

# Embedding Children's Rights in Scotland: Scottish Position Statement

November 2022



## Ministerial Foreword



I am delighted to share this standalone Position Statement, which sets out the progress that we are continuing to make in embedding the United Nations Convention on the Rights of the Child (UNCRC) in Scotland. The contents of this document reflect our absolute commitment to ensuring that children and young people can fully experience their rights.

I am immensely proud of the genuine progress that we have made in Scotland. By working closely with Parliament, public authorities, third sector organisations and children and young people themselves, our

combined efforts have delivered a wide range of measures that give further and fuller effect to the rights of the child.

In March 2021, the Scottish Parliament unanimously passed the United Nations Convention on the Rights of the Child (Incorporation)(Scotland) Bill (the UNCRC Bill), an exciting and historic moment in Scotland's continuing children's rights journey. In seeking to incorporate the UNCRC directly into Scots law, subject to the limits of devolved competence, the Bill would ensure that the rights contained in the UNCRC are afforded the highest protection and respect possible within our constitutional settlement. As passed, the Bill would deliver a proactive culture of everyday accountability for children's rights across public services in Scotland. It would also ensure that children and young people and their representatives can use the courts to enforce their rights.

Whilst we were disappointed when the UK Supreme Court ruled that certain parts of the UNCRC Bill were outwith the competence of the Scottish Parliament, we remain committed to incorporating the UNCRC into domestic law. As set out by the Deputy First Minister in his statement to Parliament in May 2022, we will bring forward the required amending legislation as soon as practicable and our planning for the reconsideration stage is well underway.

Alongside the UNCRC Bill, we have also taken forward a wide range of substantive measures as part of our commitment to ensure that children's rights are better protected, respected, and fulfilled. These actions, which are discussed in detail in this Position Statement, include our record levels of investment to tackle child poverty in Scotland, including through the introduction of the Scottish Child Payment, the expansion of free school meals, and the near doubling of the funded hours of early learning and childcare. They also include measures to help close the poverty-related attainment gap in Scotland's schools.

Following the independent review of the care system, we are committed to 'Keep the Promise' to our children and young people so that all children grow up loved, safe and respected.

In addition, implementation of the Children (Equal Protection from Assault)(Scotland) Act 2019 has provided children with the same legal protection from assault as adults. We have also increased the age of criminal responsibility in Scotland from 8 to 12 years, the highest within the four UK nations, and committed to reviewing the operation of the Age of Criminal Responsibility (Scotland) Act 2019, including with a view to considering the future age of criminal responsibility.

The report also highlights our plan to introduce a Human Rights Bill which will incorporate, as far as possible within devolved competence, the International Covenant on Economic, Social and Cultural Rights, alongside three other international human rights treaties for the empowerment of women, disabled people, and minority ethnic people. This, and the other measures set out within this report, reflect our commitment to human rights.

I am profoundly grateful to everyone who has contributed towards the progress that we have made since 2016. Whilst we can be proud of what we have achieved, it is only through further collaborative action that we can deliver our ambitions. As we respond to the economic and other challenges that we face, we will continue our work to ensure that children and young people can better experience their rights, helping to make Scotland the best place in the world to grow up.

**Clare Haughey MSP**

Minister for Children and Young People

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## Introduction

### i. Background to and Purpose of this Report

The United Nations Convention on the Rights of the Child (UNCRC) sets out the civil, political, economic, social and cultural rights to which all children are entitled, regardless of their circumstances. The UK ratified the UNCRC in 1991. All States parties are obliged to submit regular reports to the UN Committee on the Rights of the Child (UN Committee) on the steps they have taken to put the Convention into effect and on progress in protecting and promoting children's rights in their countries.

The UK was last examined by the UN Committee, on its compliance with the UNCRC in May 2016. Following from this, in July 2016, the UN Committee published its [Concluding Observations](#) for the UK, including the devolved administrations: a list of around 150 recommendations relating to a wide range of policy areas. The [Progressing the Human Rights of Children in Scotland: A Report 2015-2018](#) (2018) included an update on progress made in taking forward the Concluding Observations as these relate to Scotland.

The next constructive dialogue session with the UN Committee is due to take place in May 2023. As part of the required [reporting](#) for this examination, in February 2021, the UN Committee published its List of Issues Prior to Reporting ([LOIPR](#)) for the United Kingdom of Great Britain and Northern Ireland. The LOIPR included a request for detailed information on measures taken forward to further protect and promote children's rights across a range of policy matters, including in relation to child poverty, health, and education. The LOIPR was informed by the views of children's rights stakeholders across the UK.

The Scottish Government contributed to the [UK-wide response](#) to the LOIPR. The response, which included an update on relevant activity across all areas of the United Kingdom, was collated by the UK Government as the State party and forwarded to the UN Committee in June 2022.

The Scottish Government also committed to publishing a standalone Position Statement providing further detailed information relevant to devolved matters in Scotland. Standalone Position Statements prepared by the Scottish Government do not form part of the formal documentation submitted to the UN, nor are they part of the formal reporting process. Rather, they are intended to assist the Scottish Parliament, civil society stakeholders, and other interested parties in engaging with treaty reporting processes and scrutinising the Scottish Government's human rights record. This standalone Scottish Position Statement also replaces this year's progress report on our [Progressing the Human Rights of Children in Scotland: Action Plan 2021 to 2024](#).

### ii. Layout of Report

Chapter One of this Position Statement describes our approach to children's rights in the context of the COVID-19 pandemic. The remainder of the document follows the established format for reporting to the UN Committee, with individual chapters

reflecting the cluster groupings of the articles of the UNCRC<sup>1</sup>. Each chapter includes a summary of progress made in furthering children’s rights in Scotland from 2016 to present (the reporting period). The updates broadly reflect the policy areas highlighted by the UN Committee in its LOIPR, although they do not form part of the formal response to the Committee. The document also responds to a small number of issues raised by Scottish children’s rights stakeholders. Annex B sets out the Parts I and II questions from the LOIPR relevant to Scotland. In addition to this, Annex A provides the Scottish Government contribution to the State party response to Part III of the LOIPR, a request for specified disaggregated data across a range of policy matters.

The remainder of this Introduction provides a high-level overview of the human rights and children’s rights framework and oversight in Scotland.

### **iii. Human Rights in Scotland**

Under the constitutional settlement, which has applied since 1999, human rights are, for the most part, devolved to the Scottish Parliament. The Scotland Act 1998 requires that all Scottish Parliament legislation and all Scottish Government decisions and actions must be compatible with rights set out in the Human Rights Act 1998 (HRA) and derived from the European Convention on Human Rights (ECHR). The HRA also makes it unlawful for public authorities in Scotland to act incompatibly with the ECHR rights. In addition to this, the Scottish Ministerial Code places an overarching duty on all Scottish Ministers “to comply with the law, including international law and treaty obligations.”

Following on from the recommendations of the National Taskforce for Human Rights Leadership, Scottish Ministers have committed to introducing a new Human Rights Bill to the Scottish Parliament during this parliamentary session. The Bill will give effect to a wide range of internationally recognised human rights treaties and will ensure that the human rights of every member of Scottish society, including children, are protected. This will include economic, social, and cultural rights through the incorporation of the International Covenant on Economic, Social and Cultural Rights ICESCR, as far as possible within devolved competence, alongside three other international treaties for the empowerment of women, disabled people and minority ethnic people and a right to a healthy environment (see section 2.3).

### **iv. Children’s Rights in Scotland**

The Scottish Ministers take their responsibilities to progress children’s rights in terms of the UNCRC very seriously. The UNCRC underpins key Scottish Government legislation and policies, including for example in relation to Getting it right for every child (GIRFEC) and our approach to tackling child poverty, child and adolescent mental health, education, and youth justice.

Throughout the reporting period, the Scottish Government has continued to take forward measures to help children and young people to better experience their rights.<sup>2</sup> Of particular note is the Scottish Ministers’ firm commitment to incorporate

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<sup>1</sup> The UNCRC cluster groups provide an internationally recognised approach to the monitoring and reporting of children’s rights.

<sup>2</sup> [Progressing the Human Rights of Children in Scotland: A Report 2018 - 2021](#) (November 2021) sets out policies and legislation being taken forward in support of children’s rights in Scotland.

the UNCRC into Scots law. On 16 March 2021, the Scottish Parliament unanimously passed the [United Nations Convention on the Rights of the Child \(Incorporation\)\(Scotland\) Bill](#) (the UNCRC Bill) to incorporate the UNCRC and the first and second Optional Protocols, directly into Scots law subject to the limits of devolved competence. The UNCRC Bill, the subsequent UK Supreme Court judgment and next steps are discussed at section 2.4.

### **National Performance Framework**

Children’s rights, within the broader context of human rights, are at the heart of Scotland’s [National Performance Framework](#) (NPF) which tracks progress towards delivery of Scotland’s National Outcomes. In support of the review of the NPF, in 2018 the Scottish Government commissioned the Children’s Parliament to ask children: ‘What do children like and dislike about their current lives in Scotland and what sort of Scotland should children grow up in?’ The report of this research [What Kind of Scotland?](#) (2017) informed the refreshed NPF (2018), which includes the following National Outcomes: “We respect, protect and fulfil human rights and live free from discrimination”, “We grow up loved, safe and respected so that we realise our full potential”.

The NPF is our main vehicle to deliver and localise the UN Sustainable Development Goals (SDG)<sup>3</sup> in Scotland. In July 2015, the First Minister pledged to implement the SDGs and made a dual commitment to tackle poverty and inequality at home in Scotland and to help developing countries to grow in a fair and sustainable manner. The document, [Scotland and the Sustainable Development Goals: a National Review to Drive Action](#) (2020), was developed in collaboration with the Convention of Scottish Local Authorities (COSLA) and the SDG Scotland Network, an open coalition of over 700 people and organisations. The Review brings together evidence, actions, and stories of how we are making progress to meet the SDGs in Scotland.

### **v. Independent Monitoring of Children’s Rights in Scotland**

Currently, under Part 1, section 1(4) of the Children and Young People (Scotland) Act 2014 (2014 Act), the Scottish Ministers are required to report to the Scottish Parliament every 3 years on the steps they have taken in that period to secure better or further effect in Scotland of the UNCRC requirements, as defined in the 2014 Act, and to promote public awareness and understanding of the rights of the child.<sup>4</sup> The Scottish Ministers must also set out their plans until the end of the next 3 year period. In line with these duties, the Progressing the Human Rights of Children in Scotland [Report](#) and [Action Plan](#) were laid before the Scottish Parliament in November 2021.

National Human Rights Institutions, the Commissioner for Children and Young People in Scotland and other relevant Non-Government Organisations (NGOs) also provide independent scrutiny and challenge to Scottish Ministers on their performance in respecting, protecting, and fulfilling human rights, including the rights

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<sup>3</sup> The Sustainable Development Goals are ‘global goals’ and targets that are part of an internationally agreed performance framework.

<sup>4</sup> The Scottish Ministers’ duties under section 1 of the [Children and Young People \(Scotland\) Act 2014](#) apply in devolved areas only.

of the child, in Scotland. These are discussed below. The Scottish Government's contribution to UK State party reports to the UN Committee is discussed at section i.

### **Human Rights Institutions in Scotland**

The Scottish Human Rights Commission (SHRC) was established by the [Scottish Commission for Human Rights Act 2006](#). As an 'A' status National Human Rights Institution (NHRI), it has a general duty to promote and protect human rights and encourage best practice in relation to human rights in Scotland. The SHRC can fulfil this remit by: providing information, guidance, and education; by conducting inquiries; monitoring law, policy and practice; and by intervening in civil court proceedings.

The Equality and Human Rights Commission (EHRC) was established by the [Equality Act 2006](#). It is responsible for promoting equality and diversity, enforcing laws, and promoting mutual respect, including good relations. The EHRC's remit extends across Great Britain. EHRC is also an 'A' status NHRI and shares its mandate to promote and protect human rights in Scotland with the SHRC.

In Scotland, the EHRC covers human rights issues arising from matters reserved to the Westminster Parliament and the SHRC covers issues arising from devolved matters, unless it gives consent for the EHRC to handle them.

### **Commissioner for Children and Young People in Scotland**

The [Commissioner for Children and Young People \(Scotland\) Act 2003](#) (the 2003 Act) established the role of the Commissioner for Children and Young People in Scotland. The principal function of the role is to promote and safeguard the rights of children and young people, including raising awareness about children's rights. The 2003 Act makes clear that the Commissioner is not to be regarded as a servant or agent of the Crown and is not subject to direction or control of any Member of the Scottish Parliament, member of the Scottish Government or the Scottish Parliamentary Corporate Body (SPCB). The SPCB sets the terms of the Commissioner's appointment, including the allocation of resources.

The 2003 Act provides for the Commissioner to undertake investigations in respect of how service providers have regard to the rights, interests, and views of groups of children and young people in making decisions or taking actions that affect them. Provisions in Part 2 of the [Children and Young People \(Scotland\) Act 2014](#), which were commenced in 2017, build on this by empowering the Commissioner to conduct such investigations on behalf of individual children.

The UNCRC Bill, as passed by the Scottish Parliament would, once enacted and the provisions commenced, give the Commissioner in Scotland and the Scottish Human Rights Commission (discussed above) power to: bring proceedings in a court or tribunal on the grounds that a public authority has acted, or proposes to act, incompatibly with the UNCRC requirements; and to intervene in court or tribunal proceedings in which a person claims that a public authority acted or proposes to act in breach of the 'UNCRC requirements' as defined by the Bill.

## **Civil Society**

The Scottish Government provides grant funding to a wide range of third sector organisations working to ensure that the rights of children and young people are respected, protected, and fulfilled and to raise awareness of children's rights.

Together (Scottish Alliance for Children's Rights) is an alliance of Scottish children's charities that works to improve awareness, understanding and implementation of the UNCRC. The Scottish Government provides core funding to Together, including to support the organisation in monitoring and reporting on the progress made in Scotland in relation to children's rights. Together's annual State of Children's Rights in Scotland report provides a key non-government perspective on how children and young people are experiencing their rights across Scotland.

### **vi. Scotland's Youth Parliament, Children's Parliament, and Young Scot**

Scotland has had an established Youth Parliament since 1999, and Children's Parliament (CP) since 1996. Members of the Scottish Youth Parliament (SYP) range in age from 14 to 25 years old. The Children's Parliament works with children from their early years to 14 years old. Since 2017, members of the SYP and CP have met each year with members of the Scottish Cabinet to discuss issues that matter to children and young people. Young Scot is the leading national youth information and citizenship charity for 11-26 year olds in Scotland. As well as providing essential services to young people across Scotland, these organisations also play a role in supporting the delivery of Scottish Government policy. The Scottish Government provides core funding to each of these bodies.

## Report Overview

This Scottish Government Position Statement is set out as follows:

### Chapter 1 – Children’s Rights in the Context of the COVID-19 Pandemic

provides an update on the actions taken by the Scottish Government in responding to the immediate crisis and in the ongoing recovery period.

**Chapter 2 – General Measures of Implementation** provides further information in relation to the structures and resources to implement the UNCRC and includes discussion on:

- the impact of the UK’s withdrawal from the European Union;
- the UK Government review of the Human Rights Act 1998;
- the Scottish Government’s commitment to a new Human Rights Bill;
- the work to progress the UNCRC (Incorporation)(Scotland) Bill;
- existing reporting duties on Scottish Ministers and public authorities;
- the use of Child Rights and Wellbeing Impact Assessments;
- coordination and strategic governance of children’s rights in Scotland;
- the three-year UNCRC implementation programme to deliver a fundamental shift in the way children’s rights are respected, protected and fulfilled;
- measures to raise awareness of children’s rights;
- our approach to ensuring that children’s rights are embedded in the budgetary process; and
- measures taken forward in relation to human rights and business.

**Chapter 3 – General Principles** focuses on how we are upholding the four general principles of the UNCRC: for rights to be applied without discrimination; for the best interests of the child to be a primary consideration; the right to life, survival, and development; and respect for the views of the child. Our response in this chapter summarises:

- a wide range of policies, legislation, and support for mainstreaming equalities;
- our approach to ensuring that complaints from children and their representatives are appropriately handled;
- public attitudes towards children and work to address the negative portrayal of children and young people within the media and wider society;
- measures in place to ensure that best interests of the child are a key consideration in decision making;
- the PREVENT strategy in Scotland;
- how we are addressing underlying determinants of infant and child mortality and seeking to reduce avoidable child deaths;
- how we are promoting the right of the child to be heard in decisions affecting them, including in Scottish Government policy making; and
- the publicly funded legal assistance that is available to children and young people in Scotland.

**Chapter 4 – Civil Rights and Freedoms** focuses on children’s civil rights and freedoms, including children’s right to move freely in public space, to access information and to privacy. It summarises:

- our considerations in relation to religious observance in schools;

- how we are promoting safe, ethical, and equitable access to online services and connectivity;
- what we are doing to discourage the use of 'Mosquito' anti-loitering devices; and
- how we are regulating stop and search and strip searches of children.

**Chapter 5 – Violence Against Children** focuses on violence against children including abuse and neglect and the right not to be subjected to inhuman or degrading treatment or punishment. It provides an account of:

- legislation to make all forms of physical punishment of children by a parent or carer unlawful in Scotland;
- guidance on promoting positive relationships and behaviour in schools;
- our approach to protecting children from child abuse, neglect and exploitation;
- how we are supporting child victims and witnesses of violence and sexual abuse throughout child protection and justice processes and the development of 'Bairns' Hoose' (our Barnahus model);
- how we are tackling gender-based violence and domestic abuse (including how we are protecting children who may be affected) and “honour-based violence”;
- support for intersex children and young people;
- Police Scotland policy and practice on the use of Tasers; and
- measures to control and limit the use of restraint against children in schools and institutional settings.

**Chapter 6 - Family Environment and Alternative Care** focuses on the needs of children within families and the care system. It describes:

- how we are supporting both parents to be involved in a child's life;
- how we are taking a preventative, multi-agency and whole family approach to support children when planning and funding children's services;
- the principles that must be adhered to where professionals consider that children cannot remain safely in their family;
- how we are promoting and supporting kinship care arrangements and children who are looked after at home;
- how we are delivering the transformational change required to Keep The Promise by 2030;
- provisions to ensure a gradual, supported transition of young people out of care; and
- our support for Young Carers.

**Chapter 7 – Basic Health and Welfare** focuses on the basic health and welfare of all children and young people and the consideration of the rights of disabled children. It describes how we are:

- taking steps to support disabled children and young people including at points of transition;
- supporting, promoting, and protecting breastfeeding;
- reducing health inequalities by addressing the underlying causes;
- promoting food security and good nutrition;
- addressing overweight and obesity among children;
- promoting good mental health and wellbeing and ensuring there are accessible services for children and young people with mental health problems;
- tackling child poverty;

- taking steps to reduce homelessness; and
- action to improve air quality and to respond to climate change and to develop a new approach to ensuring a genuine role in policy processes around climate for children and young people.

**Chapter 8 - Education, Leisure and Cultural Activities** focuses on the right of all children to an education that will help them to achieve their potential, without discrimination; the right to play and leisure and to participate in cultural life and the arts. It describes how we are:

- improving attainment rates and educational outcomes for children in disadvantaged situations through, for example, the Scottish Attainment Challenge programme;
- providing fair access to higher education by paying tuition fees and providing bursaries and student loans to eligible students;
- ensuring that all children and young people get the support they need to reach their full learning potential by providing additional support for learning arising from a range of needs;
- prioritising the needs of vulnerable pupils, including those with additional support needs, as part of our response to COVID-19;
- ensuring that children with disabilities have access to and benefit from inclusive education;
- focusing on health and wellbeing as part of the Curriculum for Excellence;
- taking a national approach to anti-bullying for Scotland's children and young people;
- preventing the need for school exclusion through, for example, good behaviour management and behaviour support teams;
- providing relationship, sexual health and parenthood education in schools that reflects diversity;
- integrating human rights education and respect for other cultures into the school curricula; and
- providing the funded early learning and childcare offer and designing and testing options for all-year round school-age childcare systems that meet the needs of children and families.

**Chapter 9 - Special Protections** focuses on rights for children and young people who require special protection. It describes:

- our New Scots Refugee Integration Strategy, which supports our vision of a welcoming Scotland;
- support and protection for child victims of trafficking and any form of exploitation as well as our overall vision of eliminating human trafficking and exploitation;
- our public health approach to reducing violence that focuses on tackling the underlying causes through collaborative prevention and early intervention;
- our approach to youth justice, which is guided by the principle of 'needs not deeds' and early intervention, prevention and keeping children out of the criminal justice system as far as possible;
- the support provided to children in secure care and our commitment to ending the placement of under 18s in young offender institutions and supporting care-based alternatives; and
- support for families impacted by parental imprisonment.



**Annex A** provides the Scottish Government contribution to the State party response to Part III of the LOIPR, a request for specified disaggregated data across a range of policy matters. This Annex has been updated where new data has become available since the original submission. It also provides breakdowns by Scottish Index of Multiple Deprivation, where these are available. The data provided includes:

- the spending budgets for children and children's services in Scotland;
- the number of people prosecuted for offences against a child and the number of children suffering or at risk of suffering significant harm such as neglect, physical, emotional or sexual abuse;
- the numbers of children in residential care, placed in foster care, placed for adoption, or placed with parents or person with parental responsibility;
- the number of children prescribed with psychotropic drugs and the number of accepted referrals to Child and Adolescent Mental Health Services;
- the estimated percentages who smoked, drank alcohol and used drugs, as well as the number of deaths of children related to alcohol, drugs or suicide;
- the estimated proportions of children who were overweight or obese and the number of pregnancies that occurred in women under the age of 20;
- the number of children in low income families and the number of children in temporary accommodation;
- the number of cases of exclusion from school due to physical assault without a weapon and the number of children who were assessed or declared disabled and were attending regular schools; and
- the numbers of children subject to taser deployment, who received custodial sentences from Scottish courts and who received a non-court disposal.

For several of the requests in Part III of the LOIPR, we did not hold the information and so have provided the closest available information or a nil return.

**Annex B** sets out the list of questions asked in Parts I and II of the LOIPR, relevant to Scotland.

# 1. Children's Rights in the Context of the COVID-19 Pandemic

## 1.1 COVID-19 Response

**LOIPR request:** 3(b) and 7(c) protection of children's rights during COVID-19 pandemic and mitigating the effects of COVID-19 on children.

During 2020 and 2021, the global COVID-19 pandemic, the single greatest public health crisis in living memory, impacted on the lives of children and young people across Scotland and the delivery of the vital services on which they, and their families, rely.

The Scottish Ministers have taken, and continue to take, steps to ensure that the human rights of children and young people, particularly those who are most vulnerable, are at the heart of the Scottish Government's response to the COVID-19 crisis and recovery process. Our response continues to be underpinned by the UN Committee on the Rights of the Child's [11 recommended areas](#) for governments to focus on when considering the rights of children in relation to the pandemic. In addition to the [reporting](#) to the Scottish Parliament undertaken in relation to COVID-19 emergency legislation, the Scottish Government also reported regularly during 2020 on the actions taken relevant to the 11 recommended areas. These reports can be accessed via the Scottish Government's [website](#). An update was also included in the [Progressing the Human Rights of Children in Scotland: A Report 2018 - 2021](#), which was published in November 2021.

The Scottish Government is estimated to have invested around £2.5 billion to support low income households in 2020-21, of which nearly £1 billion is estimated to have benefitted children. Some specific examples of actions taken to support the needs of children and young people during the pandemic have included:

- Investing over £140 million to tackle food insecurity in 2020-21, with over £56 million targeted at continuing alternate Free School Meal provision during periods of school closure, and during school holiday periods for children and young people eligible on the basis of low income. Local authorities reported that, as of the end of the summer holidays in August 2020, up to 175,000 children and young people were receiving this support.
- Delivering two rounds of COVID Hardship Payments, reaching around 145,000 children and young people in low-income households with payments of £100 each round. These payments were made in December 2020 and March 2021 respectively.
- Investment of £25 million to support digital inclusion among school-aged children and young people, through the provision of connectivity, devices, or both. All councils across Scotland have been securing and distributing devices to meet local needs and over 70,000 children and young people have benefitted to date. An additional £45 million was distributed to councils in early 2021 to enable them

to procure additional devices or connectivity, to recruit additional staff, or to deliver wider family support measures.

- Allocation of £48 million to the Scottish Government's Connecting Scotland project and working with the Scottish Council for Voluntary Organisations (SCVO) and other partners to identify and support digitally excluded households through the provision of devices, connectivity and skills. This enabled us to reach 60,000 households by the end of 2021.

The subsequent chapters of this report include specific examples of steps taken to support particular groups of children and young people and their families during the pandemic including looked after children, young carers, and minority ethnic children, including young Gypsy/ Travellers.

The Child Rights and Wellbeing Impact Assessment (CRWIA) supported our response to the pandemic and continues to inform the ongoing recovery process. In 2020, a full [CRWIA](#) was prepared and published in respect of the [Coronavirus \(Scotland\) Act 2020](#). In addition, CRWIAs informed Scotland's response to the COVID emergency including legislation on the closure and opening of schools; national qualifications and exams; restrictions on children and young people; the temporary closure of child contact centres; shielding; health protection; international travel; support for carers and vaccines. A [list](#) of CRWIAs prepared by the Scottish Government, including in relation to the COVID-19 pandemic, is available on the website.

## **1.2 Children and Families Collective Leadership Group**

The Scottish Government has continued to work with partners to ensure robust ongoing processes for monitoring the impact of the pandemic on children, young people, and their families, particularly those most at risk. In May 2020, we established a COVID-19 Children and Families Collective Leadership Group (the CLG). Co-chaired by the Scottish Government and the Society of Local Authority Chief Executives and Senior Managers (SOLACE), the CLG includes members from the Convention of Scottish Local Authorities (COSLA), Police Scotland, the Scottish Children's Reporter Administration (SCRA), Children's Hearings Scotland (CHS), as well as representatives from Health, Education, Social Work, the third sector and other key organisations. The CLG continues to meet monthly.

A regular data collection provides intelligence to the CLG, including key data on what is happening across children's services partnerships to support children and young people on the child protection register, those looked after and on the edge of care. A second data set covering a range of aspects of adult protection has also been established to help provide a broader picture on related issues such as domestic abuse, substance misuse and specific vulnerable populations. A child health update is also produced by Scottish Government analysts on the wider impact of the COVID-19 pandemic on the health and wellbeing of children and young people across Scotland.

Informed by the data, from February to April 2021, the CLG led and co-ordinated its action plan as a response to the immediate needs of children, young people, and

families<sup>5</sup>. The action plan aligned with medium and longer term objectives to support children's and family services and the [Coronavirus Strategic Framework](#) (2021). The action plan focused on ten priorities, including access to services, child protection, domestic abuse, care leavers, drugs and alcohol, respite care and workforce resilience. An example of the co-ordinated approach taken by the CLG through the action plan was complementary public awareness campaigns to keep children safer online run by the Scottish Government, Child Protection Committees Scotland, and Police Scotland.

The work of the CLG has also had a focus on broader cross-cutting issues of mental health and mental wellbeing; child poverty; holistic whole family support and Keeping the Promise. This has been underpinned by engagement with, and feedback from, children, young people, and families. As the emphasis now shifts from crisis response to intermediate and longer-term recovery, the focus of the CLG is on providing longer-term support for COVID-19 recovery and renewal.

### 1.3 Participation and COVID-19

The Scottish Government took steps throughout the crisis to hear the views, concerns and lived experiences of children and young people in relation to COVID and to empower them to participate in the decisions around the Scottish Government's response that affected them. We also continued to make sure that we listened to 'representative' voices of children and young people, in particular ensuring that the voices of the seldom heard, vulnerable and younger children and families were heard, by working in collaboration with a range of stakeholders who had existing and trusting relationships with various groups of children and young people.

For example, between January and April 2021, qualitative research was commissioned by the CLG and conducted by nine third sector organisations with a range of children, young people, and parents in vulnerable or seldom heard groups, to explore their lived experiences throughout the COVID-19 pandemic. These groups included children and young people with additional support needs; with domestic abuse experiences; who were asylum seeking, who were from minority ethnic backgrounds; and in Gypsy/Traveller families. The [Report](#) from this research was published in July 2021 and its findings were shared widely, including to help inform the [COVID Recovery Strategy: For a Fairer Future](#) (2021), and the work of the COVID-19 Education Recovery Group. We also supported a range of new research activities to address evidence gaps, including funding the COVID-19 Early Years Resilience and Impact Survey (CEYRIS) of parents of 2-7 year olds, and questions on mental wellbeing in the Young People in Scotland survey of secondary school pupils.

In addition to this, we supported the Children's Parliament with their research "Children and the Coronavirus: How are you doing?". This was an online national wellbeing survey of children, aged between 8 and 14 years old, from across Scotland which ran four times between April and October 2020, and collected over 12,000 responses. The final report can be read on the [Children's Parliament website](#). We

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<sup>5</sup> Further information on the Collective Leadership Group's action plan is available on these links: [Coronavirus \(COVID-19\) Children and Families Collective Leadership Group: Action Plan](#) [Coronavirus \(COVID-19\) Children and Families Collective Leadership Group: Action Plan - Outcomes](#)

also supported the Children’s Parliament to undertake 15 qualitative interviews with children aged 3-7 years old and their families to understand the impact of COVID-19 on this age group. In a published series of [15 stories](#), parents and children reflect upon their experience of lockdown and the journey since then.

We also commissioned the Scottish Youth Parliament, Young Scot and YouthLink Scotland to deliver in partnership “[LockdownLowdown](#)”, which was a series of three online surveys that explored young people’s concerns in response to the pandemic. Phase 2 of this research also included a series of five focus groups with young people whose voices are seldom heard: young carers; young people with experience of the criminal justice system; Care Experienced young people, young people with additional support needs and young people from Black, Asian and minority ethnic communities.

We also maintained an overview of the evidence base on the impact of COVID-19 on children and young people to inform policy decisions around our COVID-19 response. We published five evidence summaries of the emerging evidence in this area between June and December 2020.

### Participation and Education Recovery

During the COVID-19 education recovery process, we strengthened the voice of children and young people by working with Young Scot and Children in Scotland to establish and support the [Education Recovery Youth Panel](#), which helped to input into recovery issues between November 2020 and June 2021.

We are working in partnership with a range of children’s rights experts, and children and young person’s organisations to map out current engagement practice across education policy, and to co-design and develop a more meaningful, longer-term, strategic, rights-based approach to participation. We will continue our long-term, transformational education reform programme and a national discussion on education, commenced in September 2022, provides an opportunity for learners to shape the future based on their experiences.

“It gives me opportunities that a lot of my friends don’t have. I get to say what we learn about, and it makes me feel more powerful and in control of what I’m learning.”

On being an MCP, MCP, age 13, in conversation about education reform.

### 1.4 COVID-19 Recovery

Scottish Ministers are continuing to take forward a range of initiatives to assist the COVID recovery process, focusing on addressing the ongoing effects on children and young people.

- The £20 million “Get Into Summer” fund was provided to local authorities and national organisations in 2021 to support the wellbeing and mental health of children, young people and families most impacted by COVID-19. This initiative specifically targeted children and young people from low income households and those who fell within the [Tackling Child Poverty Priority Groups](#). In 2022, further funding was invested in developing a more targeted summer offer as part of work

to test change, strengthen local capacity and grow existing services (see section 8.9).

- We committed to investing £500 million over 2020-21 and 2021-22 to support education recovery. The majority of this funding supported a range of work to accelerate learning recovery and to promote children and young people's health and wellbeing, including the provision of additional teachers and staff for those who needed it most; devices and connectivity to lift children and young people out of digital exclusion as quickly as possible; and targeted youth work services.
- We committed to using the payment mechanism for COVID Hardship Payments and the delivery of alternate Free School Meal provision to deliver Scottish Child Payment Bridging Payments of £520 in 2021 and £650 in 2022, prior to delivery of this new social security benefit for children aged 6-15 years old. The Bridging Payments are made quarterly and were benefitting over 145,000 children and young people as of spring 2022. We also provided a £130 Low Income Pandemic Payment to every household who received Council Tax Reduction in April 2021, reaching around 530,000 households, many of them families with children.
- In October 2020, we published the [Mental Health: Transition and Recovery Plan](#) in response to the mental health effects of the COVID-19 pandemic. The plan contains a number of actions targeted at supporting children and young people and was supported in 2021-22 by the £120 million Mental Health Recovery and Renewal Fund. This included actions to improve specialist Child and Adolescent Mental Health Services, address waiting times, and improve other mental health supports and services for children and young people.
- Since 2018, we have invested over £5 million in a National Trauma Training Programme, led by NHS Education for Scotland (NES). The Programme aims to support the Scottish Government and COSLA's shared ambition for a trauma informed workforce and services, where the needs of children and adults who are affected by trauma are recognised, understood, and responded to in a way which recognises individual strengths, acknowledges rights and ensures timely access to effective care, support and interventions for those who need it. The [Mental Health: Transition and Recovery](#) Plan committed to expand the Programme for a further two years (to 2023) in recognition of the need for a long-term, trauma-informed response to COVID recovery. Mental health support is discussed in chapter 7.
- In October 2021, we published the [COVID Recovery Strategy For A Fairer Future](#). The strategy aims to address the systematic inequalities made worse by COVID, improve people's wellbeing and remobilise public services. Improving the wellbeing of children and young people is one of the outcomes of the strategy, and the strategy reflects the commitment to invest £500 million of Whole Family Wellbeing Funding; increase investment in mental health support for children and young people; and support young people through the Young Person's Guarantee initiative.

### **1.5 COVID-19 Public Inquiry**

In December 2021, Scottish Ministers established an independent Scottish COVID-19 Public Inquiry to provide scrutiny and answers to the issues of public concern and learn lessons about the handling of the pandemic. Further information is available on the Inquiry's [website](#).

## 2. General Measures of Implementation

### Articles of the UNCRC: 4, 42 and 44(6)

This cluster group focuses on the structures and resources to implement the UNCRC, including legal and non-legal measures.

#### 2.1 UK Withdrawal from the European Union (EU)

**LOIPR request:** 3(c) protecting children's rights in the context of UK withdrawal from the EU.

UK withdrawal from the EU does not directly affect the principal existing statutes which protect human rights in the UK, in particular the [Human Rights Act 1998](#). It does however mean that the EU Charter of Fundamental Rights can no longer be invoked as a matter of domestic law. That is a substantive change which is likely to mean that, in some instances, individuals in the UK will no longer be able to vindicate or uphold their fundamental rights to the same extent as was possible prior to EU exit. The Scottish Government's [assessment](#) of the impacts of Brexit on Scotland, including in relation to children and young people, was published in June 2021.

The EU alignment power contained in section 1 of the [UK Withdrawal from the European Union \(Continuity\)\(Scotland\) Act 2021](#) allows for changes to European law in devolved areas to be implemented in Scotland by means of subordinate legislation where that is possible, in Scotland's interest and the most appropriate method by which to do so.

The Scottish Government has taken steps throughout the reporting period to hear the views of children and young people on the UK's withdrawal from the EU. In 2018, the Scottish Government provided funding to [Children in Scotland](#) to enable them to set up a Children and Young People's Panel on Europe, which was delivered in partnership with Together (Scottish Alliance for Children's Rights).

The Panel included members from all over Scotland, aged 8-19, and met several times to articulate the views of children and young people on Brexit and the issues it raised for them. Further funding was provided to allow this work to continue until September 2020.

The Panel identified EU funding as one of four areas of most concern to children and young people in the context of Brexit. The other three were: the economy, trade, and jobs; rights; and opportunities to work, study and travel. In their [report](#), the Panel called for any losses to youth funding which arose through Brexit to be replaced. They also urged the Scottish Government to seek continued participation in Erasmus+. The Scottish Ministers, including the First Minister, met Panel members on a number of occasions, and issued statements supporting their work. Ministers noted the Panel's concerns, and these have helped inform continuing Scottish Government work in the aftermath of Brexit.



## 2.2 Review of the Human Rights Act 1998

**LOIPR request:** 5(d) proposals to revise the Human Rights Act 1998.

The Human Rights Act 1998 is one of the principal ways that internationally-recognised human rights are given legal effect in the UK, ensuring that vitally-important safeguards set out in the European Convention on Human Rights (ECHR) are available to everyone. The Scottish Government has consistently made clear its [support](#) for the Human Rights Act in response to UK Government proposals for reform. This issue is discussed further in the Scottish Government’s standalone Position Statement on the [Universal Periodic Review](#) (October 2022).

## 2.3 Furthering Human Rights in Scotland

The Scottish Government has accepted all 30 of the progressive, bold and ambitious recommendations from the [National Taskforce for Human Rights Leadership](#) for a new human rights framework for Scotland. The work of the Taskforce was informed by the All Our Rights in Law project facilitated by the Human Rights Consortium Scotland and the Scottish Human Rights Commission (SHRC). The project included engagement with key groups of rights holders, including [children and young people](#).

As part of taking forward the recommendations from the Taskforce, a new Human Rights Bill will be introduced to the Scottish Parliament during this parliamentary session. The Bill will incorporate, as far as possible within devolved competence, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the Convention on the Rights of Persons with Disabilities (CRPD). The Bill will also include a right to a healthy environment and provision to ensure equal access to everyone, including older people and LGBTI people, to the substantive rights contained in the Bill. We are currently developing proposals which we will consult formally on prior to introducing a Bill.

We are benefitting from the ongoing engagement and constructive input of many stakeholders, in particular, the [Human Rights Bill Advisory Board](#), [Executive Board](#) and [Lived Experience](#) Board. In a bid to make engagement more accessible to children, we have collaborated with Together (Scottish Alliance for Children’s Rights), to create a specific Lived Experience Board for children and young people.

## 2.4 UNCRC (Incorporation)(Scotland) Bill

**LOIPR request:** 5(b) bringing domestic legislation in line with the UNCRC.

“Children’s rights grow in Scotland, and now they’re going to be incorporated into law, which is a really important and big step forward.”

MCP, age 13, in conversation about education reform.

The [United Nations Convention on the Rights of the Child \(Incorporation\)\(Scotland\) Bill](#) (UNCRC Bill), seeks to incorporate the UNCRC and Optional Protocols 1 and 2<sup>6</sup> directly into Scots law subject to the limit of devolved competence. The UNCRC Bill would incorporate the vast majority of the UNCRC's provisions into Scots law and make provision to allow incorporation of those provisions of the UNCRC currently beyond devolved powers<sup>7</sup>, if the powers of the Scottish Parliament change in the future.

The Bill was introduced on 1 September 2020, and unanimously passed by the Scottish Parliament on 16 March 2021. In April 2021, a reference of certain provisions of the Bill was made by UK Law Officers to the UK Supreme Court and a hearing before the UK Supreme Court took place in June 2021. In October 2021, the UK Supreme Court delivered a judgment on the referral, finding each of the provisions referred by UK Law Officers to be outwith the legislative competence of the Scottish Parliament. In May 2022, the Deputy First Minister made a [statement to Parliament](#) setting out how we propose to amend the Bill to address the Supreme Court judgment. He made clear that our intention is to address the Supreme Court's judgment by returning a revised Bill to Parliament via the Parliamentary Reconsideration stage as soon as practicable.

The Bill would deliver a proactive culture of everyday accountability for children's rights across public services in Scotland and would ensure that public authorities take proactive steps to ensure compliance with children's rights in their decision making and service delivery. Public authorities, including Health Boards and councils, and the Scottish Government itself, would be legally obliged to respect children's rights. If they do not, children, young people and their representatives would be able to use the courts to enforce their rights. The Bill would apply to all public functions that it is possible for the Scottish Parliament to cover, including public functions which are 'contracted out' to non-State actors such as private or third-sector bodies.

The Bill would provide that, for the purposes of the incorporated rights and obligations, a child is a person under 18 years.

The Bill goes beyond incorporating the provisions of the Convention to include a number of proactive measures of implementation. This includes measures to remove barriers that children and young people may face in realising their rights under the Bill and in accessing justice, such as: giving the Children and Young People's Commissioner in Scotland and the Scottish Human Rights Commission the power to bring or intervene in proceedings where a person claims that a public authority has acted (or proposes to act) in breach of the 'UNCRC requirements' defined by the Bill.

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<sup>6</sup> "the first optional protocol" means the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, "the second optional protocol" means the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. There are some words or parts of these protocols which the Bill does not incorporate because they relate to reserved matters.

<sup>7</sup> Some parts of the UNCRC, for example the provision on military recruitment, relate to matters reserved to the UK Parliament and are beyond the legislative competence of the Scottish Parliament.

The UNCRC Bill would also require the Scottish Ministers to create a Children's Rights Scheme, setting out the arrangements they have, or would have in place, to comply with the duties contained in the Bill and to secure better or further effect of the rights of the child. The Scheme would need to include, for example, arrangements for the Scottish Ministers to:

- Ensure that children are able to participate in the making of decisions that affect them, with access to such support and representation (for example from children's advocacy services) as they require to do so.
- Identify and address any situation where a child's rights are (or are at a significant risk of) not being fulfilled.
- Raise awareness of and promote the rights of children.
- Promote complaints handling procedures that children can understand and use.
- Ensure that children have effective access to justice.
- Consider the rights of children in the Scottish Government's budget process.

The Bill would require Scottish Ministers to report on the Scheme annually, including actions taken in the previous year and plans for taking forward children's rights in the year ahead.

The UNCRC Bill would also require the Scottish Ministers<sup>8</sup> to prepare and publish a Child Rights and Wellbeing Impact Assessment (CRWIA) for: all new Bills being introduced by the Scottish Ministers in the Scottish Parliament; most Scottish statutory instruments made by the Scottish Ministers; and decisions of a strategic nature made by the Scottish Ministers relating to the rights and wellbeing of children (see section 2.6).

The UNCRC Bill would also place a reporting duty on certain listed public authorities. Applicable authorities would need to report every three years on the steps they have taken, and would in future take, to be compatible with the incorporated UNCRC rights and obligations and to secure better or further effect of children's rights.

## **2.5 Existing Reporting Duties Under the Children and Young People (Scotland) Act 2014**

Part 1 of the [Children and Young People \(Scotland\) Act 2014](#) (2014 Act) currently requires Ministers to report to the Parliament every three years on relevant progress and their plans for the subsequent three year period. The first [Report](#) and [Action Plan](#) developed under these duties were forwarded to the Scottish Parliament in December 2018. Two reports discussing progress made in taking forward the actions in the 2018 Action Plan were published in [2019](#) and [2020](#).

The second 3-year report and action plan were laid before the Scottish Parliament in November 2021. The [Progressing the Human Rights of Children in Scotland: A Report 2018 - 2021](#) set out progress made in taking forward children's rights since 2018. The [Progressing the Human Rights of Children in Scotland: Action Plan 2021](#)

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<sup>8</sup> The UNCRC Bill would not place a statutory duty on public authorities to undertake CRWIAs in policy development. This is in line with the comments made by UNICEF UK during the public consultation on the draft Bill that this might place too much of a burden on public authorities.

[to 2024](#) includes measures which seek to build the capacity for public authorities to take a child rights-based approach in the design and delivery of services and to ensure that children, young people, and their families are aware of and understand the UNCRC. An [easy read](#) version of the 2018-2021 Report was also made available.

Since April 2017, Part 1, sections 2 and 3, of the 2014 Act also place a duty on a wide range of public authorities, including local authorities and Health Boards, to report every 3 years on the steps they have taken in that period to secure better or further effect of the UNCRC requirements within their areas of responsibility. Non-statutory [guidance](#) in support of these duties was prepared in dialogue with stakeholders and published in December 2016. The first reports under these provisions became due to be published as soon as practicable after 1 April 2020. Provisions within Coronavirus legislation have allowed public authorities to delay reporting if doing so would hinder their ability to respond to the pandemic.<sup>9</sup> These provisions expired on 30 September 2022 and reports continue to be due as soon as practicable.

## 2.6 Child Rights and Wellbeing Impact Assessment

**LOIPR request:** 5(c) child rights impact assessment procedure.

The non-statutory Child Rights and Wellbeing Impact Assessment (CRWIA), which was introduced in 2015, seeks to ensure that all areas of the Scottish Government consider the possible direct/indirect and positive/negative impacts of proposed policies and legislation on the rights and wellbeing of children and young people. The views of children and young people are integral to the CRWIA process. The CRWIA is promoted across the Scottish Government as a key tool in the development of policy and is assisting officials, and other relevant organisations who choose to use this resource, to take a rights-based approach to the development of relevant policies, legislation, services, and significant investment decisions, ensuring that children's rights, wellbeing and voices are at the heart of policy development. A [list](#) of CRWIAs prepared and published by the Scottish Government is available on the website.

Following a review of the CRWIA process, in November 2021, new templates and updated [guidance](#) were published on the Scottish Government website for anyone to use. We continue to gather feedback from anyone using the templates and guidance to ensure they are continuously improved. We are also continuing to take steps to raise awareness of the CRWIA process and resources and to promote their use across all areas of the Scottish Government, public sector and the third sector.

In addition, since 2019, an indicator within the terms of grant allocations to third sector organisations who receive core funding from the [Children, Young People and Families Early Intervention and Adult Learning and Empowering Communities Fund](#)<sup>10</sup>

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<sup>9</sup> Part 3, paragraph 8 of schedule 6 of the Coronavirus (Scotland) Act 2020, extended further by the Coronavirus (Extension and Expiry) (Scotland) Act 2021 and the Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2022.

