



Shirley-Anne Somerville MSP, Cabinet Secretary for Social Justice
The Scottish Government
St. Andrew's House
Regent Road
Edinburgh EH1 3DG

Tuesday 31st October 2023

Dear Ms Somerville

As organisations who share a concern and commitment to see human rights better protected and realised in Scotland, we welcome the Scottish Government's ambitions to 'create a legal framework for us to embed international human rights within domestic law and drive transformative, positive change for people – empowering them to claim their rights.' To this end, we strongly welcome the progress of reconsideration of the UNCRC (Incorporation) (Scotland) Bill. This is a very significant step forwards for human rights in Scotland, and we look forward to the Bill's commencement, ensuring that the UNCRC shapes all public decision-making that affects children and their families.

We recognise that devolved constraints have meant that the scope of the UNCRC Bill will have to be narrowed somewhat. However, we also welcome that this Bill nonetheless significantly enhances children's rights legal protections, and will lead to important improvements in how we care for the wellbeing and protect the dignity of all children in Scotland. We note that further steps will be needed to bring additional areas into the scope of the Bill over time.

We also recognise that the learning from the passage of the UNCRC Bill, and steps towards its full implementation, are very important for the wider upcoming Scottish Human Rights Bill. We look forward to this wider Bill's introduction to Parliament by June 2024. As Cabinet Secretary, we urge you to continue to take a maximalist approach to human rights protections in Scotland, taking all steps to make human rights legal protections in Scotland as strong and as effective as possible.

As the Bill is reconsidered by Parliament, we support and echo the children's sector and Together: Scottish Alliance for Children's Rights, in asking you to act on these four key areas to ensure that children's rights legal protections are as strong as possible in Scotland:

1. Set out a clear timetable for legislative review:

Scottish Government should set out a timescale in which it commits to take forward its commitment to conduct a review of legislation to identify Acts of the UK Parliament (and amendments to Acts of the UK Parliament) that are within devolved powers and impact on children's human rights – and commit to taking the necessary steps to bring such legislation within the scope of the UNCRC Bill. We understand that acting on the review's findings will inevitably involve an element of prioritisation and encourage you to commit to involving children and young people in decisions about which areas should be addressed first, balancing the urgency of the need to address specific areas of legislation with the opportunities presented through the legislative programme.

2. Commit to using specific legislative opportunities to expand the scope of the Bill:

Scottish Government should commit to use forthcoming legislative opportunities to bring provisions of priority UK Acts identified in the legislative review into Acts of Scottish Parliament. For example, this could include bringing provisions of the Children (Scotland) Act 1995 and the Social Work (Scotland) Act 1968 into Scots law through the Promise Bill, and bringing the Education (Scotland) Act 1980 into Scots law through the Education Reform Bill. We would urge Scottish Government to report annually on its progress in bringing UK legislation into scope as part of the existing reporting duty in the Bill.

3. Commit to minimising future Scottish Parliament amendments to UK Acts:

Scottish Government should commit to always consider the scope of the amended UNCRC Bill when drafting future legislation (both format and content) and strive to ensure that this falls within the scope of the Bill. This would mean minimising the approach whereby Acts of the Scottish Parliament are used to amend UK Acts as this would fall outwith the scope of the amended UNCRC Bill. Instead, the focus should be on bringing forward 'standalone' Acts of the Scottish Parliament. Scottish Government should provide evidence through Child Rights and Wellbeing Impact Assessments (CRWIA) that the best drafting approach has been used, including an assessment of any potential negative impact on children's rights of opting to amend a UK Act rather than creating a 'standalone' Act of the Scottish Parliament.

4. Commit to the continuation of UNCRC Implementation Programme:

Scottish Government should revisit the Financial Memorandum published at Stage 1 of the Bill process and commit to continue the UNCRC Implementation Programme beyond March 2024. The work undertaken through the UNCRC Implementation Programme – particularly that of the Improvement Service – has already proved to be essential in supporting the culture change we are seeking. It is essential that this work

is built on and developed to support and build the capacity of public bodies to deliver the policy intentions of this Bill. The UNCRC Implementation Programme must include:

- Clear resources for children, young people and the adults around them to help them understand their rights and recognise when breached;
- Funding and capacity building to increase the number of specialist lawyers for children;
- A holistic approach to implementation by aligning it with existing policies and structures, such as the Promise and GIRFEC, and supporting capacity building bodies such as the Improvement Service and the Scottish Public Services Ombudsman.

We reiterate again, our full support for the UNCRC Bill and we look forward to working with the Scottish Government and all stakeholders, and with children and their families, to see children and young people's human rights realised in the weeks, months and years ahead.

Yours sincerely

Human Rights Consortium Scotland
Amnesty International
Health and Social Care Alliance Scotland (the ALLIANCE)
Welfare Scotland
Making Rights Real
JustRight Scotland
Scottish Borders Social Enterprise Chamber
East Ayrshire Advocacy Services
Environmental Rights Centre for Scotland
Carers Trust Scotland
Alcohol Focus Scotland
C-Change Scotland
Children 1st
Children's Parliament
Blue Triangle
Close the Gap
Who Cares Scotland
Equality Network
Scottish Women's Convention
Peace Loving CIC
Nourish Scotland
Inclusion Scotland
Govan Community Project
Talking Mats
Forth Valley Migrant Support Network

CAPS Independent Advocacy
IncludeMe
Simon Community Scotland
Poverty Alliance
Engender
LGBT Youth Scotland
JustFair