

**United Nations Convention on the Rights of the Child (UNCRC):**

**Embedding UNCRC in our policies and guidance**

**Background:**

Scottish Government’s vision is a Scotland where children’s human rights are embedded in all aspects of society. A Scotland where policy, law and decision-making takes account of children’s rights and where all children have a voice and are empowered to be human rights defenders. The UNCRC is the global ‘gold standard’ for children’s rights and sets out fundamental rights of all children. On 21st March 2021, the incorporation of the UNCRC was unanimously passed into Scots law by the Scottish Parliament with the United Nations on the Rights of the Child (Incorporation) (Scotland) Bill.

Due to the recent Supreme Court hearing and judgement (6th October 2021), the UNCRC Bill will return to Scottish Parliament so that MPs can address the concerns regarding 4 sections, which are said to go beyond the powers of Scottish Parliament. Once the Bill is amended and Royal Assent is given, the Bill will automatically enter into force 6 months later. Although the Scottish Government can choose to commence the Bill even sooner than 6 months.

Although the incorporation of UNCRC into Scots law has been delayed, it is important to note that the Scottish Government have made clear their commitment to incorporate the convention into domestic law to the maximum extent possible, as soon as practicable. In the meantime, the majority of work in relation to implementation of UNCRC can, and is, continuing. By directly incorporating the UNCRC into Scots law to the maximum extent possible under the current powers of the Parliament, children’s rights will mean children and young people are involved in the decisions that affect their lives and that children’s rights are always respected, protected and fulfilled by public authorities.

Forth Valley and West Lothian Regional Improvement Collaborative have worked together since April 2021 to develop resources and professional learning to support Children’s Services with the incorporation of UNCRC into their practise and work with CYP. There are 3 phases to this plan, all of which will involve evaluation and review cycles:

This resource is part of the toolkit for phase 2. This will support local authorities, educational establishments and children’s services organisations to consider their current and future policies/ guidance with a UNCRC lens. These questions and prompts will allow practitioners to self-evaluate whether their policies/ guidance fully support children’s rights.

**Articles and provisions:**

UNCRC has 54 articles and they apply to all CYP under the age of 18 years old. These are:

* Universal: apply to all children, regardless of abilities or family circumstances
* Unconditional: they do not have to be earned
* Inalienable: they cannot be taken away if children are not being responsible
* Inherent: they cannot be separated from the individual
* Indivisible: they are all inter-related and should be seen as a whole.

There is no article more important than another. Within these 54 articles, there are four general underpinning principle articles (2,3,6 and 12). There are also articles which specifically relate to the goals of education (28, 29 and 31) and others which might be useful to consider within Children’s Services such as 23 (disability) and 24 (health and health services). These have all been included within the template below.

**Use of the template:**

It is envisaged that this template can be used by local authorities, educational establishments and children’s services organisations to consider their current and any future policies or guidance within their establishments or services. This will ensure their policies and guidance are mindful of the various aspects of UNCRC and their systems/ procedures/ structures are delivering their services to children and young people using a children’s rights based approach.

Establishments will RAG rate each question and provide evidence where possible for the rationale of the RAG rating. This should be concise. There is also space to describe further actions required to embed UNCRC. This can be used as a working document, if required, or a self-evaluation tool.

**Key for RAG ratings:**

* Red: There is evidence that this policy may place barrier/s to CYP or a group of CYP’s being able to access this right
* Amber: There is further work to be completed on ensuring the policy supports and ensures this right.
* Green: There is evidence that this right is being upheld through the policy
* N/A: Considered but not believed to be applicable to policy being reviewed or developed

**Current policies/ guidance/ reports:**

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| --- | --- | --- | --- |
| **Questions to consider** | **RAG\*** | **Evidence** | **Any actions? Timescales?** |
| **General question** |  |  |  |
| Is there a child-friendly version of this policy, guidance or report?  If not, how are you ensuring that CYP have access to the information from this policy/ guidance/ report? |  |  |  |
|  |  |  |  |
| **General principles of UNCRC** |  |  |  |
| The policy[[1]](#footnote-1) is inclusive of all CYP and does not discriminate any child/ group whatever their ability, race, religion or family background (Article 2). |  |  |  |
| The policy is in the best interests of all CYP (Article 3). |  |  |  |
| The policy ensures that every child is able to develop to their full potential. It will not place any barriers in the way of any CYP achieving their full potential (Article 6). |  |  |  |
| Does this policy relate to any matters which will affect CYP?   * If it does, have CYP’s views been consulted, considered or have they actively participated in its development? * Is there any way this policy could impact negatively on CYP’s or any group of CYP’s views being heard?   (Article 12) |  |  |  |
|  |  |  |  |
| **Protect, provision & participation:** |  |  |  |
| The policy ensures all CYP are able to access education. It does not put any barriers in place that would stop any CYP from accessing their education (Article 28). |  |  |  |
| The policy ensures every CYP has access to the best possible health. This includes provision of good health care, nutritious food and an education on health and wellbeing so that all children can stay healthy (Article 24). |  |  |  |
| The policy ensures every CYP can access an education which allows them to develop their own personality, talents and abilities to the full. It does not put any barriers in place for any CYP or group of CYP to access this (Article 29). |  |  |  |
| The policy ensures all CYP are able to relax, play and take part in a wide range of cultural and artistic activities (Article 31). |  |  |  |
|  |  |  |  |
| **More specific articles or groups:** |  |  |  |
| *Relationships and behaviour based policies*:  The policy ensures that any discipline in schools respects CYP’s dignity and their rights (Article 28).  Do CYP agree with this? (Article 12) |  |  |  |
| *CYP’s views:*  The policy ensures CYP’s views are being asked for and considered using approaches that are developmentally appropriate. This includes recognising CYP’s increasing capacity to make their own choices (Article 5). |  |  |  |
| *Social interactions*:  The policy ensures that all CYP are able to meet other CYP and join groups and organisations (Article 15).  Consider equity of access to after school clubs and opportunities as well as cultural activities offered. |  |  |  |
| *CYP with Additional Support Needs or a Disability*:   * The policy ensures that CYP with a disability are able to live a full and decent life with dignity, and as far as possible, independence and to play an active part in the community. (Article 23) * The policy ensures that CYP who have experienced trauma or neglect are able to access and receive special support to help them recover their health, dignity, self-respect and social life. (Article 39) |  |  |  |
| *Ethnic, racial and religious equality*:  The policy ensures that all CYP are able to learn and use the language, customs and religion of their family, even if these are not shared by the majority of people in the country where they live (Article 30). |  |  |  |

**Development of new policies:**

When considering developing new policies, please consider the above questions before and during your development of the policy/ guidance/ report. This will ensure that you have considered and have the philosophy of UNCRC embedded in any further policies or guidance you develop. Instead of asking ‘Is there….?’ or ‘How does this policy…?’, ask the question: “How will I ensure that …..?”

It can also be helpful to have a generic paragraph making reference to UNCRC within any new policy being developed. This can be adapted to suit the needs of the policy but ensures that UNCRC is considered and highlighted as a vital part of the policy development process. Please see an example of such a paragraph below:

This policy upholds the United Nations Convention on the Rights of the Child (UNCRC). The UNCRC is a universal treaty which covers all aspects of a child's life and sets out the civil, political, economic, social and cultural rights that all children everywhere are entitled to. The (*name of establishment)* is committed to embedding a rights based approach, and this policy is particularly relevant to *(name articles).*

1. For efficiency the word policy has only been used but the statement may also apply to any guidance or report which is being produced. [↑](#footnote-ref-1)