



Law Society
of Scotland

Consultation Response

Progressing Children's Rights in Scotland – An
Action Plan 2018-21

September 2018



Introduction

The Law Society of Scotland is the professional body for over 11,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Family Law sub-committee welcomes the opportunity to consider and respond to the Scottish Government consultation: Progressing Children's Rights in Scotland – An Action Plan 2018-21. The sub-committee has the following comments to put forward for consideration.

Consultation questions

1. Do you agree that the Action Plan should include:

- i. Identified strategic actions intended to secure transformational change in how children and young people experience their rights.**
- ii. A summary of specific initiatives being taken forward across all Scottish Government portfolios that captures what we will do in the next 3 years to secure better or further effect of the UNCRC principles.**
- iii. A number of key policy specific actions identified through the consultation process that are not currently being taken forward through other Scottish Government initiatives.**

Yes.

We support the inclusion of each of these areas in the Action Plan. However, we would suggest that each of these should include clear, specific, examples of what actions will be progressed over the period and how this will be monitored. We would also suggest that clear indicators be introduced to measure the success of the initiatives and actions, allowing for better performance management and allocation of resources over the period covered by the Action Plan.

2. Do you agree that the 4 proposed strategic actions are appropriate and will help to take forward the principles of the UNCRC?

i. Development of a dynamic Participation Framework for Children and Young People.

Yes.

We support the aims of such a framework, and would encourage development to ensure that a diverse range of children are supported to participate in these types of initiative.

ii. Ambitious delivery, through co-production, of the 3 year children's rights awareness programme.

Yes.

Awareness of children's rights must be promoted across society, both for children and for the adults that interact (or ought to interact) with them. One example is the need to ensure that relevant adults, including parents, are ensuring that a child's right to express a view in respect of decisions affecting them is meaningfully implemented in practice.

In addition, consideration should be given to the development of mechanisms for children to enforce the right to express a view where it is not contained in statute (for example the Children's Hearings (Scotland) Act 2011). Currently children must rely upon complaints procedures and judicial review, which is not simple or quick.

iii. Progressing the comprehensive audit on the most effective and practical way to further embed the principles of the UNCRC into policy, practice and legislation, including the option of full incorporation into domestic law.

Yes.

iv. Evaluation of the Child Rights and Wellbeing Impact Assessment (CRWIA).

Yes.

We agree that it would be useful to evaluate the CRWIA, but query why it is necessary to wait until five years after its introduction.

3. Are there ways in which the proposed strategic actions listed above could be further strengthened?

We have no further comments to those included in our responses to questions one and two.

4. Are there additional or alternative strategic actions that the Scottish Ministers should consider?

We support the aims of the plan, and the principle of increasing children's awareness of rights, and participation in high level policy development. However, we suggest that an area requiring significant work to improve children's rights in Scotland is increasing the ability of children and young people to participate in practical decisions that affect their lives. For example, children are not able to raise an action at the Additional Support Needs Tribunal in their own right, and are dependent on a parent to take that step on their behalf. Another example is that, although the child's views must be taken into account, there is no right for a child to attend or participate in child protection case conferences, reviews, or Core Group meetings. While it is not always suitable or practicable for the child to attend such meetings in person, consideration should be given to enabling attendance where practicable, for part or all of the meeting as appropriate, whether in person or by remote means.

In addition to increasing participation in decision making, additional support is also required to enable children and young people to enforce their rights. Strengthening advocacy services, improving awareness of various professionals and service providers around rights and capacity, and ensuring access to independent advice and support, including through solicitors, are all important elements of making rights real in practice for children and young people.

5. Are there any specific actions - not currently being progressed within a wider Scottish Government action plan, framework or other initiative, - that should be considered for inclusion within the Action Plan?

We refer to our answer to question four, above. We are aware of the current review of the Children (Scotland) Act 1995 and hope that the issues of effective participation and enforcement of rights will be included in any actions taken from that and other related areas of work.

For further information, please contact:

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