

# Progressing the Human Rights of Children in Scotland: A Report 2015-2018

Report to the Scottish Parliament under Part 1 of  
The Children and Young People (Scotland) Act 2014

DECEMBER 2018





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## MINISTERIAL FOREWORD

Children and young people are at the heart of our ambitions for the future. As Minister for Children and Young People, I feel a great sense of honour laying this first report and action plan, *Progressing The Human Rights of Children in Scotland*, before the Scottish Parliament, and before the children and young people of Scotland.



As a Government, our mission is to improve the life experience and life chances of our children and young people now, so they can thrive and be equipped to take advantage of tomorrow's opportunities. We believe that addressing the rights of children and young people, as enshrined in the United Nations Convention on the Rights of the Child (UNCRC), is fundamental to achieving this. Our Vision is a Scotland where children are recognised as citizens in their own rights and where their human rights are embedded in all aspects of society; a Scotland where policy, law and decision making takes account of children's rights and where all children have a voice and are empowered to be human rights defenders.

As duty bearers under the UNCRC, we have an obligation to ensure that the rights of children are both recognised and realised. Our progress is examined periodically by the UN Committee on the Rights of the Child, however furthering children's rights isn't only about meeting our international obligations but about doing the very best that we can for Scotland's youngest citizens. That is why in 2014, we legislated to place a duty on all Scottish Ministers to consider and act upon steps to further the UNCRC in Scotland and to promote public awareness and understanding of children's rights. Now in 2018, the Year of Young People, we announced in our Programme for Government *Delivering for today, investing for tomorrow* our commitment to incorporate the principles of the UNCRC into Scots law.

This Report and Action Plan, *Progressing The Human Rights of Children in Scotland*, are the first documents compiled in fulfilment of Ministers' duties under Part 1, section 1(4) of the Children and Young People (Scotland) Act 2014. The Report summarises the significant extent of Ministers' activities in progressing children's rights since commencement in June 2015. The Action Plan sets out the Strategic Actions we will take forward in the next 3 years to deliver transformational change in how children and young people experience their rights.

I am proud to be the Minister for Children and Young People as we build on progress to date by further embedding children's rights. It is fitting that we will continue the legacy of the Year of Young People by focussing on strategic actions that will make a difference to the lives of Scotland's children and young people. I look forward to working with you to make rights real for all of our children.

**Maree Todd**

Minister for Children and Young People

# KEY ACHIEVEMENTS – 2015-2018

Commitment to incorporate the principles of the **UN Convention on the Rights of the Child** into domestic law.



year of young people  
bliadhna na h-òigridh  
2018



Introduction of **Child Rights and Wellbeing Impact Assessment**.



**Annual meeting** between children and young people and Scottish Cabinet.



Establishment of **young disabled people's forum, Youth Action Success**, to help shape and inform policy.



**16** Voting age lowered to 16 for Scottish Parliament and Local Government elections.



**500** additional Health Visitors by end 2018.



**52,000+** **Baby Boxes** delivered in first year.



**Independent Root and Branch Review** of Care System in progress.



Committed to **tackling Adverse Childhood Experiences (ACEs)** and supporting the resilience of all.



Almost doubling the funded Early Learning & Childcare **from 600 to 1140** hours per year from August 2020.



Through the **Attainment Scotland Fund** we are providing **£750m** during the course of this Parliament **to tackle the attainment gap.**



Commitment to **£250m** additional funding focused on **mental health support for young people** in communities and schools.



**Free school meals** for all pupils in primary 1 to primary 3 at all publicly-funded schools.



Payments of the **Best Start Pregnancy** and **Baby Grant** by Christmas 2018.



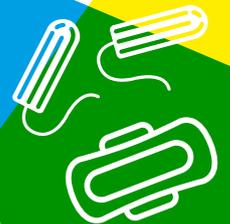
Ambition to **halve childhood obesity** by 2030.



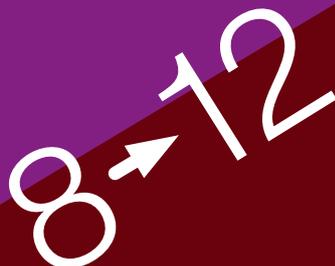
Set in statute ambition to eradicate child poverty and launched our first **Tackling Child Poverty Delivery Plan.**



The first national government in the world to introduce **access to free sanitary products** for up to **395,000 students** attending schools, colleges and universities in Scotland.



Bill introduced to **raise Age of Criminal Responsibility** from 8 to 12.



**Child aggravator** introduced for domestic abuse offences.



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## Introduction

This Report has been compiled in accordance with the duties on Scottish Ministers under Part 1, section 1(4) of the Children and Young People (Scotland) Act 2014 (CYP Act). These duties require Ministers 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 United Nations Convention on the Rights of the Child (UNCRC) requirements and to promote public awareness and understanding of the rights of the child. Ministers must also set out their plans until the end of the next 3 year period. The Scottish Government's responsibilities are restricted to devolved matters and Scottish Ministers' duties under section 1 of the CYP Act apply in devolved areas only.

This reporting requirement is separated into a Report (this Report) on progress made in relation to children's rights from June 2015, when the duties first commenced, until June 2018. A separate Action Plan, published alongside this Report, sets out the Scottish Ministers' planned activity from June 2018 until June 2021 to further children's rights.

Whilst this Report is focused on fulfilling Ministers' duties under section 1(4) of the CYP Act, it also covers, where relevant, activity relating to the rights of children outwith the 3 year reporting period. Where appropriate, the Report also includes steps taken with regard to young people which may extend beyond the age of 18.

### i Human Rights in Scotland

The requirements within Part 1 of the CYP Act sit within the wider context of Scottish Ministers' obligations to respect, protect and fulfil human rights. 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 Convention 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."

### ii Children's Rights in Scotland

Children and young people are human rights holders in their own right. The 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 Convention in 1991. Arrangements for taking forward the UNCRC and the children's rights agenda within the UK (the signatory state party) reflect the separate constitutional responsibilities of constituent administrations. The Scottish Ministers, therefore, have responsibilities for the progression of children's rights with reference to devolved public services and legislation, including in relation to education, health, childcare, housing etc.

The Scottish Ministers take their responsibilities to progress children's rights in terms of the UNCRC very seriously. Alongside the duties on Ministers in relation to children's rights under Part 1 of the CYP Act, the UNCRC also underpins key Scottish Government initiatives, for example, the Getting it right for every child (GIRFEC) approach and the assessment of wellbeing, as set out in the CYP Act, which establishes the need for each child to be: safe, healthy, achieving, nurtured, active, respected, responsible and included. The principles of the UNCRC are also reflected in relevant Scottish Government policies and strategies including, for example, its approach to child and adolescent mental health, education, youth justice and measures to tackle child poverty.

The Scottish Government's commitment to advancing the rights of children and young people, also underpins proposals set out in the annual Programme for Government (PfG), which is published in the autumn of each year. For example, the PfG17-18, [A Nation with Ambition](#),

published on 5 September 2017, included commitments to bring forward legislation to raise the age of criminal responsibility in Scotland from 8 to 12 and to support the proposals in the member's Bill to introduce a legislative ban on the physical punishment of children. The PfG 2018-19, [Delivering for Today, Investing for Tomorrow](#), published on 4 September 2018, included the commitment to incorporate the principles of the UNCRC into domestic law. This followed a commitment made in the previous PfG to undertake a comprehensive audit on the most effective and practical way to further embed the principles of the UNCRC into policy and legislation.

Children's rights, within the broader context of human rights, are also at the heart of the Scottish Government's National Performance Framework (NPF). The refreshed NPF, which was published on 11 June 2018, includes the following outcomes: "*We respect, protect and fulfil human rights and live free from discrimination*" and, in relation to the rights of the child: "*We grow up loved, safe and respected so that we realise our full potential*".<sup>1</sup>

### **iii UN Reporting Process and Concluding Observations**

The Scottish Ministers work with the UK Government in reporting to the UN Committee on the Rights of the Child on compliance with the UNCRC, with reference to devolved matters in Scotland. The Scottish Government has also presented on these matters as part of the UK delegations in Geneva – a key component of the UN treaty monitoring process.

Following the UN Committee's most recent examination of the UK State Party in May 2016, the Scottish Ministers welcomed the Committee's Concluding Observations, which were published in final form in July 2016.<sup>2</sup> Initial responses to the UN's specific recommendations, as these relate to Scotland, were reflected in the Scottish Government's draft Policy Position paper, which was shared with key stakeholders in December 2016, and discussed at a children's rights event in January 2017. The 2018 Report (this Report) and separate Action Plan also set out progress made to date in taking forward the UN Concluding Observations and planned activity until 2021, as appropriate (Annex B of this Report refers).

In line with Part 1 of the CYP Act, the primary intention of these documents is to reflect the Scottish Ministers' progress and future plans in securing better or further effect in Scotland of the UNCRC. While the Scottish Government is keen not to lose that clear focus, where there is overlap between the UNCRC and recommendations made by UN Committees under other international treaties, the relevant issues are cross referenced.

The Universal Periodic Review (UPR) is a UN peer review mechanism to assess the overall human rights situation in each UN Member State. The [Scottish Government's response to the most recent Universal Periodic Review](#) of the UK was published in December 2017.

### **iv Independent Monitoring of Children's Rights in Scotland**

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

#### **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

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1 <http://nationalperformance.gov.scot/>

2 [CRC/C/GBR/CO/5](#).

to human rights in Scotland. The SHRC can fulfil this remit by providing information, guidance and education; by conducting inquiries; by 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 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. In practice, the two Commissions work in partnership on a number of human rights issues.

### **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 Scottish Ministers respect the independent role of the Scottish Parliament in ensuring the necessary human and financial resources for the Commissioner's office.

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 CYP Act, which were commenced on 7 August 2017, build on this by empowering the Commissioner to conduct such investigations on behalf of individual children.

### **Civil Society**

Whilst the Commissioner is funded directly by the Scottish Parliament, 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, enabled and fulfilled and to raise awareness of children's rights.

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

Scotland's Children's Rights Implementation Monitoring Group (SCRIMG) involving the former Children's Commissioner, Together Scotland and the Scottish Government's Rights and Participation Team met regularly until November 2016 to discuss the Scottish Government's performance in taking forward children's rights. Moving forward a Children's Rights Advisory Group will oversee the Action Plan and provide a leadership space for discussing ideas and issues around progressing children's rights in Scotland.

## **v Challenging Possible Infringement of Rights**

In supporting the implementation of the UNCRC, it is important that individual children and young people, and their families, are able to raise concerns about possible circumstances where they consider that their rights are not being met appropriately. A number of existing mechanisms allow children and young people to challenge possible breaches of their rights including published complaints procedures and, where relevant, through the courts or tribunals. Public bodies in Scotland, including health boards and local authorities, must all have relevant mechanisms in place for people to make a complaint. Where concerns remain following the completion of these complaints procedures, recourse can be made to the Scottish Public Services Ombudsman (SPSO), who investigates complaints of maladministration or service failure on the part of Scottish public authorities.<sup>3</sup> In addition to this, the Children and Young People's Commissioner in Scotland has powers to undertake investigations in respect of whether service providers have regard to the rights, interests and views of groups of children and also on behalf of individual children.<sup>4</sup>

### **Optional Protocol 3**

The Optional Protocol 3 (OP3) to the UNCRC, which took effect from April 2014, provides for a mechanism through which a child, following the 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 the Scottish Ministers would be minded to offer measured support for its signature and ratification in the future. However, before doing so, Ministers would wish to better understand how the UN Committee intends to apply the new mechanism in practice.

## **vi Layout of Report**

This Report follows the established format for reporting to the UN Committee on the Rights of the Child, with individual chapters reflecting the cluster groupings of the articles of the UNCRC as follows:

- General Measures of Implementation.
- General Principles.
- Civil Rights and Freedoms.
- Violence Against Children.
- Family Environment and Alternative Care.
- Disability, Basic Health and Welfare.
- Education, Leisure and Cultural Activities.
- Special Protections.

Each chapter includes a summary of progress made in furthering children's rights across Scottish Government portfolios from June 2015 until June 2018 (the reporting period). Whilst the report primarily focuses on actions taken during the reporting period, many of these initiatives will carry forward into the next 3 year period. Where relevant, therefore, this Report includes information on ongoing commitments and activities. The Annex to the separate Action Plan includes information on monitoring and reporting arrangements for these specific

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3 <https://www.spsso.org.uk/>

4 <https://www.cypcs.org.uk/advice>

policy initiatives. It is important, therefore, that the contents of the Report and Action Plan are considered together as joint and complementary documents, recording both previous and ongoing activity relevant to securing better or further effect in Scotland of the UNCRC.

## **vii Engagement With Children and Young People**

Section 1(5) of the CYP Act 2014 requires Ministers to take such steps as they consider appropriate to obtain the views of children and young people on their plans for taking forward children's rights. The Scottish Government has engaged directly with children and young people in developing the Action Plan 2018-21.

During December 2017, with the assistance of the Scottish Youth Parliament (SYP) and Together Scotland, the Minister for Children and Young People met with groups of young people from a range of backgrounds, and the organisations that represent them, in Fife and Glasgow, as follows:

- Fife Gingerbread's Teen Parent Group;
- Youth 2 (LGBT Group);
- Levenmouth Academy, Fife;
- The Coalition for Racial Equality and Rights;
- Centre for Youth and Criminal Justice;
- Clan Childlaw; and
- Who Cares? Scotland.

Each session was facilitated by a Member of the Scottish Youth Parliament (MSYP).

In March 2018, the Scottish Cabinet met with 14 children and young people aged 9 to 25, with representation from specific groups of children, including care experienced children. The issues raised reflected those of a wider population of children and young people. Agreed actions from this second annual meeting between the Scottish Cabinet and children and young people have been published on the Scottish Government website.

In April 2018, at the request of the Scottish Government, SYP organised a Rights Review Event, which was attended by 27 MSYPs, 3 Cabinet Secretaries, 5 Scottish Ministers and around 30 Scottish Government officials. MSYPs presented the views of their constituents (in total 4,190 consulted) on the issues that are important to them. The views of children and young people from specific groups were also presented including those of disabled and looked after children and young people and young refugees. In addition, the views of young people from Christian and other faith groups and rural communities were represented.

In September 2018, the Children's Parliament organised 5 workshops for children, focusing on awareness, understanding and experience of children's rights in Scotland. The events, which took place across five locations, Aberdeen City, Argyll & Bute, City of Edinburgh, Glasgow City and Perth & Kinross, provided an opportunity for 157 children, aged 6-12 years, to share their views and ideas in relation to the promotion of children's rights.

In June 2018, the Scottish Government published a consultation paper, [Progressing Children's Rights in Scotland: An Action Plan 2018-21](#), which sought views on the proposed content of the Scottish Government's Action Plan for taking forward children's rights from 2018 until 2021. Alongside the formal consultation, an 'easy read' online questionnaire was shared widely. A total of 115 responses were received to the formal consultation and over 400 questionnaires were completed online.

The Scottish Government is grateful to everyone, particularly children and young people, for their contributions and responses to these events and consultations. In addition, the views of children and young people reported in a number of recent publications have also informed the development of policies and priorities within the Report and Action Plan. This includes:

- [Lead the Way](#), the Scottish Youth Parliament Manifesto 2016-2021, based on 72,744 responses from young people.
- [I Witness: The Concluding Observations](#) (2018), Article 12 in Scotland's report, presenting the views of children and young people on how the Scottish Government should take forward the UN Committee on the Rights of the Child's Concluding Observations.
- [What Kind of Scotland? children influencing Scotland's future](#) (2017), a report compiled by the Children's Parliament on the kind of Scotland children want to live in.

A number of quotes from children and young are included within this report. These were sourced from the engagement events and the documents referred to above.

Responsibility for taking forward children's rights is mainstreamed across all portfolios of the Scottish Government. The above engagement with children and young people is, therefore, in addition to that undertaken by officials in the development of individual policies and legislation, including as part of the Child Rights and Wellbeing Impact Assessment (CRWIA) process. (The CRWIA is discussed further at section 1.6).

# 1. General Measures of Implementation

## Relevant UNCRC Articles: 4, 42 and 44(6) (see Annex A)

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

### 1.1 UK Withdrawal from the European Union

The outcome of the 2016 EU Referendum and the UK Government's approach to withdrawal from the EU provide important context for the General Measures of Implementation. The Scottish Government has made clear its view that continued membership of the EU is the best option for Scotland. Following the referendum, in which a majority of people in Scotland voted to remain within the EU (62% to 38%), the First Minister established a Standing Council on Europe, to consider in detail the possible impact of Brexit on human rights and social protections and the possible options open to Scotland. The Scottish Government set out in [Scotland's Place in Europe](#) (2016), its distinctive response and proposed approach to Brexit. This was re-emphasised and enhanced in [Scotland's Place in Europe: People, Jobs and Investment](#) (2018).

As well as the economic benefits of remaining within the European Single Market, the Scottish Government has prioritised in its dialogue with the UK Government the need to maintain and advance the individual rights and social protections currently provided by EU law and membership, including for children and young people.

*“Young People must not continue to be locked out of the rest of this [Brexit] process... We should have a far more official, meaningful representative voice at the table moving forward.”*

*Jack N, MSYP, Rights Review Event, 2018*

EU law currently provides children and young people with significant legal protections. The Scottish Government is clear that any Brexit deal must take explicit account of the interests of children and young people and fully secure the existing rights contained in EU law and identified in the UNCRC and other international human rights treaties. The PfG 2017-18 states explicitly that the Scottish Government will oppose the proposed removal of the European Charter of Fundamental Rights from our laws contained in the EU Withdrawal Bill and oppose any attempt by the UK Government to undermine the Human Rights Act (HRA) 1998.

Given the potential impact on their current rights, the Scottish Ministers are committed to hearing the views of children and young people in the ongoing Brexit process. MSYPs raised their concerns about the impact of Brexit on the rights of children and young people when they met with Cabinet Ministers in February 2017 and again in March 2018 and at the Rights Review Event, which SYP organised in April 2018. On 12 June 2018, the Scottish Government announced that funding would be provided to Children in Scotland to establish a Children and Young People's Panel on Europe. The Panel, which supports the participation of children aged 8-12 and young people aged 13-18, was successfully launched in August 2018 and has met a number of times, including with Mr Russell and with the First Minister's Standing Council on Europe. The Panel includes representation from a range of children and young people, including those from rural and island communities and those with additional support needs.

## 1.2 Human Rights Act 1998

The Human Rights Act 1998 (HRA) incorporates the core rights contained in the ECHR into domestic law. It requires public authorities, including the government and courts, to act compatibly with the Convention rights, and permits alleged breaches of human rights to be heard before UK courts. If all other avenues have been exhausted, cases may also be taken to the European Court of Human Rights.

Scottish Ministers have consistently opposed UK Government plans to replace the HRA with a “British Bill of Rights” on the basis that it will diminish the UK’s reputation overseas, damage relations with devolved governments, and impact negatively on how people, including children and young people, realise their rights. The UK Government has confirmed that any plans to replace the HRA with a “British Bill of Rights” have been postponed until after the completion of the EU withdrawal process.

## 1.3 Furthering Human Rights in Scotland

### First Minister’s Advisory Group on Human Rights

The Scottish Government is continuing to take forward measures within its devolved powers to deliver a modern, inclusive Scotland which protects, respects and realises internationally recognised human rights. Following from announcements in the PfG 2017-18, the First Minister established an Advisory Group on Human Rights to work independently of the government to develop recommendations on how Scotland can continue to lead by example on human rights, including economic, social, cultural and environmental rights.<sup>5</sup> The Group presented its report and recommendations to the First Minister on Human Rights Day 2018 (10 Dec). The Scottish Government will now work with external partners, across civil society and including the wider public sector, to establish a National Task Force to take forward the key recommendations, starting in 2019. The long-term vision presented by the Group is for a new Act of the Scottish Parliament which brings internationally-recognised human rights into Scots Law and creates a new human rights framework for all of the people of Scotland.

*“I want to make children’s rights more ‘official’.”*

*Member of the Children’s Parliament, Rights Event, 2018*

### Commitment to Incorporate the Principles of the UNCRC

The PfG 2017-18 included the commitment to undertake a comprehensive audit on the most effective and practical way to further embed the principles of the UNCRC into policy and legislation, including the option of full incorporation into domestic law. The audit is under way and the intention is to publish that work in spring 2019. To further strengthen children’s rights in Scotland, Scottish Ministers announced in the PfG 2018-19, a commitment to incorporate the principles of the UNCRC into domestic law.

Evidence shows that there are different ways to achieve this, and that there are some particular complexities in relation to the UNCRC which require to be worked through. It will be important to develop a model that will deliver the best outcomes for children, young people and families in Scotland. To deliver this commitment, the Scottish Government will consult widely in 2019, including with children, young people and families, local authorities and other public bodies across Scotland, as well as third sector partners and the judiciary. The Scottish Government will also consider where it may be possible for Scots law to go further than the Convention

<sup>5</sup> <https://humanrightsleadership.scot/>.

requires, where that is demonstrably beneficial for children and young people. In the interim, the Scottish Government will continue to consider ways in which rights under the UNCRC can be given better or further effect across individual policy areas.

## 1.4 Legislation

In line with the General Measures of Implementation, Ministers have also taken steps within the reporting period to further ensure that appropriate legislative measures are in place to support children and young people in Scotland in realising their rights. For example, a number of statutory measures have been taken forward since June 2015 which strengthen how children and young people across Scotland experience their rights, including the Human Trafficking and Exploitation (Scotland) Act 2015, the Scottish Elections (Reduction of Voting Age) Act 2015 and the Child Poverty (Scotland) Act 2017. A Scottish Government Bill to raise the age of criminal responsibility in Scotland from 8 to 12 years is currently progressing through the Parliament. A member's Bill to provide equal protection for children from physical punishment by abolishing the defence of reasonable chastisement is also progressing through Parliament, with Scottish Government support.<sup>6</sup>

### Children and Young People (Scotland) Act 2014 (CYP Act)

Of particular note is the CYP Act, which seeks to establish children and young people at the heart of planning and delivery of services and which includes a number of provisions that relate directly to the UNCRC.<sup>7</sup>

Commenced in June 2015, Part 1 of the CYP Act places specific duties on Scottish Ministers to keep under consideration whether there are any steps which they could take which would or might secure better or further effect in Scotland of the UNCRC and, if appropriate, to take steps identified by that consideration. The CYP Act further specifies that, in complying with these duties, Ministers must "take such account as they consider appropriate of any relevant views of children of which the Scottish Ministers are aware". Ministers are also required to promote public awareness and understanding of children's rights, including amongst children.

The Part 1 duties also require Ministers to report to Parliament every 3 years on relevant progress and their plans for the subsequent 3 year period. (This report and separate Action Plan have been developed in line with these duties.) These reporting arrangements, informed by the relevant views of children and young people, ensure that an action plan for taking forward children's rights in Scotland is in place for the next 3 years (until 2021) and every 3 year period thereafter.

Since 1 April 2017, sections 2 and 3 of the CYP 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.<sup>8</sup> Non-statutory guidance in support of these duties was prepared in dialogue with stakeholders and published in December 2016, following a full public consultation.<sup>9</sup> The first reports under these provisions will be published as soon as practicable after 1 April 2020.

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6 A full list of legislation considered by the Scottish Parliament is available on the Parliament's website at <http://www.parliament.scot/parliamentarybusiness/bills.aspx>

7 <http://www.legislation.gov.uk/asp/2014/8/contents/enacted>.

8 The ILF Scotland (Miscellaneous Listings) Order 2018 came into force on the 28 June 2018. The Order makes provision for ILF Scotland to be added to Schedule 1 of the CYP Act on that date.

9 <http://www.gov.scot/Resource/0051/00512310.pdf>.

Part 3 of the CYP Act requires local authorities and health boards, with the assistance of other service providers, to take a strategic approach to the design and delivery of services used by children, ensuring that they focus on improving children and young people's wellbeing in their area. Following public consultation, the statutory guidance on Part 3 of the CYP Act, Children's Services Planning, was published in December 2016 and disseminated widely.<sup>10</sup> The first children's services plans are now in place and cover the three year period from 1 April 2017 to 31 March 2020. Local authorities and relevant health boards are also required to jointly publish an annual report detailing how the provision of children's services and related services in that area have been provided in accordance with the plan.<sup>11</sup>

Other key provisions in the CYP Act include Parts 4 and 5, which aim to improve the way services support children by promoting cooperation between services and Parts 6 to 8, which increase the amount and flexibility of funded early learning and childcare. In addition, Parts 9 to 14: ensure better permanence planning for looked after children by improving support for kinship carers, families and care leavers; introduce corporate parenting duties to those public bodies which, in the course of their duties, are most likely to engage directly with children, families and adults; and put Scotland's National Adoption Register on a statutory footing. These measures will be discussed later in this report.

## **1.5 Coordination of the Implementation of Children's Rights**

Since 2007, the Scottish Government has had a Minister with specific responsibilities for overseeing progress in relation to the rights of the child. The work of the current Minister for Children and Young People is supported by the Rights and Participation team within the Scottish Government's Directorate for Children and Families. This team has responsibilities for the coordination and reporting on progress in Scotland in relation to children's rights and raising awareness of the UNCRC. A key aim of the team is to promote a rights-based approach to policy development and to mainstream responsibilities for children's rights across all portfolios of the Scottish Government. The Rights and Participation team also liaises with the UK Government and colleagues from across the devolved administrations as required on relevant UK-wide matters relating to the Convention and in the sharing of best practice.

The Rights and Participation team works closely with the Scottish Government's Human Rights team, which coordinates Scottish Government participation in UK engagement with international monitoring mechanisms in relation to human rights treaties that have been ratified by the UK Government.

## **1.6 Child Rights and Wellbeing Impact Assessment**

In support of the duty on Ministers to consider children's rights under Part 1 of the CYP Act, the Child Rights and Wellbeing Impact Assessment (CRWIA), introduced in June 2015, aims to ensure that all areas of the Scottish Government consider the possible direct and indirect impacts of proposed policies and legislation on the rights and wellbeing of children and young people. The CRWIA, which was developed by a children's rights expert, in consultation with relevant stakeholders, is promoted across the Scottish Government as a key tool in the development of policy. The views of children and young people are integral to the CRWIA process.

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10 <http://www.gov.scot/Publications/2016-12/8683>.

11 In 2016, the Scottish Government legislated to bring together health and social care into a single, integrated system, with Integration Authorities now responsible for funding local services, which were previously managed separately by NHS Boards and Local Authorities. The Public Bodies (Joint Working) (Scotland) Act 2014 sets out the minimum adult services that should be delegated to all Integration Authorities, however delegation arrangements for children's health and social care services are determined on the basis of local need.

There is a clear Ministerial expectation that CRWIAs will be undertaken for all new policies and legislation. Training and guidance on the UNCRC and children's rights have been made available for officials completing CRWIAs.

Completed CRWIAs are published on the Scottish Government website.<sup>12</sup> Guidance on the CRWIA approach has been published for use by public authorities (and other organisations) should they wish to utilise this resource. Best practice online materials will continue to be updated. The CRWIA guidance and training tool are in the process of being updated following review.

## 1.7 Use of Data

The Scottish Government is aware that access to appropriate data and evidence is vital in monitoring progress on how children and young people are realising their rights and informing evidence-based policy making. Relevant statistics and research also inform the preparation of CRWIAs.

The Scottish Government works continually to further improve its data collection, to help establish a comprehensive picture of children in Scotland. Examples of data published include statistics on children's social work, e.g. services for looked after children, child protection and young people in secure care.<sup>13</sup> The data includes information about gender, age group, ethnicity, disability, etc. Statistics are also published on early learning and childcare, education outcomes for looked after children, school education, etc. New data has been developed to track participation in particular and was published for the first time in March 2018.<sup>14</sup> The Scottish Government has reflected some of this data in the National Performance Framework and will be monitoring participation as a key measure in its vision for national wellbeing in Scotland.

Data published as National Statistics are subject to specific validation and are produced, managed and disseminated to high standards. Scottish Government statistical publications are accessible on the Scottish Government website. Other bodies, including the Care Inspectorate, Scottish Children's Reporter Administration and Scottish Social Services Council, also publish statistics relevant to children and young people.

As well as statistics, the Scottish Government also commissions research on a wide range of issues relevant to children and young people. For example, Growing Up in Scotland<sup>15</sup> is a longitudinal research study, tracking the lives of thousands of children and their families from the early years, through childhood, and beyond. The aim of the study is to provide information to support policy making and to provide an important resource for practitioners, academics, etc.

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

Children's rights are also considered as part of budget and resource allocation decisions. The Scottish Government, with the Scottish Parliament, have well established Budget setting and scrutiny arrangements in place that aim to ensure that decisions about revenue and capital expenditure and 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

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12 CRWIAs published on the Scottish Government website can be accessed at:

<https://beta.gov.scot/search/?q=crwia>

13 <http://www.gov.scot/Topics/Statistics>

14 <https://beta.gov.scot/publications/young-peoples-participation-decision-making-scotland-attitudes-perceptions/>

15 <https://growingupinScotland.org.uk/>

Commission Report on [The Future Delivery of Public Services](#), published in 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 will be further embedded by the introduction of the Fairer Scotland Duty in April 2018, which requires public bodies to have due regard to socio-economic disadvantage in all strategic decisions.

Throughout the reporting period, the Scottish Government has prioritised funding allocations to areas of expenditure that benefit children and young people and their families, including: access to health visitors; expanding funded early learning and childcare; free school meals; measures to address the poverty-related attainment gap and child and adolescent mental health services (CAMHS). 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 policies and significant investment decisions.

The Scottish Government publishes an Equality Statement each year alongside its draft Budget for the year ahead. This document examines the impact of budgetary decisions across protected characteristics. From 2015, the draft *Budget Equality Statement* has included an expanded section on the impact of budget decisions for children and young people and their rights and wellbeing. To further assist transparency, each year, the Scottish Government submits to the Scottish Parliament detailed information of total expenditure levels and changes in spending on specific budget lines. This is known as the 'Level 4' Budget information, which is published by the Scottish Parliament on its website.<sup>16</sup> This includes budget lines relevant specifically to children and families, including budgets for children's hearings, preventing youth offending, support for families with disabled children, etc.

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.

## **1.9 Children, Young People and Families Early Intervention and Adult Learning and Empowering Communities Fund**

In line with the Christie Report principles, the Scottish Government's Children, Young People and Families Early Intervention, and Adult Learning and Empowering Communities Fund (CYPFEI/ALEC) supports the third sector to use early intervention and prevention to improve outcomes for children, young people, families and communities. Launched in 2015, the Fund's core funding has provided £14m each year to up to 118 organisations between 2016-17 and 2018-19, with an extension year for 2019-20. The Fund is supporting organisations to deliver activities which tackle inequalities and poverty, support parents and carers, improve learning and build skills.<sup>17</sup> The CYPFEI/ALEC Fund also provides additional support to 30 third sector organisations with £2m of funding from 2017-18 to 2018-19 for projects to deliver fresh and innovative ideas or to scale up evidenced approaches. The Fund, which is administered by the Corra Foundation, has supported over one million beneficiaries since April 2016.

