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Welcome

Welcome to the sixth Children’s Rights Unit update.

This is an exciting time for children’s rights. The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act) will commence on 16 July.

Commencement of the Act is a landmark moment, which will have important implications for children and young people and for how we develop policy and deliver public services in Scotland. This update provides a summary of the duties that will be placed on public authorities under the Act and sources of support.

This includes information on:

1. the compatibility duty on public authorities in Part 2, section 6
2. the child rights reporting duty on listed authorities in Part 3, section 18
3. updates on support which will be provided for public authorities to aid implementation and operation of their duties under the UNCRC Act along with a list of existing resources.

If you have any questions about the newsletter content, themes you would like covered in future issues or content you would like to contribute to highlight how your organisation has been preparing for the duties in the UNCRC Act, please drop us an email at [UNCRCIncorporation@gov.scot](mailto:UNCRCIncorporation@gov.scot)

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**Further information on the compatibility duty on public authorities in Part 2, section 6**

Section 6 places a duty on public authorities not to act incompatibly with the UNCRC requirements in the [schedule](https://www.legislation.gov.uk/asp/2024/1/schedule/enacted) of the Act. This includes failures to act, that would result in an incompatibility with the UNCRC requirements.

The section 6 duty applies to those who meet the definition of a “public authority”. This definition includes those delivering “functions of a public nature” and so can extend to private, voluntary and independent organisations in certain circumstances.

The compatibility duty will apply when a public authority is delivering devolved functions conferred under: Acts of the Scottish Parliament, a provision of secondary legislation made under such Acts (unless made under a power inserted by an Act of the UK Parliament), or common law powers. It will not apply when functions are delivered under Acts of the UK Parliament, even in devolved areas, including where text is inserted by Acts of the Scottish Parliament (or subordinate legislation made under powers in Acts of the Scottish Parliament) into other enactments (such as UK Acts or subordinate legislation made under powers in a UK Act).

However, we encourage public authorities to take a children’s human rights approach in the delivery of all of their services, regardless of the source of their functions. The UK has been a signatory to the UNCRC for over 30 years and the UNCRC is already at the heart of GIRFEC, The Promise and the Scottish Government's commitment to ensuring that all children and young people have the best possible start in life. Furthermore, “listed authorities” (in section 19 of the Act) have a duty to report on actions taken and planned, to secure better or further effect of the rights of children, without limitation regarding the statutory source of their functions. We know public authorities are fully committed to this and will have been working hard to consider what this means for them.

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**Further information on the child rights reporting duty on listed authorities in Part 3, section 18**

Commencement of [section 22](https://www.legislation.gov.uk/asp/2024/1/section/22/enacted) of the UNCRC Act will repeal Part 1, of the Children and Young People (Scotland) Act 2014, including the section 2 reporting duty on public authorities.

Part 3, section 18 of the UNCRC Act requires public authorities listed at section 19 to produce a children’s rights report every three years which addresses the following four areas:

1. action taken in the previous reporting period to ensure compatibility with UNCRC requirements
2. action taken to secure better or further effect of children’s rights
3. actions that will be taken in the next 3 year reporting period to ensure continuing compatibility with UNCRC requirements
4. actions planned in that period to secure better or further effect of children’s rights

It includes a new duty to submit such reports to Scottish Ministers. Both the standard report and a child friendly version must be published and submitted. The first children’s rights reports will be due as soon as practicable from the 31 March 2026.

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Support for Public Authorities

Public services play a vital role in delivering for children, young people and their communities and we are committed to working in collaboration with public authorities to deliver a revolution in children’s rights.

The Scottish Government will publish statutory guidance to support public authorities in the implementation and operation of their duties under Part 2 and Part 3 (section 18) of the UNCRC Act. The statutory guidance will ensure all public authorities are aware of their duties and how to fulfil them.

It will not be possible to publish statutory guidance ahead of commencement given the tight timescales. A small delay was anticipated, given the six month commencement period of the Act set alongside the need to ensure a 12 week consultation on the guidance. We will provide an update when the statutory guidance is available.

A range of resources have also been developed to support public authorities to take a children’s human rights approach If you have any questions or wish to request further support, please email [UNCRCIncorporation@gov.scot](mailto:UNCRCIncorporation@gov.scot).

The Scottish Government looks forward to continuing to work with you to ensure that the rights of our children and young people are respected, protected and fulfilled.

