The Commissioner is someone with authority and powers to promote and protect the human rights of all children and young people in Scotland. That is:

- Everyone under 18, and
- Everyone under 21 who is in care or care experienced

Childhood is special and those in power have additional obligations in relation to children’s human rights. Children and young people do not have the same economic or political power as adults, and often struggle to access justice in the same way that adults do, so the Commissioner’s role exists to champion their rights. It was created by a law passed by the Scottish Parliament in 2003, in line with principles set out by the United Nations.

This law says that the Commissioner must:

- Make sure that children, young people and adults know about children’s human rights, and make sure they understand them.
- Make sure that people in power respect, protect and fulfil children’s human rights.
- Make suggestions relevant to children’s human rights to improve policies, the law, and the way that people work.
- Find examples of where adults work well with children and young people and share them with others who can learn from this.
- Carry out research into children and young people’s lives and let adults know when the rights of children and young people are not being respected.
- Make sure adults listen to what children and young people have to say when decisions are being made that affect their lives.

**WHO IS THE COMMISSIONER?**

In May 2017, Bruce Adamson was appointed Children and Young People’s Commissioner for a six-year term. He is the third Commissioner to have taken up this role since it was established in 2003.

He puts you at the heart of his work, and will listen and learn from you.

The Commissioner works to make sure the laws that affect your lives are fair. He challenges people in power to keep human rights promises they’ve made to you that make sure you have all you need to grow up in an environment of happiness, love and understanding.

The Commissioner helps you understand how valuable and important your rights are. That understanding means you can demand change when your rights – or the rights of others – are not being respected.
This report covers the period from April 2019 up until the end of March 2020, when the global pandemic of coronavirus put Scotland into lockdown, educational settings closed along with workplaces as the country steeled itself for a public health emergency unlike any other in living memory. The United Nations Committee on the Rights of the Child warned of the grave physical, emotional and psychological effects of the Covid-19 pandemic on children and called on governments to activate immediate measures to mitigate these impacts. Our work over recent months has been almost entirely focused on that.

A 6-year-old recently told me that she couldn’t really remember what life was like before Covid-19 and the restrictions. It is a feeling that many of us can relate to. It’s important that we reflect on what a monumental year it was before the pandemic, and that we think about the future as well. This report seeks to do that.

The 12 months before the pandemic were busy ones for the office. It was the final part of our two-year revised Strategic Plan and, led by our Young Advisers, we created a new four-year strategic plan which builds on the foundations of the last two years and continues to put the voice of children and young people at the heart of our work. The thematic issues children raised remained broadly similar, with a focus on poverty, mental health, and climate justice.

Children and young people were at the heart of our work. Our Young Advisers Group was actively involved in all aspects of our work, leading our annual Gathering of young people, this year in Edinburgh. Children and young people also led our international engagement with human rights bodies, with two of our young human rights defenders giving evidence to the UN Committee Against Torture, and four 10-year-old children from Avenue End Primary in Glasgow attending the UN Human Rights Council to work with the Special Rapporteur on Extreme Poverty.

The Scottish Parliament passed legislation on two of our three urgent legislative priorities and significant progress was made on the third. The law raising the age of criminal responsibility from 8 to 12, while still falling well below the international minimum standard, did at least start a process of much-needed reform. The law providing children with full protection from assault for the purpose of physical punishment brings us into line with the majority of Europe and a growing number of countries globally. We have made significant progress on the incorporation of the UNCRC into domestic law, with a commitment to a bill which fully and directly incorporates the UNCRC to the maximum extent possible by the end of the Parliamentary session.

We co-chaired the Independent Care Review’s rights working group. The Scottish Government has fully accepted the Review recommendations and we are now contributing to implementation.

This year we used our powers of investigation and strategic litigation to advocate for the rights of children in secure accommodation, for those children deprived of their liberty in residential care settings and to contribute to the inspection at Polmont Young Offenders Institution. Depriving children of their liberty must only be a measure of last resort, must take place for the shortest possible time and should always be in an age-appropriate facility. Every child deprived of their liberty has the right to be treated with humanity, dignity and in a way that takes their needs into account.

We were elected to the Chair of the European Network of Ombudspersons for Children (ENOC), which was a fantastic recognition of the work of the office. We have now taken on leadership of the thematic issue of Children’s Rights Impact Assessments (CRIA).

In early 2020, life was completely turned upside down. Coronavirus has deeply affected the human rights of Scotland’s children and young people and our office has worked over the past six months in our role as fierce champions for their rights.

Human rights cannot be cast aside in times of crisis. In fact, they are ever more significant and must be protected and promoted. Alongside the loss of their formal education, we
are seeing an impact on children’s mental health and their development through the loss of opportunities for socialisation with friends and family and lost opportunities to engage in cultural life.

It has disproportionately affected and continues to affect the most vulnerable children in Scotland, including those living in poverty, disabled children, and care experienced children.

The Scottish Government has enacted emergency legislation in a way that has demonstrated how easily children are left with no voice, with policy created that directly affects children and young people with no direct input from them.

Under pressure, too many of our systems and structures reverted to treating children as passive recipients of charity and welfare rather than active agents in their own lives and valued members of our communities.

International law requires that any interference with human rights be lawful, necessary and proportionate; this requires the Scottish Government to ensure its decisions are grounded in a rights-based approach.

However, during the pandemic the Scottish Government has not routinely assessed the impact of law and policy responses to Covid-19 on children.


We need to live rights, not just play lip service to them.

In 2021, the Scottish Parliament will have the opportunity to pass a law to incorporate the UNCRC into Scots law. This is momentous and will help embed the culture of children’s human rights that we need in Scotland.

Children undoubtedly deserve special protection - it is a common value shared across the world.

And while the UK ratified the UNCRC 30 years ago, ratification is not enough, rights must be enforceable to be effective.

The UNCRC contains a broad array of rights designed to ensure children are treated with dignity and fairness; that they are protected; that they develop to their full potential and can participate in their communities. Importantly it recognises the role of parents and carers and requires the state to support them.

It is those children whose rights are most at risk who will benefit the most from incorporation of their rights into domestic law.

The UNCRC requires the government to give special attention to disabled and care experienced children, those at risk and children in conflict with the law.

