

APPENDIX 6: Child Protection, Children's Hearings and Care: Children's Rights Impact Assessment (CRIA)

Subject Focus: UN Committee Recommendation 6

Children and young people who may be at risk of neglect and abuse, subject to compulsory intervention in family life by the State, and living in alternative care separated from their parents. Note: Intentionally limited attention has been paid to the themes being considered by others commissioned, though, of course, each of those topics have key relevance to this topic.

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STAGE 1: SCOPING (Background and Rights Framework)

Question 1: Name each measure (including relevant sections of legislation and guidance) being assessed and describe the overall aim	
Measure	Overall aim of the particular, relevant aspects of the measure
Note: An overview of the Coronavirus Act 2020 and the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 are included here as backdrop to the measures considered. For reasons of brevity and prioritisation of specificity, the other sections of this CRIA do not focus on assessment of these, rather additional guidance relating to their implementation.	
Coronavirus Act 2020	(25 March 2020). Enables the use of powers to respond in an emergency and to manage the effects of the COVID-19 pandemic. S.16 and S.17 allow for an easing of health and social care assessment, including for children's services in Scotland. For children in Scotland this changes assessment duties under S.23 and S.29 Children (Scotland) Act 1995, S.1 of the Social Care (Self-directed Support) (Scotland) Act 2013, and preparation of adult carer support plans/young carer statements under the Carers (Scotland) Act 2013. Duties on Local Authorities to safeguard and promote the welfare of children in need under S.22 and to provide aftercare services under S.29 of the 1995 Act remain the same. S.34 of the 2020 Act allows for temporary disapplication of disclosure offences: Scotland, and, if used, could enable an individual barred from undertaking regulated work with children to do so.

Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020	(27 March 2020). Requires the closure of specified businesses, prohibits anyone leaving the place where they live without reasonable excuse, and bans public gatherings of more than two people.
Coronavirus (COVID-19): school and early learning closures – guidance about key workers and vulnerable children	(31 March 2020). Guidance setting out the childcare and learning provision we expect for key workers and vulnerable children during closures of school and early learning and childcare (ELC) settings to deal with the coronavirus (COVID-19) outbreak
Coronavirus (COVID-19): supplementary national child protection guidance	(Issued 31 March 2020; last updated 29 April 2020) Guidance for Chief Officers, Chief Social Work Officers and Child Protection Committees on the continuity of services.
Coronavirus (Scotland) Act 2020	(6 April 2020). Complements and regulates the use of emergency powers given to Scottish Ministers under the Coronavirus Act 2020. Schedule 3, Part 1 and Schedule 4, Part 1 are particularly relevant for children. The Act makes significant alteration to the Children's Hearings System operation, procedures, and a range of legal orders, and alters regulations on placement within kinship carers and foster carers.
Coronavirus (Scotland) Act 2020: Guidance on looked-after children and children's hearings provisions	(No date of publication; estimated 7 April 2020) Guidance on the specific changes relating to legal orders and procedures relevant to the protection of children, and the operation of the Children's Hearings System. Outlines the changes made with close attention to original legislation and situating changes in context of what they mean in practice. It takes account of anticipated effects of COVID-19 transmission as they impact on the operation of children's panels and courts, social work, and, potentially on placement and continuity of care for children within their birth families or within kin, foster, residential or secure care.
Coronavirus (COVID-19): guidance on changes to social care assessments	(8 April 2020) Statutory guidance for local authorities on S.16 and S.17 of the Coronavirus Act 2020. Outlines the changes made and what they mean in practice, with attention to assessments relating to both adults and children
Coronavirus (COVID-19): residential childcare	(23 April 2020). Guidance for residential children's houses, residential schools and secure care facilities on staffing, social distancing and self-isolation.

Coronavirus (COVID-19): physical distancing in education and childcare settings	(15 May 2020) Advice for schools and childcare settings who are providing care to children during the pandemic. Outlines guidance intended to ensure provision made within education and childcare settings is as safe as possible for staff and children.
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Question 2: Which human rights instruments and articles are particularly relevant to the measure(s)?

Human Rights Instrument	Articles	Further analysis on the expected / actual effect
United Nations Convention on the Rights of the Child (UNCRC)	In recognition that the UNCRC must be seen as a whole, all the rights are linked and no right is more important than another, the analysis pays due regard to the general principles (non-discrimination; best interest of the child; right to life, survival and development; and right to be heard) while assessing with regard to Articles 1-42 and the Optional Protocols. With reference to the theme considered and analysis undertaken, the following articles are particularly relevant: Article 1 Definition of a child; Article 2 Non-discrimination; Article 3 Best Interests of the Child; Article 6 Life, survival and development; Article 8 Identity; Article 9 Keeping families together; Article 12 Respect for children’s views; Article 16 Protection of privacy; Article 18 Responsibility of parents; Article 19 Protection from violence; Article 20 Children without families; Article 25 Review of a child’s placement; Article 26 Social and economic help; Article 27 Food, clothing, a safe home; Article 34 Protection from sexual abuse; Article 36 Protection from exploitation; Article 39 Recovery and Reintegration. Article 40 Child-friendly justice	See below
European Convention on Human Rights	The ECHR also has relevance, and in particular Article 1 (Obligation to respect human rights), Article 2 (Right to life), Article 5 (Right to liberty and security), 6 (Right to fair trial), Article 8 (Right to respect for private and family life), Article 13 (Right to an effective remedy), Article 14 (Prohibition of discrimination), Article 15 (Derogation in time of emergency), Article 18 (Limitation on use of restrictions on rights).	See below

STAGE 2: EVIDENCE

Question 3a: What quantitative evidence have you used to inform your assessment? What does it tell you?			
Evidence collected	Evidence source	Explanation of the importance	What are the data gaps, if any?
Collates self-report survey information, secondary analyses of service usage, and insights and observations from those delivering services	Scottish Government (April 2020t) Coronavirus (COVID-19): supporting vulnerable children and young people – data intelligence report	Contemporaneous national report intended to guide strategic analysis and action to meet the needs of vulnerable children and young people, the product of submissions and exchange between local authority, health board, police and third sector partners. While it is governmental publication, it draws across and integrates multiple organisations intelligence/briefings.	<p>Few of the sources included in the report are robust (i.e. collected and analysed systematically to provide a representative or reliable picture of what is happening). Limited information regarding situation of children and young people: who may be newly or at increased risk at home; living with kinship carers; living with foster carers.</p> <p>Data cited from Police Scotland’s interim Vulnerable Persons Database contains ‘wellbeing’ Child Concern Forms which is not a legally defined threshold and is arguably non-compliant with Data Protection and Human Rights law, in line with the Christian Institute Supreme Court judgment in 2016.</p>
Collates self-report survey information, secondary analyses of service usage, and insights and	Scottish Government (May 2020u) Vulnerable Children Report	Contemporaneous national report intended to guide strategic analysis and action to meet the needs of vulnerable children and young people, the product of submissions and exchange between local authority, health board, police and	Few of the sources included in the report are robust (i.e. collected and analysed systematically to provide a representative or reliable picture of what is happening). Limited

