in conducting a CRWIA involves the specific policy or Bill team making a determination as to whether a full CRWIA is carried out by conducting a stage 1 screening which is recorded on a screening sheet and published.<sup>77</sup> All stages of the CRWIA must be signed off by a Deputy Director and if it is decided not to move beyond stage 1, then the CRWIA team must be contacted to discuss and double check whether any element of children's rights have been overlooked.<sup>78</sup> This makes the process transparent and those carrying it out accountable.<sup>79</sup> The implementation and uptake of CRWIA, particularly where they are not mandatory, has been described as a slow process.<sup>80</sup> However, with the use of CRWIA becoming mandatory in July 2024, this should no longer be the case. Part of the CRWIA involves consulting with children and young people in the decision-making process and while this has increased, there is still room for improvement in order to get the timing of this right so that they are brought in early enough in the process for their view to have real effect.<sup>81</sup> Impact Assessments are often started too late into the process and as a result it can be more difficult to show how the involvement of children and young people has influenced decision-making.<sup>82</sup>

The Scottish Government has started centralising a list of CRWIAs on its website, which aids in terms of transparency, but the resource is not exhaustive and there can be several months of delay between a CRWIA being completed and published which makes timely scrutiny difficult.<sup>83</sup> Quality in the assessment can vary, and it can be difficult to access further information about their use.<sup>84</sup>

Areas for improvement also include CRWIAs not being commenced early enough, gaps in children's

involvement,<sup>85</sup> insufficient data collection, not considering all relevant UNCRC rights, and lack of ongoing monitoring and evaluation.<sup>86</sup> Children and young people have also called for the CRWIAs to be in plain English and easy to understand from the outset.<sup>87</sup>

### Example of Scottish CRWIA

The Scottish Government published many CRWIAs in regard to the Covid-19 pandemic emergency measures.<sup>88</sup> The decisions that did involve CRWIAs highlighted and drew attention to children and young people's human rights across Government and helped ensure that policy was developed and implemented with these rights as their foundation.<sup>89</sup> For example, a CRWIA was published in January 2022 which examined the impact of Covid-19 restrictions on children and young people, which amongst other things, considered the right of younger children, under 12, to play and socialise freely with their peers (Article 31).<sup>90</sup> The issue was actively considered, along with their lower risk for becoming seriously unwell from Covid-19 and their perceived lower risk of transmission. It was decided that it was essential that this age group continue to have the least stringent measures applied and were free to meet up with their friends, with no physical distancing outdoors or indoors in public spaces, subject to other public health hygiene measures being followed. It was decided that enabling young children to play and be physically active, would bring benefits to their overall health, sleep regulation and connectedness to their communities.<sup>91</sup>

There are many learnings from Scotland's approach to CRWIAs during the Covid-19 pandemic. For example, even if a full Child Rights Impact Assessment cannot occur in an emergency, having a basic discussion on the essence of the impact

76 ibid

77 Interview conducted by the Children's Rights Alliance with the Child Rights Unit, Government of Scotland, 12 December 2023.

78 ibid.

79 ibid.

80 ibid.

81 ibid.

82 ibid.

83 Government of Scotland, Child Rights Impact Assessments, list <<https://www.gov.scot/publications/child-rights-and-wellbeing-impact-assessments-list/>> accessed 27 July 2024.

84 Together, State of Children's Rights Report, 2022, 169-173.

85 CYPSCS, Listen, Engage, Have Fun: Guide on involving children in child rights impact assessment (CRIA) and child rights impact evaluation (CRIE), 2022.

86 Together, State of Children's Rights Report, 2022, 169-173; University of Edinburgh Law School, LLM Human Rights Clinic: A Children's Rights Approach: Recommendations to the Scottish Government on Refining Children's Rights and Wellbeing Impact Assessments in Scotland, 2022.

87 Interview conducted by the Children's Rights Alliance with the Child Rights Unit, Government of Scotland, 12 December 2023.

88 Government of Scotland, The Impact of Covid-10 restrictions on children and young people, CRWIA Stage 3, January 2022.

89 Observatory of Children's Human Rights Scotland, Children and Young People's Commissioner Scotland, Independent Children's Rights Impact Assessment on the Response to Covid-19 in Scotland, 48, [mh-cria-2020.pdf \(ed.ac.uk\)](#).

90 Government of Scotland, The Impact of Covid-10 restrictions on children and young people, CRWIA Stage 3, January 2022, 25.

91 ibid.

assessment was still considered valuable.<sup>92</sup> Due to the need for quick decision-making during the Covid-19 pandemic, ‘back of an envelope CRWIAs’ were carried out, whereby the fundamental elements of CRIAs could be present, to bring focus to safeguarding children’s rights, their best interests, and their overall wellbeing, even if at a minimum level.<sup>93</sup>

As a result of this approach, children’s rights were considered in the crisis decision-making process, even when a full formal assessment was not carried out.<sup>94</sup> Simplified formal processes or templates could be developed for such emergency decision-making in the future to allow children’s rights to be easily considered and incorporated.

## Wales

The Child Rights Impact Assessment process in Wales is the agreed mechanism officials use to support Ministers to ensure they give balanced consideration to children’s rights in their decision-making.<sup>95</sup> CRIAs are used to inform ministerial advice and must be completed prior to a ministerial decision being made.<sup>96</sup> A manual for Welsh Government officials is available for support, as well as a specific mailbox to make requests.<sup>97</sup> Once a decision has been reached, the CRIA is published on the Government website, and includes links to young people’s versions.<sup>98</sup> The CRIAs in Wales are undertaken as part of the integrated impact assessment process (IIA) which combines multiple impact assessments including CRIA, Equality Assessment, Rural Assessment and Biodiversity Assessment among others.<sup>99</sup>

## Example of Welsh CRIA

In Wales, there was a proposal to establish a Bill to develop a coordinated and funded approach to provide a residential outdoor education experience for every child in maintained schools regardless of their socio-economic background, disabilities, additional learning needs (ALN), cultural background or geographical location.<sup>100</sup> This would have moved a residential outdoor education experience from an enriching activity to an entitled component of the Curriculum for Wales.<sup>101</sup> As part of this process, a consultation with children and young people took place, as did a number of specific impact assessments, including a CRIA.<sup>102</sup> This CRIA considered the effect of the Residential Outdoor Education (Wales) Bill 2023<sup>103</sup> on children in Wales and their rights under the UNCRC. It was informed by both the Children’s Commissioner for Wales’ *Right Way CRIA Framework* and the Welsh Government’s *CRIA template: guidance for staff*.<sup>104</sup> In preparing the Bill, children’s rights were considered in terms of what the Bill was seeking to achieve and how it would impact children and the articles of the UNCRC in the way it would be delivered. The CRIA found that overall the proposal would have a positive effect on children’s rights, in particular children’s right to play.<sup>105</sup> However, the consultation with children and young people highlighted that their anxieties about going on outdoor education residential are sometimes an issue that needs to be overcome or given due consideration.<sup>106</sup> To address this, it was recommended that the Bill needed to have accompanying guidance issued by the Welsh Government to provide that residential outdoor education is not compulsory for children to attend.<sup>107</sup> The Senedd debated the general principles of the Bill

92 Interview conducted by the Children’s Rights Alliance with the Child Rights Unit, Government of Scotland, 12 December 2023.

93 *ibid.*

94 *ibid.*

95 Welsh Government, Guidance, Publication of Children’s Rights Impact Assessments < <https://www.gov.wales/childrens-rights-impact-assessments-guidance-welsh-government-staff>> accessed 27 July 2024.

96 Interview conducted by the Children’s Rights Alliance with the Policy Director, Children in Wales, February 21 2024. Government of Wales, Child Rights Impact Assessments, consultation 2022, available at <https://www.gov.wales/sites/default/files/consultations/2022-07/childrens-rights-impact-assessment.pdf> accessed 30 July 2024.

97 Available on the [www.gov.wales](http://www.gov.wales) website, [CRIA@gov.wales](mailto:CRIA@gov.wales)

98 Government of Wales, Publication of Child Rights Impact Assessments < <https://www.gov.wales/publication-childrens-rights-impact-assessments>> accessed 27 July 2024.

99 Government of Wales, Impact Integrated Assessment Handout <<https://business.senedd.wales/documents/s81339/Welsh%20Government%20handout%20-%20Integrated%20Impact%20Assessment%2015%20November%202018.pdf>> accessed 27 July 2024.

100 Maintained school is as defined in section 79 of the Curriculum and Assessment (Wales) Act 2021: a community, foundation or voluntary school maintained by a local authority in Wales; or a community special school maintained by a local authority in Wales, other than a community special school established in a hospital.

