

SERVICE UPDATE

<u>Name of Function:</u>	Children and Family Services
<u>Date:</u>	16/02/24
<u>Title of Update:</u>	Non-statutory guidance on taking a children's human rights approach.
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Guidance on taking a children's human rights approach

This non statutory guidance, published on the 8th January, provides a range of case studies to support public authorities to learn from existing practice in taking a children's human rights approach. It does not cover legal duties which will come into force when the UNCRC Bill passes through Parliament.

The UNCRC was unanimously approved by the Scottish Parliament on 7th December 2023 and is currently awaiting Royal Assent. Statutory Guidance will be issued for Part 2 (section 6: Compatibility Duty on Public Authorities) and Part 3 (section 15: Reporting Duties on Public Authorities) to support public authorities to fulfil their duties in due course.

The guidance is for all public services and extends wider than children's services given that decisions taken in the delivery of public services may indirectly impact on the rights and wellbeing of children and young people through their parents and carers.

This service update provides an overview of the non-statutory guidance and some reflections on our progress in preparing for implementation.

Children's Rights

Children and young people have the same human rights as adults. The additional rights in the UNCRC recognises that childhood is a special time which must have additional protections to ensure that children and young people are respected, protected and fulfilled.

There are 4 articles in the UNCRC that are seen as special and known as 'General Principles'. The General Principles help to interpret all the other articles meaning that these rights are so essential that if they are violated, this will have an impact on all other rights. The General Principles are that:

- Rights should be applied without discrimination (Article 2)

- The best interests of the child should be a primary consideration (Article 3)
- All children have the right to life, survival and development (Article 6)
- Children have the right to express a view and have that taken into account (Article 12)

Progressive realisation, maximum available resources and non-regression

Article 4 requires States Parties to undertake all appropriate legislative, administrative and other measures to implement the UNCRC. Regarding economic, social and cultural rights, they must, 'undertake such measures to the maximum extent of their available resources'.

The concept of 'maximum extent' can be interpreted as an obligation toward, 'progressive realisation' in relation to economic, social and cultural rights such as the rights to nutrition, clothing and housing. This means that progress must be made over time to help realise these rights and that regressive steps must not be taken.

What does the UNCRC Bill aim to do?

The Bill, as approved by the Scottish Parliament on 7th December, says that:

- Public Authorities must not, in carrying out relevant functions, act incompatibly with the UNCRC requirements set out in the UNCRC Bill
- Children, young people and their representatives will be able to use the courts to ensure that their rights are recognised
- Courts will have the power to take action if Scottish legislation is thought to be incompatible with the UNCRC and all future legislation will require to be aligned
- The Children and Young People's Commissioner and Scottish Human Rights Commission will have powers to take legal action to protect children's rights
- The Scottish Government will have to publish a Children's Rights Scheme and routinely review how it is working
- The Scottish Parliament will have to publish a report yearly on actions taken and planned to secure better or further effect the rights of children
- Other listed authorities (including Aberdeen City Council) will have to report every three years on what they are doing to ensure compliance with the compatibility duty. ACC will also have to outline the steps taken to secure better or further effect during the reporting period.
- The Scottish Government will carry out a children's rights and wellbeing assessment in respect of new primary and secondary legislation and some other decisions of a strategic nature . This will replace the reporting duty under the 2014 Act already in place.

Taking a children's humans rights approach

The guidance mentions various potential approaches and also recognises that one size will not fit all. Approaches noted as best practice include:

- **Child rights and wellbeing impact assessments (CRWIA)** will be undertaken by Scottish Ministers. There is no requirement for anyone else to undertake these assessments. ACC has already built children's rights into our

Integrated Impact Assessments (IIAs) so are already very well placed in this area.

- The need to focus on **prevention** to help realise human rights. ACC has already shifted focus upstream and this will be further developed through our model of Family Support and Locality working
- **Child friendly complaints process**. ACC already has this in place.
- **Children's rights as part of budget setting**. ACC already has this in place through our IIAs and associated budget protocol.

In terms of service delivery:

- Do services prioritise **closing the gap** between groups to ensure all claim rights equally. ACC education service National Improvement Framework already has this in place and the Local Outcome Improvement Plan focusses on addressing inequality, this focus on groups may need to be extended to other plans.
- There needs to be **meaningful participation** in both developing services and taking decisions around budget. ACC has some strong examples, one of which is outlined in the non-statutory guidance.
- **Measuring progress** in our delivery of children's rights. This is already in place through our evaluation framework linked to our Children's Services Plan).
- A need to share **information in a child friendly** way. This is already in place but could be more consistent. We are currently exploring how digital tools could help support us in this area given that this can require a large amount of Officer time.
- Suggestion of providing **child friendly budget oversight** of some funds as is already in place across youth work and ensuring that young people are able to engage in budget setting work. Our budget simulator work will be evaluated to determine next steps in this area.
- Making use of the **Lundy model of participation**. This model is being tested by Children's Social Work and in our Bairns Hoose Planning.

Raising awareness

There is a need to continue to raise awareness of UNCRC with children, young people and families with a national awareness raising campaign planned in 2024. The Children's Services Board will consider how best to support the national campaign.

Best practice examples

A number of best practice examples were included in the non-statutory guidance, with many similar to areas of work we have taken forward including our Pupil Mental Health Taskforce, our Pupil Climate Change Group and our adoption of the SPSO child friendly complaints process. Our own Master Planning with children and young people is cited as best practice.

Links to other regulations and duties

The guidance then clarifies all of the legislation and policies already in place to help deliver on the UNCRC noting the importance of joining these policy areas. All of the listed policies and legislation have already been transferred into our Children's

Services Plan and associated Annual report to ensure that policies are not viewed in isolation.

Next steps:

A further assessment of readiness will be undertaken when Statutory Guidance is published later in the year.