<p>observations from those delivering services</p>		<p>third sector partners. While it is governmental publication, it draws across and integrates multiple organisations intelligence/briefings.</p>	<p>information regarding situation of children and young people: who may be newly or at increased risk at home; living with kinship carers; living with foster carers. As above regarding the use of the Police Scotland interim Vulnerable Persons Database.</p>
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<p>Question 3b: What key missing information / evidence would have been beneficial to your analysis?</p>
<p><i>Protecting children and young people within their families</i> – Scotland does not routinely collect, collate or use actionable data to provide an overview of the volume and intersection of stressors on family life; therefore, there is no national or local baseline estimate of the numbers of families who may need a range of family, parental/adult, or child focused supports. Neither does it collect, collate or use data to provide insight into uptake and provision of economic supports, housing supports, maternity, health visiting, Family Nurse Partnership, early learning, schooling and additional support for learning, parenting and family support services, or adult support with ill mental health, problem drinking and drug use, or, domestic abuse. Without access to such data, it is not possible to judge the coverage of national and local efforts to maintain contact and support families who may be in need and, therefore, what the substantive implications are for children’s rights in the context of the emergency measures and escalating needs within communities. The absence of such routine measures curtails potential for analysis to inform action planning, to understand what is occurring, and to monitor the immediate or longer-term effects of COVID-19.</p>
<p><i>Compulsory intervention in family life by the State</i> – Scotland does not routinely collect, collate or use actionable data to map the relationship and pathways between: 1. Child protection referrals, assessments, case conferences and registration; 2. Referrals to the reporter, decisions by the reporter regarding whether there are grounds for a children’s hearing, the occurrence children’s hearings, decisions made by hearings, and how these are varied by Sheriffs; and 3. How either 1 or 2 interact with the provision of actual support to children and their parents or carers, and the nature of it. Additionally, there is limited data collected or published regarding the nature of attendance at child protection case conferences, or, children’s hearings, for example, whether a child or young person was in virtual or direct attendance or not. Without access to such data, it is not possible to assess patterns and trends relating to the context of the emergency measures and escalating needs within communities.</p>
<p><i>The provision of alternative care to children and young people separated from their parents</i> – Scotland does not routinely collect, collate or use actionable data to map patterns of entry to, continuity of care, after care for children and young people, and how well</p>

children and young people are supported or not throughout their care by the State. While research indicates what may be positively and negatively experienced by children and young people, and how this interacts with emotional wellbeing, interpersonal relationships, health, education, and opportunities into adulthood, Scotland does not gather information that aids the monitoring of legislative, policy or practice effects in the immediate or longer-term. There are many briefings and data that provide insight into children, young people and young adults current experiences (e.g. Who Cares? Scotland, 2020), which indicate a fundamental need to understand how children and young people themselves are experiencing the implications of the emergency measures and what may help to mitigate negative affects now and into the exit strategy phases.

Question 4a: What qualitative evidence have you used to inform your assessment? What does it tell you?			
Evidence collected	Evidence source	Explanation of the importance	
Collates self-report survey information, analyses of service usage, and insights and observations from those delivering services	Scottish Government (April 2020t) Coronavirus (COVID-19): supporting vulnerable children and young people – data intelligence report	Contemporaneous national report intended to guide strategic analysis and action to meet the needs of vulnerable children and young people, the product of submissions and exchange between local authority, health board, police and third sector partners. While it is governmental publication, it draws across and integrates multiple organisations intelligence/briefings.	Few of the sources included in the report are robust (i.e. collected and analysed systematically to provide a representative or reliable picture of what is happening). They are, however, the most comprehensive source available currently. Limited information regarding situation of children and young people: who may be newly or at increased risk at home; living with kinship carers; living with foster carers.
Collates self-report survey information, analyses of service usage, and insights and observations from those delivering services	Scottish Government (May 2020u) Vulnerable Children Report	Contemporaneous national report intended to guide strategic analysis and action to meet the needs of vulnerable children and young people, the product of submissions and exchange between local authority, health board, police and third sector partners. While it is governmental publication, it draws across and integrates multiple organisations intelligence/briefings.	Few of the sources included in the report are robust (i.e. collected and analysed systematically to provide a representative or reliable picture of what is happening). They are, however, the most comprehensive source available currently. Limited information regarding situation of

			children living with kinship or foster carers.
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Question 4b: What key missing information / evidence would have been beneficial to your analysis?

Protecting children and young people within their families – systematically collected and analysed qualitative data regarding the experiences of children and young people. In particular, the experiences of children and young people living in homes where family pressures are multiple, including children who ‘named persons’ were concerned for, child subject to child protection assessment, investigation and registration, and children who are looked after at home. Additionally, data regarding parental and carer experiences and practitioners’ experiences would also provide stronger insight into the strengths of supports available as well as highlighting where improvement is needed.

Compulsory intervention in family life by the State – systematically collected and analysed qualitative data on the experiences of children and young people who: have been subject to child assessment orders, child protection orders, interim compulsory supervision orders; whose needs and circumstances has been subject to case conference and/or child protection registration; or, whose needs and circumstances has been subject to referral to the reporter and/or children’s hearings. Additionally, data regarding parental and carer experiences and practitioners’ experiences would also provide stronger insight into the strengths of supports available as well as highlighting where improvement is needed. There are few briefings and data that provide insight into children and young people’s current experiences, which indicate a fundamental need to understand how children and young people themselves are experiencing the implications of the emergency measures and what may help to mitigate negative affects now and into the exit strategy phases.

The provision of alternative care to children and young people separated from their parents – systematically collected and analysed qualitative data on the experiences of children and young people who are living with kinship carers, foster carers, or in residential care, including their experiences of care, relationships with family, and support (social work, health, education). Additionally, data regarding parental and carer experiences and practitioners’ experiences would also provide stronger insight into the strengths of supports available as well as highlighting where improvement is needed. There are some select briefings and data that provide insight into children, young people and young adults current experiences (e.g. Who Cares? Scotland, 2020), which indicate a fundamental need to understand how children and young people themselves are experiencing the implications of the emergency measures and what may help to mitigate negative affects now and into the exit strategy phases.

Question 5: Has a broad range of relevant stakeholders, specifically groups of children and young people, been consulted directly by the body who initiated the measure (e.g. Scottish Government)?

It is not always evident from available documentation what consultations have taken place. From documents and further information gathering, children and young people were not directly consulted for the measures referred to in this CRIA.

As stated below, for some measures, information gathered pre-COVID-19 from children and young people was used to inform decisions as well as other evidence. Adult stakeholders and their organisations were consulted for some measures. Details that are known of such consultations are included below.

Further information on the developing engagement between Scottish Government and adult stakeholders and their organisations is available in Scottish Government (2020u).

Measure	Groups consulted	If group consists of children and young people		Results of consultation	
		Was an age appropriate consultation process used?	Please provide a brief description of process	What were the findings?	What is the significance to the development of the measure(s)?
Coronavirus (Scotland) Act 2020	The Child Rights and Wellbeing Impact Assessment (Scottish Government, 2020q) outlines that unprecedented circumstances presented by the coronavirus outbreak have made it not possible to consult with children and				It is not evident from available documentation what findings or evidence were obtained from consultation with professionals and organisations. The CRWIA (Scottish Government, 2020q) states that the Scottish Information Commissioner was consulted. No children and young people-related concern was raised.

	young people on the proposed legislation. A range of relevant professionals and organisations were consulted directly. ⁵				
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Question 6: Has evidence from third party consultations with children and young people been considered in the development of the measure(s)?

