

**Report on Argyll and Bute Council Response to Scottish Government
Legislation on the United Nations Convention on the Rights of the Child**

1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to inform members of the background and context relating to Argyll and Bute Council's continuing preparation for the incorporation of the United Nations Convention on the Rights of the Child (UNCRC) into Scots Law, and the associated work currently underway in Argyll and Bute in response to the opportunities and challenges which have emerged.
- 1.2 Argyll and Bute Council's Children's Rights Report 2020-2023 was published in November 2020, and was endorsed by Community Services Committee in March 2021. The report examines how children's rights are currently respected and ensured within Argyll and Bute, and identifies key actions taking place over the next three years to further children's rights across the authority. The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill requires listed public authorities to report in this way every three years on how they comply with children's rights.
- 1.3 To prepare for implementation of the requirements of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, a UNCRC Officer Working Group was established in May 2021 to examine how the requirements of the bill can be implemented across Argyll and Bute Council, and to plan for the required actions. The group comprises members from across Customer Services and the Health and Social Care Partnership.

**Report on Argyll and Bute Council Response to Scottish Government
Legislation on the United Nations Convention on the Rights of the Child**

2.0 Introduction

2.1 The United Nations Convention on the Rights of the Child (UNCRC) is an international treaty, signed by the UK in 1991. The UNCRC is viewed as the 'gold standard' for children's rights. It 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. It also explains how adults and governments must work together to make sure all children can enjoy all their rights.

2.2 The UNCRC can be broadly broken down into three areas:

- Protection (from harm and exploitation)
- Participation (an active participant in own lives and society)
- Provision (education, health care, shelter, nutrition)

Since 1991, the UK has been obliged to recognise the UNCRC as part of its international treaty obligations. As a result, much of our children's legislation is already compatible with UNCRC. In particular, the focus in most children's legislation on the best interests of the child as paramount is a well-established feature of our law and is a cornerstone of UNCRC.

2.3 The Scottish Government has been obliged to actively consider UNCRC in its decision making since the coming into force of the Children and Young People (Scotland) Act 2014. As part of these duties, Scottish Government carry out Children's Rights and Wellbeing Impact Assessments (CRWIAs) to assess the impact of all new legislation on children and young people.

2.4 In April 2019 the Scottish Government indicated its intent to take further steps to recognise UNCRC, by incorporating UNCRC directly into Scots Law. The policy intent of incorporation is to:

“revolutionise the way we listen to children and take their rights into account. By directly incorporating the UNCRC into Scots law, and 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. Where necessary, children will be able to go to courts to enforce their rights. The Bill is a significant step towards a future based on tolerance, equality, shared values and respect for the worth and human dignity of all people.”

There was significant support for the Bill during the public consultation, with most organisations working with children and young people agreeing that incorporation was essential to further the progress already made towards a society which respects and listens to children and young people.

3.0 Recommendations

3.1 It is recommended that the Community Services Committee:

- Note the current position with regard to the incorporation of UNCRC into Scots Law and the associated opportunities and challenges, and work currently underway in Argyll and Bute.
- Note the Action Plan priorities defined in the Argyll and Bute Children’s Rights Report 2020-2023.
- Endorse the work of the Officer Working Group coordinating preparation for the incorporation of the UNCRC into Scots law.
- Agree to a further reporting coming to Community Services Committee, with further progress outlined.

4.0 Detail

4.1 The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill was passed on 16 March 2021. It was to have received Royal Assent in mid-April and was due to come into force six months after Royal Assent (October 2021).

The UK government announced on 13 April 2021 that it was referring the legislation to the Supreme Court, on the basis that some aspects of the legislation exceed the Scottish Parliament’s devolved powers in some limited respects. Although this will inevitably delay the giving of Royal Assent, it may

not ultimately significantly delay implementation of the essential elements of the legislation, which are not being challenged.

4.2 The UNCRC should not be seen as something which is only relevant to, or the sole responsibility of, Education and Children's Services. The legislation will have significant implications for the local authority across the breadth of services and areas that interface directly and indirectly with children, young people, and families.

4.3 Particularly relevant duties within the Bill include:

Duty not to act incompatibly with the UNCRC – placed on all those delivering “functions of a public nature”, to include functions carried out “under a contract or other arrangements with a public authority”. This will include non-governmental funding contracts.

Children's Rights Scheme – Scottish Ministers to publish an annual plan and report on steps taken to further the UNCRC, including children's participation, raising awareness, child rights budgeting, complaints mechanisms, child rights impact assessment and more.

Public Body Reporting – listed public bodies to report on steps taken and steps planned to further the UNCRC.

