

**Equality and Human Rights Committee
United Nations Convention on the Rights of the Child (Incorporation)
(Scotland) Bill
Evidence of the Children and Young People's Commissioner Scotland.**

Established by the Commissioner for Children and Young People (Scotland) Act 2003, the Commissioner is responsible for promoting and safeguarding the rights of all children and young people in Scotland, giving particular attention to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner has powers to review law, policy and practice and to take action to promote and protect rights.

The Commissioner is fully independent of the Scottish Government.

This response includes the views of current and former Young Advisers to the Commissioner, gathered in response to this call for evidence.

Introduction

Incorporation of the United Nations Convention on the Rights of the Child into domestic Scots law is the most important thing we can do to ensure children's rights are respected, protected, and fulfilled.

We warmly welcome and support the UNCRC Incorporation (Scotland) Bill.

The UNCRC is special. A broad array of international instruments sets out the human rights of children, but the UNCRC is the first legally binding international instrument to incorporate their full range of civil, cultural, economic, political, and social rights, as well as aspects of humanitarian law.

The UNCRC builds on the Charter of the United Nations (1945)¹ which recognised that the inherent dignity and the equal and inalienable rights of all members of the human family are the foundation of freedom, justice, peace and social progress. The UNCRC breathes life into the Universal Declaration of Human Rights (1948)² which proclaimed that childhood is entitled to special care and assistance.

The UNCRC is the most rapidly and widely ratified international human rights treaty in history, currently ratified by 196 UN member states and other signatories.³ It changed the way children are viewed and treated in international legal terms. It proclaims children's status as human beings with a distinct set of rights, not just as passive objects of care and charity. The rights contained in the UNCRC are universal, interdependent, indivisible, and interrelated. The articles cover all aspects of a child's life and explain how those in power must work together to make sure all children and young people can enjoy all their rights.

¹ [Charter of the United Nations](#)

² [Universal Declaration of Human Rights](#)

³ [United Nations Committee on the Rights of the Child](#)

The UNCRC was adopted by the UN General Assembly in 1989 and ratified by the UK in 1991. The UNCRC promotes the rights of children and their families through placing duties on the State to support parents and carers and recognises their role in providing care and support for children and young people. The UNCRC Incorporation (Scotland) Bill will put the UNCRC into domestic Scots law. The Bill will provide legislative measures to ensure that rights are protected, with remedies available to redress violations.

1. Will the Bill make it easier for children to access their rights?

Yes

“I think incorporation will definitely make it easier to access my rights as they are protected by the law and this will also be really important for young people who currently aren't able to access their rights. Scottish Ministers can make sure that young people's voices are heard by consulting them and making sure that seldom heard groups are heard.” **CYPCS Young Adviser**

We welcome the intention to ensure a proactive culture of children's rights across government and public services at all levels in Scotland. Incorporation of the UNCRC will embed child rights-based approaches to decision making on law, policy and practice at an early stage. While also providing mechanisms for redress where children's rights are breached.

Unlike many other countries, in Scotland international law is not directly enforceable unless it has been incorporated into domestic law.

The UNCRC was written with the intention it would be incorporated; this has been reiterated by the United Nations Committee on the Rights of the Child's consistent calls for incorporation.⁴

The Bill takes a maximalist approach, directly incorporating the UNCRC and the first and second optional protocols into domestic law, within the competence of the Scottish Parliament. Incorporating the UNCRC will help to support children and their families to claim their rights and build upon the existing human rights framework.

Founded on the concept that all children should grow up in a family environment of happiness, love and understanding, the UNCRC contains a broad range of rights designed to ensure children are treated with dignity and fairness; that they are protected; that they develop to their full potential; and that they can participate in their communities.

Whilst incorporation will benefit all children in Scotland, it is those who are most disadvantaged who will gain most from the additional protections which incorporation will provide.

⁴ UN Committee on the Rights of the Child [United Kingdom Concluding Observations](#) paragraph 7(a).

