

ABERDEEN CITY COUNCIL

COMMITTEE	Education and Children's Services Committee
DATE	18 February 2025
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	UNCRC Plan
REPORT NUMBER	F&C/25/024
EXECUTIVE DIRECTOR	Eleanor Sheppard
CHIEF OFFICER	Shona Milne
REPORT AUTHOR	Matt Reid
TERMS OF REFERENCE	1.1.1

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to present a refreshed Local Authority Plan for implementation of the United Nations Convention on the Rights of the Child (UNCRC) now that Statutory Guidance on Parts 2 and 3 of the Act have been published.

2. RECOMMENDATIONS

That the Committee:

- 2.1 endorses the UNCRC Plan to support Council's on-going compliance with the UNCRC (Incorporation) (Scotland) Act 2024; and
- 2.2 instructs the Chief Officer – Education and Lifelong Learning to routinely update the Plan based on on-going review of legal judgements and advise Committee of any required changes to the Plan through a Service Update.

3. CURRENT SITUATION

- 3.1 Aberdeen City Council has been working towards implementation of the UNCRC for a considerable period of time. Progress was most recently reported in [2023](#) through the Children's Rights Report prepared to comply with previous duties outlined in Section 2 of the Children and Young People's (Scotland) Act 2014.
- 3.2 The assessment of progress and associated Action Plan prepared in 2023 drew from a range of published documentation in the absence of Statutory Guidance, including documentation from the Improvement Service and Third Sector providers. In keeping with the direction of travel outlined in CFS/23/022, the publication of Statutory Guidance in late 2024 triggered a review of the Plan.
- 3.3 The UNCRC (incorporation) (Scotland) Act 2024 received Royal Assent on 16 January 2024. Section 6 of the Act came into force on 16 July 2024. Section 6 placed a duty on public authorities not to act incompatibly with the 'UNCRC

requirements' as defined by section 1 and the schedule of the Act. Section 6(1) states that,

"It is unlawful (subject to [subsection \(4\)](#)) for a public authority to act, or fail to act, in connection with a relevant function in a way which is incompatible with the UNCRC requirements."

3.4 Section 6 (5)(a) states that, for the purposes of that section, the term 'public authority' includes, in particular:

- i. the Scottish Ministers
- ii. a court or tribunal
- iii. any person certain of whose functions are functions of a public nature

3.5 Section 19 of the Act provides a list of authorities, including Local Authorities, who must ensure compliance and for whom there is a future statutory reporting responsibility under section 18 of the Act. This replaces the duties outlined in Section 2 of the Children and Young People (Scotland) Act 2014. The new duty requires the listed authority to publish, as soon as practicable after the end of each reporting period with the first period beginning 16 July 2024 and ending on 31 March 2026, a report every three years to detail:

1. Action taken during the reporting period to ensure compatibility with the UNCRC requirements as defined by the Act.
2. Action taken to secure better or further effect of children's rights.
3. Actions it intends to take in the next three-year reporting period to ensure compatibility with the UNCRC requirements as defined by the Act.
4. Actions it intends to take to secure better or give further effect to children's rights.

3.6. A "standard" Report and a "child friendly" adaption must be published and submitted to Scottish Ministers, and listed Authorities (such as NHS Grampian and Aberdeen City Council) are permitted to publish joint reports.

3.7 All published guidance continues to outline that full realisation of children's rights will only be possible through proactivity on the part of all public services, not solely those that work directly with children and young people given that services that impact on parents and carers will also indirectly impact on the rights of the children of those parents and carers. As a result, consideration of the UNCRC requires to be evident across the delivery of all public services. This approach has strongly influenced the approach taken by the Local Authority to date.

3.8 In September 2024, Scottish Government published Statutory Guidance on Parts 2 and 3 of the Act. The guidance on [Part 2](#) aims to support public authorities, and other organisations, to take a children's human rights approach to service delivery and act in a manner that is compatible with the UNCRC.