It is not always evident from available documentation what evidence has been considered in developing the measures. Details that are known of such consultations are included below.

Adult stakeholders and their organisations were consulted for some measures, who provided information about and from children and young people. Certain evidence from children and young people is referred to within the documents.

Further information on the developing engagement, between Scottish Government and adult stakeholders and their organisations, is available in Scottish Government (2020u).

Measure		External source	Please provide a brief	Results of consultation
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⁵ List of consulted bodies: Scottish Children’s Reporter Administration, Social Work Scotland, Children’s Hearings Scotland, Police Scotland, Children 1st, Clan Child law, Children and Young People’s Commissioner for Scotland, COSLA, The Justice Social Network, Independent Care Review, Society of Local Authority Reporters and Solicitors (SOLAR), the Law Society, Scottish Courts and Tribunals Service, Community Justice Scotland, Scottish Information Commissioner, and the Office of the Public Guardian.

	Groups indirectly consulted	Source of information	When information collected	description of process	What were the findings?	What is the significance to the development of the measure(s)?

STAGE 3: ASSESSING THE IMPACT

Question 7: What impact will (or does) the measure(s) have on children and young people’s rights? (NB. Cross-reference with Question 8 for reference to specific UNCRC Articles relating to this analysis)			
Measure	Type of impact	Justification for Argument	Likely or actual short/medium/long-term outcomes
Coronavirus (COVID-19): school and early learning closures – guidance about key workers and vulnerable children	Positive and negative	Scottish Government (2020m) issued this Guidance and ‘advice’ to close some schools rather than invoking its power in the Coronavirus Act 2020 to issue an Educational Closure Direction. ⁶ The Guidance therefore account for closure of some school and early learning facilities to prevent illness and protect life. In the context of the initial crisis of COVID-19 and the potential for transmission, the potentially significant long-term health effects and loss of life of children, of their parents, of their carers, this measure has had positive effects for children’s rights. For children who may be at risk of state intervention and/or living within alternative care settings, there may a differential risk of the impact of COVID-19 on their parents and carers, and, therefore potentially a disruption to children and young people’s continuity of care. That is, there is	In principle, the availability of ongoing provision with physical distancing in place for some groups of children has the potential to be a positive experience for children and young people, and to safeguard a range of their rights. In practice, it also has the potential to: increase risks of exposure to the virus for children and young people

⁶ in terms of S.37 and Schedule 16, Part 2 of the Coronavirus Act 2020

	<p>emerging evidence of differential impacts of coronavirus for people who have pre-existing health conditions, and for older people, all of which are associated with the demographics and profile of parents/carers whose children are subject to state intervention and for children who are living with kinship carers, particularly. Reducing the risk of these impacts has positive implications for children's rights.</p> <p>Without doubt, this measure has had a huge impact on children's right to education, and will likely have a differential impact for children and young people who were already experiencing inequalities in access to education, due to insufficient attention to inclusive approaches and active assistance to support learning for all. There are equality concerns regarding approach to home schooling and its dependence upon digital access (see Appendices 3 and 4). The attention to enabling local provision for specific groups of children and young people who may require and/or benefit from continuing access to in school educational provision and to spend time out of their homes could serve to enhance access to a number of rights. Groups named as being children of key workers, children living with poverty and deprivation, children in receipt of free school meals, children with additional support needs, children for whom there is a wellbeing or protection concern, and children who are 'looked after' and 'accommodated'. However, in practice, this may not be realisable without closer attention to resourcing at a local level to ensure that families are well supported to overcome barriers to access. There are some indications that there was variability of application across local authorities and that uptake has been very low since the strategy was enacted (See Appendix 3).</p>	<p>themselves and their parents/carers; be stigmatising and a negative experience for children; and for the benefits to be realised requires close attention to informing parents/carers of the right to take up this option and providing practical and emotional support to enable attendance and inclusion (e.g. transport, continuity of familiar setting and relationships with teachers and support staff).</p>
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<p>Coronavirus (COVID-19): supplementary national child protection guidance</p>	<p>Neutral</p>	<p>Clarity of attention to early support for children within their families as well as requirements for action/intervention where a child is at risk of harm or abuse.</p> <p>Requires streamlining of professional roles and responsibilities, processes and procedures.</p> <p>Unwavering in expectation that a child must be seen, directly, in person, if there is a concern that she or he may be at risk of harm or abuse.</p> <p>Clear and repeated emphasis on the inclusion of children and young people (and their parents) in assessment, planning and decision making, in context of changed communication approach and procedures being used.</p> <p>Close attention to the implications of physical distancing on the emotional experience for a child participating in investigatory interviews, though no attention to how a forensic/medical examination may be experienced if clinicians are using personal protective equipment (PPE).</p> <p>Guidance for Child Protection Committees to ensure that any member of team around the child can escalate concerns, if they believe actions are not being progressed in accordance with a child's best interests, and this has not been properly considered in child planning process.</p>	<p>In principle, the policy underlines a commitment to ensuring children and young people remain protected by the State during the pandemic, with an expectation that the child protection system continues to function in order to safeguard children and young people at immediate risk of harm. The centring on streamlining professional roles, communication, and articulation of an assessment through a child's plan could contribute to being a more child and family centred approach, if done with close and skilful attention to ethics, rights, and experiences.</p> <p>In practice, safeguarding children and young people is built upon routine and daily interactions within communities (e.g. in nurseries, schools, community groups, neighbourhoods), without this occurring the child protection system depends on children and young people, or parents, reaching out for help to</p>
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			<p>services/helplines, neighbours raising concerns about what is happening within homes to police/services/helplines, and or police attention to child wellbeing implications of any callouts or interactions they are having during lockdown. There are some indications that pathways to support and assistance are disrupted, and that referrals for child protection assessment, planning and decision-making are lower than might be anticipated which has implications for children's rights and wellbeing in the immediate and longer term.</p>
<p>Coronavirus (Scotland) Act 2020</p>	<p>Negative</p>	<p>The Act makes significant alteration to the Children's Hearings System operation, procedures, and a range of legal orders, and alters regulations on placement within kinship carers and foster carers, which have far reaching implications for children's rights (See discussion under Question 7 Coronavirus (Scotland) Act 2020: Guidance on looked-after children and children's hearings provisions). It is clear that the need to mitigate and manage anticipated potential impacts of transmission, illness, death upon communities, workforces, and volunteer panel members has driven many of these changes, and that the balance of rights in this context is challenging. In terms of children rights, while it appears that the intention was to ensure that protective legal measures can</p>	<p>In principle, these powers are to be used when necessary, and proportionately, and the overall implications for children's rights and outcomes rests on the extent and nature of their usage.</p> <p>In practice, they could have far-reaching implications for children's rights and outcomes. It is unclear whether their usage is being</p>