101 Residential Outdoor Education (Wales) Bill 2023.

102 Member Bill, Residential Outdoor Education (Wales) Bill: Explanatory Memorandum, 24 November 2023 <<https://senedd.wales/media/kdzlomeq/pri-ld16167-em-e.pdf>> accessed 27 July 2024.

103 *ibid.*

104 Children’s Commissioner for Wales, The Right Way: CRIA questions for public bodies in Wales. Welsh Government, Children’s rights impact assessments: guidance for Welsh Government staff

105 Member Bill, Residential Outdoor Education (Wales) Bill: Explanatory Memorandum, 24 November 2023 <<https://senedd.wales/media/kdzlomeq/pri-ld16167-em-e.pdf>> accessed 27 July 2024, 97-99.

106 *ibid.*, 107-108.

107 *ibid.*

on the 17 April 2024, but the motion was not agreed and the Bill was rejected.<sup>108</sup>

## Finland

In Finland, Child Impact Assessments (distinct from Child Rights Impact Assessments) are conducted. The absence of the word 'Rights' from the impact assessment is a development that has been viewed as narrowing the assessment.<sup>109</sup> The Child Impact Assessment is conducted as part of the Human Impact Assessment which is a form of integrated impact assessment that seeks to bring together different perspectives on human impacts and includes other assessments on gender, health, equality, environment.<sup>110</sup> Child Impact Assessments (CIA) involve predicting and monitoring the impacts on children resulting from different decisions. This process also considers the children's own assessment of the impacts.<sup>111</sup> In Finland, the general population is taking more of an interest in Child Impact Assessments, for example parents have been calling for their use when cuts have been made to school budgets.<sup>112</sup>

## Belgium

CRIAs were introduced in 1997 and have evolved since then.<sup>113</sup> A legal obligation exists to carry out a CIA when a decision or development will impact on children or when the Minister for Children wishes to carry one out.<sup>114</sup> Children are not always consulted, but when they are not consulted relevant research should be used as an alternative.<sup>115</sup> CRIAs are evaluated by civil servants in Belgium with knowledge of children's rights, alongside national academic experts.<sup>116</sup> Manuals have been developed as a reference and support tool to help guide the individual carrying out the CIA.<sup>117</sup> In-house training programmes have been developed and are available

for the relevant Civil Servants carrying out CRIAs. All CRIAs are published, and the assessment is also attached to the relevant piece of legislation or policy with the aim of broadening understanding of children's rights among the wider public.<sup>118</sup>

## Sweden

In Sweden, the UNCRC was incorporated into domestic legislation in 2020, but despite many government enquiries to carry out CRIAs, it is not a compulsory requirement.<sup>119</sup> There is no single unified model for CRIAs and Government agencies, municipalities and regions have developed their own models.<sup>120</sup> The Ombudsman for Children has argued that CRIAs should be made mandatory and is continuing to advocate for this to be included in the amended regulation on impact assessments.<sup>121</sup> The issue of CRIAs has been raised by the Committee on the Rights of the Child.<sup>122</sup> The Committee recommended in its Concluding Observations concerning Sweden's combined 6th and 7th periodic reports (para. 6 (b)), that Sweden should:

'ensure that child-rights impact assessments are an integral part of inquiries in preparation of new legislation and in the provision of child-friendly avenues for child participation in national and subnational legislation and regulations relevant to the fulfilment of children's rights.'<sup>123</sup>

108 Senedd Cymru Welsh Parliament, Should children get the right to free residential outdoor education?, 15 April 2024; Welsh Parliament, Senedd Business, Residential Outdoor Education (Wales) Bill 2024.

109 Interview carried out by the Children's Rights Alliance with the Central Union for Child Welfare, Finland 8 November 2023.

110 Finish Institute for Health and Welfare, Management of Health and Wellbeing Promotion, Human Impact Assessment <<https://thl.fi/en/topics/management-of-health-and-wellbeing-promotion/management-of-wellbeing/practices/human-impact-assessment>> accessed 27 July 2024.

111 *ibid.*

112 Interview carried out by the Children's Rights Alliance with the Central Union for Child Welfare, Finland 8 November 2023.

113 S Hoffman, Ex ante children's rights impact assessment of economic policy., (2020) *The International Journal of Human Rights*, 24(9), 1333–1352.

114 *ibid.*

115 Interview carried out by the Children's Rights Alliance with the Children's Rights Commissioner, Flanders (24 October 2023).

116 *ibid.*

117 *ibid.*

118 *ibid.*

119 2022 government proposal to introduce new regulations on impact assessments, Bättre Konsekvensutredningar Ds 2022:22. The government's official CIA are available at <<https://www.regeringen.se/rattsliga-dokument/statens-offentliga-utredningar/>> accessed 27 July 2024.

120 Interview carried out by the Children's Rights Alliance with the Office of the Ombudsman for Children in Sweden (April 15 2024) and Payne L, ENOC Synthesis Report Child Rights Impact Assessment, (ENOC 2020) 62.

121 *ibid.*

122 Concluding observations on the combined 6th and 7th periodic reports of Sweden, Committee on the Rights of the Child, UN Committee on the Rights of the Child (92nd session) 2023, paragraph 6(b).

123 *ibid.*





# **4. Crisis Law Making and European Responses to Children's Needs during the Covid 19 Pandemic**



Crisis lawmaking is when emergency laws and policies are adopted in order to avoid or respond to a crisis or an emergency situation, be it economic, social, environmental or other.<sup>124</sup> As the Covid-19 pandemic unfolded, the impact of laws adopted without assessing their impact on individuals became clear.<sup>125</sup> Many argued that crisis lawmaking was a necessary intervention in the early days of the Covid-19 pandemic.<sup>126</sup> However, human rights treaty bodies<sup>127</sup> did caution that states should gather and analyse data during and after the pandemic in order to understand the extent to which people were disadvantaged during the pandemic.<sup>128</sup> There was particular concern around the more marginalised and vulnerable groups, such as women, children, those with disabilities, migrants, asylum seekers, the homeless, and people deprived of their liberty, and how their circumstances would create additional disadvantage.<sup>129</sup>

Policy responses during the Covid-19 pandemic have had significant impacts on children's human rights.<sup>130</sup> In order to quickly safeguard the human right of survival and development of children, families and their communities, the implementation of emergency policies highlighted the difficulties in taking a children's rights approach to adult oriented systems and institutions.<sup>131</sup>

The link, for example, between health and human rights was identified in the early response to the HIV/AIDS pandemic and helped guide a similar narrative for the Covid-19 pandemic.<sup>132</sup> Human rights should have guided and strengthened the public health response by framing restrictions on individual liberties, managing the impacts on health care, social

and economic rights, as well as through international collaboration and assistance.<sup>133</sup> The pandemic was a global health threat that had many implications on civil and political rights because in order to combat the health crisis severe restrictions on the freedom of movement of people and many other rights, were imposed.<sup>134</sup>

During the Covid-19 pandemic however, upholding human rights (including children's rights) was not considered a priority because decisions had to be made reactively and quickly.<sup>135</sup> The Office of the High Commissioner for Human Rights, for example, recommended that restrictions should therefore only be imposed 'when necessary, be proportionate, and kept to an absolute minimum.'<sup>136</sup>

However, many of the measures adopted in times of emergency to combat a crisis were as a subjective measure, arguably open to abuse.<sup>137</sup> The lack of transparency in states' Covid-19 decision-making processes and the potential of decisions to exacerbate certain inequalities, especially those experienced by children, women, disabled people and other vulnerable groups has therefore been a focus of the human rights community.<sup>138</sup> Independent Covid-19 Pandemic Inquiries are now helping to shed light on the decision-making processes during this period.<sup>139</sup>

In times of crisis, decisions are usually made to protect fundamental rights, such as the right to life and health, but human rights are rarely regarded as a central concern for governments.<sup>140</sup> . As a result, Human Rights Treaty Bodies felt the need to issue guidance to states on how to ensure non-discrimination and to integrate human rights into

124 Kasey McCall-Smith, Good better best? Human rights impact assessment in crisis lawmaking, *The International Journal of Human Rights* (2022) 1.

125 *ibid* 1.

126 *ibid* 27:9-10, 1326-1344.

127 Human rights treaty bodies are committees of independent experts that monitor implementation of the core international human rights treaties.

128 OHCHR, Compilation of statements by human rights treaty bodies in the context of COVID-19 (Geneva, September 2020), 8, 9, 16, 21, 28. [https://www.ohchr.org/Documents/HRBodies/TB/COVID19/External\\_TB\\_statements\\_COVID19.pdf](https://www.ohchr.org/Documents/HRBodies/TB/COVID19/External_TB_statements_COVID19.pdf).

129 *ibid*.

130 Tisdall E.K.M. and Morrison M., *Children's Human Rights Under Covid-19: learning from children's rights impact assessments*, *The International Journal of Human Rights*, January 2022, 1.

