

Report

Report to:	Education Resources Committee
Date of Meeting:	19 January 2021
Report by:	Executive Director (Education Resources)

Subject:	Overview: Incorporation of the United Nations Convention on the Rights of the Child into Domestic Law in Scotland
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ inform the Committee of the incorporation of the United Nations Convention on the Rights of the Child (UNCRC) into domestic law in Scotland
- ◆ advise of the response made on behalf of South Lanarkshire Council's Children's Services Partnership to the Scottish Government consultation on the incorporation of the UNCRC into domestic law in Scotland

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that the main elements of the Bill and the response to the consultation on incorporation of the UNCRC into domestic law in Scotland, be noted.
- (2) to note the analysis of the Scottish Government's response to the UN Committee's eleven recommendations in taking a children's rights approach to responding to COVID-19.

3. Background

3.1. On 1 September 2020, the UNCRC (Incorporation) (Scotland) Bill was introduced to the Scottish Parliament and is deemed one of the most significant pieces of legislation to be introduced since devolution. A consultation on the Bill was opened on 7 September and closed on 16 October 2020.

4. The United Nations Convention on the Rights of the Child

4.1. The UNCRC is the global 'gold standard' for children's rights and sets out the fundamental rights of all children (Appendix 1). It is the most ratified human rights treaty in the world and sets out the specific rights that all children have to help them fulfil their potential, including rights relating to health and education, leisure and play, fair and equal treatment, protection from exploitation and the right to be heard. The UK ratified the UNCRC in 1991.

4.2. We already use the UNCRC as a framework to ensure that we consider children's rights whenever we take decisions, and to help provide every child with a good start in life and a safe, healthy and happy childhood. It forms the basis of the Getting it Right for Every Child (GIRFEC) approach.

5. The UNCRC (Incorporation) (Scotland) Bill

5.1. Scotland is preparing to become the first country in the world to directly incorporate the UNCRC into domestic law.

5.2. The main elements of the Bill are:

- ◆ directly incorporates the UNCRC as far as possible within the powers of the Scottish Parliament
- ◆ makes it unlawful for public authorities to act incompatibly with the incorporated UNCRC requirements
- ◆ gives power to the Children's Commissioner to take legal action in relation to children's rights
- ◆ requires Ministers to produce a Children's Rights Scheme setting out how they comply with children's rights and to report annually
- ◆ requires listed public authorities to report every three years on how they comply with children's rights.

5.3. The Bill also allows for incorporation of the articles of the UNCRC currently beyond the powers of the Scottish Parliament, should these change in the future.

5.4. By directly incorporating the UNCRC into Scots law, and to the maximum extent possible under the current powers of the Parliament, children's rights will mean children and young people will be involved in the decisions that affect their lives and that their rights are always respected, protected and fulfilled by public authorities. Where necessary, children will be able to go to courts to enforce their rights.

6. Scottish Government Children's Rights Activity

6.1. The Scottish Government has undertaken a range of activity linked to developing the rights of children and young people, including:

- ◆ publication of the human rights of children action plan, 'Progressing the human rights of children in Scotland: 2018 – 2021 action plan'
- ◆ annual cabinet meeting involving members of the Children's Parliament and Scottish Youth Parliament dealing with issues such as relationships, bullying, equality, mosquito devices, period poverty, UNCRC and Brexit. Progress reports are published
- ◆ Introduction of a First Minister's Question Time with children and young people dealing with topics including education, mental health, housing and equalities. These events were co-ordinated by YouthLink Scotland and Children in Scotland
- ◆ Development of a series of guides relating to children's rights in the area of employment, performances and sports
- ◆ Design of the Child Rights and Wellbeing Impact Assessment (CRWIA) to support the Scottish Government in assessing whether policies and legislation will realise children's rights
- ◆ A response to the UN Committee's eleven recommendations on taking a children's rights approach to responding to COVID -19 (Appendix 2)

7. Next Steps

7.1. The next steps taken by Education resources thus far include:-

- ◆ A response to the consultation on the Bill has been submitted on behalf of South Lanarkshire Children's Services Partnership (Appendix 3)

7.2. Following enactment of the legislation, further steps require to be taken to audit and identify any potential gaps in training, policy formulation and procedures at establishment, Resource and Council level to support the implementation of the legislation.

8. Employee Implications

8.1. There are no staffing implications

9. Financial Implications

9.1. There are no financial implications.

10. Climate Change, Sustainability and Environmental Implications

10.1. There are no climate change, sustainability and environmental implications arising from this report.

11. Other Implications

11.1. There are no risk implications in terms of the information contained in this report.

12. Equality Impact Assessment and Consultation Arrangements

12.1. This report does not introduce a new policy, function or strategy or recommend a change to existing policy, function or strategy and, therefore, no impact assessment is required.

12.2. Plans are in place to engage with children, young people, schools, services and other agencies when the new law comes into force.

Tony McDaid

Executive Director (Education Resources)

22 December 2020

Link(s) to Council Values/Ambitions/Objectives

- Improve achievement, raise educational attainment and support lifelong learning
- Ensure schools and other places of learning are inspirational
- focused on people and their needs
- working with and respecting others
- accountable, effective, efficient, and transparent
- ambitious, self-aware and improving
- raise educational achievement and attainment

Previous References

None

List of Background Papers

None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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