<sup>10</sup> The Fund supports the third sector to use early intervention and prevention to improve outcomes for children, young people, families and communities.

has been that organisations ‘will evidence that they have considered the rights and wellbeing of children and young people by completing a CRWIA for the creation and development of their policies and procedures’.

## 2.7 Coordination and Strategic Governance of Children’s Rights in Scotland

**LOIPR request:** 6(b) and 6(c) monitoring and evaluation and effective coordination of implementation of the UNCRC.

Since 2007, the Scottish Government has had a minister with specific responsibilities for overseeing progress in relation to the rights of the child. The current Minister for Children and Young People is supported by the Children’s Rights Unit in the Scottish Government’s Directorate for Children and Families. This team has responsibility for coordination of and reporting on progress in Scotland in relation to children’s rights and raising awareness of the UNCRC. A key aim of the Unit is to oversee the delivery of the UNCRC implementation programme (see section 2.8).

The UNCRC Strategic Implementation Board (SIB) was convened in 2021 to provide strategic and collaborative oversight and leadership of a three-year UNCRC implementation programme to deliver a fundamental shift in the way children’s rights are respected, protected, and fulfilled in Scotland. It includes representation from leaders in the children’s rights sector and public authorities. The Terms of Reference for the Board have been published on the Scottish Government [website](#) along with the minutes of each meeting.

To support the meaningful and inclusive participation of children and young people in the work of the SIB, and wider implementation programme, the Scottish Government established and drew on support from an interim consortium of organisations that have strong, trusting relationships with children and young people across Scotland. The interim consortium, Rights Right Now!, was coordinated by Together (Scottish Alliance for Children’s Rights) in partnership with 6 organisations.<sup>11</sup> The final [reports](#) from the project were published in June 2022. Following an unsuccessful attempt to establish a longer-term consortium, we are currently considering how to build on this approach to support broader meaningful engagement of children and young people in policy development.

## 2.8 The UNCRC Implementation Programme

The [Financial Memorandum](#) to the UNCRC Bill set out the high level plan for the three year implementation programme covering three strands which have been further developed and expanded into four. Actions in relation to these strands were included in the [Progressing the Human Rights of Children in Scotland: Action Plan 2021 to 2024](#) as follows:

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<sup>11</sup> Scottish Youth Parliament, Children in Scotland, Carers Trust Scotland, Who Cares? Scotland, Aberlour and Scottish Commission for People with Learning Disabilities (SCLD)

### **Scottish Government Leadership for Children's Rights**

This strand of work is focussed on ensuring that the Scottish Government is a leader for children's rights and a role model to others in upholding children's rights, as well as ensuring all Scottish Government policy and legislation is UNCRC compliant by:

- Remaining committed to the incorporation of the UNCRC into domestic law subject to the limits of devolved competence as soon as practicable.
- Developing and delivering a strategic plan for raising awareness and training on the UNCRC and children's rights across the Scottish Government and its agencies (see section 2.9).
- Promoting the importance and adoption of Child Rights and Wellbeing Impact Assessments (CRWIAs) and continuing work to improve CRWIA training and to develop an impact evaluation process (see section 2.6).
- Consulting on, and publishing, a Children's Rights Scheme which will set out how the Scottish Government will give better and further effect to the rights of children. This consultation will take place when the UNCRC Bill receives Royal Assent.

### **Empowering Children and Young People to Claim Their Rights**

This strand of work is focussed on creating and amplifying systems that enable children and young people to be empowered human rights defenders, by continuing to drive forward a rights-based approach to participation, ensuring we listen, consider, and respond to representative voices of children and young people, particularly those who are seldom heard by:

- Co-creating a national awareness raising campaign for children's rights with children and their families, to ensure that children, young people, their families, and all of Scottish society are aware of and understand the UNCRC, and to support them to be rights defenders (see section 2.9).
- Producing a wide range of information and guidance resources aimed at raising public awareness to increase individuals' understanding of children's rights (see section 2.9).
- Establishing a consortium of organisations to support a sustainable, meaningful, and inclusive approach to participation of children and young people in decision making (see section 2.7).

### **Embedding Children's Rights in Public Services**

This strand is focussed on supporting a proactive culture of everyday accountability for children's rights across public services in Scotland by:

- Producing guidance for public authorities, and those undertaking functions of a public nature, to implement the UNCRC (see section 2.9).
- Developing a Children's Rights Skills and Knowledge Framework to support capacity building in public services in taking a child rights approach in practice to drive forward the cultural change required (see section 2.9).
- Developing a National Improvement Programme, which will include an approach to self-evaluation to support public authorities in taking forward a child rights-based approach. An Innovation Fund will provide financial support

for testing and implementing creative approaches to embedding children's rights (see section 2.9).

### Children's Rights Resolution

This strand was not originally included in the Financial Memorandum accompanying the Bill and was added to the implementation programme in June 2021. It is focussed on providing targeted support which will significantly improve how children and young people access and experience their rights including:

- Working with the Scottish Public Services Ombudsman to develop a child-friendly complaints process to ensure children and young people are able to access their rights (see section 3.4).
- Working across the Scottish Government and with stakeholders to review existing advocacy arrangements to support children and young people in accessing their rights, and to consider how we can strengthen the provision of advocacy to children and young people who need it (see section 3.13).
- Developing an Evaluation and Monitoring Framework to monitor and evaluate the delivery, aims and impact of the UNCRC Implementation Programme (see section 2.8).
- Engaging proactively with colleagues across the Scottish Government on specific issues where more can be done for children's rights. We intend to strategically target those issues where we can go further to respect, protect, and fulfil children's rights in policy, legislation and practice and contribute to the realisation of children's rights.

### Evaluation and Monitoring Framework for the UNCRC Implementation Programme

The Scottish Government funded the Observatory of Children's Human Rights, Public Health Scotland and Matter of Focus to develop a Theory of Change for Making Children's Rights Real in Scotland. The [final report](#) and [summary report](#), published in June 2022, set out the drivers of change for embedding a rights-based approach to public sector policy making. The product of this work will help to identify, not only if there are any gaps in the three-year UNCRC implementation programme that need to be filled, but also if we have in place the drivers of change that will embed a children's rights-based approach in Scotland. The Scottish Government is now working with the UNCRC Strategic Implementation Board to agree a strategy for evaluating and monitoring the UNCRC Implementation Programme.

## 2.9 Raising Awareness of Children's Rights

**LOIPR request:** 9. awareness raising and training on UNCRC.

“Young people should be aware of the UNCRC as this treaty empowers them to understand how these rights apply to them in all areas of their lives and to exercise their rights when they are not being met. It also enables children and young people to have their voices heard so that they are listened to and taken seriously.”

Haleema, 14, East Dunbartonshire

Achieving a Scotland-wide knowledge and understanding of children's rights and how to act on them is central to the implementation of the UNCRC, and to embedding children's human rights into the fabric of Scottish society. Once in force, provisions in the UNCRC Bill will incorporate article 42 of the UNCRC, which provides for States parties to make the principles and provisions of the Convention widely known amongst adults and children. In addition to this, Section 1(3) of the Children and Young People (Scotland) Act 2014 places a duty on Scottish Ministers to promote public awareness and understanding of children's rights, including amongst children.

Young Scot and Children in Scotland have co-produced a range of material with children and young people to: promote learning about children's rights; introduce activities to help children and young people understand what rights look like in practice; and build their confidence to defend their rights when these are not being respected. The #ActivateYourRights resources were published on Young Scot's [website](#) in 2020. To help to further raise awareness of the UNCRC with young people, in 2022, the Scottish Government commissioned Young Scot to work with a team of young people to co-create a social media campaign to coincide with World Children's Day. The campaign was designed to support other young people to better understand how they experience their rights in real life contexts.

In addition to this, in May 2022, the Scottish Government announced 3 years of funding for UNICEF UK to offer their Rights Respecting Schools Award (RRSA) programme to all 2,400 state primary and secondary schools in Scotland. UNICEF UK works with schools across the country to embed children's rights in a school's ethos, raise awareness of the UNCRC and increase understanding of children's rights. Evidence gathered by UNICEF UK, demonstrates the positive impact of the programme, which creates a culture of respect across the school community where children's voices are heard and valued.

We are also taking steps to further raise awareness of the UNCRC amongst families and a new resource designed by parents' organisations for parents, carers and family members is due to be launched in November 2022. We have also established two stakeholder networks, the UNCRC Awareness Raising Communications Network and the UNCRC Parents Network, to help deliver an awareness raising campaign across Scotland. The campaign will launch in 2023 and will involve a network of localised and targeted work, that interconnects to current work to produce an evolving national programme.

### **Awareness Raising and Training Across the Public Sector**

Non-statutory [Introductory Guidance](#) to assist public authorities to consider the UNCRC in the delivery of services was published in November 2021. The Scottish Government also commissioned a [short animated film](#) explaining the key messages contained in the guidance in a child-friendly way. The film is intended to act as a resource to promote understanding and dialogue between children and public authorities on how children's rights can be respected, protected, and fulfilled. The film was developed with young people aged 12-18 who shared their lived experiences of rights issues, shaped the script, and provided voiceovers for the film.



The Scottish Government will also issue two sets of statutory guidance which will seek to promote understanding within public authorities of the requirements of the UNCRC Bill, specifically: Part 2 (Duty to act compatibly with the UNCRC requirements); and Part 3 (Reporting duty of listed authorities).

We are also developing a Skills and Knowledge Framework which aims to build capacity in public authorities. Learning from the Trauma Informed approach to upskilling workforces, the aim for this work is to implement a coherent and national offer for all public authorities to upskill themselves in taking a child rights-based approach to their practice/ service, to further enable them to act compatibly with the UNCRC. Given the breadth of sectors, workforces and responsibilities with regards to children's rights, a Children's Rights Skills and Knowledge Framework will establish a tiered-approach to capacity building, whereby practitioners are able to assess the level of knowledge they require for their role, and tools and content would be tailored accordingly. The Framework will continuously evolve to include new topics, updated examples of practice and refreshed materials and content.

We are working with the Improvement Service to develop and deliver targeted support for local authorities. This partnership is building on existing work and relationships that the Improvement Service have with authorities, with a view to influencing and embedding a child rights-based approach, particularly in relation to raising awareness, building capacity and supporting cultural change. As part of this work, the Improvement Service host a UNCRC Implementation Knowledge Hub. This virtual space is focussed on how public bodies are implementing the UNCRC in Scotland, and is provided to support the sharing of information, learning and ideas, as well as facilitate connections between professionals working on children's rights across sectors.

The Scottish Government is also developing a Children's Rights Innovation Fund which will provide financial support for innovative approaches to embedding children's rights in public authorities under a broader National Improvement Programme. As well as creating a way for local practice to improve and innovate, the Children's Rights Innovation Fund will enable a community of children's rights practitioners and champions to share good practice, and contribute to a national directorate of resources, case studies and support.

### **Rights Training for Professionals**

The Scottish Government continues to promote wide awareness of the [Common Core of Skills, Knowledge & Understanding and Values for the "Children's Workforce" in Scotland](#) (2012). This resource, which was developed in consultation with stakeholders, sets out the key skills, knowledge and understanding, and values that everyone should have if they work with children, young people, and their families, whether they are paid or unpaid. The Scottish Government has commissioned the Scottish Social Services Council (SSSC) to work with stakeholders on a review of the Common Core. This is a commitment in The Promise, and the reviewed Common Core is due to be launched by April 2024.

Training on children's rights is also included within the learning provided for relevant professionals. For example:

- **Teacher Education** - the [Professional Standards](#), updated by the General Teaching Council for Scotland in August 2021, include a commitment to the professional value of social justice. The implementation of this value includes respecting the rights of all learners, as outlined in the UNCRC, and their entitlement to be included in decisions regarding their learning experiences and to have all aspects of their wellbeing developed and supported.
- **Healthcare** - The rights of every individual are expected to be upheld by registered healthcare practitioners, who must abide by the professional standards laid out by their statutory regulatory organisations. Integral to these standards is the requirement to act to protect, advocate for, and promote and preserve the rights of those who are vulnerable.
- **Children’s Reporters** - The Scottish Children’s Reporter Administration (SCRA) Professional Development Award for all children’s reporters awarded a permanent contract now includes information on UNCRC incorporation in Scotland and what this will mean for their work in Children’s Hearings.
- **Children’s Panel Members and Safeguarders** - Children’s Hearings Scotland (CHS) has developed guidance and training for panel members which aims to promote understanding of the UNCRC and children’s rights. CHS has also worked with Children 1st to develop a children’s rights module for all panel members and Safeguarders.
- **Children’s Hearings Advocacy Workers** - Mandatory training for all new staff covers children’s rights and the UNCRC and the law around Children’s Hearings. Annual refresher training is provided for all advocacy workers employed under the national scheme. In addition, Clan Childlaw is funded by the Scottish Government to operate a legal advice service/helpline for advocacy workers where any matters requiring legal input occur.
- **Police Scotland** - Internal communications to raise awareness of the UNCRC across the breadth of the organisation are underway. Police Scotland anticipate developing training materials in consultation with its strategic partners. A Strategic Oversight Board is offering support and providing direction together with an internal working group, serving to provide tactical direction to ensure effective implementation of the UNCRC.
- **Scottish Courts and Tribunals Service (SCTS)** - Within the Additional Support Needs jurisdiction (part of the First Tier Tribunal for Scotland Health and Education Chamber) all Chamber training touches on children’s rights and on increasing awareness. In the Health and Education Chamber of the First Tier Tribunal for Scotland, children have been involved in providing targeted training to caseworkers and caseworkers have been provided with training on the child-centred nature of proceedings.<sup>12</sup> Clerks involved in Court of Session Family cases receive training on the Children (Scotland) Act 1995, including obtaining the views of the child in relation to orders sought under section 11.

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<sup>12</sup> Health and Education Chamber of the First Tier Tribunal for Scotland – Guidance to Tribunal Members - [The Views of the Child](#)

- **Scottish Prison Service** - All prison staff undertake human rights awareness training within the Equality and Diversity package developed by the Scottish Prison Service (SPS) College. The training is undertaken by existing prison staff and new recruits to the SPS.

## 2.10 Children's Services Planning

Part 3 of the Children and Young People (Scotland) Act 2014<sup>13</sup> requires local authorities and Health Boards, with the assistance of other service providers, to take a collaborative and strategic approach to safeguarding, supporting, and promoting the wellbeing of children, young people, and families. This embeds children's rights and participation within the approach to local planning, design, and delivery of services and support in each Children's Services Planning Partnership (CSPP) area of Scotland through their Children's Services Plan, within an overarching aim of improving outcomes for children, young people, and families.

On behalf of Scottish Ministers and in line with the Part 3 duties, a national review of Scotland's 3-year Children's Services Plans (2020 to 2023) was undertaken in 2021. The [report](#) highlights key strengths, good practice, and areas for development. The report includes information on a statutory review criteria which considers the extent to which children's rights have been used to inform the structural, procedural and outcome framework of each Children's Services Plan (CSP) as well as highlighting examples of ways in which children and young people have participated in the Children's Services Planning process.

## 2.11 Use of Data

**LOIPR request:** 8. collection and quality of disaggregated data on the UNCRC.

Relevant statistics and research inform the preparation of CRWIAs in the development of policy (see section 2.6). Data collected in relation to individual policy areas include the following:

- **Equalities** - In April 2021, building on [Scotland's Equality Evidence Strategy 2017-2021](#), the Scottish Government launched the first phase of its [Equality Data Improvement Programme](#), which will be undertaken over 18 months. This will lead to the publication of a revised Equality Evidence Strategy in early 2023.
- **Education** - The census-based Achievement of Curriculum for Excellence Levels data collection replaced the sample-based Scottish Survey of Literacy and Numeracy as the key source for literacy and numeracy performance in Broad General Education. The census approach allows disaggregation of data by school, school stage, sex, ethnic origin, geographical location, and socioeconomic status.
- **The Promise** - The Promise Scotland is carrying out an extensive data mapping exercise which aims to map all data currently held in Scotland that directly or indirectly impacts on children and families' lives and outcomes, including but not

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<sup>13</sup> [Children's Services Planning: Guidance.](#)

limited to data on housing, poverty, education, employment, social work, and health.

- **Mental Health and Wellbeing:** The Scottish Government has introduced a new Health and Wellbeing (HWB) Census which started in the 2021-22 academic year. In 2021, the Scottish Government published a report based on the [mental health and wellbeing findings](#) from the 2018 wave of the Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS). This included findings relating to emotional and behavioural problems and mental wellbeing. In 2021, the Scottish Government published findings from Ipsos MORI's [Young People in Scotland \(YPIS\) 2021 survey](#) focused specifically on questions relating to mental wellbeing, relationships, and social media.
- In 2019, the Scottish Government commissioned the Child and Adolescent Mental Health and Adult Psychological Therapies National Dataset (CAPTND). This disaggregates to patient-level and contains information on patient journeys from referral to discharge. In 2021 a first tranche of data on referrals by age, sex and Scottish Index of Multiple Deprivation area quintile was published in the [CAMHS waiting times](#) statistics report.
- **Overweight and Underweight:** NHS Scotland provides a universal [child health programme](#) which includes surveillance of [child weight and growth](#). NHS Boards record results on the [child health school system \(CHSP School\)](#), which can be used to estimate the prevalence of overweight and underweight children in Primary 1 in Scotland. Public Health Scotland (PHS) also publish [annual statistics](#) on high, low and healthy body mass index (BMI) for Primary 1 school children and data can be disaggregated by Health Board and local authority area, sex and SIMD. The [Scottish Health Survey](#) (SHeS) reports on the risk of overweight and underweight for 2 -15 year olds and data can be disaggregated by sex, age group, SIMD and disability.
- **Food insecurity** - The Scottish Government has been measuring food insecurity with the UK wide Family Resources Survey and Scottish Health Survey (SHeS) since 2017.
- **Asylum Seeking and Migrant Children:** Asylum and immigration are reserved matters. The Home Office publish relevant statistical information in relation to asylum-seeking and migrant children.

## 2.12 Consideration of Children and Young People in Budgetary Processes

**LOIPR request:** 7(a) and (b) state and participatory budget processes.

The Scottish Government, with the Scottish Parliament, have well-established budget setting and scrutiny arrangements that aim to ensure that decisions about revenue and capital expenditure as well as income are informed by both Ministers' statutory responsibilities and key delivery priorities and outcomes.

Budget decisions and priorities in Scotland are informed by the principles set out in the [Christie Commission Report on the Future Delivery of Public Services](#) (2011)

including, for example, promoting a decisive shift toward prevention and greater integration of public services at local level. Under these principles, there has been an increasing focus in recent years by the Scottish Government and public bodies to direct resources towards actions that can help tackle deep rooted social and economic disadvantage. This was further embedded by the introduction of the 'Fairer Scotland Duty' in April 2018,<sup>14</sup> which requires certain public authorities, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.

The introduction of the CRWIA further ensures that policy officials within Government take account of the rights, wellbeing, and views of children and young people in considering relevant policies and significant investment decisions.

The Scottish Government publishes an Equality and Fairer Scotland Budget Statement each year alongside its draft Budget for the year ahead. This document examines the impact of budgetary decisions across protected characteristics. The annual report on child poverty also provides an assessment of progress against targets and tracks budgets targeted at families in low income.

Children and young people and their families also benefit from wider budget allocations by means of block grant funding to local authorities and grant provisions to other public bodies which have discretion and flexibility in how they allocate their overall budgets, subject to their statutory responsibilities and local and national outcome commitments. Since 2007, the Scottish Government has adopted an outcomes-based approach through its National Performance Framework, focusing on the improved outcomes that it wants investment to deliver.

### **UNCRC Bill and Child Rights Budgeting**

The UNCRC Bill, as passed by the Scottish Parliament in March 2021, would require the Scottish Ministers to create a Children's Rights Scheme which would include the arrangements they have, or would have, in place to consider the rights of children in the Scottish Government's budget process (see section 2.4).

Public budgeting for children's rights represents a key tool within UNCRC implementation. To ensure children's rights are adequately captured throughout the budget cycle, work is ongoing to increase the transparency of the budget process and fiscal framework within the Scottish Government, as well as to improve and enable meaningful participation of children throughout the budget cycle. We will continue to explore, across the Scottish Government and with stakeholders, the potential to build in children rights-based approaches to budgetary decision-making to ensure human rights standards are reflected within fiscal decision-making. Our approach to delivering children's rights budgeting in Scotland has, and is, being shaped by our consideration of international guidance, as provided for by the UN Committee. This is being developed in view of mutually reinforcing frameworks such as wellbeing and participatory budgeting that are also being established in Scotland.

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<sup>14</sup> As provided for in section 1 of the Equality Act 2010.

Alongside ongoing work on budget improvement within the Scottish Government, statutory guidance is being produced to ensure public authorities in Scotland are aware of the potential public budgeting for children's rights can have on improving lived experiences for children across Scotland. This guidance will be supported in the longer term by a Skills and Knowledge framework which will include a learning module on applying children's right to public budgeting (see section 2.9). To ensure we are capturing best practice, we aim to include lessons learned from case studies produced by UNICEF, NGOs across the world, and academic research to help government to introduce, or improve, the measurement, monitoring, and reporting of public spending for children.

### 2.13 Participatory Budgeting

Participatory Budgeting (PB) is a democratic process in which citizens decide directly how to spend part of a public budget. The Scottish Government supports PB as a tool for community empowerment and as a means to build on the wider development of participatory democracy in Scotland. As part of the National PB Support Programme, the Scottish Government provides secretariat support to the independent National PB Strategic Group. There is strong working collaboration across the Group, which shares the ambition that in five years' time, PB will be part of the core infrastructure of a constantly renewing democratic and community life across Scotland.

“During the meetings, I felt not only that I was being heard, but that my voice was appreciated at a high strategic level and any comments I made were taken on board.”

Ellie, MSYP, blog post about her involvement in developing the Framework for the future of Participatory Budgeting in Scotland, 2021.

The Strategic Group have co-produced and published the [Framework for the Future of PB in Scotland](#) (2021), which includes five overarching themes underpinned by sixteen priorities recommended to carry forward in order to strengthen PB in Scotland. Education is a key theme in the National PB Framework, which includes three key priorities related to children and young people. Priority 12 aims to support high quality PB processes in education; Priority 13 focuses on developing PB further in secondary schools; and Priority 14 looks at using PB to address challenges of poverty and inequality of children by sharing decision making on the allocation of the Pupil Equity Fund.

The Scottish Government has provided funding to Youth Link Scotland, to deliver Scotland's first accessible online qualification on PB and Grant Making. This online course is now available and free for up to 750 young people who are involved in PB and grant making work, to sign up and complete. Upon completion of the SCQF Level 5 Credit Rated online course, children and young people participating will be able to demonstrate a clearer understanding of PB and grant making principles and values. This will help to equip children and young people with the knowledge and skills to participate effectively in local decision-making processes.

### 2.14 Human Rights in Business

**LOIPR request:** 11(a) and (b) children's rights and the business sector.

The Scottish Government has taken forward a range of measures to support and promote human rights in business, including policies relating to Fair Work and the living wage. These are discussed in the Scottish Government's standalone Position Statement on the [Universal Period Review](#) (October 2022).

The UN Guiding Principles on Business and Human Rights (UNGPs) set out a framework which recognises the state duty to protect human rights, business responsibility to respect human rights, and the requirement for both the state and businesses to provide remedies. The Scottish Government has taken forward work to develop a National Action Plan for the implementation of the UNGPs, including by convening a Steering Group for the development of the Plan. As part of this work, an engagement [event](#) was held in 2018 to gather the views of young people on the ways in which businesses affect their lives and the impacts this can have on their human rights.

In addition to this, the UNCRC Bill would require the Scottish Ministers to set out in a Children's Rights Scheme, arrangements to protect the rights of children in relation to their interactions with persons, other than public authorities, who provide services which affect children. The compatibility duty in the UNCRC Bill would apply to all public authorities exercising public functions within the legislative competence of the Scottish Parliament, including functions of a public nature carried out under a contract or other arrangement with a public authority.

### **Scottish Business Pledge**

The Scottish Business Pledge is a values-led partnership between Government and business that is based on boosting productivity and competitiveness through fairness, equality, and sustainable employment. The Pledge currently has three core mandatory elements: payment of the real living wage; no inappropriate use of zero hours contracts; and action to address the gender pay gap. Businesses must also choose to commit to any 5 of the following 7 elements according to their particular sector: investing in a skilled and diverse workforce; workforce engagement, offering an effective voice to workers; environmental impact; prompt payment; innovation; internationalisation; and playing an active role in the community. Since its launch, the number of businesses committing to the Scottish Business Pledge has grown.

### **Public Procurement**

Companies awarded public contracts are required to comply with environmental, social, and labour laws when performing those contracts. Public bodies are required to consider and act on opportunities to improve economic, social, and environmental wellbeing, and reduce inequality within their procurements. Scottish public sector buyers are being encouraged to consider social, economic and environmental factors systematically through use of the [Sustainable Procurement Tools](#) and associated guidance. This includes a focus on human rights and equality. The tools have been designed to help public bodies comply with policy and legislation.

Public bodies are required to include relevant clauses in their contracts to ensure those they contract with comply with environmental, social and employment law obligations. Scottish Government standard contract terms and conditions allow for

contract termination if the contractor or a sub-contractor fails to comply with environmental, social and employment law when carrying out that contract.

### Human Rights in Trade

In 2019, the Scottish Government published [Scotland: a Trading Nation - A Plan for Growing Scotland's Exports](#). We encourage Scottish-based companies to adopt ethical business practices, conduct appropriate due diligence on their business partners, and be aware of local business conditions in export markets. To support this, businesses have access to the UK Government's [Overseas Business Risk Service](#), which provides analysis on overseas markets to exporters, including on potential risks such as human rights issues, bribery and corruption, terrorism, criminal activity and intellectual property.

[Scotland's Vision for Trade](#) (2021), outlines the five principles by which we will judge our own trade policy decisions and contribute to those of the UK Government and of our international partners: Inclusive Growth, Wellbeing, Sustainability, Net Zero and Good Governance. The principle of Good Governance includes the Scottish Government's commitment to an inclusive Scotland that protects, respects, promotes and implements internationally recognised human rights. We have a strong and enduring commitment to securing and supporting democracy, the rule of law and human rights in other parts of the world. The Vision for Trade sets out the levers that the Scottish Government has available to support the coherence between human rights and trade, as well as our asks for the UK Government in using their levers in a way that is supportive of Scotland's objectives.

## 2.15 International Development

**LOIPR request:** 10. International development cooperation and children's rights.

The [Global Citizenship: Scotland's International Development Strategy](#) (2016) set out our contribution to the international community as a good global citizen. At the forefront of our efforts is our annual £11.5 million International Development Fund (IDF), the main aim of which is to support and empower our partner countries, Malawi, Rwanda, Zambia, and Pakistan, in line with contributing to meeting the SDGs. Some [projects](#) specifically support children in our partner countries, for example, a project on access to justice for young people in Malawi, supporting the Malawi Government in enabling access to justice, and humane, child-welfare based treatment for child offenders. All international development projects funded by the Scottish Government are subject to monitoring and evaluation requirements, in particular, providing disaggregated data to understand and track how our projects are delivering impact for vulnerable or marginalised groups.

## 2.16 Definition of the Child

Consistent with the definition of a child that is set out in Article 1 of the UNCRC, the UNCRC Bill provides that for the purposes of the incorporated rights and requirements, a child is a person under 18. Whilst all children up to the age of 18 will have rights under the Bill, the UNCRC recognises the evolving capacity of children and young people, and that children and young people will have increased choices and ability to influence decisions that affect them as they grow older. This means



that, provided it does not prevent the realisation of their rights, policy and legislation related to children and young people may operate with different age thresholds.

### **Minimum Age of Marriage**

**LOIPR request:** 12. raising the age of marriage.

The Scottish Government is seeking views from key stakeholders on whether the minimum age of marriage should be increased from 16 to 18 years in Scotland. This work has involved meeting individually with a range of interested organisations, including those offering support to women and girls affected by violence, forced marriage and other forms of honour-based abuse.

### 3. General Principles

#### Relevant UNCRC Articles: 2, 3, 6, 12

The four general principles of the UNCRC are: for rights to be applied without discrimination; for the best interests of the child to be a primary consideration; the right to life, survival, and development; and respect for the views of the child. These four general principles underpin each and all of the specific rights outlined in the UNCRC.

#### 3.1 Equality and Non-Discrimination

[Equality Act 2010](#) (2010 Act) places a duty on public authorities to: eliminate discrimination, harassment, and victimisation; advance equality of opportunity; and foster good relations between persons who share a relevant protected characteristic (age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation) and those who do not. This is known as the Public Sector Equality Duty (PSED).

Public authorities, including the Scottish Government, are also subject to a comprehensive set of equality requirements, as set out in the [Equality Act 2010 \(Specific Duties\)\(Scotland\) Regulations 2012](#) (as amended) (2012 Regulations). The 2012 Regulations are aimed at helping Scottish public authorities improve implementation of the PSED by requiring them to report progress on mainstreaming equality, to propose and publish equality outcomes, and to assess policies and practices from the perspective of equality by undertaking Equality Impact Assessments and publishing employee information on pay and occupational segregation.

The [Equality Outcomes and Mainstreaming Report](#) (2021) provided a final report on progress made in relation to the equality outcomes set in 2017. These included ensuring that children affected by domestic abuse are increasingly recognised and supported in the justice system; and making progress in the educational experience of children whose success, according to the evidence, is hampered by having a protected characteristic. The 2021 report included a set of new equality outcomes covering the period 2021-25. Interim progress on these outcomes will be published in the 2023 Equality Outcomes and Mainstreaming Report.

The Scottish Government is currently reviewing the effectiveness of the PSED in Scotland. From December 2021 to April 2022, the Scottish Government ran a public [consultation](#), which set out a series of detailed proposals both for legislative changes to the Scottish Specific Duties as well as changes to the wider implementation environment. Subject to the outcome of that consultation and consideration of next steps, we aim to lay any draft revised regulations in the Scottish Parliament in 2023, with regulatory changes coming into force in 2025.

The Scottish Government is also developing an equality and human rights mainstreaming strategy which we aim to publish and start implementing by the end of 2024. This will strengthen the mainstreaming of equality and human rights in Scottish Government policy-making as a single joint endeavour, to ensure that policies drive progress towards a fairer, more equal Scotland.

## 3.2 Equalities and Inclusion in Relation to Particular Groups

**LOIPR request:** 13 (a) and (c) eliminating discrimination including in relation to age.

The following section discusses actions that the Scottish Government has taken, within its devolved powers, to address inequalities. These will help to ensure that all children and young people are able to access their rights without discrimination. Specific measures taken forward to support the needs of children with disabilities and looked after children and young people are discussed in subsequent sections of this report, as are measures to tackle inequalities related to health, poverty, and education.

### Age

Although age is a protected characteristic under the 2010 Act, there are a number of specific exceptions and exemptions. For example, the provisions in the 2010 Act which prohibit discrimination in the provision of services and public functions do not apply to the protected characteristic of age, so far as relating to persons who have not attained the age of 18.<sup>15</sup> Therefore, people and organisations can provide different services, or services on different terms and conditions, to children of different ages, or can decline to provide services to children altogether on the basis of this exemption. Similarly, section 84 of the 2010 Act disapplies age (and indeed marriage and civil partnership) to the provision of education. However, children under the age of 18 remain protected against other forms of direct or indirect discrimination, such as on grounds of disability, race or sex under the 2010 Act.

The Scottish Government has taken steps within its devolved powers to address the inequalities that young people below the age of 18 can experience. For example, in 2015, we lowered the voting age to 16 for elections to the Scottish Parliament and local government in Scotland, to ensure that young people can participate in the democratic process. We also plan to consult on extending the right to stand for election in Scottish Parliament and local government elections to 16 and 17-year-olds during this Parliament.

In addition, between June and October 2020, and again between March and June 2022, we consulted on proposed legislative reforms during this Parliament to raise the maximum age of referral for a Children's Hearing up to age 18 for care, protection, and offence cases. This would ensure that more children can benefit from the protection, guidance, treatment and control that can be afforded via Scotland's unique age-appropriate, welfare-based Children's Hearings System (see section 9.7).

### Age - Fair Work

We have also taken forward measures to support young people in employment. Although employment law is reserved to the UK Government, the Scottish Government is committed to mainstreaming fair work throughout Scotland using its flagship Fair Work First Policy. The [Fair Work Action Plan](#) (2021) commits to using all levers available to promote and deliver fairer working practices.

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<sup>15</sup> Section 28 of the 2010 Act.

The Scottish Government opposes the inappropriate use of zero-hours or other precarious contracts. Our Fair Work First criteria focus on promoting security of pay and contracts and asking employers not to use zero-hours contracts inappropriately. Our published [research](#) (2021) on young people's experiences of precarious and flexible work is informing how we support young people who want to move out of this type of employment.

Fair Work First also promotes payment of the real Living Wage. This differs from the National Minimum Wage in that it is calculated according to the basic cost of living and therefore takes account of the adequacy of household incomes for achieving an acceptable minimum living standard.<sup>16</sup> Taken together, these elements of Fair Work will provide greater certainty to workers of all ages, including young people, about how much they will be paid each week and the number and regularity of hours they will be expected to work. In addition to this, the [Young Person's Guarantee](#), which was launched in 2020, aims to connect every 16–24 year old in Scotland to an opportunity. This could be a job, apprenticeship, further or higher education, training programme, volunteering or an enterprise opportunity.

### Gender

In 2017, the First Minister established a National Advisory Council on Women and Girls to provide independent strategic advice about the additional measures needed to end gender inequality. The [Advisory Council](#) has published three annual reports and the Scottish Government is implementing its recommendations across a range of areas. In addition to this, in December 2020, the Scottish Government published a [Gender Equality Index](#) to ensure we better understand progress on women's equality in a range of different contexts.

In August 2021, the Scottish Government published its [Women's Health Plan](#) (2021) which includes a specific aim to improve access to information for girls and women on menstrual health and management options. The Scottish Government has also invested over £33 million since 2017 to fund access to free period products across a range of settings including schools, colleges and universities, wider public spaces, and targeted access through community groups for those on low incomes. Access to free period products for anyone who needs them is protected in law by the [Period Products \(Free Provision\)\(Scotland\) Act 2021](#), which came fully into force in August 2022.

### Lesbian, Gay, Bisexual, Transgender and Intersex Children and Young People

In November 2018, the Scottish Government accepted in full the 33 recommendations of the [LGBTI Inclusive Education Working Group](#) on how to effectively deliver inclusive education across the curriculum. The [LGBT Inclusive Education Implementation Group](#) was established to work towards the implementation of these recommendations.

In September 2021, the Scottish Government took the world-leading step of embedding LGBT inclusive education across the curriculum. The first phase of

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<sup>16</sup> As part of the Bute House Agreement, the Fair Work First policy will be strengthened. Specifically, by summer 2022, the Scottish Government will introduce a requirement for recipients of public sector grants to pay at least the real Living Wage to all employees and provide appropriate effective voice, such as trade union recognition, within the limits on devolved competence.

implementation consists of a centralised [website](#), an LGBT basic awareness e-learning module for all school staff, and a toolkit of newly developed LGBT inclusive education teaching resources. Work has also progressed on integrating LGBT-inclusive education training within all Initial Teacher Education programmes in Scotland, the creation of a Stage 2 e-learning module on LGBT inclusion within curricular content, and a free Implementation and Evaluation Toolkit to provide schools with a structured pathway to take forward their work on LGBT inclusive education. The Scottish Government published further [guidance](#) (2021) which seeks to help schools support their transgender pupils and secure their rights, alongside those of all pupils. The guidance fully aligns with the Equality Act 2010 and other legislation and will help schools in their interpretation and practical application of the Equality Act. Alongside this work, a new approach to recording and monitoring of incidents of bullying in schools, introduced in 2018-19, is supporting the recording of incidents of bullying across all protected characteristics (see section 8.6).

In November 2021, the Cabinet Secretary for Social Justice, Housing and Local Government announced that an Expert Advisory Group on Ending Conversion Practices would be established in 2022<sup>17</sup>. The Group explored measures to end conversion practices, and submitted its [Report and Recommendations](#) to the Scottish Government in October 2022. We will consider the Group's recommendations carefully. The Programme for Government 2022-2023 commits the Scottish Government to "develop a Bill to end conversion practices, covering both sexual orientation and gender identity".

Separately, the Scottish Government also established the [Working Group on Non-Binary Equality](#) to consider how best to improve equality for non-binary people in Scotland. The Group submitted its [recommendations](#) to Ministers in March 2022. The Scottish Government carefully considered the Group's work and issued a [response](#) in July 2022. We accepted, either in full or in part, 24 of the recommendations, and will consider 8 further. In the Programme for Government 2021-22, the Scottish Government committed to developing an Action Plan based on the Group's recommendations by spring 2023.

The Scottish Government is funding a range of projects to tackle inequality and realise rights for LGBTI people across all areas of Scottish life. In 2021-22, funding of over £1.1 million was provided to organisations working to promote LGBTI equality in Scotland, including funding of over £280,000 to LGBT Youth Scotland.

On 2 March 2022, the Scottish Government introduced the [Gender Recognition Reform \(Scotland\) Bill](#) to the Scottish Parliament. The aim of the Bill is to reform the [Gender Recognition Act 2004](#), improving the process for trans men and women applying for legal gender recognition, as the current system can have an adverse impact on applicants due to the requirement for a medical diagnosis and other evidence as well as the intrusive and lengthy process.

The Bill amends the 2004 Act to introduce a new process for applying for legal gender recognition in Scotland, and new criteria which require to be satisfied by applicants to obtain a Gender Recognition Certificate (GRC). The Bill does not

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<sup>17</sup>[Petition PE1817: End Conversion Therapy](#)

change the effects of a GRC and the rights and responsibilities which a person has on obtaining legal gender recognition. A key difference between the current grounds and procedure and those proposed in the Bill is the reduction in the minimum age for applicants from 18 to enable trans young people to apply for legal gender recognition from 16.

## Race Equality

The Scottish Government is determined to show leadership in advancing race equality, tackling racism, and addressing the barriers that prevent people from minority ethnic communities from realising their potential. The [Race Equality Framework for Scotland 2016 to 2030](#) (2016) sets out the Scottish Government's approach to tackling racism and advancing race equality. [The Race Equality Action Plan 2017 – 2020 final report](#) (2021), provides updates on progress made and sets out the next steps we will take to advance race equality. The Scottish Government is currently developing the next long-term action plan to implement the Framework.

In September 2021, the Scottish Government published an [Immediate Priorities Plan](#) (IPP) which focuses on delivering an equal and anti-racist recovery from COVID-19 for minority ethnic Scots. We have also established the [Interim Governance Group to Develop National Anti-Racist Infrastructure](#) to provide advice to the Scottish Ministers. This group will run up to 2023, at which point permanent governance arrangements will be established.

In addition to this, the Racialised Health Inequalities and Health Equity Team has been established within the Scottish Government to support targeted improvements for specific groups, with an explicit early focus on minority ethnic communities. The team leads on the coordination of the Health and Social Care commitments within the IPP. The team's activities also include development of work around health ethnicity data collection and use to support and monitor action to address inequalities in health outcomes as well as access to, and experience of, health services.

“Being a member of the Scottish Government’s Race Equality and Anti-Racism in Education Programme (REAREP) since 2021 has allowed me to represent young Black pupils and students of colour who still face many struggles daily. It is such a rewarding role to be able to listen to and share young people’s experiences, and to help the Scottish Government act on these issues.”

Crisantos, MSYP, blog post for Black History Month, 2022.

As part of their response to the Black Lives Matter Movement, during summer 2020, the Scottish Government carried out stakeholder engagement sessions with race equality and education stakeholders, minority ethnic groups, individuals, and young people. As a result of this engagement, the [Race Equality and Anti-Racism in Education Programme](#) (REAREP) was created, with the overall aim of ensuring that all children, regardless of ethnicity, have a positive experience and reach their full potential within our education system. The Programme provides a strategic and coherent approach to four key themes identified for reform by education and race equality stakeholders. These are: Education Leadership and Professional Learning;

Diversity in the Teaching Profession and Education Workforce; Curriculum Reform; and Racism and Racist Incidents.

Children and young people have considered the initial set of draft actions which emanated from each of the 4 groups and provided input to them. Further work is being undertaken to ensure that children and young people continue to have their voices heard as part of this programme.

### **New Scots Refugee Integration Strategy**

The Scottish Government is committed to supporting refugees, asylum seekers and Scotland's communities through the pioneering and collaborative approach of the [New Scots: Refugee Integration Strategy 2018-22](#). The Strategy is led in partnership by the Scottish Government, COSLA and the Scottish Refugee Council. It includes a framework of actions across seven themes of integration: Needs of Asylum Seekers; Employability and Welfare Rights; Housing; Education; Language; Health and Wellbeing; and Communities, Culture and Social Connections. The Strategy recognises that children and young people may require additional support to access the services they need and the opportunities to participate in society.

Delivery of the Strategy is being enhanced through the [New Scots Refugee Integration Delivery Project](#), which is funded by the EU's Asylum, Migration and Integration Fund up to December 2022. The project includes a £2.8 million grant fund, which awarded funding to [56 projects](#) to support New Scots by spreading documented good practices and supporting innovation in Scotland under the objectives of the Strategy.

### **Ending Destitution Together**

The Scottish Government and COSLA published the [Ending Destitution Together Strategy](#) in March 2021. The Strategy aims to improve support for people who are at risk of destitution because they are subject to a No Recourse to Public Funds condition. The Strategy's vision is that no one in Scotland is forced into destitution and everyone has their human rights protected, regardless of their immigration status. The Strategy sets out a range of actions in the areas of essential needs; advice, advocacy; and inclusion. The principles of prevention, partnership and personalisation inform the Strategy's approach.

### **Asylum**

Asylum and immigration are matters reserved to the UK Parliament, including the operation of the asylum system, accommodation and financial support for people seeking asylum, and application of No Recourse to Public Funds policy. The Scottish Government is clear that everyone who is resident in Scotland is entitled to access health care on the same basis. This includes all refugees, people seeking asylum and people whose claim for asylum has been refused. People seeking asylum should be accommodated within our communities with access to the support and essentials they need.

### **Displaced People from Ukraine**

Through our "Warm Scots Welcome", we have established Welcome Hubs for people from Ukraine arriving at key entry points, to provide single points where multi-agency teams can triage people and provide support including healthcare and

translation services, clothes and food, temporary accommodation, and trauma support. Through guidance and ongoing advice, we are also supporting practitioners involved in safeguarding of children who are arriving in Scotland from Ukraine to identify and respond to risk and need.

Children arriving from Ukraine will have access to education and early learning and childcare in line with existing education authorities' responsibilities. We are actively working with local authorities and partners, including in Education Scotland, to support local authorities to identify and meet the additional support needs of their pupils. We will ensure that teachers can continue to access appropriate professional learning and development to support the needs of pupils, including those who have English as an additional language.

### **Gypsy/Traveller Children and Young People**

The joint Scottish Government and COSLA Action Plan, [Improving the Lives of Scotland's Gypsy/Travellers: 2019-2021](#) (2019), seeks to improve outcomes for Scotland's Gypsy/Travellers in the key areas of accommodation, education, health and poverty. The actions in the Plan were developed with members of the Gypsy/Traveller community. The plan was [updated](#) in March 2021 and, as a result of COVID-19, was extended to October 2022.

A range of health commitments have been taken forward through the Scottish Government Gypsy/Traveller Action Plan, with specific work focused on improving communication, removing barriers to health services, increasing engagement, and improving awareness of the community and their culture. The Scottish Government has also funded [three new health projects](#) for Gypsy/Travellers, the first of which tested ways of making maternity, child health and income maximisation services more accessible to Gypsy/Travellers living in Fife.

A Gypsy/Traveller Short Life Working Group, representing NHS Chairs and Board Chief Executives, was convened between September 2019 and April 2021, to provide leadership and to ensure meaningful progress across the NHS in tackling stigma, discrimination and promoting the Human Rights of Gypsy/ Travellers. Key outputs from the Group included the development of an NHS Scotland Gypsy/Travellers Agreement. In addition, the Gypsy/Traveller COVID-19 Impact Group was established by COSLA and the Scottish Government, in conjunction with Public Health Scotland, third sector partners, and Police Scotland, to help address problems experienced by the community during the pandemic, supported by £155,000 of Scottish Government funding.

The Scottish Government has also taken steps to support the education of Gypsy/ Traveller children and young people. A [professional learning resource](#) and support network for teaching staff were launched in March 2020. These seek to promote good practice in supporting Gypsy/Traveller education and Education Scotland has reported that cultural awareness and representation of culture in the curriculum are increasing. The Scottish Government also funds the Scottish Traveller Education Programme (STEP), which works to support Gypsy/Traveller education and raise awareness and understanding of Gypsy/Traveller culture and issues among education professionals.



Each year, the Scottish Government provides more than £1 million to help tackle discrimination and improve the lives of Gypsy/Travellers. Our partner organisations who receive core funding support young people in education, celebrate the culture of Gypsy/Travellers, and support the Scottish Government in its decision-making processes to meet the needs of the Gypsy/Traveller community.