		<p>be put and stay in place for children, the timescales for many of these appear to be arbitrary (e.g. a doubling of what was already in existence) and their application, if used, could mean extended periods of separation of children from their parents and, in some regards, insufficient attention to safeguarding and supporting children’s placements with kinship and foster carers (see Appendix 7).</p>	<p>monitored by government, and, if such monitoring includes attention to the circumstances in which they have been applied and children and young people’s perspectives on this.</p>
<p>Coronavirus (COVID-19): guidance on changes to social care assessments</p>	<p>Neutral</p>	<p>Local authorities have the option to dispense with particular assessment duties where complying would not be practical or would cause unnecessary delay in providing support to any person. The guidance emphasises parameters that mitigate potential effects on children’s rights. The easing is subject to regulatory enablement for temporary periods of time. It is <i>optional</i>. The guidance makes overt reference to human rights, Getting It Right for Every Child national practice model, and the use of complementary child protection guidance. It encourages use of ‘partial’ assessment working to appraise and respond to immediate risks and needs. When S.16 is no longer in force assessments must be reviewed in full. The duty to <i>provide</i> services, usually associated with the assessment duties, remains in place. It articulates operational supports needed for workforces involved (e.g. access to leaders, managers, clarity of communication, knowledge of and working with community assets and the contact and contingency arrangements that have been put in place locally). From a children’s rights perspective, the guidance could be improved by making clearer where referencing care of adults and care of children because this is ambiguous in places, especially in relation to references to decisions around use of residential care.</p>	<p>In principle, these changes could contribute to a more timely and responsive assessment (albeit partial) to address immediate needs and/or risks, while ensuring that workforces prioritise fuller assessments where there are indications of any potential use of compulsory interventions.</p> <p>In practice, it is questionable whether partial assessments would be revisited following application of emergency measures and if there is the capacity to prioritise fuller assessments where children are or may be subject to compulsory supervision measures. It is unclear if and how their usage is being monitored, and, if such monitoring includes attention to the circumstances in which</p>

			they have been applied and children and young people's perspectives on this.
Coronavirus (Scotland) Act 2020: Guidance on looked-after children and children's hearings provisions	Negative	Contextualises that the exercise of emergency powers should only arise when necessary in practice, and with: reference to child and parents human rights, use of proportionality, use only for as long as is necessary, regular monitoring and review, and with close attention to facilitating effective participation of children and family members, and be discharged in consultation with partner agencies. Makes clear commitments and practicalities for continuity of Children's Hearings System (reporters and panel members roles and responsibilities; virtual delivery using technology; electronic paperwork and authorisations), plans to mitigate against use of these relaxed powers, and where careful review may be required if they are used (e.g. if a hearing ever takes place with one panel member). Tends towards enabling adjustments in timescales for assessment, protection, secure accommodation authorisations and interim compulsory supervision orders. These could ensure protective measures stay in place for children if key workforces are incapacitated, though they also have implications for timeliness of needs assessments (i.e. they can occur within a longer time scale) and, potentially, for extended, unnecessary separation of a child from their parents and/or the deprivation of liberty for children placed in secure care. Changes to regulation of kinship placement may ensure that children have the option for kinship care in a crisis situation, while also delaying assessment to ensure that a placement is either appropriate and/or could be better supported for child and carer. Changes to regulation of the number of children who can be placed with a foster care may ensure that some children have the option for foster care	<p>In principle, the underpinning legislation that this guidance articulates is problematic for child's rights. In particular, the reduction in number of panel members who can make a decision, the potential for children to be separated from parents for periods longer than necessary, and the extended timescales in decision making for children deprived of liberty (See Appendix 9 for further analysis regarding deprivation of liberty).</p> <p>In practice, how the Children's Hearings System adapts and adjusts to virtual delivery, with attention to the full range of roles involved and facilitation of the participation of children and parents is critical to the realisation of respect for children's rights, including ongoing access to legal advice and representation, and advocacy support. Similarly, the overall implications for</p>

		<p>within a crisis situation, while also impacting other children’s experiences of their home where they are already living with a carer who becomes responsible for additional children within a short period of time and at a time of heightened risk of transmission of the virus.</p>	<p>children’s rights and outcomes rests on the extent and nature of the usage of the emergency powers (i.e. only when necessary and proportionately). There are indications in the early weeks and months of an infringement of children’s rights.</p>
<p>Coronavirus (COVID-19): residential childcare</p>	<p>Neutral</p>	<p>The timing of this guidance is problematic (over a month after the initial introduction of social isolating and physical distancing measures into society) meaning that residential child care providers will have required to make sense of and make provision for the mandatory implications of multiple Acts and regulations to consider how best to support children and young people. The guidance takes account of public health measures – how to mitigate risk of transmission (e.g. use of cohort groups of carers; designation of household as smallest group possible); where exceptions to public health measures exist for the child and staff group (e.g. relating to movement and contact with other households) – and attention to child centred practices (i.e. providing information, emotional and practical support, staying in touch/spending time with family members).</p>	<p>In principle, the exceptions that are made around movement and contact with other households are important to children’s rights of contact with their family members and other significant relationships. In practice, concerns around transmission of COVID-19 may impact opportunities for children and young people to see family members who they do not live with, and where a child contracts the virus, the experience of care may be more negative than that of their peers who are living within private family homes as there may be less flexibility given to managing isolation within a home (e.g. due to pressure of caring for a group)</p>

			and due to the requirements of usage of PPE by carers and how children and young people experience the differential in restriction of movement (confinement for seven or 15 days) for adult carers who can leave and return to the household.
Coronavirus (COVID-19): physical distancing in education and childcare settings	Neutral	Operationalises practical guidance for professionals in ensuring that the environment and social interactions within educational provision is as preventative of transmission of the virus as it can be, and takes account of the emotional needs of both children and the staff supporting them (see also Appendix 2).	Names challenges for children and staff, and provides clarity around how to manage environments and social interactions within context of ongoing education and childcare settings.

Question 8: Will there be (or are there) different impacts on different groups of children and young people?			
Measure	Group of children affected	Initial analysis of the positive impact on rights	Initial analysis of the negative impact on rights
Coronavirus (COVID-19): school and early learning closures – guidance about key workers and vulnerable children	Children who may be at increased risk of State intervention in family life, children who are ‘looked after’ and children who are ‘looked after and accommodated’	Enabling ongoing provision of education and support outside of the home for some groups of children who may be experiencing particular challenges at home, has relevance to best interests (Article 3), education (Articles 28 and 29), rest, play, culture and arts (Article 31) and addressing needs (Articles 19, 20, 23, 26 and 34).	The policy has some implications for children’s higher risk of exposure to the virus (Articles 6 and 24), thereby potentially discriminatory (Article 2), and with implications of making public children’s needs and circumstances impinging upon protection of privacy (Article 16).