“We've seen in other countries, one of the main impacts of putting the UNCRC more into domestic laws is that it creates a culture of respect for children's rights. I think more than the legal aspect, it'll start more discussions about children's rights. People will be more aware; it will be more ingrained into day-to-day society.” **CYPCS Young Adviser**

Children’s access to their rights has been improved by legal incorporation in other countries.⁵ By incorporating the UNCRC into domestic law we follow in the steps of countries such as Norway, Belgium, Spain, Finland and Iceland. Countries which have incorporated the UNCRC have seen improvements to both public and institutional culture relating to children’s rights. National courts have not had difficulties in interpreting UNCRC rights.

We are pleased that provisions in the Bill create new powers for the Commissioner to bring proceedings to court where rights have been breached, and to intervene in relevant court actions (s.10). This will strengthen our existing strategic litigation work and ensure that we can take legal action on behalf of all children, rather than requiring individual children and their families to take court action to ensure their rights are respected. This recognises that it is not always in a child’s best interests to bring proceedings in their own name. The Bill also requires that the Commissioner be notified where a question of compatibility with UNCRC arises in any proceedings before a court or tribunal (s.27).

2. What do you think about the ability to take public authorities to court to enforce children’s rights in Scotland?

We welcome the inclusion of provisions which allow public authorities to be taken to court to enforce children’s rights in Scotland.

“If the UNCRC is put into law, there should be less breaches of the UNCRC because more people know about it.” **CYPCS Young Adviser**

Public authorities will often be the main point of contact for children and young people, be it through receiving education at school, in the justice system, or accessing health and wellbeing support and services. It is vital that children’s rights are protected when interacting with these services. The Bill includes a regime which allows rights holders to challenge the State, in order to prevent or remedy violations of children’s human rights.

⁵ Kilkelly, U. (2019). [The UN Convention on the Rights of the Child: Incremental and transformative approaches to legal implementation](#). The International Journal of Human Rights

Rights to Remedies for unlawful acts (Part 2)

In International human rights law,⁶ a child has rights to seek an ‘effective’ remedy and to have access to justice, for any breaches of their rights. Part 2 of the Bill provides remedies to take legal action and seek damages, or compensation against a public authority where they have acted unlawfully and breached a child’s rights under the UNCRC.

What constitutes an ‘effective’ remedy for children is not specified in either the UNCRC, or the Bill.⁷ The United Nations Basic Principles and Guidelines on the Right to a Remedy provide a number of remedies where human rights have been breached, including, restitution, rehabilitation, satisfaction, and a guarantee of non-repetition, and which are helpful in assessing whether a particular remedy meets the international threshold of ‘effective’.⁸

Children’s rights can be enforced under existing statutory law, under equality law and through the common law, in Scotland with an array of remedies, as well as including compensation, ‘public apologies, public and administrative sanctions for wrongdoing, instructing that human rights education be undertaken, ensuring a transparent and accurate account of the violation, reviewing or disapplying incompatible laws or policies, use of delayed remedies to facilitate compliance, including rights holders as participants in development of remedies and supervising compliance post-judgment’.⁹

Children often find it difficult to pursue remedies for breaches of their rights. The State must, therefore, make effective, child-sensitive procedures available to children and their representatives¹⁰ with access to ‘appropriate reparation, including compensation, and, where needed, measures to promote physical and psychological recovery, rehabilitation and reintegration’.¹¹

The United Nations Committee on the Rights of the Child makes clear that a mechanism for challenging public authorities should include the provision of child-friendly information, advice, (self) advocacy, and access to independent complaints procedures. Importantly, the duties under the Convention must be interpreted with reference to the wider international human rights framework so that children are able to exercise these rights independently, and that they must have access to legal aid, advice and assistance without being subject to a means test based on parental income.