131 *ibid*.

132 Sekalala S, Forman L, Habibi R, Meier BM. Health and human rights are inextricably linked in the COVID-19 response. *BMJ Glob Health*. 2020;5(9).

133 *ibid*.

134 OHCHR, Human Rights Treaties Branch, Compilation of statements by human rights treaty bodies in the context of COVID-19 (2020) 17.

135 Kasey McCall-Smith, Good better best? Human rights impact assessment in crisis lawmaking, *The International Journal of Human Rights* (2022).

136 OHCHR, Human Rights Treaties Branch, Compilation of statements by human rights treaty bodies in the context of COVID-19 (2020) 23.

137 *ibid* 19.

138 Amnesty International, CIVICUS and Transparency International, The G20 Must Put Human Rights and the Public Interest at the Heart of Its Response to the Covid-19 Pandemic, Joint Statement (20 March 2020), <https://www.transparency.org/en/press/joint-statement-amnesty-ti-civicus-g20-coronavirus#>.

139 The UK Covid Enquiry is an example of this: UK Covid-19 Inquiry ([covid19.public-inquiry.uk](https://www.covid19.public-inquiry.uk)).

140 Aoife Notan, 'Not Fit For Purpose? Human Rights in Times of Financial and Economic Crisis', *European Human Rights Law Review* (2015) 358.

emergency responses and recovery planning.<sup>141</sup> Early in the pandemic, human rights treaty bodies reminded states to consider all people in all aspects of decision-making and stated that 'only by including all people in Covid-19 strategies can the pandemic be combatted'.<sup>142</sup> The UN Committee on the Rights of the Child, for example, came out early in the pandemic to warn of the specific, long-term effects of emergency legislation passed without considering the impact it could have on children's rights and stressed that it could lead to 'grave physical, emotional and psychological effect[s]'.<sup>143</sup> The UN Committee offered a list of priorities<sup>144</sup> for the crisis and reminded state parties of their duties to uphold and protect children's human rights in times of crisis.<sup>145</sup> However, many treaty body warnings came too late, as a number of states had already pushed through initial measures quickly in response to the Covid-19 pandemic.<sup>146</sup> How decisions were made, and how human rights (including children's rights) should and could have been incorporated are important learnings for the world over to ensure human rights are better protected in future crisis lawmaking.<sup>147</sup>

Countries throughout Europe responded to the pandemic and considered the rights and needs of children and young people in different ways. Local action within communities, despite a lack of funding and slow responses by Governments, was often inclusive and creative in dealing with the Covid-19 pandemic.<sup>148</sup>

In order to better aid and inform decision-making, some countries in Europe, such as Scotland, carried out CRIs during the Covid-19 pandemic. This section explores some of the responses by different countries throughout Europe including Ireland, Scotland, Belgium, Wales, England and Finland.

## Ireland

In Ireland, restrictions to everyday life were announced on 12 March 2020; including the closing of all schools, colleges, and childcare facilities across the country.<sup>149</sup> The Irish context is explained in detail in *The Children's Report*<sup>150</sup> which was conducted as part of this project and details the social, legal, policy and structural context promoting and protecting children's rights, as well as a detailed account of the four phases of the Covid-19 pandemic in Ireland, and the governance structures. The Report investigated the impact of Irish decision-making during the pandemic on children and young people, drawing directly from the voices of children themselves, as well as interviews with key policymakers.<sup>151</sup>

During the Covid-19 pandemic, Ireland introduced stringent public health measures.<sup>152</sup> Ireland's response to the Covid-19 pandemic was quick, effective and successful in controlling the spread of the virus. However, it also had the longest period of school closures in 2020 in EU countries and the most stringent lockdown in the EU during the second

141 OHCHR, 'Comprehensive, inclusive and universal COVID-19 human rights policies urgently needed – UN Treaty Bodies Statement on Human Rights Day' (10 December 2021) [Comprehensive, inclusive and universal COVID-19 human rights policies urgently needed - UN Treaty Bodies' statement on Human Rights Day | OHCHR](#) accessed November 14 2023.

142 OHCHR, Human Rights Treaties Branch, Compilation of statements by human rights treaty bodies in the context of COVID-19 (2020).

143 OHCHR, Human Rights Treaties Branch 28 April 2020, Compilation of statements by human rights treaty bodies in the context of COVID-19, UN Committee on the Rights of the Child, CRC COVID-19 Statement, (2020), [Compilation\\_statements.pdf \(ohchr.org\)](#) 34,23-25 (accessed January 15 2024).

144 In particular it should be noted that it stated that State parties should 'protect children whose vulnerability is further increased by the exceptional circumstances caused by the pandemic. These include children with disabilities; children living in poverty; children in street situations; migrant, asylum seeking, refugee and internally displaced children; minority and indigenous children; children with underlying health conditions including HIV/AIDS; children deprived of their liberty or confined in police lock-up facilities, prisons, secure care centres, migrant detention centres or camps; and children living in institutions. States should respect the right of every child to non-discrimination in its measures to address the COVID-19 pandemic as well as take targeted measures to protect children in vulnerable situations.' OHCHR, Human Rights Treaties Branch 28 April 2020 Compilation of statements by human rights treaty bodies in the context of COVID-19, UN Committee on the Rights of the Child, CRC COVID-19 Statement, (2020), [Compilation\\_statements.pdf \(ohchr.org\)](#) 23-25 (accessed January 15 2024).

145 OHCHR, Human Rights Treaties Branch 28 April 2020 Compilation of statements by human rights treaty bodies in the context of COVID-19, UN Committee on the Rights of the Child, CRC COVID-19 Statement, (2020), [Compilation\\_statements.pdf \(ohchr.org\)](#) 7,23-25 (accessed January 15 2024).

146 Kasey McCall-Smith, Good better best? Human rights impact assessment in crisis lawmaking, *The International Journal of Human Rights* (2022) 4.

147 *ibid.*

148 Council of Europe, Parliamentary Assembly, Committee on Social Affairs, Health and Sustainable Development, *The impact of the Covid-19 pandemic on children's rights*, 2021, 10.

149 Department of Health, NPHE Policy Unit, *Timeline and Detail of Public Health Restrictive Measures Advised by NPHE in Response to the Covid-19 Pandemic*, 13 January 2021, 2.

150 Daniels, N. Kennan, D., *Building Children's Futures, using Children's Rights to recover from the Global Pandemic*, *The Children's Report*, 2024, 20.

151 *ibid.*

152 Eustance A. et al, *Public Health Law During the COVID-19 Pandemic in Ireland* (Trinity College 2021).

wave in 2021.<sup>153</sup> The implementation and easing of restrictions had four distinct phases. Phase one involved lockdown restrictions from March 2020. Phase two saw the easing of restrictions from May 2020. Phase three saw a second wave of restrictions from October 2020. Phase four saw the gradual return to normal life from 1 March 2021.<sup>154</sup>

Ireland bypassed its own strategic decision-making structures with decisions on the public health restrictions taken at a national level, and the responsibility delegated to a special executive committee on Covid-19.<sup>155</sup> The National Public Health Emergency Team (NPHE) guided and gave advice to support and to inform the government's response.<sup>156</sup> Government departments, state agencies and county councils, with responsibilities in the area of children and young people, were tasked with how to continue to deliver on their obligations, whilst still functioning within the parameters that were set by public health decisions.<sup>157</sup> The Government's response was guided by five strategic national response plans, and showed an increasing awareness of the impact decision making was having on children.<sup>158</sup>

On 12 March 2020, the Government decided that all schools would close, along with other education settings, from 6 pm on 12 March until 29 March 2020.<sup>159</sup> The decision to close schools was one of many decisions made in light of public health advice provided to Government by the National Public Health Emergency Team for Covid-19 (NPHE) and directed towards limiting the spread of Covid-19.<sup>160</sup> The Department of Education asked that schools continue to plan lessons, to provide online resources or lessons, where possible, and to actively consider students that may not have access to online facilities.<sup>161</sup> The Government subsequently extended school closures and schools remained closed until

the end of the 2019/2020 school year. During the summer, the Minister for Education indicated that the reopening of schools as fully and safely as possible at the start of the new school year was a top priority.<sup>162</sup> Schools reopened at the beginning of the 2020/2021 school year at the end of August and remained open until the Christmas break in December 2020.

Following the introduction of the highest level of restrictions on 27 December 2020, the Government decided that schools would not re-open after the Christmas break and remained closed from 11 January until 1 February 2021, in order to support the suppression of the Covid-19 pandemic.<sup>163</sup> The Government subsequently introduced a phased return to in-school education. Special schools partially reopened on 11 February 2021.<sup>164</sup> All special classes at primary and post-primary level reopened from 22 February.<sup>165</sup> The final four classes at primary level (third to sixth class) and fifth year students at post-primary level returned to in-school learning from 15 March 2021, while the remaining post-primary students in first to fourth year returned to in-school learning from 12 April 2021.<sup>166</sup> Schools stayed open until the end of the 2020/2021 school year and reopened at the beginning of the 2021/2022 school year at the end of August 2021.