It requires all available resources to be used to the maximum extent possible to address things like poverty and provide services like mental health support.

The greatest privilege this year has been to work alongside amazing young human rights defenders, including our young advisers who are a group of fierce champions for rights from across Scotland.

They have worked on projects to further promote and safeguard children’s human rights on poverty, mental health, on rights education and climate justice. I’d like to hand over the final words of this introduction to them...

"People talk about today’s children and young people being tomorrow’s ambassadors and future world leaders, but in reality we are today’s leaders as well. The decisions that are made today affect us for the rest of our lives, which is why we are taking a stand."
Young Advisers

In June 2019, we were delighted to begin working with a new group of Young Advisers, an amazing group of young human rights defenders from around Scotland. Their role is to advise the Commissioner and the office on all aspects of our work, help identify important issues for young people, and to inform current and future work. They play a key role in promoting the human rights of children and young people at a national and international level. This year, they worked with us in different ways including to plan and facilitate our annual young people's Human Rights Gathering which focused on future planning as well as helping celebrate the 30th anniversary of the United Nations Convention on the Rights of the Child (UNCRC). They spoke on behalf of the Commissioner at major events, and advised on our review of law, policy and practice. They played a hugely important role in helping us shape our Strategic Plan for 2020-24 and our new website.

Our Young Advisers became a key part of our team and, as part of our strategic planning, worked together to create human rights defender shields. Each member of the team partnered with a young adviser to come up with a concept, design and paint shields showing how the different parts of the office work together. They are displayed in our office and help communicate our work in a creative way.

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INVOLVING CHILDREN AND YOUNG PEOPLE

As an office, we involve a diverse range of children and young people in our work. Participation is a core value of our office and is at the heart of everything we do. Not only does this uphold children and young people's rights, it ensures their views, experiences and ideas inform all areas of our work. It ensures we are holding ourselves directly accountable to children and young people across Scotland while working on their behalf.

Our office space was designed with children and young people to be a safe, accessible and welcoming place where their voices are heard. Over the year, we welcomed children and young people from many organisations such as Intercultural Youth Scotland, Children’s Parliament and Who Cares? Scotland for meetings, workshops and events. We especially loved being able to use the office space as a key location for our 2019 Human Rights Gathering. The open-plan nature of the main office and adjoining break-out meeting spaces meant we could work in creative, flexible ways with all the young people involved throughout the weekend.

Human rights defenders are anyone who protects or promotes human rights - whether these are their own, or the rights of others. A child human rights defender is someone who does this and is under 18.

YOUNG ADVISERS

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Learn more about human rights defenders.

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Coll, 16

Learn more about human rights defenders.

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Learn more about human rights defenders.
**YOUNG PEOPLE’S HUMAN RIGHTS GATHERING 2019**

Every year in November, we invite young people from across Scotland to a three-day residential gathering to discuss human rights issues affecting their lives. They also help us plan our work and tell us how we can do better in the future.

This year, 50 young people came to the Gathering, which we held in our office and at Edinburgh Zoo. We were excited to welcome a diverse group of young people, most of whom had not been previously engaged in our work.

Our Young Advisers supported us to lead creative participatory activities with the group to gather their views to inform our Strategic Plan for the next four years, and it created an opportunity for everyone to develop new friendships, be creative together and connect over their experiences. Some of the key issues to emerge were concerns over environmental change, in light of the climate emergency and youth-led strikes taking place globally; mental health; education; and the impact of poverty on children and young people’s lives in Scotland.

This year’s Gathering was extra special as 2019 was the 30th anniversary of the United Nations Convention on the Rights of the Child (UNCRC) which was celebrated globally. This gave us the perfect opportunity to celebrate together. Previous Commissioners Professor Kathleen Marshall and Tam Baillie joined current Commissioner Bruce Adamson to hear from young people in Scotland and to discuss the changes that have taken place since the UNCRC was first adopted in 1989.

“This has been a great event and I felt truly listened to. Very excited to see our ideas be put in practice.”

“Getting to discuss realistic issues and how we could actually make a change.”

“For me, the Gathering was super engaging. It was so nice to have so many young people in one room who weren’t afraid to say how it is. It was hugely valuable.”

Nicola Harris, Finance and Administration Assistant

“Before the event, I was aware of my rights but now afterwards I can act upon making a change and I have confidence to stand up for my rights and other young people’s rights too.”

*Young People’s Human Rights Gathering 2019*
Having young people at the heart of the UN is absolutely crucial. We’re so excited to have this opportunity to address the Committee but we don’t want to be an exception to the norm; children and young people should be included here and in other places of influence.

Katrina, Human Rights Defender

Giving Evidence to the United Nations Committee Against Torture

A key element of our work is to support young human rights defenders by ensuring they have the tools they need and the protections they require in order to demand change. Children and young people must have the opportunity to share their own views and experiences directly with those responsible for decision-making at every level of governance, including international legal mechanisms such as the United Nations human rights treaty bodies and the Human Rights Council.

In May 2019, we were proud to have EJ and Katrina, two inspiring members of our human rights defenders group, lead our delegation to give evidence on Scotland’s rights record to the UN Committee Against Torture in Geneva. They were the youngest people to ever have addressed the Committee Against Torture. They shared their concerns on the age of criminal responsibility, the use of restraint and seclusion in schools, physical punishment of children and the use of so-called mosquito devices.

Working with the UN Special Rapporteur on Extreme Poverty and Human Rights

This year we continued our engagement with the UN on poverty and food insecurity in Scotland. In June 2019, we supported four 10-year-olds from Glasgow - Advi, Ben, Brooke and Charlie - to work with Professor Philip Alston, UN Special Rapporteur on Extreme Poverty and Human Rights as he addressed the United Nations Human Rights Council on the UK’s record on poverty. Professor Alston remains highly critical of the UK Government and its failure to take a rights-based approach to address child poverty and there remains a great deal that the Scottish Government can do at both national and local levels to eradicate child poverty. We will continue to support young human rights defenders in our strategic work on this issue and their voices and experiences must reach the highest levels of decision-making to lead to change in Scotland.

“Children and young people have the right to be included and our views taken seriously at the highest levels when it comes to issues that affect our lives.”