The rights to remedy and to seek damages within section 8 of the current Bill are broadly the same as section 8 of the Human Rights Act 1998. We would welcome further consideration of how the Bill could be strengthened to ensure that a child’s

⁶ The right to a remedy is founded in [Article 8 UDHR](#), [Article 13 ECHR](#) and [Article 47 EU Charter](#).

⁷ The UN High Commissioner for Human Rights [Report on Access to Justice for Children \(2013\)](#)

⁸ The UN High Commissioner for Human Rights [Report on Access to Justice for Children \(2013\)](#)

⁹ Katie Boyle, *Economic and Social Rights Law, Models of Incorporation, Justiciability and Principles of Adjudication* (Routledge 2020), chapter five

¹⁰ [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#)

¹¹ United Nations Committee on the Rights of the Child (2003) [General Comment no.5 on General measures of implementation of the Convention on the Rights of the Child](#) para.24

rights to remedies extend beyond being 'just and reasonable' to being sufficient to meet the international, legal threshold of an 'effective' remedy.

3. What more could the Bill do to make children's rights stronger in Scotland?

We consider that the Bill should be strengthened to provide clarification in the following areas:

a. Commencement date (s.40)

"If the law is passed but not commenced immediately it will confuse children and young people on what protection and rights they have." **CYPCS Young Adviser**

The UK ratified the UNCRC in 1991 and as a result the Scottish Government and public authorities have already been bound by the duties within the UNCRC for decades, albeit that they are not yet domestically enforceable. In order to give certainty to duty bearers and to children and young people, a commencement date should be on the face of the Bill. Given how long children have already waited and the fact that the rights obligations are already familiar to duty bearers, the Bill should come into effect immediately upon Royal Assent.

The Children and Young People (Scotland) Act 2014 ('the 2014 Act') placed a duty on public authorities to regularly report on the actions they had taken to further the rights of children and young people (this duty will be replaced by Part 3, s15 of the Bill). There is already extensive ongoing work on implementation of the UNCRC, including in Children's Services Planning, in accordance with the 2014 Act. The use of impact assessments should already have highlighted areas where practice, policy or legislation need to be adjusted to bring them into line with the UNCRC.

We do not believe either the Scottish Government or public authorities need an extended implementation period ahead of this Bill coming into force.

b. Interpretation of UNCRC (s.4)

Courts are specifically enabled to consider the preambles and excluded provisions of the UNCRC as sources of interpretation, in accordance with the Vienna Convention on the Law of Treaties.¹²

"A lot has changed in the way we understand rights, things like technology, obviously 30 years ago nobody had a mobile phone, there could be a lot more around digital information or realising your rights in a digital space." **CYPCS Young Adviser**

¹² [Vienna Convention on the Law of Treaties 1969](#)

The meaning and content of the UNCRC should also be interpreted in the context of a broad and evolving international human rights framework. General Comments¹³, Concluding Observations¹⁴, decisions relating to the third optional protocol of the UNCRC (which the UK has not yet ratified), and reports from Days of General Discussion¹⁵ form essential elements in the interpretation and implementation of the UNCRC. This allows countries to keep pace with developments in international law and practice, while retaining judicial independence and autonomy. The United Nations Committee on the Rights of the Child General Comment currently being drafted on children's rights in the digital environment¹⁶ is an example of our developing understanding of children's rights and will be of significant assistance in understanding the UNCRC.

Both General Comments and Concluding Observations are public and official documents of the United Nations and have been highlighted as key advice for States by the Committee on the Rights of the Child. It is important the attention of public authorities, including the courts, is drawn to these valuable sources of guidance.

It is also important that communications from other relevant treaty bodies are considered, including, for example, the United Nations Committee on the Elimination of all forms of Discrimination Against Women and the United Nations Committee on the Rights of People with Disabilities in addition to those jointly produced with the United Nations Committee on the Rights of the Child.