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<sup>16</sup> <http://www.parliament.scot/parliamentarybusiness-17534.aspx>.

<sup>17</sup> The full list of the organisations supported through the fund can be accessed at: <https://www.corra.scot/wp-content/uploads/2018/01/CORE-FUND-LIST-2019-1.pdf>.

## 1.10 Participatory Budgeting

Participatory budgeting is recognised internationally as a way for people to have a direct say in how money is spent locally. The Scottish Government's Community Choices Fund supports and promotes participatory budgeting nationally. This programme of support is delivered in partnership with local authorities, communities and third sector organisations, and implemented across policy areas from policing to health and social care, transport and education. Since 2014, the Scottish Government has invested £6.5m through the Community Choices Fund including programmes which have helped to involve children and young people.<sup>18</sup>

The Scottish Government is encouraging partners involved in the Scottish Attainment Challenge and Pupil Equity Funding to support participatory budgeting as a way to ensure that children, parents and other citizens are involved in decisions around how Pupil Equity Funding is used. The Attainment Challenge Policy Unit has been working with colleagues in the Community Empowerment Team to discuss ways of strengthening the participatory budgeting message for example, participatory budgeting information is now included in the National Operational Guidance for Pupil Equity Funding.

## 1.11 Raising Awareness of Children's Rights

*"I think more people in Scotland (especially kids) need to know about their rights. If something unfair happens, then they know what to do."*

*Member of the Children's Parliament, Rights Event, 2018*

The Scottish Government also aims to raise awareness and understanding of children's rights throughout Scottish society. Ministers are aware that to achieve a Scotland where everyone knows about and understands children's rights requires partnership working across sectors, and with children and young people themselves. The PfG 2017-18 announced the intention to commence a three-year programme to raise awareness of children's rights. The Scottish Government is working with children, young people and stakeholders to co-design and co-deliver this programme.

For the past 3 years, the Scottish Government has included a children's rights awareness-raising objective within the terms of grant for the core funded organisations within the CYPFEI/ALEC Fund. Since April 2017, a similar awareness raising objective has been included in the terms of general grant funding for relevant organisations. The Scottish Government also continues to raise awareness and understanding of children's rights through the funding and support provided to key organisations that work with children and young people, including Young Scot, the Scottish Youth Parliament and the Children's Parliament.

Relevant stakeholders have also assisted the Scottish Government in promoting and distributing, to schools, citizens advice centres and community groups, on request, a large number of copies of the easy read UNCRC information booklet [UN Convention on the Rights of the Child: A Guide for Children and Young People](#). The booklet was updated within the reporting period.

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18 <https://pbscotland.scot/blog/2018/7/24/cost-of-the-school-day-project>; <https://pbscotland.scot/blog/2018/9/25/the-speyside-yp-decide-workshop-this-is-a-brilliant-way-to-make-decisions>; <https://pbscotland.scot/blog/2018/8-14/opportunities-to-get-involved-in-participatory-budgeting>; <https://pbscotland.scot/blog/2018/2/2/south-glasgow-youth-bank-jan-2018>

## 1.12 Training on Children's Rights

Within the Scottish Government, bespoke training on children's rights has been made available to Ministers, Scottish Government senior officials and policy leads to further support and promote understanding of the UNCRC, the CRWIA and a rights-based approach to the development of policy. Understanding of the rights of the child is also promoted through the internal Children and Young People Community of Interest – a group of officials who are committed to the development of better, more joined-up policy for the benefit of children and young people across Scotland. Sessions have included a seminar with key stakeholders on the promotion of better engagement with children and young people and an event, led by the Permanent Secretary, on the promotion of a rights-based approach to policy development.

Schools and practitioners continue to be actively encouraged to participate in professional learning activities which help promote their understanding of the UNCRC. The two main ways that practitioners engage are through Education Scotland's 'Recognising and Realising Children's Rights' professional learning resource and through participation in UNICEF's Rights Respecting Schools programme which has a cost attached to it.

The [Common Core of Skills, Knowledge & Understanding and Values for the "Children's Workforce" in Scotland](#) (2012), 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 taken steps to ensure wide awareness of this resource amongst relevant professional groups. For example, the Common Core informed the development of new practice standards and a performance and monitoring framework for the national Safeguarders Panel, which was launched in 2015. Other relevant stakeholders have also been made aware of this valuable resource.

## 1.13 Human Rights in Business

As well as promoting awareness of rights in the public and third sectors, Scottish Ministers are taking steps to promote human rights in business, including through the promotion of the UN Guiding Principles on Business and Human Rights (UNGPs), which were endorsed by the UN Human Rights Council in 2011. The UNGPs are based on a framework of state duty to protect human rights, business responsibility to respect human rights, and the requirement for remedy for negative human rights impacts.

The Scottish Government is working with partners to develop a coordinated plan of action in Scotland to implement the UNGPs. A national baseline assessment (NBA), which was published in October 2016<sup>19</sup>, sets out how law, policy and practice in Scotland aligns with the UNGPs. Further engagement with stakeholders is helping to prioritise the NBA's recommendations and will inform the drafting of an action plan.

## 1.14 Scotland's Economic Strategy

The Scottish Government will continue to focus on inclusive growth as a core priority of Scotland's Economic Strategy to deliver increasing economic competitiveness while tackling inequality at all levels of society. In taking this forward, the Scottish Government has continued to work with its key stakeholders to develop greater awareness amongst the business community of the rights of children, including updating the strategic guidance letters for Scotland's enterprise agencies to inform their corporate plan and operational delivery. Activity in this area will be reported as part of each organisation's reporting function.

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19 <http://www.snaprights.info/action-areas/better-world/business-and-human-rights>

Human rights are also central to the Scottish Government's commitment to Fair Work in Scotland. The Fair Work Convention, which provides independent advice to the Scottish Government on matters relating to innovation, Fair Work and the Living Wage, has a remit to drive Fair Work in Scotland. The Convention and the Scottish Government are investigating how to fully utilise public sector procurement opportunities to incorporate Fair Work, to improve the quality and security of jobs, create development opportunities and drive participation. The Scottish Government is also continuing to encourage all employers to pay the Living Wage. These initiatives are important in providing families with greater security to support, develop and care for their children.

In addition, the Scottish Business Pledge continues to promote a range of Fair Work practices, with the Living Wage at its core, to help working families achieve balance in their work and life commitments.

### **1.15 Public Procurement**

The Scottish Government has also worked to ensure public bodies have due regard to equality duties in public procurement activities. Those bidding for public sector contracts are required to operate within social, environmental and labour laws and obligations. The [Scottish Procurement Policy Note 9](#) explains the requirement to include conditions to ensure compliance with such laws, describes what public bodies should and can do at each stage of the procurement process, and includes model clauses. The Scottish Government will continue to work to promote equality duties and human rights obligations in public procurement activities and to work within the public procurement regulations to ensure that public contracts are not awarded to bidders who do not comply with applicable obligations in the fields of social, environmental and labour law. This duty extends down the supply chain, helping to ensure that all businesses involved in contracts comply with relevant regulations for employment and human rights duties.

### **1.16 International Development**

As well as supporting children to realise their rights here in Scotland, Scottish Ministers are committed to promoting children's rights internationally. International relations are reserved to Westminster under the Scotland Act 1998 (the 1998 Act). However, Scottish Ministers may, under the 1998 Act, assist Ministers of the Crown with international relations, including international development assistance.

The Scottish Government's International Development work across our partner countries is focused on poverty alleviation and the achievement of the UN Sustainable Development Goals. Scotland also adheres to the principles of the Paris Declaration on Aid Effectiveness. The Scottish Government does not provide any bilateral funding direct to other governments, including direct to schools, but has instead continued to channel funds through a range of Scottish based organisations, such as registered charities, universities, and NHS Boards, with a strong emphasis on respectful partnership. All grant recipients are required to demonstrate that they embed a human rights approach in their work in order to be eligible for funding from the Scottish Government's international Development Fund.

The Scottish Government's "Global Citizenship: Scotland's International Development Strategy", published in December 2016, provides the framework for Scotland's contribution to the fight against global poverty, inequality and injustice and promotes sustainable development. The Scottish Government is also committed to implementing the Sustainable Development Goals via the mechanisms of the National Performance Framework (NPF) in order to reduce inequality both domestically and internationally. Significant investments during the reporting period include the following:

- The Malawi Development Programme with **£11.5m** of funding for the period 2018-23, including a project providing training for people (including youths) with disabilities, and another to provide young people with access to justice;
- funding of **£1.2m** during 2016-19, to enable Police Scotland to deliver capacity building work focusing on child protection and gender based violence with their counterparts in Sub-Saharan Africa;
- **£15m** of funding for the Zambian and Rwandan Development Programmes, for the period 2017-22, including work to teach children about good sanitation practice and building the capacity of young people to lead communities to achieve increased food and livelihood security; and
- in Pakistan, inspired by Malala Yousafzai, the Scottish Government is funding scholarships to support young women to go to university and children to attend school, including a particular focus on supporting children with disabilities.

The Scottish Government has also provided Scottish based NGO, Mary's Meals, with over **£1m** for a school feeding programme in Zomba, Malawi.

## 2. General Principles

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

The 4 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 4 general principles are the guiding principles which underpin each and all of the specific rights outlined in the Convention.

### 2.1 Equality Act 2010/Public Sector Equality Duty

Equality law remains largely reserved to the UK Government. The Scottish Government has argued for full devolution of equality law, and although the UK Government has not accepted that argument, the Scotland Act 2016 did include two exemptions to the general reservation. Those exemptions enable the Scottish Parliament to legislate about equal opportunities in relation to non-executive appointments to the boards of Scottish public authorities as well as to introduce protections and requirements that supplement but do not modify the existing provisions of the Equality Act 2010. Following the commencement of the Scotland Act 2016, the Scottish Parliament passed the [Gender Representation on Public Boards \(Scotland\) Act 2018](#), which provides that public boards have a gender representation objective that 50% of their non-executive members are women.

Section 149 of the Equality Act 2010 places a duty (known as the public sector equality duty, or PSED) on public authorities to have due regard to the need to eliminate discrimination, advance equality of opportunity and promote good relations between people who share a protected characteristic and those who do not. The Scottish Government has introduced Regulations, (the [Equality Act 2010 \(Specific Duties\) \(Scotland\) Regulations 2012](#)) which set out specific duties to enable better delivery of the PSED. Those Regulations place additional duties on Scottish public authorities, requiring them to, *inter alia*, mainstream equality, assess policies and practices against the requirements of the Equality Act 2010, collect and use employee information and publish equal pay statements.

The [Equality Outcomes and Mainstreaming Report 2017](#) (2017 Report) provides an update on the Scottish Government's progress in promoting equality across its activities and in delivering on the 2013 equality outcomes. It also sets new equality outcomes covering the period 2017-21. The 2017 Report identified key priority themes for progress which are relevant to children and young people. These include:

- Promoting participation in decision making;
- school education;
- tackling hate crime;
- eradicating violence against women and girls.
- following devolution of some Social Security functions, putting equality at the heart of the development and creation of a new social security system for Scotland;
- mental health, including child and adolescent mental health; and
- improving outcomes for children affected by Domestic Abuse and the Justice System.

The Scottish Government is committed to a review of the specific duties contained in the [Equality Act 2010 \(Specific Duties\) \(Scotland\) Regulations 2012](#) to enhance their effectiveness in supporting the PSED. At the time of writing, it is expected that the review will take place in 2019, with any amendment Regulations coming into force in April 2020.

*“Diversity is important. We should be respected for who we are and be able to share our ideas.”*

*Member of Children’s Parliament, Rights Event, 2018*

## 2.2 Equalities and Inclusion

The following section discusses the actions that the Scottish Government has taken, within its devolved powers, to address inequalities, for example, in relation to gender and race. Specific measures taken forward to support the needs of children with disabilities, migrants and asylum seeking children, and looked after children and young people are discussed in subsequent sections of this report.

### Age

Although age is a protected characteristic under the Equality Act 2010 (2010 Act), there are a number of specific exceptions and exemptions. For example, the provisions in the Act which prohibit discrimination in providing services and public functions do not apply to anyone under the age of 18. 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. 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 findings of Lord Bracadale’s review of hate crime, including with reference to age, are discussed at section 2.6.

### Gender

The Scottish Government is committed to gender equality and believes that women and girls should have equal rights and opportunities to men, equal access to power and resources, and live free from gender-based violence.

The Scottish Government has established a National Advisory Council on Women and Girls (NACWG).<sup>20</sup> The NACWG’s vision is of a Scotland which is recognised as a world leader for its commitment and actions towards realising an equal Scotland where all women and girls can reach their true potential. Independently chaired by Louise Macdonald OBE, CEO of Young Scot, the NACWG has 16 members from diverse backgrounds, aged 15+ (with three members aged 21 and under). The NACWG is a champion for policies that are making a meaningful difference to women and girls lives, as well as a catalyst for change to address gender inequality by providing independent strategic advice to the First Minister.

Gender equality is one of the key themes of the Scottish Government’s Science, Technology, Engineering and Mathematics (STEM) Strategy. The [Strategy](#), published in October 2017, offers a comprehensive plan to drive forward improvements in STEM across the education and training landscape. In June 2018, the Government announced that the Improving Gender Balance project would be extended to all schools in Scotland by 2022, in line with the STEM Strategy. The pilot project, which was in collaboration with the Institute of Physics, Skills Development Scotland and Education Scotland, had been considering creative approaches to tackling gender stereotyping in STEM in primary schools.

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<sup>20</sup> Further information on the Advisory Council for Women and Girls can be accessed at: <https://news.gov.scot/news/advisory-council-on-women-and-girls>

[Equally Safe](#), Scotland's Strategy for tackling violence against women and girls, published in 2016, includes, as one of its key priorities, ensuring that women and girls thrive as equal citizens – socially, culturally, economically and politically. The [Equally Safe Delivery Plan](#), published in 2017, includes a range of actions to take forward this priority, including bringing forward legislation to ensure that public sector boards in Scotland are gender balanced.

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

Scotland is considered to be one of the most progressive countries in Europe regarding LGBTI equality and has a very clear position on promoting LGBTI rights. Scotland scored most highly in the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) Europe's Rainbow Index for LGBTI equality and human rights legislation in 2015 and 2016, and was ranked second in 2017. The Scottish Government has added intersex equality to its approach to sexual orientation and gender identity equality, and has provided £45,000 each year since 2015-16 to the Equality Network (an organisation which promotes LGBTI equality and rights across Scotland) to facilitate engagement. The Scottish Government intends to consult on how to better support children with variation of sex characteristics (intersex children) and their families. This consultation will cover a range of areas such as health, birth registration, guidance and support.

In April 2017, the Scottish Government established a working group to review lesbian, gay, bisexual, trans, and/or intersex (LGBTI) equality in schools.<sup>21</sup> The group examined how the education experience for LGBTI young people in Scotland can be improved. It was chaired by the Association of Directors of Education in Scotland (ADES) and included education leaders, equalities experts and young people, as well as representatives of the Time for Inclusive Education (TIE) campaign. The group published its strategic work plan in December 2017.<sup>22</sup> The Group's aim is to ensure that a fully inclusive education is delivered for all children and young people. The report and recommendations of the Group were published on 8 November 2018<sup>23</sup> and accepted in full by the Scottish Government. Work will shortly commence in taking these recommendations forward.

### Race

*“There has to be a real effort to change society's attitude towards young people of BME backgrounds.”*

*Jamie, MSYP, feedback from December 2017 meeting with the Coalition for Racial Equality and Rights, Glasgow*

The Scottish Ministers are also 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 Scottish Government has developed a number of initiatives within the reporting period in seeking to deliver on this ambition.

21 <https://beta.gov.scot/groups/lgbti-inclusive-education/>.

22 <https://beta.gov.scot/publications/lgbti-inclusive-education-working-group-strategic-work-plan/>

23 <https://www.gov.scot/publications/lgbti-inclusive-education-working-group-report/>

The [Race Equality Framework for Scotland 2016-2030](#) (2016) sets out the Scottish Government's approach to tackling racism and advancing race equality. The corresponding [Race Equality Framework Implementation Approach](#) (2017) defines the required structures through which to progress, monitor and evaluate the implementation of the actions from the Framework. In addition, [A Fairer Scotland for All: Race Equality Action Plan 2017-2021](#) (2017) confirms the key actions that the Scottish Government will take over this Parliamentary session to drive positive change for minority ethnic communities.

The Independent Race Equality Framework Adviser, Kaliani Lyle, was appointed in December 2016 to help implement the Framework and to liaise with stakeholders, communities and academics. Ms Lyle's report, [Addressing Race Inequality in Scotland: The Way Forward](#) was published in December 2017. The Scottish Government also commissioned YoungScot in 2017 to co-design the Fairer Future project,<sup>24</sup> which brings together young ethnic minority people to gather their insights, experiences and views of the six themes of the Race Equality Framework. The group's report, [Creating a Fairer Future](#), was published in November 2017. The Scottish Government will continue to support the Fairer Future Panel to further develop the opportunities for minority ethnic young people to participate in local and national decision making.

The Scottish Government continues to support the work of the third sector in the promotion of race equality – with over £2.6m provided in 2017-18 to support this work and over £2.6m allocated in 2018-19.

## 2.3 Gypsy/Travellers

The Scottish Government recognises that Gypsy/Travellers face serious disadvantage and discrimination in Scotland. This is unacceptable and Scottish Ministers are determined to address this. In December 2017, as part of the Race Equality Strategy, the Scottish Government announced a new Ministerial Working Group on Gypsy/Travellers which seeks to develop innovative solutions to seemingly intractable problems, and to drive improvements at a faster pace. The Ministerial Working Group has met three times this year (2018), with a focus on improving outcomes for the Gypsy/Traveller community in the key areas of accommodation, education, health and tackling poverty. Early in 2019, the Scottish Government will publish a set of actions that will be taken in the current parliamentary term to improve the lives of Scotland's Gypsy/Travellers.

The Child Poverty Delivery Plan, published on 29 March 2018, focuses on priority families who are at higher risk of poverty, including minority ethnic families. The final chapter of the Plan sets out an assessment of how each substantive action benefits these families and which of the main drivers of poverty it tackles. Education is key to avoiding and moving out of poverty, but uptake amongst the Gypsy/Traveller community is relatively low, particularly in the early years. To address this, the Scottish Government will invest an initial £0.5m over the lifetime of this Plan to work directly with Gypsy/Traveller families and other partners as part of a tailored children and families community education programme. Crucially, this will be a flexible approach which maximises the benefits to the whole family. It will be developed and delivered with the full involvement of the community. The Scottish Government will carefully monitor and evaluate the programme to learn lessons over the later years of this plan.

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24 <https://www.youngscot.net/fairer-future-youth-vision-for-scotland/>

The Scottish Government will work closely with the Gypsy/Traveller community to ensure that identified actions are the right ones, and are shaped and delivered in a way that is appropriate, effective and culturally sensitive. The Scottish Government is particularly keen to involve young people in delivering change, and is providing practical and financial support to the Young Gypsy/Traveller Assembly, to enable young Gypsy/Travellers to be more involved in the decisions that affect their lives.

### Funding to Support Work with Gypsy/Travellers

The Scottish Government is providing a record level of funding to third sector organisations working with Gypsy/Traveller communities – over £1.5m over the period 2018-21. This includes support for MECOPP which supports Gypsy/Travellers who are carers, Article 12 which works to promote young Gypsy/Travellers rights and representation, Shelter Scotland which provides expert housing and benefits advice to Gypsy/Travellers and STEP, which works with local authorities, teachers and practitioners to work with Gypsy/Travellers families. It also includes a new investment of £0.5m over the next four years to develop new work to alleviate child poverty within the Gypsy/Traveller community.

### Site Provision and Planning

It is for local authorities to provide Gypsy/Traveller sites based on an assessment of need in their area. Local authorities are required by law to produce a Local Housing Strategy (LHS) that sets out its strategy, priorities and plans for the delivery of housing and related services, including for Gypsy/Travellers. The Scottish Government is updating its Housing Needs and Demand Assessment (HNDA) Guidance in 2018. A refresh of the LHS guidance is also underway, with the intention to publish revised guidance in spring 2019. The Scottish Government will continue to review the content of local authority Local Housing Strategies to ensure the needs of Gypsy/Travellers are addressed.

In May 2015, the Scottish Government published the guidance [Improving Gypsy/Traveller Sites](#), which sets out minimum standards for Gypsy/Traveller sites and the core rights and responsibilities of site tenants. Local authorities and Registered Social Landlords (RSLs) are expected to reflect the rights and responsibilities in the guidance in the individual tenancy agreements they have with tenants. Between August 2017 and March 2018, the Scottish Government carried out a review of progress towards meeting the standards. Information gathered during the review was published in [a report](#) in May 2018.

The minimum standards are now part of the Scottish Social Housing Charter. The Scottish Housing Regulator (SHR), in its role in overseeing the standards as part of the Charter, contacted all site providers after the June deadline for meeting the standards to request further information. SHR published [a report](#) detailing its findings on 23 October. The Scottish Government will continue to liaise with SHR and site providers to ensure that all sites provide accommodation that is of a good standard to Gypsy/Travellers.

The Scottish Government continues to seek to raise wider awareness of the Gypsy/Traveller community in the planning system. In 2015, the Scottish Government funded PAS (formerly Planning Aid Scotland) to undertake the Gypsy/Traveller Planning Awareness project. As part of this initiative, PAS produced guides on the planning system and the Gypsy/Traveller community for councillors, community councils, and Gypsy/Travellers.<sup>25</sup>

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25 <http://www.pas.org.uk/news/recognition-of-unique-gypsytraveller-culture/>

## 2.4 Attitudes to Children and Young People

The Scottish Government recognises the importance of fostering inter-generational communication and relationships. To better understand changing attitudes towards children and young people, the Scottish Government has developed new data on societal attitudes. This has provided a baseline to support the tracking of this data over time to identify any changes and where development is most needed. The research commissioned includes the following:

- The Public Attitudes to Young People in Scotland omnibus survey<sup>26</sup> of 1,000 adults in Scotland, which found that: more people held positive attitudes towards young people than negative. 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 in the Young People in Scotland Survey (YPiSS), which surveys a representative sample of 11-18 year olds across state secondary schools in Scotland about the opportunities for them to participate in decisions that affect them. Findings were published in November 2017.
- Questions on public attitudes towards young people's participation in the Scottish Social Attitudes Survey (SSAS) core module, a survey of Scottish adults, including questions around how much say young people should have in decisions that affect their lives. Findings were published in September 2018.<sup>27</sup>

The Scottish Government will include within the Scottish Social Attitudes Survey 2019, questions designed to help track public attitudes towards young people over time. The outcome will help inform actions to increase understanding of children's rights and the positive contribution made by Scotland's children and young people. Data is also recorded every 4 years in the *Health Behaviours in School Age Children (HBSC)* on relationships between children/young people and their parents from an international perspective.<sup>28</sup>

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. 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 aims to inspire Scotland through its young people, is also contributing to measures to counter the negative portrayal of children and young people. An evaluation of the YOYP will be published in 2019.

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26 (<http://www.gov.scot/Publications/2017-11/2233>).

27 <https://beta.gov.scot/publications/child-adolescent-health-wellbeing-scotland-evidence-review/>

28 <http://www.euro.who.int/en/health-topics/Life-stages/child-and-adolescent-health/health-behaviour-in-school-aged-children-hbsc/growing-up-unequal.-hbsc-2016-study-20132014-survey>

## 2.5 Portrayal of Children and Young People in Certain Groups

*“Marginalised groups of young people can become very isolated, help make sure everyone is involved and supported!”*

*Young Person, Article 12 in Scotland, I Witness: The Concluding Observations, 2018, p.8.*

The UN Committee on the Rights of the Child has identified that groups of children and young people are especially at risk of experiencing discrimination and stigmatization, including those from minority ethnic communities and Roma, Gypsy and Traveller children.<sup>29</sup> Balanced portrayals of such groups in the media contribute significantly to the building of a more inclusive Scotland. The Scottish Government Race Equality Framework, therefore, includes an action to work to improve ethnic diversity in the media workforce and how minority ethnic communities, including young Gypsy/Travellers, are represented and portrayed.

The Scottish Government is clear that disabled children and young people should have the same rights, opportunities and quality of life as their non-disabled peers. The development of the *Supporting Disabled Children, Young People and their Families Resource* in consultation with disabled children, young people, their families and the organisations that represent them, will consider discrimination and public attitudes as part of this process.

The Scottish Government funds the advocacy organisation Who Cares? Scotland to support efforts to prevent unnecessary barriers and raise awareness of discrimination faced by care experienced young people. The 3 principles of this campaign are: to listen to the voice of Scotland’s care experienced young people; act so that Scotland is better for care experienced young people; and unite with and around Scotland’s care experienced young people. These principles are considered as key elements of all programmes and policy development. Scotland’s mentoring programme, Intandem, for children aged between 8 and 14 years of age who are looked after at home is discussed at section 2.18.

From its interactions with children and young people, the Scottish Government is aware that, whilst looked after children and young people need and deserve extra support, they do not want to be defined by their care experience. Part 9 of the CYP Act sets out that corporate parents (listed in the CYP 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. Local authorities also have duties under Part II of the Children (Scotland) Act 1995 to safeguard and promote the welfare of all looked after children, to provide continuing care for former looked after children up to the age of 20 (to be increased to age 21 from 1 April 2019), and provide advice and assistance to former looked after children to age 19 and in some circumstances age 26. Public authorities must also have regard to existing protected characteristics in the 2010 Act when making decisions, and try and balance any conflicting interests.

## 2.6 Hate Crime

Hate crime can be verbal or physical and has hugely damaging effects on the victims, their families and communities, and everyone must play their part to challenge it. Current hate crime legislation allows any existing offence to be aggravated by prejudice in respect of one or more of the protected characteristics of race, religion, disability, sexual orientation and transgender identity.

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<sup>29</sup> CRC/ C/ GBR/ CO/ 5, para 21c.

Lord Bracadale's Review of Hate Crime Legislation, published in May 2018, included a recommendation that an additional statutory aggravation should be created for age (covering both older people and children and young people). In response to the recommendations made, on 14 November, the Scottish Government launched [One Scotland: Hate Has No Home Here](#), a public consultation on amending hate crime legislation, seeking views on the detail of what should be included in a new, consolidated, Hate Crime Bill.

On 13 June 2017, the Scottish Government published an ambitious programme of work to tackle hate crime and build community cohesion in response to the recommendations made by the Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion. The report included a number of actions relevant to children and young people. The Scottish Government has established an Action Group, chaired by the Cabinet Secretary for Communities and Local Government, with key stakeholders, to take this work forward.

The Scottish Government continues to take steps to raise awareness of hate crime, for example through the recently launched campaign which aims to encourage witnesses to report hate crime, which took place between September-November 2018. The Scottish Government also continues to fund measures to address hate crime. For example, £70,000 was provided to YouthLink Scotland in 2017-18. LGBT Youth Scotland and respectme also received funding in early 2017 to collaboratively produce a resource and deliver practice seminars to improve the knowledge, confidence and skills of teachers and those working in learning environments to address the issue of homophobic, biphobic and transphobic bullying.

## 2.7 Safeguarding Vulnerable Individuals Through Prevent

The Scottish Government continues to work with partners, including Education Scotland and local authorities, to deliver a balanced and proportionate approach to safeguard children and young people from being drawn into terrorism. A concerted effort has been made to ensure that the preventative, rights-based approach taken in Scotland is aligned to existing safeguarding procedures. This includes supporting Scottish Specified Authorities<sup>30</sup> to demonstrate compliance with the Prevent Duty, which is part of the UK Government's Counter Terrorism Strategy (CONTEST).<sup>31</sup>

While national security is a reserved matter, the delivery of Prevent in Scotland occurs through various authorities that operate within areas of devolved competence. Since commencement of the duty on 1 July 2015, the Scottish Government has supported the delivery of Prevent training to thousands of frontline service staff, including those within education, to ensure any concerns about a vulnerable individual receive a proportionate response. A Local Authority Code of Practice has also been published<sup>32</sup>, which ensures all staff, including those working in education, are made aware of the vulnerabilities associated with radicalisation and what action to take. The Scottish Government's approach aims to address the broad spectrum of terrorist and violent extremist threats. The collective focus is on early identification of risk to an individual in order to safeguard their wellbeing. This prevents particular sections of Scotland's communities feeling stigmatised or isolated and sits alongside wider efforts to build more resilient and inclusive communities.

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

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30 Those authorities specified in Part 2 of Schedule 6 to the Counter Terrorism and Security Act 2015

31 <https://www.gov.uk/government/publications/counter-terrorism-strategy-contest-2018>

32 <https://www.westlothian.gov.uk/media-15087/Prevent-Guidance/pdf/CONTESTPrevent-LocalAuthorityGuidance.pdf>

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 will shortly be publishing links to a number of resources together with bespoke lesson packs, which can be used by teachers to lead these sensitive discussions in the class room.

## **2.8 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 best interests and rights of the child underpin this goal. The Getting it right for every child (GIRFEC) approach puts the best interests of the child at the heart of decisions that affect them, with the aim of improving outcomes for all children and young people. GIRFEC focuses on considering each child's needs in a more holistic way, looking at their whole wellbeing and encouraging early intervention, prevention and coordination around the family. The CYP Act has 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 factors are often referred to by their initial letters – SHANARRI. They are wellbeing indicators which help 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 children has a need for support.

Getting it right for every child is the national approach in Scotland to improving outcomes and supporting the wellbeing of children and young people by offering the right help at the right time from the right people and underpins all other Scottish Government policy for children, young people and families.

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. In their 2018-19 PfG, Scottish Ministers committed to introducing a Family Law Bill by June 2019, including measures to further ensure that the best interests of the child are at the centre of any contact or residence case or children's hearing. 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.

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

The Scottish Government consulted from May to September 2018 on potential changes to Part 1 of the Children (Scotland) Act 1995. Part 1 of the Act sets out parental responsibilities and rights and who has them. It also gives the court power to decide things such as who a child should live with or spend time with. The Scottish Government is not planning any changes in relation to who Part 1 treats as a child. The majority of parental responsibilities and rights last until the child is 16 but the responsibility to provide guidance lasts until 18. This seems an appropriate balance between respecting the rights of the child and providing support and protection for the child. Contact and residence cases relate to children under 16, reflecting that at 16, a person can decide for themselves where they want to live and who they want to see.