EJ, Human Rights Defender

Creating our Website

We have an important statutory duty to raise awareness and understanding of children’s human rights. One of the ways we do this is by using digital platforms and this year, we redeveloped our website to make it more accessible and informative for children, young people, adults, and professionals working for children and young people. Children and young people were involved at all stages of the website’s development. Before we started, we asked their opinions on what features the site should have, its content, and how it should be structured so children and young people could use and navigate it easily.

The advice we were given from children and young people was used in the procurement process for finding a website developer. We made sure that what they had told us was important was considered as part of our tender, and had one of our Young Advisers on our interview panel to make sure that the end result was what they wanted. We met regularly with our Young Advisers and with children from St Andrew’s Fox Covert RC Primary School in Edinburgh to get their feedback on how the website was developing and what things needed to change.

“I think it’s really awesome that children and young people were included in making the new website and you took that extra step by including us in the whole process of picking a website company, designing the look of the site and taking our advice in how it functions.”

Abigail, 15

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EJ, Human Rights Defender
European Network of Ombudspersons for Children (ENOC) and European Network of Young Advisers (ENYA)

The Commissioner is a member of ENOC, the European Network of Ombudspersons for Children. The network of 43 members meets every year to discuss issues that affect children’s human rights across Europe and share good practice which we can learn from in Scotland. ENOC works closely with the European Network of Young Advisers (ENYA) - a group of young people from across Europe who are passionate about defending children’s human rights.

This year, the Commissioner was honoured to be elected as the next Chair of the European Network of Ombudspersons for Children, in recognition of the important work and achievements of the office. Being the Chair of ENOC will allow the office to fulfil its role of bridging Scotland with the international human rights framework. As Chair-elect, our office has taken on the leadership of the ENOC thematic issue of Children’s Rights Impact Assessments (CRIA) for the year 2020.

In 2019, the theme for ENOC was ‘children’s rights in the digital environment’. The growth of digital technology has been one of the most significant changes in recent years and impacts on every aspect of children’s lives. This creates new human rights challenges for a legal framework which was created before the internet and much of the digital technology we use today played such an important role in our daily lives. Given the many ways children and young people use technology, this theme was a significant opportunity for our office and the wider network to take the lead from children and young people to develop a European standard on children’s digital rights.

At the same time, it also presented an opportunity to contribute to wider global discussions about children’s digital rights as part of the development of the United Nations Committee on the Rights for the Child’s General Comment on this theme.

As part of this process, our office worked with young people from across Scotland to create recommendations with accompanying short videos on the following themes about how children’s digital rights can be better understood and respected across Europe:

- How poverty impacts internet access
- Schools blocking websites that can help us
- More support when bad things happen online

In June 2019, two of the young people - Beccie and Matthew - travelled to Brussels to present Scotland’s recommendations. They worked to create a joint statement with young people from across Europe which fed into ENOC’s statement on digital rights.

ENY A was one of the most amazing things I’ve ever done in my life. I’ve made life-long friends and spoken to young people from countries all over Europe who were all also so incredibly passionate about children’s rights. All in all, it was an incredible opportunity and I feel so privileged to have been able to attend.”

Beccie, 15

A Children’s Rights Impact Assessment, or CRIA, is a way to include children and young people in a decision. It looks at the ways the decision might affect the rights of children and young people, both positively and negatively. By doing this, it enables people to know what the effect of the decision on children and young people is likely to be.
Fully and directly incorporating the United Nations Convention on the Rights of the Child (UNCRC) into domestic Scots law is the most important thing we can do to ensure children’s rights are respected, protected, and fulfilled. Founded on the concept that all children should grow up in a family environment of happiness, love and understanding, the UNCRC contains a broad array of rights designed to ensure children are treated with dignity and fairness; that they are protected; that they develop to their full potential and can participate in their communities.

It is the first legally binding international instrument to incorporate children’s full range of civil, cultural, economic, political, and social rights, as well as aspects of humanitarian law. It also requires States to adopt comprehensive legislative measures to ensure that rights are protected. As the UN Committee on the Rights of the Child has made clear; “for rights to have meaning, effective remedies must be available to redress violations”.

Unlike many of the countries which have constitutional systems where international treaties become part of domestic law automatically; in the UK we require domestic legislation to give effect to international obligations.

Incorporation has been the highest priority for the office of the Commissioner since its creation in 2003, but Government has been reluctant to incorporate rights into law. This started to change in 2017, and in September 2018 the Scottish Government committed to bringing in a law to deliver incorporation of the UNCRC in Scotland. Over the last year we have been working with children and young people, civil society, and international experts to ensure that the Scottish Government’s Bill was as strong as possible.

All children (everyone up to the age of 18) will benefit from incorporation. But it is the most disadvantaged children who will benefit most. The UNCRC requires the Government to give special attention to disabled and care experienced children, those at risk and children in conflict with the law. It requires all available resources to be used to address poverty and provide services like mental health support.

In April 2019, the First Minister committed to incorporation before the end of this Parliamentary Session in 2021. In May 2019, a Consultation Paper was published by Scottish Government and we made it clear in our response that incorporation needed to be full and direct:

- **Full incorporation** means that the whole UNCRC should be in Scots law.
- **Direct incorporation** means that the legal text of the UNCRC isn’t changed when it’s written into Scots law.

On November 20th, 2019 - the 30th anniversary of the UNCRC - Deputy First Minister John Swinney made the commitment that Scottish Government would seek to incorporate the UNCRC to the maximum extent possible within Scots law, and that this would happen before the end of this Session of Parliament. We welcomed this commitment and significant step forwards towards incorporation, highlighting that incorporation of the UNCRC is the single most important thing Scotland can do to protect children’s human rights.

Throughout this journey towards incorporation, our office has continued to play an important role facilitating an expert advisory group for the development of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill.

A key part of our new strategic plan is ensuring that the new law is passed and fully implemented. New duties on public bodies will provide a framework for our work across Scotland for holding those in power to account and building a strong human rights culture.

“Words matter and the Articles contained within the Convention depend on each other for their full effect. Full and direct incorporation with justiciability for rights breaches is essential to properly deliver on children’s rights.”