Section 4 of the Bill would be strengthened by clarification that subsection (2) is a non-exhaustive list and that courts or tribunals may include wider guidance from UN Committees and comparative jurisprudence as interpretive tools.

c. Definition of 'public authority' (s.6)

The Bill creates a new statutory duty making it unlawful for public authorities to act in a way which is incompatible with the UNCRC. This has been broadly modelled on the Human Rights Act 1998, which brought the European Convention on Human Rights into UK law. It includes a prohibition on public authorities acting incompatibly with the UNCRC, and the provision of substantive and legal remedies when a violation occurs.

While the phrase "public authority" is not exhaustively defined in the Bill, interpretation of this term has been subject to a significant amount of discussion and scrutiny, including by the UK Parliament's Joint Committee on Human Rights,¹⁷ and

¹³ General Comments are an authoritative interpretation of the rights contained in the UNCRC; explaining how to implement the obligations contained in the UNCRC.

¹⁴ Concluding Observations are an authoritative overview of the result of a State's examination by the United Nations Committee, based on reports from civil society, NHRIs and government.

¹⁵ DGDs are held every two years, focused on a specific article of the UNCRC or a related subject, they are an opportunity to develop a deeper understanding of the contents and implications of the UNCRC.

¹⁶ Draft General Comment No. 25 [Children's rights in relation to the digital environment](#)

¹⁷ House of Commons and House of Lords Joint Committee, 2007. [The Meaning of Public Authority under the Human Rights Act](#)

in the aftermath of recent court judgments.¹⁸ We acknowledge the value of the approach taken in the Bill, to use the Human Rights Act model as a starting point, rather than create a conflicting approach. However, there is scope to build on this approach.

Given the uncertainty in defining ‘public authorities’, highlighted in existing cases under the Human Rights Act, it is important that this Bill makes it clear that children’s rights will be protected where public services are delivered by private bodies.

This issue requires further scrutiny by the Equalities and Human Rights Committee to ensure that the intention of the Bill is met, by clarifying what constitutes a private body performing a public function.

d. Time limits (s.7)

We welcome that the policy intention of section 7 recognises that children should not be subject to time limits in taking action for breach of their rights. The Bill requires court proceedings to be raised within 1 year of the unlawful act, but in calculating the time limit, the period where a child is under 18 is to be disregarded. Courts or tribunals may allow cases to be brought outwith the 1 year period, where it is considered equitable to do so. We understand the intention is to disregard the period under 18 in calculating when time limits start even if other stricter legal time limits exist of less than the 1 year (for example, in petitions for Judicial Review, or proceedings under the Equality Act 2010).

We would invite further clarification in subsections 7(7), (8) and (9) around when time limits commence, and to take account of the rights to remedy, prescription and limitations, and all time limits under existing Scots law.¹⁹

e. Children’s Rights and Wellbeing Impact Assessment (CRWIA) (s.14)

“If there’s any kind of guarantee that we could get in law, that views need to be taken into account and inform the decisions.” **CYPCS Young Adviser**

CRWIA should be undertaken in a way that upholds human rights principles. They should be subject to regular review and revision; non-discriminatory; inclusive; engage with rights holders; consider all relevant rights; and aid accountability. Impact assessments are defined in General Comment no.5 as ‘predicting the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights.’

¹⁸ For example in the recent Scottish Courts decisions in *Ali (Iraq) v Serco* [2019] CSIH 54 where the Court adopted a narrow definition and private providers were held not to fall within the definition of ‘public authority’.

¹⁹ including [Prescription and Limitation \(Scotland\) Act 1973](#) and [Prescriptions \(Scotland\) Act 2018](#)

The effectiveness of CRWIA is dependent on a number of things, including clarity about how, when and where they fit into the policy-making environment²⁰.

Section 14(3) of the Bill states that Ministers must prepare a CRWIA on “decisions of a strategic nature relating to the rights and wellbeing of children as they consider appropriate”. This would be strengthened by removal of the phrase “as they consider appropriate”. Ambiguity would be reduced. The Bill would still provide ministers with discretion as to what constitutes a ‘strategic decision’; which would be set out and open to scrutiny in the Children’s Rights Scheme.

