



## **A rights-based approach to child friendly justice**

**Juliet Harris, Director, Together (Scottish Alliance for Children's Rights)**

22<sup>nd</sup> October 2024

Website: [www.togetherscotland.org.uk](http://www.togetherscotland.org.uk)

Images from members of the Children's Parliament Website: [www.childrensparliament.org.uk](http://www.childrensparliament.org.uk)

# Together (Scottish Alliance for Children's Rights)

*An NGO alliance with nearly 600 members working to improve the awareness, understanding and implementation of children's human rights in Scotland.*

## **Vision:**

Scotland becomes a place where every baby, child and young person grows up in an atmosphere of happiness, love and understanding

## **Mission:**

Working with our membership, we act to ensure that all babies, children and young people growing up in Scotland have all their human rights respected, protected, and fulfilled.



# Sharing Stories for Change – Children 1<sup>st</sup> impact report

“I just turned 17. I was still a wee girl. This was like a grown man, and a big grown man in a police uniform, and I was like, I can’t say these words to him.”

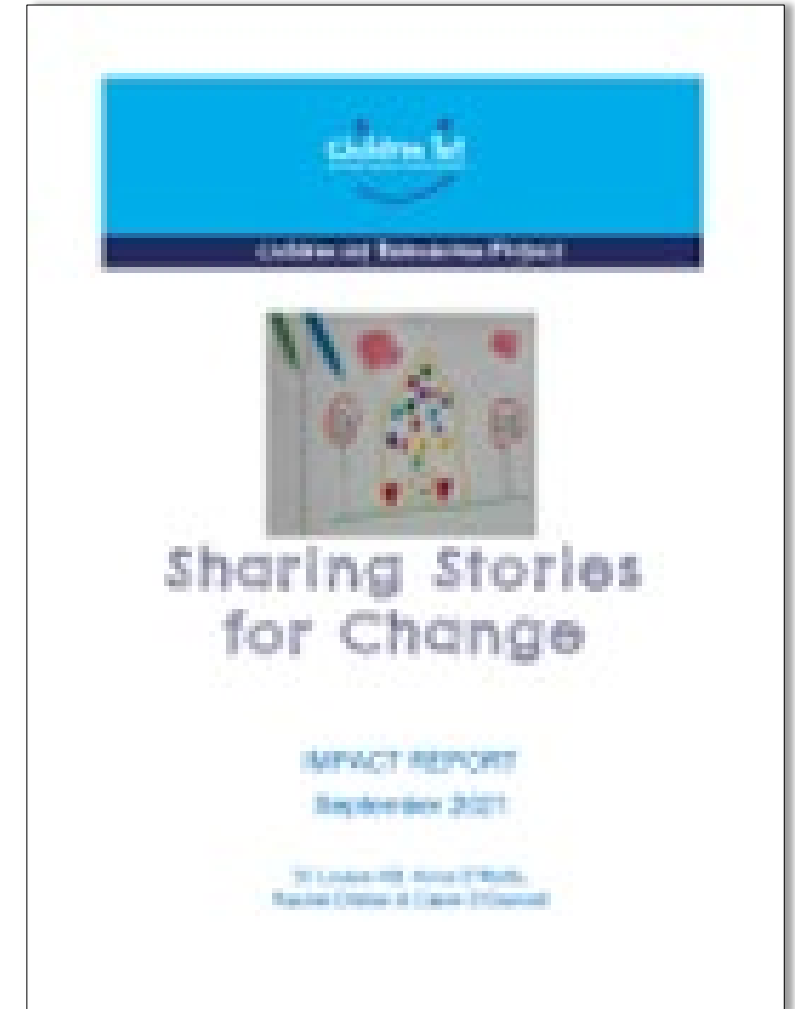
**Girl, aged 17**

“It felt like they didn’t believe me, they said ‘are you sure?’ five times.”

**Girl, aged 14**

“When I had to talk to the police about my dad, I was taken away to a police station away from home and had to talk to two people in a small room with a camera. I wasn’t allowed my mum or anyone I trusted. I felt really scared.”

**Girl, aged 12**



# The UN Convention on the Rights of the Child and the right to recovery



## UNCRC Article 39

“... take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.”

# A rights-based approach to child friendly justice

“A child-friendly justice system brings relief and redress; it does not inflict additional pain and hardship and it does not violate children’s rights.