On March 12 2020, Early Learning and Care and School Age Childcare facilities were closed.<sup>167</sup> This continued for extended periods in 2020 and 2021, whereby early childhood and pre-school students had to remain at home and learn online, and parents had to support their children.<sup>168</sup> By the end of May 2020, services for children of essential workers were reopened as a priority, and then all other children in need of childcare were also provided for, including children with disabilities.<sup>169</sup>

153 Cazaciuc, R., & Köppe, S. (2021). UCD Covid Compared (UCD CoCo) – Displaying Restrictions across the Globe < <https://publicpolicy.ie/covid/ucd-covid-compared-ucd-coco-displaying-restrictions-across-the-globe/> > accessed 10 August 2025.

154 Department of Health, NPHE Policy Unit, Timeline and Detail of Public Health Restrictive Measures Advised by NPHE in Response to the Covid-19 Pandemic, 13 January 2021, 5.

155 More detail is available in Daniels, N. Kennan, D., Building Children's Futures, using Children's Rights to recover from the Global Pandemic, The Children's Report, 2024.

156 Department of Health, NPHE Policy Unit, Timeline and Detail of Public Health Restrictive Measures Advised by NPHE in Response to the Covid-19 Pandemic, 13 January 2021, 23.

157 Daniels, N. Kennan, D., Building Children's Futures, using Children's Rights to recover from the Global Pandemic, The Children's Report, 2024, 11.

158 *ibid.*

159 Statement by An Taoiseach Leo Varadkar On measures to tackle Covid-19 Washington, 12 March 2020.

160 *ibid.*

161 Department of Education, Covid-19 – Statement from the Department of Education and Skills, 12 March 2020.

162 Dáil Éireann debate, Covid-19 Pandemic, 28 July 2020.

163 Department of Education, Ministers Foley and Madigan provide further detail of in-school and remote learning provision during the periods of school closure, 6 January 2021.

164 Department of Education, Ministers Foley and Madigan welcome the phased return of in-school teaching and learning for students commencing Monday, 1 March, 23 February 2021.

165 *ibid.*

166 Dáil Éireann Debate, School Attendance, written answer to parliamentary question [19888/21], 21 April 2021.

167 Early Childhood Ireland, Dealing with the Pandemic: The case of early years and school age childcare providers in Ireland, September 2020, 4.

168 Winter, E., Smith, S., & Szproch A., Bouncing back post COVID-19: Responding to needs arising from the closure of educational settings within the Irish primary and early years' education sector, 2022, Irish Journal of Education, 45(4), 1–24, 13.

169 *ibid.*

Providers expressed concern around the wellbeing of returning young children to their early learning facility due to the changed circumstances in which they had been living and socialising,<sup>170</sup> as well as concerns around separation anxiety, and re-integration into the services. Preschoolers had been confined to their homes and had limited social interaction to learn, play or access activities to promote their foundations for lifelong learning.<sup>171</sup>

The issue of classroom 'bubbles' and 'pods' was seen as overly restrictive; a practice whereby children were grouped together, and their social and physical interactions were limited to a small group.<sup>172</sup>

Early Learning Care facilities had to adapt their practices due to public health advice, and this proved challenging due to the natural inclination of young children to desire physical contact with their classmates and teachers, physical play, dress-up play and messy play for example.<sup>173</sup> However, a positive learning was the benefit that was seen from an increase in outdoor play in these early year settings.<sup>174</sup> In Ireland, two consultations led by the Department of Children, Equality, Disability, Integration and Youth were conducted during the Covid-19 pandemic; one related to the mental health of young people during the Covid-19 pandemic, and the other was around mask wearing.<sup>175</sup> In relation to mental health, the consultation found that the Covid-19 crisis had negative effects on young people's health and wellbeing, especially amongst some marginalised groups.<sup>176</sup>

There were some reported differences between boys and girls during the pandemic. A local study, 'Life in Lockdown', reported that girls were more likely than boys to: report feeling sad, nervous and lonely; request counselling in school; identify online counselling as a support. Over two thirds (69 per cent) of young people are very or a bit worried about

their learning being affected by school closures due to Covid-19, with girls more likely to be worried about learning loss.<sup>177</sup>

The cumulative impact of the pandemic measures has had a significant effect on children's rights and needs in Ireland.<sup>178</sup> Many children experienced increased abuse, neglect, poverty, hunger, social exclusion, and mental health issues as a result of the Covid-19 pandemic restrictions and the impact they had on them and their families.<sup>179</sup>

The Central Statistics Office carried out a survey of parents on the social impact of school closures in August 2020 which found that 40.7 per cent of respondents with children in primary school and 45.7 per cent of respondents with children in secondary schools reported that enforced school closures had a Major or Moderate negative impact on their child's learning. Of respondent adults with children in primary school, 42.2 per cent reported a Major or Moderate negative impact on their child's social development due to enforced closure of schools. The comparable rate for respondents with secondary school students was 43.2 per cent.<sup>180</sup>

## Scotland

Scotland's first lockdown was introduced on 23 March 2020.<sup>181</sup> As the number of cases increased in the early autumn, the Scottish government applied stricter measures<sup>182</sup> and by December 2020, severe level four restrictions were imposed, and death rates amongst the elderly and in the most deprived areas were highest.<sup>183</sup>

Research has highlighted the ongoing difficulties children, young people and their families in Scotland faced during the later months of 2020 and early in 2021 as a result of the Covid-19 pandemic.<sup>184</sup> While

170 *ibid* 11.

171 *ibid* 10.

172 *ibid*, 5.

173 Duignan, M., Kelly, A., Ireland's Education Yearbook 2021, Early Learning and Care Experience of the Covid-19 Pandemic Findings from early years education inspection, 38.

174 *ibid*.

175 Government of Ireland, Department of Children Equality, Disability, Integration and Youth, Final Review of the National Strategy on Children and Young People's Participation in Decision-making 2015 – 2020, 12; Hendrick, L. Face masks in children. Dublin: Department of Health, 2022.

176 Department of Children and Youth Affairs, How's Your Head? Report of a national consultation with young people on mental health and wellbeing (DCYA 2020).

177 Dublin City North CYPSC and Dublin City South CYPSC, with Dublin City Comhairle na nÓg, Life in Lockdown (CYCSC 2020).

178 Growing Up In Ireland Key Findings: Special Covid-19 Survey (March 2021) < [https://www.growingup.gov.ie/pubs/Covid-KF\\_Web-ready.pdf](https://www.growingup.gov.ie/pubs/Covid-KF_Web-ready.pdf)> accessed 10 August 2024; M. Darmond, E Smyth and H Russell, The Implications Of The Covid-19 Pandemic For Policy In Relation To Children And Young People A Research Review (ESRO 2020)

179 *ibid*.

180 Central Statistics Office, Social Impact of COVID-19 Survey August 2020: The Reopening of Schools < <https://www.cso.ie/en/releasesandpublications/ep/p-sic19ros/socialimpactofcovid-19surveyaugust2020thereopeningofschoo/s/returningtoschool/>> accessed 10 August 2024.

181 Christopher Sleight, BBC Scotland News, Covid in numbers: The story of Scotland's Pandemic, 23 March 2021.

182 *ibid*.

183 *ibid*.

184 Government of Scotland, Coronavirus (COVID-19): children, young people and families - evidence summary, June 2021.

there were some positive experiences for families, research concluded most experienced negative impacts, particularly for groups such as vulnerable children and young people, children from minority groups, care-experienced children and those with disabilities, those living in deprived areas and Roma children, and refugee and asylum-seeking children and young people.<sup>185</sup> The need for more supports in schools, childcare settings, and for mental wellbeing, was highlighted alongside a desire for clearer and more direct communication, including a dialogue between parents and schools.<sup>186</sup>

As noted in chapter two, Scotland, Child Rights and Wellbeing Impact Assessments (CRWIAs) are well established, and the Scottish Government published many CRWIAs in regard to the Covid-19 pandemic emergency measures.<sup>187</sup> The decisions that did involve CRWIAs highlighted and drew attention to children and young people's human rights across Government – and helped ensure that policy was developed and implemented with these rights as their foundation.<sup>188</sup> For example, a CRWIA was published in January 2022 which examined the impact of Covid-19 restrictions on children and young people, which amongst other things, considered the right of younger children, under 12, to play and socialise freely with their peers (article 31).<sup>189</sup> Scotland carried out many other Covid-19 related CRWIAs, including those for the Coronavirus (Scotland) Act, Coronavirus (Scotland) Act No.2. As a result of the CRWIA conducted, playgrounds were reopened in June 2020 Scotland for children and young people during the pandemic.