4.4 In keeping with this requirement for public body reporting, The Argyll and Bute Children's Rights Report 2020-2023 sets out an Action Plan for the period of the report. The priorities identified in the Action Plan are detailed below:

- Ensure that Child Rights and Wellbeing Impact Assessments (CRWIAs) are carried out, where relevant, in relation to new policies, plans and strategies.
- Ensure a Young Peoples Advisory Group is created. It will work to ensure that children and young people are actively engaged and involved in the development of future services.
- Through facilitating a multi-agency focus across schools and communities for children and young people, ensure maximum impact in key areas such as; good mental health and wellbeing, personal skills, leadership, team building and communication.
- Ensure that young people are able to have their voices heard at Integration Joint Board and Community Planning Partnership through the involvement of representatives such as School Pupil Councils, MSYPs and Youth Forums.
- Provide multi-agency awareness training with regards to understanding and applying the UNCRC Children's Rights Plan.
- Take forward the findings of the Independent Care Review within a multiagency approach. Ensure the findings of the Independent Care Review are embedded in practice across the partnership.
- Develop a multiagency Youth Justice Strategy that meets the needs of children and young people and takes account of their views.

- Create the Children and Families Transformation Board to ensure that consultation with children and young people is considered in relation to every project.
- Ensure that children and young people are taught about their rights and the broader human rights agenda in Schools. Look at the number and level of Rights Respecting Schools and how this grows year on year.
- Create a framework for supporting children with a parent in custody.
- Further develop the automated benefits approach, ensuring that more children receive free school meals and uniform grants.
- Ensure that the Local Child Poverty Action Report reflects the rights of children, as specified in the UNCRC.
- Examine what facilities and opportunities exist to encourage the health and wellbeing of children and young people, for example free sports passes / Live Argyll / Libraries etc. Ensure equal access to these.

4.5 As referred to above, a Officer Working Group has been established to examine how the requirements of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill can be implemented across Argyll and Bute Council, and to plan for the required actions. The Officer Working Group, which is chaired by the Senior Operations Manager for Children, Families and Justice and which reports to the Children's Strategic Group, meets regularly and comprises colleagues from across Education, Social Work, Health and the wider Health and Social Care Partnership. The Officer Working Group identified and is taking forward a number of priority actions:

- The appointment of a Children's Rights Officer for Argyll and Bute Council. Possible funding streams are being examined by Officer Working Group members.
- A means of amalgamating Equality and Socio-Economic Impact Assessments (EQSEIAs) and Children's Rights and Welfare Impact Assessments (CRWIAs) to ensure all areas of the council can assess and articulate the impact of present and future policy and planning on children's rights in a consistent, accessible, manageable, substantial way. A draft document is being produced.
- Establishing awareness raising and training across the council. Training resources are being designed, including for the Third Sector, and there is liaison with the Council Communications Team to explore communication channels to all in the authority.
- Engagement with children and young people on the work of the Officer Working Group. This will ensure that the voice of children and young people is inherent in terms of planning and not just feedback.
- Establish further links and partnership with key agencies: NHS Highland; Social Work Scotland; other local authorities.
- Design curricular content to ensure learner engagement with the processes and planning for UNCRC incorporation into Scots law.

5.0 CONCLUSION

- 5.1 Through ongoing planning, implementation and evaluation across Education, Social Work, Health and other partner agencies, the actions to ensure children's rights are at the centre of the council's work, as defined within the Argyll and Bute Children's Rights Report 2020-2023 Action Plan, will be overtaken and reported to Community Services Committee.
- 5.2 Through the work of the UNCRC Officer Working Group, immediate priorities to prepare for the incorporation into law of the UNCRC will be addressed, and progress reported to Community Services Committee.
- 5.3 Both areas of work detailed above will be underpinned by effective multi-agency working within Argyll and Bute Council, and by effective partnership working across Argyll and Bute and Scotland.

6.0 IMPLICATIONS

- 6.1 Policy – The incorporation of the UNCRC into law in Scotland will have implications for all levels of policy making and planning.
- 6.2 Financial – There may be resource implications resulting from the requirement to consider children's rights at all levels of the work of the council.
- 6.3 Legal – Both the Children & Young People (Scotland) Act 2014 and the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill once in statute, make requirements of the council in terms of its implementation of, ensuring of and reporting on children's rights
- 6.4 HR – None
- 6.5 Fairer Scotland Duty:
 - 6.5.1 Equalities – Equalities, particularly in the context of CRWIAs and/or emerging children's rights evaluation processes, will constitute an area of increased focus, notwithstanding existing equalities duties and obligations.
 - 6.5.2 Socio-economic Duty – All aspects of the council's socio-economic duty are encapsulated by the articles of the UNCRC, in particular articles 24-28.
 - 6.5.3 Islands – The council will require ensure that the circumstances relating to island living are considered and addressed within the context of children's rights.
- 6.6 Risk – There are potential reputational risks for the Council should they fail to deliver the legislative requirements set out within the above areas of law.

6.7 Customer Service – This report provides Elected Members with an overview of work to ensure children’s rights are a central consideration in the work of Argyll and Bute Council, and further reports to Community Services Committee will follow.

Douglas Hendry, Executive Director with responsibility for Education

Councillor Yvonne McNeilly, Policy Lead for Education

For further information contact:

Simon Easton, Education Manager

Telephone: 01436 657681

Email: simon.easton@argyll-bute.gov.uk

August 2021