There are a range of obligations on local authorities to plan and report on Gypsy/Traveller accommodation, including provisions in the [Planning \(Scotland\) Act 2019](#) to enhance engagement with children and young people and the Gypsy/Traveller community in the preparation of planning authority local development plans. The [Housing to 2040](#) Strategy announced a £20 million Gypsy/Traveller Accommodation Fund for 2021-26, for more and better Gypsy/Traveller accommodation. This builds on the £2 million short-term funding provided in 2020-21 to make immediate improvements on public sites, representing a sustained investment in Gypsy/Traveller accommodation.

### 3.3 Receiving and Monitoring Complaints of Discrimination

**LOIPR request:** 13(d) dealing with complaints of discrimination

There are a range of systems in place that can support the receiving and monitoring of complaints about possible discrimination, including within education. [Respect for All: The National Approach to Anti-Bullying for Scotland's Children and Young People](#) (2017) includes direct reference to prejudice-based bullying, including bullying motivated by racism, sexism, homophobia, or prejudice and discrimination towards disability or faith. A consistent and uniform approach to recording and monitoring of incidents of bullying in schools supports the Framework.

In addition, the [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#) (the 2004 Act) provides a comprehensive legal framework for the provision of additional, targeted support for children and young people who face barriers to learning. It requires education authorities to identify, provide for and review the additional support needs of their pupils. The Scottish Government funds [Enquire](#) to provide information and advice to parents and carers on additional support for learning. Complaints about the provision of education support duties can be made through individual local authority's complaints procedures. Where individuals remain dissatisfied with the authority's response, they have the right to contact the Scottish Public Services Ombudsman (SPSO), who handle complaints about public services in Scotland.

Section 70 of the [Education \(Scotland\) Act 1980](#) provides that Scottish Ministers can investigate where it is alleged that a responsible body has failed to carry out a statutory duty relating to an education enactment. Following an investigation of the reference, Scottish Ministers may make an order declaring the responsible body to be in default in respect of the duty and requiring them to discharge the duty. The Equality Act 2010 provides a mechanism for claims from parents/carers, children, and young people regarding disability discrimination to be heard by the ASN Tribunal.

In addition to the above, the Commissioner for Children and Young People can investigate possible breaches of rights on behalf of groups of children where there are wider implications for children's rights and for individual children in specified circumstances (see section v).

During the reporting period, the Scottish Government supported Clan Childlaw who provide legal and advocacy services for children and young people. Funding was also provided to the Scottish Child Law Centre who provide free legal information and advice to children, young people, their families, and carers. The provision of Legal Aid for children and young people is discussed at section 3.14.

### **3.4 Child Friendly Complaints Process**

The Scottish Public Service Ombudsman (SPSO) has a statutory function in relation to complaints handling for most public bodies. The Scottish Government has provided funding to the SPSO for a 3-year project to develop child-friendly complaints approaches and procedures as part of a model complaints handling process. Under current plans, SPSO will publish guidance to allow for these to be in force by 1 April 2023. Public bodies under the jurisdiction of SPSO will be supported to achieve compliance by 1 April 2024.

These procedures will ensure that children and young people can access complaints procedures and that processes are centred around the needs of the child when a complaint is made on their behalf or concerning them. This will include providing guidance, support, and training to public bodies in developing and delivering child friendly complaints processes, as well as providing support for children and young people themselves. The procedures will be drafted in such a way that they could then be adapted and adopted by other public bodies not within the jurisdiction of SPSO who are seeking to establish similar processes. As a result, children and young people will be better supported to access their rights across all public bodies.

### **3.5 Tackling Hate Crime**

The [Hate Crime and Public Order \(Scotland\) Act 2021](#), once in force, will modernise, consolidate and extend existing hate crime legislation in Scotland. The Act will maintain current legislative protections against offences aggravated by prejudice towards disability, race, religion, sexual orientation, transgender identity, and variations in sex characteristics, and will also extend protection to the characteristic of age. The Act also provides for new 'stirring up of hatred' offences covering all characteristics protected in the updated legislative framework to complement the existing offence of stirring up racial hatred that has been part of Scotland's criminal law and the law of the whole of the UK for decades. Hate crime is discussed further in the Scottish Government's standalone Position Statement on the [Universal Periodic Review](#) (October 2022).

### **Optional Protocol 3**

The Optional Protocol 3 (OP3) to the UNCRC provides for a mechanism through which a child, following exhaustion of all relevant local complaints and appeals procedures, can make a complaint about the violation of his or her rights directly to the UN Committee on the Rights of the Child. The OP3 has not, to date, been signed and ratified by the UK Government. The Scottish Government has welcomed the

OP3 in principle and confirmed that Scottish Ministers would be minded to offer measured support for its signature and ratification in the future.

### 3.6 Attitudes to Children and Young People

**LOIPR request:** 13(a) addressing negative public attitudes towards children.

The Scottish Government has commissioned research to explore societal attitudes towards children and young people. This has helped to identify strengths and where development is needed.

- In 2017, a [Public Attitudes to Young People in Scotland](#) omnibus survey of 1,000 adults in Scotland, found that a substantial minority held negative attitudes towards young people. Positive attitudes were more likely to be held by those who had a relationship with a young person, came from the professional occupational groups, lived in the least deprived SIMD (Scottish Index of Multiple Deprivation) quintile, and amongst women.
- Questions on public attitudes towards young people's participation in the [Scottish Social Attitudes Survey](#) (SSAS) asked how much say young people should have in decisions that affect their lives. The most recent findings from the 2019 survey, show that 70% of adults felt that young people aged 16 to 18 should have 'a great deal' or 'quite a lot' of say in decisions that affect their lives. The proportion believing this for those aged 11 to 15 was much smaller (28%). The percentage saying that young people aged 16 to 18 should have 'a great deal' or 'quite a lot' of say has fallen compared with 2017 (77%).
- The 2017 and 2019 Young People in Scotland Surveys, which surveys a representative sample of 11-18 year olds across state secondary schools in Scotland, included questions about the opportunities for them to participate in decisions that affect them. In 2019, around six in ten young people surveyed agreed that adults were good at listening to their views (57%) and that adults were good at taking their views into account when making decisions that affect them (58%). These questions have been included in the Health and Wellbeing Census of all P5-S6 pupils in 16 local authorities in Scotland, which has run over the 2021-2022 school year. Data will be available from December 2022.
- Data on relationships between children/young people and their parents is also gathered every 4 years in the Health Behaviours in School Age Children (HBSC) survey and will be included in the forthcoming Health and Wellbeing Census of all P5-S6 pupils in Scotland.

The Scottish Government continues to work with key stakeholders, and children and young people themselves, to identify and take forward actions to address the negative portrayal of children and young people within the media and wider society. Within the reporting period, this work has included initiatives to celebrate the contribution that children and young people make at both national and local levels, including the Scottish Government's Saltire Awards, which celebrate youth volunteering, and the Sunday Mail Young Scot Awards, which celebrate the outstanding achievements of young people in Scotland. The Year of Young People

(YOYP) 2018, which aimed to inspire Scotland through its young people and celebrate their achievements, also contributed to measures to counter the negative portrayal of children and young people.

### 3.7 Best Interests of the Child

**LOIPR request:** 3(c) best interests of the child.

The Scottish Ministers have made clear their ambition for every child and young person in Scotland to have the best start in life regardless of their circumstances. The rights of the child underpin this goal. The priority placed on considering the welfare of the child when making decisions affecting them is reflected in a number of statutes including: the [Children \(Scotland\) Act 1995](#) and the [Children's Hearings \(Scotland\) Act 2011](#). The [Children \(Scotland\) Act 2020](#) makes a number of changes to family law, in particular to further ensure that the child's best interests are at the centre of any contact and residence cases and that the views of the child are heard. In addition, the CRWIA ensures that relevant new policies and legislation are routinely assessed for their impact on the rights and wellbeing of children and young people.

Getting it right for every child (GIRFEC), the national approach in Scotland to improving outcomes and supporting the wellbeing of children, underpins all other Scottish Government policy for children, young people, and families. GIRFEC puts the best interests of the child at the heart of decisions that affect them. The approach focuses on considering each child's needs in a holistic way, looking at their whole wellbeing and encouraging early intervention, prevention, and coordination around the family. The [Children and Young People \(Scotland\) Act 2014](#) put into statute an assessment of wellbeing for children and young people, using a holistic approach to wellbeing: Safe, Healthy, Achieving, Nurtured, Active, Responsible, Respected and Included. These eight wellbeing indicators, referred to by their initial letters, SHANARRI, help to make it easier for children, families and the people working with them to discuss how a child or young person is doing at a point in time and if the child has a need for support.

### 3.8 Children, Young People and Families Outcomes Framework

A Children, Young People and Families (CYPF) Outcomes Framework is being developed to complement the National Performance Framework and provide a holistic picture and understanding of the wellbeing of children, young people, and families in Scotland at a population level. The framework's approach builds on GIRFEC and will help to highlight positive impact, as well as identify where improvement activity is required to drive progress. The CYPF Outcomes Framework has been substantially informed by what existing engagement with children, young people, and families has told us matters most to them about wellbeing.

The framework includes a set of overarching Wellbeing Outcomes (based on SHANARRI) and Shared Aims (based on the My World Triangle). The Core Wellbeing Indicators provide a high level, holistic overview of wellbeing, which is supplemented by deep-dive data, other local information, and the views of children, young people, and families. Their use will support greater consistency of data within and across local and national reporting requirements, including Children's Services

Plans. The Core Wellbeing Indicators are an initial step as part of Scotland's longer-term data improvement journey. The CYPF Outcomes Framework went live in 2022, with the wellbeing outcomes, shared aims, and initial core wellbeing indicators available for use by partners from April 2022<sup>18</sup>. Further engagement and co-design will take place with children, young people, and families alongside continued stakeholder collaboration to support its implementation and use.

### 3.9 Safeguarding Vulnerable Individuals Through PREVENT

**LOIPR request:** 13(b) and 17(b) PREVENT Strategy and counter-terrorism measures.

PREVENT is part of the UK Government CONTEST strategy but is delivered in Scotland through devolved functions. Prevent focuses on early intervention and awareness raising to safeguard people and communities from terrorism. Where safeguarding through PREVENT is required, the Getting it right for every child approach is consistently applicable to relevant processes, including support through Prevent Multi-Agency Panels. Within this framework, there will be a range of support from universal, additional and intensive services which can work as single agencies or jointly through an integrated approach.

The Scottish Government recognises that schools have an important role to play, providing a safe space to discuss a wide range of social and political issues, as well as supporting children in their development as responsible citizens. Using Curriculum for Excellence, teachers are encouraged to give pupils the opportunity to discuss and, more importantly, understand wider beliefs and values and how they are fundamental in both local and global communities. To support this, Education Scotland have published links to a number of resources together with bespoke lesson packs, which can be used by teachers to lead these sensitive discussions in the classroom.

The [Counter-Terrorism and Border Security Act 2019](#) required the UK Government to make arrangements for an independent review of PREVENT. The review aims to consider the past and present delivery and impact of PREVENT and make recommendations for future improvements to the strategy. The Review will consider the strategy as it relates to all forms of terrorism and will apply to England, Scotland, and Wales with consultation with the devolved administrations as appropriate.

The UK Government appointed William Shawcross as the new Independent Reviewer in January 2021 and updated Terms of Reference were published in March 2021. The review was due to conclude in August 2020, but the statutory deadline was removed by the [Counter-Terrorism and Sentencing Act 2021](#). As of June 2022, the Scottish Government has responded to draft recommendations pertaining to Scotland within the review and will continue to engage with the relevant teams whilst awaiting publication, which is now expected in the autumn of 2022.

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<sup>18</sup> Annex E of the [Improving Outcomes for Children, Young People and Families: Review of Children's Services Plans and Strategic Engagement Activity](#) (July 2022) provides a summary of the Children, Young People and Families Outcomes Framework.

### 3.10 Maternity and Neonatal Mortality

**LOIPR request:** 14(a)-(c) review and prevention of infant and child mortality and unexpected death or serious injury of children.

The [Maternity and Children Quality Improvement Collaborative](#), (MCQIC), which is part of the Scottish Patient Safety Programme, focuses on improving outcomes for women, babies, children, and families in Scotland. The maternity programme activities take cognisance of existing national policies and approaches, including [The Best Start: A five-year forward plan for maternity and neonatal care in Scotland](#) (2017), which sets out the vision for the delivery of person-centred, high quality and safe maternity and neonatal services across Scotland, and GIRFEC. The MCQIC Maternity Care programme is currently focusing on reducing stillbirth, neonatal harm, and severe postpartum haemorrhage, as well as the implementation of a national maternity early warning chart.

The Scottish Government has also taken forward a range of measures throughout the reporting period which seek to promote [child and maternal health](#). For example, since April 2017, we have provided universal free access to vitamins for all pregnant women in Scotland in line with the strong evidence which suggests that this can improve the health of mothers and their babies. Other key measures which support child health, including in relation to health visiting support and child nutrition, are discussed at chapter 7.

### 3.11 Investigation of Child Death and Serious Injury

[National Guidance for Child Protection Committees Undertaking Learning Reviews](#) (2021) supports Child Protection Committees (CPCs) to reflect, learn, and improve systems and practice by reviewing events where children or young people have been harmed, placed at risk of harm, or where effective practice has prevented harm or risk of harm. CPCs, on behalf of Chief Officers Groups<sup>19</sup>, will decide whether a Learning Review is warranted and will agree how the review is conducted.

The updated guidance follows on from the work of the Child Protection Systems Review Group (2017), which was established as part of the Scottish Government's Child Protection Improvement Programme to consider the [role and functions](#) of CPCs, Child Protection Registers, Child Protection Planning Meetings, and Significant and Initial Case Reviews (ICRs).

The Undertaking Learning Reviews Guidance has been produced by a multi-agency and multi-disciplinary group who carried out a national consultation, drawing from the knowledge and experience of local practitioners and service managers. A specific consultation was carried out for those who work with children and families who had been part of Significant Case Reviews, to learn from their stories and create a more compassionate response to families' involvement in Learning Reviews.

A standardised approach to conducting reviews in cases that involve criminal proceedings has been established together with a secure Hub to support

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<sup>19</sup> Chief Officer Groups comprise of Chief Executives of Local Authorities and NHS Health Boards, and Police Scotland Divisional Commanders

practitioners to share best practice. The Guidance also includes a supporting document with exemplars for good practice. The Scottish Government has established an implementation group in partnership with Child Protection Committees Scotland, to ensure that the Guidance is effectively implemented in practice.

The Care Inspectorate remains the central repository for all Learning Reviews to support the sharing of learning across the country. A newly formed Learning Review Liaison Group, comprising members from the Care Inspectorate, CPCScotland and the Scottish Government will consider emerging themes and findings that have national implications for policy and practice development.

### Looked After Children

Under the [Looked After Children \(Scotland\) Regulations 2009](#), a local authority is required to notify the Scottish Ministers immediately and the Care Inspectorate in the event of the death of a child who is looked after by them, including those in secure care. This reporting responsibility had been further extended by the [Children and Young People \(Scotland\) Act 2014](#) to include the reporting of deaths of any young person in receipt of a Continuing Care or Aftercare service up to the age of 26.

The Care Inspectorate identifies any lessons to be learned and makes recommendations for review of legislation, policy, or guidance. It is acknowledged that the current reporting criteria does not include care leavers or young people with care experience who are not in receipt of a Continuing Care or Aftercare service. The Scottish Government is working with the sector to explore how to better understand overall outcomes for those who have been in care.

### Mental Health Institutions

Section 37 of the [Mental Health \(Scotland\) Act 2015](#) provided for Scottish Ministers to carry out a review of the arrangements for investigating the deaths of patients of all ages receiving mental health care or treatment. The final [Report](#), which included ten recommendations, was published in December 2018.

In response, the Scottish Government established an Implementation Group to provide strategic oversight and co-ordination of delivery of those actions. Action one called on the Mental Welfare Commission (MWC) for Scotland to develop a system for investigating all deaths of patients who, at the time of death, were subject to an order under either the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) or part VI of the [Criminal Procedure \(Scotland\) Act 1995](#) (whether in hospital or in the community, including those who had their detention suspended). In March 2022, the MWC published its proposals to deliver a new investigatory system, and these are currently being considered by the Scottish Government.

### Secure Care

Appropriate mechanisms are already in place regarding the unexpected death or serious injury involving a child in secure care. Should there be a tragic unexpected death, then this must be subject to a fatal accident inquiry (FAI) as detailed in legislation. The [Act of Sederunt \(Fatal Accident Inquiry Rules\) 2017](#) provides the procedural rules which govern such an inquiry. The provision which makes an FAI mandatory when a young person dies in secure care is section 2 of the [Inquiries into](#)

[Fatal Accidents and Sudden Deaths etc. \(Scotland\) Act 2016](#). Deaths are also reported to Scottish Ministers and the Care Inspectorate. All serious injuries to a child or young person in secure care are recorded in the child's care plan and reported to the Care Inspectorate.

### **Custody**

An FAI is mandatory into the death of a person who dies in prison custody under section 2 of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016. One potential exception to this is where the Lord Advocate may decide an inquiry is not to be held if he/she is satisfied that the circumstances of the death have been sufficiently established in proceedings such as criminal proceedings. The decision to hold an FAI (and the timing of a Sheriff Court being petitioned to hold an FAI) is a matter for the Lord Advocate/Procurator Fiscal. The Scottish Courts and Tribunals Service are responsible for the hosting, administration, and management of Inquiry.

In the event of a death in prison custody, the Scottish Prison Service (SPS) applies a number of internal review processes. Immediately after a death, a Critical Incident Response and Support (CIRS) review is undertaken to establish if any immediate action is required relating to internal processes or support for staff and prisoners. This is followed by a Death in Prison Learning, Audit & Review (DIPLAR), which aims to identify and apply any learning from the incident.

In November 2019, the Cabinet Secretary for Justice announced an independent review into the handling of deaths in prison custody to be taken forward by His Majesty's Chief Inspector of Prisons for Scotland (HMCIPS) with additional expertise and external assurance provided by Professor Nancy Loucks, Chief Executive of Families Outside. HMCIPS was also invited to include representation from the Scottish Human Rights Commission who were included as members of the Review Team. The purpose of the review into the response to deaths in prison custody was to identify and make recommendations where necessary for areas for improvement to ensure appropriate and transparent arrangements are in place in the immediate aftermath of a death within Scottish prisons and young offenders institutions. All stages of the review were grounded in relevant human rights standards.

The [review](#), published on 30 November 2021, contained 7 broad findings, one key recommendation and 25 further recommendations and advisory points which were accepted in principle by the Scottish Government. An External Chair was appointed in April 2022 to oversee and drive forward the programme of work necessary to implement the changes. We are working with the Crown Office and Procurator Fiscal Service (COPFS), the SPS, Police Scotland and NHS partners to progress the recommendations and to consider their legal, practical and operational impact as quickly as possible. The Cabinet Secretary provided Parliament with a progress update on 22 June 2022. The External Chair is due to publish an update on progress around the year anniversary of the publication of the review.

Separately, the Expert Review of Provision of Mental Health Services was undertaken by HMCIPS and her co-chair, Dr Helen Smith. The [Review Report \(2019\)](#), is a contribution to reducing avoidable deaths of young people in custody. The report contained seven key recommendations with a total of 80 supporting



suggestions, over half of which the SPS has either sole or joint responsibility for. A [summary report and final action plan](#) was provided by the Scottish Government in June 2022. While it is recognised that not all actions taken in response to the recommendations can be closed, the changes made by the SPS, NHS and Scottish Government to policies and operational practices are substantial and ongoing. For example, since the publication of the expert review there has been significant investment in staffing and staff training, suicide prevention processes have been reviewed, and a new workforce and training strategy has been developed to ensure all of the healthcare recommendations of the Review are met. HMIPS, Health Improvement Scotland and Dr Helen Smith carried out a return visit to HMP&YOI Polmont in July 2022 and are due to report on progress soon.

### National Child Death Review System

In October 2021, the Scottish Government launched a new child death review system to ensure a high-quality consistent review is carried out into the death of all live born children up to their 18th birthday, and up to their 26th birthday for those in receipt of aftercare or continuing care at the time of their death. A National [Hub](#) has been established within Healthcare Improvement Scotland, in partnership with the Care Inspectorate and the Scottish Government, which aims to channel learning from reviews in order to reduce the number of preventable deaths and harm of children and young people.

### 3.12 Participation of Children and Young People at National Level

**LOIPR request:** 15(b) promoting meaningful participation of children.

“I think that was a big eye opener to show how far our work went, because we do bring up a lot of ideas and it is hard to get them all into action, but it really showed that they were listening to us. And, even though our ideas were very big, they were still getting taken seriously and people were still trying to get them to be achieved.”

MCP, age 13, in conversation about education reform and the proposed incorporation of the UNCRC into Scots law.

The Scottish Government has taken steps throughout the reporting period to promote and support the meaningful and inclusive participation of children and young people to ensure that their voices and views are at the heart of decisions that affect them. In the [Progressing the Human Rights of Children in Scotland Action Plan: 2018-2021](#), we committed to developing a strategic approach to mainstreaming the participation of children and young people in decision-making across Scottish society. A final [report](#) on progress made in taking forward these actions was published in November 2021.

A key deliverable from this work was the publication of the [Decision-making: Children and Young People's Participation](#) guidance, which seeks to provide best practice advice to support those who engage with children and young people as part of their decision-making. The guidance was developed with an expert working group with representatives from a range of third sector organisations, local authorities, Health Boards and academia, all working in the field of children's rights and participation in Scotland. The views of young people informed this work.

The Scottish Government has also ensured that the voices of children and young people are heard at the highest levels of Government with the aim of improving policy and legislation development and implementation. Since 2017, members of the Scottish Cabinet have met with children and young people each year to enable children and young people to raise issues that matter to them and to inform the Scottish Government's agenda over the coming year. The issues raised by children from the Children's Parliament and young people from the Scottish Youth Parliament at these meetings have been wide ranging, including in relation to bullying, mental health, proposed incorporation of the UNCRC, and Human Rights Defenders.

At the end of each of the meetings, children, young people, and Cabinet members have collectively agreed actions for the year ahead and have subsequently published progress reports on the actions agreed. A [report](#) on progress made on the actions agreed at the fifth annual meeting was published in May 2022. The most recent meeting of the Scottish Cabinet with children and young people took place in March 2022.

**“This is a fantastic annual event where the views of Scotland’s young people are taken right to the top of the decision-making process. A testament to our progress in making Scotland the best place in the world to grow up.”**

Josh, MSYP, Blog discussing his experience of the CYP Cabinet Meeting, 2022.

Members of the Scottish Youth Parliament and Children's Parliament have also had the opportunity to engage with the Scottish Government's Executive Team, including the Permanent Secretary and Directors General. The most recent meetings took place for young people in November 2021 and for children in June 2022. We have also held two First Minister's Question Times, facilitated by YouthLink Scotland and Children in Scotland, in September 2018 and April 2019. These sessions provided children and young people with the opportunity to put their questions directly to Scotland's First Minister.

### **Participation of Children and Young People in Policy Development**

The Scottish Government is taking steps as part of the UNCRC implementation programme to strengthen the participation of children and young people in wider policy development. In partnership with members of the Scottish Youth Parliament, we are working with three Scottish Government policy areas over a 12-month period to increase knowledge and awareness of children and young people's participation in decision making. We are aiming to launch a resource in spring 2023 to ensure decision makers are better supported to meaningfully engage with children and young people.

Children and young people have participated in a range of Scottish Government groups, forums, and taskforces throughout the reporting period. For example, young people participated in the Scottish Government's Age of Criminal Responsibility Advisory Group. Members of the Scottish Youth Parliament participated in a number of groups including meetings of the COVID-19 Education Recovery Group; the Scottish Education Council; the Mental Health Equalities and Human Rights Forum;

the Scottish Government's Race Equality in Education Stakeholder Group; and the Incorporating the UNCRC into Scots Law Working Group.

The Scottish Government funds and supports the Young Ambassadors for Inclusion, a group of secondary-aged children and young people from across Scotland, to ensure their unique input and experience on matters related to additional support for learning is taken into account in policy consideration and development. The participation of disabled children and young people is also discussed at section 7.6.

In addition to children and young people being directly involved in Government groups, we have also continued to fund a number of third sector organisations, including the Scottish Youth Parliament, Children's Parliament, and Young Scot, to support the participation of children and young people in relation to specific policy issues. For example, facilitated by the Children's Parliament, 100 children from 10 schools across Scotland joined a parallel process to Scotland's Climate Assembly, allowing the views and insights from the young investigators to be shared with the Assembly members, capturing the voices of those too young to join as members, but most impacted by the recommendations. The children's recommendations were incorporated into the final report of Scotland's Climate Assembly, published in June 2021. Further information on how children and young people have been involved in informing and shaping decision-making, policy and action plans is included in the [Progressing the Human Rights of Children in Scotland Report 2018-2021](#).

### Participation of Very Young Children

The Scottish Government has established a Voice of the Infant Sub-group, which seeks to elevate the infant to an equal position in the minds of those designing and delivering perinatal and infant mental health services. As part of its work, the Group will produce a clear statement on the Scottish Government's position on the rights of the infant and 'Best Practice Guidelines' on how to take account of the infant's views and their rights in all Infant Mental Health Services. The Group is discussed further at section 7.23.

In 2019, the Scottish Government commissioned Play Scotland to produce a progress report on the National Play Strategy. As part of this work, Play Scotland engaged with very young children (0-5). This is discussed further at section 8.10.

### 3.13 Hearing the Views of Individual Children and Young People

**LOIPR request:** 15(a) ensuring the right of the child to be heard.

For children's participation to be effective, it is vital that professionals and others working with individual children and young people are aware of the importance of seeking and listening to their views. Through the continued implementation of the Scottish Government's Getting it right for every child approach and the development of good practice, children and young people's views should be routinely sought by services/practitioners working with them, and should inform the services or support they receive. The first phase of a suite of [refreshed GIRFEC materials](#) to guide and support the practice of all those working with children and young people and their families in Scotland was published in September 2022.

The need for all practitioners to listen to and consider the views of children and young people is also highlighted in the [Common Core](#) (2012), which sets out the key skills, knowledge and understanding, and values that everyone should have if they work with children, young people, and their families, whether they are paid or unpaid.

### **Advocacy Support and Mapping Work**

The Scottish Government recognises the importance of access to appropriate advocacy support for children and young people in accessing their rights. Advocacy may be provided in a number of ways, dependent on the context or situation and wishes of the child, including for example, by a parent, trusted friend or other relative, youth worker or through independent advocacy services. Advocacy is particularly important for children and young people who are at risk of not having their rights met, including when they are engaging with a service, such as health, education, police, or social work. Advocates can provide children and young people with the knowledge and support they need to help them better navigate the system and ensure their voices are heard.

We will work across the Scottish Government and with stakeholders to review existing advocacy arrangements to support children and young people in accessing their rights and consider how we can further strengthen the provision of advocacy for children and young people who need it. We are also supporting the Promise Scotland's work to scope a national lifelong advocacy service for Care Experienced people. The Promise Scotland will present recommendations to Scottish Ministers for consideration by the end of 2023.

### **Children (Scotland) Act 1995**

The [Children \(Scotland\) Act 2020](#) (the 2020 Act) removes the presumption that a child aged 12 or over is considered mature enough to give their views in decisions relating to parental responsibilities and rights under the Children (Scotland) Act 1995, Children's Hearings and adoption and permanence cases. This was in response to concerns that the presumption was leading to the views of younger children not always being heard, which was not the intention when the provision was introduced.

The 2020 Act places a requirement for a child's views to be sought when a court or a Children's Hearing is making a decision that concerns the child unless the court is satisfied that the child is not capable of forming a view. The child's preferred method of giving their views is to be used, unless it is not reasonable to do so, or the child has not expressed a preferred method of giving their views. These provisions in the 2020 Act are yet to be commenced. The 2020 Act also places a duty, not yet commenced, on the Scottish Ministers to make such provision as they consider necessary and sufficient to ensure that all children concerned in proceedings in which the court is considering making an order under section 11 of the [Children \(Scotland\) Act 1995](#) have access to appropriate child advocacy services.

The 2020 Act also requires the Scottish Ministers to establish and maintain a register of persons who may be appointed to act as a child welfare reporter. A child welfare reporter can be appointed by the court in a case under section 11 of the Children (Scotland) Act 1995 to either seek the views of a child or provide a report on the best interests of the child. The Scottish Ministers may by regulations make provision for,

or in connection with the requirements that a person must satisfy in order to be included, and remain, on the register (including requirements as to training and qualifications). This could include training on how the views of children are obtained. The Scottish Government has [consulted](#) on the requirements for individuals to be on the register and has published an independent [analysis of responses](#).

### **Learner Participation**

Learner participation is core to a good education and, as part of all educational experience, it is children and young people's right to have a say in matters that affect them. The Scottish Government encourages meaningful participation of children and young people in the life and work of schools and early years settings. This is supported by [guidance](#) for practitioners and improvement support via Education Scotland and the Care Inspectorate.

Both Education Scotland and the Care Inspectorate's inspection frameworks for early learning and childcare settings have a strong focus on encouraging children's participation and development. Quality indicators within Education Scotland's [how good is our early learning and childcare](#) self-evaluation framework encourage the participation of children through a range of developmentally appropriate activities which allow them to engage in decisions which affect them. The Care Inspectorate's [quality framework for day care of children, childminding and school-aged childcare](#) has a strong emphasis on children's individual and developmental needs, promoting meaningful consultation and effective communication with children, families and all professionals involved, particularly relating to transitions. Within school education, How good is OUR school<sup>20</sup> is intended to support improvement in learner participation in self-evaluation and school improvement.

### **Additional Support for Learning in Education**

The views of the child are central to decisions which are made about the additional support they may require to support them in their learning. Section 2 of the [Standards in Scotland's Schools etc. Act 2000](#) places a duty upon education authorities, where they are responsible for the school education of a child or young person, to secure that the education is directed towards the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential. In so doing, the authority must, so far as is reasonably practicable, have regard to the views of children and young people in decisions that significantly affect their education.

Section 12 of the [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#) (2004 Act) builds on the above by placing a duty on the education authority to seek and take account of views of children and young people as the authority consider appropriate under specific circumstances. These circumstances include where the authority is seeking to establish whether the child or young person has additional support needs and when they are determining what additional support the child or young person may require.

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<sup>20</sup> [How good is our school?](#), [How good is OUR school? Part 1](#); [How good is OUR school? Part 2](#)

It is expected that, except under exceptional circumstances, children and young people who have additional support needs should have the opportunity to discuss their needs and the support to be provided to meet those needs. Schools and early years settings are expected to create an environment where seeking children's views and encouraging participation in decision-making are part of everyday activities. Children and young people can expect their learning environment to support them to understand that adults in their school community have a responsibility to look after them, listen to their concerns and involve others where necessary.

In addition, the [Education \(Scotland\) Act 2016](#), made amendments to the 2004 Act which included extending certain rights of children, aged 12-15. Under the 2004 Act, children can ask for their additional support needs to be identified and planned for; receive advice and information about their additional support needs; be part of discussions about the support that they will receive; and access dispute resolution procedures to resolve concerns. These rights are balanced by safeguards in the form of an assessment of capacity and adverse impact on wellbeing.

To further support this, section 31A of the 2004 Act places a statutory duty on Scottish Ministers to secure the provision of a support service to be available on request and free of charge, to children who have attained the age of 12 years and who wish to exercise or are considering exercising their relevant rights. The Children's Service, [My Rights, My Say](#), is funded by the Scottish Government to provide support and advice at every stage of the process to allow eligible children to be fully involved in decisions about their education. The service is made up of four elements which together ensure that the child can be fully supported when exercising their rights under the 2004 Act. The four elements are: advice; advocacy services; legal representation and a service to independently seek children's views.

The service to independently seek children's views allows these to be sought at the request of an education authority, other agency, mediation provider, independent adjudicator or the ASN Tribunal. Once known, the child's views will be shared with the appropriate person or persons to ensure that they are taken into account within the processes associated with rights, duties and functions under the 2004 Act.

### **Mental Health Services**

The Children and Young People's Mental Health and Wellbeing Programme Board (Programme Board) oversaw a set of reforms designed to ensure children, young people and their families receive the support they need, when they need it. In line with the [recommendations](#) of the Children and Young People Mental Health Taskforce, there was a focus on prevention and early support as well as promotion of good mental health.

**“The best way for the Board to understand what we need is to ask young people and having us take part in discussions is great as we are able to contribute as the conversations are happening.”**

Abbie, MSYP, quote from a blog about SYP's involvement in the Children and Young People's Mental Health and Wellbeing Joint Delivery Board”.

A deliverable of the Programme Board was the [Child and Adolescent Mental Health Services: National Service Specification](#) (2020), which outlines the provisions young

people and their families can expect from the NHS. A key part of this includes ensuring that CAMHS work in partnership with children, young people, and their families in all aspects of service design and delivery to ensure that children and young people are heard and included in the decision-making process in relation to their care and treatment. The Programme Board also developed the [Community Mental Health & Wellbeing Supports and Services Framework](#) (2021) to support the development of community mental health and wellbeing services for 5-24 year olds. A component of the Framework is that new services and supports are co-designed with children and young people, and that they meet local need.

The Programme Board drew to a close at the end of December 2020 and this work is now being taken forward by the [Children and Young People's Mental Health and Wellbeing Joint Delivery Board](#), which is jointly chaired by the Scottish Government and COSLA.

### **Mental Health – Advocacy Support**

Scottish mental health legislation promotes patients' rights and provides safeguards. Access to independent advocacy is a key part of ensuring that people have their voices heard in discussions about their health and wellbeing. The [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) imposes a duty on local authorities and Health Boards to collaborate to secure the availability of independent advocacy services in their area. The Act gives everyone, including children and young people, with mental illness, learning disability or personality disorder, the right to access independent advocacy support. This includes people subject to compulsory measures and informal patients and applies whether people are in hospital or the community.

### **Children's Hearings**

Section 27 of the [Children's Hearings \(Scotland\) Act 2011](#) (2011 Act) specifies that a Children's Hearing or a sheriff (for proof or appeal) must, as far as practicable, taking account of age and maturity, give the child at the centre of the hearing an opportunity to express their views and the Hearing/ sheriff must have regard for these views in making any decisions about a matter relating to a child. Section 3 of the [Children \(Scotland\) Act 2020](#), yet to be commenced, will amend section 27 of the 2011 Act so that the child may express views in the manner the child prefers. It will also create a presumption in section 27 that a child is capable of forming a view unless the contrary is shown.

On informing a child that a Children's Hearing is taking place, the Scottish Children's Reporter Administration (SCRA) fully explains to the child their rights which include:

- Bringing an adult to the Hearing to help (a person of trust, for example, a lawyer, an advocacy worker, or a Children's Rights Officer) and another trusted person in the child's life. (They can bring both if they would like).
- Being able to ask questions at the Hearing.
- Telling people at the Hearing if there is something they want to say.
- Being able to ask, with help to understand, anything that is unclear. (Panel Members will explain their decision, but if there is anything that is unclear, it is important that an opportunity to ask is available).
- Being able to appeal against the decision of the Hearing within 21 days.

## Children's Advocacy in Children's Hearings

The Scottish Government commenced [section 122 \(children's advocacy services\)](#) of the 2011 Act in November 2020, which activated the new duties on the Children's Hearings chairs to inform children about advocacy services. The legislation also made provision to ensure access to children's advocacy services for children and young people referred to Children's Hearings by the Principal Reporter of the Scottish Children's Reporter Administration. The role of children's advocacy services is to make sure children's rights are respected and their views and wishes are fully considered within the decision making within their Children's Hearing.

The national advocacy service for Children's Hearings is a demand-led service. From July 2021, the provision was expanded to support the right of siblings to participate in Children's Hearings, where they are invited to give their views on when or how they want to see their brothers or sisters. From June 2022, the service was further expanded to provide independent advocacy support to children and young people placed in residential care in Scotland under cross-border deprivation of liberty orders (DOLs).

A Children's Hearings Advocacy Expert Reference Group continues to support the design, delivery and implementation of the service, which is offered Scotland-wide by ten third sector providers. The national advocacy service was backed by an initial £1.5 million, and increased to £1.8 million in 2021-22. Funding was further increased to £2 million in 2022-23. The funding supports the training and provision of advocacy workers and a legal advice service/helpline for advocacy workers, where any matters requiring legal input occur, provided by Clan Childlaw.

## Youth Justice

The [Youth Justice Standards](#) (2021) are intended to guide both strategic and operational services' understanding of what is expected at each stage of a child's journey through the justice system. The standards specify that children must be supported to be heard at all stages of any interventions, including in relation to service design.

In addition to this, our [Vision and Priorities for Youth Justice](#) (2021) promotes a rights-based approach to youth justice, including the need to support all children under the age of 18 and young people up to age 26 to participate in decisions that affect them. The Vision was informed by the views of stakeholders, including children and young people. Engagement took place with the Youth Parliament, Scottish Throughcare and Aftercare Forum /Children and Young People's Centre for Justice Youth Justice Voices participation project. Members of their youth-led steering group "Youth Just Us" developed a guide to be used by practitioners working with children and young people. Views were also sought from children in secure care and HMP&YOI Polmont.

The [Secure Care Pathway and Standards](#) (2019), are written from the perspective of the child and were co-produced with those with previous care experience. The Pathway and Standards set out for the first time what all children in, or on the edges of, secure care in Scotland should expect. They provide a framework for ensuring



the rights of children and young people are respected, including their right to be heard in the decisions that affect them.

The Scottish Government is also funding two part-time Care Experienced participation roles from April 2021 within the Children and Young People's Centre for Justice (CYCJ). These roles aim to ensure that the voices of children and young people up to age 26 are heard in the development of policy, child friendly documents and in working groups relating to youth justice.

### 3.14 Legal Aid and Advice

**LOIPR request:** 15(c) impact of legal aid reform.

Children and young people in Scotland can access publicly funded legal assistance (for both advice and representation) on the same broad range of issues that an adult can, as long as they have the capacity to instruct a solicitor. Scotland has maintained a wide scope for access to legal aid for both criminal and civil cases. Legal aid in Scotland is a demand-led system, with a high rate of eligibility. The Scottish Legal Aid Board (SLAB), which is responsible for administering legal aid in Scotland, is a non-governmental public body. In 2015, SLAB became a corporate parent under the [Children and Young People \(Scotland\) Act 2014](#).

In relation to Children's Hearings, legal assistance is available where legal representation is necessary to allow the child to effectively participate in the hearing (subject to financial eligibility tests for all except certain hearings). For certain specified hearings, automatic legal aid will be made available to a child, with no means or merits tests. This includes cases where an order is being sought to remove a child to a place of safety, or deprivation of the child's liberty is in prospect, but the child has not secured representation ahead of the hearing. In those situations, SLAB will appoint a solicitor and maintains a national duty solicitor scheme to ensure that this can happen.

In terms of court proceedings related to Children's Hearings, with the exception of certain specified hearings, the statutory tests applied by SLAB for children's legal aid are whether: it is in the best interests of the child that children's legal aid be made available; it is reasonable in the circumstances of the case to make it available; and whether the expenses of the case could not be met without causing undue financial hardship to the child. Furthermore, in appeals cases there must be substantial grounds for taking or responding to the appeal.

The independent report, [Rethinking Legal Aid: An Independent Strategic Review](#) (2018), addressed the subject of children's legal aid. A public [consultation](#) on legal aid reform took place in 2019. The [Consultation Analysis](#) was published in June 2020. The Scottish Government plans to introduce primary legislation during this Parliament to help ensure that the system is flexible, easy to access and meets the needs of those who use it. We will engage with relevant stakeholders, including victim support organisations, during the development of the Bill.

## 4. Civil Rights and Freedoms

### Relevant UNCRC Articles: 7, 8, 13 - 17

This cluster group focuses on children's civil rights and freedoms, including children's right to move freely in public space, to access information and to privacy.

#### 4.1 Religious Observance in Schools

**LOIPR request:** 17(a) collective worship in publicly funded schools.

The [Education \(Scotland\) Act 1980](#) (the 1980 Act) provides the statutory basis for local authorities to provide Religious Observance (RO) in Scottish schools. Religious observance and time for reflection has an important part to play in the development of learners' four capacities: a successful learner, confident individual, responsible citizen, and an effective contributor. The Scottish Government also considers that RO complements other aspects of a pupil's learning and is an important contribution to pupils' development. It should also have a role in promoting the ethos of a school, by bringing pupils together and creating a sense of community.

Section 9 of the Act (the conscience clause) provides a parental right to withdraw their child from RO. There is currently no equivalent statutory right to withdraw afforded to children and young people, however, schools should include children and young people in any discussions about aspects of their school experience, ensuring their views are taken into account. Doing so is in line with the [Children and Young People \(Scotland\) Act 2014](#) and is especially relevant as children and young people become older and take more responsibility for their own learning. In relation to the current law, it should be noted that religious observance is not compulsory. Under current legislation, parents are legally entitled to withdraw their children from RO in local authority and Grant-Aided schools. This is supported by detailed guidance which encourages schools to discuss the question of opting out of RO with both parents and their children.

The Scottish Government is currently considering section 9 of the 1980 Act in the context of the provisions in the UNCRC Bill and is exploring options with regards to further strengthening the rights of children and young people in relation to religious observance in schools. The views of children and young people will be vital in shaping our considerations on RO in schools.

#### 4.2 Access to Online Services and Connectivity

**LOIPR request:** 18(b), 19(a) and (c) access to online education, services and connectivity, digital literacy and skills and privacy online.

Connecting Scotland provides individuals with a device, connection with unlimited data for two years, as well as training and support. It reached 60,000 people in total by the end of 2021, with the first phase targeted at those most at clinical risk from COVID-19 and following phases targeted at older, disabled, and isolated people and those seeking employability support. The second phase of the Connecting Scotland

programme was targeted specifically at supporting up to 23,000 households with low income families with children and young care leavers.

The Digital Strategy for Scotland, [A Changing Nation: How Scotland Will Thrive in a Digital World](#) (2021) sets out the vision for an ethical digital nation, “A place where children and vulnerable people are protected from harm. Where digital technologies adopt the principles of privacy, resilience and harm reduction by design and are inclusive, fair, and useful.” The new Digital Strategy for Scotland includes actions that will ensure that no-one is excluded from digital services. An Expert group supported by public and stakeholder insights and inputs were tasked with providing recommendations which will support the creation of a framework for an Ethical Digital Nation. The recommendations outlined in their report [Building Trust in the Digital Era: Achieving Scotland's Aspirations as an Ethical Digital Nation](#) (2022) cover areas such as human rights and surveillance and set out an expectation of the ethical use of digital technologies. To support the recommendations, the report identifies a need for a comprehensive overview of the laws and regulations that can be brought to bear in Scotland to embed digital ethics, particularly in cases of online harm. Understanding the challenges in aligning existing diverse bodies around a common set of digital governance objectives will support Scotland to protect citizens from harms caused by malign online influences, particularly in the case of children.

The [Strategic Framework for a Cyber Resilient Scotland](#) (2021) is aligned with the Digital Strategy for Scotland and is underpinned by a set of guiding principles including an inclusive and ethical approach to cyber resilience. This includes encouraging responsible behaviours online, promoting individuals’ rights online and increasing the participation of disadvantaged groups, for example, in cyber security skills development. We see cyber resilience as a critical enabler to our ambitions for digital public services, digital inclusion, and skills development.

We want Scotland’s children and young people to be protected, safe and supported in the online world and for them to be able to enjoy the internet, show resilience and take advantage of the opportunities it has to offer. Measures to promote the online safety of children and young people are discussed at section 5.4.

### Online Learning

Scotland has had a national online learning environment, known as Glow, since 2007. Glow is free to access for all learners and teachers in Scotland and currently delivers access to Microsoft Office 365, Google G-Suite and Wordpress Blogs. Glow is a fully managed service and only learners and education staff are permitted access, helping to ensure that children are not exposed to the dangers of the wider internet whilst undertaking learning online. Strict contractual rules are in place which do not permit service providers to mine data or advertise via Glow. Since its inception, the service has evolved over time, in consultation with key education partners, to ensure it continues to meet the needs of the system now and in the future.

Day to day responsibility for delivery of education resides with Scottish local authorities. They make their own decisions about delivery of the curriculum and the resources utilised to do so, including devices, connectivity and online services. In recent years, a number of local authorities have moved to provide devices at a ratio

of per learner for all or some of their school populations. In response to the pandemic and the physical closure of school buildings, the Scottish Government invested £25 million to tackle digital exclusion and ensure learners were able to stay connected to their school, teachers, and learning. The investment has benefitted over 70,000 individuals across all areas of Scotland. Building on this investment, the Scottish Government is committed to ensuring that every school-aged child in Scotland has access to an appropriate device by the end of this parliamentary session (which extends to 2026).

Expectations for learning and progression within the Curriculum for Excellence, named 'experiences and outcomes' include a specific strand on digital literacy. This covers areas such as 'using digital products to achieve a purposeful outcome', 'searching, processing, and managing information safely and responsibly' and 'cyber resilience and internet safety'. This helps to ensure that learners are exposed to the risks and benefits of digital technology from the earliest stages of school education and are equipped with the necessary skills to deal with risks and maximise benefits.

### 4.3 Mosquito Anti-Loitering Devices

**LOIPR request:** 17(c) freedom of movement and peaceful assembly.

The Scottish Government has consistently opposed the use of mosquito devices and believes that the [Antisocial Behaviour etc. \(Scotland\) Act 2004](#) currently provides sufficient measures to help police and local authorities prevent and deal with antisocial behaviour wherever it arises. We therefore feel there is no justification for the use of mosquito devices.