However, there were also issues that raised concerns in the Scottish context, for example the Coronavirus (Scotland) Act 2020 and the UK-wide Coronavirus Act 2020, which reduced the number of legal protections for children in care and relaxed local authorities' duties with regard to education, health and care plans for children with special educational needs and disabilities, and left children's education

and access to support services unduly effected by COVID-19.<sup>190</sup> Furthermore, numerous decisions during the Covid-19 Pandemic were not subjected to CRWIA, and as a result it has been difficult to analyse whether and to what extent children's rights were actually considered.<sup>191</sup>

## Belgium

Similar to many countries, Belgium quickly put in place significant human, financial, and technical supports to address the impact of the Covid-19 pandemic and to try and limit the impact of the crisis.<sup>192</sup> Belgium adopted a 'whole of government response' to the crisis as it was a co-ordinated effort of the federal and federated public authorities.<sup>193</sup>

By the 12 March 2020, the government closed schools, clubs, cafés and restaurants, and public gatherings were also then limited.<sup>194</sup> By the 17 March, the entire country was in lockdown.<sup>195</sup> The introduction of a Pandemic Law in 2021 provided the response to questions in public debate relating to the legitimacy of certain restrictions.<sup>196</sup>

Like in other countries, the pandemic had a negative impact on the mental health of the Belgian population.<sup>197</sup> Continuity of mental health care was maintained and access to psychosocial services were expanded.<sup>198</sup> As in other countries, vulnerable groups were hit the hardest by the pandemic, from the elderly to young people, minority ethnic groups and migrants, as well as those in long-term care facilities.<sup>199</sup>

Belgium provided flexibility to schools in terms of their delivery of formal education throughout the Covid-19 pandemic and managed to keep the number of school closure days to a minimum compared to other countries.<sup>200</sup> Keeping schools open emerged as one of the key lessons learned for future crises, as well as the need to continue to invest in digital readiness as well as improving the coordination and engagement within the education sector.<sup>201</sup>

185 *ibid.*

186 *ibid.*

187 Government of Scotland, The Impact of Covid-10 restrictions on children and young people, CRWIA Stage 3, January 2022.

188 Observatory of Children's Human Rights Scotland, Children and Young People's Commissioner Scotland, Independent Children's Rights Impact Assessment on the Response to Covid-19 in Scotland, 48, [mh-cria-2020.pdf](https://www.ochildrights.org.uk/wp-content/uploads/2020/09/mh-cria-2020.pdf) (ed.ac.uk).

189 Government of Scotland, The Impact of Covid-10 restrictions on children and young people, CRWIA Stage 3, January 2022, 25.

190 Aoife Nolan, London Review of Books, Blog Post, A Child's Rights Crisis, 6 May 2020. Available at: [Aoife Nolan | A Child Rights Crisis](https://www.lrb.co.uk/2020/05/a-child-rights-crisis) (lrb.co.uk).

191 Together, Analysis of Scottish Government's Response to UN Committee's 11 recommendations, 2020.

192 OECD, Evaluation of Belgium's COVID-19 Responses, Highlights, 2023.

193 OECD, *Evaluation of Belgium's COVID-19 Responses: Fostering Trust for a More Resilient Society*, OECD Publishing, Paris, 2023.

194 OECD, Evaluation of Belgium's COVID-19 Responses, Highlights, 2023.

195 *ibid.*

196 *ibid.*

197 *ibid.*

198 *ibid.*

199 *ibid.*

200 *ibid.* 28.

201 *ibid.*

Belgium has a decentralised education governance and therefore each of Belgium's three language communities – Flemish, French and German speaking – has a separate autonomous education system.<sup>202</sup> A 'damage limitation' approach was promoted after schools were closed on the 13 March 2020, and schools focused on essential learning and remote learning through digital means.<sup>203</sup> At the same time there was a co-ordinated and rapid investment in mental health supports for students and teachers, and to a lesser extent parents.<sup>204</sup> Despite the positives, the pandemic did show up a lack of readiness for remote teaching and learning, as well as uneven access to digital infrastructure.<sup>205</sup> The three communities made it a priority to reopen schools as early as possible, which resulted in Belgium having one of the lowest rates of national school closures among European countries.<sup>206</sup>

Parents who were working in the health service or in an essential public service or where there was no other solution but for the childcare to be provided by grandparents, were able to avail of in school teaching for their children.<sup>207</sup> Creches, specialist education and boarding schools remained open, but universities and evening education switched to distance learning.<sup>208</sup>

In Belgium, the Flemish Children's Commissioner was invited to be part of the high-level meetings held during the Covid-19 pandemic.<sup>209</sup> This was seen as hugely important, not only in terms of its symbolism, but because it was a constant reminder that children needed to be considered. It was felt that this had a positive effect even if the views of the Commissioner were not always taken on board.<sup>210</sup>

## Wales

Restrictions to control the virus in Wales had a significant impact on children's health, social, educational, economic and recreational rights.<sup>211</sup> The first case of Covid-19 was confirmed in Wales in February 2020, schools were closed on the 18 March, and the Prime Minister issued a 'stay at home' message and non-essential shops closed.<sup>212</sup> By June, restrictions had eased to 'stay local', and schools had re-opened.<sup>213</sup> By September, local lockdowns were again put in place and by late October people had to stay at home and pubs, restaurants, hotels and non-essential shops were shut.<sup>214</sup> Schools did re-open with face to face learning for three to seven year olds in February 2021 and by late March the 'stay local' restrictions were lifted and outdoor children's activities were able to take place again.<sup>215</sup> By May 2021, restrictions were eased further and pubs and restaurants reopened.<sup>216</sup>

The Rights of Children and Young Persons (Wales) Measure 2011 placed a duty on Welsh Ministers to have due regard to the UNCRC, and to issue a Children's Rights Scheme which includes a CRIA.<sup>217</sup> Early in the pandemic the Government did not carry out timely Children's Rights Impact Assessments in relation to decisions that were made that would have significant impact on children's enjoyment of their rights, such as the decision to close schools to most pupils in March 2020.<sup>218</sup> However, the Children's Commissioner did offer its support in terms of the potential impacts and how they might be mitigated, but the Government did not always take up the offer of support.<sup>219</sup> Subsequently, the process of assessing the impact on children's rights did improve over the course of the pandemic, with more evidence of active consideration of children's rights occurring.<sup>220</sup> The Welsh Government, including the First Minister, met regularly with the Children's Commissioner to listen to concerns and answer questions, and also met regularly with children and young people.<sup>221</sup>

202 *ibid* 30.

203 *ibid*

204 *ibid*

205 *ibid*

206 *ibid*

207 Fundamental Rights Research Centre; Coronavirus COVID-19 outbreak in the EU; Belgium, 2020, 4.

208 *ibid*.

209 Children's Rights Alliance Interview with Children's Rights Commissioner, Flanders on 24 October 2023.

210 *ibid*.

211 Children's Commissioner for Wales, Coronavirus and Us – September 2021, 6.

212 Steve Duffy, BBC News, Covid Enquiry: Timeline of the Pandemic in Wales, 27 February 2024.

213 *ibid*

214 *ibid*

215 *ibid*

216 *ibid*

217 Payne, L. UNICEF, Child Rights Impact Assessment (CRIA): A review of comparative practice across the UK (2017), 4.

218 Children's Commissioner for Wales, Coronavirus and Us – September 2021, 6.

219 *ibid*.

220 *ibid*.