## 2.10 Tackling Adverse Childhood Experiences (ACEs)

ACEs are traumatic experiences that can have a profound effect on a child's developing brain and body with long reaching negative effects. ACEs encompass a range of childhood experiences such as abuse, neglect and family/home difficulties – including parental separation, domestic abuse and parents or carers with experience of alcohol or drug problems, imprisonment or mental ill-health. The Scottish Government is committed to addressing these and also a broader range of adversities that impact on children and young people, such as bereavement, bullying, homelessness and poverty. Research and experience demonstrate that preventing ACEs, where we can, and tackling their impact where they do happen, can change a child's life and, importantly, their life chances. Consideration of ACEs is increasingly informing the development of national policy in Scotland. For example the [Mental Health Strategy 2017-2027](#) (2017) and the [Justice in Scotland: Vision and Priorities 2017 to 2020](#) (2017) identify ACEs as a key challenge to be addressed. Similarly, the Scottish Government [Every Child, Every Chance – The Tackling Child Poverty Delivery Plan 2018-22](#) (2018) commits to activity to address ACEs.

Scottish Government made the first explicit commitment to preventing and mitigating ACEs in PfG 2017-18: committing to embed a focus on preventing ACEs and supporting the resilience of children and adults in overcoming early life adversity across all areas of public service, including education, health, justice and social work. This work is being taken forward as part of the Getting it right for every child approach and existing interventions include: measures to reduce parental incarceration by extending the presumption against short sentences; increasing support for children and families in the very earliest years, through expansion in health visitor numbers and the roll-out of Family Nurse Partnerships; the expansion of high quality early learning and childcare, and funding to tackle the attainment gap.

The voices of young people have informed and will continue to help shape policy around ACEs. For example, in March 2018, Year of Young People (YoYP) Ambassadors, facilitated by Young Scot, attended an event hosted by the Deputy First Minister with the First Minister and other ministerial colleagues to hear from people working across sectors about the actions needed to drive progress on ACEs. The Scottish Government also ensured that YoYP Ambassadors and members of the Scottish Youth Parliament also attended the ACE Aware Nation Conference in September 2018. Scottish Ministers are committed to continuing work to raise awareness of ACEs amongst young people and to develop actions together with them.

Building on this, the PfG 2018-19 set out a range of further actions being taken forward in partnership with the Scottish ACEs Hub (led by NHS Health Scotland) and a wide range of people and organisations, to embed a focus on better preventing ACEs and supporting the resilience of children and adults to overcome early life adversity. The PfG 2018-19 confirmed a focus on four key areas:

- Providing intergenerational support for parents, families and children to prevent ACEs;
- reducing the negative impact of ACEs for children and young people;
- developing adversity and trauma-informed workforces and services; and
- increasing societal awareness and supporting action across communities.

It also set out specific actions being progressed in line with each of these, for example enhancing support for children affected by parental imprisonment, improving experiences of the Children's Hearings system to respond compassionately to traumatised and neglected children and young people and investing in the provision of school nurses and counsellors in schools. The Scottish Government, Scottish ACEs Hub and other partners will continue to raise awareness of ACEs across Scotland and support actions across communities.

## Right to Life, Survival and Development

### 2.11 Organ and Tissue Donation Bill

The Scottish Government introduced a Bill on 8 June 2018 to enable an 'opt out' system of deceased organ and tissue donation in Scotland. This would mean that most adults (aged 16 or over) in Scotland would be deemed to have authorised donation after their death unless they have registered a decision not to donate or have told their family or close friends that they did not want to be a donor. Children will still be able, as now, to authorise their own donation after death from the age of twelve, or a person with parental rights and responsibilities can authorise donation for them. The Bill also provides a new ability for children aged 12 or over (and adults) to make a legally binding opt out declaration. The Bill provides safeguards in relation to children (and adults) to ensure that their latest views on donation are taken into account. Taking into account the child's views is a new principle for those aged under 12.

In order to provide for looked after children the same opportunity to donate, the Bill also enables authorisation to be given by a local authority in relation to a child for whom it holds parental rights and responsibilities, taking into account the views of the child as well as others with a relationship with the child.

The Scottish Government hopes that this new system of authorisation, alongside other improvements being made to donation and transplant services, will increase the number of organs available for transplant. As well as helping adults, this change should also increase the number of much-needed organs available to save or significantly improve the lives of children and young people on the transplant waiting list. The Scottish Government has held focus groups with young people, including a number of care-experienced young people, to discuss the Bill proposals. These focus groups provided feedback which has helped the Scottish Government in developing the legislation and plans for awareness raising should the Bill be approved by the Scottish Parliament.

### 2.12 Road Safety

Although good progress has been made in improving road safety in recent decades, the road environment remains one of the principal causes of harm and accidental death to our young people. Road Safety Scotland has developed a suite of road safety learning resources for use with children and young people aged 3-18 years. Linked closely to Curriculum for Excellence, these resources seek to help children and young people stay safe on the roads at each stage of their development and across the different categories of road user. The resources are all available online to allow wider access, and represent an investment of just over £0.8m per year.

The Scottish Government supported passage of the [Seat Belts on School Transport \(Scotland\) Act 2017](#) through the Scottish Parliament. The Act, which received Royal Assent on 18 December 2017, requires the fitting of seat belts on all dedicated school transport. National guidance with information on seat belt fitting, wearing and monitoring was published in June 2018 ahead of the Act coming into effect on 1 August 2018.

### 2.13 Investigation of Child Deaths and Serious Injury

In the context of child protection, a Significant Case Review (SCR) is a multi-agency process for establishing the facts of, and learning lessons from, a situation where a child has died or been significantly harmed. SCRs should be seen in the context of a culture of continuous improvement and should focus on learning and reflection on day-to-day practices, and the systems within which those practices operate. The responsibility for the decision to carry out an SCR and thereafter for conducting the review lies with local Child Protection Committees and Chief Officers Groups with consideration to national guidance published by the Scottish Government.

A Child Protection Systems Review Group was established as part of the Scottish Government's Child Protection Improvement Programme, to consider the role and functions of Child Protection Committees, Child Protection Registers, Child Protection Case Conferences, and Significant and Initial Case Reviews (ICRs). The Group was asked to recommend changes or improvements to these processes and structures in order to better protect children and young people.

The Review Group's report<sup>33</sup>, published in March 2017, recommended that the Care Inspectorate's role be extended so that it becomes the central repository for all ICRs and SCRs to support the sharing of learning from these reviews. In responding to this recommendation, the Minister for Children and Young People wrote to Child Protection Committees in June 2017 outlining the Scottish Government's expectation that all ICRs and SCRs are shared with the Care Inspectorate. This is enabling the Care Inspectorate to build a better understanding of the decision making process involved in determining the need and scope for ICRs and other reports, compared to the overall number of reported Significant Case Reviews, and identifying areas where learning can be shared from the cases which do not proceed beyond Initial Case Review.

The Systems Review Group also recommended the development of national standards for reviewers undertaking ICRs and SCRs to improve the quality and consistency of reviews, and that the Scottish Government should explore a new tiered approach to, and methodology for, ICRs and SCRs. Work to take forward both of these recommendations is currently underway.

Under the Looked After Children (Scotland) Regulations 2009, a local authority is required to notify the Scottish Ministers immediately (through the Care Inspectorate) in the event of the death of a child who is looked after by them, including those in secure care. They must also, so far as is reasonably practicable, notify every parent of the child and every person who has any parental responsibilities or parental rights. This reporting responsibility had been further extended by the CYP Act to include the reporting of deaths of any young person in a Continuing Care or Aftercare placement 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.

Robust structures are currently in place regarding the investigation of deaths or serious incidents involving children in custody. The responsibility for the investigation of deaths in custody is a matter for the Lord Advocate. In the majority of cases, the Lord Advocate has discretion as to whether a fatal accident inquiry is needed. The Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 introduced mandatory inquiries for new categories of deaths, including the deaths of children in secure accommodation and deaths under police arrest.

The Lord Advocate may refer a death in police custody to the independent Police Investigations and Review Commissioner (PIRC) to conduct an independent investigation. In addition to this, the Commissioner may also investigate a 'serious incident' referred by the Chief Constable or the Scottish Police Authority when a person has died or sustained serious injury following police contact, either directly or indirectly, which includes when that person was detained or kept in custody by a person serving with the police. The PIRC can make recommendations to Police Scotland following such investigations.

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33 <https://www.gov.scot/Publications/2017/03/9380>.

The Mental Health (Scotland) Act 2015 requires Ministers to undertake a review of the arrangements for investigating deaths of patients in hospital for treatment of mental disorder (the definition of mental disorder covers mental illness, learning disability, and personality disorder). Over the last year, an expert group of stakeholders has been considering these arrangements and gathering relevant evidence in relation to how deaths are investigated. The review covers patients of all ages. The final report of this review is due to be published and laid before the Scottish Parliament by 24 December this year.

## 2.14. Child Death Reviews System

Part of the Scottish Government's efforts to help deliver the best possible healthcare for children is to give new impetus to preventing avoidable deaths. For this reason, the Scottish Government is currently creating a system to ensure that any such deaths are properly reviewed. This will apply to all live born children who die under the age of 18, and care leavers in receipt of aftercare or continuing care at the time of their death, up to the date of their 26<sup>th</sup> birthday. A core component of this work is to use existing learning and a wide range of evidence to develop and implement policies that will prevent harm and child deaths. The CRWIA process will ensure the rights and wellbeing of children and young people are considered as the system develops.

The Scottish Government is working with a wide range of stakeholders to develop this work and establish pilot projects. It has also been engaging with colleagues in England and Wales to learn from their systems.

## Hearing the Views of Children and Young People

The UNCRC has at its heart the expectation that children and young people themselves will have the opportunity and support to influence decisions that affect them, taking account of their developing capacity. The Scottish Government is developing a more coordinated, systematic and sustainable approach to engaging with children and young people at national and local levels. In doing so, the Scottish Government is working closely with key partners to ensure that the views of specific groups of children and young people (including disabled, LGBTI+, black and ethnic minority), as well as younger children, are heard. Ministers have also taken steps to further support the organisations who promote and facilitate engagement with children and young people and to encourage relevant public bodies and professionals who work with children and young people to seek and take account of their views.

*"I think children's voice matters because they have ideas that can change the world."*

*Member of the Children's Parliament, Rights Event, 2018*

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

### Annual Meeting of Cabinet Members with Children and Young People

The annual meeting of Cabinet members and children and young people aims 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 first meeting of Cabinet members with children from the Children’s Parliament and young people from the Scottish Youth Parliament (SYP) took place on 28 February 2017 at Bute House, Edinburgh, with the second taking place on 6 March 2018 at St Andrew’s House, Edinburgh. Issues raised by children and young people at both of these meetings were wide ranging including those relating to school and teachers, bullying, mental health, incorporation of the UNCRC, Human Rights Defenders, and the future of Scotland’s relationship with Europe. At the end of each of the meetings, children, young people and Cabinet members collectively agreed actions for the year ahead. These actions are being taken forward by Scottish Government policy teams.

The Scottish Government published a [report](#) and a [children and young people’s summary](#) showing progress on the actions from the first meeting in February 2017. This included a commitment that the Cabinet would meet with children and young people annually. Actions agreed at the second meeting were published in May 2018.<sup>34</sup>

### **FMQT with Children and Young People**

As part of the Year of Young People, the Scottish Government arranged, in partnership with Youthlink Scotland and Children in Scotland, two dedicated First Minister’s Question Time sessions for children and young people in 2018-19. The first session, *FMQT: Next Generation*, took place in September 2018 and was attended by over 100 children and young people representing a diverse range of backgrounds. The second event will be held in spring 2019. A key aim of these events is to empower children and young people to express their views and opinions directly to Scotland’s First Minister.

These events contribute to the wider package of engagement events, including the Children and Young People Cabinet Events, providing a number of opportunities for children and young people to engage with Scottish Government Ministers.

### **Year of Young People 2018 – Participation Theme**

The Year of Young People (YoYP), aims to inspire Scotland through its young people, celebrating their achievements, valuing their contribution to communities and creating new opportunities for them to shine locally, nationally and globally. The participation theme of the YoYP has the ambition that young people should significantly influence public services and decisions which affect their lives.

The Scottish Government has worked with key stakeholders, including children and young people, in the planning, implementation and legacy of the participation theme. Children and young people were also involved in co-designing the Year of Young People, supported by Children in Scotland, the Scottish Youth Parliament and Young Scot. They continue to be involved in the planning and delivery of the YoYP through their representation on the co-production delivery group.

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34 <https://beta.gov.scot/publications/second-annual-meeting-of-ministers-with-children-and-young-people/>.

## 2.16 Strategic Approach to Engaging with Children and Young People

As set out in the Action Plan *Progressing the Human Rights of Children in Scotland: An Action Plan 2018-2021*, the Scottish Government intends to develop a strategic approach to participation. This will: raise awareness of the importance of the child's voice in all matters that might affect them and the benefits of including that voice; help to increase the capacity of both the Scottish Government and stakeholders for planned and strategic engagement with children and young people in policy and decision making; and, importantly, help to make engagement with children and young people the norm in policy development.

In addition, the Scottish Government is currently developing a participation framework in the context of the Participation Commitment in the Scottish Open Government Partnership Action Plan and is currently considering how this should reflect the needs of children and young people.

As part of the Scottish Government's approach to working more strategically in engaging with children and young people at national and local levels, a workshop involving key participation stakeholders was organised in November 2017 for officials involved in the Scottish Government's current legislative programme for 2017-18, and other officials. The session aimed to promote good practice in engaging with children and young people in the development of policy and legislation.

### Research on Participation

In 2017, the Scottish Government commissioned Children in Scotland to carry out research on the impact of children and young people's participation on policy making at national and local levels. This research focused on six qualitative case studies, illustrating a range of participation and engagement across Scotland. The conclusions and recommendations from the [final report](#), published in February 2018, will help to support the engagement of children and young people in future policy making.

A pilot exploring children and young people's participation in the planning process, at local level, was undertaken by Edinburgh Children's Partnership in spring 2017, with funding from the Scottish Government and support from the Children and Young People's Commissioner Scotland, the Scottish Human Rights Commission and the Children's Parliament. Participants (children, young people and planners) were provided with the opportunity to share their views on how children and young people should be involved in the local planning process. The [report](#), which was published in November 2017, informs the ongoing implementation of the [Part 3 guidance on children's services planning](#), published in December 2016 (section 1.4 refers).

## 2.17 Support for SYP, Children's Parliament and Young Scot

The Scottish Government sponsors the SYP and the Children's Parliament through the CYPFEI and ALEC Fund and provides core funding (shared with Health portfolio) to Young Scot. The Scottish Government works closely with these stakeholders to ensure that children and young people can contribute to and participate in decisions that affect them. Recent examples include children and young people's engagement during consultations on the Minimum Age of Criminal Responsibility, Education Governance and Stop and Search. In addition, during 2017, the views of children and young people were heard during the development of key policies, including the Child Poverty Bill, STEM strategy, and the Hate Crime review, amongst others. Young Scot, Children in Scotland and the Scottish Youth Parliament have developed a [co-design blueprint](#) for organisations to use during the YoYP. The blueprint sets out the benefits of co-design and ways that young people can be involved in the planning of the YoYP, ensuring that children and young people are involved in the process.

## 2.18 Professionals Working with Individual Children and Young People

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 and the need to involve them as partners in decision making and planning processes. 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 sought by services/practitioners working with them, and should inform the service or support they receive. The Scottish Government will produce an integrated suite of GIRFEC supporting materials for use to guide and support the practice of all those working with children and young people and their families in Scotland.

The need for all practitioners to listen to and consider the views of children and young people is encouraged in the [Common Core of Skills, Knowledge & Understanding and Values for the 'Children's Workforce' in Scotland](#) (2012). The roll-out of the Common Core to professionals who work directly with children and young people is discussed at section 1.12.

It is a fundamental principle of Scottish mental health legislation that the welfare of any child must be safeguarded by professionals discharging functions under the legislation (section 2 of the Mental Health (Care and Treatment) (Scotland) Act 2003, "the 2003 Act"). Other principles apply, such as the importance of acting in a manner which involves the minimum restriction of the freedom of the child. The Code of Practice for professionals made under the 2003 Act provides guidance on applying the principles of the 2003 Act to children and young people, together with specific guidance on the care and treatment of this group. The treatment provisions and safeguards under the 2003 Act apply equally to child patients. The principles of consent apply to children suffering from mental disorder who are detained under the 2003 Act. The Code of Practice provides that the medical practitioner attending the child must consider whether they are capable of understanding the nature and possible consequences of the procedure or treatment. If the child is considered capable, the practitioner must seek the consent of the child rather than of the parent.

The Code of Practice for the 2003 Act is currently being updated following changes made by the Mental Health (Scotland) Act 2015. This will be undertaken with children's rights and wellbeing in mind.

The [Getting it Right for Looked After Children and Young People Strategy](#) (2015), which reflects the ongoing collaborative work between the Scottish Government, local authorities, professionals, carers, families and children and young people, sets out the Government's priorities to improve the lives of looked after children and young people. A consistent message throughout the Strategy is the need for partners to consider how they hear the views of all children and young people, particularly those who may find it harder to have their views heard, such as younger children and disabled children and young people. In addition, "Intandem"<sup>35</sup>, Scotland's mentoring programme for young people looked after at home, was launched in November 2016. The programme is delivered for the Scottish Government by Inspiring Scotland in 13 charities across 20 local authority areas. Intandem improves life chances by providing mentors for young people aged 8-14 years who are looked after by their local authority and living at home. The aim is to help children build a consistent, trusting relationship with a positive adult role-model.

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35 <https://www.intandem.scot/>.

The Scottish Government has also taken steps to support the participation of young refugees. The second New Scots refugee integration strategy was published in January 2018<sup>36</sup>, following an engagement process which included 44 events attended by children and/or young people. The strategy recognises that children and young people may require additional support to access the services they need and opportunities to participate in society, due to traumatic experiences in their formative years or having missed significant amounts of education.

The Scottish Government is also committed to enhancing the voice of children and young people within the justice system. For children and young people involved in family law, the Family Law Committee of the Scottish Civil Justice Council, which advises on civil court rules and procedures, is carrying out work on the voice of the child, following a policy paper prepared by the Scottish Government. In particular, it is looking at Form F9, used by the courts to obtain a child's views in cases such as contact, residence and parental responsibilities and rights. The current review of Part 1 of the Children (Scotland) Act 1995 is considering what more can be done to obtain the voice of the child on contact matters and this will be reflected in the forthcoming Family Law Bill.

The participation of children and young people in the Children's Hearings System is discussed at section 8.3.

## 2.19 Participation in Schools

Curriculum for Excellence provides a positive context for pupil participation. The OECD Review of Scottish education, published in 2015 reported on "... evidence of widespread engagement of young Scots in their learning. For a curriculum that puts learning at the centre, this is fundamental".<sup>37</sup> Within the reporting period, the Scottish Government has taken forward a range of measures which aim to support the participation of children and young people in their learning. For example, during 2016-17, the Scottish Government conducted significant consultation activity with young people's organisations to consider education governance and young people's 'voice' within schools. This included targeted consultation activity with young people via an 'Excite-ed' consultation exercise.

The Scottish Government supports a range of methods to ensure that young people's perspectives can influence national education policy. This includes Young Ambassadors for Inclusion as well as a Scottish Learner Panel, established in 2018 in order to support the ongoing input of pupil perspectives in the development of education policy.

In June 2018 the Scottish Government and local government published a Joint Agreement setting out a shared commitment to empowering schools.<sup>38</sup> This agreement emphasises the role of headteachers in ensuring that children and young people participate meaningfully in their own learning and in decision-making

The Scottish Government provided funding to Children in Scotland to deliver their 'Leaders of Learning' project from 2014-16, which demonstrated the benefits of a collaborative approach to promote and enhance the voice of young people in various education matters. This project and other similar examples of good practice has informed the development of policy and good practice principles.

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36 <https://beta.gov.scot/publications/new-scots-refugee-integration-strategy-2018-2022/>

37 OECD (2015) Improving Schools in Scotland: An OECD Perspective (p16) <http://www.oecd.org/education/school/Improving-Schools-in-Scotland-An-OECD-Perspective.pdf>

38 <https://www.gov.scot/publications/education-bill-policy-ambition-joint-agreement/>

In April 2018, Education Scotland launched two new resources designed to empower children throughout their learning experience. Produced in collaboration with schools, local authorities and organisations that represent children and young people across Scotland, the [How Good is Our School? resource](#) aims to support schools to engage children and young people in self-evaluation and school improvement in ways that enhance learning. Alongside this, the [Learner Participation in Education Settings Guidance](#), which was developed in partnership with the University of Stirling and engagement with key stakeholders, sets out how to encourage and embed participation throughout schools and early-years settings. The professional learning resource, [Recognising and Realising Children's Rights](#) has also been updated to incorporate more focus on pupil participation.

In addition, within Education Scotland's school inspection activity, there has been an increasing focus on pupil voice and participation via pre-inspection pupil questionnaires and pupil focus groups throughout inspections. The inspection framework has also included reporting on evidence of pupil voice and participation within Inspection reports. Education Scotland values the contribution young people can make to its inspection programme and is in the process of developing a young inspectors programme.

Schools and local authorities have continued to evolve and improve their approach to pupil participation, developing new and innovative approaches beyond the relatively narrow format of Pupil Councils (for instance, through the development of Pupil Parliaments, learner voice groups etc.). Some local authorities have also invited young people to join their Education Committees. The Education theme within Scotland's 2018 Year of Young People, which focuses on enhancing the influence of young people in relation to their education and learning, will also play a key role in taking forward the participation of children and young people in schools. In addition, a new National Pupil Participation Award was introduced from 2018 as part of the Scottish Education Awards, highlighting and promoting best practice across schools.

## 2.20 Access to Justice

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 CYP Act. Throughout 2016-18, the body has focused on developing its understanding of the needs of looked after children and care leavers, to help contribute to the outcome of enabling the upholding of the rights of looked after children and care leavers.<sup>39</sup>

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.

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39 [http://www.slab.org.uk/about-us/what-we-do/our-work/Corporate\\_parenting.html](http://www.slab.org.uk/about-us/what-we-do/our-work/Corporate_parenting.html)

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](#) (February 2018), addressed the subject of children’s legal aid following consultation with, among others, Scottish Children’s Reporter Administration, CLAN Childlaw, Scottish Women’s Aid, Families Need Fathers and the Scottish Mediation Network. The report sets out a 10 year vision for legal aid in Scotland, and there will be a public consultation on proposed reforms during 2019.

### **Support for Other Legal Advice Services**

The Scottish Government has continued to support Clan Childlaw who provide legal and advocacy services for children and young people. Funding is also provided to the Scottish Child Law Centre who provide free legal information and advice to children, young people, their families and carers.

### **2.21 Right to Vote**

The Scottish Government also believes that young people should have the opportunity to participate in the democratic process. The Scottish Elections (Reduction of Voting Age) Act 2015 (2015 Act) lowered the voting age for elections to the Scottish Parliament and local government in Scotland – enabling 16 and 17 year olds to vote in the Scottish Parliamentary elections in May 2016 and the Scottish Local Government elections in May 2017.

The Scottish Government is mindful of the need for young people to be supported in exercising their right to vote with appropriate education and awareness raising. The Curriculum for Excellence provides the framework for teaching to support the development of political literacy. A tool-kit has been developed in partnership between Education Scotland and the Electoral Commission for use in schools. Over 80% of local authority schools use the toolkit and promote registration.

The 2015 Act placed a specific duty on local authorities to promote awareness of registration options among looked after children, and to assist them in making such applications. Funding is provided to local authorities and the Electoral Commission to make children and young people aware of their right to vote at 16.

In their report on the [May 2016 Scottish Parliament Election](#), the Electoral Commission reported:

“This was, of course, the first national election at which 16 and 17 year olds were entitled to vote. Approximately 80,000 of them registered to vote at the election and this age group had high levels of awareness and knowledge about the registration process.”<sup>40</sup>

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40 The Electoral Commission, The May 2016 Scottish Parliament Election, p.1.

## 2.22 Representation of Young People on Public Boards

The Scottish Government has appointed two young people (under 27 years) to the Government's People, Performance, Place and Economy Boards for a year – each will also receive a Director General mentor and induction support to undertake their roles effectively. The Youth Takeover of the Scottish Government's Executive Team took place in December 2018. The Scottish Government worked with the Scottish Youth Parliament to co-produce the session on Adverse Childhood Experiences, which was led by young people.

The Scottish Government has also involved young people directly in some aspects of public appointment rounds, including for the Scottish Children's Reporter Administration and Children's Hearings Scotland. A young appointee also attended as a speaker at the last *Come on Board* outreach event, which took place on 10 September 2018 in Dundee.

## 3. Civil Rights and Freedoms

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

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

### 3.1 Right to an Identity

Reform of the Gender Recognition Act 2004 is one of the major equality priorities for the Scottish Government. A consultation proposing to reform the Act to streamline the legal gender recognition process by removing unnecessary and intrusive requirements took place between November 2017 and March 2018. The consultation also sought views on the potential options for younger people and for people who do not identify as men or women.

### 3.2 Religion in Schools

Religious and Moral Education (and Religious Education in Roman Catholic Schools) is one of the eight core areas of Curriculum for Excellence and Religious Observance in both contexts is an important whole-school activity. Both contribute to the development of the knowledge, understanding and skills necessary to enable children and young people to be successful learners, confident individuals, effective contributors and responsible citizens.

Revised guidance on Religious Observance was issued on 27 March 2017. The guidance is intended to assist local authorities and schools in the planning and delivery of Religious Observance. The main revision was the importance of considering the views of children and young people in decisions about exercising the parental right of withdrawal from Religious Observance. The guidance makes clear that Religious Observance in schools needs to be developed in a way which reflects and understands the increasing diversity in the range of faith and belief traditions represented in Scotland. It also stresses that schools should use their self-evaluation and the school improvement plan to ensure arrangements for Religious Observance are regularly reviewed and continually improved, taking account of the views of staff, parents, pupils and partners. The revised guidance on Religious Observance should be read in conjunction with Curriculum for Excellence briefing paper 16 – Religious Observance (Time for Reflection).<sup>41</sup>

As part of the UNCRC audit process, the Scottish Government is considering ways in which children's rights under the UNCRC can be given better or further effect across individual policy areas, including in relation to religious observance in schools.

### 3.3 Right to Information

The Scottish Government is committed to empowering everyone regardless of age and circumstance to access the internet creatively, knowledgeably and fearlessly. The rollout of fibre broadband continues, with over 900,000 homes and businesses now able to connect to faster broadband, through the Digital Scotland Superfast Broadband (DSSB) programme, with 95% of Scotland having access to faster broadband by the end of 2017. In addition to this, the PfG 2017-18 made a commitment, unique within the UK, to deliver 100% superfast broadband access across Scotland by 2021. Any home or business that will not have superfast broadband delivered commercially or through programmes such as DSSB will be eligible for investment.

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41 <https://education.gov.scot/improvement/documents/rme26-cfe-briefing-religious-observance.pdf>

The Scottish Government is aware that the provision of connectivity, and the opportunities it represents, needs to be balanced with age appropriate tools and guidance to access information online safely and confidently and to protect privacy. In July 2015, the First Minister signed the 5Rights coalition on behalf of the Scottish Government. The right to know who holds personal information in a digital format, what it is used for and to actively give and remove permissions of access and use underpins 5Rights.

In May 2017, the Young Scot 5Rights Youth Commission presented evidence based recommendations in their Our Digital Rights<sup>42</sup> report (the word 'digital' is scored out as the offline and online worlds are two equal and intertwined aspects of young people's lives) on how everyone – industry, public services, third sector organisations, parents, carers, schools, educators, youth workers, children and young people – can take shared responsibility to realise the rights of children and young people in the digital world. The recommendations include: greater focus on digital literacy in education; limitations to the amount of data collected from young people online; and a centralised point for young people to review and manage their digital footprints.

Building on the foundation of Our Digital Rights, the Scottish Government, in partnership with young people and a range of organisations across all sectors, is developing an overarching ethical framework to rights in the digital world, not just for young people, but for everyone. Further information on measures to support the safety of children and young people online is provided at section 4.3 below.

### 3.4 Information Sharing

In July 2016, the Supreme Court ruled that Part 4 of the CYP Act, as enacted, was not compatible with Article 8 of ECHR. As a consequence of this, Parts 4 (Named Person) and 5 (Child's Plan) of the Act did not come into force as planned on 31 August 2016. Following a three month period of engagement, including with children and young people, the Scottish Government published the Children and Young People (Information Sharing) (Scotland) Bill on 20 June 2017, which sought to make changes to the CYP Act, in order to address the Supreme Court's judgement. On the 13 December 2017, Parliament voted to support the Committee's request that Stage 1 of the Bill be extended to be open ended, while the Committee awaits the Scottish Government providing them with an authoritative draft Code of Practice that they can consider alongside the Bill.

On 6 November 2017, the Deputy First Minister announced that a Getting it right for every child Practice Development Panel would be established. Ian Welsh, CEO of the Health and Social Care Alliance, was appointed independent chair. The Panel, which met for the first time on 13 February 2018, was set up to develop and produce, by consensus, an authoritative draft Code of Practice for information sharing and provide recommendations on Statutory Guidance and other materials required to support commencement of Part 4 (Provision of Named Persons) and Part 5 (Child's Plan) of the CYP Act.

The authoritative draft Code will be presented to the Deputy First Minister, who will then forward it on to the Education and Skills Committee, enabling them to resume Stage 1 of the Children and Young People (Information Sharing) (Scotland) Bill.

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42 [https://www.youngscot.net/wp-content/uploads/2017/05/Five\\_Rights\\_Report\\_2017\\_May.pdf](https://www.youngscot.net/wp-content/uploads/2017/05/Five_Rights_Report_2017_May.pdf)

### 3.5. Biometric Data

In March 2018, the Independent Advisory Group on the Use of Biometric Data in Scotland, established by the Cabinet Secretary for Justice and chaired by John Scott QC, published its [Report](#) on the use of biometric data and rules around retention, including specific recommendations for children aged 12-17. The report aims to provide a clear basis for ensuring that Scotland's approach to the use of biometric data and technology strikes a balance between protecting individuals' human rights and supporting effective law enforcement.

The Scottish Government's response to the Report was published in March 2018<sup>43</sup> and was followed up with a consultation in the summer of 2018. The Scottish Government agreed with the advisory group that there are strong arguments for taking a different approach to children aged between 12-17 to ensure that their biometric data is taken, used and retained in a proportionate manner that reduces any unintended negative risks or consequences. This is consistent with other Scottish policy approaches including Getting it right for every child and the Whole System Approach for Children and Young People who Offend. The Age of Criminal Responsibility (Scotland) Bill, which was introduced on 13 March 2018, sets out arrangements for taking and using biometric data from children under 12.