We have been very proactive in taking action to minimise the impact that these devices have on children and young people and have lobbied the UK Government and Health and Safety Executive to take action. Scottish Ministers wrote in March 2021 to other UK administrations to seek their current position in relation to mosquito devices. At the time of writing, the UK Government had no plans to introduce a ban, licence or restrict the use of these devices and the Health and Safety Executive had no plans to undertake any research to gather evidence on the health impact of these devices.

We have also written to a wide range of organisations in Scotland explaining the Scottish Government's position in opposing the use of these devices. In April 2021 we wrote to Police Scotland and local authorities to gather more evidence on the use and prevalence of these devices in Scotland. In response, all Scottish local authorities confirmed in 2021 that they were not using these devices at any of their premises, including schools, and were aware of only three cases of privately owned devices. In addition, the national rail company, ScotRail, confirmed that mosquito devices were not in use at any stations across their network, and both Police Scotland and the British Transport Police did not use mosquito devices as a way of tackling antisocial behaviour. We have also written to organisations representing the business sectors explaining the Scottish Government's position on the devices.

While it is currently unknown how many of these devices are in use in Scotland, there is no evidence of widespread use. We will consider any new evidence and

appropriate, justified, and proportionate responses to this, including what could be done within the scope of the powers available to the Scottish Government to prohibit or limit the use of these devices.

The use of mosquito anti-loitering devices was raised by children and young people at the [meeting](#) of the Scottish Cabinet in 2018. Members of the Scottish Youth Parliament also led a campaign in 2019 to end their use, referring to the physical effect of these devices and possible breach of their rights, which led to a petition, promoted by the Children and Young People's Commissioner. This was considered by the Scottish Parliament's Public Petitions Committee. The Scottish Youth Parliament's website encourages people to report incidences of use.

#### 4.4 Stop and Search

**LOIPR request:** 18(a) stop and search checks.

A [Code of Practice on the use of Stop and Search](#) came into effect in May 2017 and the use of non-statutory (consensual) search ceased. The Code sets out the circumstances in which a search may be carried out, the procedures to be followed, the record to be kept and the right of someone to receive a copy of that record. In most of the relevant legislative provision, the search must be based on there being a reasonable suspicion which must be genuine and for which there must be an objective basis. There are limited exceptions based on other grounds, but which are considered proportionate (e.g. they are time limited). The Code of Practice is clear that an individual cannot be stopped and searched because of their age, sex, race (including nationality and ethnic background) or religion.

Section 7 of the Code contains specific guidance on searches of children and young people. It sets out that the police must have the child's wellbeing as a primary consideration in deciding whether to proceed with a search and, where that is deemed necessary, to conduct searches in a way that minimises potential distress. To help children and young people understand their rights under the Code, a separate Guide entitled, [Stop and Search in Scotland: What You need to Know - A Guide for Children and Young People](#) was also published in May 2017.

Under section 69 of the [Criminal Justice \(Scotland\) Act 2016](#), Police Scotland must publish, as soon as practicable after the end of each reporting year, information about the number of searches carried out, including details about age, gender, ethnic and national origin of persons searched. Since 2015, in the interests of accountability and transparency, Police Scotland has published stop and search [data](#) on its website.

The Independent Advisory Group on Stop and Search conducted two reviews of the Code of Practice following its publication – a [six-month review](#), published in February 2018, and a [twelve-month review](#), published in June 2019. These reports found that few issues were raised around ethnicity and the vast majority of searches and seizures in Scotland involve people who self-define as belonging to a white ethnic group.

## Strip Searches

The use of strip searching is an operational matter for Police Scotland. Police must ensure that their actions are fully compatible with the young person's human rights under the UNCRC and have the child's wellbeing as a primary consideration in deciding whether to proceed. A strip search is undertaken only under circumstances that present concern for the wellbeing of the child or the safety of others, due to concerns over concealed drugs or potentially harmful articles.

Police Scotland carry out all strip searches in police custody in accordance with the Care and Welfare of Persons in Police Custody Standing Operating Procedures. In all cases involving children, a strip search will only take place with the authority of officer of the rank of Inspector or above. To support the child when a strip search is being carried out within police custody, a responsible person should be present when the strip search is carried out. A strip search can take place without a responsible person if the child has specifically requested this, and the responsible adult agrees.

A Code of Practice on carrying out a stop and search outwith police custody contains detailed guidance on the circumstances in which strip and intimate searches can be carried out and specific provisions on searches of children and young people. Police must ensure that where a search is considered necessary, they must be conducted in a way that respects the child or young person's dignity and privacy and minimises any potential distress.

## 5. Violence Against Children

**Relevant UNCRC Articles: 19, 24(3), 28(2), 34, 37(a), 39**

This cluster group focuses on violence against children including abuse and neglect and the right not to be subjected to inhuman or degrading treatment or punishment.

### 5.1 Equal Protection from Assault

**LOIPR request:** 21(a) and (c) prohibiting corporal punishment and promoting non-violent forms of discipline.

The Scottish Government supported the [Children \(Equal Protection from Assault\) \(Scotland\) Act 2019](#) during its passage through the Scottish Parliament. The Act, which came fully into force on 7 November 2020, removed the common law defence of “reasonable chastisement” from the law of Scotland, essentially making all forms of physical punishment of children by a parent or carer unlawful in Scotland from that date.

The Scottish Government has provided information on the Act in a [factsheet](#), including in an [easy read version](#) on the [Parent Club](#) website. We have also prepared [promotional materials](#) for parents, carers, and children and young people. In addition, the Scottish Government ran a [marketing campaign](#) and developed [digital resources](#) for families to promote positive parenting in line with its commitment to provide support to parents and carers as part of implementation work for the Act.

Corporal punishment is prohibited in Scotland’s schools, by virtue of Section 16(1) of the [Standards in Scotland’s Schools etc. Act 2000](#). The Scottish Government has invested in a number of approaches and provided guidance for local authorities, schools and staff as part of our wider approach to promoting positive relationships and behaviour. This includes the publication of revised guidance, [Included, Engaged and Involved Part 1](#) (2019), which sets out how to promote engagement and motivation, including among those who may be at risk of poor attendance due to behaviour in school. In June 2017, we also published revised guidance, [Included, Engaged and Involved Part 2](#), to support schools, communities and their partners to keep all children and young people fully included, engaged and involved in their education; and to improve outcomes for all Scotland’s children and young people. Scottish Government guidance [Developing a Positive Whole School Ethos and Culture: Relationships, Learning and Behaviour](#) (2018) supports schools in achieving a shared understanding of inclusion, wellbeing, equity and equality underpinned by children’s rights.

### 5.2 Child Protection

**LOIPR request:** 19(b), 22(a)-(d) and (f) addressing violence, including sexual exploitation and abuse, and ensuring child-friendly and multisectoral interventions.

Guidelines in Scotland stipulate that concerns about possible child abuse, neglect or exploitation should always be shared with police officers or social workers.

The non-statutory [National Guidance for Child Protection in Scotland](#) (2021) describes responsibilities and expectations for all involved in protecting children in Scotland. The Guidance sets out how agencies should work together with parents, families and communities to prevent and protect children from harm caused by abuse and neglect, to ensure that all children receive the right help at the right time. The Guidance firmly locates child protection within the wider context of The Promise, UNCRC, GIRFEC and family support. It also underlines the importance of assessing the impact of all structural factors including poverty and poor housing as part of all care and protection planning. The intention is to further support more holistic approaches that reduce stressors in families and communities to help reduce the risk of harm to children.

Following publication of the Guidance, local areas began the work of considering how to adapt and change local guidance, procedures and practice to align with the revised national guidance and then subsequently implement those adaptations and changes. An implementation steering group has been established to provide strategic oversight and offer support to local areas.

### **5.3 Child Sexual Exploitation**

The UK ratified the Council of Europe (Lanzarote) Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse in 2018. In 2020, the Scottish Government published a [Report](#) outlining the work delivered since 2016 in taking forward Scotland's National Action Plan to Prevent and Tackle Child Sexual Exploitation, as well as continued efforts through Government supported work streams across Health, Justice, Equalities, Education and Policing.

The [National Guidance for Child Protection in Scotland](#) (2021) provides updated information on Child Sexual Abuse and Exploitation (CSAE) and Child Criminal Exploitation (CCE) to support local areas in developing effective, evidenced-based responses. In addition, the Scottish Government continues our funding commitments to strengthen early intervention and prevention to better protect children and young people in Scotland from abuse and neglect.

We are also continuing to work with policing partners on our enforcement strategy, including through our standing membership of the Multi-Agency Preventing Online Child Sexual Abuse and Exploitation Group. We will also continue to work closely with the third sector on awareness raising, upstream interventions and victim support work, including through ongoing funding arrangements with a range of external partners.

The Scottish Government's response is also supported by a range of actions in a number of interconnected areas, including [Scotland's Serious Organised Crime Strategy](#), the [Cyber Resilience Learning and Skills Action Plan](#), [Scotland's Digital Strategy](#), the [National Internet Safety Action Plan](#), the [Curriculum for Excellence](#), [Equally Safe Strategy](#), [Child Protection Improvement Programme](#), delivery of the proposals of the [Expert Group on Preventing Sexual Offending Involving Children and Young People](#), the [Chief Medical Officer's Rape and Sexual Assault Taskforce](#), as well as the passing of the [Disclosure \(Scotland\) Act 2020](#), the [Vulnerable Witnesses \(Criminal Evidence\)\(Scotland\) Act 2019](#), and the [Redress for Survivors \(Historical Abuse in Care\)\(Scotland\) Act 2021](#).



The Scottish Government recognises that working with the public to raise awareness of child sexual abuse and exploitation is vital. In February 2022, a new [Child Sexual Abuse and Exploitation Hub](#) was launched on the Parent Club website. This followed a similar successful national communications campaign in March 2021, focused on helping parents and carers spot the signs of Child Sexual Exploitation and which reached hundreds of thousands of Scots.

#### 5.4 Online Safety

Also in February 2022, to correspond with Safer Internet Day, the Scottish Government launched a major new online safety public awareness campaign, which was aimed at advising the parents and carers of children aged 8-11 on how to help keep children safer online. This reached around 1 million Scots, including 92% of parents and carers of children in that age group. Of those taking part in an online evaluation survey, more than nine out of ten participants who were aware of the campaign reported taking action as a result of it. As part of the campaign, we launched a new Online Safety Hub on the Scottish Government's [Parent Club](#) website.

The Scottish Government welcomes UK Government efforts to improve online regulation and better protect children in the digital world through the [Online Safety Bill](#), introduced in the UK Parliament in March 2022. This legislation must make a genuine difference to the safety of children online. The Scottish Government will continue to engage with the UK Government and work with stakeholders on this important legislation.

#### 5.5 Vulnerable Witnesses

**LOIPR request:** 22(e) protecting child victims and witnesses throughout legal proceedings.

The [Vulnerable Witnesses \(Criminal Evidence\)\(Scotland\) Act 2019](#) is designed to embed a presumption towards the pre-recording of evidence from child and deemed vulnerable witnesses in criminal cases except where it is shown that this would significantly prejudice the interests of justice. Implementation of specific provisions means that child witnesses in many of the most serious criminal cases now have their evidence pre-recorded, avoiding the trauma of them having to give evidence at trials. Further implementation of the Act will extend these provisions to a wider cohort of child witnesses.

The enhanced use of pre-recorded evidence for child witnesses has been backed by Scottish Government funding, as has the establishment of new evidence and hearings suites in Glasgow and at the Inverness Justice Centre. These facilities have been specifically designed for the needs of children and other vulnerable witnesses, enabling evidence to be taken in a safe and secure environment. Both evidence suites showcase what can be achieved for vulnerable witnesses through the use of high-quality video recording equipment. Further work is also being undertaken in Edinburgh and Aberdeen to expand provision there.

## **Barnahus/Bairns' Hoose**

The Scottish Government is committed to ensuring that every child referred to a Bairns' Hoose, who has been a victim or witness of abuse or violence, as well as children under the age of criminal responsibility whose behaviour has caused significant harm, will be able to access its services. We will be establishing a governance framework to drive forward delivery.

The [Bairns' Hoose - Scottish Barnahus: Vision, Values and Approach](#) (2022) sets out our vision of how the Barnahus model should be implemented in Scotland, the values which should underpin the model and our approach to its practical implementation. In addition, the Healthcare Improvement Scotland and Care Inspectorate report, [Foundations for Bairns' Hoose \(Scottish Barnahus\)](#), outlines the developments in national policy, practice and research which form the foundations of the development of a national Bairns' Hoose model in Scotland.

We are working with partners to develop a rights-based Scottish approach to establishing a national Bairns' Hoose model, which reflects all relevant policy and legislative developments across children's services, justice, health and social care in Scotland. This will be based on the requirements of the UNCRC, and in line with the Scottish Government's policy programmes of Keep The Promise and Getting it right for every child, which seek to recognise that all children must receive the right help at the right time. We have commissioned Healthcare Improvement Scotland and the Care Inspectorate to develop Scotland-specific standards for Barnahus based on the European PROMISE Quality Standards, which reflect best practice from the Nordic countries. These will be published in early 2023. A consultation on the [Draft Standards](#) commenced on 15 August 2022 and closed on 4 November 2022.

Scottish Ministers appointed Val de Souza in February 2022 as Chair of the National Bairns' Hoose Governance Group. The focus of the Group will be to provide the necessary specialist input and strategic governance to support the development and shape the testing and piloting of an evidence-based, comprehensive, child-friendly national Bairns' Hoose model for Scotland, with oversight for the Scottish Bairns' Hoose Standards implementation.

## **Joint Investigative Interviews**

The Scottish Government continues to fund and work with justice and social work agencies to: improve the quality of experience of child victims and witnesses; minimise re-traumatisation; and improve the quality of evidence and process for Joint Investigative Interviews (JIIs) with vulnerable child witnesses through the piloting of the new trauma-informed Scottish Child Interview Model (SCIM).

The SCIM delivers an interview process that secures the child's best evidence at the earliest opportunity and minimises the risk of re-traumatisation. From April 2021, the National JII Project began a national roll-out plan for SCIM, aiming to introduce the Model for joint investigative interviewing in every area of Scotland over a three year period. The roll-out is supported by £2 million in Scottish Government [funding](#), which was announced on 30 September 2021. Oversight of the delivery and continued evaluation of the national roll-out is being undertaken through the COSLA/ Police Scotland chaired National JII Governance Group.

## 5.6 Gender-Based Violence

**LOIPR request:** 22(a) addressing domestic violence, gender-based violence and abuse.

The Scottish Government and COSLA's [Equally Safe Strategy](#) for preventing and eradicating violence against women and girls, sets out a vision to work with stakeholders to prevent violence from occurring in the first place, build the capability and capacity of mainstream and specialist services to support survivors and those at risk, and strengthen the justice response to victims and perpetrators. A refresh of the Strategy and accompanying Delivery Plan will be published in late 2023. Stakeholder engagement to inform the up-coming refresh will be extensive and will ensure that the voices of those with lived experience, including children and young people, inform each and every step of the process.

In June 2022, the Scottish Government and COSLA published a new short-term [Equally Safe Delivery Plan](#), which will run until autumn 2023. The Plan includes a range of actions relevant to children and young people, including prevention within schools and ensuring more effective, trauma-informed support for children and young people affected by violence against women and girls (VAWG). A previous Equally Safe Delivery Plan ran from 2017 to 2021. The [Final Report](#), published in November 2020, provides an overview of progress made since the publication of the Delivery Plan and actions taken during the COVID-19 pandemic.

We are investing significant levels of funding to support our efforts to combat violence against women. For example, within the first 100 days of the current term of this Government, in August 2021, new funding totalling £5 million went to Rape Crisis centres and domestic abuse services to deal with increasing waiting list demand.

Our Delivering Equally Safe (DES) Fund provides £38 million over two years supporting 121 projects from 112 organisations that focus on early intervention, prevention and support services. Through the DES Fund, the Scottish Government supports 12 organisations to focus solely on children and young people projects and support. Additionally, £2 million is provided for organisations and joint organisation partnerships to deliver the Safe and Together model and training across 11 local authority areas. The Safe and Together model is a positive approach to ensuring the safety and wellbeing of children living with domestic abuse. Additionally, the Scottish Government has invested approximately £1 million towards CEDAR (Children Experiencing Domestic Abuse Recovery) projects, a group work model for children who have experienced domestic abuse.

An independent strategic review of funding to tackle violence against women and girls is underway and will report its recommendations by March 2023. The principal role of the review is to develop a more consistent, coherent, collective, and stable funding model that will ensure high quality, accessible specialist services across Scotland for women, children and young people experiencing any form of violence against women and girls.

The [Equally Safe at School](#) project was launched in August 2021. This initiative, which was developed with Zero Tolerance and Rape Crisis Scotland, applies a whole school approach to tackling gender inequality and gender-based violence in schools. This model of prevention intervention has been shown to challenge and change the attitudes that permit sexual violence, equipping and empowering young people with the knowledge they need to navigate consent and healthy relationships.

Equally Safe at School accompanies other prevention initiatives such as Young Scot's [That's Not OK](#) online resource; the national [Relationships, Sexual Health and Parenthood \(RSHP\) resource](#) which includes age appropriate materials for teachers delivering RSHP education to children and young people aged 3-18; and the [Key Messages on Healthy Relationships and Consent](#) (2019) for all professionals working with young people aged 11-18 years. The Scottish Government also continues to fund the Rape Crisis Scotland National Sexual Violence Prevention Programme to deliver sessions to secondary school pupils on sexual violence, consent, sexism, body image and more.

### **Domestic Abuse**

The [Domestic Abuse \(Scotland\) Act 2018](#) (2018 Act) creates a specific offence of domestic abuse that covers not just physical abuse but also other forms of psychological abuse and coercive and controlling behaviour. The 2018 Act commenced in April 2019, accompanied by a public campaign to raise awareness. This new offence brings clarity for victims so they can see explicitly that what their partner or ex-partner has done to them is wrong and can be dealt with under the law.

The 2018 Act provides for a statutory aggravation where the perpetrator uses a child in committing the offence; directs behaviour at a child in committing the offence; where the child sees, hears or is present when the abuse is taking place; or where a child is likely to be adversely affected by the perpetrator's behaviour. Where the aggravation is proven, the court is required to take account of this in sentencing the offender. In 2020-21 there were 383 convictions for the offence of domestic abuse and there were 90 cases where the child aggravation was proven (just under 25% of all cases). The 2019-20 [Scottish Crime and Justice Survey](#) domestic abuse module found that around a third of respondents who reported being a victim of domestic abuse said that children were living with them at the time of the most recent incident. Where a person is convicted, the 2018 Act also provides for the court to impose a non-harassment order, including with reference to the protection of children.

The Scottish Government has also developed the Domestic Abuse Awareness Raising Tool ([daart](#)), a free online resource which was developed to raise awareness and support public service understanding of the dynamics of domestic abuse and coercive control.

### **Ratification of the Istanbul Convention**

The UK Government [announced](#) the formal ratification of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, also known as the Istanbul Convention, in July 2022. The Convention is a legally binding instrument, and as a matter of international law, creates a wide-ranging legal framework and approach to combating violence against women and girls. The UK Government is applying two reservations to its ratification. The Scottish

Government welcomes the fact that the UK has ratified the Convention, but is concerned about the reservation applied by the UK Government to Article 59, which protects migrant victims of domestic abuse. This is discussed further in the Scottish Government's standalone Position Statement on the [Universal Periodic Review](#) (October 2022).

## 5.7 Honour-Based Violence

**LOIPR request:** 23(a) preventing and prosecuting honour-based violence.

So-called "honour-based violence" (HBV) covers a range of behaviours including Forced Marriage and Female Genital Mutilation (FGM). Honour-based violence is directly referenced in the Equally Safe Delivery Strategy, in recognition that these practices abuse the human rights of women and girls and are a form of gender-based violence. An HBV working group comprising stakeholders from the statutory, third and academic sectors has been established to inform the Scottish Government's work on this issue.

FGM has been expressly illegal in Scotland since 1985. The [Prohibition of Female Genital Mutilation \(Scotland\) Act 2005](#) (the 2005 Act) increased protection by extending, as a matter of Scots law, the FGM offences to capture conduct of United Kingdom nationals or residents which is undertaken outside of the United Kingdom. The Act also increased the maximum sentence on conviction on indictment from 5 to 14 years imprisonment. The Scottish Government has worked collaboratively with the UK Government to amend the 2005 Act to extend the reach of extraterritorial offences in the Act to habitual (as well as permanent) UK residents. This was achieved via the [Serious Crime Act 2015](#), which was passed by the UK Parliament, and which amended the 2005 Act (with the consent of the Scottish Parliament).

In March 2020, the Scottish Parliament unanimously passed the [Female Genital Mutilation \(Protection and Guidance\)\(Scotland\) Act 2020](#) (2020 Act). This new legislation provides for FGM Protection Orders and for the issuing of Statutory Guidance by the Scottish Ministers. We are working with stakeholders to ensure the effective implementation of the 2020 Act and will begin developing statutory guidance in spring 2023.

The [Forced Marriage etc. \(Protection and Jurisdiction\)\(Scotland\) Act 2011](#) provides civil remedies for those at risk of forced marriage, and those who have already been forced into marriage. The Act introduced a civil Forced Marriage Protection Order (FMPO) to protect people who are threatened with, or who are already in, a forced marriage. It is a criminal offence to breach an FMPO.

To extend protection for those at risk, the Scottish Government worked collaboratively with the UK Government to criminalise forcing someone into marriage. The relevant legislation is contained in section 122 of the [Anti-social Behaviour, Crime and Policing Act 2014](#). This provides an additional layer of protection for victims from a practice that is often accompanied by physical, financial, sexual, and emotional abuse. The Scottish Government also commissioned independent research into Forced Marriage in Scotland. A final research report [Understanding Forced Marriage in Scotland](#) was published in 2017.

The Scottish Government funds a number of organisations for projects related to violence against women and girls through our Equally Safe Fund and has invested in a range of projects that have a specific FGM and honour-based violence focus.

### Virginity Testing and Hymenoplasty

The practices of virginity testing and of hymenoplasty have been criminalised in Scotland with the Scottish Parliament consenting to the provisions in the UK's [Health and Care Act 2022](#), which criminalise the practices, applying to Scotland. To date, there is no evidence of such practices taking place in Scotland, however there are clear benefits to all four nations in the UK having a joined-up approach to the issue.

## 5.8 Intersex Children and Young People

**LOIPR request:** 23(b) preventing unnecessary medical or surgical treatment of intersex children.

The National Scottish Differences of Sex Development Managed Clinical Network has a remit to look at equity of care across Scotland. The Network aims to support the delivery of high-quality person-centred care to children and adolescents with differences of sex development in Scotland. This well-established clinical network comprises of multi-disciplinary teams (MDT) in Glasgow, Aberdeen, and Edinburgh. The range of health care professionals from across different specialities can vary depending on local expertise, however there is an exchange of professionals between the three centres ensuring that clinical input from paediatric endocrinology, urology, genetics, biochemistry, clinical psychology, gynaecology, plastic surgery, and paediatric nursing is available as required. Clinical recommendations about a child's treatment are fully considered by the MDTs prior to a formal consultation with the family.

A holistic approach is taken to deliver positive health, care, and wellbeing outcomes. Surgery within NHS Scotland should only be undertaken where medically necessary, for example, where there is an obstruction, or the variation of sex development has resulted in a high cancer risk. The views of the child (or the parents if the child is too young to express a view) are a crucial part of final decision making process about their treatment or surgery if medically necessary.

## 5.9 Use of Children as Covert Human Intelligence Sources

**LOIPR request:** 22(h) preventing the recruitment of children as informants.

The Scottish Government is considering whether specific measures to prevent the use of children as informants for law enforcement are necessary. Additional safeguards (compared to adults) exist currently in relation to the regulatory framework for the authorisation of juvenile covert human intelligence sources.

## 5.10 Use of Electrical Discharge Weapons

**LOIPR request:** 20(a) prohibiting the use of electrical discharge weapons, spit hoods and other harmful devices on children.

Taser (Conducted Energy Device) is a less lethal option than conventional firearms which offers police officers an opportunity to defuse a potentially dangerous incident at distance, reducing the risk of injury and enabling a safer, quicker resolution. The legal authority on the use of Taser is reserved to Westminster and the decision to deploy it is an operational matter for the Chief Constable of Police Scotland.

Prior to June 2018, only authorised firearms officers were equipped with Taser. In response to an increase in assaults on officers, the decision was taken to introduce Specially Trained Officers (STOs) in the use of Taser. There are 975 STOs, around 5.6% of total police numbers, trained in the use of these devices, although not all will be on duty at the same time. These officers have undergone rigorous training, including scenarios linked to vulnerable people and protected characteristic groups. A number of factors are highlighted in the training which may influence the operational use of Taser; these include children and vulnerable people.

The use of Taser is subject to rigorous monitoring and review with every discharge referred to the independent Police Investigations and Review Commissioner (PIRC) who may decide to carry out an independent investigation into the incident. Since 2018, a Taser has been discharged at a child, in 5 incidents, the youngest of whom was 15 years old. All 5 children were removed to hospital as a precaution in line with policy. All 5 incidents were referred to PIRC and, after assessment, PIRC decided not to investigate any of the incidents.

### Use of Spit Hoods

The Scottish Government supports the need to protect police officers' safety but considers that this must be done in a way that respects the rights of individuals who come into contact with the police. Police Scotland are not prescriptive about where, when and on whom spit hoods should be used. Spit hoods are applied on the discretion of the officers/staff involved and only in circumstances where the actions of the subject are such that they represent a significant risk to the safety of the officer/staff. Officers/staff are accountable for their actions and must be able to justify their actions by demonstrating that the use of the spit hood was reasonable, proportionate (in the circumstances) and absolutely necessary (to achieve a lawful objective).

Spit hoods are used infrequently by Police Scotland and are subject to robust recording measures through the custody system. Police Scotland will continue to ensure that the use of spit hoods is closely monitored and that there is appropriate guidance on the need for proportionality and necessity.

Tasers, attenuating energy projectiles, spit hoods and other similar harmful devices or mechanical restraints are never used in secure care in Scotland. Spit hoods and tasers are also not used in the Scottish Prisons Service.

## 5.11 Use of Restraint

**LOIPR request:** 20(b) and (c) pain-inducing techniques and restraint.

Guidance and training are in place for staff in education, custody, mental health and care settings with reference to controlling and limiting the use of restraint. Any use of restraint must be carried out with regard to the welfare of the child. The use of restraint should always be a last resort in exceptional circumstances when it is the only practicable means of securing the welfare or safety of the child or another person.

### Education

Pain inducing techniques cannot be used for disciplinary purposes in Scotland's schools. Furthermore, the use of physical restraint is limited to acts taken to prevent the immediate danger of harm and, in limited circumstances, to protect property.<sup>21</sup>

Current guidance [Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions](#), refreshed in 2017, outlines practice in relation to physical intervention (restraint) and seclusion for all children, including children with complex additional support needs, including those arising from learning disabilities. The guidance outlines safeguards that govern the use of physical intervention and seclusion and places an emphasis on early intervention, positive relationships and behaviour and children and young people's rights. All education authorities are required to have a policy in place to guide practice at a local level. The guidance requires that any incident where a decision is made to physically intervene must be formally recorded and monitored in line with the local authority's policy on de-escalation, physical intervention, and restraint. As part of their scrutiny and improvement roles in schools, Education Scotland inspectors consider the impact of practice in relation to the use of physical intervention, including restraint, for children and young people.

The Scottish Government is developing new rights-based guidance in this area. A [public consultation](#) on draft physical intervention in schools guidance closed in October 2022 and the Scottish Government is currently analysing the response. The draft guidance is clear that restraint and seclusion should only ever be used as a last resort and when it is necessary to secure the welfare or safety of the child or another person. The draft guidance follows from our agreement with the Children and Young People's Commissioner Scotland and the Equality and Human Rights Commission in 2019 that non-statutory guidance be developed as a first step to improve practice in this area.

The draft guidance has been developed carefully, over time, with extensive input from over thirty working group members and partners, including the Children's Commissioner, young people, parents, staff, local government and third sector organisations. It reflects the latest advice within the National Guidance for Child Protection, commitments in The [Promise Implementation Plan](#) and is compliant with the Human Rights Act (1998), UNCRC and UNCRPD rights.

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<sup>21</sup> Section 16 (4) of the Standards in Scotland's Schools etc. Act 2000.



We will work closely with partners, following final publication of the guidance, to ensure this is followed. Alongside the guidance, we will explore options to strengthen the legal framework in this area.

### **Residential and Secure Care**

The National Care standards that cover [care homes for children and young people](#) and [school care accommodation](#) set out that the care home/school must have a written policy and procedures on the conditions where restraint may be used. They also require that staff are fully trained and supported in the use of restraint. If it is necessary to restrain a child, it must be recorded in their care plan. Records of all restraints are kept and monitored, both by external management and the regulatory body. These standards are inspected against by the Care Inspectorate at least once per year, they are also currently considering updating inspection processes to ask for specific evidence of the efforts of services to minimise the use of physical restraint.

The [Holding Safely, A Guide for Residential Child Care Practitioners and Managers about Physically Restraining Children and Young People](#) (2005) was updated in [2013](#) with guidance on minimising the use of physical restraint in Scotland's residential childcare establishments, including the monitoring and collection of data on any occasions where children and young people have been physically restrained. This guidance will continue to be reviewed in line with the Promise. Young people in residential and secure care will only be physically restrained by trained care staff when: they are behaving in an unsafe or dangerous way; there is a serious risk of harm to themselves or another person; and there is no other effective way of keeping the young person or others safe. If it is necessary to physically restrain a young person, they will only be restrained for the shortest time possible, using as little force as necessary. No mechanical restraints are used in residential and secure care.

After a physical restraint and when the young person is ready, care staff will speak to the young person about the restraint, taking account of the young person's view to try to better understand why it happened and minimise the need for restraint in the future. Staff will ask the young person how they are feeling, and if necessary, the young person will be seen by a nurse. Full written details of the incident, including the young person's comments, will be recorded by the unit and copied into the young person's care plan. The young person will receive help to contact an advocacy worker (for example a children's rights officer or Who Cares? Scotland worker) or to make a complaint, if they wish.

The Care Inspectorate, the independent scrutiny and improvement body for care services in Scotland, carries out at least one inspection of every residential and secure care homes each year, and restraint procedures are part of the inspection process. The Care Inspectorate gathers information on all incidents where a child is restrained, and reviews selected cases to ensure staff carrying out the restraint are fully trained and best practices were followed.

### **Scottish Prison Service (SPS)**

Staff within the Scottish Prison Service are trained in the management of violence and aggression in custody, including the use of de-escalation techniques, non-aversive behavioural management, and the use of physical interventions, when these are deemed necessary and proportionate. The primary aim of any intervention

is to gain rapid control of the situation, while avoiding the use of physical interventions. This includes the use of communication, active listening, de-escalation, and space to control the environment and gain the willing co-operation of the person in distress. The Use of Force (physical interventions) will only be considered when all other approaches have been attempted and found to be unsuccessful for that situation.

Training consists of an initial seven-day foundation course, split into theoretical teaching modules and practical skills, and an annual refresher.

All Use of Force incidents must be recorded on a 'Use of Force Report,' providing details of the situation, which techniques were used, why these were deemed necessary and what the outcome of this use was. Every report is analysed by a manager with the view of proactively identifying ways to reduce the use of restraint in the future. All records are made available to HM Inspectorate of Prisons in Scotland, for auditing and monitoring purposes.

Currently the SPS is working towards the implementation of a new physical interventions curriculum, replacing current techniques with a curriculum built on the use of non-pain inducing restraints. This work includes the development of a restraint reduction framework, developed to proactively reduce the need for physical interventions. An SPS Steering group leads this project, with initial implementation anticipated for late 2022 in the form of a pilot roll-out, which will include young people in custody.

### **Mental Health**

Regarding the use of restraint in mental health settings, the Scottish Government is clear that alternatives to physical restraint should always be considered first, and the use of physical restraint should only ever be a last resort, for the shortest period of time, to ensure safety. Health Boards should ensure that they have policies in place covering all forms of restrictive practice and that staff receive appropriate training.

## 6. Family Environment and Alternative Care

**Relevant UNCRC Articles: 5, 9-11, 18(1-2), 20-21, 25, 27(4)**

This cluster group focuses on the needs of children within families and the care system.

### 6.1 Support for Joint Parenting

**LOIPR request:** 24(b) support for joint parenting.

The Scottish Government believes both parents should be fully involved in a child's life, so long as this is practical and in the child's best interests. Section 16 of the [Children \(Scotland\) Act 2020](#) (2020 Act), yet to be commenced, amends the [Children \(Scotland\) Act 1995](#) in relation to court cases involving matters such as parental responsibilities and rights. The amendment adds as a factor that the court must consider when deciding whether or not to make an order, the effect that the order might have on the involvement of the child's parents in bringing the child up.

The Scottish Government recognises that primary legislation is only part of the action necessary to improve the operation of family justice. A [Family Justice Modernisation Strategy](#) (2019) sets out the work that is ongoing by the Scottish Government and others, including work that can be delivered via secondary legislation or by improved guidance, areas covered by the 2020 Act, and areas that are for longer-term work. It also includes work on prioritising sibling relationships for children in care.

During the reporting period, the Scottish Government provided funding through the Children, Young People and Families Early Intervention Fund for organisations that provide counselling, mediation, child contact centres and a range of high quality resources. The Scottish Government also provides funding to Shared Parenting Scotland.

During the pandemic, the Scottish Government recognised the importance of shared parenting arrangements, where the public health position allowed us to do so. For example, there was a specific exemption in the restrictions on gatherings and travel where the purpose of the gathering or travel was to facilitate shared parenting arrangements.

#### **Shared Parental Leave and Flexible Working**

Parental leave and flexible working are reserved matters, however the Scottish Government supports a gender-balanced use of employee benefit and family-related leave. In December 2019, the Scottish Government responded to the UK Government's Good Work Plan consultation by recommending to UK Ministers the improvement of shared parental leave by giving partners an additional 12 weeks paid leave on a non-transferable basis. We have also called on the UK Government to offer flexible working from day one of employment.

## Parental Leave Following Miscarriage or Stillbirth

The Scottish Government has committed to ensuring that families who experience miscarriage or stillbirth are entitled to three days of paid leave. We will implement this commitment within the public sector and are calling on the UK Government to make the necessary changes to employment law to make this available for everyone.

## 6.2 Early Intervention/Prevention

**LOIPR request:** 25(a) the provision of preventive services to help avoid the use of alternative care.

The [Children \(Scotland\) Act 1995](#) (1995 Act) promotes the rights of children who are considered 'in need' and supports an early intervention approach to ensure that the best interests of the child are prioritised. The 1995 Act also states that public authorities should ensure, where safe to do so, that children should be brought up by their family; and usually by their parents, with responsibilities for their care being shared. Part 12 of the [Children and Young People \(Scotland\) Act 2014](#), which came into force in August 2016, sets out responsibilities of local authorities to provide services to children, young people and pregnant women who they consider to be at risk of becoming looked after. Children's services planning partnerships develop plans to respond to the needs of this cohort.

## Whole Family Wellbeing Funding

The Programme for Government 2021-22 announced investment of £500 million to support whole system transformational change to shift investment towards early intervention and prevention activities and to ensure families can access support before they reach crisis point. We want families to be able to access the support they need, when they need it, for as long as they need it. This will mean family support services working collectively in a multi-agency and multi-disciplinary way to meet the spectrum of support needs for the whole family. Our ambition is that from 2030, we will be investing at least 5% of all community-based health and social care spend in preventative whole family support measures. In 2022-2023 we are supporting:

- Local areas, through Children's Services Planning Partnerships (CSPPs), to build local service capacity and transform family support services.
- Three CSPPs to accelerate plans and provide local learning that can be shared nationally.
- New, Scottish Government-led national policy delivery that supports the development of transformational approaches at a national level.

## 6.3 Looked After Children and Young People

Under the Children (Scotland) Act 1995, 'looked after children' are broadly defined as those in the care of their local authority, sometimes referred to as a 'corporate parent'. There are many reasons children may become looked after, including: because they face abuse or neglect at home; are unaccompanied minors seeking asylum, or who have been illegally trafficked into the UK; or the child's behaviour requires it.

Part 9 of the Children and Young People (Scotland) Act 2014 sets out that corporate parents (listed in the Act) are required, amongst other duties, to promote the interests of looked after (or former looked after) children, assess the needs of looked after children for services and support, and seek to provide opportunities for those young people to participate in activities to promote their wellbeing. All children and young people who need to enter care should be treated with fairness and respect regardless of background.

## Removal of Children from their Families

**LOIPR request:** 25(b) preventing the arbitrary removal of children from their families.

A principle of the Children (Scotland) Act 1995 is that any intervention with children and their families must be properly justified and supported by relevant services and agencies. Legislation in Scotland is built upon these principles and checks and balances within the system ensure that where professionals consider that children cannot remain safely in their family, plans are multi-agency and premised upon these legal principles.

The Scottish Government is taking steps to promote and support kinship care arrangements and will set a Recommended National Allowance for foster and kinship allowances. This investment will mean that no matter which area of Scotland children are living in, their caregivers will receive at least the Scottish Recommended Allowance to care for them. Discussions with COSLA to find a way forward on the introduction of the Scottish Recommended Allowance, which were paused during COVID, have now resumed.

The Kinship Care Collaborative was established in November 2021 to improve outcomes for children and young people in kinship care and better support their carers and the professionals who work with kinship families. Supporting the Collaborative are three working groups which are exploring issues relating to: definitions of kinship care within legislation and guidance; support, resourcing and good practice; and how best to improve consistency of service provision and visibility of kinship carers within communities. As part of the work of the Collaborative, we will also seek the views of children and young people in kinship care, and those of their carers. Our expectation is that the Collaborative will deliver tangible change for kinship carers to enable them to be better equipped to care for and nurture the children they are looking after.

We also provide £324,000 per annum so that the Kinship Care Advice Service for Scotland (KCASS) can provide information, advice and support to kinship families across Scotland, and develop networks of knowledge for professionals working with them.

The Scottish Government is continuing to fund intandem, Scotland's mentoring programme for children and young people looked after at home, with £750,000 provided each year since its launch in November 2016. Intandem is delivered by Inspiring Scotland and provides mentors for young people aged between 8-14 years who are looked after by their local authority but living at home. The programme is now being expanded to include some children and young people living in kinship

arrangements. The programme has attracted 12 partner agencies in 19 local authority areas to help enable children and young people to: increase self-confidence; improve self-esteem, improve social relationships; engage with the local community; and reduce isolation. To date, intandem has made over 525 matches between children and volunteer mentors, with the average mentoring relationship lasting 16 months.

#### 6.4 Keeping The Promise

**LOIPR request:** 25(d) providing stability for children in care.

Improving the life experiences of children and young people with experience of care is a priority for the Scottish Government. In 2017, we instructed a root and branch independent review of the Care System in Scotland to consider what needs to change to ensure Scotland's children grow up loved, safe and respected so they can reach their full potential. Running from 2017 to 2020, the review listened to over 5,500 voices, over half of which were our children and young people who have experience of the care system. The conclusion of this work was [The Promise](#), which set out over 80 conclusions in a clear statement of what needs to change to support our Care Experienced children, young people, adults and families across Scotland.

In 2021, the Scottish Government established [The Promise Scotland](#), which is responsible for driving the work of change demanded by the findings of the Independent Care Review, by leading and collaborating with partners across Scotland. The proposed and planned work, which is detailed in [Plan-21-24, Change Programme ONE](#) and on The Promise Scotland website, will involve a wide range of organisations working towards shifts in policy, practice and culture to Keep The Promise.

The Scottish Government is fully committed to delivering the transformational change required to Keep The Promise by 2030. To support this, on 30 March 2022, we published the [Promise Implementation Plan](#), which sets out the actions and commitments we will take to Keep The Promise.

The Promise Implementation Plan also sets out our vision to deliver the ambition and ethos reflected in The Promise's 'A Good Childhood'. This requires a fundamental change in the way that care looks and feels for children, families and caregivers in Scotland. Our new approach to care is supported by six key principles which will guide our policy and delivery decisions. These are thematic in nature, applying equally wherever a child lives, and should promote transformational change in the way Scotland cares for its children, reducing poverty, inequality and giving children with care experience the best chance of the life they rightly deserve. The principles focus on meaningful relationships, family support, health and wellbeing, support for caregivers, smooth transitions and reducing the stigma that can isolate children, young people and families who have experience of care. We are currently working to develop a comprehensive, evidence-based work programme, with key delivery milestones, and will engage with partners and people with care experience to implement this between now and 2030.

We have also taken early key actions to Keep The Promise such as ensuring that where living with their family is not possible, children can stay together with their brothers and sisters if it is safe to do so. This is set out in section 13 of the Children (Scotland) Act 2020 and the [Looked After Children \(Scotland\) Amendment Regulations 2021](#), which came into force in July 2021. Where it is not appropriate for brothers and sisters to live together, steps should be taken to help them stay in regular touch with each other and to nurture their relationships.

Under the new rules, brothers and sisters also have new rights to appropriately participate with support, including advocacy services, in Children's Hearings where contact with their siblings is being considered. [Guidance](#) to help social workers and other practitioners to implement the legislation was published in July 2021. (Advocacy in the Children's Hearings System is discussed at section 3.13.)

To further support stability for children in care, local authorities in Scotland provide a rights respecting, relationship-based social work service to children and young people. This includes consistency of social worker to ensure that the child has that relationship-based contact regardless of where they are living. If a different social worker is involved, perhaps due to the fact that the previous social worker is no longer employed by the local authority, then every effort will be made to ensure stability for the child including remaining in their current living arrangements.

### Scotland's Adoption Register

The Scottish Government set up Scotland's Adoption Register to increase the number of children who are adopted and, through the Children and Young People (Scotland) Act 2014, placed the Register on a statutory footing. Since its establishment in 2011, the Adoption Register has facilitated 783 matches with adoptive families.

### Alternative Care Placements

**LOIPR request:** 25(c) preventing the placement of children in unregulated alternative care.

Alternative care placements in Scotland are regulated by the Care Inspectorate, with the exception to this being kinship care where family or friends care for children. These care placements, including fostering, adoption and residential care, are all subject to regulation, reporting and inspection measures. Children and their families can make complaints about their care placements through the placing local authority and/or to the Care Inspectorate directly. Care placements are regularly reviewed with multi-agency professionals and the child and family are encouraged to share their views on both the plan for their care and the care environment experienced.

### 6.5 Support for Young People Leaving Care

**LOIPR request:** 25(e) support for children leaving care.

The Children and Young People (Scotland) Act 2014 brought forward a number of provisions to ensure a gradual, supported transition of young people out of care. Continuing Care allows an eligible care leaver to remain in their care setting up to

their twenty-first birthday. This encourages and enables care leavers to maintain their positive relationships with carers, and to move towards independent living at a pace that suits them. Additionally, the Act extended the upper age of eligibility for Aftercare, which requires a local authority to provide support, based on an assessment of need, up to a care leaver's twenty-sixth birthday.

Non-statutory [guidance](#) on Aftercare and Continuing Care was co-produced with the care sector and published in November 2016. The Guidance advises that young people should be involved in planning for when they will cease to be looked after as soon as possible and the presumption should be that they will 'stay put' for as long as possible or until a time when they feel ready to move on. The Scottish Government continues to work with local authorities and stakeholders to improve implementation of policy and create positive transitions for care leavers.

The data for young people eligible for continuing care is based on the information provided by local authorities through the Children Looked After in Scotland (CLAS) statistics collection. We are aware that implementation of the policy has been inconsistent across Scotland. In 2022, CELCIS published [Continuing Care: An Exploration of Implementation](#), a report commissioned by the Scottish Government. The evidence provided in the report, whilst qualitative in nature, provides valuable insight into the perceived barriers and enablers to consistent implementation of continuing care across different parts of the sector. Officials will continue to work with the care sector to better understand existing barriers and to promote effective practice.

The Scottish Government has also implemented policies that provide further support and opportunities for people with care experience. This includes Council Tax exemption, and a Care Experience Bursary to enable Care Experienced people of any age to access further and higher education. Further to this, the Scottish Government has committed to £10 million of funding to introduce a Care Experience Grant providing an annual payment of £200 for young people with care experience between the ages of 16 and 26 years. Measures to support young care leavers into housing are discussed at section 7.38.

### **Support for Care Experienced Children During COVID**

We are aware of the impact that the COVID-19 pandemic has had on our Care Experienced population. Many young people highlighted that they experienced isolation and loneliness as a result of lockdown, many of whom may not have had immediate family networks to rely on for support. In response, care leavers were included in the second phase of the Connecting Scotland programme, which provided digital technology and access to disadvantaged groups across Scotland. As part of this roll-out, over 4000 care leavers were provided with digital access which enabled better access to remote support and provided opportunities for them to stay connected with family and friends.

In addition, as part of the Winter 2020 Support package, funding of approximately £400,000 was provided to Who Cares? Scotland to fund their helpline throughout the winter period. The helpline provided access and signposting to help and support and was also used to provide ad hoc financial support for Care Experienced young people who were struggling with food/fuel payments. Over 400 young people who



previously had not been engaged with Who Cares? Scotland made contact through the helpline. Furthermore, as part of the Scottish Government's 2021 Summer Offer for children and young people, approximately £200,000 of funding was allocated to Staf (Scottish Throughcare and Aftercare Forum) and Who Cares? Scotland to provide a programme of activities and events for young people with care experience.