Bruce Adamson

Incorporation of the United Nations Convention on the Rights of the Child (UNCRC) means it gets written into a country’s law at a national level — a level known as domestic law.

Read more information about our work on Incorporation.
Here, we highlight the activities and achievements of our office from April 2019 - March 2020, framed by our key priorities outlined in our Strategic Plan 2018-20.

Priority 1.2: To be a successful Children and Young People’s Commissioner who makes a difference in children and young people’s lives and to establish a culture of children and young people’s human rights in Scotland. Scotland has yet to fully realise a culture of children and young people’s human rights. We are committed to working to raise awareness and understanding of children’s human rights amongst children and adults across Scotland.

**Children’s Future Food Inquiry**

This year we continued our work on children’s right to food and food poverty with partners from across the UK as part of the Children’s Future Food Inquiry. The Inquiry listened to the views of almost 400 children and young people living in poverty across Scotland and the rest of the UK. The final report was published this year and included evidence gathered from workshops with children and young people; an academic review of child food insecurity; polling of young people between the ages of 11 and 18; more than 100 submissions of evidence from people working with children; a UK-wide policy review; and secondary analysis of government data on the affordability of a healthy diet. The Commissioner played a key role in the UK launch of the Inquiry’s final report led by Dame Emma Thompson and young food ambassadors from across the UK, as well as the Scottish launch of young people’s #RightToFood Charter which formed part of the final report.

"I have been really proud of how we have been able to acknowledge all the sorts of fear, anxiety and negativity children and young people have had about the world in general without invalidating it; and our ethos of being participative, confident and making genuine progress."

Robert Shepherd, Digital Media Officer

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**A Toolkit for Empowering Child Human Rights Defenders**

Over the past two years the Children’s Parliament and the Commissioner have been working together to highlight the ways that children and young people in Scotland act as human rights defenders, and to show adults how they can best empower and protect them. This aligned with the UN Committee on the Rights of the Child’s Day of General Discussion in 2018 which explored the theme of ‘empowering and protecting child human rights defenders’.

In December 2019, we jointly launched a toolkit and accompanying film for adults all over the world who work with children and young people. It explains the work we’ve done around empowering child human rights defenders, outlines our human rights-based approach and contains creative, participatory activities that will let you carry out a project of your own.

"I took part in the strikes because climate change is not being treated as an urgent crisis, when it is the biggest problem facing our world. I would consider myself as a human rights defender by protecting our rights — that our views must be considered and taken into account in all matters affecting us. Going on protests is a way of the young people around the world getting our concerns heard. The right to live is only meaningful if we can enjoy it."

Charlotte, Young Human Rights Defender

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**Our Year in Review**

Find out more about our work on the right to food.
Launch of Observatory of Children’s Human Rights Scotland

In February 2020, we were delighted to support the launch of the Observatory of Children’s Human Rights Scotland - an interdisciplinary collaborative of organisations and academic experts working to drive change to fully implement children’s human rights in Scotland. Since the launch, we have worked closely with the Observatory to respond to the human rights challenges presented by the coronavirus pandemic. From May 2020, we conducted an Independent Children’s Rights Impact Assessment on how emergency coronavirus measures have affected children and young people in Scotland - the largest impact assessment of this type to have been undertaken globally. Working with the Children’s Parliament, a child-friendly version was created.

30 Years of the United Nations Convention on the Rights of the Child

November 20th 2019 was the 30th anniversary of the UNCRC. It was a time of celebration for our office, but also a time when we stressed the importance of incorporation of the UNCRC into Scots law.

We were delighted that Deputy First Minister John Swinney chose this day to make the commitment that Scottish Government would seek to incorporate the UNCRC to the maximum extent possible within Scots law, and that this would happen before the end of this Session of Parliament.

With our friends from Together (Scottish Alliance for Children’s Rights), the Children’s Parliament, the Scottish Youth Parliament and UNICEF Scotland, we celebrated the announcement with human rights defenders from across Scotland. We were excited to be joined by children from St Andrew’s Fox Covert RC Primary School. We had been working with them throughout the year and supported them in sharing their key children’s human rights issues with the First Minister, Deputy First Minister and MSPs.

#7WordStories

A special highlight of our year was our #7WordStories creative campaign. To encourage people of all ages across Scotland to celebrate the 30th anniversary of the UNCRC, we invited them to communicate simple ways in which the human rights of children and young people were important to them - using only seven words or pictures.

More than 1,000 children and young people took the time to send us thoughtful stories that gave us an insight into what was important in their lives. We also received stories from parents, carers and professionals, each contributing to a powerful narrative about the significance of children’s human rights in Scotland and globally.

Here are some examples of #7WordStories shared with us by children and young people across Scotland:

- Incorporate rights they said. When? I said
- You are hearing, but you’re not listening
- My rights help me freely be myself
- My rights are important because I’m HUMAN
- I want to draw but need pens
- Children are people and all people matter
- You’re human like everyone else. Embrace it!

Priority 3: To ensure that children and young people’s human rights are at the centre of law, policies and practice

One of the ways we protect the human rights of children and young people is to ensure policies and legislation comply with children’s human rights as outlined in the UNCRC as well as other international human rights frameworks. Our strategy and advice and investigations teams drive this work to monitor where duty-bearers are fulfilling their human rights obligations and, where necessary, challenge existing and proposed law, policy and practice to protect the rights of all children.
Our reporting year came to an end during the first few weeks of the coronavirus pandemic lockdown in Scotland. Our relaunched website and recently refreshed digital working processes meant that despite the difficulties of the situation, our office rapidly and effectively adapted to promote and protect the rights of children and young people during the pandemic.

In the first few weeks of lockdown, we focused our attention on the immediate human rights concerns for children and young people, using the Commissioner’s powers to respond to the emergency legislation and guidance taking effect. The most pressing human rights concerns were schools closing, the disproportionate effect of the pandemic on families already experiencing poverty, digital exclusion and the impact on mental health.

We also worked to support the police and other bodies to adopt a human rights-based approach toward the enforcement of the new regulations. We recognised that service-based organisations concerned with children and families were under immense pressure to respond to the needs of those they worked with, and we highlighted these pressures and needs and focused attention on the implications for children’s human rights.