The Scottish Government will liaise with Police Scotland, SPA and other stakeholders to develop a more proportionate approach to taking, using, retaining and disposing of biometric data from children. The PfG 2018-19 confirmed that a Biometric Data Bill will be introduced to Parliament in 2019. The Bill will deliver enhanced oversight of biometric data and techniques used for the purposes of criminal justice, to ensure an effective, proportionate and ethical approach to the use of biometric data which commands the confidence of the public and professionals.

### 3.6 Use of Mosquito Devices

The Scottish Government is opposed to the use of mosquito anti-loitering devices. It does not believe use of the device is consistent with its approach to tackling antisocial behaviour, nor is it consistent with the Scottish Government's desire to promote strong and supportive communities where people's rights are recognised and respected.

To improve understanding of the impact of the device on young people, the Scottish Government worked with Young Scot and the Scottish Youth Parliament to conduct a survey of young people's experiences of the mosquito device. The survey, which closed on 4 September 2017, received 725 responses. Young Scot published the findings in a report on 12 March 2018. The Scottish Government will give full consideration to the findings and any other evidence, before taking any further action.

As there is currently no reliable evidence on the health impact of the mosquito device, Scottish Ministers wrote to the UK Government to highlight this lack of evidence and to advise on plans to ask the Health & Safety Executive to carry out a refresh of its literature review into mosquito devices. The Health & Safety Executive has declined to revisit the study or commission new research in this area.

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43 <http://www.gov.scot/Resource/0053/00533027.pdf>

The Scottish Government is working towards a position where it can confidently state that mosquito devices are not used within the public sector estates in Scotland. To this end, Scottish Ministers have written to all local authorities, and other public bodies, reminding them of the Scottish Government's position on the use of mosquito anti-loitering devices. The Scottish Government has also extended this initiative by highlighting its opposition to the use of mosquito devices to include organisations representing the business and private sectors.

### 3.7 Anti-Social Behaviour Orders (ASBOs)

A data collection exercise in relation to the use of ASBOs was completed in March 2017. This included the collection of information from local authorities on the number of ASBOs sought and granted for 12-15 year olds over a 5 year period. The Scottish Government is continuing to discuss with local authorities current data systems for monitoring the use of measures to respond to anti-social behaviour involving children and young people, including the criteria and proportionality of their use, with the aim of ensuring that ASBOs and other measures are used appropriately and proportionately.

### 3.8 Stop and Search

The [Code of Practice on the use of Stop and Search](#), which was developed by the Independent Advisory Group on Stop and Search, came into force on 11 May 2017 following a full public consultation. From this date, all stop and searches must have a statutory basis.

Chapter 7 of the Code is targeted specifically at children and young people and sets out additional consideration for police officers on the conduct of searches in cases where a child or young person is involved. In taking a decision to search a child or young person, police officers must treat the need to safeguard and promote the wellbeing of that child as a primary consideration. Police officers should use age-appropriate terms when engaging with a child or young person. For example, if they are required to state the statutory basis for a search, they should do so by explaining this in easily understood language. A separate guide<sup>44</sup> for children and young people was published on the same day as the Code.

The Code of Practice provides clear guidance to all police officers. The Code sets out that the use of stop and search powers must be necessary, proportionate and in accordance with the law and allows for greater transparency and accountability. All searches should be carried out with fairness, integrity and respect. 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.

The Independent Advisory Group on Stop and Search is currently undertaking a review of the Code of Practice on Stop and Search, funded by the Scottish Government, which is looking at (among other things) any concerns about how stop and search powers are being used on people from specific sections of the community. The Advisory Group will report to Ministers on the review findings by early 2019. If the Group recommends that any changes are needed to the Code or to legislation in order to improve the monitoring or practice of stop and search, the Scottish Government will work with Police Scotland and other stakeholders to make sure these issues are addressed. A report authored by Professor Susan McVie in February 2018, on behalf of the Independent Advisory Group, shows that in the first 6 months of the Code's operation the success rate of searches increased by 7%, suggesting that the police are targeting searches more effectively.<sup>45</sup>

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44 <https://beta.gov.scot/publications/stop-search-scotland-need-know-guide-children-young-people/>

45 <https://beta.gov.scot/publications/six-month-review-code-practice-stop-search-scotland/pages-10/>

The 12 month review will also cover any potential gaps in legislation around young people and alcohol, any lack of clarity in the Code or gaps in legal powers to search where this is necessary to preserve life, and any increase in the use of alternative search powers. A range of evidence will be gathered, including detailed statistical evidence from Police Scotland's stop and search database and qualitative information on the experiences and views of police officers and young people. The review will involve input from relevant professionals and expert groups, including children and young people's groups.

## 4. Violence Against Children

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

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

*“Being hurt can make us feel alone and make us lose our confidence. All adults should keep children safe from harm, not just parents, carers and teachers.”*

*Member of the Children’s Parliament, Rights Event, 2018*

### 4.1 Child Protection Improvement Programme

In February 2016, the Cabinet Secretary for Education and Lifelong Learning announced a Child Protection Improvement Programme (CPIP). This programme includes commitments on child sexual exploitation; child trafficking; and internet safety, along with: a review of practice in the Children’s Hearings System; agreeing steps to promote and support leadership; refreshing the role of inspection agencies; improving data and evidence; and agreeing further action to address the impact of neglect on children and young people. As part of the CPIP, a Systems Review was also commissioned to look at the operation of the formal child protection system.

The CPIP and System Review reported to Ministers in December 2016, and reports outlining the recommendations and actions as a result were published in March 2017.<sup>46</sup> The CPIP report sets out 35 actions covering children’s hearings, leadership and workforce development, inspections of children’s services, neglect, data and evidence, child sexual exploitation, child internet safety, and trafficking. The Systems Review report makes 12 recommendations, covering Initial and Significant Case Reviews, Child Protection Committees, the Child Protection Register, and matters of leadership, governance and accountability. All CPIP and System Review recommendations have been accepted by Scottish Ministers and are being taken forward as part of phase ii of the Child Protection Improvement Programme.<sup>47</sup>

### 4.2 Child Sexual Exploitation

[Scotland’s National Action Plan to Prevent & Tackle Child Sexual Exploitation Update](#) (2016) reported on progress made since the publication of the first National Action Plan in 2014 and outlined 44 actions to be taken between summer 2016 and 2019, many of which are now complete. This is a Scotland wide Action Plan, developed and agreed in collaboration with statutory, voluntary and third sectors. A specific action being progressed through the Action Plan is focused on data collection. Other actions include:

- the development of a national definition of Child Sexual Exploitation (CSE) to aid identification among professionals, published in October 2016;
- the publication in March 2017 of specific guidance on CSE for medical practitioners to outline their role in identifying and responding to a child or young person who may be at risk of, or affected by, CSE;<sup>48</sup>

<sup>46</sup> [Report of the Systems Review – Protecting Scotland’s Children and Young People: It is Still Everyone’s Job](#)

<sup>47</sup> <https://beta.gov.scot/policies/child-protection/child-protection-system-review/>

<sup>48</sup> [Child Sexual Exploitation- A Guide for Health Practitioners](#)

- the delivery in September 2016 of a SnapChat campaign targeted at young people, to help them become more aware of the signs of sexual exploitation; and
- funding to third sector organisations to support victims and those identified as vulnerable and for those which work with perpetrators.

A second annual progress report was published in April 2018 providing an overview of all actions within the National Action Plan.<sup>49</sup> A range of preventative activity has taken place, including the development and delivery of prevention programmes, specific tools and opportunities to support local Child Protection Committees, and to strengthen national policy framework. The Scottish Government continues to work with the National Child Sexual Exploitation Group on the implementation of long-term, intermediate and contributory outcomes to tackle child sexual exploitation which are identified within the National Action Plan to Prevent and Tackle Child Sexual Exploitation.

### 4.3 Internet Safety

The [National Action Plan on Internet Safety for Children and Young People](#) (April 2017) links child protection with the digital participation and cyber resilience strategies and work being taken forward in schools. Developed with support from the Young Scot 5Rights Youth Commissioners and informed by extensive consultation with children and young people, the National Action Plan has children’s rights at its core, and aims to ensure that children are protected from harm online and are fully aware of their rights. Other actions in the plan include continuing to work with digital and social media providers to ensure children are not exposed to harm and deterring potential perpetrators from committing abuse online.

### 4.4 Child Safety and Wellbeing in Sport

The Scottish Government is also working with partners, including all Scottish sport governing bodies, to further strengthen systems for protecting children and young people in sport. In December 2017, **sportscotland** introduced new Standards for Child Wellbeing and Protection in Sport which are wholly rights-based and child-centred. The new standards were developed by Safeguarding in Sport, a partnership between **sportscotland** and Children 1<sup>st</sup>, to enable sports organisations to adopt best practice, values and behaviours. The Scottish Government is working with **sportscotland** and other partners as the new standards are implemented by April 2019.

### 4.5 Neglect

The PfG 2017-18 included the commitment to consult on revising the criminal offence of abuse and neglect of children to ensure it reflects a modern understanding of such terms. A formal consultation on the proposed amendments took place during 2018 and the Scottish Government’s response to the consultation is due to be published in early 2019. As part of the consultation exercise, the Scottish Youth Parliament were consulted on the proposed amendments.

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49 <https://beta.gov.scot/publications/national-action-plan-prevent-tackle-child-sexual-exploitation-progress-report-9781788517010/pages/2/>

As a key part of CPIP, the Scottish Government funds the pilot programme ‘Addressing Neglect and Enhancing Wellbeing’ which is being delivered by the Centre for Excellence for Looked After Children (CELCIS). The programme is looking at how education, health and children’s services work together to tackle neglect in order to influence practice change to better address neglect and enhance wellbeing for children experiencing neglect.

## 4.6 Physical Punishment of Children

*“A change in our culture is necessary if we seek to end violence inflicted onto children by their parents or guardians.”*

*Josh K. MSYP, Rights Review Event, 2018*

The Children (Equal Protection from Assault)(Scotland) Bill (Equal Protection Bill) was introduced to the Scottish Parliament on 6 September 2018. This is a member’s bill that would remove the existing defence of justifiable assault in relation to the physical punishment of children by parents or people in charge of or caring for children. The Scottish Government supports the removal of this defence, which will provide children with the same protection from physical assault as adults. The physical punishment of children by shaking, hitting on the head or use of an implement is already unlawful.

In the [National Parenting Strategy](#) (2012), the Scottish Government committed to “... commission new work to develop comprehensive, practical advice on different approaches to assist parents in managing their children’s behaviour”. This commitment will support implementation of the Equal Protection Bill, if approved by Parliament. The Scottish Government is also continuing to support parents and carers in applying positive methods of parenting their children. This is discussed in more detail at section 5.1.

## 4.7 Trafficking and Exploitation

The Human Trafficking & Exploitation (Scotland) Act 2015 (2015 Act) strengthened significantly the criminal law against those who traffic or exploit both adults and children and improves protection, support and assistance for victims.

In line with provisions in the 2015 Act, the [Trafficking and Exploitation Strategy](#) was laid before the Scottish Parliament in May 2017. Key elements of the Strategy are to identify victims and support them to safety and recovery, identify perpetrators and disrupt their activity, and address the issues that foster trafficking and exploitation. Specific measures to protect children and young people are outlined in the Strategy. All child victims of trafficking or exploitation are provided with support and protection through Scotland’s child protection system. Eligible child victims are also assisted by an Independent Child Trafficking Guardian. The Strategy, which was developed in consultation with stakeholders, including victims of trafficking and exploitation, will be reviewed every 3 years. Implementation of those actions within the Strategy specific to children are being supported and overseen by the Child Trafficking Strategy Group (CTSG).<sup>50</sup>

The [Trafficking and Exploitation Strategy – First Annual Progress Report](#) was published in June 2018, setting out the progress that had been made during the first year of implementation of the Human Trafficking and Exploitation Strategy. Key developments from the CTSG’s work, referenced within the annual progress report, included the publication of revised age assessment guidance and commissioning research looking at the presence of children and young people who have been trafficked and their routes into Scotland.

50 <https://beta.gov.scot/groups/child-trafficking-strategy-group/>

Scotland is currently part of the UK wide National Referral Mechanism. In 2017, there were 213 referrals to Police Scotland of potential human trafficking, a 42% increase from 2016. Of the 213 referrals, 61 (29%) involved children. The rise indicates greater awareness of the issue of human trafficking after the launch of the Strategy.<sup>51</sup>

Under section 8 of the 2015 Act, the Lord Advocate's instructions for prosecutors state that, where there is sufficient evidence that a child aged 17 or under has committed an offence and there is credible and reliable information to support the fact that the child is a victim of human trafficking or exploitation, and the offending took place as a consequence or in the course of being a victim of human trafficking or exploitation, there is a strong presumption against prosecution of that child for that offence.

In addition to this, in March 2018, the Scottish Government published age assessment guidance<sup>52</sup> to support professionals in fulfilling their obligations under Part 2 (section 12) of the 2015 Act, which states that where a relevant authority has reasonable grounds to believe that a person may be a victim of human trafficking and may be a child, the authority must assume that the person is a child for the purposes of exercising its functions until an assessment of the person's age can be carried out or the person's age is otherwise determined.

The Scottish Government continues to take forward measures to tackle child trafficking as a specific work stream arising from the Child Protection Improvement Programme.

#### **4.8 Unaccompanied Asylum Seeking Children**

Unaccompanied asylum seeking and possibly trafficked children are deemed looked after children in Scotland and as such are eligible for all measures of protection and assistance to aid their safeguarding and recovery. The 2015 Act made the provision of independent child trafficking guardians statutory for eligible children. Expertise has been drawn from across Government, the current Scottish Guardianship Service, COSLA and others working with unaccompanied children across Scotland to develop a draft consultation to define the role, responsibilities and functions of the Independent Child Trafficking Guardian in Scotland, which will be issued in early 2019. The Scottish Guardianship Service, delivered jointly by Aberlour Child Care Trust and the Scottish Refugee Council, will continue to be funded by the Scottish Government until the new service is in place.

We expect one of the functions of the independent guardian will be to work with those young adults who have been declined asylum by the Home Office and are deemed fit to return home, in terms of preparation and to ensure that the voice of that young adult is heard by the authorities where decisions about their future are being made.

Immigration is a reserved issue, and new statutory powers were introduced by the UK Government by way of the Immigration Act 2016. Scottish Ministers wrote in critical terms to the UK Government on a number of occasions regarding the Bill and the policies underpinning its content. It is likely that Scottish Ministers would support any review of the Act to protect children and families. However, the Scottish Government is working with the Home Office on the roll-out of the Immigration Act 2016 in Scotland to ensure that, where there is crossover between reserved and devolved areas of policy responsibility, there is proper scrutiny of how this will work.

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51 <https://news.gov.scot/news/uncovering-human-trafficking>

52 [Age Assessment Practice Guidance for Scotland : good practice guidance to support social workers, their managers and others involved in undertaking and contributing to age assessments in Scotland](#)

The Transfer of Responsibility for Relevant Children (Extension to Wales, Scotland and Northern Ireland) Regulations 2018 came into force on 7 February 2018. These regulations enable all local authorities to transfer legal responsibility to a second UK local authority. This is a voluntary scheme and local authorities are in discussion with the Home Office regarding funding.

#### 4.9 The Scottish Child Abuse Inquiry

The Scottish Government announced in December 2014 its intention to establish an independent statutory public inquiry into the abuse of children in care. The Scottish Child Abuse Inquiry formally began work on 1 October 2015. The Inquiry, which is chaired by Lady Anne Smith, will report to Ministers with recommendations for the future to improve the law, policies and practices in Scotland.<sup>53</sup> In June 2018, Scottish Ministers revised the terms of reference for the Inquiry to allow more time for evidence to be taken from victims. The revised terms of reference removed the requirement on the Inquiry to report to Ministers within four years and instead it will report “... as soon as reasonably practicable”.

The Inquiry’s first phase of public hearings began in May 2017, hearing evidence from expert witnesses, Scottish Government, survivor groups, care providers and academics. Phase 2 hearings began in November 2017, examining evidence relating to residential child care establishments. Phase 3 of the Inquiry began in October 2018, hearing evidence relating to its investigations into residential child care establishments run by non-religious and voluntary organisations.

#### 4.10 Gender-Based Violence

Violence against women and girls is a fundamental violation of human rights. [Equally Safe, Scotland’s Strategy for Preventing and Eradicating Violence against Women and Girls](#) (2014) seeks 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. The Strategy was updated in March 2016 to correctly reflect the experiences and desired outcomes for children and young people who experience gender based violence.

A public consultation and pilot participation project involving children and young people with lived experience of gender based violence informed the development of the [Equally Safe – A Delivery Plan for Scotland’s Strategy to Prevent Violence Against Women and Girls](#), which was published in November 2017. The Delivery Plan seeks to ensure that the ambitions of the Equally Safe Strategy are rooted in practical delivery that makes a tangible difference to the lives of women, girls, children and young people. Relevant actions within the Delivery Plan include those relating to tackling Female Genital Mutilation (FGM), violence prevention and improving understanding of consent within school education, promoting the ‘whole school’ approach to gender-based violence, tackling gender stereotypes and unconscious bias, promoting the Equally Safe in Higher Education toolkit, better supporting child and adult victims of gender-based violence, etc. The Delivery Plan also includes the commitment to collect evidence and to monitor and report on progress.

Both the Strategy and the Delivery Plan complement and contribute to a range of other Scottish Government initiatives, including the Action Plan for a Fairer Scotland, the Justice Vision and Priorities, and the Trafficking and Exploitation Strategy.

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53 <https://www.childabuseinquiry.scot/about-us/terms-of-reference/>

In addition, the Abusive Behaviour and Sexual Harm Act 2016, which came into effect in July 2017, created a specific offence of sharing private intimate images without consent. An awareness raising campaign alongside the implementation of the offence emphasised the serious consequences of sharing intimate images or films of a current or former partner without their permission.

## **Domestic Abuse**

The Domestic Abuse (Scotland) Act 2018 (2018 Act) creates a specific criminal offence of domestic abuse, recognising coercive control and the psychological and emotional forms this abuse can take beyond the physical. During the development of the legislation, groups representing children who had experienced domestic abuse highlighted the importance of recognising the harm caused to children who are exposed to domestic abuse in the new offence.

The Scottish Government worked with those groups to develop a statutory aggravation concerning children, recognising that children are harmed by growing up in an environment where domestic abuse is taking place and ensuring that where children are exposed to, and harmed by, the domestic abuse of their parent or carer, this is formally recorded. The 2018 Act provides for the 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. 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 is working closely with children's organisations to ensure the effective implementation of provisions within the 2018 Act, currently scheduled for early 2019, including ensuring the training of 14,000 police officers and staff. The Scottish Government is also working to develop a public awareness campaign to accompany the 2018 Act coming into force next year. Consultation during 2018 on the Children (Scotland) Act 1995 has also sought views on how to improve the interaction between the criminal and civil justice systems in dealing with the impact of domestic abuse for children and young people, including on ensuring that civil courts are provided with information about domestic abuse ahead of the planned Family Law Bill.

The Scottish Government continues to fund services supporting women and children affected by domestic abuse across Scotland as part of the £11.8m allocated to tackle violence against women and girls. In addition, the £20m Violence Against Women and Girls Justice Fund (2015-18) has been used to fund a range of measures to tackle violence against women and girls and put in place better support for victims. This funding has continued into 2018-19, primarily to support a number of existing funding allocations committed over the initial three year period. For example, previously time-limited funding for the Scottish Courts and Tribunal Service and Crown Office and Procurator Fiscal Service (COPFS) has been mainstreamed to ensure that waiting times for domestic abuse cases are kept down. A further £1.1m fund was announced by the Cabinet Secretary for Justice, committing £0.3m and £0.8m to the Scottish Courts and Tribunals Service and COPFS respectively in 2018-19 to assist in bringing sexual offences cases to court at the earliest opportunity and to improve communication with victims. Capital funding has also been secured for forensic examination facilities and investment in pre-recorded evidence facilities for child and other vulnerable witnesses. The remainder of the funding will be used for other initiatives focused on prevention and early intervention and to help to ensure that gender based violence is reduced and prevented from happening in the first place.

## 4.11 Council of Europe

The Scottish Government fully supports the role of the Council of Europe in promoting human rights throughout Europe and beyond, and is resolute in its insistence that the UK must remain a member of the Council. The UK signed the Council of Europe (Istanbul) Convention on preventing and combating violence against women and domestic violence in 2012. The 2017-18 PfG reaffirms the Scottish Government's commitment to ratification of the Convention. Officials have provided a high level overview on compliance to UK Government following the passage of the Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Act 2017.

The Scottish Government considers that Scotland is compliant with the Council of Europe (Lanzarote) Convention on Protection of Children against Sexual Exploitation and Sexual Abuse. Indeed, the Convention formed the basis for the later 2011 EU Directive on Child Sexual Exploitation and Abuse. The Scottish Government is working with the UK Government regarding the practical arrangements for a possible ratification.

## 4.12 Honour-Based Violence

So-called "Honour-Based Violence" covers a range of behaviours including forced marriage and Female Genital Mutilation (FGM). Honour-based violence is directly referenced in the Equally Safe Delivery Plan, published in November 2017, in recognition that these practices abuse the human rights of women and girls and are a form of gender based violence.

The Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 introduced a civil Forced Marriage Protection Order, the breach of which is a criminal offence. From 30 September 2014, section 122 of the Anti-Social Behaviour, Crime and Policing Act 2014 made it a criminal offence to force a person into marriage in Scotland. The Scottish Government strengthened the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Act 2011 through secondary legislation which came into effect in the first part of 2018. This brought Police Scotland within the coverage of section 3(1) of the 2011 Act. Doing this allows Police Scotland to apply directly to a court as required, without first having to seek permission before making the application. In addition, in January 2017, the Scottish Government published the research: [Understanding Forced Marriage in Scotland](#), which has informed work to develop and deliver further training and awareness raising in 2018

FGM has been unlawful in Scotland since 1985. Section 70 of the Serious Crime Act 2015 amended the Prohibition of Female Genital Mutilation (Scotland) Act 2005 to extend the reach of the extra-territorial offences in the 2005 Act to habitual (as well as permanent) UK residents.

[Scotland's National Action Plan to Prevent and Eradicate Female Genital Mutilation \(FGM\) 2016-2020](#) sets out an agreed range of actions and associated activities to be taken forward by the Scottish Government and its partners to prevent and ultimately eradicate FGM. Progress against actions from the National Action Plan is being monitored by a Multi-Agency Implementation Group. The FGM National Action Plan Year One report was published in October 2017.<sup>54</sup>

In addition, as part of its approach to strengthen preventative and protection measures to address FGM, the Scottish Government has also taken steps to improve systems for the collection of data. Healthcare professionals in Scotland have been asked to record the diagnosis and types of FGM, together with any corrective procedures, in the appropriate clinical records, including the hospital discharge summary. New codes for recording different aspects of FGM, which were introduced in NHS Health clinical settings from April 1st 2016,

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54 <http://www.gov.scot/Resource/0052/00526090.pdf>

promote national consistency in the collection of such data. In addition, [Responding to Female Genital Mutilation \(FGM\) in Scotland – Multi Agency Guidance](#), which was published in November 2017, sets out how agencies, individually and together, can protect girls and young women from FGM, and respond appropriately to survivors.

The PfG 2018-19 commits the Scottish Government to bring forward a Bill on FGM, which will seek to introduce protection orders for women and girls at risk, and place guidance for professionals on a statutory footing. A consultation on the Bill and associated issues was launched on 4 October 2018.<sup>55</sup>

The Scottish Government is mindful of the need to continue to raise awareness of FGM. In July 2016, it published research to help inform thinking in how to promote understanding and to challenge FGM in affected communities, with Phase 2 published June 2017.<sup>56</sup>

Funding is provided to a range of organisations which support the rights of children and young people who are affected by or may be at risk of so called Honour-Based Violence, through the Equally Safe Violence Against Women and Girls Funding. Support to children and young people includes providing information on their rights and protection available under the law through outreach support services which are child centred and confidential. In 2017-18, up to £0.7m was provided to a range of specialist support organisations across the violence against women sector who are able to offer advice and support to those affected.

#### **4.13 Children with Variations of Sex Characteristics**

The Scottish Government has added intersex equality to its approach to sexual orientation and gender identity equality. This was to recognise the specific issues people with variation of sex characteristics (intersex people) and their parents may face in areas such as health and education, and to better support the inclusion of this community in Scotland.

The Scottish Government has provided £45,000 each year since 2015-16 to the Equality Network to facilitate engagement between public bodies and intersex people and the development of best practice. The PfG 2017-18 commitment to consult on reforming gender recognition legislation is discussed at section 3.1.

#### **4.14 Use of Conducted Energy Device (CED(Taser))**

In Scotland, just over 2% of police officers have authority to carry firearms. Police Scotland Authorised Firearms Officers (AFOs) are also trained in the use of Tasers as a Less Lethal Option to be used in support of armed operations. This training is delivered in line with current national UK practices and procedures.

In December 2017, Police Scotland announced plans to recruit and train 500 Specially Trained Officers (STOs) in the use of Tasers. Training for STOs is delivered in line with College of Policing National Police Firearms Training Curriculum. The STOs equate to around 3% of total officer numbers. The roll-out of the STOs began in June 2018 and is expected to be completed by autumn 2018. They will be a local policing resource across all of Police Scotland's 13 Divisions. Police Scotland will continue to assess deployment figures and monitor any Police Investigations & Review Commissioner (PIRC) referrals and action associated learning.

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55 <https://www2.gov.scot/Publications/2018-10/7920/2>

56 [http://www.waverleycare.org/wp-content/uploads/2017/09/MyVoice-2017\\_web-Copy.pdf](http://www.waverleycare.org/wp-content/uploads/2017/09/MyVoice-2017_web-Copy.pdf)

There is a wide range of scrutiny measures and oversight arrangements in place with reference to Police Scotland. These checks and balances include oversight by the Scottish Police Authority (SPA), which reports annually to the Scottish Parliament, Her Majesty's Inspectorate of Constabulary in Scotland (HMICS), the PIRC and the Parliament's Sub-Committee on Policing. The Chief Constable of Police Scotland is required to report any incident where any person serving with Police Scotland has used a firearm to the PIRC. The PIRC will then carry out an independent assessment and decide if a full investigation is required, making recommendations as necessary. The PIRC publishes its reports on its website. In Scotland, there has been no Taser discharge on a person under 16 over the period of this report.

#### 4.15 Restraint

Individual guidance and training is 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. Restraint is acknowledged as an extreme form of intervention and should never be seen as the norm. The use of restraint should always be a last resort.

The Scottish Government published  *Holding Safely, A Guide for Residential Child Care Practitioners and Managers about Physically Restraining Children and Young People*  (2005).<sup>57</sup> This was updated in 2013 with guidance on minimising the use of physical restraint in Scotland's residential childcare establishments,<sup>58</sup> including the monitoring and collection of data on any occasions where children and young people have been physically restrained. Alongside this, a pamphlet was specifically developed for looked after children themselves.<sup>59</sup> This guidance, however, goes wider than residential child care, covering all schools and establishments.

Young people in 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.

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. Full written details of the incident, including the young person's comments, will be recorded by the unit and copied in to 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 a *Who Cares? Scotland* worker) or to make a complaint, if they wish. Young people in secure accommodation are never held in solitary confinement.

Guidance on the use of restraint and seclusion for all schools (mainstream and special school settings) was included in the refreshed [Included, Engaged and Involved Part 2: a positive approach to managing school exclusions](#) (IEI2), (June 2017). The guidance, which is for all children, including children with complex additional support needs, including those arising from learning disabilities, is clear that the use of physical intervention and physical restraint should be seen within the context of early intervention, positive relationships and behaviour and used only as a last resort, in line with the UNCRC's recommendations. The

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57 <http://www.gov.scot/resource/0041/00413007.pdf>

58 <https://www.gov.scot/Topics/People/Young-People>

59 <https://www.gov.scot/Resource/0041/00413009.pdf>

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.

The IEI2 guidance also makes clear that seclusion of a child or young person within a separate space should only be used as a last resort to ensure the safety of a child or young person, or others. The use of this form of physical intervention should be included in an agreed plan for the individual. Where seclusion is used it must be in a place that is safe; it should be managed under supervision; it should take into account the additional support needs of the child or young person; and it should be time limited.

Inspection arrangements across individual establishments and bodies, for example through the Care Inspectorate and Mental Welfare Commission, require establishments to demonstrate that they are minimising the use of physical restraint and are following the relevant guidance. In certain settings, for example community-based mental health services, the use of restraint is explicitly prohibited.

Staff within the Scottish Prison Service (SPS) are required to demonstrate competence on the use of restraint on an annual basis. SPS staff will, wherever practical, use communication skills and other non-physical techniques to enlist the cooperation of young people and de-escalate the situation. The use of force will only be considered when all other means have been exhausted. In all cases where force has been used a 'Use of Force Report' is required to be completed and submitted. Records are monitored by managers, audited and examined by HM Inspectorate for Prisons in Scotland.

Spit hoods are not used in either secure accommodation services in Scotland or the SPS. 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. The use of spit hoods is classified by Police Scotland as a use of force. Like any use of force against individuals, there is a strong onus on Police Scotland to ensure this is proportionate and appropriate in the circumstances. A robust framework governs the Service's use of spit hoods. Police Scotland has carried out a full Equality and Human Rights Impact Assessment on the use of officer safety equipment, including spit hoods. The service introduced a revised protocol and recording system in early 2017 which requires all uses of hoods to be recorded to ensure more consistent recording and improved analysis of use.

Although powers over immigration, including asylum, are reserved issues, Scottish Ministers believe that asylum seekers and people with insecure immigration status should be treated with respect and dignity at all times and consider that children should never be detained for immigration purposes. The Scottish Government understands that children are not held in immigration removal centres in the UK, including in Scotland, so there are likely to be limited instances of restraint being used. However, the Scottish Government understands that families with children who are being removed from the UK may be detained in 'pre-departure accommodation'. There is no pre-departure accommodation in Scotland.

## 5 Family Environment and Alternative Care

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

This cluster focuses on the family environment, the right of children to be well cared for if they live apart from their parents, and the right to be protected from all forms of violence and abuse.

### 5.1 National Parenting Strategy

Scottish Ministers believe that parents – mums, dads and anyone who is involved in raising children of any age – are the strongest influence on a child's life. The [National Parenting Strategy](#) (2012), which was developed in consultation with parents and carers, aims to highlight their vital role, not only in improving the health and wellbeing and life chances of Scotland's children and young people, but also as key to a better Scotland. The Scottish Government has made significant progress around commitments included in the Strategy, which aim to make a practical difference for families, for example, extending the provision of early learning and childcare, improving access to coordinated family support and relationship support, developing the PlayTalkRead campaign, and offering the Family Nurse Partnership on a wider basis. The Scottish Government is continuing to work with delivery partners to further develop and implement measures to support positive parenting.