## 6.6 National Care Service (Scotland) Bill

The [National Care Service \(Scotland\) Bill](#), which was introduced to the Scottish Parliament on 20 June 2022, seeks to improve the quality and consistency of social services in Scotland. The Bill includes the proposal to give the Scottish Ministers powers to transfer relevant functions from local authorities or from Health Boards<sup>22</sup>. It is a framework Bill and the transfer of any of the local authority functions would be under secondary legislation. At this stage, a decision has not been taken on whether to transfer children's services. In considering the proposals for including children's services within the National Care Service (NCS), and the development of the NCS as a whole, the Scottish Government will seek to give further effect to the rights of children, ensuring compatibility with the UNCRC requirements.

## 6.7 Young Carers

**Stakeholder request:** measures to support Scotland's young carers.

There are an estimated 30,000 young carers in Scotland (unpaid carers under 18 years of age)<sup>23</sup>. The [Carers \(Scotland\) Act 2016](#) (2016 Act) seeks to make a meaningful difference to the lives of unpaid carers, including young carers, and those that they care for. For young carers, provisions in the 2016 Act include the right to a young carer statement (YCS) to identify each young carer's personal outcomes so that their eligible needs are supported. This involves an outcomes-based conversation about the young carer's personal circumstances and must include information about the impact of caring on their wellbeing and whether the care they provide is appropriate. Personal outcomes may include their wish to, for example, work or undertake studies or training. Local authorities must also consider whether the support provided to a carer should take the form of, or include, a break from caring. The Scottish Government is establishing a right to breaks from caring through the [National Care Service \(Scotland\) Bill](#), to support all carers to protect their wellbeing and sustain caring relationships. When a young carer turns 18 years of age, their YCS will continue until they are provided with an adult carer support plan.

Other provisions in the 2016 Act include: duties on local authorities and Health Boards to jointly prepare a Local Carer Strategy; duties on local authorities to establish and maintain an Information and Advice service for relevant carers, as well as to involve carers in decisions about carer services; and a duty on Health Boards to ensure carers are involved in the hospital discharge of cared-for persons. The Scottish Government has also prepared and published a [Carers' Charter](#), setting out the rights of carers as provided for under the 2016 Act.

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<sup>22</sup> Relevant local authority functions are those covering social work and social care for adults and children, including local authorities' role in mental health care, adult and child protection, and justice social work.

<sup>23</sup> [Scotland's Carers: Update Release](#).

We are continuing to work with a range of partners, including the Scottish Young Carers Services Alliance, to ensure the successful implementation of the 2016 Act, and are focusing on priorities highlighted in the [National Implementation Plan](#) for the Act, which was refreshed in September 2021. We have funded partners to develop resources aimed at supporting young carers to understand their rights under the Act, including a [Carers Act - Young Carers Jargon Buster](#). In addition to this, we continue to fund the annual Young Carers Festival and annual Carers Parliament where the rights of young carers are discussed and highlighted to all those who attend.

### **National Carers Strategy**

We are currently developing a National Carers Strategy, after having [consulted](#) on a draft Carers Strategic Policy Statement between September and December 2019. The final draft of the Strategy has now been shared with key stakeholders. The Strategy will focus on carers, including young carers, and their needs, setting out how policies across the Scottish Government can work together with other public bodies. It will help support carers in a meaningful and sustainable way as we recover from the pandemic and go through the cost of living crisis. We have engaged with young carers about the Strategy's scope and purpose to ensure that this is shaped by those who best understand the many challenges faced.

### **Advice and Support for Young Carers**

We continue to fund Young Scot to provide an [exclusive platform for young carers](#) with tailored e-vouchers, discounts and opportunities to help support young carers' wellbeing and enable them to relax and have fun. This package is available to all young carers aged 11 to 18 years. In 2020-21, we provided an additional £300,000 in funding for this package to ensure that young carers could continue to access opportunities during the pandemic which were safe and had a particular focus on maintaining mental health and wellbeing. In January 2022, we invested an extra £234,000 to continue to expand the Young Scot Young Carers Package. In recognition of the fact that transitioning from being considered a young carer to an adult carer can be difficult, the package now includes a transition bundle to provide extra support as young carers approach 19 years of age.

We also continue to fund a full-time Education Officer post in Carers Trust Scotland. The post holder has been working closely with the Scottish Government, Education Scotland, the General Teaching Council for Scotland and the Scottish Qualifications Authority to ensure that education staff are aware of young carers and have the understanding and resources to be able to support them appropriately.

The [Young Carer Grant](#) supports eligible young carers aged 16 -18 years old with a payment of £326.65, which can be applied for annually, to help them access life opportunities which are the norm for many other young people. [Figures](#) published in September 2022 demonstrated that the Scottish Government had paid out more than £2 million by 31 July 2022 to eligible young carers since the Young Carer Grant opened in October 2019.

## 7. Basic Health and Welfare

### Relevant UNCRC Articles: 6, 18(3), 23, 24, 26, 27(1-3), 33

This cluster group focuses on the health and welfare of all children and young people and the consideration of the rights of disabled children.

#### 7.1 Disability

**LOIPR request:** 13(c) and 15(b) eliminating discrimination against and promoting participation of disabled children.

The Delivery Plan, [A Fairer Scotland for Disabled People](#) (2016), included 93 practical actions which significantly contribute to meeting our obligations under the Convention on the Rights of Persons with Disabilities (CRPD) and in realising disabled people's human rights. An update [report](#) was published in 2021, demonstrating progress under each of the plan's five ambitions. The Scottish Government is developing a new disability equality strategy in collaboration with disabled people's organisations and hopes to publish this in spring 2023.

The Scottish Government has also committed to introduce a new multi-treaty Human Rights Bill in this parliamentary session. The Bill will incorporate into Scots law, as far as possible within devolved competence, four international human rights treaties, including the CRPD. Incorporation of the CRPD will help to remove barriers to full participation in society and will place greater impetus on public bodies to support disabled children and young people in realising their human rights, accessing services and living with dignity.

In 2019, the Scottish Government launched an [online resource to support disabled children, young people and their families](#). The site is rights-based and was developed through a process of co-design and co-production. The resource aims to provide clear, accessible information on national policies, entitlements, rights and the provision of various forms of support which may be available to disabled children, young people and their families, interspersed with examples of real life stories to showcase best practice.

#### 7.2 Learning/Intellectual Disabilities and Autism

The Scottish Government has continuously championed human rights through the [Scottish Strategy for Autism](#) (2018) and the [Keys to Life](#) (2019) Learning/Intellectual Disability policies. Both strategies focus on outcomes intended to ensure people live healthier lives, enjoy choice and control over the services they use, and are supported to be independent and active citizens.

In March 2021, the Scottish Government, in partnership with COSLA, published the joint [Learning/Intellectual Disability and Autism Towards Transformation Plan](#). This set out the Scottish Government's vision to shape supports, services and attitudes to ensure that the human rights of autistic people and people with learning/intellectual disabilities, including children and young people, are respected and protected and that they are empowered to live their lives, the same as everyone else. We have established an innovative new leadership and engagement framework which puts

lived experience at the heart of the decision making process to help drive progress towards implementation of the Towards Transformation Plan.

The Scottish Government will also take forward a Learning Disability, Autism and Neurodiversity Bill, which will seek to ensure that the rights of autistic people, those with learning disabilities, and neurodivergent people are respected and protected. We will also consider establishing a Commissioner to protect people's rights in practice. The Scottish Government is working to ensure that the Bill is fully co-designed with people with lived experience, involving from the outset Disabled People-led Organisations and charities representing the views of a wide range of people, including children and young people.

### **7.3 Family Fund**

The Family Fund is the UK's largest grant-giving charity for disabled children. Grant funding from the Scottish Government has enabled the Family Fund to provide support, advice and direct grants to families on a low income who are raising disabled or seriously ill children and young people in Scotland. Through the Family Fund grant scheme, each family has choice and control over what grant items they request, based on what they think would best help to meet their own family's needs and improve their quality of life. In 2021-22, the Scottish Government provided nearly £3.5 million in funding to the Family Fund Trust, including an additional £500,000 through the Get into Summer fund (see section 1.4) and Winter Support Fund. This supported 8,026 families to buy items which they could not otherwise afford. We have committed a further £2.974 million of funding in 2022-23, which is expected to support over 6000 families.

### **7.4 Transitions**

There are a range of existing legislation, plans and policies<sup>24</sup> in place which support the objective of improving young people's experiences of their transitions to adulthood and we are committed to doing more. The Scottish Government committed in its Programme for Government 2021-2022 to begin work on a new National Transitions to Adulthood Strategy to support disabled young people as they make the transition to adult life, and provide them, and those who support them, with joined-up guidance and support to unlock better educational and employment opportunities and health outcomes.

In addition, we have been working in partnership with ARC (Association for Real Change) Scotland since 2020 to trial '[Principles into Practice](#)' in 10 local authority areas, to identify, design and test changes that improve planning and delivery of support for young people with additional support needs as they transition to young adult life. Principles into Practice is a draft framework, based on the [Principles of Good Transitions](#), which has been developed by ARC Scotland in consultation with young people, parents and carers, and professionals. The trial is now in its second and final year.

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<sup>24</sup> These include: [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#); [Social Care \(Self-directed Support\) \(Scotland\) Act 2013](#); [GIRFEC policy](#); [Young Person's Guarantee](#); [A Fairer Scotland for Disabled People: Employment Action Plan](#)

## 7.5 Employment

The Scottish Government is focused on tackling the enduring structural barriers that disabled people face in relation to accessing and progressing in the labour market. The [A Fairer Scotland for Disabled People: Employment Action Plan](#) (2018), sets out the steps the Scottish Government will take to reduce the employment gap between disabled people and the rest of the working age population (the disability employment gap) by at least half, by 2038. These actions cover three key themes identified by stakeholders during the development of the plan: supporting employers to recruit and retain disabled people; supporting disabled people to enter employment; and young people and transitions. An [annual report](#) published in March 2021 updated on progress. Key achievements include increased applications to the Independent Living Fund (ILF) Scotland Transitions Fund, which supports young disabled people, between the ages of 16 and 25 years, with the transition after leaving school or children's services. Since opening in 2017, the ILF has distributed £9.4 million in grants to almost 5,000 young people. We are currently working on a refresh of the overall action plan, which will be published in autumn 2022.

In addition to this, [No One Left Behind](#) (2018) seeks to deliver more effective and joined-up employability support across Scotland. The No One Left Behind approach offers an all age, flexible, joined-up and user-centred model to deliver employability support across Scotland. This support will be straightforward to navigate and is integrated and aligned with other services, particularly health, justice and housing provision.

## 7.6 Participation of Disabled Children and Young People at National Level

The Scottish Government has taken steps throughout the reporting period to listen to the representative voices of disabled children and young people. For example, a young disabled people's forum, Youth Action Success, which was supported by the Disabled Children and Young People Advisory Group, informed the development of the [online resource to support disabled children, young people and their families](#) (2019). In addition, in March 2022, the Scottish Government supported the Association for Real Change (ARC) Scotland to deliver a national conference entitled 'Hear Our Voices, Respect Our Choices', which was put together and presented by young people with additional support needs, parents and carers. Attendees heard directly from young people with lived experience of transitions about what matters most in the move to young adult life.

Young representatives from the Scottish Commission for People with Learning Disabilities participated on the interim consortium, Rights Right Now!, which informed the UNCRC implementation programme (see section 2.7). The voices of young disabled people also informed the [Coronavirus \(COVID-19\) - Experiences of Vulnerable Children, Young People, and Parents: Research](#) (2021). The Young Ambassadors for Inclusion are continuing to support the development of additional support for learning policy and the delivery of the additional support for learning action plan. The Independent Living Fund Scotland (ILF Scotland) has also recruited a group of Young Ambassadors, made up of young disabled people who have received funding through their Transition Fund.<sup>25</sup> The Young Ambassadors provide

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<sup>25</sup>The Transition Fund aims to support young disabled people to be active, engaged and contributing citizens.

support in a number of ways, including contributing towards ILF Scotland communications campaigns, participating in online events and providing advice and input in relation to digital communication and accessibility.

## Basic Health

### 7.7 Breastfeeding and Infant Nutrition

**LOIPR request:** 26(c) raising awareness on the importance of breastfeeding.

The Scottish Government has provided more than £7 million additional funding since 2018-19 to Health Boards and other partners to support, promote and protect breastfeeding. The additional investment has been used to fund quality improvement breastfeeding projects and initiatives which will help to meet the stretch aim<sup>26</sup> published in the [Diet and Healthy Weight Delivery Plan](#) (2018) and the commitment in the Programme for Government 2017-18. This funding also includes a range of measures to support work across Scotland towards changing the culture to normalise breastfeeding including the launch of a [National Breastfeeding Friendly Scotland](#) scheme in 2019.

The [Improving Maternal and Infant Nutrition: A Framework for Action](#) (2011) outlines the measures that should be taken by all organisations working with pregnant women and new mothers to ensure that every parent is supported to give their baby the very best nutritional start in life. Since its publication, the Scottish Government has invested more than £20.4 million directly to NHS Boards for implementation of the Framework, of which breastfeeding support is a key component and which includes a range of support activities and interventions.

Scotland is the only country in the UK to introduce legislation which specifically protects breastfeeding. The [Breastfeeding etc. \(Scotland\) Act 2005](#) makes it an offence to prevent or stop a person in charge of a child under 2 years from feeding milk to that child anywhere the public have general access.

The 1981 WHO Code on the Marketing of Breastmilk Substitutes deals with marketing, information, labelling and restrictions of advertising and the presentation of infant and follow-on formula to protect breastfeeding. Whilst Scotland does not have the legal powers to implement the whole of the WHO Code, the [Foods for Specific Groups \(Infant Formula and Follow-on Formula\)\(Scotland\) Regulations 2020](#) incorporates some of the Code into Scots law. There are also strict promotional and commercial practice rules laid out in the Regulations and in guidance that restrict the advertising and promotion of infant formula and additional labelling requirements that apply to both infant formula and follow-on formula. This is monitored by Food Standards Scotland. Embedding the Code forms part of the Baby Friendly Initiative (BFI) [standards](#), and is a requirement for all NHS health professionals to adhere to.

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<sup>26</sup>The stretch aim is defined as reducing the drop off in breastfeeding rates at 6-8 weeks by 10% by 2025

Scotland is the only country in the UK to carry out a Scottish Maternal and Infant Nutrition survey since the UK-wide Infant Feeding survey in 2010. The results of the survey were published in 2018 and informed our improvement programme. The annual Infant Feeding Statistics for Scotland are published in October. The latest statistics for [2021-22](#) demonstrated a 1% increase at the 6-8 week review (46%), bringing this to its highest level since records began. Breastfeeding rates are generally lower in more deprived areas and amongst younger mothers. However, in recent years there are indications that inequalities are reducing with increases in breastfeeding rates amongst younger mothers and those in more deprived areas.

## 7.8 Tackling Health Inequalities

**LOIPR request:** 26(a) eliminate inequalities in health outcomes and access to services.

Throughout the reporting period, the Scottish Government has continued to take steps to reduce health inequalities and improve health outcomes for children and young people and their families. In 2018, we established Public Health Scotland as a new public body, with their core purpose to improve and protect population health, using the best data, intelligence and research. We also published [Public Health Priorities](#), which set out the aim for Scotland to be a place where everybody thrives, and [action plans](#)<sup>27</sup> that are enabling us to tackle some of the most significant health challenges we face. We are also continuing to invest in measures to help address the underlying causes of health inequalities, including actions relevant to tackling poverty, increasing equitable access to fair employment, improving our physical and social environments, and investing in affordable housing.

A place-based approach to local health improvement has been adopted to support joint working across the wider public and third sectors to reduce health inequalities and drive improvements in health and wellbeing. Targeting actions to areas and communities most in need will ensure equity and avoid widening inequalities further. As part of this, the Scottish Government is working to support Scotland's health and social care bodies to operate as effective 'anchor institutions', as part of the roll-out of [Community Wealth Building](#). These institutions are well positioned to support their communities by redirecting wealth back into their local areas through increased local spending, widening access to fair work and making better use of their land and property. The Scottish Government is working with partners to understand the practical changes needed that will allow them to deliver better outcomes for local people.

A number of initiatives have been taken forward throughout the reporting period to reduce health inequalities and to support and promote the life chances of children and young people. These are described below.

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<sup>27</sup> For example, [Diet and Healthy Weight Delivery Plan](#), [Physical Activity Delivery Plan](#), [Alcohol Framework and Tobacco Control Action Plan](#)

## 7.9 Baby Box

Since 2017, Scotland's Baby Box has strongly signalled the Scottish Government's determination that every child born and resident in Scotland, regardless of their circumstances, should get the best start in life by ensuring that every family with a newborn has access to essential items needed in the first six months of a child's life. This helps to tackle deprivation, improve health and support parents during the first few months of their child's life. Since the commencement of the programme in 2017, over 230,000 baby boxes have been distributed to families across Scotland. An independent [evaluation](#) (2021) highlighted the positive impacts of the programme particularly on first-time parents, young parents and families living on low income.

## 7.10 Support for Young Parents

The pregnancy rate in Scotland for women under 20 is at its lowest level since reporting began in 1994. This reflects the dedicated work of education, health and community services in giving young people more choice, support and advice. However, the most recent data published shows that in 2020, young women living in the areas of highest deprivation had pregnancy rates more than five times higher than those in the least deprived areas. Evidence also shows that young people with care experience are three times more likely to be a parent by age 18.<sup>28</sup>

The [Pregnancy and Parenthood in Young People Strategy 2016-2026](#) sets out the actions required to support young people around pregnancy and parenthood. The Strategy aims to address the cycle of deprivation that is often associated with pregnancy in young people. It focuses on increasing the opportunities available to young people to support their wellbeing and prosperity. It also seeks to help young people to develop the appropriate knowledge, skills and confidence they need around pregnancy and parenthood through a partnership approach between professionals and young people. A [Report](#) on progress made in taking forward the Strategy was published in 2019.

The [Getting Maternity Services Right for Young Parents](#) (2021) resource and quick reference guide provide more information for professionals who are supporting young parents on their maternity journey. This includes specific information about young parents who are Care Experienced which highlights the additional support they may need. [Guidance](#) to help local authorities support young pregnant women and young parents in school was published in August 2021. We are currently developing a guide for young people to help them navigate pregnancy and parenthood while in education.

The [Family Nurse Partnership](#) (FNP) is a person-centred, preventative intervention programme offered to young first time parents aged 19 or under, and eligible 20 to 24 year olds in some areas, and their children. It is an evidence-based change programme that is delivered in the parents' own homes and is designed to cover the first 1001 days of life, from early pregnancy until the child reaches the age of 2 years old. The FNP programme commenced in 2010 and is now delivered in all mainland Health Boards in Scotland. Over 10,000 families have received the FNP, and 6,000

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<sup>28</sup>D Fallon and K Broadhurst. (2015) Preventing unplanned pregnancy and improving preparation for parenthood for Care-Experienced young people (Coram).



have graduated from the programme. The FNP reaches over 3,000 families at any one time.

The FNP provides intensive support from a specially trained family nurse to deliver on three key aims: improving maternal and birth outcomes; improving child health and development; and improving the economic self-sufficiency of the family. Local FNP teams work closely with community partners to ensure that families are provided with the best opportunities for work, education and employment. They also work to ensure that families have access to appropriate community and specialist support to address social determinants of inequalities. Over 70% of young parents who are supported by the FNP come from the most deprived areas.

A [Review](#) (2022) of data from the first ten years of the programme found benefits of FNP engagement in maternal outcomes such as reduced smoking rates at 36 weeks gestation and 12 months post birth, and improvements over time in breastfeeding initiation and duration of feeding among younger mothers. The review also found that fewer FNP children have a concern recorded about communication/ speech and language at 14 months.

We are expanding FNP to all young first time mothers aged 21 and under by the end of 2024 and, where capacity allows, will target first time mothers under the age of 25 who are Care Experienced or from the most deprived communities. This expansion will support up to an additional 500 families per year by 2025.

### **7.11 Health Visiting**

Health Visitors focus on prevention and early intervention in respect of babies, children and wider family health. The Scottish Government invested over £40 million between 2014 and 2018 to recruit and train an additional 500 health visitors.

Scotland's [Universal Health Visiting Pathway for Scotland](#) (2015) offers support to all of Scotland's young families until a child starts schools. The Pathway presents a core home visiting programme to be offered to all families by health visitors as a minimum standard. The programme consists of at least 11 contacts with all families: 8 home visits within the first year of life and 3 child health reviews between 13 months and 4-5 years. The frequency of visits under the Pathway allows health visitors to be proactive and focus on prevention and early intervention. Where additional input is required, the Pathway provides a gateway to other levels of health visiting provision and referrals to more specialised healthcare services.

The Scottish Government has commissioned an evaluation of the Universal Health Visiting Pathway. All four Phase One reports from the evaluation were published between December 2021 and June 2022<sup>29</sup>. These found that the Pathway allows health visitors to build trusting and positive relationships with families and support children and families in a constructive way. They also found that the introduction of 13-15 month and 27-30 month child health reviews has allowed health visitors to identify health needs earlier than would have been the case before those reviews were universally offered. The Scottish Government will carefully consider

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<sup>29</sup> [Phase 1: main report - primary research with health visitors and parents and case note review](#) and [Phase 1: report - routine data analysis - workforce](#).

recommendations from the reports and will work with Health Board representatives and wider stakeholders to identify and consider appropriate next steps.

### **7.12 Oral Health**

As part of the [Oral Health Improvement Plan](#) (2018), we are continuing to develop the Childsmile Programme of toothbrushing and fluoride varnish application for children up to 5 years of age. The programme has been expanded to include all children in the 20 per cent most deprived areas of Scotland. The percentage of Primary 1 children with 'no obvious decay experience' has increased to 73% in 2021-22, compared with 58% in 2008.

The Oral Health Improvement Plan also included a key commitment to introduce a three-year [Oral Health Community Challenge Fund](#). This has enabled third sector organisations to deliver projects that support families with young children living in areas of multiple deprivation to reduce oral health inequalities and support better early years oral health. The Programme saw the investment of £2.5 million over three years, with 20 different projects working in local partnerships to support children, families and communities in improving oral health behaviours. Part of the Challenge Fund's legacy, is a new community-based food skills and nutrition project, designed to drive oral health improvements for those living in vulnerable circumstances and affected by socio-economic and race inequalities.

In addition, new measures to introduce free NHS dental care to all young people aged 18 to 25 (inclusive) came into force on 24 August 2021.<sup>30</sup> We estimate that around 600,000 young people will benefit from this policy. This represents a substantial increase on an earlier Programme for Government commitment to remove NHS dental charges for Care-Experienced young people.

### **Nursing in Schools**

School nurses play a key role in supporting children, young people and their families, especially those who are vulnerable, and supporting the Scottish Government's efforts to reduce health inequalities. The Scottish Government has introduced a transformed school nurse role to help to identify and address child health needs in school-aged children at an early stage. Where more specialised support is required, school nurses can make referrals to other services ensuring children receive the correct care and support.

### **7.13 Child Nutrition**

**LOIPR request:** 26(b) child nutrition and food security.

#### **Good Food Nation (Scotland) Act 2022**

The [Good Food Nation \(Scotland\) Act 2022](#), once implemented, will require the Scottish Government, local authorities and other public bodies to publish plans setting out the food-related outcomes which they want to achieve in relation to Scotland and how they will deliver them. These plans must be prepared having regard to the right to adequate food. Our aim is that the plans will set out what the

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<sup>30</sup> [Free NHS Dental Care for Young People](#)

Scottish Government, local authorities and other public bodies are doing to give effect to people having a right to adequate food, and to ensure that reliable access to nutritious, locally sourced, locally produced, good quality food is a practical everyday reality for everyone in Scotland.

#### **7.14 Best Start Foods**

The Scottish Government replaced the UK Healthy Start Voucher scheme in Scotland with [Best Start Foods](#) in August 2019. Best Start Foods provides pregnant women and families with children under the age of three, who receive certain benefits under a certain amount, with a minimum of £4.50 a week via a payment card to purchase healthy foods. Compared with the Healthy Start Voucher scheme, Best Start Foods offers more choice by including a wider range of healthy foods for families to purchase and access to a wider range of retailers. The [evaluation](#) of Best Start Foods (July 2022) found that recipients had positive views of the card system, generally favouring it over the former Healthy Start Voucher scheme.

Eligibility is being extended to British children whose parent or guardian has no recourse to public funds, but who meet the financial eligibility criteria. In 2022-23, we expect 40,000 people will receive £12 million of support through Best Start Foods.<sup>31</sup> We will legislate to remove all income thresholds from Best Start Foods in 2023-24, supporting an additional 20,000 people.

#### **7.15 Milk and Healthy Snack Scheme**

The Scottish [Milk and Healthy Snack Scheme](#) replaced the UK Nursery Milk Scheme in Scotland from August 2021. The Scheme aims to improve children's health and wellbeing through improved nutrition and by tackling health inequalities. All pre-schoolers who spend two hours or more a day in eligible childcare settings registered with the Scheme are entitled to a serving of fresh milk. Children are also offered a portion of fruit or vegetables. Children who cannot drink milk for medical, ethical or religious reasons, will be offered a specified non-dairy alternative. Data collected from local authority partners in February 2022 shows that there are now more than 3,500 participating childcare settings and around 140,000 children benefitting from free milk, non-dairy alternatives and healthy snacks across the country.

#### **7.16 Preventing Overweight and Obesity**

According to the Scottish Health Survey, in 2019, 30% of children (aged 2-15) in Scotland were at risk of overweight with approximately half of these children (16%) at risk of obesity.<sup>32</sup> The [Diet and Healthy Weight Delivery Plan](#) (2018) sets out our vision for everyone in Scotland to eat well and have a healthy weight. Central to the Plan is our aim to halve childhood obesity by 2030, and to significantly reduce diet-related health inequalities. The Plan has over 60 broad ranging actions, including more support for women to have a healthy weight in pregnancy; support for breastfeeding; improving food served in early learning and childcare settings and

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<sup>31</sup> [Scotland's Economic and Fiscal Forecasts – May 2022 | Scottish Fiscal Commission](#)

<sup>32</sup> [Scottish Health Survey 2019 - Volume 1: Main Report](#). The 2019 survey results are used due to 2020 and 2021 survey results being conducted by telephone as a result of the pandemic. They also did not include those under 16

schools; and better access to quality weight management services for children and young people, as well as adults.

The Scottish Government is supporting pilots of whole systems approaches to improving diet and healthy weight services in eight local authority areas, focusing specifically on childhood obesity and health inequalities. The pilots bring together local and national stakeholders to identify, understand and tackle the causes of poor diet and inequality in communities. This allows partners to understand the complexities around health, develop action plans and adapt these to meet the needs of the community. The Programme for Government 2021-22 committed to evaluating the pilots, to scale up and implement best practice across all Health Boards. The final evaluation is expected by the end of 2022.

In the Programme for Government 2022-23, the Scottish Government committed to introducing a Public Health (Restriction of Promotions) Bill, including restrictions on promotions of less healthy foods, during the 2022-23 legislative session of this Parliament. A public [consultation](#) on our proposals closed on 23 September. Responses are now being analysed to help inform the evidence base and development of this policy. We also successfully contributed to the case for a 9 p.m. watershed ban for advertising for foods high in fat, sugar or salt on UK television, on-demand platforms and a total ban on paid advertising online. These measures are expected to be [implemented](#) across the UK from January 2024.

We have also taken steps to restrict the access that under 16s have to energy drinks, many of which have high levels of caffeine, which can have a detrimental impact on young people's health. For example, all publicly-funded leisure centres have stopped the sale of energy drinks to under 16s and the sale of high-energy drinks is also banned across all NHS sites in Scotland. In 2019, we [consulted](#) on restricting the sale of energy drinks to young people under the age of 16. We will publish a consultation analysis in due course.

### **Weight Management Services**

[National standards](#) for the delivery of tier 2 and tier 3 weight management services for children and young people, as well as adults, were published by NHS Health Scotland (now Public Health Scotland) in 2019. These standards promote evidence-based and cost effective minimum standards for the delivery of weight management services in Scotland. Since 2019, we have provided over £5 million of funding to NHS Boards and their delivery partners to redesign and deliver children's weight management services in line with these standards. In addition, the Scottish Government provided over £600,000 to ten NHS Board-led projects and over £750,000 to eight NHS Board projects in 2021-22 to encourage healthy eating and good nutrition in families and communities. This work includes: specialised training for practitioners; increasing physical activity; and support for those experiencing food insecurity.

The Scottish Government published its [Diet and Healthy Weight: Out of Home Action Plan](#) in September 2021. The intention is for a new Eating Out, Eating Well framework to be developed which will help outlets provide healthier foods, including industry and local authorities, and will include, among other things, calorie labelling and a Code of Practice for Children's Menus, which will be developed by Food

Standards Scotland and Public Health Scotland. In addition, [Eat Well Your Way](#) (February 2022), an online resource developed by Food Standards Scotland, helps consumers to understand what a healthy balanced diet looks like in practice.

### **7.17 Free School Meals**

Free school meals are a vital support to thousands of children and young people across the country, ensuring they have access to a free, healthy and nutritious meal every day they are in school and are ready to engage in learning. Free school lunches are now available for all children in primaries 1 to 5, and in special schools, saving families an average of £400 per child per year. We will continue to work with our partners in local authorities to plan for the expansion of free school meal provision to primaries 6 and 7.

Free school meals continue to be provided to children and young people who meet the income-based eligibility criteria set out in statute outside of those age ranges where universal provision is made. In 2021-22, we also provided local authorities with £21.75 million to offer support to free school meals eligible families during school holidays. This year, we are providing a further £21.75 million to continue to support these families during the 2022-23 school holidays.

School meal uptake (free and paid for) is monitored annually via the Healthy Living Survey. The law requires that education authorities promote the availability of school lunches and take reasonable steps to ensure that every child or young person who is entitled to free school lunches receives them. In addition, legislation requires the identity of any child or young person in receipt of free school meals, by virtue of their or their families' financial position, to be protected to help ensure they do not experience stigma as a result of their circumstances.

### **Free Breakfast Provision**

Breakfast clubs form an important part of the school day for many children and families, addressing issues of food insecurity but also providing important accessible childcare options for many working parents at the start of the day. The Scottish Government is committed to developing plans to deliver free breakfasts to all children in primary and special schools; improving the equality of access to nutritious food for children. Evidence shows that free breakfast provision increases children's health and wellbeing by reducing hunger, which can subsequently impact readiness to learn. Our current focus is to map existing provision and plan what delivery of a future breakfast offer should look like to best meet the needs of children and families in Scotland. It will be important to consider the design of a breakfast offer alongside the commitment to develop a system of school age childcare, where it is appropriate to do so. While the provision of food mitigates an effect of poverty, access to reliable, high quality and affordable childcare addresses a root cause of poverty, by supporting parents on low incomes to enter or sustain employment.

### **School Food and Drink**

[The Nutritional Requirements for Food and Drink in Schools \(Scotland\) Regulations 2020](#) are designed to ensure that children and young people are provided with an appropriate amount of energy and nutrients from their school meals, and other food and drink provided as part of the school day, to support healthy growth and development. The school food and drink provision also demonstrates what a

balanced and nutritious diet should look like in practice, complementing the learning children and young people are given through our national Curriculum for Excellence about the importance of making positive dietary and lifestyle choices. Compliance with the school food and drink Regulations is monitored by Education Scotland health and nutrition Inspectors.

### **7.18 Food Insecurity**

The Scottish Government measures food insecurity through the Scottish Health Survey, following recommendations from the Independent Working Group on Food Poverty, and the UK wide Family Resources Survey. [Data](#) from the Family Resources Survey published in March 2022 suggested that 6% of households experienced low or very low food security, and a further 5% of households experienced marginal food security.

A [consultation](#) on a draft national plan to end the need for food banks as a primary response to food insecurity was published in October 2021. This set out our human rights-based approach to tackling food insecurity, which prioritises prevention through fair work and social security and dignified cash-first responses. The draft plan outlines further action that can be taken, building on learning during the pandemic, and has been developed alongside food banks and people with direct experience of using their services. (Measures to support low income families are discussed in sections 7.29-7.34.)

The Human Rights Bill will incorporate the ICESCR, which includes a right to adequate food as an essential part of the overall right to an adequate standard of living, into Scots law as far as possible within devolved competence (see section 2.3).

### **7.19 Promotion of Physical Activity**

The [Active Scotland Outcomes Framework](#) (2017) sets out the Scottish Government's ambitions for a more active Scotland, while [A More Active Scotland: Scotland's Physical Activity Delivery Plan](#) (2018) outlines the actions that the Scottish Government and a wide range of partner organisations will take to support and enable people in Scotland to be more physically active. This includes actions which particularly target the needs of women and girls and those children and young people who face barriers to participation. The Active Scotland Delivery Group is monitoring delivery of the actions in the Plan.

The Scottish Government is committed to breaking down the barriers, financial or otherwise, that keep too many people from leading active lives. sportscotland works in partnership with all 32 local authorities to invest in and support the Active Schools Network. The Programme for Government 2021-22 announced a commitment to ensure that Active Schools programmes are free for all children and young people by the end of this Parliament. This will provide opportunities for more children and young people to take part in sport before, during and after school.

## 7.20 Mental Health and Wellbeing

**LOIPR request:** 26 (f)-(h) access to mental health services.

Throughout the reporting period, the Scottish Government has continued to prioritise investment in mental health services. NHS Scotland mental health expenditure was increased from £651 million in 2006-07 to £1.250 billion in 2020-21, a rise of 92%.

The [Mental Health Strategy 2017-2027](#) set out the Scottish Government's approach to mental health, including 40 actions organised under five key headings: Prevention and Early Intervention; Access to Treatment and Joined-up, Accessible Services; the Physical Wellbeing of People with Mental Health Problems; Rights, Information Use, and Planning; and Data and Measurement. The Strategy included a range of specific actions relevant to children and young people, including the commitment to develop a [matrix](#) of evidence-based interventions to improve the mental health and wellbeing of children and young people.

In 2020, we published a [Mental Health: Transition and Recovery Plan](#) in response to the pandemic, backed by a £120 million Recovery and Renewal Fund in 2021-22. The Plan contains over 100 actions and includes a chapter setting out how we will develop a population health response to the issues affecting the mental health and wellbeing of children, young people and their families. The Scottish Government has committed to publishing a new Mental Health and Wellbeing Strategy in spring 2023, which will build on the direction of the Transition and Recovery Plan and set out a long-term vision, outcomes and priorities for people of all ages.

## 7.21 Child and Adolescent Mental Health Services (CAMHS)

In 2021-22, around £40 million of the £120 million Recovery and Renewal Fund was allocated to improve the mental health care that children and young people receive through CAMHS. This funding aimed to address CAMHS waiting times; support implementation of the [National CAMHS Service Specification](#) (2020), which sets out the levels of service that children, young people and families can expect from CAMHS across Scotland, and build professional capacity in Health Boards to support implementation of the [National Neurodevelopmental Specification for Children and Young People](#) (2021). The funding also aimed to improve community CAMHS, with an expansion from age 18 years to age 25 years for targeted groups, and those who wish it.

In addition, the funding aimed to improve access to out of hours assessments, intensive and specialist CAMHS services to benefit children and young people with complex needs and their families, including in home settings. This is part of a longer term commitment to ensure that by 2026, 10% of frontline NHS budget is invested in mental health, with 1% directed specifically to children and young people.

The Scottish Government has invested heavily in CAMHS staffing in recent years. Since 2007, CAMHS staffing has increased by 105.4% (+631.6 Whole Time Equivalents, as at 30 June 2022), with posts continuing to be created. Despite this workforce expansion, demand for CAMHS remains at a high level. In our [NHS Recovery Plan](#) (2021) and Programme for Government 21-22, we committed to provide sufficient funding for around 320 additional staff in CAMHS over the next 5

years. This will have the potential to increase capacity for CAMHS cases by over 10,000.

The Scottish Government is also committed to meeting its target for 90% of those referred for specialist CAMHS starting treatment within 18 weeks, and is continuing to work with NHS boards to help them make the necessary improvements. We are setting the conditions needed for long-term, sustainable improvement to the CAMHS system. Of the £40 million allocated to CAMHS in 2021-22, £4.25 million of that allocation directly focussed on offering treatment to those already on CAMHS waiting lists.

We are providing tailored improvement support for areas where waits are unacceptably long and are working with those Boards to: review their existing recovery plans; analyse performance and capacity data; ensure the development of modelling and trajectories; and advise on actions to take. These Boards have produced local recovery plans, setting out how they will meet the standard and eliminate long waits by end March 2023. We will monitor this closely and expect all Boards to meet the 90% waiting times standard. Boards are working hard to clear their backlogs and to see those who have waited the longest and those most at risk, first. Dealing with the backlog first impacts on waiting times performance, however, it is a crucial step towards improving waiting times in the longer term. We are beginning to see the impact of our investments in CAMHS as the latest national performance data, published on 6 September 2022, shows a reduction of 8.6% in the number of waits over 18 weeks.

Children and young people referred to CAMHS will be generally treated in the community. There may however be times when it is necessary to admit children and young people to hospital for specialist treatment. In 2020, in response to Action 19 in the Mental Health Strategy, the Scottish Government published a [protocol](#) for admissions to non-specialist wards for young people with mental health problems. This set out standards and guidance to support admissions of under 18s to adult wards. The guidance notes that 'whenever possible young people should be admitted to an age-appropriate environment'.

## **7.22 Community-Based Mental Health and Wellbeing Support**

In March 2020, £2 million of Scottish Government funding was allocated to local authorities to support the planning and development of new and enhanced community-based mental health services for children and young people aged 5-24 (26 if care experienced), their families and carers. The [Community Mental Health and Wellbeing Supports and Services Framework](#) (2021), which supports the development of these services, was produced in partnership with COSLA following extensive consultation with stakeholders, including children and young people. A further £3.75 million was allocated to local authorities at the end of 2020-21 to establish the new and enhanced supports and services. Since then, the Scottish Government has provided local authorities with £15 million in 2021-22 and plans a further £15 million in 2022-23 to fund the continuation of these services.

Over 230 new and enhanced supports and services have now been established, including play and art-based therapies, digital services, peer supports, mentoring services, single points of access, support for young parents, and counselling



services for those in emotional distress. These services offer an alternative to CAMHS for children and young people, where appropriate, by providing support for emotional distress delivered in a community setting. The funding also provides preventative and early intervention services promoting good mental health. Where possible, services have been co-designed with children and young people to ensure they can get the help they need when they need it, in a way that suits them.

Local authorities have advised that over 38,000 people used the supports in the first half of 2022, which is more than double the number of people who used the supports in the second half of 2021. Just over two thirds of service users accessed positive mental health and wellbeing supports, while just under a third used emotional distress services. The Scottish Government and COSLA co-chair the [Children and Young People's Mental Health and Wellbeing Joint Delivery Board](#), which continues to monitor the progress of this work.

In addition, we know that lockdown and the COVID-19 pandemic has affected children and young people's mental health and wellbeing in a variety of ways, and have listened to their concerns through surveys such as #LockdownLowdown. In October 2020, the Scottish Government made £11.25 million available immediately to local authorities to respond to the mental health and emotional wellbeing issues of children and young people arising as a result of the pandemic.

### **Mental Health and Wellbeing Support in Schools**

School aged children experiencing adverse circumstances, including mild and moderate emotional and mental health difficulties, should be able to access appropriate support. This can be through teachers, school nurses and/or counsellors in schools.

The Programme for Government 2018-19 included a commitment to invest in access to school counselling services across secondary education in Scotland. The [aims and principles](#) set out that the counselling service should be available for children aged 10 and over, meaning that the service will also be available for primary and special schools that are linked to the secondary school. We are providing £16 million to local authorities per year to support delivery of the commitment. Local authorities have confirmed that counselling services are in place across Scotland. Between January-June 2021, 10,029 pupils accessed school counselling, with 12,149 pupils accessing these services between July-December 2021.

School counselling is enhancing the work that schools already do to support children and young people to learn about mental wellbeing as part of Health and Wellbeing in Curriculum for Excellence. A [Mental Health in Schools Working Group](#) made up of key stakeholders with expertise in this area, was established in 2019. Part of the Group's remit was to inform the development of a free online [Learning Resource](#) (2021) that provides all school staff with the knowledge and understanding to support children and young people's mental health and promote positive mental wellbeing. The Group also developed a [Whole School Approach: Framework](#) (2021), which provides practical measures that a school and a local authority can use to support children and young people's mental health and wellbeing.

### **7.23 Perinatal and Infant Mental Health Services**

Infant mental health refers to the social and emotional development of a child from birth to age three years. From 2019 to 2022, the Scottish Government has invested over £18 million in the development of services including infant mental health; specialist community perinatal services; mother and baby units; and services provided by the third sector, such as counselling and befriending. Lived experience has informed all aspects of policy development and service implementation.

The Scottish Government established the Perinatal and Infant Mental Health Programme Board (Programme Board) in 2019 to provide strategic leadership for, and have overall management of, the delivery of improved perinatal and infant mental health services. The Infant Mental Health Implementation and Advisory Group has been set up as part of the Programme Board to lead on the development of infant mental health provision to meet the needs of families experiencing significant adversity, including infant developmental difficulties, perinatal mental illness, parental substance misuse, domestic abuse and trauma. In addition, the Voice of the Infant Subgroup was established in 2021. The group aims to elevate the infant to an equal position in the minds of those designing and delivering perinatal and infant mental health services by putting the infant front and centre, and to promote the practice of capturing the infant's experiences of services to inform service design and delivery.

We have currently been investing up to £3 million per annum in Infant Mental Health through the implementation of integrated provision across Scotland and have functioning/partial services in 9 Health Boards. We have also made the Solihull Online programmes accessible to every parent across Scotland, providing evidence-based information on relationships and child development all the way through to 18 years. In addition, the [Wellbeing for Wee Ones Hub](#) on Parent Club also provides additional advice and support to parents with young children.

### **7.24 Mental Health Support for Specific Groups of Children and Young People**

**LOIPR request:** 26(e) addressing incidence of mental illness and self-harm in specific groups of children.

In April 2019, the Scottish Government published [research](#) on the reported worsening of mental wellbeing of young women and girls. The research highlighted four key drivers for this which included: concerns around body image; social media; disrupted sleep; and school based pressures. In response, the Scottish Government took forward the development of [social media and screen time advice](#), an [Advisory Group on Body Image](#) and [further research on the effects of screen use on young people's sleep](#) (2020).

Evidence also suggests that the impact of lockdown and COVID-19 has exacerbated gender-related mental health inequalities. Our [Mental Health: Transition and Recovery Plan](#) (2020), recognises this and commits to making the mental health of women and girls a priority. We are engaging with women's organisations to help us better understand and respond to these specific needs. We have also established an Equality and Human Rights Forum, which ensures that the implementation of the

Transition and Recovery Plan, and wider mental health policy, are advised by equality considerations and lived experience. This includes representation from women's groups.

In addition to this, the [Community Mental Health and Wellbeing Supports and Services Framework](#) (2021), which seeks to support the development of the new community mental health and wellbeing services, includes as a key component that new services and supports should reflect the needs of specific groups of children and young people including LGBTI+, young parents and carers, and children and young people with learning disabilities or complex needs. This has resulted in a number of local authorities providing support specifically for these groups (see section 7.22). We have also provided funding to Young Scot to develop '[Aye Feel](#)', which provides children and young people with online mental health and wellbeing advice, support and signposting.

In September 2021, as part of Phase 2 of the Mental Health Recovery and Renewal Fund, the Scottish Government allocated £700,000 to NHS Boards to support the establishment of regional CAMHS for children and young people with learning disabilities, forensic needs and those who are in secure care and prison. Work is progressing to support NHS Boards to establish these services, including engagement with regional planning and recruitment of a Clinical Project Manager to lead this work.

In addition, in September 2021, the Scottish Government published the [National Neurodevelopmental Specification for Children and Young People: Principles and Standards of Care](#), which sets out seven standards for service providers to ensure that children and young people who have neurodevelopmental profiles with support needs, receive further support than is currently available. These children and young people are often referred to CAMHS but do not always meet the mental health criteria described in the [National CAMHS Service Specification](#) criteria.

The Neurodevelopmental Specification aims to ensure that children and families receive the support and access to services that meet their needs at the earliest opportunity, based on the Getting it right for every child approach. For many children and young people, such support is likely to be community based, and should be quickly and easily accessible. The Scottish Government allocated funding of £3.06 million to NHS Boards in 2021-22 to build capacity to provide access to specialist neurodevelopmental professionals to support the implementation of the Specification.

In 2020, the Scottish Government commissioned a National Review of Eating Disorder Services to assess and improve support for people living with an eating disorder, their families and carers in Scotland. Following the publication of the Review's [Report](#) (2021), Ministers [announced funding of £5 million](#) in 2021-22 to respond to the recommendations. The majority of this funding was provided to NHS boards to support them in responding to the increase in eating disorder referrals made during the COVID-19 pandemic. The [National Review of Eating Disorder Services Implementation Group](#) was established in August 2021 to take forward the recommendations made by the Review. The Group aims to ensure that stakeholders, through collaboration and engagement, are empowered to provide

their input, experience and expertise to play a leading role in the delivery of the Review's recommendations.