221 Children's Commissioner for Wales, Coronavirus and Us – September 2021.



During the Covid-19 pandemic, a school meal support scheme was introduced to support children and families during the school holidays in Wales, but the Government was clear from the outset, that this was a specific time limited intervention during a crisis.<sup>222</sup> The support was in place from early in the Covid-19 pandemic until May 2023. The Welsh Government received a judicial review claim in respect of the withdrawal of free school meals over the school holidays in September 2023 because families were concerned that it was being withdrawn.<sup>223</sup> The fact that no CRIA was completed was raised as a concern during the course of this review, but the outcome was not altered. The provision of free school meals during the holidays ceased in 2023, as it was claimed that funding was no longer available, and the provision ceased.<sup>224</sup>

## England

In March 2020, nurseries, schools and colleges across England were shut down in response to the Covid-19 pandemic.<sup>225</sup> By 20 March, all schools in the United Kingdom had closed for all in-person teaching, except for children of key workers and children considered vulnerable. The interventions of the UK Children’s Commissioner were critical in this regard, with schools initially remaining open for children and young people who had a social worker and later for children in receipt of the Free School Meals Scheme.<sup>226</sup> Using these schemes, they were able to identify the children and young people most vulnerable and keep schools open for them. With children at home, teaching took place online.<sup>227</sup> Children’s education was significantly disrupted.<sup>228</sup> Exams were cancelled, parents and teachers struggled with access to laptops, internet access and reliability, and with home schooling generally.<sup>229</sup>

The failure to make contingency plans, and the failure to learn from past mistakes was criticised, particularly when it was clear that future school closures would be necessary.<sup>230</sup> Throughout 2020 significant U-turns and a lack of planning occurred, until finally in 2021 a roadmap that acknowledged the uncertainties and shared them with the public, parents and teachers, was adopted.<sup>231</sup> Communication with schools and local authorities was also problematic, partially due to the complexity of the English school system which included seven under-resourced regional school commissioners, and over 20,000 schools.<sup>232</sup> Furthermore, between mid-March and the end of May 2020, 148 guidance documents, or updates, were issued to schools, causing huge confusion.<sup>233</sup> A National Audit Office survey of other mainly European, countries found that most adopted a similar approach and were largely unprepared for widespread disruption of schooling.<sup>234</sup>

## Finland

The Finnish Government’s approach to tackle the Covid-19 pandemic was, like many, a mixture of suppression and mitigation.<sup>235</sup> However, there were also public health experts and academics who advocated for a more aggressive approach to be adopted.<sup>236</sup> The approach was a ‘hybrid strategy’, which aimed to curb the epidemic to protect at-risk groups but also sought to minimise societal and economic costs and the impact on citizen rights.<sup>237</sup>

In Finland, the closure of schools occurred at various stages, for example, in 2020 from March for approximately two months for primary and lower secondary school aged children.<sup>238</sup> However, the upper secondary, vocational, tertiary and other educational institutions remained closed for the duration of the academic year.<sup>239</sup> Education providers employed local solutions to meet student’s needs

222 BBC, D. Deane, Holiday school meals: Parents in Wales take fight to court, 24 January 2024.

223 *ibid.*

224 Government of Wales, Jeremy Miles, Minister for Education and Welsh Language, Written Statement: Holiday Free School Meals Provision, 29 February 2024.

225 BBC, Coronavirus: UK schools, colleges and nurseries to close from Friday, 18 March 2020, Coronavirus: UK schools, colleges and nurseries to close from Friday (bbc.com)

226 Children’s Commissioner, Letter to the Chancellor of the Exchequer, 19 March 2020 <<https://www.childrenscommissioner.gov.uk/news/calling-on-the-chancellor-for-emergency-support-for-families-during-the-coronavirus-outbreak/>> accessed 9 September 2024.

227 *ibid.*

228 Institute for Government, Schools and coronavirus: The government’s handling of education during the pandemic, 2021, 4.

229 *ibid.*

230 *ibid.*

231 *ibid.* 5.

232 *ibid.* 16.

233 *ibid.*

234 Comptroller and Auditor General, Support for children’s education during the early stages of the COVID-19 pandemic, Session 2019–2021, HC 1239, National Audit Office, 2021, 23

235 Liina-Kaisa Tynkkynen, Finland’s response to the coronavirus pandemic, 6 April 2020.

236 *ibid.*

237 *ibid.*

238 OECD, Education Policy Outlook Country Snapshot, Initial Education Policy Responses to the Covid-19 pandemic; Finland, 2020, 2.

239 *ibid.*

whilst the central administration offered support and guidance if required.<sup>240</sup> The Finnish National Agency for Education pooled resources to support online education provision, and also developed an online information hub to guide teachers and promote good practice.<sup>241</sup> The 'Device for All' was a campaign from 2015, whereby private sector companies donated laptops to students, and this was expanded during the Covid-19 pandemic.<sup>242</sup> The Finnish National Broadcasting Company also launched a special service to widely promote educational resources and it also introduced some specific relevant programming.<sup>243</sup> Finland provided early childhood care and pre-primary education for all children where needed but, participation became 25 per cent of the normal rate.<sup>244</sup> Schools were authorised to provide contact teaching for students with special educational needs or with fragile home environments, and allowed contact teaching for students from an immigrant background enrolled in preparatory education.<sup>245</sup> School meals were also continued for those that were engaged in in-person learning as well as meals for students who were deemed to be in need, in co-operation with local authorities and student welfare services.<sup>246</sup>

## Conclusion and Lessons Learnt for Future Emergencies

As the examples above illustrate, upholding human rights during a crisis such as the Covid-19 pandemic has been a challenge for all countries examined.

Each country approached the situation differently. As we saw in the Scottish experience, where there were already established tools in place to assess the impact of decisions (CRWIA), outcomes were more child-centred, for example playgrounds remaining open for children and young people. However, even with these systems in place, there were numerous decisions taken during the Covid-19 pandemic were not subjected to the Scottish CRWIA. What is evident from what happened in different countries, is the key role Children's Commissioners and Ombudsmen played.

In England, the Ombudsman/Commissioner ensured that the needs of the most vulnerable children were taken account of and played a key role in keeping

the schools open for those who needed them the most. Similarly in Belgium, the Flemish Children's Commissioner was invited to be part of the high-level meetings held during the Covid-19 pandemic.<sup>247</sup> This was seen as hugely important, not only in terms of its symbolism, but because it was a constant reminder that children needed to be considered.

Keeping schools open emerged as one of the key lessons learned for future crises, as well as the need to continue to invest in digital readiness as well as improving the coordination and engagement within the education sector. One common experience we saw across all countries was the impact of school closures on children and young people, which is still being felt years on. Some countries did focus on mitigating the impact of closures on the most vulnerable children and young people with Finland keeping schools open for students with special educational needs and children with 'fragile home environments' and in England schools remaining open for children who had a social worker and those in receipt of the Free School Meals Scheme.

Counteracting the effects of lost learning has been challenging, but some countries, such as Wales for example, adopted proactive measures and longer school days to boost the catch-up process. Children's mental health was also significantly and negatively impacted in the process which must be considered a key learning for any future crises. Engagement and co-ordination within the education sector and a focus on essential learning must remain a priority. The need to continually invest in online readiness and innovative schemes such as 'Device for All' in Finland, contact teaching for children with special educational needs or a fragile home environment, as well as pooling online resources and creating universal online educational hubs emerged as positive and achievable.

Decision-making during a crisis has to be quick and reactive and the priority was on physical health, at the expense of other rights. Finding an equilibrium will always be challenging but having structures, such as Child Rights Impact Assessments and Children's Ombudsman and Commissioners in place can help to protect and safeguard the rights of children and young people.

240 *ibid*

241 *ibid*

242 A similar campaign occurred during the Covid-19 Pandemic in Ireland. The Irish Times, Eanna O Caollai, Coronavirus: Appeal issued for used laptops, Campaign by Camara Education Ireland and TCD aims to help Deis students during pandemic, 15 April 2020.

243 *ibid*.

244 OECD, Education Policy Outlook Country Snapshot, Initial Education Policy Responses to the Covid-19 pandemic; Finland, 2020, 2.