- 3.9 The Guidance on [Part 3](#), aims to support local authorities in their understanding, implementation and operation of Part 3 of the Act, which relates to statutory reporting duties.

KEY MESSAGES FROM THE STATUTORY GUIDANCE

- 3.10 The UNCRC provides a (children’s) rights-based framework to uphold the rights of children and young people and to take their views into account in decisions that affect them (both directly and indirectly). This includes policy, practice, service delivery and within budget-making decisions.
- 3.11 Duties extend beyond traditionally considered areas such as education and children’s services and into areas such as housing, transport, environment, culture, planning, leisure and sport. It also extends to services delivered through partner organisations who are commissioned or procured by public authorities.
- 3.12 The need for clear leadership and coordination between services and partners is identified as crucial. Additionally, the guidance outlines the need for there to be a firm commitment to the meaningful empowerment and participation of children and young people.
- 3.13 There are four articles in the UNCRC that are seen as special. They are known as the “General Principles” and they help to interpret all the other articles of the Convention. These articles are considered to be so essential that if they are violated, this will have an impact on all other rights. These “General Principles” are:
- Non-discrimination (Article 2)
 - Best interest of the child (Article 3)
 - Right to life, survival and development (Article 6)
 - Right to be heard (Article 12)
- 3.14 As stated in the Scottish Government’s guidance “Guidance on taking a children’s rights approach’ (Jan 2024), *“For example, if the right to life, survival and development is not protected then it can be difficult to protect other rights such as the right to an adequate standard of living, the right to participation or the right to an education. All rights are mutually reinforcing and interlinked. Children’s civil, political, economic, social and cultural rights as expressed within the UNCRC all have equal status. Therefore, no rights should be held in higher regard or seen as more important than others. Whilst the General Principles are a useful lens through which to consider children’s rights, they should be taken into account in conjunction with all rights and not considered primary, with other rights (outlined in the UNCRC) seen as secondary. Considered together, the general principles help to construct a perception of children and childhood, one where they are equal to their adult counterparts. The general principles contribute to the enhancement of a positive attitude towards children and their rights.”* (Page 8).

OUR PREPAREDNESS

- 3.15 Considerable work has been undertaken to ensure compatibility with the Part 2 over a number of years. Achievements to date include a comprehensive

training programme made available across the Council, children's rights being embedded into our Integrated Impact Assessment arrangements which inform political decision making around budget and policy, work outlined in the Children's Rights Reports (including that published in [2023](#)), work outlined in the [Children's Services Board Plan](#) and associated [Annual Reports](#), Child Poverty Reports, on-going work to support [unaccompanied asylum seeking children](#), the considerable work to establish a local [Bairns Hoose](#) and delivery against [The Promise](#) amongst many others. There is considerable evidence that the Council recognises how different policies impact on children's rights and that a children's human rights approach is being taken. This work must be maintained.

- 3.16 Good mechanisms are in place to take stock on the impact of our policies on children and young people. As a result of our established approaches to 'taking stock', work is currently being progressed on both our [Family Support](#) and [Future Libraries](#) Model given the needs and wants of communities differ considerably across the city. Both of these initiatives will help ensure that we continue to place children's rights at the heart of our policies, and give better effect to children's rights.
- 3.17 As a Community Planning Partnership, we are now establishing whole system approaches when we identify a vulnerability, for example through our whole system approach to [Healthy Weight](#). This work will be further strengthened through our engagement with the Marmot Place initiative and be central to considerations as we establish the next 10 year Local Outcome Improvement Plan.
- 3.18 Considerable work has been undertaken to ensure the meaningful participation of children and young people through for example our Masterplanning at the Beach and the centrality of voice in our ABZ Campus work. In addition, a number of systems to test the strength of our arrangements are now well established, through for example our yearly [Health and Wellbeing survey](#) and most recent Bright Spots survey work outlined in our [Promise](#) Report. Work to ensure meaningful participation will need to continue.
- 3.19 The consideration of children's rights has become well embedded within our work as a Local Authority and increasingly is becoming better embedded as a wider Community Planning Partnership. The statutory guidance has been considered by the Children's Services Board and Community Planning Aberdeen Board and agreement reached to report our progress through our Children's Rights Report jointly with NHS Grampian in order to strengthen our work further.
- 3.20 Officers conclude that work to date has greatly supported our preparedness. The content of the Statutory Guidance on Part 2 had largely been predicted by officers continuing to review the full range of published guidance. However, there are considerable unknowns around how the courts may interpret the legislation and this could have implications for all public authorities. This uncertainty means that officers will require to review the outcome of any legal proceedings brought by any party nationally on an on-going basis to determine if any local changes are required.

