

# Child Rights and Wellbeing Impact Assessment (CRWIA) for [Independent Advocacy Plan](#)

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## Introduction

As set out in Part 1 of the Children and Young People (Scotland) Act 2014, Scottish Ministers must keep under consideration whether there are any steps which they could take which would or might secure better or further effect in Scotland of the UNCRC requirements, and if they consider it appropriate to do so, take any of the steps identified by that consideration. Undertaking a CRWIA helps Ministers to fulfil this duty.

There are two key considerations when undertaking a CRWIA:

**Participation:** The United Nations Convention on the Right of the Child (UNCRC) sets out that children have the right to participate in decisions which affect them. When assessing the impacts of the policy/measure, you are recommended to consult with children and young people. You can do this directly, through organisations that represent children and young people or through using existing evidence on the views and experiences of children where relevant. Participation of children and young people should be meaningful and accessible.

**Evidence:** You are recommended to gather evidence when assessing the impact of the policy/measure on children's rights and also for measuring and evaluating the policy/measure. If you identify any gaps in the evidence base, you can discuss how you will address these with analytical colleagues.

## 1. Which articles of the UNCRC does this policy/measure impact on?

List all relevant Articles of the UNCRC and Optional Protocols. While all articles of the UNCRC are given equal weight and are seen as complementing each other, the four general principles of the UNCRC (non-discrimination; the best interests of the child; the right to life, survival and development; and the child's right to have their views given due weight) underpin all other rights in the Convention, and should always be considered in your assessment. Please refer to [Annex 1](#) for UNCRC Article set out in Clusters and [Annex 2](#) for General Comments on the Articles.

### III: General principles

Article 2 - Non-discrimination.

Article 3(1) - For the best interest to be a primary consideration.

Article 3(2) – The state's obligations to ensure necessary care and protection.

Article 3(3) – The standards for institutions services and facilities.

Article 12- To respect for the views of the child.

### IV: Civil rights and freedoms

Article 17 – The child's access to information.

**V: Family environment and alternative care**

Article 5 – Parental guidance and child’s evolving capacities

Article 18 - (1) and (2) parental responsibilities and State's assistance.

**VI: Basic health and welfare**

Article 23 – The rights of disabled children

Article 24 – The right to health and health services

Article 26 – The right to social security

Article 27(1)-(3) right to adequate standard of living

**VII: Education, leisure and cultural activities**

Article 28 – The right to education

Article 29 – The aims of education

Article 31 – The right to leisure, play and participation in cultural and artistic activities

**VIII: Special protection measures**

D - Children belonging to a minority or an indigenous group

Article 30

**2. What impact will your policy/measure have on children’s rights?**

Positive - Having a rights-based approach to advocacy within this plan will assist in the positive outcome of reflecting human rights values. The intended impact of the Independent Advocacy Plan is to improve access to advocacy for those who require advocacy. This will be achieved through the range of actions in the Plan, both continuing existing initiatives and new approaches/activities to ensure access and promotion in a joined up, cohesive way. Throughout the Plan, engaging in consultation can ensure advocacy access is best tailored to individual circumstances. This is particularly important given the diversity of individuals who may have advocacy needs. The human rights-based approach to the delivery of advocacy ensures that those who use the services can input into decisions which affect them. This promotes equality of access to those individuals who may be disproportionately affected due to circumstantial barriers.

### 3. Will there be different impacts on different groups of children and young people?

Which groups of children will be affected by the policy/measure? Are there competing interests between different groups of children and young people, or between children and young people and other groups?

While we are not anticipating there to be differing impacts on different groups, The development and implementation of the plan aims to be fully inclusive to all age groups of children and young people. We expect engagement and consultation of this plan will seek to consider the wider impacts of this protected characteristic.

It is expected that advocacy access, services and initiatives targeted towards children, will impact the plan positively to improve outcomes specifically for the legislative areas identified. Specifically, that Children have the right to express their views on all matters that affect them, and they should, whenever possible, have an opportunity to be involved in advocating for their own rights. By having access to Child rights-based advocacy this will assist to ensuring the rights and principles of the Child & the Children's Rights Charter.

We expect that the plan will benefit in allowing for duty-bearers to be accountable for ensuring the right to advocacy. By including a child rights-based approach within the plan this ensures that children have the right to advocacy with an obligation on partnership and other duty bearers to fulfil that right and must be held accountable.