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UNCRC Resources

**Existing Resources**

1. [**Non-statutory guidance**](https://www.gov.scot/publications/guidance-taking-childrens-human-rights-approach/) will support public authorities and other organisations to take a children’s human rights approach.
2. The [**children’s rights guide**](https://storymaps.arcgis.com/stories/8cf833a607b445209ecc11295288fd37) for senior leaders in public services in Scotland was developed by the Improvement Service. It provides an introduction to the UNCRC.
3. The Improvement Service has also created a [**Getting Ready for UNCRC framework**](https://www.improvementservice.org.uk/__data/assets/pdf_file/0020/43382/Getting-Ready-for-UNCRC-Incorporation-Framework.pdf) for public authorities.
4. A short [**animation**](https://www.youtube.com/watch?v=vlakicbEit8)was created by the Scottish Government with Carers Trust Scotland, Parent Network Scotland, Renfrewshire Youth and Partners in Advocacy to support children to understand their rights. It shows a journey through a community and the types of interactions young people might have with public authorities about their rights.
5. [**Participation guidance**](https://www.gov.scot/publications/decision-making-children-and-young-peoples-participation/pages/participation/) will support public authorities to engage with children and young people in decision-making.
6. The[**Children’s rights knowledge hub**](https://khub.net/web/guest/welcome?p_p_state=maximized&p_p_mode=view&refererPlid=720409556&saveLastPath=false&_com_liferay_login_web_portlet_LoginPortlet_mvcRenderCommandName=%2Flogin%2Flogin&p_p_id=com_liferay_login_web_portlet_LoginPortlet&p_p_lifecycle=0&_com_liferay_login_web_portlet_LoginPortlet_redirect=%2Fweb%2Fchildrens-human-rights-in-scotland-uncrc)is an online community of people working to ensure that children's rights are realised in Scotland, with a particular focus on how public bodies are implementing the UNCRC. This platform is open to all, but users must sign up. It is external to the Scottish Government.
7. An [**Introduction to Children’s Rights e-learning module**](https://turasdashboard.nes.nhs.scot/) is now available on NHS Education Scotland’s TURAS platform. This platform is open to all, but users must sign up.

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UNCRC Resources

**Further resources in development**

1. We will publish **statutory guidance** to support those with duties under the Act. The statutory guidance will ensure all public authorities are aware of their duties and how to fulfil them. Sector experts will be best placed to adapt guidance for their own contexts.
2. **Children’s Rights Skills and Knowledge Framework** to support public authorities to embed children’s rights in public services. The Framework and an accompanying training plan will aim to support public authorities to experience the value of using a children’s human rights approach, including how this contributes to other local and national strategic priorities, aiding a transformation in service design and delivery.
3. A **child friendly model complaints process** has been developed by the Scottish Public Services Ombudsman (SPSO) for public bodies under its jurisdiction. The [principles](https://www.spso.org.uk/sites/spso/files/CFC/CFCPrinciplesAmended.pdf) and [guidance](https://www.spso.org.uk/sites/spso/files/CFC/CFCProcedure.pdf) are now live and are available to other organisations should they wish to adopt it. A version for children and a version for parents / carers / families will come later this year. SPSO has a launch event on Tuesday 16 July 2024 at 11am, which will be hosted by Rosemary Agnew, the Scottish Public Services Ombudsman. They will present their Child Friendly Complaints Handling Principles and Child Friendly Complaints Handling Process Guidance and provide an opportunity to ask any questions around the Child Friendly Complaints process. Click [here](https://events.teams.microsoft.com/event/8278df63-7844-4471-90da-cc721ba1ffa3@0ef77447-1083-4dec-b89f-27c765076840) to book your spot!

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FAQs on UNCRC Act

The Children’s Rights Unit have received some questions from stakeholders on the UNCRC Act. We have provided some top FAQs below, to provide clarity for stakeholders.

1. **When will the UNCRC Act duties start?**

The section 6 duty on public authorities will commence 6 months after the Bill received Royal Assent and became an Act.  The duty commences on 16 July 2024.

1. **Will SG provide sector specific guidance on the UNCRC Act?**

The UNCRC Act statutory guidance will be universal to ensure all public authorities are aware of their duties and how to fulfil them. Sector experts will be best placed to adapt guidance for their own contexts. It would not be possible for guidance to set out how policy and practice in particular areas needs to change to become compliant with the UNCRC requirements in the Act, as this would go beyond what guidance is able to provide for. The articles in the UNCRC, and hence the UNCRC requirements in the Act are a list of principles that need to be interpreted in a national context and further in specific, individual contexts. We believe that public authorities should be doing that already by applying a children’s human rights approach to delivery of all their services. Ultimately, if a matter was raised in court, it would be for the court to determine whether or not a public authority had acted lawfully or not in the context of its obligations in respect of the UNCRC requirements. The Scottish Government will consider how to ensure that public authorities are made aware of judgments made by the courts that could be relevant to their service delivery.

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FAQs on UNCRC Act

1. **Will public authorities have to do CRWIAs?**   
     
   Section 17 of the UNCRC Act requires the Scottish Ministers to carry out a child rights and wellbeing impact assessment (CRWIA) in respect of provisions of primary and secondary legislation and certain decisions of a strategic nature that relate to the rights and wellbeing of children.

There is no duty on public authorities to carry out a CRWIA in the UNCRC Act. However, the Scottish Government makes CRWIA [External Guidance](https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2021/11/childrens-rights-wellbeing-impact-assessment-guidance/documents/child-rights-wellbeing-impact-assessment-crwia-external-guidance/child-rights-wellbeing-impact-assessment-crwia-external-guidance/govscot%3Adocument/child-rights-wellbeing-impact-assessment-crwia-external-guidance.pdf) and [templates](https://www.gov.scot/publications/childrens-rights-wellbeing-impact-assessment-guidance/documents/) (within Supporting Documents) available for all, to support best practice.

1. **Can child rights reports required from public authorities listed in section 19 of the Act only be in a written format?**

Section 18 requires the authorities listed in section 19 of the Act to prepare and publish reports on what they have done and what they plan to do to comply with the compatibility duty in the Act and to give further and better effect to children’s rights, regardless of whether the compatibility duty applies. The UNCRC ActAct is non prescriptive about the format of child rights reports; it explains what the reports should include and places a duty on listed authorities to provide a version of the report that children can understand.