Above all, children between birth and the age of 17 – be they a party to proceedings, a victim, a witness or an offender – should benefit from the “**children first**” approach”

**Introduction**

**Council of Europe Guideline on child-friendly justice**



BUILDING A EUROPE FOR AND WITH CHILDREN

monograph

5



Guidelines of the  
Committee of Ministers  
of the Council of Europe  
on child-friendly justice

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website: [www.togetherscotland.org.uk](http://www.togetherscotland.org.uk)

# A rights-based approach to child friendly justice

A set of standards adopted by the Council of Europe in 2010 to make justice systems across Europe more accessible, age-appropriate, and protective for children.

- Guidance on adapting judicial systems to the needs of children
- Measures to ensure access to justice, appropriate legal representation, and child-friendly environments
- Protection from secondary victimisation, particularly for children involved in violence or abuse cases
- Emphasis on alternative, non-judicial solutions like mediation and diversion for minor offences.

Ensures that children's rights are fully respected and that they are treated appropriately at all stages of justice processes, promoting justice that is child-sensitive, reduces harm, and ensures children can participate meaningfully while being protected from trauma.



BUILDING A EUROPE FOR AND WITH CHILDREN

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# UNCRC (Incorporation) (Scotland) Act 2024

## Proactive at promoting children's rights

- Protect the UNCRC rights of all children under 18 years old
- Public authorities and those commissioned to deliver public services must act compatibly with UNCRC
- Children's Scheme: participation, awareness, budgeting and child rights impact assessments
- Ministers to conduct Child Rights Impact Assessments
- Compliance reports by Ministers and public authorities
- Scrutiny by children, young people, Children and Young People's Commissioner, Scottish Parliament, civil society.

## Accountable for upholding children's rights

- Children can complain if their rights aren't being protected
- No time limits on proceedings until children reach the age of 18 years old
- Courts can decide if laws follow the UNCRC
- Children & Young People's Commissioner can help if a child wants to complain their rights are not being protected
- A court can tell organisations to change what they are doing, if the court agrees that they are not protecting children's rights



# Part 1(4) – Interpretation of UNCRC Requirements

Courts and tribunals may take into account specific sources when interpreting the UNCRC requirements, but only if relevant to the proceedings (Part 1, Section 4(1)) including:

- Parts of the UNCRC and Optional Protocols 1 and 2 not included in the Act's schedule (Part 1, Section 4(2)(a)).
- UNCRC preamble and Optional Protocols (Part 1, Section 4(2)(b)).
- General Comments issued by the UN Committee (Part 1, Section 4(2)(c)).
- Concluding Observations made by the UN Committee under Article 45(d) (Part 1, Section 4(2)(d)).
- Views, findings, comments, and recommendations adopted by the UN Committee under the Third Optional Protocol (Part 1, Section 4(2)(e)).
- Recommendations made by the UN Committee following "days of general discussion" (Part 1, Section 4(2)(f)).
- Other relevant international law and comparative law from different jurisdictions (Part 1, Section 4(2)(g)).



## United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 2024 asp 1

**The Bill for this Act of the Scottish Parliament was approved by the Parliament on 7th December 2023 and received Royal Assent on 16th January 2024**

An Act of the Scottish Parliament to incorporate in Scots law rights and obligations set out in the United Nations Convention on the Rights of the Child; to make related provision to ensure compliance with duties relating to the Convention; and for connected purposes.

**PART 1**

[UN Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#)



# Scotland's 'to do' list from the UN Committee on the Rights of the Child

**Child protection systems:** Ensure a child rights-based approach to prevent and address abuse and neglect, including adequate resourcing for social services and community-based trauma care for victims.

**Support for child victims and witnesses of violence:** Provide prompt access to child-sensitive, multisectoral interventions to prevent secondary victimisation, and expand models like Barnahus and The Lighthouse.

**Trauma-informed services:** Ensure trauma care-based support for all victims, including Bairns' Hoose standards in Scotland.

**Video-recorded evidence:** Allow child victims of violence to give video-recorded testimony during judicial procedures, with access to therapy.

**Training for professionals:** Strengthen training for social workers, law enforcement, and the judiciary to respond effectively to violence and sexual exploitation.

**Concluding Observations to the UK, May 2023**  
**UN Committee on the Rights of the Child**

CRC/C/GBR/CO/6-7

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Committee on the Rights of the Child

## Concluding observations on the combined sixth and seventh reports of the United Kingdom of Great Britain and Northern Ireland\*

### I. Introduction

1. The Committee considered the combined sixth and seventh reports of the United Kingdom of Great Britain and Northern Ireland<sup>1</sup> at its 2716th and 2717th meetings,<sup>2</sup> held on 18 and 19 May 2023, and adopted the present concluding observations at its 2728th meeting, held on 26 May 2023.

2. The Committee welcomes the submission of the combined sixth and seventh reports of the State party, under the simplified reporting procedure, which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses its appreciation for the constructive dialogue held with the delegation of the State party.