245 *ibid*

246 *ibid*

247 Children's Rights Alliance Interview with Children's Rights Commissioner, Flanders on 24 October 2023.



# 5. Child Rights Impact Assessment Tool

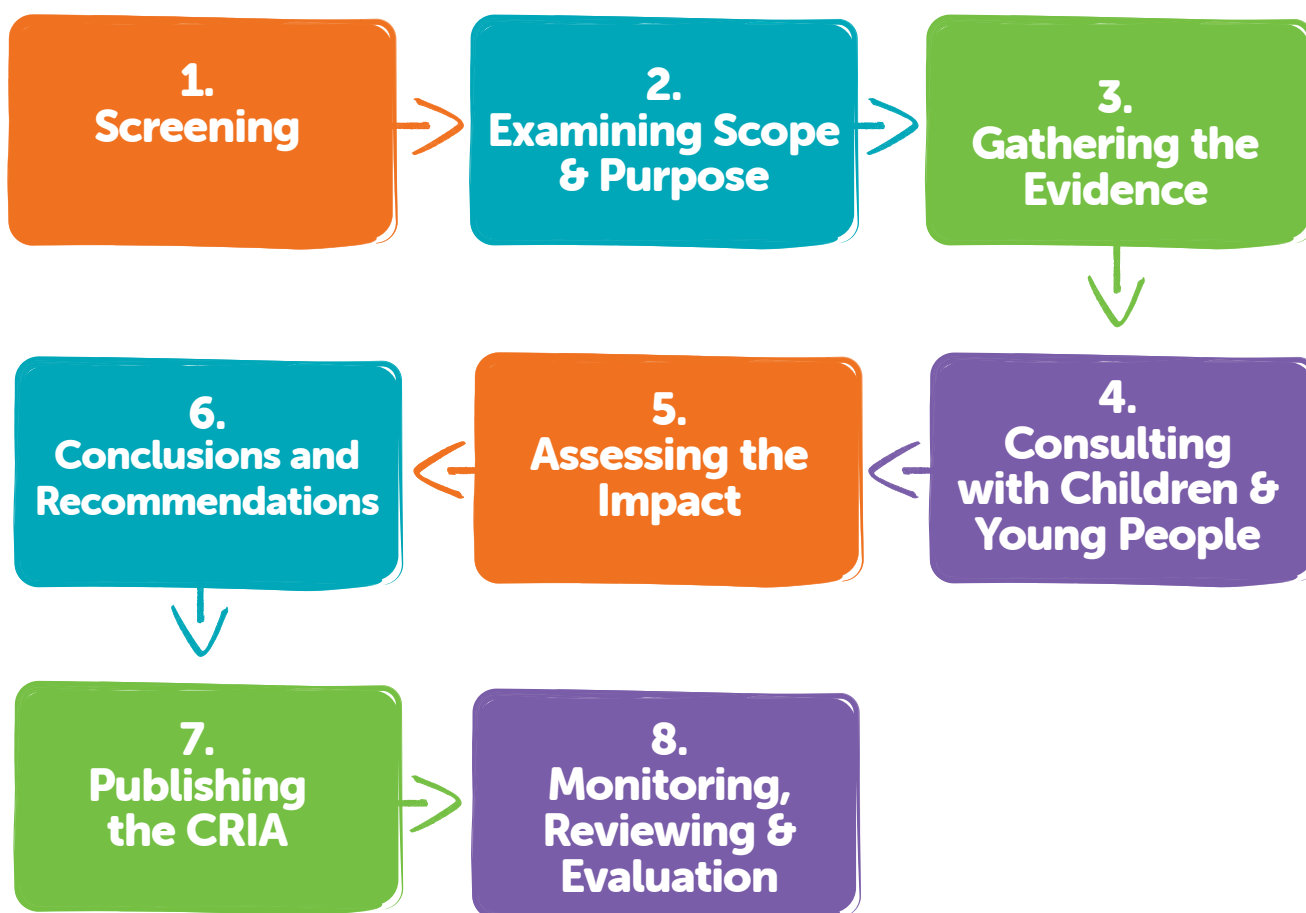


CRIAs can be conducted by national and/or local government, as well as statutory bodies and any organisations working with children and young people or making decisions about them. They can be used to examine the potential impacts on children and young people of laws, policies, programmes and services before they are developed and as they are developed, and can suggest ways to avoid, minimise or mitigate any potential impact prior to the action being taken or set in place. CRIAs can be undertaken on all types of decisions that affect all children, from groups of children who may be affected, or for an individual child.<sup>248</sup>

A CRIA should be viewed as a complementary tool, and a support to decision-making processes, and other children’s rights infrastructure.<sup>249</sup>

## Steps for carrying out a Child Rights Impact Assessment

There are common steps taken in impact assessments, and these tend to include the following eight steps:<sup>250</sup>



<sup>248</sup> Payne L., ENOC Synthesis Report (ENOC 2020) 11.

<sup>249</sup> Kathy Vadergrift, Coalition for the Rights of Children, 'Presentation at the University of Ottawa, Faculty of Law, Common Law Section, Child Rights Impact Assessment: A tool for implementing children’s rights' (14 November 2012).

<sup>250</sup> James Harrison and Mary-Ann Stephenson, *Human Rights Impact Assessment: Review and Practice Guidance for Future Assessments* (June 2010).

## 1. Screening

As an initial step in the framework, a Child Rights Impact Assessment Screening Sheet can be used to help determine whether a law, policy, service, programme or a budgetary decision, that may impact children's rights should be assessed more fully or if the impact(s) on children and young people merit further analytical steps.<sup>251</sup> Completion of a Screening Sheet may be enough for some assessments, where the impacts on children are assessed as neither distinct nor significant. Use of this sheet can be of particular benefit as a first step and for initial internal discussion by a body, department, agency etc.<sup>252</sup> It can allow drafters or assessors to consider the rights of children and young people at an early stage and the results of this screening stage can then feed into ongoing policy or decision-making processes.<sup>253</sup> If the impacts on children and young people are assessed as distinct and significant, which might only become apparent as a Child Rights Impact Assessment Screening Sheet is being completed, then the material used in the Screening Sheet can be transferred into, and expanded upon, within a Child Rights Impact Assessment.<sup>254</sup> Any initial screening sheet should be published to promote transparency, understanding and scrutiny.<sup>255</sup>

## 2. Examining Scope and Purpose

The first step of a full CRIA is to consider the scope and purpose of the proposal. To do this you need to consider and document what the aim of the proposal is generally, and specifically any aims that are related to children and young people. Following this you will need to consider and document which articles of the UN Convention on the Rights of the Child are relevant.<sup>256</sup>

## 3. Gathering the Evidence

Once scope and purpose have been examined, the next step is gathering the evidence. The CRIA requires any evidence that was considered to inform the assessment to be documented. Evidence that could be considered includes both quantitative and qualitative evidence. For example, if the measure being considered relates to child poverty evidence that is considered could include child poverty statistics and projections and research reports.<sup>257</sup>

251 Payne L., ENOC Synthesis Report (ENOC 2020) 11.

252 *ibid.*

253 *ibid.*

254 New Zealand Government, Improving the wellbeing of children and young people in New Zealand – Guidance for carrying out a Child Impact Assessment (New Zealand Government 2018) 4.

255 Interview conducted by the Children's Rights Alliance with the Children's Rights Capacity Manager, Government of Scotland, 12 December 2023 and Interview conducted by the Children's Rights Alliance with the Policy Director, Children in Wales, February 21 2024.

256 *ibid.*

257 *ibid.*

258 *ibid.*

259 Payne L., ENOC Synthesis Report (ENOC 2020) 11.

260 *ibid.*

261 *ibid.*

262 *ibid.*

## 4. Consulting Children and Young People

The next step, which is a crucial step in the process, is consulting with children and young people. This can be done in two ways. Firstly, it can be done directly by convening a group of children and young people and asking them for their views on what is being proposed. The second way in which children and young people can be consulted is by considering the findings from consultations previously carried out with children and young people.<sup>258</sup> This can be useful in some instances for example where children and young people have been consulted on the issue previously or where it is not possible to conduct a direct consultation due to time constraints. Irrespective of which method is chosen to hear the voices of children and young people, the process and findings should be recorded in the CRIA.<sup>259</sup>

## 5. Assessing the Impact

When all the steps above are completed, it is then time to assess the impact of what is being proposed. In assessing the impact, it is important to consider if different groups of children are more likely to be impacted by what is being proposed. Sometimes a proposal will have no effect on most children but may have a disproportionate effect on certain groups, such as children with a disability.

If a negative impact is identified, consideration then needs to be given on what can mitigate or reduce the impact.<sup>260</sup> Where a positive impact is identified, consideration should be given to how to fully optimise the positive effects of the measure.<sup>261</sup>

## 6. Conclusions and Recommendations

Once the impacts have been considered, the next step is to document the findings of the assessment. As part of this, consideration should be given to whether or not the proposal is a reasonable way to achieve the objective and whether or not there are any steps recommended to mitigate any negative effects and strengthen any positive effects. It is important for the final step of monitoring, reviewing and evaluating that any recommendations are documented in this section.<sup>262</sup>

## 7. Publishing the CRIA

Once you have completed a CRIA the next step is to consider whether the CRIA should be published and if so, whether a child-friendly version should be published also. Public accountability and access to the CRIA through publication can increase the likelihood of creating a higher standard of output so it should be given careful consideration.<sup>263</sup>

## 8. Monitoring, Reviewing and Evaluation

The final step in the process is to review and monitor the implementation of the CRIA. This is an opportunity to consider if the recommendations made as part of the process have been acted upon and if any further review is necessary.<sup>264</sup>

## Challenges of the Child Rights Impact Assessment process

In developing this research, a number of interviews were carried out which helped identify some of the challenges of the CRIA process and how these can be overcome.

### Knowledge of Children's Rights

A lack of sufficient knowledge, understanding and familiarity generally around children's rights has been noted as a barrier to the implementation of CRIAs.<sup>265</sup> This lack of understanding of the scope of complexity of children's rights may lead to gaps in policy-making and implementation, and can also pose a challenge to the completion of CRIAs.<sup>266</sup> Consideration could be given to establishing a child rights training programme for decision-makers and those who are conducting the CRIAs to better equip them with the knowledge to carry out the assessment.

## Including the views and voice of the child

Impact assessments should always include the views of children and young people on the issues being examined, but this can be a challenging, slow and laborious process, requiring investment in terms of time, effort and expenditure.<sup>267</sup> Where direct consultation or participation work with children and young people cannot occur, then related research which has covered the same issues could be referenced. It is important to ensure that the views of children in vulnerable situations, who are the most likely to be disproportionately impacted by changes in policies, are taken into account. Established participation systems could be utilised, which can help mainstream CRIAs.