The plan will recognise the equal rights of every child as rights apply to all children without exception or discrimination. This will be beneficial for those having a lived and living experience of poverty and/or for those who may be looked after by the local authority or are involved within Child Protection or the Children's Hearing processes.

While the plan aims to have equal access to advocacy, the services offered will be based on the principal of personalisation to everyone's identified needs with the aim that the level and type of support is tailored appropriately.

### 4. If a negative impact is assessed for any area of rights or any group of children and young people, can you explain why this is necessary and proportionate? What options have you considered to modify the proposal, or mitigate the impact?

If options to modify the policy/measure are included here, include associated resource implications where relevant.

As the plan intends to improve outcomes in voicing Children's rights there are no specific negative impacts anticipated. Engagement and consultation is essential to the development of this plan and seeks to identify possible negative impacts. The effectiveness of the plan's eventual implementation will be dependent on several different factors during development. Particularly engagement with stakeholders such as our present providers of Advocacy, those involved its delivery and importantly those who access the services. Those presently involved within the Partnerships Children's

Service had an important role within the consultation to help consider negative impacts.

The characteristics which may mean that Children are at risk of negative impact include the protected characteristics as identified by the Equality Act (2010). These are age, disability, race, religion or belief, sex, gender, and sexual orientation.

Other factors that will also have an impact on a child include socio economic background, personal capacity, adverse experiences, dislocation, abuse, family breakdown and social isolation. Some Children must rely on service systems for help with all aspects of their life including housing, personal assistance, decision-making and income. Institutions and support services can affect every aspect of someone's life (potentially with long term consequences), particularly when people have been immersed in the service system since childhood; advocacy plays an essential role.

## 5. How will the policy/measure give better or further effect to the implementation of the UNCRC in Scotland?

This will inform Scottish Ministers' duty to report to Parliament on children's rights under the Children and Young People (Scotland) Act 2014.

The Plan's objectives include improving access to Advocacy for Children and ensuring advocacy is delivered in a joined up and cohesive way. The aim is to ensure that Children have the right to express their views on all matters that affect them, and they should, whenever possible, have an opportunity to be involved in advocating for their own rights, while minimising any disadvantages they may have in doing so. This will advance and protect all the Articles of the UNCRC indicated in section one.

It is expected the consultation with stakeholder groups will ensure that public bodies and other relevant institutions are aware of their legal obligations and additionally the strategy will be developed in consideration of Children's Rights under the Children and Young People (Scotland) Act 2014.

## 6. How have you consulted with relevant stakeholders, including involving children and young people in the development of the policy/measure?

This would include public or targeted consultations with children and young people, their parents/carers and the children's workforce. To make an informed assessment of the impact, the views of the children and young people who will be affected by the policy/measure should be considered fully. If the policy/measure has changed as a result of consultation with stakeholders, please set this out.

An engagement and consultation plan was developed as part of the overall Plans development with the inclusion of a robust feedback loop. Consultation with the relevant advocacy organisations, including Circles Advocacy, the Champions Board Who Cares? Scotland and Hear4U to represent views and feedback their experiences to inform the development of the Plan.

At every major stage of the Plan's development, a draft was shared with stakeholders to seek feedback which was taken into consideration and incorporated into the final version of the Strategy.

## 7. What evidence have you used to inform your assessment?

The evidence base may include demographic information, academic research, service monitoring/inspection reports, service evaluation reports, user surveys, etc. In particular, look at what existing evidence tells you about children and young people's views and experiences of the relevant service(s); and/or what it tells you about children and young people's views of the policy proposal. Identify any gaps in the evidence base, and set out how you will address these.

Research to be added as consulted during development.

Oliver, C.M. and Dalrymple, J (2008) Concepts, Public Policy and Research. Developing Advocacy for Children and Young People: Current Issues in Research Policy and Practice. London: Jessica Kingsley

Scottish Government guidance, Independent Advocacy: Guide for Commissioners (2013)

Scottish Mental Health Law Review Final Report (September 2020)

Independent Advocacy Principles, Standards & Code of Best Practice (2019)

A Human Rights Bill for Scotland: Consultation (2023)

United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill 2020

It is expected that regular discussions with stakeholders as part of the consultations who represent those who access Advocacy, can feed back their experiences of current support services and initiatives which can inform strategy development. This will also help in understanding existing data and gaps in support provision and delivery.