3. Where not otherwise stated, the present recommendations are addressed to the Government of the United Kingdom of Great Britain and Northern Ireland, including the jurisdiction of England, and, where relevant mandates fall under their jurisdiction, to the governments of the devolved administrations in Wales, Scotland and Northern Ireland and Overseas Territories and Crown Dependencies.

### II. Follow-up measures taken and progress achieved by the State party

4. The Committee welcomes the various measures to implement the Convention, including the prohibition of marriage under 18 years of age in England and Wales; the lowering of the voting age to 16 years in Wales; the prohibition of corporal punishment in Scotland and Jersey; the abolition of the defence of reasonable punishment in Wales; the passing of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill by the Scottish Parliament in 2021; the adoption of a Children and Young People's Strategy and the establishment of a Youth Assembly in Northern Ireland; the extension of the Convention and its first and second Optional Protocols to Guernsey and Alderney; and the establishment of a Children's Commissioner in Jersey. It also welcomes the ratification of the Council of Europe Conventions on protection of children against sexual exploitation and sexual abuse in 2018 and on preventing and combating violence against women and domestic violence in 2022.

\* For adoption by the Committee at its ninety-third session (8–26 May 2023).

<sup>1</sup> CRC/C/GBR/6-7.

<sup>2</sup> See CRC/C/SR. 2716 and CRC/C/SR. 2717.

# Scotland's 'to do' list from the UN Committee (continued...)

**Raise minimum age of criminal responsibility:** Increase the age to at least 14 years old.

**Legislative measures:** Ensure children are not prosecuted as adults; apply the child justice system to all children under 18 at the time of the offence; use detention only as a last resort and for the shortest time possible; abolish life imprisonment for under-18s.

**Promote non-judicial measures:** Prioritise diversion, mediation, and counselling over formal judicial processes wherever possible, and promote non-custodial alternatives like probation or community service.

**Ensure legal aid:** Provide qualified, independent legal aid for children at the earliest stage and throughout proceedings.

**Ban harmful practices:** Prohibit the use of spit hoods, taser guns, plastic bullets, and strip searches on children; ban solitary confinement, isolation, and restraint as disciplinary measures in schools, care, and healthcare settings.

**Train professionals:** Build the capacity of judges, prosecutors, police officers, and professionals in child-friendly justice and children's rights.

**Investigate violence in detention:** Ensure a child-friendly and multisectoral approach to investigating violence, including sexual abuse, in detention; prosecute perpetrators and provide reparations.

**End solitary confinement:** Prohibit solitary confinement, and only use separation as a last resort, for the shortest time, under close supervision by trained staff.

*Concluding Observations to the UK, May 2023, UN Committee on the Rights of the Child*

# Drawing from General Comments to inform child-friendly justice

## General Comment No. 12: Right to be Heard

Ensures children's right to be heard in all matters affecting them, especially in legal proceedings.

## General Comment No. 13: Right to Freedom from all Forms of Violence

Protects children from violence and prevents re-traumatisation during legal processes.

## General Comment No. 14: Best Interests of the Child

Emphasises the child's best interests as a primary consideration in judicial decisions.

## General Comment No. 5: General Measures of Implementation

Guides effective implementation of the UNCRC in legal frameworks.

## General Comment No. 24: Children's Rights in the Child Justice

Focuses on a rehabilitative, not punitive, child justice system and promotes non-custodial measures.



# Sharing Stories for Change – Children 1<sup>st</sup> impact report

“I just think it should be a child friendly space like no a pure empty clinical workspace or things like that. I think you need to be somebody who can actually get on a child’s level. Somebody who is aware that not every child is exactly the same. They don’t open up the exact same, not every child likes the exact same things and somebody who is like versatile and can see the bigger picture eh, a child rather than viewing it as, this is all we I’m here to do, like a job, like filing paperwork. They need to be open enough to have patience to get down to that child’s level cause if you don’t click with them, they’re no going to tell you anything.”

**Mum**

*“If they could just ask the questions once, and then use that in court without me having to go and feel all stressed again, that would be way easier.”*

**Girl, aged 10**

“Somewhere you don’t feel judged, but you feel cared for and loved.”

**Young woman, aged 20**

# A child-friendly justice system

“Considering that a friend is someone who treats you well, who trusts you and whom you can trust, who listens to what you say and to whom you listen, who understands you and whom you understand.

A true friend also has the courage to tell you when you are in the wrong and stands by you to help you work out a solution.

A child-friendly justice system should endeavour to replicate these ideals”.

**Council of Europe Guidelines  
on child-friendly justice**





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