As part of the £5 million announced in 2021-22, over £400,000 was allocated to Beat, the UK's Eating Disorder Charity, to provide a wide range of support options to families and carers affected, as well as support for children, young people and adults. In February 2022, we announced additional funding for Beat in 2022-23 of over £380,000 to expand their services.

The Scottish Government is also taking decisive action to improve our responses to people who self-harm. Over the coming year, we will be working with people with lived experience of self-harm, and those who support them, to inform our first dedicated self-harm strategy and action plan. We are also investing £1.5 million in new services to support people who self-harm.

### **7.25 Suicide Prevention**

National Records of Scotland (NRS) annual suicide statistics for Scotland in 2021 showed a 6% fall in the number of suicides from the 2020 figure.

The Suicide Prevention Action Plan, [Every Life Matters](#) (2018), set out ten measures to reduce the rate of suicide in Scotland. To implement the Plan, the Scottish Government set up a [National Suicide Prevention Leadership Group](#) (NSPLG). Key deliverables to date have included: producing workforce learning resources to support suicide prevention; informing local area suicide prevention planning with timely data from Public Health Scotland and Police Scotland, and launching a pilot service to support those bereaved by suicide. Every Life Matters was replaced in September 2022, by the new, [Creating Hope Together long-term Strategy](#) and associated [Action Plan](#). These initiatives, which were produced jointly by the Scottish Government and COSLA, are outcomes focussed and informed by lived experience.

The Scottish Government is supporting the NSPLG as it establishes a Youth Advisory Group of young people with experience of suicide, self-harm or poor mental health, to help to further ensure our work on suicide prevention considers the views and needs of children and young people.

The Scottish Government has also taken steps throughout the reporting period to further raise awareness of suicide prevention. The suicide prevention campaign, 'Better Tomorrow', which launched in June 2022, was aimed at 16 - 19 year olds, with a secondary audience of 20 - 24 year olds. In addition, Scotland's successful social movement and awareness raising campaign 'United to Prevent Suicide', includes the 'FC United to Prevent Suicide' campaign, which provides suicide prevention messaging through football.

The Scottish Government committed in its Programme for Government 2021-22 to double annual spending for suicide prevention to £2.8 million by the end of the Parliamentary term. Additional investment through our Mental Health Recovery and Renewal Fund is also enhancing support for local suicide prevention activity.

## 7.26 Support for Children and Young People with Attention Deficit Hyperactive Disorder (ADHD)

**LOIPR request:** 26(i) monitoring the diagnosis of ADHD.

Drugs for ADHD are prescribed in line with good clinical practice, including ongoing supervision by health professionals, to ensure patients only remain on them for as long as appropriate. These drug treatments are often used alongside measures such as counselling or psychological therapies. The Scottish Government has worked with NHS Education for Scotland to produce the [Psychological Therapies 'Matrix'](#), a guide to planning and delivering evidence-based psychological therapies within NHS Boards in Scotland. The Matrix dedicates a section to ADHD.

The Scottish Government is working with Public Health Scotland (PHS) on a number of actions to improve the data that is collected around CAMHS and adult services. We recognise that some of the current systems used by Boards to record CAMHS and psychological therapy services were not designed for collecting the data we need, and require significant improvement which we will tackle in partnership with PHS. A new patient-level dataset is being developed, which includes equalities characteristics and patient journeys from reason for referral to treatment and outcome. PHS is working with all Boards on the completeness and quality of this collection. The [National Neurodevelopmental Specification for Children and Young People: Principles and Standards of Care](#) (2021) is discussed at section 7.24.

## 7.27 Drug and Alcohol Use

**Stakeholder request** – alcohol and drug use.

The [Alcohol and Drug Treatment Strategy - Rights, Respect and Recovery](#) (2018) presents a combined approach to the treatment of drugs and alcohol in recognition of the many shared underlying causes and similarities in treatment services. The Strategy has a commitment to children, young people and families affected by alcohol and drug use, that they will be safe, healthy, included and supported.

In December 2021, we published a [Framework](#) to improve holistic support for families affected by alcohol and drug use. This was developed through an expert working group, using a multi-agency approach and involving people with lived experience. The Framework seeks to support local partners, their workforce and family members to work together in developing holistic family support services that meet the needs of family members, ensuring they are more approachable and accessible.

An expert Implementation Group is working to implement the Framework across Scotland. Local areas are being asked to review their current provision and plans against the recommendations within the framework and initiate action. The Scottish Government is providing an additional £3.5 million per year to Alcohol and Drug Partnerships (ADPs) to support implementation of the Framework. In addition to this, we are in the second year of a five year grant funding programme administered by the Corra Foundation. This provides £3 million per year for vital community and third sector organisations in Scotland who are supporting families impacted by drug use.

The fund supports organisations who are using partnership approaches and demonstrate a relational and rights-based approach to services for children and families.

In January 2021, the First Minister announced a new National Mission to reduce drug related deaths and harms. This is supported by an additional [investment](#) of £50 million per year for five years. This funding will increase capacity in, and access to, treatment services, implement standards to ensure quality care for people who use drugs, and support third-sector and grassroots organisations.

Our [Alcohol Framework](#) (2018) sets out the Scottish Government's priorities for preventing alcohol-related harm. This includes a strong focus on protecting children and young people from alcohol-related harm and putting their voices at the centre of our proposals.

Restricting alcohol marketing is one of the World Health Organization's 'three best buys' to reduce alcohol-related harms. In 2019, the Scottish Government commissioned Young Scot to facilitate a co-design project on alcohol marketing with young people in Scotland. The Young Scot Health Panel involved 20 young people from across Scotland aged between 13 and 25 years old. The Panel's [report](#), published in November 2020, clearly demonstrated that young people are exposed to a lot of alcohol marketing and that the current self-regulatory system is not working. The young people recommended that a range of restrictions are implemented on a number of different marketing channels. These recommendations will inform our public consultation on proposals to restrict alcohol advertising and promotion in Scotland, which we aim to publish in 2022.

### **7.28 Smoking**

The five-year action plan, [Raising Scotland's Tobacco-free Generation](#) (2018), sets out interventions and policies to help reduce the use of, and associated harms from using, tobacco in Scotland. The Plan aims to protect children born since 2013 from tobacco so that when they begin to turn 21 (from 2034) they will be, and remain, tobacco-free. We are currently refreshing our Tobacco Control Action Plan, which will include a number of measures to ensure we reach the 2034 target.

## **Support for Families**

### **7.29 Child Poverty**

**LOIPR request:** 27(a) measures to tackle child poverty.

The Scottish Government set in statute the requirement to tackle child poverty through the [Child Poverty \(Scotland\) Act 2017](#), underpinned by ambitious income-based targets to be met during the financial years 2023-24 (interim targets) and 2030-31 (final targets). The Scottish Ministers published the first Tackling Child Poverty Delivery Plan in March 2018, entitled '[Every Child, Every Chance](#)', setting out action to be taken over the period 2018-22.

The second Tackling Child Poverty Delivery Plan, for the period 2022-26, was published in March 2022. Entitled '[Best Start, Bright Futures](#)', the Plan sets out

action over the next four years to drive progress on our national mission to tackle child poverty. This includes:

- Investment through our No One Left Behind approach to strengthen our employability offer to parents. This includes holistic support from a dedicated keyworker to link to the support that we know parents need.
- Our commitment to develop a new Parental Transition Fund to tackle financial insecurity for families when parents and carers enter the labour market.
- Investing the necessary funds this year to mitigate the UK Government benefit cap, as far as we are able within devolved powers, helping over 4,000 families with around 14,000 children.
- Increasing the Scottish Child Payment from £20 to £25 and extending eligibility to those responsible for eligible children under 16. These changes took effect from 14 November 2022, resulting in an anticipated investment of £633 million over the next two years.

The statutory targets are supported by a robust [Evaluation Strategy](#) and [Child Poverty Measurement Framework](#), designed to measure the impact of actions on the drivers of poverty reduction. In addition, a statutory [Poverty & Inequality Commission](#) was established in 2018. The Independent Commission publish their advice to Scottish Ministers in relation to the action required to tackle poverty and annually scrutinise progress toward the targets set.

The Scottish Government reports annually on the progress made in delivering the actions committed and against the child poverty targets set. The most recent [Tackling Child Poverty Progress Report](#), published in June 2022, highlighted that all of the actions reported on under the previous [Tackling Child Poverty Delivery Plan](#) were either in progress or being delivered. It is estimated that nearly £2.6 billion was invested across a range of programmes targeted at low-income households in 2021-22. Of this, the Scottish Government estimate that over £1.1 billion benefited children.

Measures taken forward to support families with costs associated with the school day include the introduction of the minimum school clothing grant in 2018, which helps to ensure that all eligible children and young people can go to school feeling comfortable, confident and ready to learn. In July 2021, the Scottish Government and local authority leaders reached an agreement to increase the national school clothing grant from its previous level of £100, which was set in 2018, to a new minimum of £120 per eligible primary school pupil and £150 per eligible secondary school pupil. This is being supported by £11.8 million of additional funding to local authorities.

In addition to this, a total of £12 million is being distributed across all 32 Scottish local authorities and grant aided schools for the 2022-23 academic year to continue delivering free instrumental musical tuition in schools, further removing barriers to participation. This represents an increase on the £8 million funding provided for the 2021-22 academic year. Officials are currently engaged with ADES, COSLA and wider music education stakeholders to establish and develop a sustainable approach for future years. In addition, we have also provided £6 million for academic year 2021-22 and £8 million for academic year 2022-23 to support the removal of core

curriculum charges which can be levied on families for items including materials for home economics or theatre trips associated with drama qualifications.

The extension of free school meals and the funded early learning and childcare entitlement are discussed at sections 7.17 and 8.9 respectively.

### **7.30 Fairer Scotland Duty**

The Fairer Scotland Duty is enshrined in [Part 1 of the Equality Act 2010](#) and came into force in Scotland from April 2018. It places a legal responsibility on particular public bodies in Scotland to actively consider how they can reduce inequalities of outcome caused by socio-economic disadvantage when making strategic decisions. In deciding how to fulfil the Duty, the relevant public bodies must take into account the [revised guidance](#), published in October 2021. The Equality and Human Rights Commission is the regulator for the Fairer Scotland Duty and is involved with monitoring and the development of best practice for the Duty.

### **7.31 Fuel Poverty**

The [Fuel Poverty \(Targets, Definition and Strategy\)\(Scotland\) Act 2019](#) (Fuel Poverty Act), establishes a definition of fuel poverty and extreme fuel poverty, focusing on low-income households, no matter where they live in Scotland. The Fuel Poverty Act sets an overarching target that in the year 2040, as far as reasonably possible, no household in Scotland is in fuel poverty and, in any event, no more than 5% of households are fuel poor, no more than 1% are in extreme fuel poverty and the fuel poverty gap is no more than £250 (in 2015 prices). The legislation also sets sub-targets and interim targets within this for 2030 and 2035.

Our [Fuel Poverty Strategy](#) (2021), sets out policies and proposals for national government, local authorities and third sector partners to help us collectively make strong progress towards these targets. It includes actions to tackle each of the four drivers of fuel poverty: poor energy efficiency of the home; high energy costs; low household income; and how energy is used in the home.

We are committed to tackling fuel poverty, not least by delivering on our Fuel Poverty and [Heat in Buildings](#) Strategies, which will help make homes warmer, greener and cheaper to run. We will invest at least £1.8 billion over the course of this parliament to insulate and install modern climate-friendly heating in homes and other buildings. This year alone (2022-23), we have allocated £336 million to heat, energy efficiency and fuel poverty measures including £119 million targeted at fuel poor households.

The Programme for Government 2022-23 commits us to using our Emergency Budget Review to double the value of our Fuel Insecurity Fund (FIF) to £20 million, to ensure support continues to be available to people affected by rising energy costs and who may be unable to afford their fuel bills this coming winter. Support is provided to people either as fuel vouchers, or via direct payments to their energy suppliers, and is available to people on any tariff type and using any kind of fuel. Through the projects supported by the Fuel Insecurity Fund, we also seek to ensure that those receiving help are also connected with wider advice and support on energy efficiency, income maximisation and how to reduce energy bills.



### **7.32 Social Security Powers**

The Scottish Ministers have used the social security powers devolved via the Scotland Act 2016 to develop a new Scottish social security system. Section 1 of the [Social Security \(Scotland\) Act 2018](#) (the Act) set out eight core principles in the Scottish social security system's founding legislation, one of which states that "social security is itself a human right and essential to the realisation of other human rights." The eight principles define all aspects of the design, development and implementation of the new system. The Act also established the Scottish Commission on Social Security (SCoSS). The Act requires SCoSS to scrutinise the work of the Scottish Government on social security and enables SCoSS to have regard to any relevant international human rights instruments which are defined in the Act as including "any international convention, treaty or other international instrument ratified by the United Kingdom".

The Act also proposes a statutory requirement on Ministers to produce a publicly accessible charter that reflects the key principles and communicates in clear terms what people are entitled to expect from the new system, and how it will be delivered in practice. The Social Security Scotland [Charter](#) (2019) was co-designed with people who have lived experience of social security. In addition, a [Measurement Framework](#) relating to commitments set out in the Charter was published in October 2019. This sets out a strong commitment from the Scottish Government and Social Security Scotland to openly and honestly report on the extent to which we are delivering the commitments in the Charter. The framework is published each year. The [Measuring Our Charter 2020/2021 Report](#) can be viewed online.

The Scottish Government published the first [Benefit Take-up Strategy](#) in 2019, which seeks to take forward a number of initiatives to address barriers to accessing Scottish benefits. We have also committed to investing up to £20.4 million over four years from January 2022 to fund the delivery of an independent advocacy service supporting disabled people to access Scottish social security payments. This is being delivered by VoiceAbility, a charity with 40 years' experience of delivering advocacy services, and will be available at any stage of the application process to anyone identifying as disabled and who may need extra support to access and apply for Social Security Scotland benefits. This includes provision of advocacy support to disabled children and young people to help them understand and participate fully in Social Security Scotland processes and decisions which affect them.

We have continued to invest in advice in accessible settings to maximise incomes and tackle poverty. This includes expanding our Welfare Advice and Health Partnerships trial into a further 30 GP practices in remote, rural, and island communities through investment of £600,000. This investment brings our total commitment to £3.5 million over three years to place welfare rights advisors in up to 180 practices in Scotland's most deprived areas, as well as remote and rural areas.

### **7.33 Scottish Child Payment**

The new Scottish Child Payment, described by anti-poverty campaigners as a 'game-changer', was introduced in February 2021 and is at present worth £100 per eligible child every four weeks for eligible parents and carers. The payment is now available to eligible people who are responsible for children under the age of sixteen. It is estimated that over 300,000 children will be in receipt of the payment in 2023-24.

### **7.34 Best Start Grant**

The [Best Start Grant](#) (BSG), which was introduced in 2018, has replaced and improved upon the UK Government's Sure Start Maternity Grant in Scotland. The BSG offers financial support to low income families at three key transition points in a child's early years. The Pregnancy and Baby Payment opened for applications in December 2018 and provides £642.35 for a first child and £321.20 for second and subsequent children. The Early Learning Payment, which launched in April 2019, provides £267.65 per child around the time a child could go to nursery. The School Age Payment launched in June 2019 and provides £267.65 per child around the time a child is first old enough to start school.

By the end of 2022, we will award the Best Start Grant Early Learning Payment and School Age Payment automatically to eligible families in receipt of Scottish Child Payment, without the need to apply. Taking this action will not only make it easier for families but will also help to maximise take-up. When this is introduced the Scottish Child Payment, together with Best Start Grant and Best Start Foods, could be worth over £10,000 by the time a family's first child reaches 6, and £9,700 for subsequent children. (The Scottish Child Payment is discussed at section 7.33. Best Start Foods is discussed at section 7.14.)

### **7.35 Disability Benefits**

[Child Winter Heating Assistance](#), launched in winter 2020, provides families of children and young people in receipt of the highest rate of the care component of Disability Living Allowance (DLA) for children/ Child Disability Payment (CDP) with support with their increased winter heating costs incurred due to their disability or condition. Amendment [regulations](#), which came into force on 16 November 2021, extend eligibility to clients aged 16 to 18 years in receipt of the enhanced rate of the daily living component of Personal Independent Payment (PIP). From winter 2022-23, those young people in receipt of the enhanced rate of the daily living component of Adult Disability Payment (ADP) will also be eligible for the payment. These payments will be made automatically to eligible clients through Social Security Scotland.

The payment has provided assistance to almost 20,000 (19,865) children and young people in 2021-22, with payments totalling around £4 million. As of March 2022, the total value of Child Winter Heating Assistance payments issued since November 2020 was £7.7 million.

We have also established [Child Disability Payment](#) (CDP), the Scottish replacement for Disability Living Allowance for Children (DLAC). The payment is designed to mitigate some of the additional costs of caring for a disabled or terminally ill child or young person. The Scottish Government will automatically extend CDP to any individual who is entitled to it immediately prior to their 16th birthday up to age 18. We recognise that age 16 is a key transition point in the lives of children and young people, and this will help reduce stress for young people and their families. Over 52,000 Scottish children and young people will have their benefit changed from DLAC to CDP via the case transfer process. Individuals whose benefits are being transferred will not have to apply for CDP and their CDP will be paid at the same rates as their DLAC was.

From 22 November 2021, children under 16 years in all Scottish local authority areas were able to make an application for CDP. [Amendment Regulations](#), which came into force on 22 November 2021, allow young people to remain on CDP after age 18 in some circumstances. These changes introduced further flexibility and will help improve outcomes for disabled children and young people.

### **7.36 Impact of Recent Social Security Reforms**

**LOIPR request:** 27(b) social security reforms.

The Scottish Government published its approach to evaluating the first wave of devolved social security benefits in November 2019 and a second evaluation strategy was published in October 2021, focussing specifically on the policy impact of the devolution of disability benefits. In line with these strategies, there are a number of [published reports](#) on the implementation and impact on recipients, including children.

An [Interim Evaluation](#) (July 2022) of the Scottish Child Payment provides evidence on the lived experience of people receiving the benefit, including those with a disabled child and families from minority ethnic backgrounds. The evaluation found that payments made a positive difference to children and families and reduced financial pressure on households. In March 2022, the Scottish Government published analysis of the [estimated effect of the Scottish Child Payment](#) on child poverty in Scotland. In 2023-24, we estimate the payment will lift 50,000 children out of relative poverty and reduce the child poverty rate by 5 percentage points.

In the tackling child poverty plan '[Best Start, Bright Futures](#)' (March 2022), a commitment was made to mitigate the UK Government benefit cap as far as possible within the scope of devolved powers. In Scotland, 98% of all households affected by the benefit cap are families, and 72% are lone parent families. Mitigating the benefit cap will help up to 4,000 families, including around 14,000 children, to meet their housing costs. That is why we making the necessary funds available for discretionary housing payments in 2022-23, to provide additional support to those affected by the benefit cap thereby helping families maintain their tenancies.

### **7.37 Homelessness**

**LOIPR request:** 27(c) reducing homelessness and ensuring access to adequate housing.

Our latest [Ending Homelessness Together Annual Progress Report](#) (October 2022) shows that the number of people sleeping rough in Scotland continues to fall; we have taken important steps towards strengthening rights for tenants and preventing homelessness; and we are leading the way in the delivery of affordable homes. The Scottish Government publishes data on homelessness in Scotland<sup>33</sup> on an annual basis.

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<sup>33</sup> The most recent statistics can be found here: [Homelessness in Scotland: 2021/22](#)

Initial investment of £50 million in the Ending Homelessness Together Fund has enabled us to implement major improvements to homelessness policy since 2018. An additional £50 million is being invested up to 2026-27 to continue work with partners to end homelessness and rough sleeping, including work on homelessness prevention, rapid rehousing and Housing First.

### **Prevention of Homelessness Duties**

We are committed to introducing new legal duties on the prevention of homelessness, as outlined in the [Ending Homelessness Together Action Plan](#) (updated 2020). This will include new duties on public bodies, including those in children's services, health and justice, to 'ask and act' to prevent homelessness alongside changes to existing homelessness legislation to ensure action can be taken at an earlier stage to prevent homelessness. Our approach is guided by the principles of shared public responsibility to prevent homelessness; earlier intervention; and increasing choice and control over housing options for people at risk of homelessness.

A joint Scottish Government and COSLA [consultation](#) on the introduction of new prevention of homelessness duties was completed in April 2022. An independent analysis of the responses, published in September 2022, showed broad support for the principles and many of the specific proposals for new duties outlined in the consultation. We will undertake further work with partners and stakeholders as we develop legislative provisions for inclusion in a forthcoming Housing Bill and work to develop the supporting guidance.

### **Temporary Accommodation**

Temporary accommodation can offer an important emergency safety net for those in crisis and should only be a short-term measure. In May 2020, [the Homeless Persons \(Unsuitable Accommodation\)\(Scotland\) Amendment Order 2020](#) was extended to all households to ensure all homeless households are provided with the highest quality accommodation to support them out of homelessness. Temporary exceptions were put in place until 30 September 2021 in response to the COVID-19 pandemic, to allow local authorities to use accommodation deemed unsuitable if this was needed to allow households to self-isolate or physically distance. Since 1 October 2021, the maximum number of days that local authorities can use unsuitable accommodation for any homeless person is seven days. Any household placed in unsuitable accommodation, such as hotels or B&Bs, for longer than seven days should be recorded by the local authority as a breach.

Local authorities all have rapid rehousing transition plans, which set out their approaches to prevention and plans to reduce temporary accommodation by moving households quickly into appropriate settled accommodation. In addition, [guidance](#) has been developed to support local authority staff in carrying out activities relevant to meeting the best interests of children facing homelessness or threatened with homelessness.

The Scottish Government promotes Housing First as the default response to homelessness for people with multiple and complex needs. By 30 June 2022, a total of 1,236 Housing First tenancies had been started across Scotland. The tenancies include households with children and those with access to children.

### **7.38 Preventing Homelessness for Young People**

The Scottish Government is committed to developing and implementing pathways to prevent homelessness for people at high risk, which includes young people and care leavers. The [A Way Home Scotland Coalition](#), the national coalition to end youth homelessness, was commissioned by the [Homelessness Prevention and Strategy Group](#) (HPSG) to take forward this work. Their [Improving Care Leavers Housing Pathways Report](#) (2019) sets out recommendations around what needs to change to prevent homelessness for care leavers. This includes sensible, evidence-based next steps to ensure corporate parents act on their legal and moral duties to prevent care leavers experiencing homelessness, at the point of leaving care and later, by fully implementing existing policy and legislative frameworks.

Subsequently, A Way Home Scotland developed the [Youth Homelessness Prevention Pathway](#) (2021). The report includes recommendations which, if implemented, can make homelessness rare, brief and non-recurring for young people aged 16-25. The pathway addresses the needs of young people who are most at risk of homelessness. This includes young people who are Care Experienced/on the edges of care, LGBTI+, involved in the justice or health system, have adverse childhood experiences and those who have multiple and complex needs. Scottish Government officials are working closely with partners to develop a phased approach to implementation of the pathways.

### **7.39 Access to Housing**

In [Housing to 2040](#) (2021), our long term national housing strategy, we set out our commitment to taking specific action to realise the right to adequate housing in Scotland. Key actions in Housing to 2040 include a new deal for tenants, which will be an important part of a new rented sector strategy aiming to improve: accessibility; the affordability and quality of homes across the social and private rented sector; and the fairness of how homes are rented in Scotland. A [consultation](#) on the draft rented sector strategy was undertaken between December 2021 and April 2022, with a view to introducing legislation through a Housing Bill in 2023. The [analysis](#) of responses to the consultation exercise was published in August 2022.

Housing to 2040 also commits us to developing a new tenure neutral Housing Standard set in law. Our aim is that this will cover all homes, new or existing, including agricultural properties, mobile homes and tied accommodation. We aim to ensure that there will be no margins of tolerance, no exemptions and no “acceptable levels” of sub-standard homes in urban, rural or island communities, deprived communities or in tenements. This will mean our existing homes will keep pace with new homes, with no one left behind. It will ensure a clear minimum standard setting out what people are entitled to expect, and what they are expected to do, so that everybody living in Scotland can have a warm, comfortable and safe place to live. With this, we will move beyond traditional models of fitness for human habitation to a new model that meets expectations for housing as a human right and delivers homes that underpin health and wellbeing.

This work builds on a range of housing measures over recent years to increase affordable housing, improve our rented sectors, and prevent homelessness. The latest Quarterly Affordable Housing Supply [statistics](#) show that the previous 50,000

affordable homes target was met during March 2022. We have now started to deliver against our Programme for Government 2021-22 commitment to deliver 110,000 affordable homes by 2032, of which at least 70% will be available for social rent and 10% will be in our remote, rural and island communities.

We have also made significant changes to the private rental sector, helping to protect tenants and improve standards. This includes giving tenants greater security and allowing them to assert their rights, for example to repairs, without fear of arbitrary eviction. In addition, we introduced a range of measures in response to the COVID-19 emergency, to protect and support tenants during the pandemic. These are discussed further in the Scottish Government's standalone Position Statement on the [Universal Periodic Review](#) (October 2022).

The Programme for Government 2022-2023 has recognised the huge pressure that the current cost crisis is placing on households, and in particular the issues that will be faced by many people who rent their home. In October 2022, our emergency [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) was passed in the Scottish Parliament. The Act gives Ministers temporary power to cap in tenancy rents for private and social tenants, as well as for student accommodation and introduces a moratorium on evictions, initially to 31 March. The Programme for Government 2022-2023 also confirmed the intention to introduce a new Housing Bill which will begin to deliver our New Deal for Tenants, further strengthening tenant's rights and delivering a national system of rent control for the private rented sector. The timing of the Bill will be carefully considered on an ongoing basis in light of our emergency response to the cost crisis.

## **7.40 Environment**

### **Measures to Improve Air Quality**

**LOIPR request:** 26(j) reducing air pollution.

[Cleaner Air for Scotland 2 - Towards a Better Place for Everyone](#) (2021), sets out the air quality policy framework for Scotland to 2026 and is accompanied by a [delivery plan](#) containing around 80 actions intended to deliver further air quality improvements. Actions include: introducing Low Emission Zones in Scotland's four biggest cities, which was completed in May 2022; committing at least £320 million, or 10% of the total travel budget, to active travel by 2024-25; a ban on the sale of the most polluting domestic fuels; development of a public engagement strategy around air quality; and a code of good practice to reduce pollution from agricultural activity.

Current and historic air quality data from the Scottish monitoring network are available on the Air Quality in Scotland [website](#). The website also provides a wide range of background information and educational resources relating to the effects of air pollution on human health, including vulnerable groups such as children.

## 7.41 Climate Change

**LOIPR request:** 28(a) reducing greenhouse gas emissions.

Scotland has its own distinct framework of statutory climate change targets set under the [Climate Change \(Scotland\) Act 2009](#), as amended by the [Climate Change \(Emissions Reduction Targets\)\(Scotland\) Act 2019](#) (the 2019 Act). This legislation includes targets for Scotland to reach net-zero greenhouse gas emissions by 2045 and interim targets of 56%, 75% and 90% reductions in emissions by 2020, 2030 and 2040 respectively, relative to a 1990-1995 baseline. Progress towards these targets also contributes to achievement of UK-wide targets.

The [Climate Change Plan update](#) (2020) sets out an ambitious package of policies to reduce emissions over the period to 2032. Through delivering on our climate ambitions, our vision is to create a society that is thriving across economic, social and environmental dimensions and that prioritises wellbeing. Implementing the updated Plan will require a collective effort but will result in tangible, positive changes to the lives of children in Scotland. This includes improving air quality; access to green spaces; availability of public transport and active travel; and providing homes that are easier to heat. The Climate Change Plan update builds on the feedback provided during the [2019 Big Climate Conversation](#), where we heard from over 2,500 people at events across Scotland. This allowed citizens to have their say on how Scotland can reduce emissions in a way that is fair and prioritises rights for all, including children.

### Just Transition

The 2019 Act requires that future Climate Change Plans must demonstrate how internationally recognised principles of just transition are being embedded throughout the package of policies to reduce emissions in line with targets. It also requires that the Plans include analysis of the impacts of the transition on the economy, workforce and regions of Scotland. A just transition means mitigating risks, maximising economic and social opportunities, and improving wellbeing as we take climate action. A key part of this is prioritising the rights and wellbeing of children and ensuring that no groups are unfairly disadvantaged as we reduce emissions.

In September 2021, the Scottish Government published [Just Transition - A Fairer, Greener Scotland](#), its response to the [Just Transition Commission](#), which was established to advise on the development of a net-zero economy that is fair for all. The response articulates our long-term vision for just transition through our [National Just Transition Planning Framework](#), which sets out how we will work with others to manage the economic and social impacts of the net zero transition. Co-design is at the heart of our approach and we will ensure that those who stand to be most impacted by the transition to net zero are given a voice in determining their future, including children and young people.

We are also responding to climate risk through our [Adaptation Programme 2019-2024](#), which sets out the Scottish Government's policies and proposals to increase the capacity of Scotland's people, communities, businesses and public sector to adapt to climate change. The Programme promotes a people-centred, human-rights approach to climate change adaptation which recognises that those who are already

vulnerable, including the very young, are more likely to experience both immediate and long term negative impacts of climate.

### Free Bus Travel for Young People Under 22 Years

“For me and other young people, free bus travel will have a positive impact on our lives. It will help all of us. Also, it’s a great way to help fight climate change – an issue that’s really important to all young people.”

Anonymous, Young Scot National Entitlement Card holder.

The National Bus Travel Concession Scheme for Young Persons (Scotland) began to operate for individuals aged 21 and under on 31 January 2022. By offering free bus travel to persons aged under 22 years old, the Scottish Government is seeking to encourage Scotland’s younger generations to use low-emission and lower carbon public transport with a view to embedding that behaviour from a young age. This initiative supports our plans to tackle the climate emergency and to improve air quality in towns and cities by reducing the number of car journeys.

In addition to these transport and environmental aims, the Scheme also seeks to promote social inclusion in young people by improving access to education, healthcare, training and employment and to help reduce child poverty. Providing free bus travel widens opportunities for young people and could have a particular impact on people from lower income households. Free bus travel is now available to almost 1 million 5-21 year olds resident in Scotland.

### 7.42 Participation in Climate Change Policy

**LOIPR request:** 28(b) taking account of children’s needs and views in developing policies to address climate change.

The [Climate Change \(Scotland\) Act 2009](#) requires the Scottish Government to publish and refresh a public engagement strategy for climate change. One of the three strategic objectives of the latest [Public Engagement Strategy](#) (2021) is “Enabling Participation in Policy Design”. A key action within this is to develop a new approach to ensuring a genuine role in policy processes for young people and two ensuing commitments to:

- Look for opportunities to ensure young people have a voice in our future and can influence policy design.
- Include children and young people in future marketing research for the Scottish Government’s Let’s Do Net Zero climate marketing campaign to ensure their voices are heard.

Children and young people were also identified in the Strategy as a key audience for COP26 engagement and legacy. In addition to this, the Scottish Government is also supporting a programme of work designed to promote climate engagement at all stages through Eco-Schools, Climate Ready Classrooms, and the 2050 Climate Group, including their Young Leaders Development Programme. The engagement



with children, which took place alongside Scotland's Climate Assembly, is discussed at section 3.12.

## 8. Education, Leisure and Cultural Activities

### Relevant UNCRC Articles: 28, 29, 30, and 31

This cluster group focuses on the right of all children to an education that will help them to achieve their potential, without discrimination; the right to play and leisure and to participate in cultural life and the arts.

### 8.1 Equal Access to Education

**LOIPR request:** 29(a) equal access to quality education and improving attainment.

#### Raising attainment and closing the attainment gap

The Scottish Government is committed to substantially eliminating the poverty related attainment gap and is investing £1 billion in the Scottish Attainment Challenge over the course of this parliamentary term towards this. This record funding, which builds on our investment of £750 million over the course of the last Parliament, enables headteachers, schools, councils and other partners to provide targeted support for the most disadvantaged pupils.

Evidence demonstrates that good progress is being made. The Achievement of Curriculum for Excellence Levels (ACEL) [data](#) shows young people gaining fundamental educational building blocks, despite interruptions in their schooling due to COVID-19. In the two-year period between 2016-17 and 2018-19, the proportions of primary school pupils achieving the expected levels in literacy had increased by 3.1 percentage points, while in numeracy there had been an increase of 2.7 percentage points. Almost nine out of ten headteachers [reported](#) having seen an improvement in closing the gap in attainment and/or health and wellbeing thanks to Attainment Scotland Fund projects.

The Scottish Government's refreshed Scottish Attainment Challenge programme, from 2022-23, will empower schools and councils to drive education recovery and accelerate progress in tackling the attainment gap, with targeted funding through a new fairer funding model and a refreshed mission: 'to use education to improve outcomes for children and young people impacted by poverty, with a focus on tackling the poverty-related attainment gap'. From April 2022, a £200 million investment in the Scottish Attainment Challenge is supporting a range of activity, including: £130 million of Pupil Equity Funding reaching 97% of schools; over £43 million through Strategic Equity Funding; and over £10 million in Care Experienced Children and Young People funding.

Continued support and challenge is being provided to local authorities through Education Scotland and 32 Attainment Advisors to drive progress in tackling the poverty-related attainment gap. Local authorities have set ambitious stretch aims for progress in further closing the poverty-related attainment gap. We will continue to work in partnership with local authorities, schools and other partners to understand where further support and focus is required.

## 8.2 Access to Higher Education

The Scottish Government believes that every child growing up in Scotland, regardless of their background, should have an equal chance of attending university and participating in higher education. To support this, the Scottish Government pays tuition fees for eligible full-time Scottish domiciled students studying for their first Higher National Certificate/Diploma and/or undergraduate degree at Scottish higher education (HE) providers. This means that Scottish domiciled students do not have to take on the additional student loan debt of up to £27,750 (over 3 years) owed by their peers in other parts of the UK. Bursaries and student loans are available to ensure that Scottish domiciled HE students are able to support themselves, and a minimum income guarantee provides financial living support for the poorest households. Scottish domiciled students studying in the rest of the UK are eligible to apply for a tuition fee loan and living cost support in the form of bursaries and student loans.

In December 2016, the first Commissioner for Fair Access was appointed to lead a system-wide approach to deliver fair access to Higher Education in Scotland. The Scottish Government has accepted the ambitious agenda for change laid out by the [Commission on Widening Access](#), including stretching national and institutional targets.

More Scots are being accepted through the Universities and Colleges Admissions Service to attend university in Scotland than ever before. Scottish domiciled full-time first degree university entrants rose 29.1% between 2006-2007 and 2020-2021 from 25,790 to 33,285<sup>34</sup>. Latest figures also show that in 2020-2021, 16.7% of Scottish domiciled entrants to full-time first degrees were from the 20% most deprived areas in Scotland<sup>35</sup>, the highest on record. This is 0.7 percentage points above the interim target of 16% by 2021 as set out by the Commission on Widening Access.

## 8.3 Additional Support for Learning

Additional support needs can arise for any reason and be of short or long term duration. Additional support may be required to overcome needs arising from the learning environment; health or disability; family circumstances or social and emotional factors, etc. This includes, for example, Gypsy/Travellers, highly able pupils, asylum seeking/refugee children and Service children (children from Armed Forces families). The rights of children and young people to be heard in decisions around their additional support needs is discussed at section 3.13.

Scottish Ministers want all children and young people to get the support they need to reach their full learning potential. Education authorities have duties under the [Education \(Additional Support for Learning\)\(Scotland\) Act 2004](#) to identify, provide for and review the additional support needs of their pupils. Education authorities also have duties under the Equality Act 2010 to actively address inequality and prevent direct disability discrimination, indirect disability discrimination and discrimination arising from disability and harassment or victimisation of pupils on the basis, or a perceived basis, of protected characteristics, including disability.

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<sup>34</sup> [HESA Student Data](#)

<sup>35</sup> [Report on Widening Access 2020-21](#)

The Scottish Government, COSLA and ADES are taking forward a range of work to deliver the [Additional Support for Learning Action Plan](#) (2020). The actions in the Plan seek to address the findings of the independently chaired [Review of Additional Support for Learning Implementation](#). A [progress report](#), published November 2021, highlighted that 8 actions have been fully completed within the first year since the review. Completed actions include the publication in August 2021 of a [Vision Statement](#) for success for children and young people with additional support needs, which was created by young people from the Young Ambassadors for Inclusion network with the support of the ASLIG (Additional Support for Learning Implementation Group).

In 2019, in response to recommendations of the Doran Review of Learning Provision for Children and Young People with Complex Additional Support Needs, the National Strategic Commissioning Group published a [Ten Year Strategy 2017-2026](#) for the Learning Provision for Children and Young People with Complex Additional Support Needs. The Scottish Government is working with the Strategic Commissioning Group to implement the Strategy.

We continue to provide additional support to local authorities by investing an additional £15 million every year to further enhance capacity to respond effectively to the individual needs of children and young people.

### **Support for Learning During COVID**

The Scottish Government prioritised the needs of vulnerable pupils, including those with additional support needs, as part of our response to COVID-19. In person learning provision was made available for vulnerable pupils and the children of key workers in the spring and summer of 2020 and between January and March 2021. The guidance on support for vulnerable pupils was updated in July 2020 to include a clearer and expanded definition of children and young people whose circumstances may mean that they are vulnerable.

The Scottish Government also worked with partners to develop continuity in learning guidance, which made clear that local authorities and schools should ensure that personalised support was in place to meet the individual physical and emotional needs of children and young people. Education Scotland also developed [guidance](#) on the delivery of remote learning and resources to support children and young people with complex additional support needs during periods of remote learning.

An [Equity Audit](#) was published in January 2021 to deepen understanding of the impact of COVID-19 and school building closures on children from disadvantaged backgrounds. This provided a comprehensive overview of national and international research, supplemented with local evidence gathered from 54 schools across Scotland.

In summer 2021, the Scottish Government provided £20 million of funding to deliver a range of activities for children and young people and their families, with a focus on supporting and promoting mental health and wellbeing. The funding aimed to ensure children were provided with opportunities to socialise, play and reconnect within their local communities and environments. The Scottish Government also provided additional funding of £4 million to support schools and local authorities to offer

enhanced Easter Study provisions over the Easter break 2022. Education recovery is discussed further at section 1.4.

## 8.4 Children and Young People with Disabilities

**LOIPR request:** 29(g) ensuring access to inclusive education for disabled children.

Education authorities have a duty to make reasonable adjustments for disabled pupils. They also have duties under the [Education \(Disability Strategies and Pupils' Educational Records\)\(Scotland\) Act 2002](#) to develop and publish accessibility strategies to: increase pupils' access to the curriculum; access to the physical environment of schools; and improve communication with pupils with disabilities.

The Scottish Government is clear that children and young people should learn in the environment which best suits their needs, whether that is in a mainstream or special school setting. The [Standards in Scotland's Schools etc. Act 2000](#) places a duty on education authorities to provide education in a mainstream school, unless specific exceptions apply. These exceptions enable children and young people to learn in a special school or in a specialist unit, if that best suits their needs. The Scottish Government published updated [guidance](#) for schools and education authorities on mainstreaming in 2019.

## 8.5 Health and Wellbeing in Schools

**LOIPR request:** 29(c) improving wellbeing and addressing bullying in schools.

Health and wellbeing (HWB) is one of the eight curricular areas in Curriculum for Excellence. Along with literacy and numeracy, it is one of the three core areas that are the responsibility of all staff in the school. Learning is designed to ensure children and young people develop the knowledge and understanding, skills, capabilities and attributes which they need for mental, emotional, social and physical wellbeing. Education Scotland has produced [Experiences and Outcomes](#) on Health and Wellbeing to provide a set of clear and concise statements about children's learning and progression as they move throughout school. Learning outcomes include planning for choices and change, building positive relationships, and physical health including diet, rest and sleep. The experiences and outcomes are backed up by [benchmarks](#) that help provide clarity on the national standards expected within each curriculum area at each level.

In the course of 2021-22, the Scottish Government worked with education authority partners to introduce a Health and Wellbeing Census across Scotland. The Census provides participating education authorities and schools with consistent, sustainable information on the health and wellbeing of pupils across Scotland and will inform local and national policy.

## 8.6 Anti-Bullying

[Respect for All: The National Approach to Anti-Bullying for Scotland's Children and Young People](#) (2017) provides the overarching framework for all adults working with children and young people and includes direct reference to prejudice-based bullying,

including bullying motivated by racism, sexism, homophobia, or prejudice and discrimination towards disability or faith.

Following the publication of 'Respect for All', a consistent and uniform approach to recording and monitoring incidents of bullying in schools was developed and agreed by a Recording and Monitoring Working Group. The Group published [supplementary guidance](#) in 2018 which included guidance on the responsibility to record any underlying prejudice including details of any protected characteristic(s). All local authorities in Scotland are expected to use the new approach to recording and monitoring on SEEMiS, the schools management information system. Improvements were made to SEEMiS which now allows schools to record when bullying was motivated by or included prejudice against a protected characteristic. A formal evaluation will be carried out in 2022 to assess how successfully the new approach has been introduced across Scotland.

The Scottish Government has fully funded [respectme](#), Scotland's anti-bullying service, since its inception in 2007. The service provides support to all adults working with children and young people, to give them the practical skills and confidence to deal with all types of bullying behaviour. In 2022-23, the Scottish Government will provide over £373,480 to the organisation.

We also provided funding to LGBT Youth Scotland to work collaboratively with respectme to produce a [resource](#) to address homophobic, biphobic and transphobic bullying, which is in line with 'Respect for All'. This was published in 2017. We also funded the Coalition for Racial Equality and Rights (CRER) to produce similar guidance for schools to [address bullying based on race](#) (2019) In addition, [guidance](#) to support transgender pupils in schools was published in August 2021.

## 8.7 Exclusions

**LOIPR request:** 29(b) monitoring and addressing the use of school exclusions.

The national exclusion rate in Scotland is [published](#) biannually. Cases of exclusion decreased substantially from 14,990 in 2018-19 to 8,323 in 2020-21. The rate of exclusion per 1,000 pupils saw a concurrent decrease from 21.6 to 11.9.

We want to develop peaceful, positive and inclusive learning environments where all our children and young people benefit fully from Curriculum for Excellence. There are a range of strategies and programmes which schools can use to improve relationships and behaviour and prevent the need for exclusion: these include good behaviour management and behaviour support teams; and solution-oriented, restorative and nurture approaches and programmes.

Where a child or young person with an additional support need is at risk of exclusion, the education authority must take all reasonable steps to ensure that appropriate provision can be made to meet the child or young person's additional support needs during the period of exclusion. An education authority must continue to provide additional support as required, under the terms of the [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#).

Restorative approaches include support to enhance student wellbeing, literacy and numeracy, targeted at students at risk of repeated exclusion. At the heart of a Nurture approach is a focus on wellbeing and relationships and a drive to support the growth and development of children and young people. The National Improvement Hub provides all of our practitioners, parents and young people themselves with specific good practice models to review.

Our national guidance on exclusions, [Included, engaged and involved part 2: preventing and managing school exclusions](#) (2017) has a renewed focus on prevention, early intervention and response to individual need, in line with the principles of Getting it right for every child. The guidance also includes information on the legislation providing children and their parents with the right to appeal an exclusion. Following decision to exclude, pupils with legal capacity and their parents have the right under the [Education \(Scotland\) Act 1980](#) and the [Standards in Scotland's Schools etc Act 2000](#) to make an appeal to an education authority appeal committee. There is a wide range of information and advice available for parents, carers and young people on the right to appeal and the appeal process, including for parents and carers of children and young people with additional support needs.

Children and young people in Scotland can access publicly funded legal assistance (for both advice and representation) on the same broad range of issues that an adult can, as long as they have the capacity to instruct a solicitor (see section 3.14 ).

## 8.8 Curriculum for Excellence

### Relationships, Sexual Health and Parenthood (RSHP) Education

**LOIPR request:** 29(e) sexual and reproductive health education.

RSHP education is an integral part of the health and wellbeing area of the school curriculum in Scotland and is delivered in a manner appropriate to the age and stage of education of children and young people. This aspect of the curriculum is intended to enable children and young people to build positive relationships as they grow older and should present facts in an objective, balanced and sensitive manner within a framework of sound values and an awareness of the law, including the law on sexual behaviour.

Scottish Government [guidance](#) (2014) on the conduct of RSHP education in schools clearly states how important it is that RSHP education helps to address diversity and reflects issues relating to, but not limited to, lesbian, gay, bisexual, transgender and intersex (LGBTI) young people or children with LGBTI parents, and hate-crime reporting. We are committed to updating this teaching guidance by early 2023. In addition, an online, nationally available [teaching resource](#) (2019) for RSHP education includes up-to-date content that can support teachers to deliver high quality and age and stage appropriate RSHP education across the entire 3-18 age range of the Scottish curriculum.

Personal and Social Education (PSE) is a taught subject that covers aspects of planning for choices and changes, substance misuse, relationships, sexual health and parenthood, in addition to aspects of physical activity, sport and health.

In March 2017, the Scottish Government announced the intention to undertake a national review of PSE. The [Review of PSE: Preparing Scotland's Children and Young People for Learning, Work and Life](#) (2019) outlines findings and the steps to take to strengthen PSE delivery and the wider network of pastoral guidance. Sixteen recommendations have been identified as a result of the findings of the thematic inspection and feedback received from delivery partners and stakeholders, including young people. A joint approach is being taken between the Scottish Government, COSLA, ADES, local authorities and specialist third sector partners where appropriate to deliver a shared policy aim.