## 8. How will the impact of the policy/measure be monitored?

As part of the normal decision making process, the implementation of the policy/measure should be monitored. Please set out plans for measuring the impact of your policy/measure, including how it will support public bodies in Scotland to meet their duties to safeguard, support and promote the wellbeing of children in their area. Wellbeing is defined by eight wellbeing indicators: Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, and Included.

The development of this plan includes consideration to monitoring and measuring processes to measure the impact or otherwise. The Plan's Development Group will measure the impact of the actions set out and oversee the ongoing development of the Plan. By having stakeholders involved, we will aim to agree the approach to

monitor the impact of the Plan so that all relevant parties could be involved in a way that suits them.

Monitoring activity will be focused on measuring access and outcomes for those requiring advocacy, collecting the most relevant information to monitoring through consultation. We will also report on the progress towards our targets to maximise transparency and provide the opportunity to reassess the action plan to include new actions on an ad-hoc basis. This will ensure the plan develops as relevant and can adapt to new developments in society. We will continue to work collaboratively with stakeholders to develop our monitoring approach. These stakeholder groups will include Children's Services and create awareness of their duties to provide access to advocacy, support and promote the wellbeing of children through discussions and sharing of best practise.

## 9. How will you communicate to children and young people the impact of the policy/measure on their rights?

Providing information to children and young people on how their rights will be impacted helps to ensure that policy making is transparent. Are you publishing a child-friendly or accessible CRWIA?

We will work alongside our stakeholders to bring their experiences of working with children to communicate the impact and progress of the development and committed actions in the plan. Any changes to policies and actions which could have an impact on children will also be communicated.

A child-friendly CRWIA will be available upon request. This is an easy read version of the Strategy which can be published and disseminated to the relevant stakeholders to share with children.

## 10. Sign & Date

Policy Lead Signature & Date of Sign Off:

H.Dearie – 29/10/2024

**Once signed off, please send to [CRWIA@gov.scot](mailto:CRWIA@gov.scot) and publish on gov.scot website.**



## Annex 1 – UNCRC Article Clusters

### [CRC Clusters \(unicef-irc.org\)](https://www.unicef-irc.org/)

#### I General measures of implementation

[Article 4](#) implementation obligations

[Article 41](#) respect for existing standards

[Article 42](#) making Convention widely known

[Article 44\(6\)](#) making reports widely available

#### II Definition of a child

[Article 1](#)

#### III General principles

[Article 2](#) non-discrimination

[Article 3\(1\)](#) best interest to be a primary consideration

[Article 3\(2\)](#) State's obligations to ensure necessary care and protection

[Article 3\(3\)](#) standards for institutions services and facilities

[Article 6](#) the right to life, survival and development (see also: [VI Basic health and welfare](#) )

[Article 12](#) respect for the views of the child

#### IV Civil rights and freedoms

[Article 7](#) right to name, nationality and to know and be cared for by parents

[Article 8](#) preservation of child's identity

[Article 13](#) freedom of expression

[Article 14](#) freedom of thought, conscience and religion

[Article 15](#) freedom of association and peaceful assembly

[Article 16](#) protection of privacy

[Article 17](#) child's access to information, and role of mass media

[Article 37\(a\)](#) [right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment](#)

#### V Family environment and alternative care

[Article 5](#) parental guidance and child's evolving capacities

[Article 18\(1\) and \(2\)](#) parental responsibilities and State's assistance

[Article 9](#) separation from parents

[Article 10](#) family reunification

[Article 11](#) illicit transfer and non-return

[Article 27\(4\)](#) recovery of maintenance for the child

[Article 20](#) [children deprived of their family environment](#)

[Article 21](#) [adoption](#)

[Article 25](#) periodic review of placement and treatment

[Article 19](#) protection from all forms of violence

[Article 39](#) rehabilitation and reintegration of victims of violence (see also: [VIII - Special protection measures](#) )

#### VI Basic health and welfare

[Article 6](#) right to life, survival and development (see also: [III - General principles](#) )