- 3.21 The Statutory Guidance (Part 2) outlines that in the event that a public authority is thought to have acted in a manner inconsistent with the UNCRC, a child (or advocate acting on a child's behalf) can challenge the actions of that public authority via a judicial route (Section 7) and seek a remedy for the purported unlawful act.
- 3.22 The Bill includes an express provision requiring a court or tribunal to take the view of the child as to the effectiveness of the remedy or relief proposed. A few important caveats to highlight are that proceedings are to generally be raised within one year of the alleged unlawful act taking place (Section 7(9)), though this only begins at the point the child turns 18 in the event that the act occurred while the child was under the age of 18. In any case, a specific provision is included in Section 7(12) to allow for the court or tribunal to exercise its discretion to bring an action outwith the one-year time-bar if it is "equitable to do so".
- 3.23 To date, this has been untested in Scottish courts and as a result, there remains a high degree of uncertainty regarding what legal proceedings will look like in practice and the implications of any decisions on public authorities. Given the very high degree of uncertainty, Officers propose that the Plan be kept under continuous review so that any learning from court decisions can be taken into account if/where required.
- 3.24 The duties outlined in the Statutory Guidance on Part 3 replace those which helped shape the 2023 Children's Rights Report. Reporting expectations for Local Authorities are broadly in line with previous duties derived from the Children and Young People (Scotland) Act 2014. Mechanisms to publish [Child Friendly](#) versions of key documentations are already in place and should now be consistently utilised.
- 3.25 The first Children's Rights Report under the UNCRC (incorporation) (Scotland) Act 2024 will be embedded into our Children's Services Board Annual Report/Plan in 2026 to ensure that the interconnection between policy areas help strengthen reporting arrangements.

UNCRC PLAN

- 3.26 The updated UNCRC Plan (Appendix A), has been created following careful consideration of the recently published Statutory Guidance on Part(s) 2 and 3 of the UNCRC (incorporation) (Scotland) Act 2024, while also considering the "General Principles" of the UNCRC, alongside the totality of the Convention. Although very good progress has been made, officers are suggesting that work continues to ensure some areas are built upon further.
- 3.27 The plan has been reviewed in-line with the tools and guidance contained within the Statutory Guidance, particularly in considering the application of the Section 6 duty which makes it unlawful for public authorities to act in a way which is incompatible with the UNCRC requirements.

3.28 Based on what is known, the Plan in Appendix A will help Aberdeen City Council continue to take all reasonable steps to uphold our responsibilities under the Act, place children's rights at the centre of our actions and mitigate against incompatibility which may result in legal recourse.

4. FINANCIAL IMPLICATIONS

4.1 Article 4 of the UNCRC states that all public authorities shall "undertake all appropriate legislative, administrative, and other measures of implementation" to realise the rights of children.

4.2 Scottish Government [guidance](#) asserts that budgeting for children's rights raises considerations such as:

- How an overall budget is formulated and ensuring there are enough resources to deliver services and programmes essential to upholding children's rights.
- The extent to which available resources are applied on the basis of 'best value principles such as reducing waste and ensuring best value duties are implemented throughout the expenditure of the budget.
- How children are meaningfully involved in the budgetary decision-making processes.