## Rights Education in Schools

**LOIPR request:** 29(f) human rights education.

There are many references to children's rights in the Curriculum for Excellence, most notably in the areas of social studies and health and wellbeing. A sub-group of education agencies and children's organisation has been set up under the auspices of Scotland's Curriculum and Assessment Board in order to review the curriculum with respect to how it addresses children's rights. The group will bring recommendations back to the Curriculum and Assessment Board. Scottish Government support for UNICEF's Rights Respecting Schools programme is discussed at section 2.9.

Learning for Sustainability (LfS) is a theme across Curriculum for Excellence and an approach to learning within it. LfS brings together sustainable development education, outdoor learning and global citizenship. Through exploration of these topics, learners can build the values, attitudes, knowledge, skills and confidence to engage in the key issues of sustainability, not only in their own communities but also globally. LfS, therefore, provides a valuable context through which learners can engage with matters of social justice and children's rights.

Scotland's school pupils performed very well in the 2018 Programme for International Student Assessment (PISA) Global Competence Survey<sup>36</sup>. Scotland's average score of 534 was higher than the average of all participating countries of 474. Compared to the OECD average, students in Scotland had above average scores in their attitudes towards immigrants (0.34), respect for people from other cultures (0.25), and awareness of global issues (0.09). These are very positive findings, supported and enhanced by our cross curricular framework of LfS.

## 8.9 Early Learning and Childcare

**LOIPR request:** 24(a) and 29(d) ensuring sufficient resources for early learning and childcare.

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<sup>36</sup> Global competence is defined as "A multidimensional capacity that encompasses the ability to examine global and intercultural issues, understand and appreciate different perspectives and viewpoints, interact successfully and respectfully with others, and take action for collective wellbeing and sustainable development."



The Scottish Government has made a significant investment in early learning and childcare (ELC) by expanding the entitlement to funded hours to all 'eligible children' from up to 600 hours a year to up to 1,140 hours a year from August 2021. If families were to purchase the funded childcare provided by the Scottish Government themselves, it would cost around £5,000 per eligible child per year. In 2022-23, we are investing more than £1 billion through local government in funded ELC.

Funded ELC is available to all 3 and 4 year olds, irrespective of parents' employment status, and around a quarter of 2 year olds, those that evidence suggest would benefit most from access to high quality ELC. Eligibility criteria target this early offer to children with experience of care or with a parent with experience of care; and those in families in receipt of no or low income benefits. The long-term benefits this investment aims to achieve are that: children's development improves and the attainment gap narrows; family wellbeing improves through enhanced nurture and support; and parents' opportunities to take up work, training or study increase.

The latest figures show that 93,902 children were in funded ELC places at the start of September 2022. Of these, 89% (83,237 children) were taking advantage of the full offer of 1,140 hours of funded ELC a year.

The Scottish Government's significant investment in early learning and childcare has allowed ELC settings to recruit the requisite additional full-time equivalent staff to the sector to support expansion. We have also provided local authorities with capital funding of £476 million to support building projects associated with the expansion programme.

To ensure that the funded ELC entitlement is delivered in high quality settings, 'Funding Follows the Child' has been introduced. This approach is 'provider neutral', with all settings wishing to deliver funded ELC having to meet the same [National Standard](#). This will empower families to choose from a range of high-quality early learning and childcare providers in the public, private or third sector, including childminders.

Education authorities have a statutory duty to identify, provide for and review the additional support needs of eligible children receiving funded ELC. The Equality Act 2010 is clear that settings must not discriminate in offering a service. This applies both to funded and privately purchased ELC. In line with the National Standard, settings must comply with the duties under the Equality Act 2010. Settings must be willing to provide appropriate support, including making any reasonable changes to the care and learning environment, to ensure that children's disabilities or additional support needs do not provide a barrier to them accessing a full range of experiences and to ensure that children's individual needs are met.

The global pandemic caused significant interruption to our expansion timetable with a delay of a year from August 2020 to August 2021 to fully implement the new statutory entitlement. Reflecting the impact of the pandemic, Funding Follows the Child is currently subject to Interim Guidance as there is a gradual move towards full implementation in August 2023. The pandemic also led to financial challenges for the wider childcare sector. In response, the Scottish Government has made up to £35 million of dedicated financial support available to childcare services since the start of

the pandemic. This includes the Childcare Sector Omicron Impacts Fund, which made up to £9.8 million of support available to the sector in the 2021-22 financial year.

### School Age Childcare

In the Programme for Government 2022-23, the Scottish Government committed to investing £20 million to design and test options for all-year round school-age childcare systems that meet the needs of children and families. Those on the lowest incomes will pay nothing. School-age childcare services play a vital role in enabling parents and carers to access work, addressing economic and social exclusion and offering respite. This offer will also help to reduce inequalities in access to a range of activities round about the school day and during the holidays, particularly for those children who may benefit most.

The Scottish Government is committed to ensuring that the future system of school-age childcare is co-designed with those who will use and deliver it. To this end, we take an approach to designing and building the system which is person-centred and place-based. To support this approach, we have established a People Panel of parents and carers from a range of communities in Scotland who represent families from the six priority family types set out in the 2022 [Child Poverty Delivery Plan](#) (the six priority family types). Work on a co-design discovery project with the People Panel is underway, with insights available in autumn 2022.

We will publish a School-Age Childcare Delivery Framework by the end of 2022, setting out the approach and principles that we will apply to designing the future system. This will follow publication of our Strategic Childcare Plan, which will set out the strategic direction for all of our childcare commitments. We are also beginning work to draft a Children's Charter for school-age childcare, which will be co-designed with children and young people.

The Scottish Government invested £10 million in 2022 into a targeted summer holiday offer for children from low-income families. The funding was allocated to local authorities to enable them to supplement their existing locally-funded summer holiday programmes, and deliver coordinated access to holiday food, activities and childcare for eligible school-age children from 5-14 years, particularly those who fall into the six priority family types. We encouraged local authorities to work in close partnership with the third sector, out of school care sector and community and youth groups, harnessing their expertise to design and run services and activities that reflect the needs of local families. The 2022 programme aimed to fund tests of change, provide services and develop models of effective holiday childcare which will form part of our commitment to build a sustainable system of all-year round school-age childcare during term-time and the holidays.

We have also started the early phasing-in of community level systems of school age childcare, targeted to support the six priority family types. This early phasing will build on learning from our Access to Childcare Fund projects and input from our People Panel to help us test and understand how we can build a system of school age childcare to support a community. We will also consider and develop the role that organised children's activities can play in a school age childcare system alongside the regulated childcare sector to support families, provide choice and

improve access to these activities for children from low income households. We will integrate childcare and food provision wherever this is needed to ensure the children have access to nutritious snacks and meals.

## 8.10 Support for Play

**Stakeholder request** – measures to support play and play-based learning.

The national early years practice guidance, [Realising the Ambition: Being Me](#) (2020), and the Curriculum for Excellence (CfE) support and encourage learning through play. The early level of CfE purposely spans early learning and childcare and the early years of primary school. This helps to ensure that learning continues coherently as a child moves from ELC into a school setting. Education Scotland, ELC practitioners and teachers are continuing to embed 'Realising the Ambition' across the early level curriculum to support children's learning through play.

Play continues to be a high priority for the Scottish Government and this year (2022-23) alone, we have invested just over £3 million in this area. This includes funding of £704,000 for PlayTalkRead, £1.7 million for the Bookbug programme and £210,000 for Play Scotland.

Our vision, set out in our [National Play Strategy](#) (2013), seeks to improve the play experiences of all children and young people, including those with disabilities or from disadvantaged backgrounds. It aims to ensure that all children and young people can access play opportunities in a range of settings that offer variety, adventure and challenge. The Scottish Government commissioned Play Scotland to produce a progress report on the National Play Strategy in 2019, with an update requested in 2020 in the context of COVID-19. Play Scotland published the final [Report](#) in March 2021.

As part of the updated progress report, Play Scotland consulted with over 340 children aged 0-18, from a range of backgrounds. Children and young people asked for a "return to play, more play and better play" and to return to playing and socialising with their friends. The updated progress report identified eight broad recommendations for next steps on play in Scotland. The Scottish Government welcomes the recommendations, which will inform our ongoing focus on supporting children and families.

### Outdoor Play and Learning

Outdoor play and learning is an integral, everyday part of ELC in Scotland. The [National Standard](#) sets out quality criteria that all funded ELC providers are required to meet to deliver the funded entitlement. Criteria 3, which relates to the physical environment, requires that: "Children have daily access to outdoor play and they regularly experience outdoor play in a natural environment as part of their funded ELC offer". It is our policy vision that children in ELC will spend as much time outdoors as they do indoors and time outdoors will happen every day, in every setting. The Scottish Government has worked to promote and enhance outdoor learning, and to ensure this is fully embedded within ELC provision, including:

- Funding Inspiring Scotland to increase outdoor play and learning activities during the ELC expansion.
- Investing in a Virtual Nature Programme during the pandemic which supported over 2,500 practitioners and 40,000 children and family members to enjoy quality outdoor experiences.
- Supporting six ELC settings to use Quality Improvement to increase time spent outdoors, through a Children and Young People’s Improvement Collaborative programme that we hope to expand in the near future.

We are in the process of developing additional guidance to supplement the ‘Out to Play’ series of practitioner guidance<sup>37</sup> and later this year will publish a new chapter on ‘Caring for our Outdoor Places’.

As set out in the Programme for Government 2021-22, the Scottish Government is investing £60 million to renew play parks in Scotland, so children have access to high-quality outdoor play in their own communities. This funding is for public, free-to-access parks and will be distributed to local authorities over the course of this parliamentary term. Local authorities have an existing responsibility to maintain play parks that serve their communities and this investment provides a boost in funding to accelerate local plans and improve play experiences for all children in Scotland. We have worked with COSLA to set out the national principles against which spending plans should be developed. These set out how local authorities should review their existing estate, prioritise renewal work, and design play parks that offer improved play opportunities for all children and families, ensuring that engagement of children and young people, inclusion and accessibility are core parts of the programme’s design.

### Planning

The draft [fourth National Planning Framework](#) includes new policies that support the aim of creating liveable places. This includes identifying new, enhancing existing, and improving access to good quality, accessible local opportunities for play, as well as protecting against loss of existing outdoor play provisions. The [Planning \(Scotland\) Act 2019](#) introduces a new duty that requires planning authorities to assess the sufficiency of play opportunities for children as part of the Evidence Report when preparing the Local Development Plan. This is to ensure that there is adequate provision in planning authorities’ areas for outdoor play locally and that consideration is given to the quality, quantity and accessibility of this provision. Draft regulations seek to require planning authorities to prepare play sufficiency assessments, including to engage children locally during the preparation of the assessment to ensure their views are properly reflected through co-production.

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<sup>37</sup> [Out to Play - creating outdoor play experiences for children: practical guidance](#)

## 9. Special Protections

### Relevant UNCRC Articles: 22, 30, 32, 33, 35, 36, 37(b-d), 38-40

This cluster focuses on groups of children and young people who require special protection.

#### 9.1 Refugee and Asylum-seeking Children

**LOIPR request:** 30 asylum-seeking, refugee and migrant children.

Asylum and immigration are matters reserved to the UK Parliament. Asylum is discussed at section 3.2.

The [New Scots Refugee Integration Strategy 2018-2022](#) (2018) sets out Scotland's approach to support the vision of a welcoming Scotland. Children and young people can arrive with their families through the asylum dispersal process or through refugee resettlement programmes, or they may arrive unaccompanied. Some of these children will have had traumatic experiences in their formative years. They may also have missed significant amounts of education, which can be challenging, particularly if they are having to learn a new language. The Strategy recognises that children and young people may require additional support to access the services they need and opportunities to participate in society. The Strategy is also discussed at section 3.2.

#### 9.2 Trafficking and Exploitation

**LOIPR request:** 32(a)-(c) Optional Protocol (OP) on the sale of children, child prostitution and child pornography, including the National Referral Mechanism.

Child trafficking is the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation<sup>38</sup>. Child victims of trafficking continue to be looked after and accommodated under section 25 of the [Children \(Scotland\) Act 1995](#). Support and protection for child victims of trafficking and any form of exploitation, including sexual, is provided within the context of Scotland's child protection system. The [National Guidance for Child Protection in Scotland](#) (2021) includes advice on identifying and supporting victims of child trafficking and exploitation and reflects learning from recent cases. We have established a national implementation group to provide strategic oversight and offer support to local areas.

In Scotland, the [Human Trafficking and Exploitation \(Scotland\) Act 2015](#) (2015 Act) introduced a single offence for all forms of trafficking. Offences under the 2015 Act now carry a maximum sentence of life imprisonment. The Act also introduced Trafficking and Exploitation Prevention and Risk Orders, both of which came into force in 2017. To ensure that support and protection for young victims applies to all children, section 40 of the 2015 Act defines a child as a person under 18 years of age.

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<sup>38</sup> Article 3 (c), United Nations Palermo Protocol, November 2000.

Section 12 of the 2015 Act requires that, where the age of a victim of human trafficking is uncertain, but there are reasonable grounds to believe they are under 18 years of age, the relevant authorities must presume that the victim is a child for the purpose of receiving immediate age-appropriate support and services until their age is formally established. The Scottish Government published refreshed [Age-Assessment Practice Guidance](#) in March 2018 to reflect these changes. This includes a specific appendix to support taking a trauma-informed approach to age assessment. A series of workshops have also taken place with practitioners to assist with the implementation of the guidance. The Scottish Government plans to further review Scotland's Age Assessment Guidance in light of the recent enactment by the UK Parliament of the Nationality and Borders Act 2022.

Section 8 of the 2015 Act places a duty on the Lord Advocate to issue and publish instructions for prosecutors about the prosecution of suspected or confirmed adult and child victims of the offence of human trafficking and the offence under section 4 (slavery, servitude and forced or compulsory labour). The [Lord Advocate's Instructions](#) continue to be applied by prosecutors. The instructions direct prosecutors that if there is sufficient evidence that a child aged 17 or younger has committed a criminal offence and there is credible and reliable information to support the fact that the child is a victim of human trafficking or exploitation and that the alleged offending took place in the course of or as a consequence of the child being a victim of an offence of human trafficking or of slavery, servitude and forced or compulsory labour, then there is a strong presumption against prosecution of that child for that offence.

### **National Referral Mechanism**

The National Referral Mechanism is the UK-wide framework for identifying victims of trafficking and ensuring they receive the support and assistance they need. The Scottish Government has been working with the Home Office to make the National Referral Mechanism more child-friendly and to ensure that any reforms reflect Scotland's distinct laws and institutions.

A Home Office pilot to devolve decision-making about children within the National Referral Mechanism was launched in 2021. The pilot is assessing whether determining if a child is a victim of modern slavery within existing safeguarding structures is a more appropriate model for making such decisions for children. This approach will enable decisions about whether a child is a victim of modern slavery to be made by those involved in their care and ensure the decisions made are closely aligned with the provision of local, needs-based support and any law enforcement response. Glasgow City Council was selected as a pilot site and is currently the only Scottish local authority participating. Initially the pilot was scheduled to run for 12 months but has been extended to run until spring 2023.

### **Scottish Guardianship Service**

The Scottish Guardianship Service, which currently operates on a non-statutory basis, provides additional support to vulnerable children who have been victims or are at risk of being trafficked. The service provides guardians to help trafficked children in Scotland in their recovery and to navigate the complex legal and asylum

processes. The service was established in 2010 and is currently funded by the Scottish Government.

Section 11 of the 2015 Act places a duty on Scottish Ministers to provide an independent guardian for unaccompanied asylum seeking children, where there is reason to believe they might have been, or are at risk of being, trafficked, and for whom no-one in the UK has parental rights and responsibilities. This will, for the first time, put the role of the guardian on a statutory footing alongside other support services. A [consultation](#) on the roles and responsibilities of the independent child trafficking guardian (ICTG) was held in 2019, with a majority of respondents in agreement with the proposed functions of the new role. Work is ongoing to develop the new service. The Scottish Guardianship Service will continue to provide a guardian to victims of child trafficking until the ICTG service is operational. A tender has been launched to appoint a provider for the service ahead of the service going fully operational in April 2023.

### Trafficking and Exploitation Strategy

The [Trafficking and Exploitation Strategy](#) (2017) set out three action areas to focus work towards the overall vision of eliminating human trafficking and exploitation as follows: identify victims and support them to safety and recovery; identify perpetrators and disrupt their activity; and address the conditions, both local and global, that foster trafficking and exploitation. Each action area is led by an implementation group with membership ranging across government, law enforcement, victim support, local authorities, business, NGOs and academia. A separate group exists for child trafficking and links into the other strands. The [fourth annual progress report](#) on the Strategy was published in January 2022.

In line with the Strategy, in October 2018 the Scottish Government published [guidance for businesses](#) on how to identify and mitigate the risks of human trafficking and exploitation across their operations and supply chains. We also published [guidance for healthcare workers](#) (2019) on recognising the signs of human trafficking and exploitation and how to respond if they have concerns. COSLA has also published [guidance](#) (2019) to support Scottish local authorities in developing good practice to identify, refer and support victims of human trafficking and exploitation, and disrupt and deter criminal activities. In addition, working with partners across the Trafficking and Exploitation Strategy, a National Referral Mechanism [toolkit](#) was launched in March 2021 to support early interactions with potential victims of trafficking.

The Scottish Government published a research paper on [Child Trafficking in Scotland](#) (2020) by the University of Stirling. The study focused on the unique needs of children and young people who had been victim to trafficking and highlighted improvements to current practice to ensure these children get the right help, at the right time. Importantly, the research included interviews with trafficked children and young people in Scotland. Those first-hand accounts will inform how we continue to improve the support and services available.

### 9.3 Reducing Violence and Preventing Offending Behaviour

**LOIPR request:** 22(f) tackling cyberbullying, online sexual exploitation, gang-related violence and knife crime.

Scotland has adopted a public health approach to reducing violence that focuses on tackling the underlying causes through collaborative prevention and early intervention work with public and third sector partners within communities across Scotland. The Scottish Government funds a number of programmes that specifically aim to prevent people from experiencing violence in the first place but, as and when it does occur, to offer support as early as possible to divert them away from violence. Over £24 million has been invested in violence prevention since 2008. In 2022-23, our partners are being provided with over £2 million to support ongoing and innovative violence prevention activity across Scotland, including an increase of 14% to the Scottish Violence Reduction Unit's budget. Examples of the support provided to help young people, their families and communities are set out below:

- **The Scottish Violence Reduction Unit (SVRU)** – The Unit is a national centre of expertise in tackling violence, which works with Police Scotland, the Scottish Government and other public and third sector partners, to prevent violence wherever it is found, from the streets, to classrooms, homes and workplaces. Over £16 million has been provided to the SVRU since 2008.
- **No Knives Better Lives (NKBL)** – Supported nationally by Youth Link Scotland, this programme aims to prevent the incidence of violence and knife carrying amongst young people and provides resources and support to local partners across all 32 local authority areas. Since 2008, more than £4.5 million has been provided to the programme.
- **Mentors in Violence Prevention (MVP)** – This is a gender-based violence prevention programme, nationally supported by Education Scotland, engaging with all 32 local authorities using the bystander approach to give young people a chance to explore and understand how they can safely support themselves and each other and challenge attitudes and assumptions that underpin gender-based violence.

#### Expert Group on Preventing Sexual Offending/Harmful Sexual Behaviour

In September 2017, an Expert Working Group was established on preventing harmful sexual behaviour (HSB) involving children and young people, bringing together a cross-sectoral range of interests including the Scottish Youth Parliament, Youth Link Scotland and Rape Crisis Scotland. The Group's [Final Report](#) (2020) contains findings relating to the nature, causes and frequency of HSB by children towards other children; highlights existing best practice; and sets out 19 proposals for further action. The Scottish Government has taken forward a range of actions to address these proposals including: the publication of revised [National Guidance for Child Protection in Scotland](#) (2021) and updated [Care and Risk Management \(CARM\) guidance](#) (2021). A sub-group of the National Child Protection Leadership Group has been established to oversee further delivery of the proposals.



## 9.4 Youth Justice

“If everyone follows the Standards, children’s experiences of the justice system should get better.”

Hannah, a young person with experience of Scotland’s justice and care systems, discussing the Youth Justice Standards (2021).

The Scottish Ministers view youth justice through the prism of children’s rights. The guiding principle of ‘needs not deeds’ from the [1964 Kilbrandon Report](#) remains core to preventing offending and improving life chances, as does supporting delivery of the whole system approach across Scotland, a partnership approach including Police Scotland, local authorities, Scottish Prisons Service (SPS) and Crown Office and Procurator Fiscal Service (COPFS), based around early intervention, prevention and keeping children out of the criminal justice system as far as possible.

## 9.5 Age of Criminal Responsibility

**LOIPR request:** 31(a) raising the age of criminal responsibility.

The [Age of Criminal Responsibility \(Scotland\) Act 2019](#) (2019 Act) increased the age of criminal responsibility in Scotland from 8 to 12 years, the highest age of criminal responsibility within the four nations of the UK. The Act’s provisions were commenced in full on 17 December 2021.

The Act reflects the Scottish Government’s progressive commitment to international standards of human rights and has the effect that a person can no longer acquire a criminal conviction on the basis of behaviour that occurred when they were aged under 12. The Act removed the ability to refer a child to a Children’s Hearing on offence grounds in relation to behaviour which occurred before their 12<sup>th</sup> birthday; though it is still possible for such a child to be referred to a Children’s Hearing on welfare and protection grounds. The Act provides specific investigatory powers for the police, to enable allegations of seriously harmful behaviour by under 12s to be investigated, and also changes the disclosure regime such that any behaviour by a child under 12 cannot automatically be disclosed by the State in later life.

The Scottish Government has been open about its ambition to see the age of criminal responsibility increased further. That is why the Act places a duty on the Scottish Ministers to review the operation of the Act in general, and also with a view to considering a future age of criminal responsibility within 3 years of the commencement of section 1 of the Act (from 17 December 2021). An Advisory Group comprising a range of different stakeholders has been established to support Ministers with the review and work is ongoing to determine what might be required to support a future age of criminal responsibility in Scotland.

## 9.6 Children’s Hearings System

**LOIPR request:** 31(b) application of child justice system.

Children can be referred to the Children’s Hearings System both on offence and welfare grounds. The [Children’s Hearings \(Scotland\) Act 2011](#) (2011 Act)

strengthened and modernised the Children’s Hearings System, whilst continuing to respect the fundamental principle that children and young people who offend and those who require care and protection are equally in need and deserving of all the support and help that can be provided. The Children’s Hearings System is discussed further at section 3.13.)

### 9.7 16 and 17 Year Olds in the Justice System

Scotland has seen dramatic changes in the youth justice sector over the last 12 years, including a major reduction in the number of young people in custody and the number of young people referred to the Children’s Hearings System on offence grounds. According to official statistics, the number of under 18s in custody on 30 June 2007 was 221. On the same day in 2021, this number was down to just 17. The number of children referred to the reporter on offence grounds reduced by 71% from 9,765 in 2009-10 to 2,840 in 2019-20.

Our [Vision and Priorities](#) for youth justice and accompanying [Action Plan](#) were published in June 2021. The views of stakeholders, particularly children and young people, informed the development of these documents. The Vision, which is informed by the Promise and proposed incorporation of the UNCRC into domestic law, will continue to support the agenda to keep children out of the criminal justice system and to promote the use of a whole system approach to preventing offending by young people in Scotland.

The Programme for Government 2019-20 made a commitment to consult on enabling joint reporting to the Crown Office and Procurator Fiscal Service and the Principal Reporter of all 16 and 17 year olds’ offence cases. Scottish Ministers agreed to widen the consultation to seek views on increasing the age at which children can be referred to the Reporter on care, protection and offence grounds. This includes young people at risk of exploitation, abuse or harm due to their own behaviour or the behaviour of others. The proposed changes would enable agencies to provide child-centred support for all under 18 year olds.

Following two public consultations in 2020<sup>39</sup> and 2022<sup>40</sup>, the Programme for Government 2022-23 committed to the introduction of a Children’s Care and Justice Bill. The Bill aims to improve experiences and outcomes for children in Scotland who interact with the Children’s Hearing and criminal justice systems. It also aims to improve experiences and outcomes for all children who are accommodated in care and justice settings in Scotland, including those who are placed here across borders in exceptional circumstances. The Bill will help Scotland to Keep the Promise.

### Whole System Approach

The whole system approach (WSA) to preventing offending by young people was rolled out in 2011. This multi-agency approach focusses on early intervention, diversion, court support, transitions and managing risk of serious harm for those up to age 18. The [Expert Review](#) of Mental Health Provision in Polmont (2019), recommended that consideration should be given to an extension of the WSA beyond the age of 18. Whilst the WSA currently focusses on young people up to the

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<sup>39</sup> [Raising the Age of Referral: Consultation Analysis](#) (2020)

<sup>40</sup> [Children’s Care and Justice Bill - Policy Proposals: Consultation Analysis](#) (2022)

age of 18, it is recognised that much of the approach could be expanded beyond the age of 18, allowing support to young people who are experiencing later maturation and who require age and stage appropriate support.

Some local authorities currently deliver a WSA service to those over the age of 18. A total of £800,000 funding was provided across all 32 local authorities in 2018-19 with a further £800,000 provided in 2019-20 to support local authorities to re-energise strategic planning supporting the WSA up to age 18 and, where possible, to support an extension to young people beyond this age up to 21 (to 26 for Care Experienced people). This funding supported continued partnership working and strengthened links between youth justice, community justice, education, third sector and children's services.

For some aspects of WSA to extend beyond 18, there would need to be a change in legislation, there would also be an impact on resources for both children's and adult services. However, there is a willingness from key partners to continue to deliver this successful approach to under 18s and to consider expanding the approach to enable those over 18 up to 21 and 26 in some circumstances, to benefit. Information is required around numbers and needs of those over 18 who would benefit from such an expansion, along with information about costings and resources. Expanding WSA beyond the age of 18 features in the [Vision for Youth Justice](#) (2021) and also the [Justice Vision](#) (2022).

### Police Detention

Procedures for arrest are contained within Part 1 of the [Criminal Justice \(Scotland\) Act 2016](#) (2016 Act). Sections 50 and 51 of the 2016 Act place a duty on Police Scotland not to detain a person (which includes a child) unreasonably or unnecessarily in custody and to consider a child's wellbeing as a primary consideration when making decisions in relation to a child, including a decision whether or not to hold a child in custody. Section 52 of the Act requires the police to keep a child in their custody at a police station apart from any adult who is officially accused of an offence, unless there are child welfare reasons to the contrary. In dealing with a person in custody, Police Scotland adhere to the Standard Operating Procedures on the Care and Welfare of Persons in Police Custody and the 2016 Act (Arrest Process).

## 9.8 Legal Representation

**LOIPR request:** 31(d) right to effective legal representation.

The [Criminal Justice \(Scotland\) Act 2016](#) provides at section 33 that the following persons cannot consent to being interviewed by the police without a solicitor present: (a) under 16s; (b) persons aged 16 or 17 who are subject to a compulsory supervision order or an interim compulsory supervision order; and (c) persons aged 16 years or over who, owing to mental disorder, appear unable to sufficiently understand what is happening or to effectively communicate. Furthermore, those persons aged 16 and 17 who are able to consent to being interviewed by the police without a solicitor present can only consent with the agreement of a relevant person: a parent or other suitable adult.

Any child, relevant person or deemed relevant person taking part in a Children's Hearing is allowed to attend with legal representation. Part 19, section 191 of the [Children's Hearings \(Scotland\) Act 2011](#) sets out conditions and where children's legal aid is available, including when automatically available, which includes all scenarios where a secure care authorisation might be made within a Compulsory Supervision Order (CSO). The Scottish Legal Aid Board (SLAB) maintain a register of those solicitors eligible to provide legal aid assistance in Children's Hearings related proceedings. SLAB make the grant of children's legal aid which is subject to conditions imposed by SLAB. The provision of legal aid is discussed further at section 3.14.

## 9.9 Sentencing of Under 18s

**LOIPR request:** 31(c) life imprisonment and imprisonment as a last resort.

Article 37 of the UNCRC states that children should not be sentenced to life imprisonment with no chance of release. In Scotland, when imposing a life sentence, the court must specify a 'punishment part', which is the period which the offender must spend in custody. When the punishment part of the sentence has elapsed, the prisoner may apply for parole. The Parole Board will release a life sentence prisoner if they consider the risk posed by that person can safely be managed in the community. If granted, the prisoner will be released on licence.

The Scottish Government is of the view that Article 37 of the UNCRC does not prohibit the use of 'detention without limit of time' with a fixed 'punishment part' (which are mandatory in Scotland for a person convicted of murder) and that, as the possibility of release exists once an offender has served the 'punishment part' of the sentence, our sentencing law is compatible with the prohibition of detention without the possibility of release.

Sentencing in individual cases is a matter for the trial judge, taking account of all the facts and circumstances of each particular case. In January 2022, the Scottish Sentencing Council [Guidelines](#) on the sentencing of individuals under 25 came into effect. This includes the guidelines that:

"A custodial sentence should only be imposed on a young person when the court is satisfied that no other sentence is appropriate. If a custodial sentence is imposed on a young person, it should be shorter than that which would have been imposed on an older person for the same, or a similar, offence. The court should consider remitting a case to a children's hearing for disposal where it is competent to do so."

Section 207(1) of the [Criminal Procedure \(Scotland\) Act 1995](#) provides that it shall not be competent to impose imprisonment<sup>41</sup> on a person under 21 years of age. A court may impose detention (whether by way of sentence or otherwise) on a person, aged between 16 and 21 years of age, where the court would otherwise have a power to impose a period of imprisonment. However, a court can only impose detention on an offender aged under 21 if it is of the opinion that no other method of

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<sup>41</sup> The effect of this is that an offender under the age of 21 cannot be placed in an 'adult' prison.

dealing with the offender is appropriate; and the court is required to state its reasons for that opinion (though this is subject to mandatory minimum sentences for certain offences relating to firearms and dangerous weapons).

## Consideration of Alternatives to Remand

**LOIPR request:** 31(e) alternatives to pre-trial detention.

The decision on whether or not to remand a young person is a matter for the independent courts. A multi-agency group was set up in 2018 to consider the use of remand and bail. The group updated court guidance available through the Children and Young People's Centre for Justice (CYCJ) and carried out research on the use of remand and bail. The group's [report](#) was published in December 2020 and further discussions have taken place with His Majesty's Chief Inspector of Prisons for Scotland (HMCIPS) and Community Justice Scotland to understand what more can be done.

In 2021, the Scottish Government Youth Justice team commissioned CYCJ to carry out research work to gather information about the remand population. This included Scottish Prison Service (SPS) data and information gathered through social work. Findings showed that there was a lack of communication with the child when bail was being opposed. There were also barriers to providing alternatives to remand and children did not fully understand the court process. Findings also showed the need for more accommodation to be made available to reduce bail being opposed. Other work includes discussions with local authorities to explore what community-based alternatives are available and to support the development and strengthening of alternatives where there are gaps. The Scottish Government is also in discussions with partners around the future of secure care (see section 9.10).

### 9.10 Secure Care Accommodation

**LOIPR request:** 31(f) and (g) use of segregation and access to education and health services for children in detention.

Where custody is deemed the only option by the court, then the use of secure care is recommended, where possible, rather than a young offenders institute. Secure care is a form of residential care that restricts the freedom of children under the age of 18. It is for the small number of children who may be a significant risk to themselves or others in the community, whose needs and risks can only be managed in secure care's controlled settings. Secure care aims to provide intensive support, a nurturing environment and safe boundaries to help these highly vulnerable children re-engage and move forward positively in their communities.

Children and young people in secure care have access to education and health, including mental health services, as any child would do in the community. When a young person first enters secure accommodation they are initially placed in an assessment unit where their needs, including health, education, vulnerability and strengths are assessed. Education is provided in-house and follows Scotland's Curriculum for Excellence. The children also have access to outdoor space and sports during their placement.

Each of Scotland's secure centres employ a nurse and all children and young people undergo a full health check on placement. A General Practitioner Doctor visits secure centres at least every two weeks or as required. A dentist also visits each centre regularly to treat young people.

Access to mental health support varies across the centres. A professional advisory group is considering the mental health needs of children in secure care, which will inform development of NHS Community Forensic/Secure Care Outreach CAMHS across Scotland. The Scottish Government has funded the Interventions for Vulnerable Youth (IVY) project since 2014. This project is a multi-disciplinary (psychology/social work) tiered approach to risk assessment and management for high risk young people (aged 12 to 18) who present with both complex psychological needs and a high risk of violent conduct. This includes support to those within secure care.

Segregation in secure care should not be used as a matter of routine, it is an extreme measure to be taken only when other appropriate measures have been tried and have been unsuccessful. Segregation in secure care is never used as punishment and should only be used as a last resort, for example to prevent a young person from significantly injuring themselves or others. Where segregation is used, there are strict measures and time limits to follow. Statute requires that every use of this practice is recorded and places strict limits on its implementation. During the period of segregation the young person will be monitored at least every 15 minutes. The staff member responsible for placing the young person in their bedroom must record the reason for the segregation/separation and these must be passed to the unit manager.

When the period of segregation ends, the young person must be given the opportunity to comment or respond to the situation. The young person's comments should be recorded along with details showing the time segregation ended. This is submitted to the unit manager to review and file.

### **Future of Secure Care**

Consultation undertaken ahead of the introduction of the [Children's Care and Justice Bill](#) (see section 9.7) elicited views on a range of matters, including on whether all children who require to be deprived of their liberty should be cared for in safe, secure, trauma-informed environments, such as secure accommodation rather than young offenders institutions. Demand and supply of secure care is complex, and secure units' operations are funded almost exclusively from their bed rate. We recognise that this model must change and discussions are ongoing to consider future options. We will continue to work with partners, to explore alternatives to remand with secure care and intensive community-based alternatives to be considered instead.

### **9.11 Young Offenders Institutions (YOIs)**

We are committed to ending the placement of under 18s in YOIs and supporting care-based alternatives. No child under the age of 16 has been detained in either a prison or a YOI in Scotland in over 10 years. As noted in section 9.7, official statistics

show that the number of under 18s in custody has reduced significantly since 2007. As of 2 November 2022, there were 6 under 18s in YOI in Scotland.<sup>42</sup>

Young people aged 16 and 17 who are sentenced to detention in a YOI are held separately from those aged 18 and over, in recognition of the vulnerability and significant care requirements of these young people. There are, however, occasions where it has been determined to be in the child's best interests that there should not be full separation. For example, there have recently been so few girls under age 18 in custody in Scotland that their full separation from those aged 18 and over would result in a greatly impoverished learning and social environment. In these cases, contacts are carefully considered and monitored, taking account of individual needs, circumstances and wellbeing.

Since 2014, the Scottish Prison Service has had a Vision for young people in custody. This has now been [refreshed](#) to reflect the changing landscape of youth justice and to provide an updated view of the population, including in relation to continuing reductions in the population of young people in custody and the increasingly complex needs of individuals. Additionally, there is evidence of high proportions of adversity and trauma in the young people's lives prior to their arrival in custody. The central premise of the refreshed Vision remains for young people to spend their time in custody enabling them to prepare for a positive future. A key purpose is for SPS and partners to provide an environment and opportunities in which young people can learn new skills which will aid employability.

Young people are given an assessment during their induction to the YOI and educational providers then develop an individualised learning plan for the young person, enabling each individual to progress and achieve outcomes across the four fundamental capacities of Scotland's Curriculum for Excellence. On admission to custody, young people also receive a full assessment of their physical and mental health requirements followed by an addictions assessment, if required. Following this assessment, referrals are made to a doctor or Advance Nurse Practitioner (ANP), or other specialists, as necessary and healthcare staff may contact any external services for information regarding medical histories.

Since the publication of the [Expert Review of Mental Health Services at HMP&YOI Polmont](#), despite national challenges to recruiting to mental health posts, NHS Forth Valley has used Action 15 funding provided by the Scottish Government to increase the mental health workforce. This has included recruiting additional speech and language therapist sessions and mental health occupational therapists. Leadership structures have also been reviewed within NHS Forth Valley prison sites to improve and support staff retention and career progression. Additional support has been provided to staff working at Band 7 and a competency framework for mental health staff has been introduced. All NHS staff working at HMP&YOI Polmont undergo Essential CAMHS and Decider training, and a trauma-informed tool for young people is being adapted by NHS Education for Scotland.

HMP&YOI Polmont relaunched its Inclusion Unit in February 2021. This unit is designed to work with those young people and women, whether on remand or

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<sup>42</sup> SPS, Prison Service Population Data – 14 October 2022.

convicted, who are most disengaged and finding it difficult to manage their time in custody. The staff provide individualised support that meets needs either on a 1-1 and/or group basis using a variety of interventions. They take responsibility for the more complex cases across the establishment and ensure a comprehensive plan is in place for each person, working with colleagues, third sector partners and community based services.

Solitary confinement is not practised in Scottish Prisons. Rule 95 of the [Prisons and Young Offenders Institutions \(Scotland\) Rules 2011](#) enables a Governor to remove a prisoner or young offender, including those aged 16 and 17 years old, from association with other prisoners or young offenders for an initial period of no more than 72 hours. The Governor can take this action where they are satisfied it is appropriate to do so to protect the interests of the individual or to ensure the safety of any other person or in order to maintain good order or discipline in the YOI. In addition, the Governor can order that a prisoner or young offender be accommodated in specified conditions (which could include removal from association) where a healthcare professional advises that it is appropriate to do so in order to protect the health or welfare of the individual or any other prisoner or young offender.

The Rules provide important safeguards for persons removed from association which ensure that the reason for removal is clearly communicated to the person and that they are afforded the opportunity to make representations about their removal.

Whilst removed from association, there will normally be no unnecessary restrictions on their entitlements to visits, including legal visits, access to telephones and correspondence and exercise, unless their management plan or care plan considers it necessary. The focus throughout the period the person is removed from association will be to reintegrate them at the earliest and safest opportunity back into the mainstream population thus minimising any time spent separate from others. HM Inspectorate of Prisons for Scotland inspects the arrangements for persons removed from association.

### Cases of Violence in the Youth Justice System

**LOIPR request:** 31(h) investigating cases of violence within the child justice system.

SPS report any allegations of physical or sexual abuse to Police Scotland for independent investigation. Independent Prison Monitors appointed under the [Prisons \(Scotland\) Act 1989](#) to monitor the conditions in prison and the treatment of prisoners also have powers to investigate any matter that a prisoner refers to them.

Current policy and practice ensures reporting of violence and investigation. The [Prisons and Young Offenders Institutions \(Scotland\) Rules 2011](#) ('The Prison Rules 2011') at Part 11 (Discipline) and Part 12 (Requests and Complaints) detail how matters relating to discipline (breaches, punishment, appeals) and prisoners' requests and complaints are to be dealt with. SPS and the Scottish Government are engaging in work to respond to the [Scottish Child Abuse Inquiry](#) covering the scope of the enquiry from the 1930's to 2014.



## 9.12 Shifting the Balance from Custody to Community-Based Interventions

**Stakeholder request:** measures to tackle the impact of parental imprisonment.

It is estimated that around 20,000 children in Scotland are affected by parental imprisonment. Having a parent in prison is recognised as an Adverse Childhood Experience. While we are clear that prison is necessary for those who pose a risk of serious harm in order to protect the public and keep victims safe, we also recognise that imprisonment damages the connections that prevent people from offending or reoffending, such as family relationships, accommodation and employment. Short-term imprisonment, including remand, is evidenced as not being an effective measure to address the underlying causes of offending behaviour. Without proper support during their sentence, or following release, people can cycle back into the criminal justice system and potentially prison.

In recognition of this, the Scottish Government has a long-term aim for imprisonment to only be used for those who pose a risk of serious harm and for community-based interventions to be utilised consistently for those who don't pose such risks. This is a long-term objective, but we are taking a number of short to medium-term actions to refocus how imprisonment is used. This includes: introducing the [Bail and Release from Custody \(Scotland\) Bill](#) in 2022 to reform the law governing bail decisions and some mechanisms around prison release; increasing consistency by named public bodies who engage in pre-release planning; increasing investment in community-based interventions and community sentences; and continuing to fund third sector voluntary throughcare services which support individuals leaving short-term prison sentences by providing flexible and practical support, in line with their individual needs, to help them reintegrate successfully back into the community.

## 9.13 Prison Visitors' Centres

The Scottish Government provides support for families impacted by imprisonment through its grant funding of the core running costs for 12 Prison Visitor Centres operated by the third sector. Visitor Centres work with the families of those in custody, providing a range of practical and emotional help with everyday needs and signposting families to specialist services where appropriate. Visitor Centres work hard to maintain family ties and parental bonds. They often support children's visit sessions and create a variety of activities that maximise engagement between a child and their parent, including marking notable calendar events such as Mother's day or Father's day. Funding of £800,000 has been allocated to Prison Visitor Centres in 2022-23, with a total of £4.7 million provided since 2016.

## 9.14 Young People in the Armed Services

**LOIPR request:** 33. Optional Protocol on the involvement of children in armed conflict.

Matters of defence are reserved to the UK Government however, across all parts of the UK a young person can join the Armed Forces from the age of 16. In Scotland, as in the rest of the UK, parental consent for 16 and 17 years old is required before they can do so.

The Ministry of Defence has strict policies that prevent the involvement in hostilities of UK service personnel under the age of 18. The Scottish Government expects the Ministry of Defence to uphold these policies in full and, in response to queries from the Scottish Government, the MOD confirmed that there was no intention to change this policy and offered assurances that the UK Government takes the duty of care towards all recruits seriously, in particular for those under 18.

## Annex A

### **Scottish Government contribution to the UK State party response to Part III of the UN Committee on the Rights of the Child's List of Issues Prior to Reporting**

#### **Full Data, Statistics and Other Information**

The data in this Annex covers the period 2017 to 2022, disaggregated by age, sex, ethnicity, disability and Scottish Index of Multiple Deprivation (SIMD) quintile where available. For many requests, the exact data was not available, and therefore the most relevant data has been provided where possible. Figures may also be suppressed in places to preserve confidentiality, including secondary suppression where suppressed figures would otherwise be derivable from totals.

The full text of each request is shown, followed by the Scottish Government response. This information was submitted to the UN via the UK Government in June 2022. Since then, some of the data has been updated, including in this annex, and breakdowns by SIMD have also been provided (where available). It is clearly stated where an update has taken place.

#### **8 - Efforts to improve the collection and quality of disaggregated data for all areas of the Convention, including on violence, children in alternative care, children with disabilities, mental health, food insecurity, malnutrition, education, and asylum-seeking and migrant children.**

Scottish Government response:

- Publish statistics on poverty (relative, absolute, persistent, and material deprivation) breakdowns of this data including lone parent families, families with a disabled adult or child, minority ethnic families and large families.
- Produced a report on mental health in children disaggregated by age and gender.
- Census based method of collecting data for education that can be disaggregated by school, school stage, sex, ethnic origin, geographical location, and socioeconomic status.
- COVID specific school attendance at pupil level can be disaggregated.
- Collecting data on child weight and growth through Public Health Scotland.
- Scottish Health Survey used to measure food insecurity and how it links to child poverty at the household level.
- Weekly, later fortnightly, return reporting on child protection and CPP to understand how the COVID pandemic impacted these services.

### 36 - Information on the consolidated budget regarding children and social sectors.

Scottish Government provided data on the spending budgets that cover children and children's services in Scotland.

<b>Children spending budgets (£ millions), <u>Scotland</u>, 2017-18 to 2020-21</b>				
<b>Year</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>
<b>Early Years</b>	502	534	736	522
<b>Education Spending</b>	5,503	5,544	5,901	5,853
<b>Child Services Spending</b>	898	913	901	953
<b>Child Health Care Spending</b>	1,625	1,649	1,712	2,115
<b>Total</b>	<b>8,528</b>	<b>8,641</b>	<b>9,251</b>	<b>9,442</b>
<b>Notes</b>				
<ol style="list-style-type: none"> <li>1. Early Years: includes Pre-Primary Education spend (PESA).</li> <li>2. Education Spending: includes Primary and Secondary Education (PESA), Higher and Further Education (direct apportionment from departmental budgets).</li> <li>3. Child Protection and Social Services: this is made up of "Family and Children Personal Social Services" (PESA), in addition to contributions from "The Care Inspectorate" and "Social Work Grant to private Sector, Children's Hearing, Preventing Youth Offending and Education Analysis".</li> <li>4. Social Security: not included in the table above due to difficulty to apportion accurately from national level. For 2019/20, PESA data for "family and children" of which family benefits, income support and tax credits stated £1.0bn, taking the <u>19-20</u> figure to <u>£10.5bn</u> – but as stated above, this would miss out other benefits that are in scope that were included in the national breakdown. Scotland do have some payments specific to Scotland, these figures can be found in the Social Security breakdown.</li> <li>5. Health Spend: Overall Health Service spend (total Hospital and Community Health Services) apportioned to children using Office of Budget Responsibility data on health spend by age and Scottish population data from National Records of Scotland.</li> <li>6. Figures are in 2020/21 prices.</li> <li>7. Rounding errors may exist.</li> </ol>				

### 37a - Cases of discrimination affecting children, prosecutions brought before the courts under legislation governing non-discrimination and sanctions imposed on perpetrators.