CRWIAs on strategic decisions should be of sufficient quality and consistency that they are a valuable tool to aid decision-making.

f. Role of Parliament (s.6)

The Scottish Parliament is currently excluded from the definition of public authority in section 6. We welcome the intention of the Scottish Government to work with the Scottish Parliament as the Bill progresses to establish how the requirements of the Bill will apply to the functions of the Parliament.²¹ We commend the work of the Equality and Human Rights Committee on Human Rights and the Scottish Parliament and refer to our submission to the Committee as part of that work.²²

The essential role of parliaments in ongoing monitoring of human rights at national level has been clearly articulated by international human rights bodies.

The Scottish Parliament is in a unique position to entrench human rights into its work. It can develop a wider legislative framework favourable for human rights; ensure implementation of international human rights obligations; safeguard appropriate funding for human rights policies; scrutinise the Scottish Government; and raise awareness of human rights issues. It is important that children and young people are active participants in the Scottish Parliament’s work and that the Parliament’s procedures are developed to ensure MSPs are able to act as human rights guarantors.

4. If you work for an organisation or public authority, what resources do you need to help children and young people access their rights? Will you require additional resources or training to implement the Bill, for example to make or respond to challenges in court?

The UNCRC, in Article 4, requires governments and public authorities to ‘undertake all appropriate legislative, administrative and other measures for the implementation of the rights’ contained within the UNCRC ‘to the maximum extent of their available resources’. A broader understanding of the UNCRC, and in particular Article 4 and the accompanying General Comment No. 19 (2016)²³ on public budgeting for the

²⁰ United Nations Committee on the Rights of the Child (2003) [General Comment no.5 on General measures of implementation of the Convention on the Rights of the Child](#) (arts. 4, 42 and 44, para. 6), para 45

²¹ [Policy Memorandum](#) p35 (para 125)

²² CYPCS (2018) [Submission to EHRC inquiry on Human Rights and the Scottish Parliament](#)

²³ United Nations Committee on the Rights of the Child. [General Comment No.19 \(2016\) : General measures of implementation of the Convention on the Rights of the Child](#)

realisation of children's rights, should assist public authorities with their budget setting and decision processes, allowing them to ensure they realise children's rights largely through better use of existing resource. These are not new obligations; they have been in place since the UNCRC came into effect in 1992. Most of the change incorporation will inspire is of culture and processes not resource allocation.

Challenges in court should be considered the last resort, as public authorities should already be pro-actively ensuring their policies and processes are compatible with the UNCRC. Experiences of other countries which have incorporated the UNCRC into domestic law suggests that it does not lead to a significant increase in litigation. Professor Kirsten Sandberg, Professor of Law at the University of Oslo and recent member of the Committee on the Rights of the Child confirmed, speaking at the Moray House Annual Lecture in May 2020, that whilst the UNCRC was increasingly cited in litigation in Norway, it was in cases that would have been brought anyway.²⁴

"I guess maybe we need public authorities to get training or resources so they understand the new Bill that is going through and what that means for them. Obviously it depends how their policies affect young people, but they could work out how they should involve young people in decisions." **CYPCS Young Adviser**

In order for incorporation to be successful for rights holders, it must be accompanied by measures such as awareness raising; education; training for those who work with children; child rights budgeting; independent advocacy; and reporting mechanisms. General Comment 19 puts an obligation on the state to ensure that public authorities have in place training and mechanisms for sharing of good practice. A children's rights approach should already be embedded across all levels of government and society and UNCRC incorporation will help ensure this continues to develop.

"Local Authorities are quite tokenistic sometimes when they gather information from young people and you know it's just like a tick box exercise and they won't actually use their views to inform their decision." **CYPCS Young Adviser**

5. Are there any relevant equalities and human rights issues related to this Bill, or potential barriers to rights, that you think we should look at?

