Making Children’s Rights the Law
The Equalities and Human Rights Committee’s Report - 20 December 2020

CONVENTION ON THE RIGHTS OF THE CHILD

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What is the Children’s Rights Bill?

A Bill is an idea for a new law that the Scottish Parliament needs to think about. Right now there is a new Bill that would make children’s rights part of the law in Scotland. This is sometimes called “incorporation”.

Children’s rights are what children need to grow up happy, healthy and safe. They are written in the United Nations Convention on the Rights of the Child or the ‘UNCRC’ for short. The UNCRC is an important agreement between lots of countries who have made a promise to protect the rights of children and young people. The UNCRC also says what governments should do to respect children’s rights.

The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill - the Bill - will help to protect children’s rights and make sure they are at the heart of the law in Scotland.

The Scottish Government and public authorities will have to make sure they respect children and young people’s rights once the Bill becomes law.

Public authorities are organisations that run services we all use. For example, your local council is the public authority responsible for running your school. Your local NHS board runs your local hospital and doctor’s surgery. The police are a public authority too.
Who are the Equalities and Human Rights Committee?

The Scottish Parliament’s Equalities and Human Rights Committee looked at the Bill.

Committees are small groups of people who are Members of the Scottish Parliament also called MSPs. We are politicians. Politicians are people who make decisions and laws for the country you live in.

The Committee from left to right: Ruth Maguire MSP (Convener), Alex Cole-Hamilton MSP (Deputy Convener), Mary Fee MSP (Member), Alison Harris MSP (Member), Fulton MacGregor MSP (Member), Gillian Martin MSP (Member), Alexander Stewart MSP (Member)

How did we gather views from people?

We wanted to hear from children, young people and the organisations that represent you. We also wanted to hear from the Government about their Bill and public authorities who will have to do what the Bill says.

We did this by:

- Asking for the views of people and organisations online
- Putting together, a leaflet, BSL video, presentation for schools
- Designing an online consultation for children and young people
- Holding virtual calls with 7 children and young people’s groups
- Asked people questions at virtual meetings of the Committee.

153 people and organisations wrote to us. Over 50 schools, youth groups and young people got in touch and shared their views. Some responses included brilliant drawings, creative writing and stop-motion videos. Thank you to everyone.
This is what some children and young people sent us:

**An app could help everyone learn about our rights.**

**Article 12** People should respect our views

**Article 20** We have the right to special protection and help if we can’t live with our parents.

We need a rights mascot!
We listened to different groups of children and young people

We listened to groups of children and young people talk about why the Bill is important to them and what needs to happen to make it better. Not everyone will find it easy to get their rights respected or be able to stand up for their rights to be protected. For example, this could be because they are disabled, very young or don’t speak English.

We heard from:

- young children under 12 years
- young people 12-18 years
- young people who care for a relative
- young refugees and asylum-seekers
- young minority ethnic people
- children and young people with additional support needs
- children and young people who don’t live with their parents
- LGBTI young people, and
- young people who have experience of the youth justice system.
What did we learn?

That children and young people:

➢ often feel forgotten about when new laws and decisions are made
➢ can face negative attitudes when they voice their views
➢ can need support to understand their rights under the UNCRC
➢ should have the right to complain but need support to do this
➢ need to have opportunities to be involved whatever their ability, background or situation
➢ think adults need to learn about children’s rights
➢ feel adults would listen more if children’s rights were law
➢ want to hold adults responsible if children’s rights are not kept to
➢ think that resources to tell people about rights should be made available, accessible and promoted to all.
What about the public authorities who will have to do what the Bill says?

Nearly everyone wanted the Bill to become law, including public authorities.

Here are some reasons why:

- Belgium, Norway and Spain have made the UNCRC law. This has helped people to think and do more about children’s rights in these countries.
- Children, young people, and the people supporting them (including the Children’s Commissioner) should be able to take public authorities to court if children don’t think their rights have been respected.
- The Children’s Rights Scheme (a report) must show what work the Scottish Government is doing for children’s rights.

Some organisations felt they needed help to make the Bill work:

- Public authorities wanted time and support to prepare for the new law.
- Some public authorities asked for money to help them make changes to the way they do their work in the future.
- Children and young people’s organisations would need training for their staff.