[Article 18\(3\)](#) support for working parents

[Article 23](#) rights of disabled children

[Article 24](#) right to health and health services

[Article 26](#) right to social security

[Article 27\(1\)-\(3\)](#) right to adequate standard of living

#### VII Education, leisure and cultural activities

[Article 28](#) right to education

[Article 29](#) aims of education

[Article 31](#) right to leisure, play and participation in cultural and artistic activities

#### VIII Special protection measures

##### **A - Children in situations of emergency**

[Article 22](#) refugee children

[Article 38](#) children and armed conflict

[Article 39](#) rehabilitation of child victims (see also: [V Family environment and alternative care](#) )

##### **B - Children involved with the system of administration of juvenile justice**

[Article 40](#) [administration of juvenile justice](#)

[Article 37\(a\)](#) [prohibition of capital punishment and life imprisonment](#)

[Article 37\(b\)-\(d\)](#) [restriction of liberty](#)

[Article 39](#) rehabilitation and reintegration of child victims (see also: [V Family environment and alternative care](#) )

##### **C - Children in situations of exploitation**

[Article 32](#) child labour

[Article 33](#) drug abuse

[Article 34](#) sexual exploitation

[Article 35](#) sale, trafficking and abduction

[Article 36](#) other forms of exploitation

## **D - Children belonging to a minority or an indigenous group**

[Article 30](#)

[Optional Protocol to the UNCRC on the Involvement of Children in Armed Conflict](#)

[Governments](#) should ensure that children under 18 who are members of the armed forces do not take a part in combat. Any recruitment of children under 18 must be voluntary and carried out with the full consent of the child's parents/carers. The UK Government has entered interpretive Declarations to this Optional Protocol. The UK would not exclude the deployment of under 18s who are members of the armed forces in direct combat if there is a genuine military need; it is not practicable to withdraw them before deployment; or doing so would undermine the operational effectiveness of their unit. The minimum age at which children may join the UK armed forces is 16 years, with parental consent required.

[Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution and Child Pornography](#)

[Governments](#) must prohibit the sale of children, child prostitution and child pornography, and recognise the vulnerability of child victims, protect their privacy, provide appropriate support services and ensure their safety.

## **Annex 2 – General Comments**

General Comments are non-legally binding interpretive aids issued by the UN Committee on the Rights of the Child to provide State parties with assistance regarding the interpretation of an article or issue relating to the UNCRC, and what actions governments should take to ensure its implementation. New General Comments appear at irregular intervals.

[Treaty bodies Search \(ohchr.org\)](#)

1. [The aims of education \(2001\)](#)
2. [The role of independent National Human Rights Institutions in the protection and promotion of the rights of the child \(2002\)](#)
3. [HIV/AIDS and the rights of children \(2003\)](#)
4. [Adolescent health and development in the context of the Convention on the Rights of the Child \(2003\)](#)
5. [General measures of implementation on the Convention on the Rights of the Child \(2003\)](#)
6. [Treatment of unaccompanied and separated children outside their country of origin \(2005\)](#)
7. [Implementing child rights in early childhood \(2005\)](#)
8. [The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment \(2006\)](#)

9. [The rights of children with disabilities \(2006\)](#)
10. [Children's rights in juvenile justice \(2007\)](#)
11. [Indigenous children and their rights under the Convention \(2009\)](#)
12. [The right of the child to be heard \(2009\)](#)
13. [The right of the child to freedom from all forms of violence \(2011\)](#)
14. [On the right of the child to have his or her best interests taken as a primary consideration \(2013\)](#)
15. [On the right of the child to enjoyment of the highest attainable standard of health \(2013\)](#)
16. [State obligations regarding the impact of the business sector on children's rights \(2013\)](#)
17. [On the right of the child to rest, leisure, play, recreational activities, cultural life and the arts \(2013\)](#)
18. [On harmful practices \(Joint General Comment with the Committee on the Elimination of Discrimination against Women\) \(2019\)](#)
19. [Public budgeting for the realisation of children's rights \(2016\)](#)
20. [Implementation of the rights of the child during adolescence \(2016\)](#)
21. [Children in street situations \(2017\)](#)
22. General principles regarding the human rights of children in the context of international migration ([Joint General Comment with the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families](#)) (2017)
23. State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return ([Joint General Comment with the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families](#)) (2017)
24. [General comment No. 24 \(2019\)](#) on children's rights in the child justice system
25. [General comment 25 \(2021\)](#) Children's Rights in relation to the digital environment.