<p>Coronavirus (COVID-19): supplementary national child protection guidance</p>	<p>In principle, it has application to all children.</p>	<p>Maintains a core focus on children’s rights to participation (Article 12), their best interests (Article 3), keeping families together (Article 9), protection of privacy (Article 16), and due attention to responsibility of parents (Article 18) and children’s rights to protection from violence, neglect and abuse (Article 19; Article 34), and review of measures taken to protect (Article 25).</p>	<p>Defines core child protection responsibilities as essential and expectation that they remain functioning and available.</p>
<p>Coronavirus (Scotland) Act 2020</p>	<p>Children who may be at increased risk of State intervention in family life, children who are ‘looked after’ and children who are ‘looked after and accommodated’</p>	<p>Appears to prioritise the potential need for protection of children from violence, neglect and abuse (Articles 3, 19 and 34), and emergency provision of care (Article 20). Protects the right to participation (Article 12) in hearings, while relaxing the obligation to attend <i>in person</i>, which could contribute to safeguarding rights around health (Article 24) and life, survival and development (Article 6), and makes provisions for legal tribunals to continue in context of public health restrictions (Articles 18, 19, 20 and 25).</p>	<p>Conduct of virtual legal tribunals could have implications for keeping families together/separation from parents (Article 9), privacy (Article 16) and responsibility of parents (Article 18) given the limited access to full assessments, community based and other services. Implications for respect for children’s views (Article 12) in early assessment of care (Articles 20 and 25) when moving to emergency placement, with potentially disproportionate effect for children who are newly placed within unregulated kinship care (Articles 25 and 27) or secure care (Article 37), (see Appendix 9) and for ongoing attention to a child’s identity (Article 8) while living with kin, foster, residential carers.</p>
<p>Coronavirus (COVID-19): guidance on</p>	<p>In principle, one element has implications for all children, and</p>	<p>Takes account of children’s rights to participation (Article 12), their best interests (Article 3), keeping families together (Article 9), protection of privacy</p>	<p>Some potential effects for children’s rights to participation (Article 12) and protection of privacy (Article 16), and access to full assessment and support of families</p>

changes to social care assessments	another element has implications for children who are 'looked after	(Article 16), attention to responsibility of parents (Article 18) and children's rights to protection from violence, neglect and abuse (Articles 19 and 34), and continuity of support for young people who live in alternative care (Article 20).	(Articles 18,19, and 34) and review of a child's placement (Article 25).
Coronavirus (Scotland) Act 2020: Guidance on looked-after children and children's hearings provisions	Children who may be at increased risk of State intervention in family life, children who are 'looked after' and children who are 'looked after and accommodated'	Appears to prioritise the potential need for protection of children from violence, neglect and abuse (Articles 3, 19 and 34), and emergency provision of care (Article 20). Protects the right to participation (Article 12) in hearings, while relaxing the obligation (Article 6), and makes provisions for legal tribunals to continue in context of public health restrictions (Articles 18, 19, 20 and 25).	Conduct of virtual legal tribunals (see Appendix 4 regarding digital exclusion) could have implications for families (Article 9), privacy (Article 16) and for support to families to protect responsibility of parents (Article 18). Possible implications for respect for children's views (Article 12) in early assessment of care (Articles 20 and 25) when moving to emergency placement, with potentially disproportionate effect for children who are newly placed within unregulated kinship care (Articles 25 and 27) or secure care (Article 37), and for ongoing attention to a child's identity (Article 8) while living with kin, foster, residential carers.
Coronavirus (COVID-19): residential childcare	Children who are 'looked after' and 'accommodated' in residential child care	Operationalises a balancing of rights with attention to the public health restrictions (Articles 3 and 6) and the rights of children who are living within group care separated from their families (Articles 8, 19, 20, 25, 27 and 34).	The acute nature of the experience of the pandemic and the contraction of the virus within a family household may be quite different for a child living within group care as this de facto increases risk of exposure due to multiple adult carers leaving and returning frequently and due to the rights of children to leave and return to ensure ongoing contact with birth families (Articles 2 and 27) and the existence of

			the virus occurring within such a household impacts many other rights quite immediately (Articles 8, 15, 16, 20, 28 and 31).
Coronavirus (COVID-19): physical distancing in education and childcare settings	Children who may be at increased risk of State intervention in family life, children who are 'looked after' and children who are 'looked after and accommodated'	Mitigates the potential negative effects of Coronavirus (COVID-19): school and early learning closures – guidance about key workers and vulnerable children by close attention to reduce risk to health, threat to life (Articles 6 and 24).	The acute nature of the experience of the pandemic and the contraction of the virus means that travelling to and spending days outside of the home is likely to be of concern for children and their parents and carers (Article 2).

Question 9: If a negative impact is identified for any area of rights or any group of children and young people, what are the options to modify the measure(s), or mitigate the impact		
Measure	Negative impact	What options are there to modify the measure(s) or mitigate the impact?
Coronavirus (Scotland) Act 2020	As noted in Question 7	Mitigate economic impacts on families, especially those experiencing poverty and deprivation (see Appendix 4);
Coronavirus (Scotland) Act 2020: Guidance on looked-after children and children's hearings provisions	As noted in Question 7	<p>Ensure sustainable equity of access to high quality family group decision making and family support services, during 'lockdown' and as social restrictions reduce;</p> <p>Use of effective implementation and improvement supports to ensure that virtual and physical distancing in children's hearings facilitate effective participation of children and parents and carers, and adequate assessment of needs and risks;</p> <p>Careful monitoring of the use of child assessment, child protection secure accommodation authorisations and interim compulsory supervision orders to assess proportional usage;</p>

		<p>Ensure quality of assessment, support to and care by kinship carers, foster carers, and residential carers, during ‘lockdown’ and as public health measures are reduced;</p> <p>Enhanced emotional and practical support to kinship carers, foster carers, and residential carers, and social workers supporting them, to ensure that children and young people have positive experiences of entry to care, changes in carers or care placements (when absolutely necessary), and of ongoing direct and indirect contact with their birth families, including their parents, their brothers and sisters, and other relatives while physical distancing and public health measures are required;</p> <p>Enhanced access to early intervention strategies to promote emotional wellbeing, to support trauma recovery, and enhanced access to targeted intervention strategies to promote sustained support for trauma recovery and acute and chronic mental health conditions for children and young people, and for their parents and carers.</p>
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Question 10: To what extent does the measure(s) address Scottish Government’s obligation to respect, protect and fulfil the rights enshrined in the UNCRC in Scotland?

Measure	UNCRC provision(s) being further implemented	Describe how the effect will be attained through the measure	UN Documents used
Coronavirus (COVID-19): school and early learning closures – guidance about key workers and vulnerable children	Articles 3, 5, 19, 20, 23, 26, 28, 29, 34	Dependent upon the quality of provision, both to children who remain at home, and for those children who access the ongoing provision within schools. For the former, access to technology (hardware, software, and bandwidth) and active parental/carer support is critical; for the latter, relational continuity, neighbourhood accessibility, and flexibility of delivery is likely to be critical.	UNCRC The UN Committee warns of the grave physical, emotional and