In the Parenting Strategy, the Scottish Government also committed to commission new work to develop comprehensive, practical advice on different approaches to assist parents in managing their children's behaviour. This commitment will support the implementation of the Children (Equal Protection from Assault)(Scotland) Bill, if approved by Parliament. The Scottish Government aims to provide parents with information about a range of alternative options available to them, to help them manage the behaviour of their children and impact positively on their parenting skills.

In addition, the Scottish Government provides funding to 22 organisations that support parents, carers, children and families through the Children, Young People and Families Early Intervention Fund, including Relationships Scotland, NSPCC, Home-Start UK, Parent Network Scotland, Parenting Across Scotland, and Cyrenians.

#### Support for Fathers

The Scottish Government funded and supported the Fathers Network Scotland to deliver the Year of the Dad in 2016. The aim of the Year was to bring about culture change, encouraging and influencing services and employers to do more to enable dads to play a full role in family life and their child's development – and to encourage some dads to be more actively involved. The definition of 'dad' used for the Year was deliberately broad, encompassing stepdads, adoptive dads, gay dads and father figures (such as grandads). A wide range of organisations supported and took part in the Year, with 56 organisations delivering 95 events and reaching 14,800 people.

The Scottish Government also chaired and organised the National Fathers Advisory Board, which provides a mechanism for a range of organisations from the third and public sector, each with an interest in supporting dads and their families, to collaborate, share intelligence and pool resources. Funding has also been provided to key organisations to deliver a range of work to support dads, children and families, including Fathers Network Scotland, Midlothian SureStart, Families Need Fathers and One Parent Families Scotland (including for their dads service).

## Shared Parental Leave and Flexible Working

Although the legal powers governing shared parental leave and flexible working are currently reserved to the UK Government, the Scottish Government is committed to working with employers, directly and through their representative bodies, to promote and support flexible working. Underpinning this commitment is a recognition that flexible working arrangements are critical to enabling families to spend time together and forge positive relationships. The Scottish Government funds, and is an active member of, Family Friendly Working Scotland, working in partnership with Working Families, Parenting Across Scotland and Fathers Network Scotland to support and promote the development of family-friendly workplaces across Scotland. Scottish Government funding for Family Friendly Working Scotland totals around £0.5m since 2014.

## 5.2 Review of the Children (Scotland) Act 1995 and Family Justice Modernisation Strategy

In May 2018, the Scottish Government launched a consultation on a review of Part 1 of the Children (Scotland) Act 1995 (1995 Act) and the creation of a Family Justice Modernisation Strategy.<sup>60</sup> The 1995 Act is centred on the needs of children. It defines parental responsibilities and rights and gives the court power to make decisions about things such as who a child should live with or spend time with.

The consultation sought views on reforming Part 1 of the 1995 Act and on other matters related to family law, such as aspects of the Children's Hearings System and measures to protect victims and children from the harm caused by domestic abuse. A key focus of the consultation is on improving how the court obtains the views of the child in family cases. Alongside the formal consultation document, the Scottish Government also issued an online survey questionnaire for children and young people and has undertaken a series of engagement events involving them. The outcome of the consultation will inform the development and content of a Family Law Bill to be introduced to Parliament and a Family Justice Modernisation Strategy, which will outline existing work to improve how family cases are dealt with and further work planned.

In addition to the consultation, in June 2018, the Scottish Government announced grant funding for two research projects into the family justice system.<sup>61</sup> In one of the projects, guided by an expert group of young people, researchers are identifying the challenges and exploring the implications for children's rights where the child's voice is not heard in family actions. Researchers are also considering how the approaches of other countries could be translated into a Scottish context. The second project is focused on legal professionals' understanding of domestic abuse and its implications in child contact cases, exploring the interaction between the criminal and civil justice systems. Interim findings from both research projects will be included in consideration of next steps following the consultation on the 1995 Act and the development of the Family Justice Modernisation Strategy.

Recognising the importance of developing and maintaining positive relationships within families, the Scottish Government also provides 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.

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60 <https://news.gov.scot/news/review-of-family-law>

61 <https://news.gov.scot/news/improving-experiences-of-family-justice>

### 5.3 Removal of Children from their Families

Part 12 of the CYP Act encourages relevant agencies to provide families with support before statutory intervention becomes necessary. Officials are currently identifying a number of early intervention systems that encourage families to come together, supported by service providers, and plan their own solutions to the issues affecting them.

The Scottish Government expects that all professionals dealing with children and their families act in accordance with the [National Guidance for Child Protection in Scotland \(2014\)](#). The Guidance outlines that, unless the level of risk posed to the child requires emergency measures to immediately protect that child, procedures to remove a child from its family will only start after extensive efforts to keep the child with the family. In Scotland there are two different ways a local authority can ask to remove a child from its family. If the child is in immediate danger the local authority can ask a Sheriff Court to grant a child protection order (CPO). Otherwise the local authority can refer the case to a Children's Reporter, who will decide if it is necessary to refer a child to a children's hearing for compulsory measures of supervision, which may include supervision at home, or away from home. The hearing is explicitly charged with determining the course of action that it believes gives paramount consideration to the welfare of the child.

***“We all need to be loved! Love helps us grow in confidence and feel valued. We all need someone to guide us, care for us and love us for who we are.”***

*Member of the Children's Parliament, Rights Event, 2018*

### 5.4 Looked After Children

Under the 1995 Act, '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. As of December 2017, there were 15,317 looked after children in Scotland. There were 2,723 children on the child protection register.

The [Getting it Right for Looked After Children and Young People Strategy](#) (2015), has three aims:

- Early engagement – intervening at a young age and intervening at any age but as early as possible to support and build on assets within families and communities to prevent children becoming looked after;
- early permanence – for as many as possible of those who do become looked after so as to reduce drift and delay in terms of decision making to get children to permanent placements while taking into account the rights, needs and views of the child; and
- improving the quality of care – for all looked after children and young people.

Throughout the reporting period, the Scottish Government has taken forward a range of actions to help progress these key aims. For example: the public consultation on a review of the 1995 Act, as discussed at section 5.2 above, also covered fundamental issues affecting children, such as the right of any age of child to be supported to be heard and have decisions made in their best interests and explained to them, the child's right to family life and how to better support sibling relationships. Responses to the consultation will also assist the Scottish Government to formulate contact guidance for stakeholders.

The Realigning Children's Services (RCS) programme is an assets based approach, working with families and communities, which helps Community Planning Partnerships (CPPS) to make better joint strategic decisions about how to improve outcomes for children and families. Its focus is on identifying ways to shift investment 'upstream' to allow prevention and early intervention and reduce the need for high intensity, high cost services. A new, third tranche of the RCS programme commenced from September 2018.

The Scottish Government is also working with stakeholders to introduce a degree qualification for residential care workers to ensure that they are equipped to meet the needs of the children they care for. A mandatory learning and development framework has also been established for foster carers, which will ultimately ensure that foster carers are equipped with the skills required to offer full support to children in their care.

### **Promoting Permanence**

The Permanence and Care Excellence (PACE) programme was established in 2014 with the aim of enabling more looked after children to experience permanence as early as possible. This means providing stable, secure and nurturing relationships for children, normally within a family setting, that continue to adulthood. There are a range of different routes to permanence depending on the needs and circumstances of the child, and PACE uses an assets-based approach to assess the appropriate route for each child. The programme supports local authorities and their partners in health, Children's Hearings, the Scottish Children's Reporter Administration and the courts, to work together to identify delays, blockages and difficulties to securing permanence for looked after children and to develop and test improvements at a local level.

The PACE programme is delivered in partnership with the Permanence and Care Team (PaCT) at the Centre of Excellence for Looked After Children (CELCIS). 2017 data reports that 1,971 children and young people achieved 'legally secured' permanence. The PfG 2017-18 committed to roll-out PACE to all local authorities. The programme is currently operational in 21 areas, allowing for more opportunities for cross fertilisation of improvement ideas nationally. The intention is to offer support to all local authority areas by the end of 2018.

The Scottish Government set up Scotland's Adoption Register to increase the number of children who are adopted, particularly those who are more difficult to place. Through the CYP Act, the Scottish Government has placed Scotland's Adoption Register on a statutory footing. Since its establishment in 2011, the Adoption Register has facilitated 413 matches with adoptive families. The Adoption Register has successfully moved onto an online system run in collaboration with Link Maker. The online system went live on 11 November 2016. In 2017, there were 341 adoptions – the highest number of adoptions on record.

The Scottish Government has also taken steps to further support kinship carers. A new National Kinship Advice Service was commissioned in September 2017. Responding to feedback from carers and children and young people, the new service incorporates development work to improve the support for children and young people in kinship care to establish peer group support and the development of appropriate advice and information packs. The Scottish Government also convened a working group to comprehensively evaluate a national care allowance scheme for kinship, adoption and foster care. The group's final report, which makes 12 recommendations to Scottish Ministers and COSLA leaders, was published in September 2018.<sup>62</sup>

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62 [The final report and recommendations of the Review](#)

## Outcomes for Looked After Children

The CYP Act increased the support for care leavers, enabling them to receive support, advice and assistance in all areas of their wellbeing up to their 26<sup>th</sup> birthday. Non-statutory guidance on Aftercare and Continuing Care was co-produced with the care sector and published in November 2016.<sup>63</sup> The Guidance advises that young people should be involved in planning for when they 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.

Statistics are published each year for education outcomes for looked after children; their school attendance, exclusions and post-school destinations. Looked after school leavers continue to have lower attainment than other school leavers, but data for 2016-17 shows that the gap has narrowed. Looked after children are less likely to be in positive destinations nine months after leaving school than children who are not looked after. However, a higher proportion of looked after children were in positive destinations in 2016-17 than in any previous year since 2009-10.<sup>64</sup> The Scottish Government continues to focus on improving outcomes for those with care experience, through Developing the Young Workforce, its youth employment strategy, and the implementation of the recommendations of the Commission on Widening Access.

*“The Scottish Government should commit to making the experience of being in care a story of love, stability and care.”*

*Ryan, MSYP, Rights Review Event, 2018*

## 5.5 Independent Review of the Care System

Scottish Ministers established an independent root and branch review of the care system for children and young people in Scotland, to help identify how to change the future of the care system for the better and to improve both the quality of life and outcomes of young people in care. The Review, which commenced in mid-2017, and which is due to conclude around spring 2020, has put children and young people with care experience at the heart of shaping its scope and vision. It has integrated the 1,000 Voices project, delivered through the organisation Who Cares? Scotland, to ensure relevant participation on what the Care Review should include, what the best care system in the world would look like as well as to guide the deep dive work the Review is undertaking through its Journey stage. It will also ensure a young people’s collaborative – known as the Go To Group – has the opportunity to scrutinise its work until the Review’s conclusion. The Review intends to co-design improvements in the care system with children and young people. Fiona Duncan, Chief Executive of the Corra Foundation is the Review Chair and the Centre for Excellence for Looked After Children in Scotland at the University of Strathclyde, provide Secretariat support to the Review.

As part of the Review’s engagement and participation work, it is ensuring that a diverse range of babies, infants, children and young people with experience of care have the opportunity to feed into its work including, for example, children and young people who are care experienced and who: have disabilities; are/have been homeless; are from black and ethnic minority groups; and identify as LGBT.

63 <https://beta.gov.scot/publications/guidance-part-11-continuing-care-children-young-people-scotland-act/pages/8/>

64 <https://www2.gov.scot/Topics/Statistics/Browse/Children/TrendLookedAfter>

## 5.6 Missing Persons

Going missing is a clear sign that something is wrong in a person's life. In 2017-18, almost 23,000 investigations into missing people were carried out by Police Scotland, with 64% of those involving a child or young person. The [National Missing Persons Framework for Scotland](#) (May 2017), seeks to prevent people from going missing and to limit the harm associated with people going missing. The Framework, the first of its kind in Scotland, sets out the roles and responsibilities of respective agencies, as well as key national objectives and supporting commitments on which to focus efforts. Relevant parts of the Framework, were developed in consultation with children and young people who were previously missing.

The Scottish Government has provided £60,000 to Missing People, Barnardo's and Shelter Scotland to develop and deliver training to improve and standardise practice for return discussions across Scotland. The input of children and young people who were previously missing also informed the development of this training.

## 5.7 Young Carers

There are an estimated 788,000 unpaid carers in Scotland, including 44,000 under 18 years of age. The Scottish Government recognises the valuable contribution that all carers make in our communities and the need to ensure that they are supported at an early stage to enable them to better cope with the stresses and demands of their role and to ensure their wellbeing.

The Carers (Scotland) Act 2016 (2016 Act), which came into force on 1 April 2018, 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. 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. When a young carer turns 18 years of age, their young carer statement 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, and continues to work with a range of partners, including the Scottish Young Carers Services Alliance, to ensure successful implementation of the 2016 Act. A post commencement implementation plan for 2018-2020 has been agreed with the Implementation Steering Group, with shared actions to maximise the benefits of the 2016 Act.

The Scottish Government is also continuing to work with the national carer organisations and other stakeholders to ensure that young carers' voices are heard. A number of other initiatives have been taken forward to further support the needs of young carers. For example, over £2m has been provided since 2008 for an annual young carers festival. The 11th festival took a new structure of two one-day events, located in the Highlands and Fife during July and August 2018. They provided an opportunity for around 400 young people to enjoy valuable time away from their caring responsibilities, participating in different leisure activities, spending time with their peers, discussing matters important to them as young carers and sharing their ideas. This year's the Carers Parliament has a focus on young carers, with many contributing to events throughout the day, in recognition of the Year of Young People.

Between 2010 and 2019, over £26m has also been provided for the voluntary-sector Short Breaks Fund, administered by Shared Care Scotland and the Family Fund. The Fund comprises of programmes which enable carers, including young carers, and people with support needs to arrange the break of their choosing, and for third sector organisations to develop additional, responsive and creative short break opportunities for disabled children, young people and their families.

Measures have also been taken forward to assist young carers in schools and colleges. For example, the Scottish Government is working with the General Teaching Council (GTC) and Education Scotland to raise the profile of young carers in schools so that a consistent approach to support is achieved. Furthermore, Carers Trust and the Scottish Young Carers Services Alliance have received funding to raise awareness of young carers in schools, work with others to produce Carers Act information targeted at head teachers and to identify existing resources that could be disseminated to support teachers' awareness and support of young carers in schools.

Young carers moving into employment can benefit from the Carer Positive initiative, which helps to raise awareness of the growing numbers of people juggling work and caring responsibilities, and encourages employers to understand the business case for supporting carers in the workplace. This can be through, for example, flexible working hours, carers' leave or peer support networks. As of September 2018, there were 130 employers in Scotland recognised as being Carer Positive, covering nearly 300,000 employees.

Moving forward, the Scottish Government will undertake ongoing data collection on all carers accessing support under the Carers Act, including children and young people. This will help to build an evidence base to forecast demand under the legislation and associated resources required.

### **Young Carer Package of Support**

The Scottish Government ran two phases of activity in summer 2017 to promote the uptake of Carers' Allowance amongst young adult carers aged 16-24, and raise awareness of the rights of young people under the 2016 Act. This work was delivered in partnership with Young Scot and involved young carers themselves. The evaluation of this work demonstrated that it achieved strong engagement and awareness among young carers.

From autumn 2019, a new Young Carer Grant of £300 will be paid to young adults, aged 16 and 17 (and 18, if still at school) who care for 16 hours or more each week and do not currently qualify for Carer's Allowance. The Scottish Government established the Young Carer Panel to ensure young people with lived experience can help to shape the new Young Carer Grant with, and for, the young people of Scotland. The consultation on Young Carer Grant regulations ran from 17 September until 10 December 2018.

Recipients of the Young Carer Grant will also be eligible for free bus travel from 2020-21, subject to successful piloting. Young carers aged 11-18 will also benefit from a new bespoke carers element to the Young Scot card, providing non-cash benefits and rewards, which will be rolled out in 2019. The rewards and benefits will be co-produced with young carers.

## 6. Disability, Basic Health and Welfare

**Relevant UNCRC Articles: 6, 18(3), 23, 24, 26, 27(1-3) and 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.

### Disability and Basic Health

#### 6.1 Support for Disabled Children and Young People

*“The views and opinions of young people with disabilities should be heard, they should be included in all decision making processes affecting them...”*

*Article 12 in Scotland, I Witness: The Concluding Observations, 2018, p.12*

In December 2016 the Scottish Government launched, [A Fairer Scotland for Disabled People: Our Delivery Plan to 2021 for the United Nations Convention on the Rights of Persons with Disabilities](#). This Action Plan set out the Scottish Government’s overarching ambition to transform the lives of disabled people in Scotland, following over two years of detailed discussion, negotiation and co-production. The Plan is centred on five long-term ambitions and a set of 93 actions. Many of these actions will impact on individuals of all ages, whilst a number are specifically targeted at children and young people.

#### Young Disabled People’s Forum

The Scottish Government recognises that effective solutions to the problems and barriers faced by disabled people must be drawn from the lived experience of disabled people. The Young Disabled People’s Forum, Youth Action Success, supports Scottish Government policy officials to understand the challenges faced by disabled young people. This group of 25 young people, with a wide range of disabilities, help to shape and inform policy. The Forum meets up to 4 times per year to discuss various themes and topics which may be submitted by policy areas but are selected by the young people themselves. The work of the Forum is overseen by the Disabled Children and Young People Advisory Group.

#### Supporting Disabled Children, Young People and their Families Resource/Website

Scottish Ministers are committed to ensuring that all children and young people can achieve their full potential. The Scottish Government is in the final stages of developing an information resource to support disabled children, young people and their families. This will provide information, based on the lived experiences of disabled children, young people, and their families across 3 pillars: rights and information; accessibility of support; and transitions. The information will be developed into a website and will also be accessible through mobile devices.

A consultation on the content of the resource closed on 5 September 2018. The 110 responses received will be analysed before a report is produced early in the New Year. An engagement event tour of Scotland took in 11 areas of Scotland. Presentations on the content, along with rich and useful discussions during the consultation period, helped reinforce the need for the resource as well as highlighting potential gaps.

Additional content will be added to the resource taking account of the views of respondents to the consultation and those who attended the engagement events. This will help to ensure that the resource is a valuable and relevant information tool for young disabled people and their families/caregivers. The development of the final content of the resource will involve parent groups and the Youth Action Success Forum.

## Family Fund

The Family Fund Trust is the UK's largest grant-giving charity for disabled children. Grant funding from the Scottish Government allows the Family Fund to provide support for low income families raising disabled or seriously ill children and young people. This funding is based on what families themselves decide will make the greatest impact on their circumstances and wellbeing. Support from the Family Fund for the Short Breaks Fund is discussed at section 5.7.

## Learning Disabilities and Autism

The Scottish Government remains committed to transforming the lives of autistic people and those with learning disabilities, including children and young people, and aims to specifically address the inequalities they face in accessing health, education, work and active participation in society. *The Scottish Strategy for Autism*<sup>65</sup> was refreshed in 2018 to focus on specific priorities for the next 3 years. *The Keys to Life*, learning disabilities strategy refresh will be published in February 2019. The refreshed priorities will help achieve the 4 strategic outcomes intended to ensure people with autism and learning disabilities live healthier lives, have choices and control over the services they use, and are supported to be independent and active citizens.

By aligning these aims with the wider ambitions for the [A Fairer Scotland for Disabled People: Delivery Plan](#), the Scottish Government hopes to ensure that people feel valued, included and accepted by society. Both strategies are jointly endorsed by the Convention of Scottish Local Authorities (COSLA) and are being implemented through local partnerships of statutory and third sector organisations.

Support for children and young people with disabilities in education is discussed in Chapter 7 of this document.

## Sensory Impairment

The Scottish Government is also committed to improving the services, support and care available to people who have sight loss, deafness and dual sensory loss. The long-term strategy, [See Hear](#) (2014) commits to ensuring that children, young people and adults have the same access to opportunities and public services as everyone else. The strategy was also jointly endorsed by COSLA and is being implemented through local partnerships.

The Scottish Government's first [British Sign Language National Plan 2017-2023](#) means that D/deaf and Deafblind British Sign Language (BSL) users will be fully involved in daily and public life in Scotland and will be able to make informed choices about every aspect of their lives. The Scottish Government has also commissioned and funded [contactScotland-BSL](#)<sup>66</sup>, the UK's first publicly funded online BSL video relay service, which enables Deaf BSL users to contact public and voluntary services, and for these services to contact them. A number of organisations in Scotland have already signed up to use the service, including NHS Scotland and the Scottish Children's Reporter Administration.

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65 <https://www.gov.scot/Publications/2011-11/01120340/0>

66 <https://contactscotland-bsl.org/>

## Communication Equipment and Support

Communication equipment and associated support is frequently referred to as Augmentative and Alternative Communication (AAC). The Scottish Government is committed to improving the lives of people who use and need Augmentative and Alternative Communication (AAC).

The Scottish Government recognises that being able to communicate and having freedom of expression is a basic human right – one which is essential to physical and mental health, social wellbeing and is necessary to ensure an equal opportunity to fully participate in communities. This is why the Scottish Government introduced legislation – [Communication Equipment and Support in using that Equipment – Part 4 of the Health \(Tobacco, Nicotine and Care\) \(Scotland\) Act 2016](#), which requires that communication equipment, as well as the support to use it, is provided to people of all ages, from all care groups, who cannot speak or who have difficulty speaking.

To support the delivery of the legislation, the following tools have been developed:

- [Guidance on the Provision of Communication Equipment and Support in Using that Equipment](#);
- [Easy Read Version of the Guidance](#); and
- [A national AAC Core Pathway](#).

Work is now underway to co-produce, with National AAC Advisory group members and stakeholders, a refresh of the national AAC high level work plan, reflecting the broader and ongoing program of work on AAC.

## Access to Transport, Culture and Sport

The connectivity that public transport provides is a key enabler for disabled children and young people, and their families, to live a life of freedom and equal opportunity. The Scottish Government is aware that disabled children and young people may face particular barriers on the transport network, and equality of accessibility to the network is one of the key themes of the ongoing review of the National Transport Strategy.

[Going Further: Scotland's Accessible Travel Framework](#) (2016) was co-produced with disabled people, disability organisations, transport operators, and government to push forward improvement. The Framework aims to support those involved in transport to understand how to provide an excellent customer service to disabled people across the range of impairments, including those with hidden disabilities. The Scottish Government is ramping up implementation of the Framework by moving to an annual framework delivery programme for this and future financial years. This will build on work in the Scottish Government to improve accessibility for all. Examples of work in this area include a proposal to prohibit pavement parking in the Transport (Scotland) Bill, delivering new infrastructure with accessibility features built in, and improving existing infrastructure like making more railway stations step-free. This work serves to realise the Framework vision that disabled people can travel with the same freedom, choice and dignity as non-disabled citizens.

The Scottish Government has continued to reform the blue badge scheme. For example, it expanded the eligibility criteria in December 2017 to include those children who, as a result of their disability, may pose a risk to themselves or others in traffic where other strategies don't work to control the risk. Work is ongoing to extend the concessionary travel scheme to provide bus passes for travel companions of eligible disabled children aged under 5.

VisitScotland, the national tourism agency, has also been striving in recent years to make visitor and tourism facilities across the country more inclusive – be that for holidays, short breaks, or simply day trips in the local area. It has also launched a revamped Accessibility Guide online tool, which helps any business in the tourism industry to develop a clear concise accessibility guide of their venue and service. In addition, the Scottish Government has committed to improving physical and online access to Scotland’s historic environment and collections by 2019.

Both the *A Fairer Scotland Disability Action Plan* and the Curriculum for Excellence make reference to the importance of removing barriers for disabled children and young people to participate in sport activities at school and in the community. Scottish Disability Sport (SDS), in conjunction with Home Country Disability Organisations, has developed a UK Disability Inclusion Training (UKDIT) course, aimed at those interested in becoming involved in sport for people with a disability. SDS is also working with organisations across Scotland to improve access to sporting facilities for all disabled people to develop opportunities and improve performance in disability sport in Scotland. The aim is to ensure that any child, young person or adult with a disability can participate in sport and physical activity regardless of their ability, geography or age.

**sportscotland**’s investment supports sport-specific activity for participants with disabilities. For example, the redeveloped **sportscotland** National Sports Training Centre in Inverclyde was opened in August 2017 by the First Minister. This followed £12m of investment by **sportscotland**. The building is the first of its kind in the UK, providing a residential sports training centre designed with inclusivity in mind for disability sport users, including both performance and community users. This will ensure Scotland is even better placed to support disabled athletes in their preparations and help to ensure sport-specific activity is accessible.

## Transitions

The Scottish Ministers intend to provide the right support at the right time for disabled young people transitioning from children’s to adult services. The Scottish Government funded the Health and Social Care Alliance Scotland, to produce a report: ‘*Experiences of Transitions to Adult Years and Adult Services (2017)*’,<sup>67</sup> which explores the transitions experiences of disabled young people and their families, with the aim of making a practical difference to improving transitions, using information, themes and solutions gathered from people who have lived experiences of transition. The Report made a number of recommendations which are intended to support practitioners and managers in their practices, services and strategic developments.

The Scottish Government also provides funding to the Association for Real Change Scotland (ARC), which has developed a series of principles, known as the Principles of Good Transitions.<sup>68</sup> In July 2017, ARC published the report, [Facing the Future Together](#), a national survey of young people with additional support needs and their parents and carers about their experiences of leaving school. These provide a basis to inform, structure and encourage the continual improvement of professional support for young people with additional needs between the ages of 14 and 25 who are making the transition into young adult life. The content of each principle has been predominantly informed by the work of the *Scottish Transitions Forum*, alongside relevant national legislative and policy developments and the UNCRC.

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67 <https://www.alliance-scotland.org.uk/blog/resources/experiences-of-transitions-to-adult-years-and-adult-services/>

68 <https://arcscotland.org.uk/resources/publications/principles-of-good-transitions-3/>

The Scottish Government established the £5m Independent Living Fund Transitions Grant from December 2017 to support disabled young people in transitions (aged 16-21) to live independently and contribute to their communities. Short-term grants allow young people to explore, plan and achieve outcomes that they have identified themselves and for which other sources of support are not available. Disabled young people were involved directly in the development of the Fund. ARC is helping to promote the scheme across Scotland.

### **Child Disability Living Allowance**

Child Disability Living Allowance (DLA) is an ill health and disability benefit which currently provides financial support to children under the age of 16. The benefit is split into a Care component, which relates to the level of looking after which a child requires, and a Mobility component, which relates to the help a child needs in getting around. Either or both can be awarded, depending on the child's needs.

At age 16, the current Department for Work and Pensions (DWP) process requires children to transition from Child DLA to Personal Independence Payment (PIP). Children with disabilities, and their families, can experience numerous issues during the transitional period between child and adult services at ages 15, 16 and 17. That is why, when the Scottish Government begins to administer Child DLA in Scotland, it has committed to continuing to pay eligible recipients up to the age of 18, to allow for continuity for families during this testing time. Additional information about the financial support that is available to families more generally is discussed at sections 6.21-6.22.

### **Further and Higher Education**

Where young people choose to attend further or higher education, it is important that they receive the support they need while in college or university and to make the transition successfully. There are a number of measures in place to widen access to further and higher education. Work is in hand through the Scottish Funding Council and with other partners to support young people with disabilities in both college and university. For example, improving the 15-24 learning journey; reviewing the Further and Higher Education student support package; working to place student mental health and wellbeing as key priorities for colleges and universities; and delivery of the (non-income assessed) Additional Support Needs for Learning Allowance.

All colleges and universities have a duty under the Equality Act 2010 to make reasonable adjustments to ensure that students with disabilities which affect their studies are not placed at a disadvantage. This duty requires education providers to continually review and anticipate the general needs of disabled people, rather than simply waiting until an individual requests a particular adjustment.

### **Employment**

The Scottish Government is committed to better enabling disabled people of all ages to participate in the workforce. One of the desired outcomes of the [Developing the Young Workforce: Scotland's Youth Employment Strategy](#) is to increase the employment rate for young disabled people to the population average by 2021. The 5 year, [Equalities Action Plan for Apprenticeships in Scotland](#), includes specific improvement targets for Modern Apprenticeship (MA) participation by disabled people, including part-time and flexible engagement, also to be achieved by 2021. This provides young disabled people with the highest level of MA funding until the age of 30.

As part of the Scottish Government's commitment to prepare and support disadvantaged young people into and during employment, funding is provided to the Scottish Council for Voluntary Organisations (SCVO) to deliver the Community Jobs Scotland programme (CJS). CJS provides support and job training opportunities for unemployed young people aged 16-29 who face additional barriers to employment and confirms the Scottish Government's commitment to working with the third sector to provide that support.

In addition, in April 2017, using newly devolved powers, the Scottish Government put in place transitional services that focused on helping disabled people and those with long-term health conditions find work in a manner not driven by the threat of benefit sanctions. From April 2018, the Scottish Government introduced Fair Start Scotland<sup>69</sup>, a distinctly Scottish employment support service which has a focus on helping people with disabilities and those most disadvantaged in the labour market to move into and sustain fair work.

The Scottish Government recognises that better integration and alignment of employability with other services is a vital part of its ambition to tackle labour market inequalities and help more people into work. In March 2018, it published 'No One Left Behind – Next Steps for the Integration and Alignment of Employability Support in Scotland'<sup>70</sup> which contains a comprehensive range of activities to deliver more effective and joined-up employability support across Scotland.

In December 2018, the Scottish Government published [A Fairer Scotland for Disabled People: Employment Action Plan](#) in response to the commitment in A Fairer Scotland for Disabled People, published in December 2016. In this, the Scottish Government committed to seek to reduce at least by half, the disability employment gap. The Action Plan includes initial steps towards this ambition with actions to support young people in transitions, to address the barriers faced by disabled people accessing work and to support employers to recruit and retain disabled people.

## **6.2 Health and Wellbeing in Early Years**

The Scottish Ministers are determined that all children should have the best start in life and have taken forward a number of initiatives to promote and support health and wellbeing during the early years, including appropriate antenatal care and advice for mothers.

### **5 Year Plan to Improve Maternity and Neonatal Care**

The Scottish Government is improving maternity and neonatal services in Scotland to ensure that they provide the right care for every woman and baby. In 2015, these services underwent a national review, resulting in the publication of [The Best Start: a five-year forward plan for maternity and neonatal care in Scotland](#) (2017). The Best Start sets out the vision for the delivery of high quality and safe maternity and neonatal services across Scotland where services regard mother and baby as one entity and truly put the mother, baby and family at the centre of service planning delivery.