“The basic rights of children should be the same wherever they live in the world.”

Josh Kennedy, Member of the Scottish Youth Parliament, [Official Report](#) of the Committee meeting on 26 November 2020 (Column 4).
The Committee made suggestions about how the Bill could be improved

The Bill does not have a start date. This was going to be decided by the Scottish Government later.

We said the Bill must start 6 months after the Queen signs it. This is because we want the Bill to start working as soon as possible to make sure children and young people’s rights are respected quickly.

The Bill makes the Scottish Government publish a report (a Children’s Rights Scheme) to show what work they are doing for children’s rights. The Government can decide what goes in that report.

We said the Scottish Government must do the things set out in the Children’s Rights Scheme, rather than maybe doing them.

We suggested the Scheme includes, for example, disabled, care or justice experienced children and young people or children that speak another language. Human rights education and making sure children can get support to help them access their rights, like legal advice, was also on our list to be added.

The Bill makes other public authorities publish reports every 3 years to say how they are respecting the UNCRC (this is already part of another law called the “Children and Young People (Scotland) Act 2014”).

We said these public authorities must write down in their report what they will do in the next 3 years to make rights better for children and young people. We think this will help make services better not just for you, but for generations of children and young people to come.

The Bill says the Scottish Government can choose to carry out a Child Rights and Wellbeing Impact Assessment on big decisions. These Impact Assessments are to help people understand how a decision might affect children and young people differently.

We said the Scottish Government must look at what might affect children and young people before it takes big decisions rather than just sometimes.
We said courts should think about international rights information to help them make their decision. For example, the court could look at the United Nations Convention on the Rights of Persons with Disabilities.

We suggested the Bill should be clearer about who can ask the courts to make a decision. For example, a child or youth organisation.

We said the court should ask the child or young person what they think would help them to feel better before the court decides what a public authority should do.

Sometimes, one child or young person might take a public authority to court about a problem that is affecting lots of other children as well. This might be an issue to do with school, medical care, council or other services or activities for children and young people. When this happens, we think the court should learn from that one decision and ask all public authorities to sort the problem for all children and young people.

We also asked the courts what they are doing to make courts nicer places for children to be.
What happens to the Bill now?

**Stage 1**
We have looked at the Bill and written our report.

The Parliament will now consider the general principles of the Bill. The whole Parliament votes on whether the Bill should continue, taking the Committee’s report into account. If Parliament agrees then the Bill will go on to the next stage. If not the Bill can’t go any further (“falls”).

**Stage 2**
If the Bill passes Stage 1, we would look at the Bill again in more detail. This is sometimes called “line-by-line” consideration. Amendments (changes) can be made at this stage.

**Stage 3**
After Stage 2, the Bill is considered by the whole Parliament again and amendments (changes) can be made. The Parliament will then vote on the Bill.

If Parliament agrees, the Bill is passed. If it does not agree, then the Bill falls.

If the Bill is passed, there is a 4-week period where it can be challenged by UK and Scottish law officers.

**Royal Assent**
After the 4-week period has finished the Scottish Parliament’s Presiding Officer presents the Bill for Royal Assent. All bills passed by the Scottish Parliament must be signed by the monarch (the Queen) before they can become law. Once the Bill receives Royal Assent it becomes an Act of the Scottish Parliament.
Acknowledgements and links to virtual call notes

With thanks to:

Aberlour
Barnardo’s Scotland
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Children and Young People’s Centre for Justice
Children in Scotland
Children’s Parliament
Intercultural Youth Scotland
Licketyspit
LGBT Youth Scotland
Scottish Commission for People with Learning Disabilities
Scottish Youth Parliament
Scottish Refugee Council
Scottish Throughcare and Aftercare Forum
Together (Scottish Alliance for Children’s Rights)
Who Cares? Scotland
Youthlink Scotland

These four articles of the UNCRC are known as the “General Principles”

Image from UNICEF
How do you keep up to date with what’s happening with the Bill?

Send us an email to this address:
equalities.humanrights@parliament.scot

Write to us at this address:
The Scottish Parliament
Equalities and Human Rights Committee
Edinburgh
EH99 1SP

You can phone us:
0131 348 6040

You can find out more about our work here:
The Equalities and Human Rights Committee