Coronavirus (COVID-19): supplementary national child protection guidance	Articles 3, 9, 12, 16, 18, 19, 20, 25, 34	Dependent upon the competencies of the workforces involved, the organisational supports provided to the workforces (e.g. IT hardware and software), and the technical and adaptive (relational) capacities of leadership, and responsible organisations and workforces access to resources for families (e.g. to be able to provide financial, practical, emotional, and behavioural supports).	psychological effect of the COVID-19 pandemic on children and calls on States to protect the rights of children, 8 April 2020.
Coronavirus (Scotland) Act 2020	Articles 3, 6, 9, 12, 16, 18, 19, 20, 25 and 34	Establishment of accessible and well supported virtual and safe, physically distanced hearings is critical to the rights of children. This is dependent upon the competencies (knowledge, skills, aptitudes) of the workforces and volunteers involved, the organisational supports provided to the workforces/volunteers (e.g. IT hardware and software), and the technical and adaptive (relational) capacities of leadership. It is also dependent upon ensuring child and parent have access to resources needed to actively participate in assessments, plans and legal decision making (e.g. support before, during and after the hearing; ability for the hearing to manage the complementary and competing needs and rights, including to privacy of the adult and child in the same household; and hardware and software, bandwidth/data, knowledge and confidence in using technology, advocacy, legal representation).	UNCRC The UN Committee (2020) warns of the grave physical, emotional and psychological effect of the COVID-19 pandemic on children and calls on States to protect the rights of children, 8 April 2020.
Coronavirus (COVID-19): guidance on changes to social care assessments	Articles 3, 9, 12, 18, 19, 20, 25 and 34	Dependent upon the competencies of the workforces involved, the organisational supports provided to the workforces (e.g. IT hardware and software), and the technical and adaptive (relational) capacities of leadership, and responsible organisations and workforces access to resources for families (e.g. to be able to provide financial, practical, emotional, and behavioural supports).	psychological effect of the COVID-19 pandemic on children and calls on States to protect the rights of children, 8 April 2020.
Coronavirus (Scotland) Act 2020: Guidance on looked-after children and	Articles 3, 6, 9, 12, 18, 19, 20, 25, 34	Establishment of accessible and well-supported virtual and safe physically distanced hearings is critical to the rights of children. This is dependent upon the competencies (knowledge, skills,	

children's hearings provisions		aptitudes) of the workforces and volunteers involved, the organisational supports provided to the workforces/volunteers (e.g. IT hardware and software), and the technical and adaptive (relational) capacities of leadership. It is also dependent upon ensuring children and parents having access to resources needed to actively participate in assessments, plans and legal decision making (e.g. hardware and software, bandwidth/data, advocacy, legal representation).	
Coronavirus (COVID-19): residential childcare	Articles 3, 6, 8, 19, 20, 25, 27 and 34	This is dependent upon the competencies (knowledge, skills and aptitudes) of the residential carers involved, the organisational supports provided to them (e.g. IT hardware and software; cleaning resources; PPE), and the technical and adaptive (relational) capacities of leadership (e.g. helping carers manage their own anxieties around the pandemic). It is also dependent upon the local authorities responsible for the care of the children within the home to be consistent in their respect for the rights and supports to children (e.g. commitment to enabling contact with family members wherever possible, whether virtually or directly in person).	
Coronavirus (COVID-19): physical distancing in education and childcare settings	Articles 6 and 24	This will be achieved through careful application of practical measures regarding physical distancing and hygiene, and emotionally responsive approaches to informing, guiding and reassuring children in attendance.	

<p>Question 11: In what way(s) will (or does) the measure promote or impede efforts to meet the National Outcomes for Scotland for children? (see https://nationalperformance.gov.scot/national-outcomes/children-and-young-people) If there are GIRFEC indicators of wellbeing that are directly relevant to your response, please note these here (https://www.gov.scot/policies/girfec/wellbeing-indicators-shanarri/).</p>		
Measure	Outline how the measure(s) will or do promote or impede efforts to meet the National Outcomes for Scotland for children	List GIRFEC indicators that are directly relevant

<p>The combined and interacting effect of the UK and Scotland Coronavirus Acts 2020, Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020.</p>	<p>The emergency measures taken to contain and reduce transmission of coronavirus have the potential to have long lasting effects on the development, wellbeing and outcomes for all of Scotland’s children. It is likely that there will be differential effects for children, including for those whose families experience a ‘pile up’ of stressors (e.g. poverty, unemployment, poor quality housing etc.) and/or for children who do not have access to parent(s) or carer(s) who are predictably and consistently nurturing at home (e.g. whose own needs are overwhelming and take priority over a child’s, and/or who have not learned positive parenting behaviours, and/or who may be neglectful or abusive towards children). The reduction in access to universal services at this time, alongside reduction in access to informal supports, will have exacerbated these pressures for families and likely risks to children and young people’s development and wellbeing. The existence of inequalities within Scotland, and equity of access to timely and effective supports for adults and children, was an issue prior to the pandemic – the measures taken to contain it, and the economic and social knock on effects of these, will likely exacerbate this with direct implications for the experiences and wellbeing of children (see Appendix 4).</p>	<p>Safe, Healthy, Active, Nurtured, Achieving, Respected, Responsible and Included.</p>
<p>The combined interplay between Coronavirus (COVID-19): school and early learning closures – guidance about key workers and vulnerable children, and Coronavirus (COVID-19): physical distancing in education and childcare settings.</p>	<p>Depending on the quality of provision, including safeguards for health, emotional wellbeing, education, and family support, these measures have the potential to mitigate some of the social and educational inequalities experienced by children and their families.</p>	
<p>The combined interplay between Coronavirus (COVID-19): guidance on changes to social care assessments; Coronavirus (COVID-19): supplementary</p>	<p>The guidance specific to duties to assess needs and risks, and provide support to address these where it is likely that they are impacting the wellbeing, welfare or safety of child, place emphasis on protective measures for children. How these can or will impact children’s wellbeing and ultimately outcomes is dependent on how actively and effectively</p>	

<p>national child protection guidance; Coronavirus (Scotland) Act 2020: Guidance on looked-after children and children’s hearings provisions; Coronavirus (COVID-19): residential childcare</p>	<p>children are identified as in need of support, are supported within their families, or when living with kinship, foster, residential carers. With lack of contact within the community, through general practice, early learning, schools, and other services, children who may be experiencing difficulties or subject to harm are more likely to stay hidden unless they actively seek help, or, their parents do (see Appendix 7).</p>	
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STAGE 4: CONCLUSIONS AND RECOMMENDATIONS

<p>Question 12: Please provide a summarised overview of your key findings on the impact of the measure(s) on children and young people’s rights, addressing two aims of the Alternative CRIA: to observe and document children’s human rights issues; and to learn from this both in positive and negative developments</p>
<p>Reduction and restrictions on movement essential to protect a range of rights during COVID-19 crisis phase The evidence and data on the transmission and effects of COVID-19 makes clear the imperative for restricting movement in communities. The closure of businesses, the reduction in health and welfare services delivery, and the requirement for all to minimise contact with other people, are understandable. The absence of such measures would likely have had severe implications for children’s right to life, survival and development (UNCRC Articles 6 and 24) and potentially for their care by their parents (UNCRC Articles 5 and 18) and carers (UNCRC Articles 20 and 25) who may also be at risk of transmission, illness and death.</p> <p>The restrictions imposed equate to a vast reduction in the primary, secondary and tertiary prevention of child neglect and abuse The imposition of the public health restrictions clearly impacts rights too (UNCRC Articles 18, 26, 28, 29 and 31) and together with diminished access to informal and formal supports for families inherently creates risks for children and young people (Green, 2020) and, in particular, has implications for their right to protection from neglect, abuse and violence (Articles 19, 34 and 36). When there is limited access to positive, supportive relationships within communities and neighbourhoods, within extended family and friends networks, and in the interface with services designed to aid children’s growth and development then family functioning and parental capacities are likely to be under pressure. The absence of access to sufficient income, employment, good quality and stable housing, and basic amenities (gas, electricity, bandwidth) can create conditions less conducive to positive family functioning due to how challenging these issues are to cope with on a day to day basis (see Appendix 4). The lack of timely and responsive assistance to parents when they are experiencing particular challenges, such as poor or ill mental health, problematic drinking or drug use, and abusive or harmful behaviours within relationships, will impact children’s rights and wellbeing (Daniel et al, 1999; Howe, 2005). It is clear that in the 11 weeks since the introduction of these measures that pressure upon families has increased significantly (Scottish</p>