4.3 Failure to ensure compliance with the Act could result in considerable financial cost to the local authority should legal redress be sought and, additionally, if compensation is required as a result of legal process. Children's Rights are fully considered within Integrated Impact Assessment arrangements currently in place and arrangements are in place to ensure that children and young people meaningfully participate in the budget process.

5. LEGAL IMPLICATIONS

5.1 Failure to comply with the duties outlined in the UNCRC (Incorporation) (Scotland) Act 2024 presents significant risk to the Council in meeting its statutory obligations as described in the Act and exposure to potential legal remedy.

6. ENVIRONMENTAL IMPLICATIONS

6.1 No environmental impacts identified.

7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	Risk of not changing our local systems to reflect changes in national legislation.	Delivery of the Children's Services Plan, UNCRC Plan, Family Support Model and regular review of the appropriateness of relevant Plan to ensure maximum impact.	L	Yes
Compliance	Non-compliance would place us in breach of legislation and expose the local authority to potential legal challenge.	Mitigated through implementation of UNCRC to ensure systems and processes are aligned to statutory guidance.	L	Yes
Operational	Staff feel unable to access the support required by some young people.	Mitigated by basing a multi-disciplinary team around the family and child.	L	Yes
Financial	Incompatibility with recommended guidance regarding child rights budgeting.	Participatory approaches to engaging children and young people in budget decisions through face-to-face engagement sessions and online simulator. Continue to test new approaches to ensure that all groups of young people, including the most vulnerable, have their voices heard.	L	Yes

	Potential financial implications of legal costs and damages if non-compliant.	Continued work to ensure compliance as identified in UNCRC plan to mitigate against legal action. Budget decisions considered against context of UNCRC and with regards to impact on families and vulnerable young people and interlinked nature of budget saving options. Data from health determinants used to explore proportional impacts.		
Reputational	Risk of reputational damage through non-compliance/fulfilment of statutory duties as detailed in UNCRC (Incorporation) (Scotland) Act 2024	Mitigated through ongoing monitoring and review of UNCRC plan to ensure we are fully compliant with statutory duties.	L	Yes
Environment / Climate	None			

8. OUTCOMES

Council Delivery Plan 2024	
Impact of Report	
Aberdeen City Council Policy Statement <u>Working in Partnership for Aberdeen</u>	This report highlights how the UNCRC is helping to shape the service delivery model for children and young people and supporting the commitment to a transparent, accessible and accountable Council.
Prosperous People Stretch Outcomes	The implementation plan detailed within this report supports the delivery of Prosperous People (Children & Young People) Stretch Outcomes 3 to 8 in the refreshed Local Outcome Improvement Plan.

	<p>This includes:</p> <p>3. 95% of all children will reach their expected developmental milestones by their 27-30 month review by 2026.</p> <p>4. 90% of children and young people report they feel listened to all of the time by 2026.</p> <p>5. By meeting the health and emotional wellbeing needs of our care experienced children and young people they will have the same levels of attainment in education and positive destinations as their peers by 2026.</p> <p>6. 95% of children living in our priority neighbourhoods (Quintiles 1 & 2) will sustain a positive destination upon leaving school by 2026.</p> <p>7. 83.5% fewer young people (under 18) charged with an offence by 2026.</p> <p>8. 100% of our children with Additional Support Needs/disabilities will experience a positive destination.</p>
Regional and City Strategies	This work features in the Aberdeen City National Improvement Framework Plan for 2022 – 26 and the Children’s Services Plan.

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	New Integrated Impact Assessment has been completed.
Data Protection Impact Assessment	Not required
Other	None

10. BACKGROUND PAPERS

10.1 None

11. APPENDICES

11.1 Appendix A - UNCRC Implementation Plan

12. REPORT AUTHOR CONTACT DETAILS

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