### Data

In order to determine the impact of particular measures on children and young people, there needs to be access to sufficient and reliable disaggregated quantitative and qualitative data on children's lives which can help identify disparities in outcomes for different groups of children and young people. Making data accessible and transparent is essential for promoting accountability and facilitating evidence-based decision-making, especially for children in vulnerable situations.

### Support and Advice

Having champions to promote, support and carry out CRIAs has been noted as crucial in terms of its positive impact and successful use.<sup>268</sup> Support from senior leadership is also seen as significant to the success of CRIA and there should be someone in senior leadership designated to deal with all CRIAs.<sup>269</sup>

Furthermore, access to persons with expertise in the area of CRIAs and policy should be made available.<sup>270</sup> This is an approach that has been successfully rolled out in Scotland and Wales, for example, with key points of contact and training provided by experts in Scotland and access on a monthly basis for officials carrying out CRIAs to ask questions or seek advice.<sup>271</sup> In Wales, a monthly Children's Rights Advisory

263 *ibid.*

264 *ibid.*

265 Payne L, ENOC Synthesis Report Child Rights Impact Assessment, (ENOC 2020) 9.

266 *ibid.*

267 UN Committee on the Rights of the Child (2013) General Comment No.14 on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), para. 99. More information can be found: European Network of Ombudspersons for Children (ENOC) (2020) Common Framework of Reference on Child Rights Impact Assessment. A Guide on How to carry out CRIA; T. Collins, E.Tisdall, C. M,McMellon, Children and young people's participation in impact assessment. In T. Burdett, & A. J. Sinclair (Eds.), *Handbook of Public Participation in Impact Assessment*, 221-236.

268 See Scotland, Finland and Wales as examples.

269 See Scotland as an example.

270 Interview conducted by the Children's Rights Alliance with the Children's Rights Capacity Manager, Government of Scotland, 12 December 2023 and Interview conducted by the Children's Rights Alliance with the Policy Director, Children in Wales, February 21 2024.

271 *ibid.*

Group has been hugely successful in not only providing advice for all stages of the CRIA process, but also increasing interdepartmental co-operation, understanding, and has aided the development of professional relationships.<sup>272</sup> An email 'hotline' was promoted by one interviewee; an email address that was specifically set up for CRIA questions and where questions can be directed by those filling out CRIAs to an expert.<sup>273</sup>

## CRIAs should be reviewed and evolve

CRIAs are a living impact assessment, meaning that CRIAs can and should be reviewed and updated after initial completion.<sup>274</sup> In Scotland for example, the CRWIA has undergone three revisions, and a fourth revision is underway during 2024 to ensure the process meets the duties in the UNCRC (Incorporation) (Scotland) Bill.<sup>275</sup>

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272 Interview conducted by the Children's Rights Alliance with the Policy Director, Children in Wales, February 21 2024.

273 Interview conducted by the Children's Rights Alliance with the Children's Rights Capacity Manager, Government of Scotland, 12 December 2023.

274 *ibid* and Government of Scotland, *UNCRC (Incorporation) (Scotland) Act 2024 - part 2: statutory guidance* <<https://www.gov.scot/publications/statutory-guidance-part-2-uncrc-incorporation-scotland-act-2024/pages/3/>> accessed 19 August 2024.

275 *ibid*.



# Child Rights Impact Assessment Template

## Step 1: Screening

1. Name the measure, policy proposal or legislation to be screened:

2. What Children's Rights does the measure impact? (List the Legislation / UN Convention on the Rights of the Child articles etc that are relevant):

3. Describe the negative or positive impacts on children's rights:

4. Describe the negative or positive impacts on children's rights:

5. What is the likely impact of the measure?

6. Is a full child rights impact assessment required? YES  NO   
Explanation:

If a full child rights impact assessment is required, then continue to step 2.  
If not then consider if this screening sheet should be published.

# Full CRIA

## Step 2: Scope and Purpose

1. What is the measure or policy proposal or legislation to be assessed? Summarise its overall aim and any aims that are specific to children.
2. Which UNCRC articles are relevant to this measure? Are any other Human Rights Instruments or national laws relevant?

## Step 3: Gather the Evidence

1. What quantitative and qualitative evidence have been used to inform the assessment?

## Step 4: Consulting Children and Young People

1. Has any evidence from third party consultations with children and young people or research been used to inform the decision? **YES**  **NO**   
**If yes, please describe:**
2. Have children and young people been consulted directly in developing this assessment? **YES**  **NO**   
**If yes, who was consulted, how and what were the findings? If no, why not?**

# Full CRIA

## Step 5: Assessing the Impact

1. What impact does or will the proposed measure have on children and young people's rights?

2. Will there be different impacts on different groups of children? YES  NO   
If yes, what are they?

3. If a negative impact is identified, are there options that can mitigate the impact, and what options might exist to modify the impact, or optimize the positive?

## Step 6: Conclusions and Recommendations

1. What are the key findings and conclusions on the impact of the measure on children and young people and their rights?

2. Is the proposal a reasonable way to achieve the objective? YES  NO   
Please describe:

3. Are there any recommendations for strengthening the measure to better respect and protect children and young people's rights?

# Full CRIA

## Step 7: Publish the CRIA

1. Should this full CRIA be published? YES  NO   
If no, why not?

2. Should a Child Friendly Version of the CRIA be produced and published? YES  NO   
If no, why not?

## Step 8: Monitor, Review and Evaluate

1. Have any of the recommendations made been acted on? YES  NO   
If yes, please describe:

2. Is any further action required to evaluate the outcomes or outputs? YES  NO   
If yes, please describe:

3. Is any further action or follow up required? YES  NO   
If yes, please describe:

## Appendix 1: Interview List

- Adviser, Central Union for Child Welfare, Finland, 8 November 2023
- Child Rights and Wellbeing Impact Assessment Policy Officer, Government of Scotland, 12 Dec 2023
- Children's Rights Capacity Manager, Government of Scotland, 12 December 2023.
- Department for Investigation and Analysis, Office of the Ombudsman for Children in Sweden, April 15 2024.
- Fondazione L'Albero della Vita ETS, 18 December 2023.
- Head of Policy and Public Affairs, Children's Commissioner for Wales, 13 February 2024.
- Legal Department, Vienna Child and Youth Advocate's Office (KIJA Wien), Ombudsman's Office, 13 October 2023.
- Office of the Children and Young People's Commissioner Scotland, 13 November 2023.
- Policy and Research Unit, Ombudsman for Children's Office, 13 July 2023.
- Policy Director, Children in Wales, February 21 2024.
- Policy Unit, Children's Rights Commissioner, Flanders, 24 October 2023.
- Veronique Lerche, Independent Human Rights Consultant, 23 November 2023.

# Appendix 2: Interview Questions

## Semi-structured interviews Interview Questions

### Introductions

- Can you tell me about your role and the organisations or departments that you work with?

### Child Rights Impact Assessment (CRIA)

1. Are other impact assessment tools used in your country - gender, equality, environmental?
2. Are CRIAs established in your country and are they commonly used?
  - How did the use of CRIAs get established in your country?
  - Is it a legal obligation to use CRIAs or what is the mandate? Is it discretionary, or in policy as best practice?
  - Who decides to carry out a CRIA or not?
  - What is the process of carrying out a CRIA?
  - Should they be a legal requirement?
3. What has been the experience and impact of using CRIAs in your country?
4. Are children's views always heard during the CRIA process in your country?
5. Does your country have an evaluation system for CRIAs – such as a Child Rights Impact Evaluation (CRIE)? (Legislative scrutiny)

6. Who carries out the CRIAs?
7. Who trains people in their use and implementation?
8. Has the CRIA or process in your country evolved over time?
9. Do CRIAs in your country get published?
10. What, if anything, do you think should be done differently and what recommendations do you have for Ireland?

### Decision-Making in an emergency

11. Did any emergency legislation (or policy) enacted or implemented to combat Covid-19 in your country consider the impact on children and their families? Were CRIAs used?
12. Were there any reports or investigations in your country that looked at the impact of Covid 19 restrictions on children or their families?

### Additional information

13. Do you have anything else you would like to add?

Founded in 1995, the Children's Rights Alliance unites over 150 members working together to make Ireland one of the best places in the world to be a child. We change the lives of all children in Ireland by making sure that their rights are respected and protected in our laws, policies and services.

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Leanaí agus an Teaghlach  
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**unesco**

Chair



An Roinn Leanaí, Comhionannais,  
Míchumais, Lánpháirtíochta agus Óige  
Department of Children, Equality,  
Disability, Integration and Youth