Government, 2020t, b). There is increased worry and anxiety for all and remaining within the home for such an extended time has the potential to impact physical and mental health. Arguably, with disproportionate effects for those families who were already experiencing poverty and low income, financial precariousness, overcrowded, unstable or poor quality housing conditions, or challenges in family functioning or parenting positively. With people home all of the time, the incidence and invisibility of domestic abuse has increased (Scottish Government, 2020t, b). Additionally, children are being exposed to more risks online (UNICEF, 2020). And there is the potential for individuals or groups to use the crisis as an opportunity for the criminal or sexual exploitation of children (We Protect Global Alliance to End Sexual Exploitation Online, 2020), which cannot be potentially enabled by relaxation in regulating the workforce for anyone deemed unsuitable for working with children and young people. In essence, the restrictions imposed equate to a vast reduction in the primary, secondary and tertiary prevention of child neglect and abuse.

At a primary level, it is clear that Scottish Government has attempted to mitigate this through understanding and/or promoting the availability of positive parenting public service announcements, access to family strengthening services, activities and resources (by health boards, local authorities and third sector), and, by working towards a public awareness campaign that provides information on how to recognise and report suspected child neglect and abuse. In practice, we know that this a significant challenges for communities, services and for families too. The UK and Scottish governments' actions on income maximisation, restricting evictions and facilitating measures around mortgage and rent payments, are likely to mitigate, or at best defer, some of the immediate economic and social impact of the COVID-19 pandemic; however, it is unlikely to be sufficient for families already living in poverty and will require sustained action going forward (Treanor, 2020a; **also see Appendix 4**). At a secondary level, the legislation and guidance promotes the continuation of some form of core universal health visiting and schools service to maintain contact and offer support to parents and children at their homes or through the provision of a local base available to 'vulnerable' children as an exception. However, the definition of 'vulnerability' was interpreted differently by local areas and the use of the labelling of 'vulnerability' likely impacted parental and children's willingness to take up the offer within their local communities. It is also clear that uptake of such an option is dependent upon relational, emotional and practical support for children and young people, and their parents or carers, given that attendance and inclusion within school may not be a routinely positive experience for many of the children and young people who would fit the criteria for usage of a school base during lockdown. At a tertiary level, the legislative attention to enabling the protection and rapid extension of the social work workforce could theoretically protect access to intensive family supports to address familial, parental (including their own needs) and children's needs, and thereby reduce risk of violence, neglect or abuse, as well as core child protection services where compulsory measures may be required. It is unlikely that these efforts are sufficient to safeguarding the rights of all children and young people.

Mitigating the impact of reducing primary, secondary and tertiary prevention of child neglect and abuse requires a holistic and timely response

With reference to Recommendation 6 from the UN Committee, the guidance produced by government and the data provided by Society of Local Authority Chief Executives (SOLACE) regarding the levels of contact (home visiting in person and virtual) are suggestive that core child protection services continue, with multi-agency work between education, health, social work and police. However, Social Work Scotland committees and networks have also highlighted worries relating to an overall reduction in referrals regarding concern for children and young people, especially during the early weeks of lockdown. This is in contrast to the reported increase in usage of helplines, which indicate that children and young people are experiencing a range of issues relating to family conflict, physical and emotional abuse, and domestic abuse, as well as experiencing of worry, anxiety, distress, suicidal thoughts, and self-harm (Scottish Government, 2020u). There is a gap in provision of emotional wellbeing and mental health supports and services for children and young people living in lockdown (**see Appendix 2**). This lack of provision predates the crisis situation (Scottish Government, 2018) but it is likely to be a core need for many children and young people (Young Minds, 2020) – and particularly so for care-experienced children and young people, and young adults with care experience (Who Cares? Scotland 2020).

With associated economic and social effects of the public health measures and the absence of early year's workers, teachers, and community members seeing children and young people regularly there has been less opportunity to notice and address issues relating to children's wellbeing and protection. This means that families may be less likely to gain access to support, children and young people may be at increased risk of harm or experiencing sustained exposure to harm over weeks and months. This, in turn, may increase the likelihood that a child, or young person, is removed from the care of their parents, either during or as we exit from public health restrictions on movement, and with long lasting implications for all concerned. Ensuring preventative and intensive wrap around supports to families will be integral to preventing this occurrence and to realising the rights of children in the immediate COVID-19 recovery phase and in the longer term.

Decision-making regarding statutory intervention in family life

The adjustments to the Children's Hearings System have been significant. There has been a need to introduce a secure online platform that is fit for purpose (easily used by all, compatible with multiple organisations' software restrictions, reliable in its connections, and privacy safeguards) and timely support for reporters and panel members to strengthen their confidence and competence in communication through a virtual medium. This is no mean feat, and it is clear that children's rights and experiences have been impacted negatively during the course of this transition, with decisions being made without reference to assessment reports or the inclusions of children, family members, or other professionals and/or a reduction in the potential to participate for children and parents who do not have access to hardware and bandwidth, emotional support, or legal representation to participate (Children's Hearing Scotland et al, 2020; Who Cares? Scotland, 2020). The movement towards a viable approach has been swift and currently the commitments to gathering feedback, systematically, from attendees and to facilitate independent research focused on gather experiences of young people, parents, carers and others is going some way towards improvement (personal communication, currently

initiating a study regarding this). Careful and transparent monitoring of the usage of relaxed powers would be another safeguard for children's rights, and, should include attention to attendance and representation of children and young people themselves, grounds for hearings, decisions and appeals made.

Children and young people living with kinship carers, foster carers, residential carers or moving into independent living

For care experienced children and young people, there are indications of some issues that have significant and potentially far-reaching implications for their rights. For example, relating to how to:

- Enable a continued focus on permanency planning, which includes assessing and working towards a remaining with or returning home to live with parents, or, ensuring matching with carers who will permanently care for a child or young person, when restrictions on movement inhibit the potential for people to interact repeatedly in person and in different settings/environments.
- Ensure they are informed, supported practically and emotionally, to actively participate in virtual assessment, planning and decision making processes that relate to their lives, including child protection case conferences, children's hearings and reviews of their care plans and provision (Who Cares? Scotland, 2020).
- Ensure they have access to information and emotional support to make sense of COVID-19, the public health restrictions, and to process worries, anxieties and concerns arising for them. This is particularly relevant for children, young people, and care experienced young adults who are already dealing with effects of loss, separation and other traumatic experiences (Who Cares? Scotland, 2020).
- Enable and support children and young people to stay in touch and see family members with whom they do not live, when this may carry risk of transmission for children and young people, their parents, their carers, and other people providing support for travel and meeting up. Concerns have been raised about children's rights to ongoing relationships with their parents and siblings, where there is minimal risk of harm as result of neglect and abuse, despite formal clarifications and guidance and support from Social Work Scotland (Children's Hearings Scotland et al, 2020).
- Enable positive experiences of continuity of care if carers are at increased risk of serious illness or death from COVID-19, which has increased relevance for kinship carers (who are often grandparents, and older in age) as well as for some foster and residential carers.
- Ensure that the continuity of care for older young people, which has occurred with restrictions on movement, does not become insecure or unstable at the point that public health restrictions are lifted (Scottish Through Care and After Care Forum, 2020).
- For young people and young adults who had already moved out of kin, foster or residential care, there have been critical concerns about their access to rights and entitlements, and how poverty, limited digital access, has contributed to increased social isolation and poorer emotional wellbeing and mental health (Scottish Through Care and After Care Forum, 2020).