It was clear to us that emergency measures passed by the Scottish and UK Governments was having a significant impact on human rights protections for Scotland’s children and young people - this disproportionately affecting the most vulnerable. From the onset, we were concerned about the extent to which human rights were being upheld in the emergency decisions being made and the clear lack of children and young people’s own views and experiences being taken into consideration.

From April 2020, we produced briefings for MSPs highlighting the human rights infringements and the steps to be taken to mitigate the potential future negative impacts of emergency legislation and guidance. We then joined other experts on policing and human rights on the Independent Advisory Group overseeing the use of police powers during the pandemic. Later, we worked with the Observatory of Children’s Human Rights Scotland to conduct an Independent Children’s Rights Impact Assessment on how emergency laws and policies around coronavirus have affected children and young people in Scotland. To date, it is the largest assessment of its kind to be done anywhere in the world around coronavirus laws and policies.

PROTECTION AGAINST PHYSICAL PUNISHMENT

It is never acceptable to assault a child. Article 19 of the UNCRC gives all children the right to be protected from physical or mental abuse, violence or injury. Until October 2019, Scotland was one of the few countries in Europe that still allowed parents to defend assaulting their child for purpose of punishment, through the use of a legal defence known as justifiable assault. We have campaigned for a change in the law since our office was first established and this continued to be a priority issue for us into this reporting year. We were delighted to work with John Finnie MSP to bring the Children (Equal Protection from Assault) (Scotland) Bill to the Scottish Parliament and to celebrate the passing of the Act in 2019. Up until this point, we had campaigned alongside children and young people, other human rights defenders and civil society actors for the Bill to be made law. We submitted written evidence setting out the human rights framework and the Commissioner had given oral evidence to the Equalities and Human Rights Committee in March 2018 where he advised the Committee that the position in Scotland was not compliant with the European Convention on Human Rights (ECHR) or the broader human rights framework. The Bill was passed significantly with a fixed commencement date which means it will become law on November 7th, 2020, 12 months after its Royal Assent.

“This is a historic decision which will have a long-lasting impact in Scotland and will certainly also trigger positive change in many countries around the world!”
Marta Santos Pais (Former UN Special Representative of the Secretary General on Violence against Children)
We have worked on the importance of hearing children’s voices in family law proceedings for a long time - including research we commissioned back in 2013, the Power Up Power Down project and the Domestic Abuse (Scotland) Act 2016. This year, we worked to get the Scottish Government to amend this Bill so that it made it clear that all children should be presumed to be able to give their views. The court will have to take account of their views and their best interests, when making a decision about who they live with (residence) or when they see a parent they don’t live with (contact). We continued to support the developments of the Bill into the next year when Stage 3 of the Children (Scotland) Bill was debated in Scottish Parliament in August 2020.

We were deeply concerned the Age of Criminal Responsibility (Scotland) Act 2019 set the age of criminalisation at 12, two years below the international minimum standard set out by both the Council of Europe and the United Nations. This was despite direct international interventions from the Council of Europe Commissioner for Human Rights and the United Nations Committee on the Rights of the Child (CRC). Our office continues to advocate for the Age of Criminal Responsibility to be raised to ensure that the criminal law is not used to address harmful behaviour by children. This requires an immediate lifting of the age of criminal responsibility to at least 14 years old, and further work to raise the age higher and protect children from being criminalised.

When the Age of Criminal Responsibility (Scotland) Act was passing through the Scottish Parliament, we advocated strongly for the rights of 16 and 17 year olds to be referred to Children’s Hearings and the Scottish Government is now consulting on this. This needs to happen as soon as possible to ensure that children are able to have their harmful behaviour addressed through a welfare-based system rather than a punitive one. This year we have continued to work to make the justice system in Scotland more compatible with children’s human rights. This included giving evidence to the Scottish Parliament on the Disclosure (Scotland) Act 2020 to ensure this law does not increase stigmatisation of children who have been in conflict with the law nor compromise the opportunities for children and young people later in life if they have a criminal record.

Since its inception, our office has been committed to supporting the work of the Independent Care Review to achieve its goals of identifying and delivering lasting change in the care system and leave a legacy that will transform the wellbeing of children and young people. The Commissioner co-chaired the Rights working group which explored how to embed a human rights framework within the context of the care system where currently rights are often violated. The group agreed upon a series of recommendations to ensure the rights of care experienced children and young people are known to them, respected and upheld:

- Incorporation of the UNCRC
- Human rights education for children and young people
- Support for the workforce to take a rights-based approach
- Advocacy and legal advice
- Rights-based inspection and regulation

In February 2020, the Independent Care Review launched a series of reports which highlighted a bureaucratic and complicated system where children and young people’s voices and experiences are not listened to or valued. It included over 80 specific calls to action required, including the need to ensure listening to children and young people is always the basis of decisions made about their lives; that children and young people’s rights must be at the heart of the care system, along with a focus on building and maintaining life-long relationships.

A country’s minimum age of criminal responsibility is the lowest age where a person who commits an offence is considered to have enough maturity to understand their actions, and understand the fact they can be held criminally responsible for these.

“Having been part of the Care Review, it’s clear to me that children and young people’s rights are firmly at its heart and I want to congratulate everyone involved in its journey. We owe it to the children and young people who have shared their experiences to not only listen, but to act.”

Bruce Adamson
BARNAHUS

In promoting a rights-based approach, we work to make sure children who are victims of crime are protected and helped to recover. We have continued to work to promote the Barnahus, or Children’s House, and other ways to ensure that children’s rights are protected. In November 2019, we visited The Lighthouse, a Barnahus-style facility in London which includes facilities for interviews, medical examinations, giving evidence in court and counselling in a child-friendly environment. We also visited the Forensic Psychology Center for Children And Adolescents in Helsinki (Barnahus) when the European Commission invited the office to deliver a presentation on the development of child rights impact assessment within Scotland.

We are pleased that the Scottish Government is making progress and we look forward to its implementation which will further realise children’s rights to protection and recovery.