A key recommendation of The Best Start is that all women receive continuity of carer throughout their pregnancy. Midwifery continuity of carer models have proven benefits in terms of improved outcomes for women and babies as well as establishing strong, effective relationships. Neonatal services will also be redesigned to put family-centred care at its heart. This includes the fundamental principles of keeping mother and baby together, positioning parents as partners in decision making around the baby's care and the parents providing as much care as possible for their baby.

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69 <https://beta.gov.scot/publications/fair-start-scotland/>

70 <https://www.gov.scot/Publications/2018/03/5358>

### **New Family Fund – for Families of Premature Babies.**

From 2018-19, the Scottish Government established the £1.5m Family Fund to enable the parents of premature babies in NHS care to receive extra support with the financial cost, such as travel to and from hospital or food and drink. Around 4,400 babies are born prematurely (under 36 weeks) every year in Scotland and estimates show the average additional cost to parents is over £200 a week. The Scottish Government worked with Bliss and NHS Boards to ensure that the process for claiming is simple and clear to all eligible parents. Support from the Fund is available to parents regardless of income.

### **Fetal Alcohol Spectrum Disorder (FASD)**

The Scottish Government continues to prioritise work around FASD, in particular by raising awareness of the condition. FASD is the leading known preventable cause of permanent learning disability worldwide and is caused by maternal use of alcohol during pregnancy. FASD is a devastating condition that can cause lifelong, permanent and irreversible damage.

In July 2017, the Scottish Government launched the [FASD Care Pathway](#), an eLearning resource for health professionals, which aims to help clinicians make a diagnosis as early as possible to provide support, and advise parents and carers how to seek help for their child. A Scottish Intercollegiate Guidelines Network (SIGN) Guideline on the diagnosis of FASD in children is being developed and this is due to report by early 2019. In addition, Ministers announced in the PfG 2018-19 that over the next year, the Scottish Government will work to set up a third sector hub that will focus on both preventing instances of FASD arising in the first place and supporting families following diagnosis.

### **Healthy Start Scheme**

Access to appropriate vitamins and food is important for pregnant women and children pre-birth and in the early years. From April 2017, all pregnant women in Scotland are offered free vitamins, including the new recommended dose of Vitamin D, throughout their pregnancy. This universal access is based on the strong evidence that taking vitamins during pregnancy improves the health of both the mother and her baby.

Powers over Welfare Foods, which includes the Healthy Start and Nursery Milk Schemes, were devolved to Scotland through provisions in the Scotland Act 2016. The Healthy Start Scheme entitles low-income pregnant women and families with young children to receive vouchers for certain foods and vitamins. The Scottish Government aims to use its new Welfare Foods powers to build a more cohesive package of nutrition for children in their early years (section 6.8 refers).

## **6.3 Baby Boxes**

From 15 August 2017, all newborn babies in Scotland are entitled to receive a Baby Box of essential items<sup>71</sup> to support parents and promote a fair and equal start for all children. The box, which has been awarded British Safety Standard accreditation as a crib for domestic use, also provides a safe and comfortable place for babies to sleep near their parents, promoting bonding and early attachment.

The registration process for Scotland's Baby Box offers health professionals the opportunity to engage with parents at timely intervals throughout pregnancy and to encourage the small number of expectant mothers who do not currently register for antenatal services to do so. The Baby Box also provides health professionals with a timely opportunity to introduce expectant

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71 The full contents of the baby box can be accessed at: <http://www.parentclub.scot/baby-box#>

parents to a wide range of health promotion information such as adopting healthy eating and lifestyle habits, smoking cessation as well as 'no alcohol' messaging.

During its first year, Scotland's Baby Box was gifted to 52,065 newborns, with 85% of expectant parents taking up the opportunity to receive the Box. A parent survey in December 2017 demonstrated high levels of satisfaction in relation to the quality, presentation and range of contents of the box.

In August 2018, the Scottish Government, in partnership with Children in Scotland and Young Scot, invited young people across Scotland with a passion for art and design to submit their ideas for the next design of the Baby Box. The theme for the designs is children's rights. The winning design will feature on the Baby Box from 2019.

## **6.4 Breastfeeding/Infant Nutrition**

The Scottish Government is committed to promoting, supporting and maintaining breastfeeding throughout Scotland. [Improving Maternal and Infant Nutrition: A Framework for Action](#) (2011), which includes a range of breastfeeding support activities, outlines the measures that should be taken to ensure that every parent is supported to give their baby the very best nutritional start to life. Funding of £2.3m per year is provided to NHS Boards to implement the Framework. The Scottish Government has invested over £15.8m since it was launched.

The Scottish Government continues to support the work of the third sector in promoting and supporting breastfeeding. In 2017-18, over £396,000 was provided to several voluntary organisations and peer support programmes, including funding to support the National Breastfeeding Helpline administered by the Breastfeeding Network.

The Scottish Government also continues to fund a Scottish UNICEF post and part of the accreditation process for the UNICEF UK Baby Friendly Initiative standards in maternity hospitals, for women at home and for families with babies in neonatal units. One hundred per cent of babies born in hospitals in Scotland are born in UNICEF baby friendly accredited hospitals. Scotland has made the most progress in the UK in achieving the UNICEF UK accreditation to the point where:

- one hundred per cent of Scottish Maternity units are fully accredited and the Scottish Government is now providing funding to enable them to progress towards the sustainability standards and the Gold awards. The Scottish Government would expect the majority to have achieved this by March 2021;
- one hundred per cent of Health and Social Care partnerships are accredited;
- five Scottish Universities providing pre-registration Midwifery and Health Visiting education are accredited and the remainder are progressing towards full implementation of the standards. Many of the areas are now working towards the new sustainability standards and Gold award; and
- the two largest Scottish Neonatal Units, the Princess Royal and Queen Elizabeth University Hospital in Glasgow, are fully accredited. Two others have completed stage 2 of the implementation phase of the brand new standard and several other Neonatal Units are ready to progress.

In 2015, the Scottish Government appointed a National Maternal and Infant Nutrition Co-ordinator to align improvement work across Scotland. The website, [www.feedgood.scot](http://www.feedgood.scot), which offers easily accessible information on breastfeeding, along with signposting to other sources of support, was relaunched in June 2016.

The most recent Information Services Division (ISD) statistics<sup>72</sup>, published on 30 October 2018, shows that Scottish breastfeeding rates have increased with more than half of babies born in 2017-18 (51%) being breastfed at their Health Visitor first visit (around 10 days of age) and 36% being exclusively breastfed. The proportion of babies being breastfed at 6-8 weeks of age is 42%, of which 31% were being exclusively breastfed. This now represents the highest percentage of babies being exclusively breastfed at 6-8 weeks since recording began.

To further support this improvement, additional funding of more than £2m has been provided in 2018-19. This additional funding enables NHS Boards and third sector partners to improve the quality of support and breastfeeding experiences of mothers. The investment aims to address the Scottish Government's commitment through its [A Healthier Future: Scotland's Diet & Healthy Weight Delivery Plan](#) (July 2018), to reduce the drop off in breastfeeding rates at the 6-8 week point by 10% by 2025.

### **Scotland-only Maternal and Infant Nutrition Survey**

The Scottish Government published the findings of the first Scotland-only Maternal and Infant Nutrition survey in February 2018<sup>73</sup>. The survey data provided a very current picture of what the breastfeeding and nutrition issues are in Scotland, and captured data not routinely collected elsewhere. This was used by Scottish Government in the development of its Diet and Healthy Weight Delivery Plan (2018) and to assist health services and other organisations to design and implement nutritional advice and support for families.

## **6.5 Health Visitors and Health Reviews**

The refreshed [Universal Health Visiting Pathway in Scotland](#) (October 2015) presents a core home visiting programme to be offered to all families by health visitors as a minimum standard. This initiative consists of 11 home visits to all families, 3 of which include a formal review of the family and the child's health by the health visitor. It also provides an opportunity for health visitors, children and their parents to build a strong relationship, in which health visitors can appropriately support families including acting as a gateway to other services. The pathway ensures an increased focus on prevention, early identification and intervention for those children and families suffering or at risk of issues such as domestic abuse, substance misuse and/or effecting mental health and wellbeing. The report [Evidence in Support of the Universal Health Visiting Pathway](#) (May 2015) reported significant benefits from this initiative, including mothers having a more relaxed experience of parenting and improvements in the home environment. Full roll-out of the Pathway is expected by 2020.

The Scottish Government's investment in an additional 500 health visitors by the end of 2018 will ensure that NHS Scotland has the right levels of staff to provide visits and reviews for children in order that they can get the best possible start in life. The Scottish Government is on track to meet this commitment with at least an additional 414.3 WTE Health Visitors in post as at 30th September 2018.

## **6.6 Support for Young Parents**

Although Scotland has seen a significant reduction in levels of pregnancy in young people under 20 years in the last few years, the Scottish Government is not complacent about the support that young people need around pregnancy and parenthood.

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72 ISD 2018 Breastfeeding statistics: <https://www.isdscotland.org/Health-Topics/Child-Health/Publications/2018-10-30/2018-10-30-Infant-Feeding-Summary.pdf?48424929381>

73 <http://www.gov.scot/Publications/2018/02/7135>

The [Family Nurse Partnership](#) (FNPs), is an intensive, preventative, one-to-one home visiting programme for first time teenage mothers (as well as some mothers aged up to 24 years) and their children, from early pregnancy until the child reaches 2. The FNP programme aims to improve pregnancy and birth outcomes and break the cycle of disadvantage by working directly with young mothers and their children to improve their health and wellbeing. Family Nurse Partnership is now in 11 health board areas. The Scottish Government has committed to expanding FNP to reach all eligible women (under 19 years of age), in mainland Scotland, by end of 2018.

In March 2016, the Scottish Government published the [Pregnancy and Parenthood in Young People Strategy 2016-2026](#). The Strategy acknowledges that pregnancy and parenthood can be a highly positive experience for some young people, but for others it is associated with an increased risk of a range of poor social, economic and health outcomes. As such, the Strategy sets out evidence informed actions that aim, over 10 years, to support and empower young people to make positive choices about their futures – including pregnancy and parenthood. It also provides extra support for all young parents, particularly those who are looked after, up to the age of 26. The views of young parents have informed both the development of the strategy and its planned implementation.

As part of the implementation of the Strategy, the Scottish Government is working with NHS Health Scotland to develop a guide for professionals working in maternity services, which will provide advice on how to support young parents as they go through their antenatal and post-natal journey.

## **6.7 Health and Wellbeing Beyond the Early Years**

The Scottish Government has taken forward a wide range of measures within the reporting period to improve both physical and mental health outcomes for children and young people. These are discussed below.

### **Nursing in Schools**

School nurses are an important and integral part of the NHS workforce, playing a vital role in supporting children, young people and their families, especially those who are vulnerable. That is why the Scottish Government has refocused their role to work especially with those who most need their support. The Scottish Government has recommended that NHS Boards and Integrated Joint Boards develop teams that enable school nurses, health visitors, community children's nurses and allied health professionals to work together aiming to improve outcomes and services for Scotland's children and young people.

Through the PfG 2018-19, the Scottish Government has committed to have an additional 250 school nurses in place by 2022.

### **Child and Adolescent Health and Wellbeing Action Plan and Framework**

The PfG 2017-18 included the commitment to develop a 10-year Child and Adolescent Health and Wellbeing Action Plan to ensure that the Scottish Government's focus on the needs of children and young people is carried on beyond just the earliest years. In taking this forward, officials have met with a wide range of stakeholders, including children and young people, to seek their views on the content and direction of the Action Plan and further co-production is planned. The Plan will focus on deliverable actions with a strong emphasis on linking together different areas and sectors to achieve change. It will also set out how that change and improvement can be delivered over the 10-year period and what success for each of the actions could look like.

## 6.8 Child Nutrition

The Scottish Ministers are also continuing to take action to tackle the challenge of poor public health, including the need to increase activity and tackle issues around poor diet and obesity. Poor dietary habits can be established early in life. In 2017, the Scottish Health Survey recorded 72% of children aged 2-15 were of a healthy weight, 13% at risk of being overweight and 13% at risk of being obese.

The [Preventing Overweight and Obesity in Scotland: A Route Map Towards Healthy Weight](#) (2010) identified early years as one of the four categories for preventative action, an emphasis continued in the Scottish Government's [A Healthier Future: Scotland's Diet & Healthy Weight Delivery Plan](#) (July 2018), which includes ambitions to halve childhood obesity by 2030 and to significantly reduce diet related health inequalities. The delivery plan also includes measures to support children, young people and their families to achieve a healthy weight.

The Scottish Government is also providing local authorities with funding (£53.918m in 2018-19) to deliver free school meals to all pupils in the first 3 years of primary school at all publicly-funded schools in Scotland. Funding has also been provided to the Scottish Grocers Federation Healthy Living Programme to run Big Breakfast and Healthy Eating Days with local schools for over 10,000 pupils.

In November 2016, the Deputy First Minister asked for a short life technical working group to be convened to undertake a review of the current school food regulations in light of manifesto commitments and the recent changes to Scottish Dietary Goals. The working group provided a report to Scottish Ministers in December 2017 with a set of recommendations designed to move the current school food regulations closer towards the current Scottish Dietary Goals. In June 2018, the Scottish Government launched a public consultation on proposed changes to the school food regulations.<sup>74</sup> The proposed changes include increasing access to fresh fruit and vegetables; introducing lower sugar limits; reducing the availability of sweetened and baked goods in primary schools; limiting the amount of processed meats, etc. The Scottish Government has commissioned research to explore the relationship between the food environment and the planning system, which also considers the food environment in the vicinity of schools. The evidence provided by the research will inform the review of the National Planning Framework for Scotland and Scottish Planning Policy.

Powers over Welfare Foods, which includes the current UK Healthy Start and Nursery Milk Schemes, were devolved to Scotland through provisions in the Scotland Act 2016. As part of the Scottish Government's drive to give children the best start in life, improve health outcomes and tackle inequality, a consultation document was issued in April 2018 seeking views on how best to take forward these powers to better meet the needs of children and families in Scotland.<sup>75</sup> The Scottish Government's aim is to develop an effective and proportionate Welfare Foods package that reaches the right children at the right time, makes it easier for families to make healthier choices, improves delivery and makes best use of resources. This includes plans to replace Healthy Start Vouchers with a new Best Start Foods smartcard to help reduce the stigma of using paper vouchers and to increase the weekly payments to cover the costs of ensuring children can receive a healthy and balanced diet from £3.10 to £4.25 a week. The Scottish Government is also seeking to further improve children's access to a healthy diet by looking at an option of including a healthy snack as part of the Nursery Milk offer.

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74 <https://consult.gov.scot/support-and-wellbeing/food-and-drink-in-schools/>

75 <https://consult.gov.scot/health-protection/welfare-foods/>

The Scottish Government is [consulting](#) on proposals to restrict the promotion and marketing of targeted food and drink high in fat, sugar or salt to reduce associated health harms. This is a key action outlined in *A healthier future: Scotland's diet and healthy weight delivery plan*. The Scottish Government is also continuing to lobby the UK Government, most recently in November 2017, to ban the broadcast advertising of foods high in fat, salt and sugar before the 9pm watershed.

## 6.9 Promotion of Physical Activity

Alongside diet, physical activity is key to healthy lifestyles for children and young people. 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](#) (July 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 girls and young women and those children and young people who face barriers to participation.

The Scottish Government is committed to ensuring that sport and physical activity are accessible to all. The Scottish Government's investment in school sport has seen the number of children completing 2 hours or 2 periods of P.E. a week increase from less than 10% in 2004-05 to 99% in 2018 (99% of primary schools and 94% of secondary schools). This is supported by funding of up to £50m in Active Schools between 2015-19 and a significant investment in facilities over the past 10 years. In 2017 alone, the Scottish Government provided sports governing bodies with an additional £2m to specifically target work on equalities. They also established the £300k Sporting Equality Fund and the Women and Girls in Sport Advisory Board, to drive female participation in sport.

The Government remains committed to providing the right facilities in the right places to cater for performance athletes and local communities alike. For example, 192 Community Sports Hubs are now in place across Scotland. These will increase to 200 by 2020. **sportscotland** is focusing on establishing and supporting 7 community sports hubs across 5 local authorities in the 5% of the most deprived areas to create more opportunities and explore barriers to participation in these communities.

The Scottish Ministers have set the ambition for Scotland to be the first "Daily Mile" nation with roll-out to nurseries, schools, colleges, universities and workplaces across the country. Every school will be offered help to become a Daily Mile school. Currently, 42% (over 800) of Scottish primary schools are registered as a Daily Mile school, with participation from all local authorities.

## 6.10 Oral Health

The Scottish Government's flagship Childsmile Programme has made significant progress in improving the oral health of children in Scotland. Childsmile is delivered by health visitors, oral health teams, staff in nurseries and schools, and dental practices. It concentrates on preventive actions such as supervised toothbrushing instruction and fluoride varnish application.

The progress made by Childsmile in improving oral health can be seen through the results of the National Dental Inspection Programme (NDIP). The NDIP reports annually on the oral health status of primary school children in Scotland, alternating each year between primary 1 and primary 7 children. The most recent NDIP report in 2017 showed that 77% of primary 7 children had 'no obvious decay experience' compared with 59% in 2007. Similarly, for P1 children the 2016 report showed that 69% had 'no obvious decay experience', compared to 54% in 2006. The success of the Childsmile Programme has also seen marked reductions in fillings and extractions amongst children. Since 2006-07, child fillings have reduced by 35% and child extractions by 16%.

The Scottish Government wants to do more to improve the oral health of children in more disadvantaged communities. In September 2017, under the Fairer Scotland Action Plan, the Scottish Government made additional funding available to ensure that all children in the 20% most deprived areas of Scotland received Childsmile support. The additional staff have been recruited for delivering this programme and the intention is now to begin rolling out the programme to the new areas.

Looking forward, the Scottish Government published the [Oral Health Improvement Plan](#) in January 2018. One of the key actions in the Plan, and a new PfG commitment, is to introduce a 3 year Oral Health Community Challenge Fund. The intention is to work with the third sector to support communities to design and lead oral health improvement initiatives for families and their young children.

## **6.11 Mental Health and Wellbeing**

The Scottish Government was the first Government in the UK to have a Ministerial post dedicated to mental health. This reflects the priority which Scottish Ministers give to mental health.

Backed by £150m over 5 years, the Scottish Government's [Mental Health Strategy 2017-2027](#) (2017), aims to transform mental health provision in Scotland, focusing on themes including: prevention and early intervention; responses in primary care settings; improving the physical health of those with mental health problems; and improving access to mental health services. The Mental Health Strategy also sets out the ambition over 10 years, to achieve parity between mental and physical health, particularly in relation to: equal access to the most effective and safest care and treatment; equal efforts to improve the quality of care; equal status within healthcare education and practice; and equal status in the measurement of health outcomes.

The Scottish Government worked with organisations such as the Scottish Youth Parliament, Children in Scotland and Young Scot to obtain the views of children and young people in policy and service development. The Scottish Government continues to work with children and young people in implementation of the strategy and in developments which effect children, young people and their families. For example, a Youth Commission on Mental Health, facilitated by Young Scot and the Scottish Association for Mental Health (SAMH), is due to report in spring 2019.

In June 2018, the Scottish Government and COSLA announced a taskforce on Children and Young People's Mental Health, chaired by Dr Dame Denise Coia and backed by an initial £5m. The taskforce will take a whole systems approach, examining all children and young people's mental health and mental wellbeing services. Dame Denise has talked with children and young people, their families, services, agencies and practitioners and provided initial recommendations to the Scottish Government and COSLA in September 2018.<sup>76</sup> She will share the chair with a Youth Commissioner to keep the voices of children and young people at the centre of this work.

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76 <https://www.gov.scot/publications/children-young-peoples-mental-health-task-force-preliminary-view-recommendations/>

## Investment in Mental Health Services

In 2017-18, for the first time, NHS investment in mental health exceeded £1 billion. Over 5 years, the Scottish Government is investing £150m in mental health innovation, including:

- £54.1m to support reductions in waiting times, including £4.6m for Healthcare Improvement Scotland (HIS) to work with Boards facing particular pressures. Through this funding, the Scottish Government aims to offer treatment to an additional 10,000 patients in the first year, an increase of around 25% on current numbers, rising up to 20,000 in 2019-20;
- £10m to support new ways of improving mental health in primary care settings;
- £15m to support better access to CAMHS;
- £1m to support people with mental health problems to become more physically active; and
- £3.4m to support people in distress who turn to frontline services.

*“... young people [should] have strong mental health support within educational settings, whether this means implementing improved teacher training or placing mental health professionals within educational environments.”*

*Emily, MSYP, Rights Review Event, 2018*

Children and young people’s mental health is at the heart of the recently published PfG 2018-19, which sets out a £250m package of measures to do more to support positive mental health and prevent ill health, including:

- Counselling – over £60m in additional school counselling services, supporting 350 counsellors. Around £20m for 250 additional school nurses. This will ensure that every high school has a counselling service. Also, there will be 80 additional counsellors in further and higher education;
- mental health first aid – enhancing support and professional learning materials for teachers so every council has access to mental health first aid training for teachers; and
- community support – £65m to develop a community mental wellbeing service for 5-24 year olds, offering immediate access to counselling, self-care advice and family and peer support.

## Children and Adolescent Mental Health Services (CAMHS)

The Scottish Government is 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 to make the necessary improvements.<sup>77</sup> Work on access to CAMHS aims to ensure that services are available, accessible, of a good quality and pay particular attention to vulnerable children and young people – such as those living in poverty, children in care, children in contact with the criminal justice system and children with a learning disability and/or autism.

<sup>77</sup> CAMHS Waiting Times: <https://www.isdscotland.org/Health-Topics/Waiting-Times/Publications/2017-09-05/2017-09-05-CAMHS-Report.pdf>

Children and young people referred to CAMHS will generally be treated in the community. There may however be times when it is necessary to admit children and young people to hospital for specialist treatment. Should this be the case, they would be admitted to one of the 3 regional CAMHS inpatient units. There may be occasions when it may be clinically judged to be more appropriate to admit young people to adult wards or the young person and their family have a preference for an admission to a local adult ward. Most of these admissions would be for young people aged 16 or 17.

For adolescent inpatient beds, the boards collaborate in 3 regions and the Scottish Government provided funding to allow the North of Scotland Region to increase the number of beds available at Dudhope House, Dundee, for children and young people with mental health problems, from 6 beds to 12 beds. The new unit opened in May 2015. The most recent figures from the Scottish Government 2018 Bed Census indicate that there were 51 patients aged under 18 occupying the 54 available CAMHS inpatient beds. In addition, 6 patients under 18 were staying in other wards.<sup>78</sup>

The Scottish Government is working to improve the transitions for young people moving from CAMHS to adult mental health services, including potential flexibility for those aged 18-25 to continue their care and treatment with CAMHS, where appropriate. The Youth Commission is considering this proposal as part of its work and will publish its view in March 2019.

In addition, Transition Care Plans (TCPs) were launched on 29 August 2018. The TCPs have been co-designed by young people and clinicians, with the aim of allowing young people transitioning between CAMHS and adult mental health services to do so in a smooth and straightforward manner. Young people will be able to use these to outline their personal preferences for their own care. Crucially, they will be created, owned and updated by young people themselves. There is also a set of service documents for use by clinicians in both CAMHS and adult services. This includes a draft central transitions protocol for use by referring and receiving teams. The Minister for Mental Health has written out to all health boards and Integration Joint Boards to ask them to implement use of the tool within their organisations.

There are a number of reasons why a referral to CAMHS may be rejected, for example, there may be occasions when another intervention before CAMHS treatments is needed. Ultimately, this is a clinical decision. In June 2018, the Scottish Government published a qualitative and quantitative audit of rejected referrals to CAMHS.<sup>79</sup> The Scottish Association for Mental Health (SAMH) and the Information Services Division (ISD) of NHS National Services Scotland undertook this work, which explored the experiences of children, young people and their families who were referred to CAMHS but who did not subsequently receive their services. The recommendations from this audit are to form part of the work of the Children and Young People's Mental Health Taskforce.

## **Rural Areas**

The challenge presented by isolation is keenly felt by many in Scotland's rural communities. The National Rural Mental Health Forum has been established to help people in rural areas maintain good mental health and wellbeing. This Forum will help develop connections between communities across rural Scotland so that isolated people can receive support when and where they need it.

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78 Bed Census – <https://www.gov.scot/Publications/2018-10/5103>

79 <https://www.gov.scot/Publications/2018/06/3260>

## Specialist Services

Some children travel outwith Scotland to receive specialist care. While it is possible that, in order to provide the appropriate clinical care, some highly specialist services will always need to be provided out of the country where numbers of patients are very small, this should be minimised where possible. In order to reduce the need for vulnerable young people to travel outside Scotland for their health care and to improve the pathways of care, the Scottish Government has offered funding to support the capital development of a forensic CAMHS inpatient unit. Planning proposals are currently with the NHS.

The Scottish Government is also supporting work on potential mental health inpatient needs of children and young people with a learning disability (intellectual disability) and/or an autism spectrum disorder. In this regard, Action 20 of the Mental Health Strategy is to scope the required level of highly specialist in-patient services for young people and act on its findings. This work is ongoing and an options appraisal will be presented to NHS Directors of Planning in December 2018.

## CAMHS Eating Disorders

The majority of young people with an eating disorder will be treated in the community by local CAMHS, with a small number being referred on to regional specialist in-patient services. All NHS Boards keep such services under review and are working towards improved access and outcomes for patients. Action 22 in the Mental Health Strategy is to support the development of a digital tool to support young people with eating disorders accessing services in the digital age.

NHS Lothian CAMHS, in partnership with BEAT, the national eating disorders charity, has developed an online platform for parents and carers to support recovery for young people with eating disorders and to provide online peer support for young people under 25 and their parents and carers.

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

As demonstrated by the NHS Information Services Division (ISD) annual prescribing data of psychotropic drugs, including ADHD medication, the number of items prescribed for ADHD has been increasing consistently over the last 10 years, reflecting the continued and substantial increase in demand for CAMHS.<sup>80</sup> All prescribing should be in line with clinical guidelines and evidenced-based practice, following a mental health assessment, and with their use, their potential benefits and side effects carefully explained to children, their parents or other relevant carers.

Drugs for ADHD are often used alongside treatments such as counselling or psychological therapies. The Scottish Government has worked with NHS Education for Scotland to produce, [The Matrix \(2015\) A Guide to Delivering Evidence-Based Psychological Therapies in Scotland](#), which has a dedicated section on ADHD. The Scottish Government is also investing in innovative approaches to parenting, including the Psychology of Parenting Programme (PoPP), a Scotland-wide plan aimed at improving outcomes for 9,000 high-risk 3 and 4 year-olds who have high levels of behaviour problems. Early results indicate that 80% of children whose parents have participated have shown reductions in behaviour problems.

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80 <https://isdscotland.scot.nhs.uk/Health-Topics/Prescribing-and-Medicines/Publications/2018-10-09/2018-10-09-PrescribingMentalHealth-Report.pdf>

The Mental Welfare Commission for Scotland is an independent organisation tasked with protecting and promoting the rights of people with mental disorder including children.<sup>81</sup> They provide independent second opinions for treatment under compulsion, including specialist child and adolescent psychiatrists.

### **6.13 Managed Clinical Network on Perinatal Mental Health**

The Scottish Government is also committed to improving the care and attention provided to women with mental health problems, particularly during pregnancy and after the birth of their child. Action 16 of the Mental Health Strategy is to fund the introduction of a Managed Clinical Network (MCN) to improve the recognition and treatment of perinatal mental health problems. The Scottish Government is providing funding of £173k per annum for the MCN on perinatal mental health over the next 3 years. The MCN has started to deliver on its workplan which will include a mapping and gapping exercise of current provision across all levels of service delivery through 2017 and 2018. This work has led to a commitment and investment in the PfG 2018-19 to develop a stronger network of care and support for the 1 in 5 new mothers who experience mental health problems.

### **6.14 Suicide Prevention**

Whilst death by suicide involving children is extremely rare, any suicide is a tragedy. Between 2002-06 and 2013-17, the rate of death by suicide in Scotland fell by 20%. The Scottish Government's [Suicide Prevention Strategy 2013-16](#) was developed on the basis of the growing evidence base about factors related to death by suicide. Building on progress made since 2013, Scotland's new Suicide Prevention Action Plan [Every Life Matters](#), published in August 2018, envisages a Scotland where suicide is preventable; where help and support is available to anyone contemplating suicide and to those who have lost a loved one to suicide. The Plan sets out actions which leaders at national, regional and local level must take to transform society's response and attitudes towards suicide, including the targets to further reduce the suicide rate by 20% by 2022 (from a 2017 baseline) and to consider, in particular, the needs of children and young people.

As set out in Action 1 of the Plan, the National Suicide Prevention Leadership Group has been established and is being chaired by ex-Deputy Chief Constable, Rose Fitzpatrick. The group will publish a delivery plan by the end of 2018, setting out how the actions in the action plan are to be implemented.

### **6.15 Support for Bereaved Children and Young People**

Experience of bereavement of a close family member or other person can be a life-defining experience for a young person. Children and young people who experience multiple bereavements are known to be at particular risk of negative impacts that can last into adulthood. The Scottish Government is committed to appointing a childhood bereavement coordinator to advise on steps that can be taken to drive forward improvements in bereavement services and support for children and young people. Children in Scotland were commissioned to provide a report which will help refine how this can be taken forward to help ensure that the work of the coordinator is engaged with the range of current bereavement services and supports for children and young people across Scotland.

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81 <http://www.mwscot.org.uk/>.

## 6.16 Social Isolation and Loneliness

In 2015, the Scottish Government welcomed the Scottish Parliament's Equal Opportunities Committee's report on social isolation and loneliness, which recommended that a national strategy should be produced to coordinate the approach to tackling this problem across policy areas and organisations. In taking this forward, the Scottish Government consulted on a draft strategy for tackling social isolation and loneliness, including amongst children and young people, in the spring of 2018. The finalised strategy will be published by the end of 2018.

## 6.17 Sexual and Reproductive Health

The Scottish Government encourages young people to delay sexual activity until they are ready and encourages them to practice safer sex when they do become sexually active. It is essential that anyone who is, or is considering becoming sexually active, has access to guidance and services, which is why the Scottish Government has asked NHS Boards and councils to ensure young people's sexual health 'drop-in' services are available within or near every school in Scotland.

The Scottish Government is also working with NHS Boards and councils to ensure appropriate Relationships, Sexual Health and Parenthood (RSHP) education is delivered in all Scottish schools. Sexual health services based within schools can offer free condoms. Other contraception is not routinely available within school sexual health services and there are no plans to extend contraceptive services in schools. Professionals within school-based services will signpost for access to routine and emergency contraception where appropriate. In line with the ambitions set out in the [Sexual Health and Blood Borne Virus Framework 2015-2020 Update](#), the Scottish Government is continuing to work with health boards to ensure that sexual health services meet the needs of the people of Scotland, including young people and vulnerable groups.