Data unavailable.

### 37b - Child fatalities due to child abuse, substance abuse and suicide.

Scottish Government provided data on the combined number of deaths where the probable cause was alcohol specific, drug related or suicide. This data has been updated to add 2021 data since the UNCRC submission.

In Scotland there were 20 fatalities due to substance misuse or suicide in 2021, down from a high of 31 in 2018.

<b>Numbers of deaths where the underlying cause of death was probable suicide, alcohol-specific or drug-related according to the death certificate in Scotland, 2017-2021</b>					
<b>Source</b>					
National Records of Scotland death registration records					
<b>Year</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Total</b>	25	31	29	24	20
<b>Sex</b>					
<b>Male</b>	16	20	19	18	*
<b>Female</b>	9	11	10	6	*
<b>Age</b>					
<b>Under 1</b>	*	0	*	0	0
<b>1 to 4</b>	0	0	0	0	0
<b>5 to 9</b>	0	0	0	0	0
<b>10 to 15</b>	*	9	*	5	5
<b>16 to 17</b>	15	22	19	19	15
<b>Notes</b>					
<ol style="list-style-type: none"> <li>1. For definition of probable suicide see <a href="https://www.nrscotland.gov.uk/files//statistics/probable-suicides/2020/suicides-20-methodology.pdf">https://www.nrscotland.gov.uk/files//statistics/probable-suicides/2020/suicides-20-methodology.pdf</a></li> <li>2. For definition of alcohol-specific deaths see <a href="https://www.nrscotland.gov.uk/files//statistics/alcohol-deaths/2020/alcohol-specific-deaths-20-methodology.pdf">https://www.nrscotland.gov.uk/files//statistics/alcohol-deaths/2020/alcohol-specific-deaths-20-methodology.pdf</a></li> <li>3. For definition of drug-related deaths see <a href="https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/deaths/drug-related-deaths-in-scotland/2020">https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/deaths/drug-related-deaths-in-scotland/2020</a></li> </ol>					

**38a - The use of acoustic devices and other measures to deal with antisocial behaviours and disperse gatherings of young people.**

Data unavailable.

**38b - Information and communications technology-related violations of children’s rights and the number of such cases that have been investigated and prosecuted.**

Data unavailable.

**39a - The use of electrical discharge weapons, attenuating energy projectiles and other harmful devices on children.**

Scottish Government provided data on the number of persons under the age 18 who had been subject to taser deployment.

In Scotland there were no children (persons under the age of 18) subject to taser deployment between 2017/18 and 2019/20, in 2020/21 there were less than 5 and in 2021/22 there were less than 5.

Source: Police Investigations & Review Commissioner (PIRC)

**39b - Children who have been placed under solitary confinement and other restrictive interventions, in all settings including education, custody, mental health, welfare and immigration settings.**

Data unavailable.

**39c - Children with psychosocial disabilities and autism who have been placed under restraint and seclusion in schools.**

Data unavailable.

**39d - Child victims of violence, including abuse, neglect, domestic violence and sexual exploitation and abuse in and outside the home and in alternative care settings, that have been reported to the authorities, investigated and prosecuted and the sanctions imposed on perpetrators, disaggregated by type of offence.**

Scottish Government provided data on the number of people prosecuted for offences against a child, where that was their main offence. This data has been updated to add 2020-21 data since the UNCRC submission, the 2019/20 figure has also been updated.

In Scotland, the number of people prosecuted for offences against a child was 518 in 2020-21, down from 662 in 2019-20 (-21.8%).

<b>Number of people prosecuted for offences against a child (where main crime) in Scotland, 2017-18 to 2020-21</b>				
<b>Source</b>				
Criminal Proceedings Database - <a href="https://www.gov.scot/publications/criminal-proceedings-scotland-20-21/">https://www.gov.scot/publications/criminal-proceedings-scotland-20-21/</a>				
<b>Year</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>
<b>Total</b>	<b>664</b>	<b>726</b>	<b>662</b>	<b>518</b>

**39e - Children who have received protective measures and multidisciplinary remedies provided to children who are victims and witnesses of violence, in particular abuse, neglect and sexual exploitation and abuse.**

Scottish Government provided data on the number of children suffering or at risk of suffering significant harm such as neglect, physical, emotional or sexual abuse

supported by children's social care (CSC) services. These children are known as children on child protection plans (CPP).

In Scotland there were 2,104 children on CPPs at 31 July 2021, down from 2,600 in 2017 (-19.1%). There were 3,454 children added to the child protection register during the year ending 31 July 2021, down from 4,293 in 2017 (-19.5%).

<b>Numbers of children on the child protection register in Scotland, each year ending 31 July, 2017-2021</b>					
<b>Source</b>					
Children's Social Work Statistics: Children's social work statistics - <a href="https://www.gov.scot/collections/childrens-social-work/">https://www.gov.scot/collections/childrens-social-work/</a>					
<b>Year</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Total</b>	2,600	2,530	2,580	2,641	2,104
<b>Sex</b>					
<b>Male</b>	1,306	1,258	1,334	1,301	1,053
<b>Female</b>	1,245	1,220	1,201	1,288	1,011
<b>Age</b>					
<b>Under 1</b>	619	566	550	581	481
<b>1 to 4</b>	743	724	714	741	612
<b>5 to 9</b>	719	704	729	692	588
<b>10 to 15</b>	503	513	573	601	410
<b>16 to 17</b>	16	23	14	26	13
<b>Ethnic origin</b>					
<b>White</b>	1,855	1,779	1,806	1,962	1,490
<b>Mixed</b>	44	40	36	44	45
<b>Asian or Asian British</b>	44	25	41	35	28
<b>Black or Black British</b>	23	25	13	17	22
<b>Other Ethnic Groups</b>	22	34	39	23	18
<b>Not known</b>	612	627	645	560	501
<b>Special Educational Needs</b>					
<b>Number of children</b>	111	150	95	110	81
<b>Notes</b>					
<ol style="list-style-type: none"> <li>1. The available data show the numbers of children on the child protection register, each year as at 31 July.</li> <li>2. The 'Under 1' category includes pre-birth child protection case conferences. No data are held on how these concerns were reported to the authorities, investigated, and prosecuted.</li> <li>3. The 'With disability' row shows the number of children with a disability recorded. Further breakdowns by disability type are not available. Disability is defined in this data as a mental or physical impairment which has a substantial and long-term adverse effect on the ability of the child to carry out normal day-to-day activities.</li> </ol>					

**39f - Cases of female genital mutilation, forced marriages, virginity testing and crimes committed in the name of so-called honour against children that have been reported to the authorities, investigated and prosecuted.**

Data unavailable.

**39g - Intersex children who have received non-urgent and irreversible surgical or other procedures.**

Data unavailable.

**40a - Families and children receiving economic and other types of support services.**

Data unavailable.



**40b - Children in residential care, the number of such institutions and their size and the length of stay.**

Scottish Government provided data on the number of children in residential care only. In Scotland, there were 1,286 children in residential care at 31 July 2021, down from 1,509 in 2017 (-14.8%). This data has been updated since the UNCRC submission to add 2021 breakdowns.

<b>Number of children in residential care in Scotland, each year ending 31 July, 2017-2021</b>					
<b>Source</b>					
Children's Social Work Statistics: Children's social work statistics - <a href="https://www.gov.scot/collections/childrens-social-work/">https://www.gov.scot/collections/childrens-social-work/</a>					
<b>Year</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Total</b>	1,509	1,512	1,448	1,436	1,286
<b>Sex</b>					
<b>Male</b>	985	988	926	953	828
<b>Female</b>	524	524	522	483	458
<b>Age</b>					
<b>Under 1</b>	*	*	*	*	*
<b>1 to 4</b>	*	*	*	*	*
<b>5 to 9</b>	54	61	67	76	66
<b>10 to 15</b>	965	960	889	772	674
<b>16 to 17</b>	483	486	489	577	543
<b>Ethnic origin</b>					
<b>White</b>	1,339	1,314	1,234	1,184	1,089
<b>Mixed</b>	23	19	21	28	18
<b>Asian or Asian British</b>	29	30	30	63	28
<b>Black or Black British</b>	19	23	26	26	20
<b>Other Ethnic Groups</b>	26	33	32	47	30
<b>Not known</b>	73	93	105	88	101
<b>Special Educational Needs or Disability</b>					
<b>Number of children</b>	398	367	352	328	340
<b>Notes</b>					
<p>1. The 'With disability' row shows the number of children with a disability recorded. Further breakdowns by disability type are not available. Disability is defined in this data as a mental or physical impairment which has a substantial and long-term adverse effect on the ability of the child to carry out normal day-to-day activities.</p> <p>These figures include very small numbers of those aged 18+</p> <p>As at March 2022, residential child care provision includes 336 care homes for children, 5 secure care centres, and 35 residential special schools.</p>					

**40c - Children in unregulated alternative care placements, including secure accommodation, immigration detention centres and mental health institutions.**

In Scotland, all residential care providers are regulated by the Care Inspectorate. There is no provision of unregulated alternative care for looked after children. Therefore no data was provided.

**40d - Children in family-based and community-based care.**

Scottish Government provided data on the number of children placed in foster care, placed for adoption, or placed with parents or person with parental responsibility. The data for Scotland also includes children in formal kinship care and other community placements. This data has been updated since the UNCRC submission to add 2021 breakdowns.

In Scotland, the number of children in such placements at 31 July 2021 was 11,969, down from 13,389 in 2017 (-10.6%).

**Number of children in care at home or in the community in Scotland, as at 31 July each year, 2017-2021**

**Source**

Children's Social Work Statistics: Children's social work statistics - <https://www.gov.scot/collections/childrens-social-work/>

<b>Year</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Total</b>	13,389	13,042	12,814	13,022	11,969
<b>Sex</b>					
<b>Male</b>	7,137	6,972	6,780	6,907	6,338
<b>Female</b>	6,252	6,070	6,034	6,114	5,629
<b>Age</b>					
<b>Under 1</b>	405	401	372	346	303
<b>1 to 4</b>	2,500	2,441	2,458	2,441	2,111
<b>5 to 9</b>	3,693	3,460	3,321	3,409	3,229
<b>10 to 15</b>	5,502	5,477	5,379	5,349	4,852
<b>16 to 17</b>	1,289	1,263	1,284	1,477	1,474
<b>Ethnic origin</b>					
<b>White</b>	11,703	11,139	10,855	10,979	10,052
<b>Mixed</b>	249	234	242	241	153
<b>Asian or Asian British</b>	97	95	97	118	94
<b>Black or Black British</b>	75	81	77	79	72
<b>Other Ethnic Groups</b>	95	74	94	96	168
<b>Not known</b>	1,170	1,419	1,449	1,509	1,430
<b>Special Educational Needs or Disability</b>					
<b>Number of children</b>	1,238	1,156	1,183	1,053	948

**Notes**

1. The figures above show the number of children in care at home or in the community, as at 31 July each year. This includes children in the following types of placement: at home with parents, in formal kinship care, staying with foster carers provided or purchased by the local authority, living with prospective adopters, and a small number of 'other' community placements.
2. The 'With disability' row shows the number of children with a disability recorded. Further breakdowns by disability type are not available. Disability is defined in this data as a mental or physical impairment which has a substantial and long-term adverse effect on the ability of the child to carry out normal day-to-day activities.

These figures include very small numbers of those aged 18+.

#### **40e - Children of incarcerated parents.**

Data unavailable.

#### **41a - Children prescribed with psychotropic drugs, including amount and regularity.**

Scottish Government provided data on the number of children prescribed with psychotropic drugs only.

The definition of psychotropics is as described in the in the [NHSBSA Mental Health Prescribing Comparators Dashboard](#). The figures do not include prescriptions made but not dispensed. The figures also show prescriptions dispensed in the community only (not including hospitals, prisons or similar settings).

In Scotland, there were 32,998 such prescriptions made in 2019/20, up from 29,189 in 2017/18 (+13.0%).

<b>Number of children prescribed with psychotropic drugs in Scotland, 2017/18-2019/20</b>			
<b>Source</b>			
Prescribing Information System, Public Health Scotland			
<b>Year</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>
<b>Total</b>	29,189	31,509	32,998
<b>Sex</b>			
<b>Male</b>	16,871	18,281	19,196
<b>Female</b>	12,318	13,228	13,802
<b>Age</b>			
<b>Under 1</b>	30	28	23
<b>1 to 4</b>	885	976	887
<b>5 to 9</b>	5,483	5,878	5,925
<b>10 to 15</b>	10,142	11,463	12,583
<b>16 to 18</b>	12,649	13,164	13,580
<b>SIMD Quintile</b>			
<b>1 – Most deprived</b>	7,856	8,469	8,754
<b>2</b>	6,589	7,060	7,418
<b>3</b>	5,544	5,965	6,276
<b>4</b>	4,885	5,336	5,679
<b>5 – Least deprived</b>	4,205	4,521	4,706
<b>Not known</b>	110	158	165
<b>Notes</b>			
<ol style="list-style-type: none"> <li>Age band is based on the patient's age as at 30th September for the financial year in question. For example 2018/19 data the age band is based on 30th September 2018. Includes only items where a valid CHI has been captured.</li> <li>Data is based on British National Formulary (BNF) March 2015 for sections 4.1 (Hypnotics), 4.2 (Antipsychotics), 4.3 (Antidepressants) and 4.4 (Drugs for ADHD (excluding Modafinil, which is exclusively for the treatment of narcolepsy)).</li> <li>Data are given for all prescription form types.</li> <li>Data excludes prescriptions prescribed in England.</li> <li>Data shown are based on prescriptions dispensed by community pharmacists, appliance suppliers and dispensing doctors only.</li> <li>Data given refer to prescriptions dispensed in the community, but do not take into account medicines dispensed by hospitals or hospital based clinics.</li> </ol>			

### **Issue 41b - Children diagnosed with a mental illness;**

Scottish Government provided data on the number of accepted referrals to Children and Adolescent Mental Health Services (CAMHS).

In Scotland, there were 27,563 accepted referrals to CAMHS in 2021, higher than in

2020 (23,259). From January 2022 to June 2022, there have been 14,338 accepted referrals.

<b>NHS Scotland all accepted referrals for CAMHS services, 2017-2021</b>					
<b>Source</b>					
CAMHS March-22 release - <a href="#">Child and Adolescent Mental Health Services (CAMHS) waiting times - Quarter ending 31 December 2021 - Child and Adolescent Mental Health Services (CAMHS) waiting times - Publications - Public Health Scotland</a>					
<b>Year</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Total</b>	26,043	27,412	28,663	23,259	27,563
<b>Notes</b>					
New referrals to CAMHS should only be accepted up to an individuals' 18 <sup>th</sup> birthday. However, if a young person is already receiving treatment via CAMHS, this treatment may continue after their 18 <sup>th</sup> birthday.					
Total figures for 2020 and 2021 have been updated.					

#### **41c - Drug, alcohol and tobacco abuse among children.**

Scottish Government provided the estimated percentages of 13 and 15 year olds who smoked, drank alcohol and used drugs. The most recent data available was from 2018.

In Scotland, in 2018, an estimated 4.3% of 13 and 15 year olds smoked at least one cigarette a week, 13.4% drank alcohol in the last week, and 7.4% used drugs in the last month.

## Drug, alcohol and tobacco use among children in Scotland, 2018

### Source

Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS) : Alcohol Report (2018) (www.gov.scot) and <https://www.salsus-dataportal.co.uk/home>

Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS) : Drug Use Report (2018) (www.gov.scot) and <https://www.salsus-dataportal.co.uk/home>

Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS): smoking report 2018 - gov.scot (www.gov.scot) and <https://www.salsus-dataportal.co.uk/home>

	Total	Male	Female	Age 13	Age 15	Any physical/mental disability
drank alcohol in last week	<b>13.4%</b>	14.4%	12.6%	6.5%	20.0%	18.0%
used drugs in last month	<b>7.4%</b>	9.0%	5.8%	3.5%	12.0%	12.0%
regularly smoke (at least one cigarette a week)	<b>4.3%</b>	4.7%	3.8%	2.0%	7.0%	8.0%
	Total	SIMD 1	SIMD 2	SIMD 3	SIMD 4	SIMD 5
drank alcohol in last week	<b>13.4%</b>	14%	14%	14%	12%	13%
used drugs in last month	<b>7.4%</b>	9%	7%	9%	8%	7%
regularly smoke (at least one cigarette a week)	<b>4.3%</b>	6%	5%	5%	4%	4%

### Notes

1. Percentages have been used as it is impossible to calculate, accurately, an estimate of the total population given the sampling approach used in SALSUS. The survey only covers pupils in mainstream secondary education. The sample excludes pupils in special schools, secure residential units and those who are home schooled. Substance use may be very different among pupils who are not in mainstream secondary education.
2. Overall, 199 out of an invited 325 schools participated in the survey, giving a school response rate of 61%. This equated to 1,036 out of an invited 1,821 classes and 21,650 out of a possible 23,791 pupils participated in the survey.

#### 41d - Overweight, obesity and malnutrition among children.

Scottish Government provided data on the estimated proportions of 2-15 year olds who were overweight or obese (combined).

In Scotland, an estimated 30% of 2-15 year olds were overweight or obese in 2019, up from 26% in 2017.

<b>Percentage of overweight or obese children in Scotland, 2017-2019</b>			
<b>Source</b>			
Scottish Health Survey (SHeS): <a href="https://www.gov.scot/collections/scottish-health-survey/">https://www.gov.scot/collections/scottish-health-survey/</a>			
<b>Year</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
<b>Total</b>	26%	29%	30%
<b>Sex</b>			
<b>Male</b>	24%	30%	32%
<b>Female</b>	29%	27%	28%
<b>Age</b>			
<b>2 to 6</b>	21%	26%	30%
<b>7 to 11</b>	27%	27%	25%
<b>12 to 15</b>	33%	34%	37%
<b>SIMD Quintile</b>			
<b>1 – most deprived</b>	30%	31%	35%
<b>2</b>	26%	34%	42%
<b>3</b>	29%	28%	27%
<b>4</b>	26%	27%	24%
<b>5 – least deprived</b>	22%	24%	23%
<b>Special Educational Needs or Disability</b>			
<b>Percentage of children</b>	31%	32%	46%
<b>Notes</b>			
<ol style="list-style-type: none"> <li>1. Due to the pandemic face to face interviewing for SHeS was postponed in March 2020. We were able to run a telephone interview for a couple of months towards the end of the year but this did not include children. So there will be no 2020 data.</li> <li>2. Disability - limiting long-term condition.</li> </ol>			



#### 41e - Teenage pregnancy.

Scottish Government provided data on the number of pregnancies that occurred in women under the age of 20, based on their age at, and the year of, conception.

In Scotland, there were 3,300 pregnancies that occurred in women under the age of 20 in 2020, down from 4,286 in 2017 (-23.0%). The number of teenage pregnancies in Scotland is now at its lowest since records began.

<b>Number of pregnancies in women under the age of 20 in Scotland, 2017-2020</b>				
<b>Source</b>				
PHS teenage pregnancy report. Teenage pregnancies - Year of conception, ending 31 December 2020 - Teenage pregnancies - Publications - Public Health Scotland				
<b>Year</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
<b>Total</b>	4,286	4,117	3,814	3,300
<b>SIMD Quintile</b>				
<b>1 – most deprived</b>	1,651	1,615	1,477	1257
<b>2</b>	1,067	1,023	916	842
<b>3</b>	705	682	603	526
<b>4</b>	514	435	469	409
<b>5 – least deprived</b>	346	361	346	265
<b>Notes</b>				
1. Age at conception and presented by year of conception. 2. 2018 figures reflect latest data available to PHS.				

#### 41f - Children living below the poverty line.

The UK Government provided data on relative low income. This measure is defined as a family whose equivalised income is below 60 per cent of contemporary median income. The gross income measure is before housing costs (BHC) and includes contributions from earnings, state support and pensions.

There were 0.2 million children living in relative low-income in Scotland in 2017/18-2019/20.

**Three-year averages of the number and percentage of children in relative low income (before housing costs), 2014/15 to 2019/20**

**Source**

Sourced from the Children in Low Income Families dataset – available at <https://stat-xplore.dwp.gov.uk>

Year	14/15-16/17	15/16-17/18	16/17-18/19	17/18-19/20
<b>Number (millions)</b>	0.2	0.2	0.2	0.2
<b>Percentage</b>	18%	20%	20%	21%

**Notes**

This table uses grossing factors based on 2011 Census data.

Scottish Government uses a different data source for analysis of child poverty. More information and the latest available statistics can be found at <https://data.gov.scot/poverty/2022/cpupdate.html> and <https://www.gov.scot/collections/child-poverty-statistics/>

**41g - Children in street situations and children living in temporary accommodation.**

Scottish Government provided data on the number of children in temporary accommodation. This data has been updated since the UNCRC submission to add 2022 figures

In Scotland, the number of children in temporary accommodation increased from 6,060 at 31 March 2017 to 8,635 in 2022 (+42%).

**Number of children in temporary accommodation in Scotland as at 31 March, 2017-2022**

**Source**

**Homelessness statistics (HL2)**

<https://www.gov.scot/collections/homelessness-statistics/>

Year	2017	2018	2019	2020	2021	2022
<b>Total</b>	6,060	6,615	6,795	7,280	7,385	8,635

**Notes**

The HL2 data collection gathers aggregate snapshot information on the number of children in temporary accommodation at the end of each quarter. The HL2 collection cannot be used to provide breakdowns by characteristic.

#### 42a - Bullying and violence in schools.

Scottish Government provided data on the number of cases of exclusion due to physical assault without a weapon.

In Scotland, there were 2,083 cases of exclusion from school due to physical assault (without a weapon) in 2020/21, down from 3,758 in 2018/19 (-44.6%).

<b>Number of cases of exclusion from school for physical assault with no weapon.</b>			
<b>Source</b>			
Scottish Government School Exclusion Statistics <a href="https://www.gov.scot/publications/school-exclusion-statistics/">https://www.gov.scot/publications/school-exclusion-statistics/</a>			
<b>Year</b>	<b>2016/17</b>	<b>2018/19</b>	<b>2020/21</b>
<b>Total</b>	4,635	3,758	2,083
<b>Notes</b>			
Each case of exclusion can have multiple reasons associated with it.			
Individual pupils can be excluded multiple times so number of cases of exclusion does not equal number of pupils excluded.			
These figures may include small numbers of those aged 18+.			

#### 42b - Children with disabilities attending regular schools and separate schools.

Scottish Government provided data on the number of children who were assessed or declared disabled and were attending regular schools only.

In Scotland, there were 18,852 children who were 'assessed disabled' or 'declared disabled' in their Additional Support Need plans in September 2020. Due to methodological differences, comparison over years is not possible.

<b>Number of children with disabilities attending regular schools in Scotland, 2017-2020</b>				
<b>Source</b>				
Pupil Census; <a href="https://www.gov.scot/publications/pupil-census-supplementary-statistics/">https://www.gov.scot/publications/pupil-census-supplementary-statistics/</a> Data is available for 2017 through 2020.				
<b>Year</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
<b>Total</b>	16,742	17,447	18,465	18,852
<b>Sex</b>				
<b>Male</b>	11,485	11,921	12,592	12,800
<b>Female</b>	5,257	5,526	5,873	6,052
<b>Age</b>				
<b>1 to 4</b>	142	152	108	100

<b>5 to 9</b>	4,841	4,891	4,918	4,833
<b>10 to 15</b>	9,336	9,937	10,886	11,270
<b>16 to 18</b>	2,423	2,467	2,553	2,649
<b>Ethnic origin</b>				
<b>White</b>	15,383	15,896	16,788	17,090
<b>Mixed</b>	175	185	210	229
<b>Asian or Asian British</b>	556	622	667	686
<b>Black or Black British</b>	191	231	264	301
<b>Other Ethnic Groups</b>	96	122	145	157
<b>Not known</b>	341	391	391	389
<b>SIMD Quintile</b>				
<b>1 – most deprived</b>	4,489	4,845	5,094	5,094
<b>2</b>	3,622	3,781	3,919	3,979
<b>3</b>	3,231	3,347	3,627	3,735
<b>4</b>	2,722	2,783	2,993	3,337
<b>5 – least deprived</b>	2,539	2,557	2,713	2,605
<b>Not known</b>	139	134	119	102

#### Notes

1. Only includes pupils attending publicly funded schools at September of relevant year. Only includes pupils who have 'Assessed Disabled' and/or 'Declared Disabled' reported as their ASN plan type. Other pupils have Additional Support Needs but their ASN plan type is not disabled.
2. Children in Scotland usually start school between the ages of 4.5 - 5.5 years old.
3. Ethnicity categories available in the Pupil Census are based on categories collected in the 2011 Scottish Population Census.  
White includes the following categories: White – Scottish, White – Other British, White – Irish, White – Polish, White – Gypsy/Traveller, White – Other.  
Asian or Asian British includes the following categories: Asian – Indian, Asian – Pakistani, Asian – Bangladeshi, Asian – Chinese, Asian – Other.  
Black or Black British includes the following categories: Caribbean/Black – Scottish/British, Caribbean/Black – Other, African – Scottish/British, African – Other.  
Other Ethnic Groups includes the following categories: Arab, Other  
Not Known includes the following categories: Not Known, Not Disclosed.
4. Reasons for pupils having an Additional Support Need. Occurrence data – pupils may have more than one reason reported. Only reasons associated with the need types 'Assessed Disabled' and 'Declared Disabled' are included for pupils at local authority and grant aided mainstream schools. Pupils may have other reasons for support which are only reported in relation to other need types. All reasons for support are reported for pupils at Grant Aided Special Schools as these are not linked to specific need types in reporting.

#### 43a - Asylum-seeking and refugee children, as well as the average processing time for asylum applications, who have resettled in the State party.

Data unavailable.

#### 43b - Migrant children who have obtained nationality.

Data unavailable.

#### 44a - Children in detention, including pretrial detention, in facilities such as police cells, prisons and young offenders institutions, length of stay and placements in solitary confinement, segregation or isolation.

Scottish Government provided data on the number of children who received custodial sentences from Scottish courts only. This data has been updated since the UNCRC submission to add 2020-21 figures.

In Scotland, there were 42 children who received custodial sentences in 2020-21, down from 58 in 2019-20 (-27.6%).

<b>Number of people (under 18) receiving custodial sentences in Scotland, 2017-18 to 2020/21</b>				
<b>Source</b>				
Criminal Proceedings in Scotland, 2020-21 - <a href="http://www.gov.scot">Criminal proceedings in Scotland: 2020-2021 - gov.scot (www.gov.scot)</a>				
<b>Year</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>
<b>Total</b>	<b>131</b>	<b>180</b>	<b>58</b>	<b>42</b>
<b>Notes</b>				
1. Data includes custodial sentences imposed by the Scottish Courts only. 2. Demographic breakdowns are collected but have not been provided here due to data suppression. Figures from 2019-20 have been updated				

#### 44b - Children who are serving life sentences for offences committed while under the age of 18.

Data unavailable.

#### 44c - Children detained together with adults and the length of stay.

Data unavailable.

#### 44d - Children referred to diversion and non-custodial sentencing options.

Scottish Government provided data on the number of children receiving a non-court disposal only. This data has been updated since the UNCRC submission to add 2020-21 figures

In Scotland, there were 6,515 children receiving a non-court disposal in 2020-21, down from 7,758 in 2019-20 (-16%).

<b>Number of people aged under 18 years old receiving a Non-Court Disposal in Scotland, 2017-2021</b>				
<b>Source</b>				
Criminal Proceedings database - Criminal Proceedings in Scotland, 2020-21 - <a href="https://www.gov.scot/publications/criminal-proceedings-scotland-2020-21/">https://www.gov.scot/publications/criminal-proceedings-scotland-2020-21/</a>				
<b>Year</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
<b>Total</b>	<b>9028</b>	<b>7893</b>	<b>7758</b>	<b>6515</b>
<b>Sex</b>				
<b>Male</b>	6638	5804	5788	4911
<b>Female</b>	2390	2089	1970	1603
<b>Age</b>				
<b>Under 1</b>	-	-	-	-
<b>1 to 4</b>	-	-	-	-
<b>5 to 9</b>	189	153	141	114
<b>10 to 15</b>	5488	4578	4750	3907
<b>16 to 17</b>	3351	3162	2867	2493
<b>Notes</b>				
Figures from 2018/19 and 2019/20 have been updated				

**44e - Children who have received rehabilitation and reintegration support.**

Data unavailable.

**45a - Cases of the sale of children, child prostitution and child sexual abuse material that have been reported, investigated, prosecuted and sanctioned.**

Data unavailable.

**45b - Children who are victims of such crimes who have been provided with recovery assistance or compensation.**

Data unavailable.

**46a - Ill treatment and violence committed by staff at army training institutions against recruits under the age of 18 that have been investigated and prosecuted.**

Data unavailable.

**46b - Asylum-seeking, refugee and migrant children entering the State party from areas where children may have been recruited or used in hostilities.**

Data unavailable.

**46c - Children within its jurisdiction who have been recruited or used in hostilities abroad.**

There were no children within its jurisdiction who have been recruited or used in hostilities abroad.

## Annex B

### Issues Raised in Parts I and II of the UN Committee on the Rights of the Child List of Issues Prior to Reporting, Relevant to Scotland

Issue	Topic	Report References
	<b>General Measures of Implementation</b>	
3(a)	Information on the adoption or reform of laws, policies and programmes, and any other type of measures taken, such as the creation or reform of institutions, that are significant for the implementation of the Convention, the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography.	Examples throughout document
3(b)	Measures taken to ensure the protection of the rights of children in the context of the coronavirus disease (COVID-19) pandemic and to mitigate the adverse impacts of the pandemic, in view of the statement of the Committee of 8 April 2020 on the effects of the COVID-19 pandemic on children.	Section 1.1-1.5
3(c)	Measures taken to ensure that the State party's withdrawal from the European Union, as well as the loss of related funding, do not have an adverse impact on children's rights, and in ensuring that the principle of the best interests of the child is reflected in all legislative and policy matters and judicial decisions affecting children.	Section 2.1 Section 3.7
3(d)	Any other information that the State party considers relevant and that is not covered in the replies to the questions below, including information on obstacles and challenges faced.	Section 6.7 Section 7.27 Section 8.10 Section 9.12
4	Information on how a child rights-based approach is integrated into the planning, implementation, monitoring and evaluation of measures for achieving the Sustainable Development Goals, including with regard to child participation and data collection, and how such measures promote the realization of children's rights under the Convention and the Optional Protocols thereto.	Section iv.
5(b)	Measures taken to bring its domestic legislation in line with the Convention and ensure that the principles and provisions of the Convention and the Optional Protocols are directly applicable and justiciable under domestic law, particularly in England, Northern Ireland and the overseas territories and Crown dependencies.	Section 2.4
5(c)	Measures taken to establish a child rights impact assessment procedure for all legislation and policies affecting children, particularly in England and Northern Ireland, including in response to the COVID-19 pandemic.	Section 1.1 Section 2.6
5(d)	Assess proposals to revise the Human Rights Act from a child rights perspective.	Section 2.2
6(b)	Mechanisms for monitoring and evaluating the implementation and impact of policies and programmes for children's rights, including the 2009 Working Together, Achieving More strategy.	Section 2.7-2.8



6(c)	Establishing statutory bodies at interministerial levels in devolved administrations, overseas territories and Crown dependencies to effectively coordinate the implementation of the Convention.	Section 2.7
7(a)	Measures taken to incorporate a child rights-based approach into the State budgeting process, including by implementing a tracking system for the allocation and use of resources for children and assessing how investments in all sectors serve the best interests of children.	Section 2.12
7(b)	Ensure a transparent and participatory budgeting process by involving children and enhancing accountability in public procurement processes, including in times of emergency.	Section 2.13
7(c)	Ensure that children, including those in vulnerable situations, are not affected by austerity measures or regressive measures taken in response to the COVID-19 pandemic and the potential consequences of the economic crisis triggered by those measures.	Section 1.1 Section 7.29
8	Efforts to improve the collection and quality of disaggregated data for all areas of the Convention, including on violence, children in alternative care, children with disabilities, mental health, food insecurity, malnutrition, education, and asylum-seeking and migrant children.	Section 2.11
9	Information on awareness-raising programmes for children and the training of relevant professional groups on the Convention.	Section 2.9
10	In view of the expiration of the UK Aid strategy, please explain the measures taken to ensure that the State party's policies for international development cooperation advance children's rights, including with regard to education.	Section 2.15
11(a)- (b)	Measures taken to require businesses to undertake child-rights due diligence, including with respect to the environment; and establish a regulatory framework for the business sector, including in the context of public procurement, to ensure that their activities domestically and abroad do not adversely impact children's rights.	Section 2.14
<b>Definition of the Child</b>		
12	Measures taken to raise the minimum age of marriage to 18 years, without exception, across all devolved administrations, overseas territories and Crown dependencies.	Section 2.16
<b>General Principles</b>		
13(a)	Protect all children under 18 years against discrimination on the grounds of their age, and address general negative public attitude towards children, especially adolescents.	Section 3.2 Section 3.6
13(b)	Conduct an independent review of the 2011 Prevent and ensure that counter-terrorism and counter-extremism measures do not have a discriminatory, racial or stigmatizing impact on any group of children.	Section 3.9
13(c)	Eliminate discrimination with regard to health, education, alternative care, and child justice, against children living in poverty, Roma, gypsy and traveller children, children belonging to ethnic minority groups, children with disabilities, children in alternative care, asylum-seeking, refugee and migrant children, and LGBTI children.	Section 3.2 Section 7.1
13(d)	Monitor, receive and address complaints of discrimination against children.	Section 3.3
14(a)- (c)	Measures taken to address underlying determinants of infant and child mortality, including social and economic deprivation and inequality; establish mechanisms for review of unexpected death or serious injury involving	Section 3.10- 3.11

	children, including in custody, care and mental healthcare institutions; and address the high rate of avoidable child deaths.	
15(a)	Measures taken to ensure the right of the child to be heard, with adequate support, and that children's views and opinions are given due consideration in decisions affecting her or him in relevant legal and administrative proceedings, including those concerning domestic violence, custody, placement in alternative care, mental health treatment, education, migration and asylum.	Section 3.13
15(b)	Promote the meaningful participation of children, including younger children and children with disabilities, within the family, the community, school and the realm of local and national policy making and decision-making affecting children, including on climate change.	Section 3.12 Section 7.6 Section 7.42
15(c)	Assess the impact of reforms on legal aid in all devolved administrations and overseas territories to ensure that such reforms do not negatively affect children's access to justice.	Section 3.14
<b>Civil Rights and Freedoms</b>		
17(a)	Measures taken to repeal legal provisions for compulsory attendance at collective worship in publicly funded schools and ensure that children can independently exercise the right to withdraw from religious observance at school.	Section 4.1
17(b)	Ensure that counter-terrorism measures, including the Prevent Strategy, do not undermine children's rights to freedom of expression, thought, conscience and religion.	Section 3.9
17(c)	Guarantee children's right to freedom of movement and peaceful assembly, including by prohibiting the use of acoustic devices to disperse public gatherings of young people (so-called "mosquito devices").	Section 4.3
18(a)	Measures taken to prohibit the use of non-statutory stop and search checks against children and ensure that their statutory use is proportionate and non-discriminatory, including by implementing the best use of stop and search scheme and providing safeguards on 'no suspicion' stop and search checks.	Section 4.4
18(b)	Measures taken to ensure that online learning does not infringe children's right to privacy.	Section 4.2
19(a) – (c)	Measures taken to promote equitable access of children to online services and connectivity; introduce online harms legislation and ensure its implementation; and enhance the digital literacy and skills of children, teachers and families and protect children from information and material harmful to their wellbeing.	Section 4.2 Section 5.4
<b>Violence Against Children</b>		
20(a)	Measures taken to prohibit the use of electrical discharge weapons, such as Tasers, attenuating energy projectiles, spit hoods and other harmful devices, on children, in particular on children belonging to ethnic minority groups.	Section 5.10
20(b)- (c)	Measures taken to ban all pain-inducing techniques and methods of seclusion against children for disciplinary purposes in schools and in institutional settings; and address the disproportionate use of restraint against children with disabilities in schools and institutional settings.	Section 5.11

21(a) and (c)	Prohibit corporal punishment in all settings, including at home and in schools, across all devolved administrations, overseas territories and Crown dependencies; and promote positive and non-violent forms of discipline among teachers, staff of childcare facilities, parents and caregivers.	Section 5.1
22(a)	Measures to address the high prevalence of domestic violence, gender-based violence and sexual exploitation and abuse against children.	Section 5.2-5.3 Section 5.6
22(b)-(d)	Measures to strengthen the capacity of relevant professionals, including social workers, law enforcement authorities and the judiciary, to address violence, including sexual exploitation and abuse, against children; ensure mandatory reporting and prosecution of all cases of violence, including sexual offences, against children; and ensure child-friendly and multisectoral intervention in cases of child abuse avoiding re-victimisation and providing comprehensive support, including psychological recovery.	Section 5.2
22(e)	Measures to protect child victims and witnesses of violence and sexual abuse throughout legal proceedings, by ensuring that video-recorded interviews are conducted without undue delay and allowed as evidence-in-chief in court, that their views are given due weight and that they receive legal representation, compensation for damages and support from a Barnahus or similar child-centred model for children affected by sexual abuse.	Section 5.5
22(f)	Measures taken to tackle cyberbullying, online sexual exploitation and abuse, gang-related violence and knife crime against children.	Section 5.2-5.4 Section 9.3
22(h)	Prevent the recruitment of children as informants for law enforcement and intelligence bodies.	Section 5.9
23(a)	Measures taken to prevent, investigate and prosecute cases of female genital mutilation, forced marriage, virginity testing and violence committed in the name of honour, and ensure that child victims have access to appropriate remedies.	Section 5.7
23(b)	Prevent the unnecessary medical or surgical treatment of intersex children and provide adequate counselling and access to remedies for children subjected to such treatment.	Section 5.8
<b>Family Environment and Alternative Care</b>		
24(a)	Allocate sufficient resources for childcare and family support to ensure that childcare services are available to all those who need it, regardless of parents' employment status.	Section 8.9
24(b)	Support families to ensure that both parents share the responsibilities for the upbringing and development of their children, including by encouraging the use of shared parental leave.	Section 6.1
25(a)	Measures to ensure the provision of preventive services, such as social protection measures for families, to prevent children from entering alternative care.	Section 6.2
25(b)	Prevent the arbitrary removal of children from their families.	Section 6.3
25(c)	Prevent the placement of children in unregulated alternative care or residential care homes without appropriate safeguards, and ensure that they have access to an independent complaint mechanism.	Section 6.4

25(d)	Measures to provide stability for children in care, including by retaining social workers to avoid unnecessary changes in placements, finding placements for children that facilitate contact with their biological parents and siblings, and providing specialist care to children with complex social care and mental health needs.	Section 6.4
25(e)	Measures to support children leaving care.	Section 6.5
	<b>Basic Health and Welfare</b>	
26(a)	Measures to eliminate inequalities in health outcomes and in access to high-quality health services for children in disadvantaged situations.	Section 7.8
26(b)	Address malnutrition, overweight and obesity among children, and assess the effectiveness of policies and programmes on child food security and nutrition.	Section 7.13
26(c)	Measures to raise awareness on the importance of breastfeeding and implement the International Code of Marketing of Breast-milk Substitutes.	Section 7.7
26(e)	Measures to address the high incidence of mental illness and self-harm, and the causes thereof, in particular among girls, children with disabilities and LGBTI children.	Section 7.24
26(f)	Measures to ensure that children with mental health conditions have prompt access to mental health services.	Section 7.21
26(g)	Measures to develop therapeutic community-based services for children with mental health conditions.	Section 7.22
26(h)	Review the current legislation to prevent its disproportionate placement of children with mental health needs in adult psychiatric wards or police stations and ensure that the best interests and views of the child are taken into account in their mental health treatment.	Section 7.21
26(i)	Monitor the diagnoses of attention deficit/hyperactivity disorders among children, undertake a study on their root causes, and assess the possible over prescription of psychotropic drugs in particular for young children.	Section 7.26
26(j)	Reduce air pollution, and inform the population about the effect of pollution on children's health and about remedial measures.	Section 7.40
27(a)	Measures taken to address the increasing child poverty rate.	Section 7.29-7.33
27(b)	Measures taken to assess the impact of recent social security and tax credit reforms on children, including children with disabilities and children belonging to ethnic minority groups, and revise these reforms in order to fully respect children's right to have their best interests taken as a primary consideration.	Section 7.36
27(c)	Measures taken to reduce homelessness and guarantee children's access to adequate housing.	Section 7.37-7.39
28(a)	Measures taken to reduce greenhouse gas emissions and implement the State party's net zero emission law.	Section 7.41
28(b)	Ensure that children's needs and views are taken into account in developing policies and programmes addressing climate change and disaster risk management.	Section 7.42

<b>Education, Leisure and Cultural Activities</b>		
29(a)	Measures taken to ensure equal access to quality education, including by mitigating the disproportionate impact of COVID-19, and improve attainment rates and educational outcomes for children in disadvantaged situations, including children living in poverty, children belonging to ethnic minority groups, traveller children, children in alternative care, asylum-seeking and migrant children, children with special educational needs and children with disabilities.	Section 1.1 Section 1.3-1.4 Section 8.1
29(b)	Monitor and address the persistent use of exclusions, in particular on children in disadvantaged situations; implement the recommendations of the Timpson Review of School Exclusion; and guarantee children the right to appeal against their exclusion and to legal aid and legal representation.	Section 8.7
29(c)	Measures taken to improve wellbeing and address bullying in schools, including against children with disabilities, minority children and LGBT children.	Section 8.5-8.6
29(d)	Ensure the allocation of sufficient human, technical and financial resources for the development and expansion of early childhood care and education.	Section 8.9
29(e)- (f)	Measures taken to ensure that mandatory sexual and reproductive health education includes material on sexual orientation and gender identity; and integrate human rights education into mandatory school curricula and teacher training programmes.	Section 8.8
29(g)	Measures taken to ensure that children with disabilities have access to and benefit from inclusive education, including by making mainstream schools fully accessible.	Section 8.4
<b>Special Protections</b>		
30(a)- (e)	Asylum-seeking, refugee and migrant children. Measures taken or envisaged to: <ul style="list-style-type: none"> <li>• assess the impact of the 2016 Immigration Act, including the “deport first, appeal later” scheme, and asylum policy on children’s rights and family reunification, in view of the State party’s withdrawal from the European Union Dublin III Regulation;</li> <li>• expedite the processing of asylum applications and ensure that all asylum-seeking children are provided with child-friendly services and access to health care and education.</li> <li>• establish statutory independent guardians for all unaccompanied and separated children in England and Wales;</li> <li>• prevent the indefinite detention of asylum-seeking and migrant children;</li> <li>• ensure multidisciplinary and transparent procedures for age assessments that are in line with international standards, including by prohibiting visual age assessments.</li> </ul>	Section 9.1
31(a)	Measures to raise the age of criminal responsibility to at least 14 years.	Section 9.5
31(b)	Ensure the application of the child justice system to all children, in particular that children are not detained with adults and that it extends protection to children who were below the age of 18 at the time of the offence but who turned 18 during the trial or sentencing process.	Section 9.6-9.7

31(c)	Measures taken or envisaged to abolish life imprisonment for children for offences committed while they were under the age of 18 and ensure that imprisonment is used only as a measure of last resort and for the shortest possible period.	Section 9.9
31(d)	Ensure and support the right of children accused of crimes to effective legal representation and participation throughout the child justice process.	Section 9.8
31(e)	Address the large number of children in pretrial detention and the disproportionate representation of children belonging to ethnic minority groups in custody, such as by implementing the recommendations of the Lammy Review.	Section 9.9
31(f)	Measures to prohibit the use of solitary confinement of children and abolish the use of segregation and isolation in child detention facilities.	Section 9.10-9.11
31(g)	Measures to ensure that children in detention have access to education and health services, including mental health services.	Section 9.10-11
31(h)	Measures to investigate cases of violence, including sexual abuse, reported by children in the child justice system, in view of the 2019 report of the independent inquiry on sexual abuse of children in custodial institutions in England and Wales.	Section 9.11
<b>Optional Protocols</b>		
32(a)-(c)	Efforts to revise its legislation to ensure that all children under 18 years are protected from all types of offences covered by the Optional Protocol; strengthen the National Referral Mechanism for identifying child victims of trafficking and exploitation, which is embedded in existing child protection procedures; protect the rights of child victims of offences covered by the Optional Protocol by establishing a clear obligation of non-prosecution, ensuring that they are treated as victims rather than criminals by law enforcement and judicial authorities, and establishing Independent Child Trafficking Guardians in all devolved administrations.	Section 9.2
33(a)-(f)	Efforts to ensure that the minimum age of recruitment of children into the armed forces is 18 years; recruitment practices do not target persons under the age of 18 or have a discriminatory impact on children belonging to ethnic minority groups and low-income families; the minimum period of service applied to children who enlist into the army is no longer than that applied to adult recruits; children are safeguarded from abuse, violence and harassment in particular during armed forces training; all captured child soldiers under the age of 18 years benefit from special protection under the Joint Doctrine Publication 1-10 for Captured persons; the export of arms is prohibited to countries where children are known to be recruited or used in hostilities.	Section 9.14



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The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-80525-116-3 (web only)

Published by The Scottish Government, November 2022

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS1165282 (11/22)

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