HMIPS INSPECTION OF POLMONT YOUNG OFFENDERS INSTITUTE

Following the death of William Lindsay, our office supported the HMIPS inspection of Polmont Young Offenders Institute (YOI) and contributed to the report and mental health review published in May 2019. Our office was involved in the inspection process as a guest inspector focusing on the extent to which children’s human rights are respected, protected and fulfilled in the facility. Our office’s input to the inspection and report was critical in providing a children’s human rights-based perspective on the matter and scrutinising the extent to which current mental health provision meets the particular needs and vulnerabilities of children in detention.

STRATEGIC LITIGATION

Strategic litigation is a way to use the law to improve human rights for children and young people. There are times when a case in a court of law can impact more than just the people directly involved in it. The Commissioner can ask the court’s permission to intervene, or become involved, to help the judge make a good decision that positively impacts children’s human rights.

This year, we used the Commissioner’s powers to intervene in a cross-border case that we became aware of through the Equalities and Human Rights Commission Scotland (EHRC). We learned that a child from England had been placed by the High Court of England and Wales in a children’s residential care home in Scotland due to a shortage of spaces in secure care centres in England. The child was under constant supervision, in a different country, with very limited access to family and friends. This was a breach of their human rights.

We intervened because no Scottish child can be deprived of their liberty unless through a children’s hearing authorisation and placement in secure accommodation. This standard was not the same for children from England. We were concerned about this loophole in legislation becoming routinely adopted by English local authorities and decided to intervene to safeguard against potential future cases of a similar nature.

We used the Commissioner’s legal powers to influence the Courts to take a children’s human rights-based approach in its decision. The case concluded when the child was returned to England, although the legal position for other children in similar circumstance remains unclear.
This year gave us an exciting opportunity to reflect on our priorities, our activities, and the way we work as an office. Together with children and young people across Scotland, we dedicated time to explore and refine who we are, what we do and what we stand for as the Commissioner and the office. This also allowed us to reimagine how we communicate our mission and purpose to children, young people and adults in Scotland and internationally. Here, we have outlined the steps we took to developing our new Strategic Plan, our communication and our governance.

**DEVELOPING OUR VISION TOGETHER**

Our Strategic Plan

We are proud to have created and launched our new four-year Strategic Plan which builds on the foundations of our previous plan where we travelled across Scotland to hear directly from children and young people and continues to put the views and experiences of children and young people at its heart. We worked with our Young Advisers Group to come up with the key themes and structure of the plan and to define our priorities, activities and use of resources.

Our annual Human Rights Gathering was another key opportunity for us to review and build on our work over the last two years. Children and young people who participated in a range of workshops and events were also instrumental in informing this Strategic Plan. Events included the SeeMe Youth Learning Exchange, our human rights defenders programme of work with Children’s Parliament, a child poverty round table, meetings of the Scotland delegates for the European Network of Young Advisers (ENYA), the Independent Care Review, our work with Gaelic-speaking early years and primary children from the Isle of Skye, the Who Cares? Scotland Summer Camp, the Edinburgh Rights Respecting Schools conference, the Children’s Parliament Sitting in November 2019 and the 30th anniversary of the UNCRC celebration at the Scottish Parliament.

Communicating About Rights

One of the key roles of the Commissioner and the office is to make sure that children, young people and adults know about, and understand about children’s human rights. Our website is an important tool for us to communicate clear, accessible information to children, young people and adults about children’s human rights. As previously mentioned, this year, we created an entirely new website which was launched just as Scotland was going into lockdown. It was a vital tool in helping us reach and communicate with different groups.

We know that our website is used by different groups of people for different reasons. Nursery school children use its symbols as resources to learn about their human rights. Lawyers use its legal information to help when they prepare cases. The most popular section of our website receives 200,000 visitors a year from around the world to find out about the different Articles of the UNCRC.

Our Governance Process and Resources

Alongside defining our Strategic Plan, it was important to reflect on the ways we work as an office, to make sure our process and governance structures were set up to help us achieve our goals. We dedicated time to improving our governance processes, administrative functions and use of resources. Such changes have brought greater clarity and efficiency to the way we work.

“**Our website is a key way for us to raise awareness and understanding of children’s human rights and we were proud to work alongside children and young people to develop it. They helped us every step of the way. This was invaluable, particularly this year when other ways for us to engage and communicate were impossible because of the pandemic.**”

Ezmie McCutcheon, Head of Communications
The Commissioner has the legal power to investigate certain cases where we are concerned that human rights promises to children and young people in Scotland are not being kept. This means our office can hold people in power to account and take action when children’s human rights are breached.

RESTRAINT AND SECLUSION IN SCOTLAND’S SCHOOLS

In March 2018, we investigated restraint (holding a child or young person to stop them moving) and seclusion (shutting a child or young person alone in a room and not allowing them to leave) in Scotland’s schools. Following our investigation, we made 22 recommendations.

In August 2019, we worked with the Equalities and Human Rights Commission Scotland (EHRC) as they could use their power to take legal proceedings on matters that are relevant to its functions to support a Judicial Review in the Scottish courts. Following this intervention - and after a series of productive meetings between our office, EHRC Scotland and the Deputy First Minister and Cabinet Secretary for Education and Skills, John Swinney MSP - we were pleased that the Scottish Government agreed to produce human rights-based guidance on restraint and seclusion with the involvement of children, young people and their families in its drafting. They also committed to developing a reporting mechanism to ensure consistent monitoring of restraint and seclusion incidents.

Our first investigation has had a massive impact, allowing us to lead a nationwide shift towards recognising restraint and seclusion as a children’s human rights issue. Our investigation has since prompted the EHRC to launch their own enquiries in England and Wales and we have provided them with our expertise. It has also allowed us to publicly highlight the significance of this issue from a rights-based perspective with campaigners and policy experts across the UK and within the House of Lords.

Read our report: No Safe Place: Restraint and Seclusion in Scotland’s Schools

SECURE ACCOMMODATION

In December 2019, we launched our second investigation into unlawful deprivation of liberty.

In Scotland, all chief social work officers have duties set out in the children’s hearing legislation to consult with children who are being placed in secure care, to record their views and to notify children about the decision taken. We heard that these duties were not being complied with and we were concerned about children’s participation rights in legal processes and the deprivation of their liberty as a result of a failure to meet these duties.

The legislation expressly provides that if this is not done, the decision to place a child in secure care is not valid. Any child kept in secure care beyond this point is being unlawfully detained.