The Scottish Government has continued its work with third sector partners to improve sexual health and reduce transmission of HIV. This includes funding for Waverley Care and their work to engage directly with populations affected by poor sexual health and blood borne viruses (BBVs), using a peer-to-peer approach to gather their views and experiences in order to inform the development and delivery of targeted services that address defined needs, challenge stigma and promote prevention, testing and support. A research manager to support research on BBV and sexual health issues has also been appointed. Pre-Exposure Prophylaxis (PrEP) has been made available in Scotland via NHS Scotland. The Scottish Government has also funded an exploratory study to test STASH, a peer-led intervention to prevent and reduce STI transmission and improve sexual health in secondary schools.

## 6.18 Drug and Alcohol use

Drug taking levels among young people in Scotland remain low. The 2015 SALSUS survey (Scottish Schools Adolescent Lifestyle and Substance Use Survey) published in October 2016, demonstrated that the majority of pupils (95% of 13 year olds and 81% of 15 year olds) have never used drugs.

The subject matter of the Misuse of Drugs Act 1971 is reserved to the UK Government. The Psychoactive Substances Act 2016, which came into force in May 2016, creates a blanket ban on the production, distribution, sale and supply of psychoactive substances in the United Kingdom.

The 2015 SALSUS survey results on alcohol consumption demonstrate that the proportion of 13 and 15 year-olds who have ever drunk alcohol were at the lowest level since the survey

began in 1990 (28% of 13 year-olds and 66% of 15 year-olds). The survey also notes that there has been a significant decrease in the proportion of 15 year-olds who reported drinking alcohol within the last week (dropping from 34% in 2010 to 17% in 2015). Although these statistics are positive and demonstrate progress, the Scottish Government is committed to protecting young people and children from the harmful effects of alcohol. Underage drinking can cause short and long term harm to health, as well as put young people in dangerous situations when drunk.

This is why the Scottish Government has taken steps to limit the access of young people (under the age of 18) to alcohol. Provisions in the Air Weapons and Licensing (Scotland) Act 2015, which came into effect in May 2017, create a new offence for giving, or making available, alcohol to a child or young person for consumption in a public place. In addition, on 15 November 2017, the UK Supreme Court ruled in favour of the Scottish Government's legislation to set a minimum unit price for the sale of alcohol - a measure that is the most effective and efficient way to tackle the cheap, high strength alcohol that causes so much damage to so many families. Following public consultation, the Scottish Government introduced a 50 pence minimum unit price from 1 May 2018.

The Alcohol Framework [Changing Scotland's Relationship with Alcohol: A Framework for Action](#) (2009), contained over 40 measures which sought to reduce consumption, support families and communities, encourage more positive attitudes and choices and improve treatment and support services. Building on this, an updated [Alcohol Framework \(2018\)](#), published in November 2018, outlines the Scottish Government's national prevention aims on alcohol including a strong focus on doing more to protect children and young people from alcohol-related harm.

Scotland's Drug Strategy, [The Road to Recovery: A New Approach to Tackling Scotland's Drug Problem](#) (2008) focused on the needs of the individual and recommends a range of evidence-based and person centred interventions. Following on from this, the [Alcohol and drug treatment strategy - Rights, respect and recovery](#) (2018), published on 28 November 2018, presents a new combined approach to the treatment of drugs and alcohol in recognition of the many shared underlying causes and similarities in treatment services. It will, therefore, ensure that wider health and social needs are taken into account as part of people's treatment and support. This also includes support for children, young people and families affected by a loved one's drug or alcohol use. The implementation of the Strategy will be supported by the PfG 2017-18 commitment to invest a further £20m in alcohol and drug services.

In 2017, the Scottish Government collected information on the drug and alcohol education and prevention being delivered in Scotland. Taking preventative measures remains crucial to the Scottish Government's approach and aim to reduce problematic alcohol and drug use as well as the harm emanating from these.

### **Investment in measures to tackle problem alcohol and drug use**

The Scottish Government has invested over £746m to tackle problem alcohol and drug use since 2008. The vast majority of that investment has directly supported local prevention, treatment and recovery services, including for children and young people. In 2016-17, the Scottish Government provided £160,000 to the Corra Foundation Partnership Drugs Initiative (previously Lloyds TSB) to deliver interlinked approaches that will accelerate progress with the recommendations contained in 'Everyone Has a Story'<sup>82</sup> with the view of achieving longer-term change in relation to children and young people impacted by recovery and/or drug and alcohol issues.

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82 <https://www.corra.scot/wp-content/uploads/2015/10/Everyone-Has-a-Story-Overview-Report.pdf>.

The Scottish Government has also invested £135,000 per annum in the 'Choices for Life' schools-based substance misuse education programme for school children, delivered in partnership with Young Scot and Police Scotland. The Scottish Government will continue to build a universal approach to substance education for all young people, including those most at risk. Circa £110,000 per annum was also provided in support of the 'Know the Score' website<sup>83</sup>, which provides factual information and advice about drugs to young people, their families and professionals.

The Scottish Government is aware that families affected by a loved one's use of substances also need support. Annual funding (£97,000, now £108,000) is provided to Scottish Families Affected by Alcohol and Drugs to support such families.

## Smoking

Scotland was one of the first countries in the world to introduce an ambitious target to reduce smoking prevalence to 5% by 2034 as part of the Scottish Government's ambition to create a generation of young people who do not want to smoke. The [Tobacco Control Strategy – Creating a Tobacco-Free Generation](#) (2013) set out a 5 year plan for action across the key themes of health inequalities, prevention, protection and cessation. The Strategy supported the introduction of standardised packaging within Scotland, the first country within the UK to do so, and education programmes to prevent young people from starting to smoke. In June 2018 this was refreshed as [Raising Scotland's Tobacco-free Generation](#). This 5 year action plan sets out interventions and policies to help reduce the use of, and associated harms from using, tobacco in Scotland. The action plan builds on the success of the 2013 Strategy which has seen a sustained 50% reduction in children's exposure to second hand smoke and an ongoing pattern of reduction in smoking rates amongst children in secondary school. Currently less than 2% of 13-year old children and 7% of 15-year old children smoke, compared to an average adult smoking rate of 18%.

Other measures taken forward to support the reduction of smoking within the reporting period include the introduction from 1 October 2017 of a national Register of Tobacco and Nicotine Vapour Product Retailers.<sup>84</sup> A ban on smoking in cars with children came into place in December 2016 through the Smoking Prohibition (Children in Motor Vehicles)(Scotland) Act 2016. The Scottish Government's Health (Tobacco, Nicotine and Care etc.) (Scotland) Act 2016 includes provisions making it an offence to smoke near buildings on hospital grounds. This will be introduced around hospitals in 2019.

## 6.19 Palliative and End of Life Care

In 2014, the World Health Assembly, the governing body of the World Health Organisation, passed a resolution requiring all governments to recognise palliative care and to make provision for it in their national health policies. In response, through the implementation of its [Strategic Framework for Action on Palliative and End of Life Care \(2016-2021\)](#), the Scottish Government is continuing to work to improve palliative and end of life care services. The Strategic Framework document committed explicitly to better supporting children and families by promoting the further development of holistic palliative care for the 0-25 year age group, recognising that many of their needs may differ from those of adults. Children's palliative care is recognised as part of good medical care, and is delivered across primary, secondary and tertiary care. This work is also supported by investment in Children's Hospices Across Scotland (CHAS) of approximately £30m across the life of this Parliament.

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83 <http://knowthescore.info/>

84 <https://www.tobaccoregisterscotland.org/about-the-register/>

## Support for families

### 6.20 Child Poverty

*“Poverty affects children day to day, in terms of practical things like having enough food to eat, a house that is warm and has the necessities of life, but also because worrying about money is stressful for adults. Children see, hear and feel this worry and stress.”*

*Children’s Parliament, What Kind of Scotland?, 2017, p.7*

The Scottish Government is committed to ending child poverty in Scotland, and has taken strong action to make this ambition a reality. Whilst levels of child poverty in Scotland have been consistently lower than across the UK, it is unacceptable that almost 1 in 4 children grow up in poverty.

Following the UK Government abolition of targets to reduce child poverty, Scottish Ministers introduced a Child Poverty Bill. The Bill was unanimously passed by the Scottish Parliament, and is now enacted as the [Child Poverty \(Scotland\) Act 2017](#). This landmark legislation establishes Scotland as the only part of the UK to have set in statute ambitious income-based targets to be met by 2030-31, with interim targets to be met by 2023-24. This Act provides the impetus for action, underpinned by the requirement to publish regular delivery plans; a robust reporting framework to capture progress and national and local actions; and the establishment of a new statutory body to provide advice and scrutiny on progress: the Poverty and Inequality Commission.

#### **Every Child, Every Chance**

The Scottish Government published its first Tackling Child Poverty Delivery Plan due under the Act, entitled ‘[Every Child, Every Chance](#)’, in March 2018. This Plan outlines the concrete and ambitious action that the Scottish Government and partners will take in the period until 2022 to make progress against the ambitious child poverty targets. The Plan sets out action from across government portfolios to address the three main drivers of child poverty reduction: income from work and earnings; household costs; and income from social security and benefits in kind. It also sets out action to help improve the lives and outcomes of children currently living in poverty, to break the intergenerational cycle of poverty. Key commitments within the Plan include:

- £12m investment in intensive employment support for parents, to help them enter and progress in the labour market;
- £3.3m investment in a new financial health check service, helping parents maximise their incomes and avoid the poverty premium paid for essential goods and services;
- a new £100 minimum School Clothing Grant, delivered across every local authority in Scotland; and
- working towards introducing an Income Supplement within the lifetime of the Delivery Plan, which will deliver regular, additional financial help to low income families.

All of the actions within the Plan will be developed to maximise impact on levels of child poverty, with a particular focus on the 6 priority groups identified as being at greatest risk, including: lone parents families; families with 3 or more children; households in which a family member is disabled; minority ethnic households; households with a child under 1; and households where the mother is aged under 25 years.

## Independent Advice

In 2015, the First Minister appointed an Independent Adviser on Poverty and Inequality (Naomi Eisenstadt). The adviser produced two reports during her two year term: the first, '[Shifting the Curve](#)', outlining action which could help to drive significant poverty and inequality reductions across society; the second, '[Review of the Life Chances of Young People](#)', focused on improving the lives and outcomes of young people from disadvantaged backgrounds. The Scottish Government has committed to implementing recommendations from both reports.

Following on from the success of the Independent Advisor, Scottish Ministers established a Poverty and Inequality Commission in July 2017, chaired by Douglas Hamilton. This body provided valuable advice to Ministers ahead of publication of the first Tackling Child Poverty Delivery Plan and has worked to provide advice and scrutiny across a range of subjects. The Child Poverty (Scotland) Act 2017 commits that this body will move to a statutory footing from 1 July 2019.

## Fairer Scotland Action Plan

The [Fairer Scotland Action Plan](#) (2016) sets out the Scottish Government's overarching vision for a fairer and more prosperous Scotland by 2030. It contains 50 concrete actions across 5 high-level ambitions for the period to 2030: a fairer Scotland for all; ending child poverty; a strong start for all young people; fairer working lives; and a thriving third age. A number of these actions, including introducing the Baby Box of essential items, have already been delivered. It also sets out progress in meeting the recommendations of the first of the reports of the Independent Advisor.<sup>85</sup> The Scottish Government has committed to publishing an annual report, setting out progress in relation to the 50 actions. The first of these updates was published in November 2017.<sup>86</sup>

## Fairer Scotland Duty

The Fairer Scotland Duty commenced in Scotland from April 2018. The Duty brought into force the 'socio-economic duty' within Part 1 of the Equality Act 2010, following public consultation in 2017. The Duty 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. [Interim Guidance](#) on the Duty was published by Scottish Ministers in March 2018. The Equality and Human Rights Commission (EHRC) is the regulator for the Fairer Scotland Duty and will be closely involved with monitoring and the development of best practice for the Duty, particularly in the first 3 years; the implementation phase.

## Access to Sanitary Products

To address the issue of lack of access to sanitary products, from August 2018 the Scottish Government delivered on its PfG 2017-18 commitment and became the first national government to introduce access to these products for up to 395,000 students attending schools, colleges and universities in Scotland, providing £5.2m of funding this year. The PfG 2018-19 builds on both the earlier PfG commitment and the announcement in May 2018 that, following the Aberdeen pilot, access to free sanitary products for those on low incomes will be expanded across large areas of the country via FareShare and its network of community partners.

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85 During 2018, the Scottish Government will take forward recommendations from Ms Eisenstadt's second report on life chances for young people.

86 <http://www.gov.scot/Publications/2017-11/7078>

In 2019, the Scottish Government plans to go even further, working with a range of public and third sector organisations to increase the number and range of places in communities where these products are available for those who need them, and encouraging the private sector to take similar action.

### **Scottish Labour Market Strategy**

In Scotland today nearly half of all adults and 70% of all children who live in poverty are in households where at least one person is working. This statistic highlights the need for work in Scotland to become the route out of poverty it traditionally has been. The Scottish Government considers that paying employees the real Living Wage, rather than the minimum wage, not only makes sense from a business perspective but is an important step to tackling in-work poverty.

The Scottish Government's [Labour Market Strategy](#) (2016) establishes a framework for a strong labour market that drives inclusive, sustainable economic growth, characterised by growing, competitive businesses, high employment, a skilled population capable of meeting the needs of employers, and where fair work is central to improving the lives of individuals and their families. Having reached the target of having 1,000 accredited Living Wage employers, the Scottish Government is committed to lifting at least 25,000 more people onto the real Living Wage. Over the next 3 years, the Scottish Government will work with the Poverty Alliance to build a 'Living Wage Nation', boosting the wages of those on low pay and supporting inclusive growth. There will also be a focus on the hospitality and tourism sectors, where there are many low paid jobs. These sectors are dominated by women workers, the majority of whom work part-time.

The Scottish Government's joint strategy, focusing on a place-based approach and low pay industries, will greatly help the coordinated approach needed across government to ensure that, for those who are able to work, paid employment offers the best and most sustainable route out of poverty. The Scottish Government will adopt a new default position – termed 'Fair Work First' – that will see criteria, including the living wage, extended to more contracts and government support grants.

### **6.21 Support for Lower Income Families**

The Scottish Government has taken a number of other measures throughout the reporting period to further support Scotland's low income families and to reduce inequalities. Of particular note is the commitment to almost doubling the funded entitlement to early learning and childcare from 600 to 1140 hours per year from August 2020 for all 3 and 4 year olds and for eligible 2 year olds. This is discussed further at section 7.9.

### **School Uniforms**

In May 2018, Scottish Ministers announced that an estimated 120,000 children would benefit from a new £100 national minimum school clothing grant as a result of a partnership between the Scottish Government and local government. The scheme, with estimated annual costs expected to reach £12m, ensures for the first time that all eligible families, regardless of their local authority area, will have access to the same minimum level of financial support for school clothing. The grant will be reviewed after 2 years to ensure that the amount available remains in line with the cost of living.

## School Lunches

Since January 2015, free school lunches have been available to all pupils in primaries 1 to 3 at all publicly funded schools in Scotland. This policy helps save families an average of £380 per child per year, helps children develop healthy eating habits, and educates them about leading a healthy lifestyle. In 2018-19, the Scottish Government provided local authorities with £53.9m to deliver on this commitment. After primary 3, children are still entitled to free school meals where their parents (or guardians) are in receipt of specific qualifying benefits. Older pupils who receive any of those benefits in their own right can also claim free school lunches.

Under the provisions of the Education (Scotland) Act 2016, education authorities have the flexibility to provide free school meals to pupils who are not eligible under the regular national eligibility criteria where they feel it is appropriate to do so. This provision allows for free school meals to be given to families who experience financial hardship due to exceptional circumstances. This may include families who have no recourse to public funds as a result of their immigration status, or those who are awaiting their first Universal Credit monthly award notice.

Schools are required by statute to promote school lunches and, in particular, free school lunches and the Scottish Government expects all local authorities to undertake measures aimed at maximising the uptake of free school lunches among eligible people.

## Food Insecurity During School Holidays (Holiday Hunger)

Local authorities already have flexibility to provide meals and activities for children outwith term times, for example holiday lunch clubs and other activities. The provision of these services during holiday periods has been supported by the Scottish Government's £750m Attainment Scotland Fund. In addition, the Scottish Government's Empowering Communities Fund and Fair Food Transformation Fund are also supporting community initiatives that help children and families access food throughout the year.

The Scottish Government is determined to do more to tackle the issue of food insecurity during the school holidays and will invest £2m in 2019-20 to help accelerate action. The Scottish Government will work with COSLA, local authorities, the third sector and other stakeholders to build momentum, trial new approaches, and develop a clear plan of action for the future.

## Food Insecurity

The Scottish Government believes that no one should experience food insecurity in a country as prosperous as Scotland, and established an Independent Working Group on Food Poverty in 2015 to consider the issues and advise on how they can be addressed. One of the Group's recommendations was that the Scottish Government should routinely monitor household food insecurity.<sup>87</sup>

The Scottish Government accepted and actioned this recommendation by adding 3 priority questions from the United Nations Food Insecurity Experience Scale into the Scottish Health Survey in 2017. Data was published on 25 September 2018, finding that 8% of people are worried about running out of food due to a lack of money or other resources. Also, 7% of people said they ate less than they should, and 4% said they had run out of food due to a lack of money or resources. The household types most likely to have worried they would run out of food were single parents, and adults aged 16-64 living alone. This baseline information will allow further analysis of food insecurity and the impact of policy and practice in tackling it. In addition, the Scottish Government has integrated food insecurity data as an indicator in the National Performance Framework for outcomes on human rights and poverty.

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87 [Dignity: Ending Hunger Together in Scotland – the Report of the Independent Working Group on Food Poverty \(2016\)](#)

The Scottish Government published its full response to the Independent Working Group's report and recommendations in November 2016<sup>88</sup>, providing the framework for tackling food insecurity nationally, which the Scottish Government is taking forward with key partners. Notably, the Scottish Government committed to explore with stakeholders whether the right to food could be enshrined within Scots Law. The First Minister's Advisory Group on Human Rights Leadership published its recommendations in December 2018 on how Scotland can go further, and do more in giving effect to its international human rights obligations. The Scottish Government will also be consulting on legislation to underpin the work already being progressed on the Good Food Nation ambitions before the end of this year.

From 2017-18, Scottish Ministers established the Fair Food Transformation Fund and committed £1m in each year of the Parliament to this. The Fund was increased to £1.5m in 2018-19, and £3.5m in 2019-20. The Fund currently supports 34 community-based projects across Scotland, including 13 food banks, to deliver dignified responses to food insecurity and help to tackle the causes. £2m will be focused in 2019-20 on supporting children and families during school holiday periods.

### **Fuel Poverty**

This government has always prioritised tackling fuel poverty, ensuring that everyone in Scotland lives in a warm home that is affordable to heat. Following a public consultation, the Fuel Poverty (Target, Definition and Strategy) (Scotland) Bill<sup>89</sup> was introduced to Parliament on 26 June 2018. The Bill: enshrines into legislation a target that, by 2040, no more than 5% of households will be in fuel poverty; sets out a new definition of fuel poverty that aligns more closely with relative income poverty to focus support on those who need it most; and mandates the production of a new, long-term fuel poverty strategy. It also places a duty on the Scottish Ministers to publish and lay before Parliament a report setting out the steps taken towards the target, the progress made in this regard, and the steps to be taken towards the target in the next reporting period. The reporting periods will be every 5 years, beginning on the day on which the fuel poverty strategy is published.

Alongside the Bill, Scottish Ministers published a draft Fuel Poverty Strategy<sup>90</sup>, which sets out more information on the actions the Scottish Government is taking to support households in fuel poverty. The Scottish Government will work with communities and stakeholders to progress the Draft Strategy and will publish a final Strategy within a year of Section 3 of the Act coming into force.

The Draft Strategy builds on action that the Scottish Government is already taking to ensure those worst affected by fuel poverty – no matter where in Scotland they live – get the support they need. Home Energy Scotland – a network of local and impartial expert advice centres providing support on a variety of topics including energy saving measures – already prioritises engagement with families with children, and will continue to engage amongst a broader range of stakeholders and organisations, in order to ensure that priority groups with low incomes and with children are aware of the help and support available to them. In order to help families living in poverty immediately, the Scottish Government will work to increase their uptake of the national fuel poverty scheme, Warmer Homes Scotland.

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88 <https://beta.gov.scot/publications/food-poverty-response-to-working-group/>

89 [http://www.parliament.scot/Fuel%20Poverty%20\(Target%20Definition%20and%20Strategy\)%20\(Scotland\)%20Bill/SPBill37S052018.pdf](http://www.parliament.scot/Fuel%20Poverty%20(Target%20Definition%20and%20Strategy)%20(Scotland)%20Bill/SPBill37S052018.pdf)

90 <https://www.gov.scot/Publications/2018/06/2306>

The Draft Strategy further proposes to eradicate poor energy performance as a driver of fuel poverty. Energy efficiency has been designated a national infrastructure priority. The cornerstone of this is [Energy Efficient Scotland](#) which Scottish Ministers launched on 2 May 2018. Energy Efficient Scotland will, over the next 20 years, transform Scotland's buildings, making them warmer, greener and more efficient, and will put in place a framework of standards making it the norm to invest in energy efficiency. By 2021, the Scottish Government will have allocated over £1 billion since 2009 on tackling fuel poverty and improving energy efficiency.

## **6.22 Social Security**

The Scotland Act 2016 devolved new social security powers to Scotland. Section 1 of the Social Security (Scotland) Act 2018 (2018 Act) sets out 8 core principles in the Scottish social security system's founding legislation. These principles, which will define all aspects of the design, development and implementation of this new system, include the principles that social security is a human right and is essential to the realisation of other human rights and that respect for the dignity of individuals is to be at the heart of the Scottish social security system. The 2018 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 charter is being co-designed with people who have lived experience of social security and these people have the lead role in deciding what the charter should contain. A core group of around 30 people has been recruited to do this. A separate advisory stakeholder group of more than 27 organisations has been set up to provide feedback and advice to the core group for consideration. The charter and subsequent reviews must be approved by Parliament. Ministers will have a duty to report on progress against commitments made in the charter.

An independent expert scrutiny body, the Scottish Commission on Social Security, will also be established and its functions will include submitting a report to Ministers and Parliament on the extent to which the expectations set out in the charter are being fulfilled, including recommendations for improvement if they are not. The Commission will also have a legal duty to have regard to any relevant international human rights instruments in the exercise of its functions.

The Scottish Government considers that its actions and commitments so far demonstrate that a rights-based approach is at the core of the proposed system. For example, through the public campaigns to raise public awareness of entitlement, with the ultimate aim of improving take-up; commitments to increase payment levels and widen eligibility in relation to Carer's Allowance and the new Best Start grant, and the recruitment of over 2,400 people with direct experience of the current system to co-design a new and better social security model for Scotland. The Scottish Government is confident that it is building a system that will come to be regarded as an international exemplar of person centred public service founded on dignity, respect and human rights. This will have a direct and meaningful impact on children who are often negatively impacted by the stigma, anxiety and lack of support experienced by their parent/primary carers.

### **Best Start Grants**

Power to create assistance with maternity expenses is devolved in the Scotland Act 2016, as is the power to create new benefits. Scottish Ministers have used powers set out in the Social Security (Scotland) Act 2018 to introduce a more comprehensive benefit than the DWP maternity expense benefit, the Sure Start Maternity Grant (SSMG). The Best Start Grant (BSG) will help support families with young children, both in and out of work, who are feeling the impact of UK Government welfare reform. For those who meet its eligibility criteria/qualifying conditions, BSG will provide a payment for a first child of £600 (an increase on the SSMG payment of £500). The Scottish Government will introduce £300 birth payments for second

and subsequent children and two new grants of £250, per child, at key transition points in their early years, none of which are available under SSMG.

The BSG forms part of a programme of measures targeted at children's early years with the aim of tackling inequality, supporting parents, and improving health outcomes and raising attainment. The CRWIA process identified that there is scope for the BSG to have a positive impact on children's rights, helping to give children the best start in life.

The Scottish Government will make the first Best Start Pregnancy and Baby Grant payments before Christmas 2018. Payments of the Early Learning and School Age Grants will follow by summer 2019.

### **Scottish Welfare Fund and Discretionary Housing Payments**

The Scottish Welfare Fund provides a safety net for vulnerable people on low incomes through the provision of Community Care Grants and Crisis Grants. From 1 April 2013 to 30 June 2018, 306,305 individual households in Scotland, including 101,207 families with children, have been helped with awards totalling £173m.

The Scottish Government continues to mitigate the bedroom tax through Discretionary Housing Payments, with a budget of £51m specifically allocated for this purpose in the 2018-19 budget, alongside £10.9m for other households affected by UK Government welfare reform or who require additional support with their housing costs.

## **6.23 Homelessness**

The Scottish Government is determined to build on its record of reducing homelessness and tackling rough sleeping. In taking this forward, it has set a clear national objective to eradicate rough sleeping, recognising that it requires more than just the provision of housing and that every individual will have their own unique needs and challenges.

The Scottish Government has focused on the holistic and person-centred Housing Options approach to homelessness prevention, which features early intervention and explores all possible tenure options including, council housing, housing association housing and the private rented sector. Advice can also cover personal circumstances which may not necessarily be housing related, such as debt advice, mediation and addressing mental health issues. The Scottish Government has continued to fund 5 regional local authority led Housing Options Hubs across Scotland and also published [Housing Options Guidance](#) in 2016. The long-term trend shows a decrease in applications since 2008. That is a 39% reduction from 57,672 in 2008-09 to 34,972 in 2017-18. The slight 1% rise in applications in 2017-18 follows an 8 year decline.

In October 2017, Scottish Ministers set up the Homelessness and Rough Sleeping Action Group (HARSAG) to recommend the actions and solutions needed to eradicate rough sleeping, transform the use of temporary accommodation and end homelessness in Scotland. On 27 June 2018, Scottish Ministers accepted all 70 recommendations from the Action Group in principle, which covered addressing the wider risk factors for homelessness including poverty, social security and migration policy and early intervention with high risk groups, including for example young people with experience of the care system. These recommendations reach across a number of areas of government policy, well beyond housing. The Scottish Government is supporting the implementation of these recommendations with a £50m Ending Homelessness Together Fund to drive sustainable and lasting change. The Scottish Government published the [Ending Homelessness Together: High Level Action Plan](#) in November 2018, setting out how the recommendations will be taken forward.

To underline the commitment to making these changes, the Scottish Government has allocated up to £23.5m from the Ending Homelessness Together Fund and from the health portfolio to support the Action Group's recommendation to adopt rapid rehousing and Housing First nationally so that local authorities and partners can support people into settled accommodation first and then help them with their longer term needs. This will minimise the time anyone spends in temporary accommodation.

### **Temporary Accommodation**

Good quality, warm and affordable housing is vital to ensuring a Scotland that is fair for this and future generations. Since 2012, all those assessed by local authorities as being homeless, through no fault of their own, are entitled to settled accommodation. Anyone threatened with, or experiencing homelessness, is legally entitled to a minimum of temporary accommodation, advice and assistance from their local authority. Temporary accommodation is an important part of Scotland's strong homelessness legislation but time in unsuitable temporary accommodation should be as short as possible, especially for households with children or where there is a pregnancy. In 2017, Scottish Ministers legislated to introduce a cap of one week for families and pregnant women living in B&B accommodation.

The Scottish Government wants to reduce the need for temporary accommodation and ensure that, where it is required, the people who live there have the support they need to enable them to move to settled accommodation. The Scottish Government is committed to developing a new standards framework to ensure that temporary accommodation is of good quality and serves the needs of its residents by assisting them to achieve positive outcomes.

## **6.24 Affordable Housing**

*“Children see the need for every child and family to have the home they need – a permanent, stable place of their own, with space for everyone and access to places to play.”*

*Children's Parliament, What Kind of Scotland?, 2017, p.32*

The Scottish Government exceeded its previous 30,000 affordable homes target by more than 10%. To end March 2016, 33,490 affordable homes were delivered, including 22,523 for social rent.

Over the lifetime of this Parliament, the Scottish Government is investing over £3 billion to deliver at least 50,000 affordable homes, 35,000 of which will be for social rent. Over £756m is available in 2018-19 and from this, over £568m has been allocated to council areas across Scotland. The increases will continue over the coming years, rising to £591m in 2019-20 and £630m in 2020-21. This brings the overall funding allocated to councils for affordable housing to £1.79 billion over the 3 years to end March 2021. 81% of the Affordable Housing Supply Programme grant funding in 2018-19 – almost £615m – is capital funding, primarily for social housing. This grant funding will enable councils and housing associations to maintain the momentum needed to increase the pace of delivery.

## Support for Communities

### 6.25 Planning and Architecture

Following an Independent Planning Review, the Scottish Government is committed to ensure wider engagement across all areas of society in the future development of local areas, including with children and young people. In support of the 2017 consultation paper, [Places, People and Planning](#), the Scottish Government funded Young Scot to undertake an online survey of children and young people to support the policy development.

The Planning (Scotland) Bill was introduced into Parliament in December 2017. The Scottish Government undertook a CRWIA of the wider policy intention to promote enhanced engagement in the planning system through the review of planning. This assessment found that the Bill's provisions for the introduction of Local Place Plans would have a positive impact on the participation of children and young people. It also found that the provisions for enhanced engagement, including the requirement to use methods that will secure the engagement of children and young people in the process, will have a positive and direct impact.

During stage 2 of the Bill, the Government introduced an amendment requiring planning authorities to seek and have regard to the views of the public at large when preparing their evidence reports and, specifically, to report on how they have done so and how the views expressed by children and young people have been taken into account. These were agreed by the Committee, along with other non-Government amendments requiring planning authorities to facilitate the participation of children and young people in the preparation of the local development plan, and to produce a 'play sufficiency assessment' for the local development plan evidence report. Stage 3 of the Bill is expected to take place early in 2019.

The Scottish Government will commence a review of the National Planning Framework following the Planning Bill's passage through Parliament. This will provide an opportunity to demonstrate how children and young people can have a full and meaningful say in the future of their places. The accompanying participation statement will set out methods which actively engage children and young people so they are inspired and involved in shaping Scotland's future development to 2050.

The Scottish Government has also provided funding to support community engagement. This has included the development of a Place Standard App, focused on supporting young people to engage with their environment. The Scottish Government is promoting the use of the Place Standard tool with children and young people as a method of realising children's rights in planning and is developing a child-friendly version of this tool to further support the participation of younger children.