While all children and young people's rights are fundamental, it is important to note that there appears to have been less policy attention to needs of children and young people living with kinship carers, foster carers and living in supported living arrangements or independently, than there has been as regards children and young people living in residential care. The latter group form a smaller proportion (one in 10) of children who are 'looked after' (Scottish Government, 2019).

Making rights real by moving from 'in principle' to 'in practice'

The UNCRC includes a commitment focused upon making rights real (Article 4), namely, "States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention". Legislation and policy is important for making 'in principle' commitments to children's rights, it cannot, however, ensure the full realisation of children's rights 'in practice'. There are strong indications that children and their families do not have equitable access to the same kinds of supports across the country at this time (Scottish Government, 2020t, b). This was also true prior to the impact of COVID-19, as is most recently articulated clearly in children and young people's experiences documented by the Independent Care Review (Duncan, 2019 a, b). Despite the best efforts of national governments, local government, third sector organisations, it is unlikely that the reach and consistency of quality supports available to families and to children are sufficient to:

- Promote the best life chances for *all* children;
- Prevent increases in statutory intervention in family life, and, where this occurs have their rights fully respected;
- Ensure that when any child is subject to compulsory supervision that all is done to support a child remaining or returning to their parents for the longer term;
- Ensure that, for any child separated from their parents, this is done in a way in which rights are full respected and that the experience of separation and care is as positive as it can be in the context of a highly traumatic life event.

Ignoring this implementation gap, and continuously reinforcing the use of strategies that fail to fully address it, such as an over reliance on law, policy, guidance and working groups making sense of the change needed, is a children's rights issue. Scotland has the opportunity to make rights real and to mitigate the negative effects on children's rights of COVID-19 and the public health measures, as we move into a recovery phase, by investing in evidence informed approaches to collaboration (Mattessich and Johnson, 2018) and effecting successful and sustainable changes in service provision (Ejler et al, 2018; Fixsen et al, 2019). Arguably, achieving Scotland's realisation of children's rights lies in a motivation to learn and improve upon approaches to implementation and improvement, and the willingness and humility to let go of political, budgetary and administrative power in service to equity for children and young people across Scotland. Without such a change, there will always be limited reach or availability (scale), inconsistent quality, and unsustainable provision of preventative services (e.g. income maximisation, health services, early learning and educational services, wrap around family supports) and holistic care for children who are living with kinship carers, foster carers, or residential carers. For a government fully committed to realising the rights of the UNCRC for all children and young people, this is a challenge that needs addressed. This could be achieved by providing dedicated coordination, support to and resourcing of implementation and improvement

teams at national, regional and local levels to ensure the vision and recommendations of the Independent Care Review are fully realised, as these are aligned to mitigating the effects of the pandemic and emergency measures on children's rights.

Question 13: Based on your key findings what recommendations should be made and to whom should they be addressed?	
Summary of recommendation	Body addressed to (e.g. Scottish Government)
Scottish Government should not constitute a directive, at any point, that applies the disapplication of disclosure offences, as enabled by S.34 Coronavirus Act 2020.	Scottish Government (Scottish Ministers)
Pay close attention to children and young people's right to participate in assessment, planning and decision making processes relevant to their lives, by increasing access to: Family Group Decision Making; practical and emotional support before, during and after team around the child meetings, case conferences and children's hearings; independent advocacy for case conferences and children's hearings.	Scottish Government Local authorities Health boards Third sector services for families
Pay close attention to the introduction and sustainment of fiscal policy changes that can reduce child poverty	UK Government Scottish Government
Prioritise investment in effective approaches to implementation and improvement, in order to achieve equitable access to consistently high quality family support for all families (i.e. including children and young people living with parents, kinship carers, foster carers, residential carers or adoptive parents).	Scottish Government Local authorities Health boards Third sector services for families
Resource governments and organisations to collate, analyse and use objective data to monitor the immediate and long term effects relating to practice changes, which have implications for children's rights. For example, that can identify gaps in implementation and aid decision-making regarding the coverage, quality, experience, and impact of services and practices for children and their families (see Questions 3b and 4b) .	Scottish Government Local authorities Health boards Third sector services for families
Prioritise investment in effective approaches to implementation and improvement, in order to achieve equitable access to consistently high quality assessment, planning and care for children and young people living with kinship carers, foster carers, and residential carers.	Scottish Government Local authorities Health boards Third sector services for families

Question 14: The COVID-19 response is likely to have several phases, with varying degrees of restrictions, and uncertainty about their removal and possible re-impositions. What (if any) additional concerns about children and young people’s rights do you anticipate in the coming phases?	
Potential concerns about children and young people’s rights	What recommendations do you have that could mitigate these concerns?
Absence of attention to making rights real (Article 4)	Strengthening legislative, policy and leadership knowledge and attention to what works in achieving implementation could help realise the totality of children’s rights. Articulating an intention in legislation and policy does not result in that occurring in practice, for this to happen governments and organisations require teams focused on implementation and improvement to be in place. Such teams coordinate, integrate and align efforts to ensure that leaders, managers and practitioners are delivering consistently high quality services/practices for communities and that objective data is available for assessing how well this being sustained and how children and families experience access to/support by services.
Preventing and mitigating the effects of poverty is critical to rights of children and young people, given its association with inequity of access to many rights. In the context of this theme, it has particular significance for prevention of State Intervention in family life and entry to alternative care.	See Appendix 4
The inclusion of <i>all</i> children and young people in expressing their views (Article 12) on how the totality of their UNCRC rights can be realised, and on their specific experiences of COVID-19 pandemic and responses within communities and by services.	See Questions 12 and 13
Without attention to Article 4 (including fiscal policy than enables full implementation in practice to occur), with escalating pressures for communities, families and children there are implications for the totality/indivisibility of children’s rights. In context of this theme, this is	Investment in strategies to address and mitigate poverty, and to ensure equitable access to intensive family support – i.e. relational, flexible and offers effective supports for children and young people, their parents/carers, and for family life – and to consistently high quality care for children and young people who are living with kinship care, foster care,

particularly relevant to prevention of violence, abuse, neglect; State intervention in family life; and to the continuity of quality care when a child is separated from their parents due to the need for protection from harm	residential care, and for young care experienced adults moving into supported and independent settings.
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Reference List

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