Towards the end of the annual reporting year, we asked all 32 local authorities to provide us with evidence that proved that they were compliant with those duties. We have since received written evidence and will continue to progress with our investigation in the next reporting year.

Someone is deprived of their liberty when they are kept somewhere and not allowed to leave, under constant supervision and control.
As a public body, our office is committed to openness and transparency, particularly in relation to freedom of information and environmental information, where anyone can ask for and be given the information we hold unless we can give a good and lawful reason for not providing it. We responded to 12 freedom of information requests and two environmental information requests in 2019-20. We responded to 13 requests within the required 20 working days, with an average response rate of 18 working days. Disappointingly, we provided a late response to one request, taking 22 working days to respond. We received three requests for an internal review, all of which were responded to within the required 20 working days.

We are also subject to data protection law. This law gives everyone, including children and young people, more control about how their personal information is used, shared and stored. Importantly it also requires organisations, including our office, to be more accountable and transparent about how we use your personal information. We have a Data Protection Officer (DPO) who is independent of the Commissioner’s office. They check to see how well we are complying with data protection law, provide us with advice, and issue recommendations on how we can best meet our data protection obligations.

Advice on children’s human rights

We provide information and advice to help children, young people, parents, carers and professionals understand their issues and concerns from a human rights’ perspective, giving them the tools and knowledge they need to challenge authorities. This year we responded to 357 enquiries about children’s human rights.

We also completed a review of how children and young people communicate with the Commissioner’s office. Many of our enquiries come from adults but, as well as looking at our advice line’s overall function, we wanted to make it easier for children and young people to obtain information from us. At our Young People’s Human Rights Gathering, we held workshops asking children and young people how they search for information and support, and how they want to contact us. Their feedback has shaped how we provide information. We redesigned our advice and information pages on our website adding new FAQs based on what children and young people have told us. We hope with more new developments to directly support and empower more children and young people to access the services they are entitled to.

Every child, young person or adult acting on their behalf who contacts us shapes the work of the Commissioner’s office. They help the Strategy team formulate policy positions, consultation responses and calls for evidence; they help our Communications team; they influence our participation work and Strategic Plan, and they also inform the Commissioner’s powers of investigation and strategic litigation.

Legal briefings

This year, we started producing a series of legal briefings developed from our original revised strategic plan (2018-20). We wanted to make these briefings accessible to those who could benefit from them for example, those impacted by a specific issue including children, young people, parents/carers, service providers and professionals. By framing issues from a human rights perspective, and linking to the legal duties implicated, these briefings aim to support people to understand and adopt the human rights position of their case.

“I spoke to as many young people as I could at the Gathering, and the workshops we held were invaluable. We asked participants how they look for information and how they would like to communicate with us. They told us that when they want information they prefer to search online, with options available to contact us in a number of ways, including social media.” Linda Ellis Macdonald, Advice and Investigations Officer

Find out more on help and advice
LIST OF CONSULTATION RESPONSES AND EVIDENCE TO PARLIAMENT

MAY 2019
- Scottish Parliament MSP Briefing: Children (Equal Protection from Assault) (Scotland) Bill Stage 1

JULY 2019
- Scottish Government Consultation Response: Clinical pathway for children and young people who have disclosed sexual abuse

AUGUST 2019
- Scottish Parliament Public Petitions Committee Written Evidence: Ban the use of Mosquito Devices in Scotland
- Scottish Parliament Education and Skills Committee Written Evidence: Disclosure (Scotland) Bill
- Scottish Government Consultation Response: UNCRC Incorporation

SEPTEMBER 2019
- Scottish Parliament Justice Committee Written Evidence: Secure Care for Children and Young People in Scotland
- Scottish Parliament Justice Committee Oral Evidence: Secure Care for Children and Young People in Scotland
- Scottish Government Consultation Response: Legal Aid Reform in Scotland
- Scottish Sentencing Council Consultation Response: The Sentencing Process

OCTOBER 2019
- Scottish Parliament MSP Briefing: Children (Equal Protection from Assault) (Scotland) Bill Stage 3

NOVEMBER 2019
- Scottish Parliament Local Government and Communities Committee Written Evidence: Period Products (Free Provision) (Scotland) Bill
- Scottish Parliament Public Petitions Committee Oral Evidence: Improving Youth Football in Scotland
- Scottish Parliament Justice Committee Written Evidence: Children (Scotland) Bill

DECEMBER 2019
- Scottish Government Consultation Response: Carers Strategic Policy Statement
- Scottish Parliament Justice Committee Oral Evidence: Children (Scotland) Bill Roundtable Discussion

JANUARY 2020
- Scottish Government Consultation Response: Youth Justice Standards
- Scottish Parliament Consultation Response: Proposed Disabled Children and Young People (Transitions) Scotland Bill
- Scottish Parliament Justice Committee Oral Evidence: Children (Scotland) Bill Stage 1

FEBRUARY 2020
- Scottish Parliament MSP Briefing: Period Products (Free Provision) (Scotland) Bill

MARCH 2020
- Scottish Government Consultation Response: Early Learning and Childcare Statutory Guidance
- Scottish Government Consultation Response: Gender Recognition Reform (Scotland) Bill
- Scottish Parliament MSP Briefing: Coronavirus (Scotland) Bill
- Scottish Parliament MSP Briefing: Coronavirus Bill Legislative Consent Memorandum
The Financial Position

The Scottish Parliament allocated the Commissioner a budget of £1,269,000 for the financial year 2019-20 less £7,350 deducted for accommodation costs now held by the Scottish Public Sector Ombudsman as a result of co-location at Bridgeside House. Also awarded was £26,740 in contingency funding from Scottish Government to assist towards the increase to employer pension contributions in the year. The total available budget was therefore £1,288,390 (2018-19: £1,360,000).


The annual accounts are prepared on an accruals basis meaning that expenses are recognised in the period in which they were incurred rather than when the cash payment is made. On this basis, the Commissioner’s expenditure on operating activities for the year ended 31 March 2020 totalled £1,204,000 (2018-19: £1,373,000). This was on staffing costs £942,000 (2018-19: £864,000), other operating expenditure £250,000 (2018-19: £477,000) and depreciation and amortisation £12,000 (2018-19: £32,000). Other income for the year was £2,000 (2018-19: £0).