Incorporation of the UNCRC into Scots law provides an opportunity to significantly and unequivocally protect the rights of specific groups of children and young people who are at risk of discrimination on the basis of a protected characteristic (in terms of the Equality Act 2010) or on any other basis.

Article 2 of the UNCRC requires states parties to:

"take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities,

²⁴ University of Edinburgh [Moray House Annual Lecture 2020 approx 29 mins from start](#)

expressed opinions, or beliefs of the child's parents, legal guardians, or family members."

The UNCRC gives children specific rights, in addition to the universal rights contained within the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. The UNCRC recognises children's vulnerability to not having their rights realised. The UN has similarly provided additional protections to other groups at greater risk of having their rights breached, including women (United Nations Convention on the Elimination of all forms of Discrimination Against Women – CEDAW); disabled people (United Nations Convention on the Rights of People with Disabilities – CRPD) and ethnic minorities (United Nations Convention on the Elimination of Racial Discrimination – CERD). It is important to recognise the links between the rights of all who are protected by these conventions.

6. What are your views on the provisions in the Bill that allow the courts to strike down legislation judged to be incompatible with the UNCRC?

"I think the court should be able to stop a law that doesn't respect the UNCRC and that any previous laws that don't respect it should be amended in order to allow all children to have their rights respected and protected." **CYPCS Young Adviser**

We welcome the provisions in Part 4 of the Bill to ensure that both existing and future legislation is compatible with the UNCRC. It is the view of the United Nations Committee on the Rights of the Child that the UNCRC should prevail over conflicting domestic legislation.²⁵

Section 20 of the Bill provides for strike down declarators in the case of existing legislation, which is incompatible with the UNCRC, with the effect that the legislation ceases to be law. Section 21 provides for the courts to make an incompatibility declarator with regard to any future legislation they find to be incompatible with the UNCRC.

"I think it would have to be constructive rather than just be like 'it's not compatible'. It would have to say what needs to be changed. Feedback that can be built upon, not just right back to the drawing board." **CYPCS Young Adviser**

Ministers must prepare a report within 6 months of either a strike down declarator or incompatibility declarator setting out what steps (if any) they intend to take in response to the declarator. This is insufficient to meet the threshold of providing an 'effective remedy'. The section 23 duty to report should be expanded to include a duty to take action to remedy the incompatible legislation.

²⁵ United Nations Committee on the Rights of the Child. [General Comment No.19 \(2016\) : General measures of implementation of the Convention on the Rights of the Child](#)

7. What are your views on the Children’s Rights Scheme and the requirement on public authorities to report?

We welcome the inclusion of a requirement for a Children's Rights Scheme setting out the mechanisms and arrangements to ensure compliance with the duty to act compatibly with the UNCRC. We welcome the new duties (section 12(3)) for Scottish Ministers to consult with our office when they are proposing to make or amend a new Scheme and in relation to action to be taken (section 13(5)).

The United Nations Committee on the Rights of the Child in its General Comment No. 5 states that there is a need for visible cross-sectoral coordination to recognise and realise children’s rights across Government, between different levels of government and between Government and civil society – including in particular children and young people themselves.

International experience shows that the most successful models of incorporation are those that are accompanied by a range of implementation measures. The Welsh experience demonstrates the utility of the Children’s Rights Scheme in supporting Ministers compliance with the legislation and promoting rights-based decision making.

