

## Reconsideration of the UNCRC (Incorporation) (Scotland) Bill

Briefing to inform debate on 7<sup>th</sup> December 2023

### Summary

This briefing has been produced to help MSPs prepare for the debate on the [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Bill](#) on 7th December 2023.

**We call on MSPs to, once again, give unanimous support to children and young people's human rights by agreeing to the amendments and passing the UNCRC (Incorporation) (Scotland) Bill.**

We also urge MSPs to:

- ask Scottish Ministers to give commitments to extending the scope of the Bill.
- call on Scottish Ministers to ensure full implementation of the UNCRC Bill
- give their support for putting #AllOurRights into law for everyone.

**We call on MSPs to, once again, give unanimous support to children and young people's human rights by agreeing to the amendments and passing the UNCRC (Incorporation) (Scotland) Bill.**

The UNCRC Incorporation Bill is the most significant step forwards for children's human rights since this Parliament began. All children have these human rights already at an international level, but for them to be made real, they need to be brought closer to home. This Bill does just that.

For the first time, the UNCRC will be binding, not guiding. The UNCRC will become increasingly embedded into the way that we shape law, policy and practice in Scotland which will lead to better decision-making by public bodies. It will mean that proper attention will be given to children and young people who miss out on these rights, and action taken to address the barriers facing these children and young people. And it means that when these human rights are ignored, children and young people will be able to raise their concerns and voices to get action taken.

The unanimous support from MSPs for the UNCRC Incorporation Bill in March 2021 was overwhelmingly celebrated and reflected across Scottish civil society, and in particular by many children and young people. We strongly urge MSPs to show this same commitment to children and young people's human rights in the debate and by agreeing to the amendments and passing the UNCRC (Incorporation) Bill.

**We urge MSPs to ask Scottish Ministers to give commitments to extending the scope of the Bill.**

We recognise that devolved constraints have meant that the scope of the UNCRC Bill has had to be narrowed somewhat. However, we also emphasise that, even with this narrowing of scope, this

Bill nonetheless significantly enhances children's rights legal protections, and will lead to the better protection and realisation of children's human rights.

We support and echo the children's sector and Together: Scottish Alliance for Children's Rights, in asking Scottish Ministers to act on these three 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

*Questions: Will the Scottish Government now 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 that impact on children's human rights? Will the Scottish Government commit to taking the necessary steps to bring such legislation within the scope of the UNCRC Bill?*

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

*Question: Will the Scottish Government now commit to using forthcoming legislative opportunities to bring provisions of priority UK Acts identified in the legislative review into Acts of Scottish Parliament?*

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

*Question: Will the Scottish Government commit to always considering the scope of the amended UNCRC Bill when drafting future legislation 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.

## **We urge MSPs to call on Scottish Ministers to ensure full implementation of the UNCRC Bill.**

Time and time again, we hear directly from people with lived experience of rights infringements that it is very important that as much, if not more, emphasis is placed on implementation of human rights law as to its passing. The real work starts now. Therefore, it is important that the Scottish Government now revisits the Financial Memorandum published at Stage 1 of the Bill process and commits 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.

*Question: Will the Scottish Government commit to further resourcing of the UNCRC Implementation Programme?*

## **We urge MSPs to give their support for putting #AllOurRights into law for everyone.**

Organisations and communities across Scotland recognise that it is time to put all our rights in law for everyone, so that people are empowered to name and claim their rights, so that public bodies must set human rights priorities, and so that no one is left behind. The upcoming Scottish Human Rights Bill is the best way to make all our rights a reality for all.

The constraints on the scope of the UNCRC Bill will equally apply to the wider Human Rights Bill. There is overwhelming support from across civil society to now build upon the development, understanding and ultimately passing of the UNCRC Bill, to further enhance Scotland's human rights legal framework.

The Scottish Government's consultation on Bill proposals closed on 5th October, with around 400 responses. HRCS supported the general approach within the consultation but said loudly that the Bill proposals need to be improved and strengthened. Specifically: disabled people's human rights need to be enforceable; the Bill needs to include effective access to remedy; the Bill needs to be accompanied by radical legal aid reform; there needs to be timescales in the Bill; and the Bill should include a purpose clause to clearly state that the rights in the Bill are for all. Read our full [response here](#).

We look forward to this Bill's introduction to Parliament by June 2024.

*Question: Will the Scottish Government commit to taking on board key concerns in the Human Rights Bill consultation to strengthen the Bill's proposals? Will the Scottish Government 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?*



***The Human Rights Consortium Scotland is the civil society network to defend and promote human rights.***

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