£30,000 (2018-2019: £1,000) was spent on capital additions during the financial year as detailed in note 5.1 to the Accounts. Excluding notional expenditure (depreciation and amortisation) of £12,000 total expenditure was £1,192,000.

Net Expenditure 2018-19

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<th>Budget</th>
<th>Expenditure</th>
<th>Variance</th>
<th>2019</th>
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<tr>
<td>£’000</td>
<td>£’000</td>
<td>£’000</td>
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<tr>
<td>Net operating costs per the accounts</td>
<td>1,288</td>
<td>1,202</td>
<td>86</td>
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<tr>
<td>Capital additions</td>
<td>30</td>
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<tr>
<td>Total expenditure</td>
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Adjustments

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<th>2019-20</th>
<th>Variance</th>
<th>2019</th>
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</thead>
<tbody>
<tr>
<td>Non-cash items</td>
<td>(12)</td>
<td>(12)</td>
<td>(32)</td>
<td></td>
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<tr>
<td>Working Capital (including cash)</td>
<td>42</td>
<td>42</td>
<td>(21)</td>
<td></td>
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<tr>
<td>Cash funding from SPCB</td>
<td>1,288</td>
<td>1,262</td>
<td>86</td>
<td>1,321</td>
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</table>

The accounts are subject to approval by external auditors.
We have put children and young people’s views and experiences at the heart of our response and sought to consistently challenge duty-bearers where decisions have fallen short of upholding human rights standards.

As we begin to move into winter 2020, we know this year will inevitably continue to present us with yet more new, complex human rights challenges to navigate and respond to. Children and young people whose rights are most at risk remain our priority.

At the same time, we have reasons to be hopeful and excited for the year ahead. After decades of campaigning alongside many dedicated human rights defenders, this year Scotland is set to incorporate the UNCRC, fully and directly to the maximum extent possible, into Scots law. Every child deserves to be happy, healthy and safe and we know this is the most important thing Scotland can do to ensure the rights of children and young people are respected, protected and fulfilled.

Scotland has a strong tradition of protecting children’s rights, but in many areas we haven’t done well enough. That is particularly true for children whose rights are most at risk through factors such as poverty, disability, or not getting enough support.

When the UNCRC is incorporated into Scots law, we will have better mechanisms to hold decision-makers accountable. We will see better decisions, and resources being used more effectively to ensure children and their families get what they need. Incorporation will make sure that children and young people whose rights are most at risk will be protected.

What we know from other countries who have incorporated the UNCRC is that it will help bring about a real culture change. With new laws and policies in place, children and adults will need to understand what respecting children’s human rights looks and feels like for children. Respecting children’s human rights will no longer be a choice; instead, it will transform how we care for, listen to, love and value children and young people in our homes, schools and communities. We recognise that we’ve got some way to go but we do know Scotland is ready to make, and keep, these promises to children. We’re ready to take this giant step forward.

Looking ahead, we will continue to work with children, young people and civil society partners to ensure that the Scottish Government fulfils its human rights obligations to children. We will continue to have children and young people at the heart of our work, with our group of Young Advisers shaping and influencing our direction throughout the year. We will look to ensure that children and young people have meaningful opportunities to share their views and experiences with decision-makers at local, national, regional and international levels.

We will launch the outcome of our investigation into secure care and will continue to use strategic litigation as a means to safeguard rights children’s human rights in the justice system.

Chairing the European Network of Ombudsperson for Children for 2020–2021 will ensure that we are connecting the global human rights framework with our work in Scotland and that we are able to support children and young people to link and work with peers from other countries on human rights issues. It is of no surprise that ENOC’s theme for the next year is on the recovery from Covid-19.

Along with our counterparts across the UK and Ireland, we will report to the UN Committee on the Rights of the Child as part of its periodic examination of the UK’s progress in children’s human rights.

Our independent Children’s Rights Impact Assessment (CRIA) on the effect of Covid-19 on children was published in July 2020 and we will use that to hold the Government to account on their decision-making processes in this pandemic.

The impact of the pandemic on children and young people’s lives will continue to be a key priority for our office, but we will also be guided by the thematic issues identified by children and young people and outlined in our Strategic Plan. We will continue to amplify children and young people’s concerns about the climate emergency, mental health, food insecurity and poverty as well as issues surrounding access to justice and protection from harm. We will continue to use our legal powers to investigate key children’s human rights issues and present our case for a rights-based approach to policy, guidance and practice.

Rights exist so children and young people can lead safe and happy lives, and that doesn’t stop being true in difficult, uncertain times like these. We will stay true to our values by demonstrating Respect, Bravery, Independence, Participation and Leadership and continuing to be fierce champions for the rights of children and young people in Scotland.
Our Team

April 2019 - March 2020

Commissioner
Bruce Adamson

Young Advisers
Hope, Kaydence, Andrew, Maria, Eilidh, Zara, Elia, Beccie, Ailidh, Adam, Abigail, Violet, Coll, Jaymie

Advice and Investigations
Nick Hobbs, Head of Advice and Investigations
Maria Galli, Legal Officer (Investigations and Strategic Litigation)
Linda Ellis Macdonald, Advice and Investigations Officer

Corporate Services
Stephen Grounds, Head of Corporate Services (retired May 2019)
Nicola Vallance-Ross, Head of Corporate Services
Heather Belmonte, Executive Assistant
Gillian Munro, Information Officer
Anne Girbbon, Finance Officer
Nicola Harris, Finance and Administration Assistant

Strategy
Maire McCormack, Head of Strategy
Diego Quiroz, Acting Head of Strategy (July 2019-December 2019)
George Valiotis, Principal Strategic Adviser (July 2019-December 2019)
Cathy Begley, Participation Officer
Kara Brown, Legal Officer (International)
Megan Farr, Policy Officer

Communications
Ezmie McCutcheon, Head of Communications
Robert Shepherd, Digital Media Officer

Our Thanks

This year was an incredible one for us and we were blown away with how many children and young people from across Scotland contributed their ideas and experiences to our work as fierce champions for human rights. We are looking forward to a time soon when we can work with you all again in person, as well as through digital technology.