The ability to monitor the effectiveness of the Children’s Rights Scheme and implementation measures will be affected by the quality of available data. “Collection of sufficient and reliable data on children, disaggregated to enable identification of discrimination and/or disparities in the realization of rights, is an essential part of implementation.”²⁶

The United Nations Committee on the Rights of the Child, in their 2016 Concluding Observations on the United Kingdom and Northern Ireland, made a number of recommendations in relation to improved data collection to ensure impacts on children’s rights can be adequately monitored.²⁷

There are on-going data gaps, on key indicators for children and young people’s rights. The Independent Children’s Rights Impact Assessment undertaken by the Observatory of Children’s Rights Scotland on behalf of the Children and Young People’s Commissioner Scotland found that;

“The absence of this information makes it impossible to monitor which children and young people are most likely to be experiencing the greatest negative impact on their rights and, as a response, to prioritise the allocation of resources appropriately”.²⁸

The Children’s Rights Scheme and requirement on public bodies to report should be used as an opportunity to improve the availability of disaggregated data.

²⁶ United Nations Committee on the Rights of the Child. [General Comment No.19 \(2016\) : General measures of implementation of the Convention on the Rights of the Child](#) para 48

²⁷ United Nations Committee on the Rights of the Child. 2016. [Concluding Observations on the United Kingdom and Northern Ireland](#)

²⁸ [Independent CRIA on the response to Covid-19 in Scotland](#), page 52

Children’s right to an effective remedy will also be strengthened through the Children’s Rights Scheme. The United Nations Committee on the Rights of the Child makes clear that a mechanism for challenging public authorities should include the provision of child-friendly information, advice, (self) advocacy, and access to independent complaints procedures and legal representation.²⁹

The Children’s Rights Scheme must be published a format accessible to children and young people, as it represents a key demonstration of the commitment of Scottish Government to giving effect to children’s rights. Ensuring the scheme is accessible to children, by default, provides the Scottish Government with an opportunity to exemplify the culture change it seeks to encourage through incorporation of the UNCRC.

“Even to show that, to show how children's voices and children have participated. Like when they evaluate what they've done, they need to kind of prove it and show that it wasn't tokenistic. And the participation obviously needs to be throughout, not just at the end.” **CYPCS Young Adviser**

The duty to prepare the Scheme, section 11(3), sets out a list of considerations that Ministers “may” include.³⁰ The Bill would be strengthened by replacing “may” with “shall”, to ensure comprehensive coverage of essential arrangements, and consistency in approach.

We welcome reporting duties for public bodies being introduced, together with a requirement for 3 yearly reporting (s15-16). Children’s rights would be further protected by extending this duty to the Scottish Courts and Tribunals Service. Courts and tribunals are important forums for realising children’s right to effective remedies, however they themselves must also be able to demonstrate their commitment to children’s rights and the UNCRC across their work.

8. Is there anything else you want to tell us about the Bill?

Incorporation of the UNCRC into domestic Scots law starts with passing the Bill. Meaningful culture change around children’s rights will come through the implementation of the Bill and through improving the professional skills, knowledge and experience of officials at all levels in embedding children’s rights in decision making.

“I think it’ll take a few years, maybe more, but it’s a good starting point to changing the culture around children’s rights. We also need to wait until it’s actually in practice.” **CYPCS Young Adviser**

²⁹ United Nations Committee on the Rights of the Child (2003) [General Comment no.5 on General measures of implementation of the Convention on the Rights of the Child](#)

³⁰ These considerations include essential arrangements such as children’s participation in decision making; budgeting; awareness raising and CRWIA.

Beyond the Bill, implementation will require - ongoing review of legislation for compatibility with the UNCRC; high quality impact assessment; data collection and analysis; accessible reporting; child rights-based budgeting; children and young people's participation in decision-making; effective remedies; education on the UNCRC; training and professional development.

Much can be learned from other states that have already incorporated the UNCRC³¹ and from the Committee on the Rights of the Child's General Comment 5 which provides guidance on the steps to implementation.

For further information, please contact Megan Farr, Policy Officer at megan.farr@cypcs.org.uk or 07803 874 774

³¹ Lundy, L., Kilkelly, U., Byrne, B. and Kang, J. (2012) [The UN Convention on the Rights of the Child: a study of legal implementation in twelve countries](#) UNICEF UK.