Support has also been provided to PAS, (formerly Planning Aid for Scotland) to work with communities and interest groups across Scotland, including children and young people, to build their capacity to participate and engage in the planning process. The Scottish Government has also provided substantial grant funding to support the Greenspace Scotland 'Young Placechangers' 3 year programme. The £90,000 'Ideas Fund' was launched in October 2018 to support the delivery of practical placemaking ideas, developed by young people to enhance their communities.

### Building and Fire Safety

Following the Grenfell tragedy in June 2017, the Scottish Government acted quickly, setting up a Ministerial Working Group to review Scotland's building and fire safety regulatory frameworks in order to help ensure that people are safe in Scotland's buildings, make any recommendations for improvement as required, and add to stringent safety regulations already in place if necessary. While the initial focus of the Group has been on high rise domestic buildings, the Group are also looking at other buildings including housing, the NHS estate, schools and prisons. A number of actions agreed by the Ministerial Working Group will be implemented throughout 2019.

## 6.26 Environment

*“Children are worried about the future of children, animal and plant species in Scotland and around the world if we fail to address climate change.”*

*Children’s Parliament, What Kind of Scotland?, 2017, p.33*

Climate change is one of the defining global challenges of our time and Scotland is internationally recognised as a world leader in tackling it. The Scottish Government has already succeeded in reducing greenhouse gas emissions by 49% and has introduced a Bill to Parliament which will make Scotland’s existing climate legislation even tougher.

Achieving a reduction in air pollution is an important aspect of the Scottish Government’s drive to creating a cleaner, greener and healthier Scotland for current and future generations. In 2015, the Scottish Government published [Cleaner Air for Scotland – The Road to a Healthier Future](#), Scotland’s first distinct air quality strategy, which set out a comprehensive series of actions intended to deliver further reductions in air pollution. The strategy includes a particular focus on reducing health inequalities through better air quality, especially in relation to vulnerable groups in society including children and young people. It also contains a commitment for Scotland to be fully compliant with EU air quality legislation by 2020. The PfG 2018-19 announced that a comprehensive review of Cleaner Air for Scotland will be undertaken, to ensure that the strategy remains on track to achieve these targets.

The PfG 2016-17 committed to establishing Scotland’s first Low Emission Zone (LEZ) by the end of 2018. In October 2017, the First Minister confirmed the location of this first LEZ as Glasgow. The PfG 2017-18 committed to establishing further LEZs in Aberdeen, Dundee and Edinburgh by 2020, with further LEZs by 2023 in all other places with local Air Quality Management Areas, where the evidence supports introduction.

The Scottish Government continues to take steps to hear the views of children and young people and to raise awareness of air quality and pollution. For example, in 2017, the first National Clean Air Day was staged, which involved wide engagement with schools and members of the public. The second Clean Air Day in 2018 achieved further significant progress in public engagement. The Scottish Government also funds and supports air quality based educational resources for young people and teachers.

## 7. Education, Leisure and Cultural Activities

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

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

### Education

#### 7.1 Education Estate

The Scottish Government has continued to invest in the school estate, through the £1.8bn Scotland's Schools for the Future programme, which will see the construction or refurbishment of 117 schools and will benefit over 60,000 pupils by March 2020. This is a shared funding programme with the Scottish Government providing £1.13bn and local authorities contributing £665m. Its principle objective is to replace the worst condition schools throughout the country. At least one new school project is being delivered in every local authority area in Scotland.

In November 2017, Scottish Ministers announced the intention to build upon the success of the Scotland's Schools for the Future programme and develop Scotland's Learning Estate Strategy/Investment Plan. On 21 November, the Deputy First Minister announced that the Scottish Government will invest a further £1 billion in building and refurbishing schools across Scotland. The fund will deliver digitally enabled, low-carbon schools and campuses, providing benefits to pupils and the local economy. The design of schools will ensure they are inclusive and welcoming places that meet the needs of all who use them. It will maintain the principle of 'augment not replace' established through the Scotland's Schools for the Future programme by being in addition to already planned local authority investment.

#### 7.2 Education Workforce

The quality of the teaching profession is a vital factor in improving children's learning and outcomes. Having the right number of high quality teachers is key to achieving excellence and equity for all. However, it is clear that local authorities are now finding teacher recruitment increasingly challenging in many parts of Scotland, particularly in remote, rural areas and in the north east of Scotland, and in some secondary subjects, including STEM.

The Scottish Government is taking a number of actions to address teacher shortages, including through committing £88m in the 2018-19 local government settlement to ensure every school has access to the right number of teachers. The Scottish Government is also supporting universities in developing new and innovative routes into teaching, as well as creating further opportunities to attract high quality graduates in priority areas and subjects. Bursaries of up to £20,000 have also been announced for people changing career to train to become a teacher in a STEM subject. The Scottish Government will continue to work to ensure the availability of teachers with the right skills in locations across Scotland, through the annual teacher workforce planning process.

## 7.3 Raising Attainment and Closing the Attainment Gap

*“Learning should be creative and fun! Schools should be safe places where our human dignity is always respected.”*

*Member of the Children’s Parliament, Rights Event, 2018*

The [National Improvement Framework and Improvement Plan for Scottish Education](#) is designed to help all children to achieve their full potential as successful learners, confident individuals, responsible citizens and effective contributors. The Framework, which was developed in consultation with children and young people, sets out how evidence is gathered to inform actions, ensuring that these are focused on improving standards in schools and outcomes for all children. The Framework also sets out the Government’s key priorities for education: raising attainment for all, particularly in numeracy and literacy; closing the poverty-related attainment gap; improving children and young people’s health and wellbeing; and achieving improvement in employability skills and sustained, positive school-leaver destinations for all young people.

Scottish Ministers have a statutory duty to plan, publish and review the Framework each year. The Scottish Government will review the 2018 National Improvement Framework and produce an Evidence Dashboard which will bring together available current evidence on achievement, attainment, health and wellbeing, and the wider education system, with a specific focus on differences between children living in the most deprived and least deprived areas. The 2019 National Improvement Framework and Improvement Plan, together with the Evidence Dashboard, will be published in December 2018.

The Scottish Attainment Challenge was launched in 2015. Backed by a commitment of £750m over the course of this parliament, it prioritises improvements in literacy, numeracy, health and wellbeing of those children adversely affected by the poverty-related attainment gap in Scotland’s primary and secondary schools.

Support from the Attainment Scotland Fund was rolled out initially to local authorities (Challenge Authorities) with the greatest concentration of primary-age children living in SIMD 1 and 2 and 57 primary schools outwith the Challenge Authorities. Funding from the Schools Programme was then extended to include 28 secondary schools associated with primary schools receiving funding through this initiative. From 2017-18, Pupil Equity Funding (PEF) extended the reach of the Scottish Attainment Challenge to every local authority with £120m allocated to 95% of schools in Scotland<sup>91</sup> on top of the existing £50m Attainment Scotland Funding.

PEF allocations are based on the number of pupils from P1 to S3 known to be eligible for free school meals, with schools receiving £1,200 per pupil. This funding is provided directly to head teachers for them to use to close the attainment gap.<sup>92</sup>

In 2018-19, £120m of PEF is again being provided directly to head teachers and £50m is being provided to continue the Challenge Authorities (£43m) and Schools Programmes (£7m) for a fourth year. In addition to this, £33m will be made available over 3 years to specifically support educational attainment for care-experienced young people, helping to provide additional targeted initiatives, activities, and resources. This will equate to £8.2m for the remainder of 2018-19 and £12.25m in each of the subsequent 2 years.

91 [Pupil Equity Funding – School Level Allocations, 2017-18](#)

92 [Pupil Equity Funding – National Operational Guidance, 2017](#)

The [Evaluation of the Attainment Scotland Fund Interim Report \(Years 1 and 2\)](#), (March 2018) updated on the progress being achieved through the Fund, which was found to be a driver for change and cohesion. The Evaluation suggested that, as a result of the Fund, there was an increased awareness, understanding and commitment to address the impact of poverty on attainment across local authorities and schools. Funding was perceived as adequate, reasonable and fair, with most interventions focusing on the 3 priority areas of numeracy, literacy and health and wellbeing.

## 7.4 Additional Support for Learning

Scottish Ministers want all children and young people to get the support they need to reach their full learning potential, with a system which focuses on overcoming barriers to learning and Getting it right for every child.

Education authorities and other agencies have duties under the Education (Additional Support for Learning) (Scotland) Act 2004 (as amended) to identify, provide for and review the additional support needs of their pupils. An additional support need 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 Education (Scotland) Act 2016 places additional responsibilities on Scottish Ministers and local authorities to have regard to the need to reduce inequalities of outcomes arising out of socio-economic disadvantage, when exercising their functions relating to school education.

In January 2018, changes were made to the Additional Support for Learning (Scotland) Act 2004, which extended the age range of some of the provisions, so that they now cover children aged 12-15, as well as young people and parents. This means that children can now: 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. To support children to use their rights, the Scottish Government has established a children's service, [My Rights. My Say](#). This service provides advice and information, advocacy, legal representation and a service to independently seek children's views.

The views of children and young people informed the development of the Education (Scotland) Act 2016 and a member of the Scottish Youth Parliament was involved in the process to secure a provider for the children's service. The Scottish Government will review the implementation of additional support for learning provisions on children's rights in 2019. The Scottish Government will also report on the implementation of the Education (Additional Support for Learning) (Scotland) Act 2004 (as amended) as a whole, including children's rights, in spring 2019.

The PfG 2018-19 contains commitments to support the implementation of additional support for learning and confirms the Scottish Government's aim for all children and young people to get the support they need to reach their full learning potential. The Scottish Government will work with local government towards:

- Improving consistency of support across Scotland, through improved guidance;
- building further capacity to deliver effective additional support; and
- improving career pathways and professional development, including new free training resources for school staff on inclusive practices.

The majority (95%) of children and young people with additional support needs learn in mainstream schools. The Scottish Government consulted on guidance on the presumption to mainstream education between November 2017 and February 2018.<sup>93</sup> An analysis of the responses to the consultation was published in June 2018.<sup>94</sup> The final guidance, which will be published in early 2019, will support authorities with their decisions about where children and young people with additional support needs should learn and will restate and reframe the necessity of inclusion in Scottish schools. The Scottish Government also commissioned independent research on the experiences of children and young people with additional support needs in mainstream and special schools, their families and those who provide them with support. The research report will be published shortly.

In addition to this, Education Scotland has developed an inclusive practice resource for those practitioners working with additional support needs in schools which will also support improved inclusive practice across Scotland.<sup>95</sup>

### **Support for Children and Young People with Disabilities**

There are legal requirements for local authorities to provide adequate education to all children. The Equality Act requires schools to actively deal with inequality, and to prevent direct and indirect disability discrimination. In addition, schools have a duty to make reasonable adjustments for disabled pupils and provide assistance and services, such as communication tools and support staff. All educational bodies have duties to develop and publish accessibility strategies to increase pupils' access to the curriculum, access to the physical environment and to improve communication with pupils with disabilities. In support of the implementation of these duties, the Scottish Government published revised guidance on accessibility strategies in 2014.<sup>96</sup>

In response to recommendations of the Doran Review<sup>97</sup>, a National Commissioning Group was also established to develop a 10 year strategy for strategically commissioned national services. Scotland's Ten Year Strategy for the Learning Provision for Children and Young People with Complex Additional Support Needs 2017-2026 was the subject of a public consultation between June 2017 and August 2017.<sup>98</sup> The outcomes from that consultation will be published by the end of January 2019.

The Scottish Government has also launched a refreshed dyslexia toolkit to support those working with pupils with dyslexia to ensure effective identification and support.<sup>99</sup> In addition, to further support those working with pupils with autism in schools, the Scottish Government has funded the development and publication of the Autism Toolbox.<sup>100</sup> This online national tool provides information to support the identification, support and planning of learning for pupils with autism. The Toolbox provides a forum for continually updating and disseminating good practice.

Since the publication of the Education and Skills Committee report on the attainment of pupils with a sensory impairment, Scottish Ministers have written to the Committee to provide clarification on a number of aspects relating to these recommendations, where this has been sought.<sup>101</sup> Following the publication of the report, the Scottish Government has prepared a

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93 <https://consult.gov.scot/supporting-learners/presumption-of-mainstreaming/>

94 <http://www.gov.scot/Publications/2018/06/8071>

95 <https://education.gov.scot/improvement/self-evaluation/inc84-inclusive-education>

96 <https://www.gov.scot/Publications/2014-10/8011>

97 [archive of the Doran Review website](#)

98 <https://consult.gov.scot/support-and-wellbeing/complex-additional-support-needs-2017-2026/>

99 <http://addressingdyslexia.org/what-dyslexia>

100 [www.autismtoolbox.co.uk/](http://www.autismtoolbox.co.uk/)

101 <http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/87932.aspx>

Work Plan to respond to these recommendations and in March 2018 provided an update to the Education Committee for information. This update included the research that was undertaken into the number of qualified Teachers of the Deaf (ToD) and Qualified Teachers of the Visually Impaired (QTVI) and the level of qualifications held by these teachers.

The Scottish Government has also recently published revised guidance for schools and education authorities on [Supporting Children and Young People with Healthcare Needs in Schools \(2017\)](#). Refreshed statutory guidance on additional support for learning [Supporting Children's Learning Code of Practice](#) was also published in 2017.

### **Support for Particular Groups of Children and Young People**

The Scottish Government continues to take forward measures to ensure that groups of children and young people who may share a particular need for support, have their needs met.

The Scottish Government has developed and consulted on guidance to assist schools and local authorities to support children and young people from travelling cultures and their families to engage in school education. The guidance, [Improving educational outcomes for children and young people from travelling cultures](#) (December 2018), aims to support greater understanding of the issues affecting learning and learning outcomes of Travellers in Scotland and to provide guidance on how barriers might be overcome. In May 2018, a Ministerial Working Group on Gypsy/Travellers met to consider approaches to supporting education and asked that the guidance be expanded beyond schools.

To complement the guidance, as part of the PfG 2018-19, the Scottish Government announced additional funding of £275,000 to support and share best practice in delivering education to Gypsy/Traveller families for all ages and stages. This work will be led by the Scottish Traveller Education Project, which the Scottish Government already supports, and will help improve delivery of education within existing systems, and embed/systematise effective approaches across Scotland. This will also create a stronger platform for the delivery of flexible family learning announced in the Child Poverty Delivery Plan, which will be funded from the Social Justice budget (£0.5m over the period 2018-22).

The Scottish Service Children Strategy Group works with stakeholders to raise awareness of Service children and their families and to support schools and local authorities to meet their particular needs. The 2017 Supporting Children's Learning Code of Practice incorporated specific references to Service children to reiterate their potential need for additional support.

The Scottish Government also continues to support the work of the [Scottish Network for Able Pupils](#). The Network offers support and advice to practitioners and parents to ensure that, through inclusive practice, children of high ability receive the additional support they need to reach their potential.

An education authority has a duty under [Section 1 of the Education \(Scotland\) Act 1980](#) (the 1980 Act) to secure adequate and efficient provision of education in their area, regardless of whether the children are nationals of the UK or some other state. The Scottish Government's additional support for learning policy and legislation ensures that groups of children and young people who might be particularly vulnerable, such as refugees and asylum seeking children and young people, are supported and included in Scottish schools. The OECD report [Improving Schools in Scotland: An OECD Perspective](#) (2015), observed that "Scottish schools do very well on measures of social inclusion and mix ... Scottish immigrant students achieve at higher levels than their non-immigrant peers, and Scotland enjoys one of the smallest proportions of low performers among its immigrant students."

The Scottish Government supports the right of parents to choose to home educate their children. Section 30 of the 1980 Act places a duty on the parents of every child of school age to provide an efficient education suitable for the age, ability and aptitude of the child, whether that be in a local authority school or by other means. This permits parents to choose to home educate their children. If a parent wishes to withdraw their child from education being provided by their local authority, they must seek, in accordance with Section 35 of the 1980 Act, the authority's consent before doing so. As part of that process for withdrawing their child, parents are expected to outline their initial proposals for how they intend to provide an efficient and suitable education for their child. In granting consent, the authority has a duty to ensure that a suitable education is being delivered.

The Scottish Government encourages local authorities and home-educating parents to work together to develop trust, mutual respect and a positive relationship in the best educational interests of the child. The Scottish Government has published Home Education Guidance<sup>102</sup>, which sets out the legal position and provides advice on the roles and responsibilities of local authorities and parents in relation to children who are home educated.

## 7.5 Anti-Bullying

*“Schools and local authorities should give teachers comprehensive training on how to combat all bullying, including LGBTI+ bullying, in schools.”*

*John, MSYP, Rights Review Event, 2018*

The refreshed [Respect for All: The National Approach to Anti-bullying for Scotland's Children and Young People](#), for all those working with children and young people, was published in November 2017. The approach sets out a common vision and aims to make sure that work across all agencies and communities is consistently and coherently contributing to a whole school approach to anti-bullying in Scotland. The refreshed guidance seeks to ensure that bullying of all types, including racist, homophobic and abusive behaviour, is recorded accurately and monitored effectively. A working group was established to develop a consistent and uniform approach to recording and monitoring incidents of bullying in schools. An Operational Support Group is now supporting local authorities to implement the new process on a phased approach. This will be fully implemented by August 2019.

Joint training events, led by the Scottish Government, Education Scotland and *respectme*, the national anti-bullying service, were held in early 2018 to assist in the implementation of 'Respect for All'. Training events have also taken place with Independent Schools. Additional LGBT guidance, [Addressing Inclusion: Effectively Challenging Homophobia, Biphobia and Transphobia](#), has also been published to complement Respect for All. This provides information and guidance to school staff on addressing homophobic, biphobic and transphobic bullying in Scottish schools.

The Scottish Government continues to fully fund *respectme* (£298,000 in 2018-19), the national anti-bullying service, to build confidence and capacity to address bullying effectively, aligned to the National Approach. Funding continues to be provided to ChildLine (NSPCC) to provide a helpline providing confidential advice and information to children and young people affected by issues including bullying.

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102 <http://www.gov.scot/Publications/2007-12-17133313/0>

## 7.6 Exclusion

The number of exclusions from Scottish schools has been falling year-on-year since 2006-07. Over 99% of all exclusions are for a fixed period of time. In a small number of cases, 5 in 2016-17, an excluded pupil is 'removed from the register'. When this occurs, a pupil does not return to their original school and will be educated at another school or in some other educational provision.<sup>103</sup>

The refreshed [Included, Engaged and Involved Part 2: a positive approach to managing and preventing school exclusions](#) (IEI2) (2017), makes clear that exclusion is a last resort which should be used within an overall strategy of prevention, early intervention and promoting positive relationships and behaviour in schools. To assist with the implementation of the refreshed guidance, the Scottish Government and Education Scotland organised a series of implementation workshops, which were attended by over 400 stakeholders across the country. The Pupil Inclusion Network Scotland have also published leaflets to help parents whose children may have been excluded from school.

When considering exclusion, the guidance states it is important to take the child or young person's views into account and the views of their parents. The refreshed guidance also states that all exclusions from school must be formally recorded and children or young people cannot be 'informally excluded' or sent home from school to 'cool off'. The school must notify the pupil and/or parent in writing of the reasons for their exclusion and provide details of how to appeal against an exclusion. The right of appeal against exclusion is provided for in legislation, under both the Education (Scotland) Act 1980 and the Standards in Scotland's Schools etc. Act 2000.

Under section 14(3) of the Education (Scotland) Act 1980<sup>104</sup>, a child or young person still has the right to receive education during a period of exclusion from school. This legislation places a duty on education authorities, without undue delay, to: provide school education for the excluded pupil in a school managed by them; make arrangements for the excluded pupil to receive such education in any other school, the managers of which are willing to take the excluded pupil; or make special arrangements for the excluded pupil to receive education at a place other than at an educational establishment (this could include in a library or community centre, or at home).

Where a child or young person has additional support needs, any decision to exclude them must take into account the local authority's duties under both the Education (Additional Support for Learning) (Scotland) Act 2004 (as amended)<sup>105</sup> and the Equality Act 2010.<sup>106</sup> The 2004 Act also provides that 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.

### Promoting Attendance at School

Non-attendance at school and non-engagement with learning significantly increases the likelihood of young people leaving school and not going on to further education, employment or training. Some young people face barriers entirely beyond their control which prevent them from engaging fully with education. Non-attendance may also be an indicator of issues or difficulties a child or young person is experiencing. The Scottish Government continues to take steps to promote attendance at schools and, alongside key stakeholders, is reviewing the guidance related to school attendance – Included, Engaged and Involved Part 1: Attendance in Scottish Schools. The refreshed guidance will be published in due course.

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103 <https://beta.gov.scot/publications/summary-statistics-schools-scotland-8-2017-edition/pages/9/>

104 <http://www.legislation.gov.uk/ukpga-1980/44/section-14>

105 <http://www.legislation.gov.uk/asp/2004/4/section/4>

106 <http://www.legislation.gov.uk/ukpga/2010-15/section/85>

## 7.7 Education Reform

On 15 June 2017 the Scottish Government published [Education Governance: Next Steps](#). The paper sets out work to fully deliver bold but necessary reform to Scottish education in order to drive improvement and enable Scotland's education system to realise excellence and equity for all children and young people.

The primary focus of these reforms is to shape an education system that is school and teacher led with children at the centre, putting schools more in control of the important decisions that affect learning. As announced in June 2018, rather than waiting for new legislation, the Scottish Government is fast-tracking these reforms through an [Education Bill Policy Ambition – Joint Agreement](#) between the Scottish Government and COSLA.

These reforms will also ensure that schools have access to excellent education improvement services, focused on supporting head teachers and teachers in securing improvement in their schools. This ambition is supported through the creation and continued development of new Regional Improvement Collaborative areas, where local authorities and Education Scotland are working together to enhance the provision of high quality curriculum, professional development and improvement support to schools, pupils and practitioners across Scotland. As the PfG 2018-19 confirmed, a new Head Teachers' Charter, backed by new national guidance, will also be published by the end of 2018, which will put head teachers much more in control of the important decisions on curriculum, staffing and budgets in their schools.

In November 2017, the first ever Scottish Education Council was established to oversee work to improve education. The Council is chaired by the Deputy First Minister and Cabinet Secretary for Education and Skills and brings together young people, education leaders and representatives from local authorities and the teaching profession. The Council is a forum for frank and open discussion about what is working in education and where improvement is required. It also provides advice and guidance and oversees progress implementing improvement priorities.

## 7.8 Curriculum for Excellence

Curriculum for Excellence (CfE) provides the curriculum framework for children and young people aged 3–18 in Scotland. Based on the “four capacities” of the curriculum (successful learners, confident individuals, responsible citizens and effective contributors), Scotland's curriculum provides a flexible context for rights-based approaches, global citizenship, outdoor learning and skills for life, learning and work. The Scottish Government's education reform agenda is seeking to support teachers and schools to meet the aspirations of CfE and builds on the recommendations of the OECD and International Council of Education Advisers to strengthen the professional leadership of CfE. Schools and teachers will be backed up by 3 key pillars of support: enhanced career and development opportunities; educational support services from local authorities; and the new Regional Improvement Collaboratives.

A priority for the Collaboratives will be curriculum improvement and providing schools with a more comprehensive and consistent level of support for curriculum than is currently received in some local authority areas. A key focus for this improvement activity will be curriculum development, embedding the key aspects of Scotland's curriculum, including global citizenship.

## Learning for Sustainability

Learning for Sustainability (LfS) is a theme across CfE 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. The Scottish Government has accepted all 14 recommendations of the concluding report of the Learning for Sustainability National Implementation Group and, in doing so, has committed to all learners having an entitlement to LfS.

## Rights Education

The flexible and child-centred curriculum framework in Scotland provides a sound basis for rights to be developed and supported as part of teaching and learning. There are many aspects of rights-based work which can be included in the curriculum, including making explicit links between learning and the UNCRC articles. Many schools have chosen to support rights-based practice through UNICEF's Rights Respecting Schools<sup>107</sup>, which helps promote awareness of the UNCRC and supports schools to develop a rights based culture and ethos. Over 50% of Scotland's schools are registered as Rights Respecting Schools and have achieved different levels of awards within this. Education Scotland has also produced [Recognising and Realising Children's Rights](#), a resource freely available on the National Improvement Hub to support the development of children's rights in schools and community learning and development organisations. This resource is currently being updated to include more specific guidance on learner participation and to reflect the current context. Education Scotland has also produced '*Learner Participation in educational settings*' which provides guidance for schools and early learning and childcare centres on embedding learner participation. A number of local authorities and schools have also established their own approaches to rights education.

## Gaelic and Scots Education

The Scottish Government is fully committed to allowing choice and has taken steps to ensure that the legislative framework is in place to allow those interested in learning through the medium of Gaelic are afforded the opportunities to access their language choice. There is also the opportunity to learn Gaelic as a language available (Gaelic Learner Education).

The growing demand for Gaelic education has seen an increase from one standalone school in 2007 to 8 in 2018 with further sites in development. The Scottish Government continues to explore all opportunities to expand the workforce and opportunities to enhance access across Scotland, including via digital platforms. There are opportunities to learn the Scots Language in schools across Scotland and the creation of the Scottish Studies educational award has led to an increased interest in the language.

## Relationships, Sexual Health and Parenthood (RSHP) Education (see section 2.2 for detail on work with the TIE Campaign)

RSHP education is an integral part of the health and wellbeing area of the school curriculum in Scotland. The curriculum is not statutory but it is expected that all schools will deliver on this subject in line with the experiences and outcomes detailed in CfE, and it is for local authorities and schools to decide how to deliver the curriculum based on local needs and circumstances. RSHP education 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 on sexual behaviour.

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107 <https://www.unicef.org.uk/rights-respecting-schools/>

Learning about RSHP education begins early on in primary school and continues up to S4-S6. Schools will equip young people with information on a wide range of issues, depending on their age and stage. They will be encouraged to discuss these subjects with their peers and parents, to help them gain knowledge, and the skills to become confident in making healthy and safe lifestyle decisions. If parents or carers feel that the content is not appropriate, they can withdraw a primary school-aged child from all, or part of a planned programme of lessons, and arrangements should be made for the child to have alternative positive educational provision.

In 2014, the Scottish Government published guidance on the Conduct of RSHP education in schools that clearly states how important it is that RSHP education addresses diversity and reflects issues relating to lesbian, gay, bisexual, transgender and intersex (LGBTI) young people or children with LGBTI parents.<sup>108</sup>

A partnership group of health boards and local authorities, led by NHS Greater Glasgow and Clyde, commissioned an independent consultancy to deliver a new RSHP web-based teaching resource for 3–18 years in line with CfE and other national policy guidance. The Scottish Government is represented on the Contract Management Group. Informed by the views of children and young people, this new resource will seek to fill emerging gaps such as gender roles at transition from early years to primary and factors that are affecting the lives of young people such as: social media; sexting; online grooming; easier access to pornography; consent; and healthy relationships. A draft version of the learning resource is expected to be produced by late 2018, with the final resource and all additional outputs available by Easter 2019.

Personal and Social Education (PSE) is a key element in pupils' 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. The Scottish Government has commenced a national review of PSE<sup>109</sup> and the role of guidance in local authority schools, and also a review of services for counselling and their evidence base for children and young people. The review, which is expected to conclude by end 2018, will include consideration of the content of PSE programmes for children and young people from 3 to 18 years in Scottish schools and early learning centres.

## 7.9 Early Learning and Childcare (ELC)

Alongside school-age education, the Scottish Government believes that early learning and childcare (ELC) has a significant role to play in securing positive futures for Scotland's children. Tackling inequalities early and building the resilience of children, young people and their families will improve educational, health and employment outcomes. Quality is at the heart of plans for the expansion.

The Scottish Government and local government in Scotland are delivering a transformative change in the provision of ELC, almost doubling the funded entitlement from 600 to 1140 hours per year from August 2020 for all 3 and 4 year olds and for eligible 2 year olds, and introducing the funding model Funding Follows the Child, underpinned by a National Standard. Together these developments are delivering the Scottish Government's vision for the expansion (as set out in [A Blueprint for 2020](#)), underpinned by 4 principles of quality, flexibility, accessibility and affordability. This vision is shared with local government in Scotland, who are responsible for providing funded ELC to all eligible children in their area. A multi-year funding agreement is in place with local government which fully funds this policy. The expansion is supported by national projects and is overseen by a joint (Scottish Government and local authority) delivery board.

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108 <https://www.gov.scot/Publications/2014-12/8526>

109 <http://www.gov.scot/Topics/Education/Schools/HLivi/PSEreview>

The driving force behind this significant investment is ensuring that all children have an equal chance to succeed. Research demonstrates that the provision of universally accessible and high quality ELC enriches all children with skills and confidence to carry through their learner journey, but particularly those children experiencing the most disadvantage. That is why the expansion of funded ELC is a cornerstone for closing the poverty-related attainment gap.

There is a universal entitlement for all 3 and 4 year olds and a targeted entitlement for around a quarter of 2 year olds – those the Scottish Government believes will benefit most from early access to funded ELC. Those eligible include looked after children, children in families receiving support due to an ongoing asylum claim and children whose family are in receipt of a no or low income ‘qualifying benefit’.

To ensure that ELC expansion will deliver a quality experience for children, in October 2017 the Scottish Government published a [Quality Action Plan](#). This sets out 15 actions that will be taken to further embed and strengthen quality of early learning and childcare in preparation for the expansion to 1140 hours of funded entitlement. By the end of 2018, the Scottish Government will publish a National Standard that all settings delivering the funded ELC hours will be required to meet. At the heart of the National Standard will be a set of quality criteria, that includes requirement around staffing, leadership and management and development of children’s outcomes.

ELC provision must be delivered in a way that ensures equality of access and accounts for the varying needs of all children. Local authorities have a duty (under the CYP Act and the Education (Additional Support for Learning) (Scotland) Act 2004, (as amended) to provide ELC for all eligible children and assess, provide for and review their additional support needs. The Scottish Government has created a £2m inclusion fund which will run for 4 years and help staff to support children with additional support needs (ASN) or disabilities. This could cover funding for specialist training for ELC staff as well as funding for equipment for adaptations, providing sensory areas, or establishing equipment banks in local areas.

The Scottish Government believes that children receiving ELC must have access to highly qualified staff with expertise in early childhood learning and development. This is particularly true for young children who face the greatest disadvantages where additional support may be needed to deliver on Ministers’ ambition to close the attainment gap. To support this, the Scottish Government is working with local authorities to ensure that nurseries in Scotland’s most deprived areas benefit from an additional graduate (either a teacher or early years graduate with or working towards, for example, the BA in Childhood Practice). This commitment has created 435 new graduate level opportunities across Scotland. The posts have been allocated across authorities based on their share of nurseries in the 20% most deprived postcodes, with each local authority benefitting from at least one new post.

Alongside the commitment to double the funded entitlement, the Scottish Government is trialling a Childcare Deposit Guarantee Scheme to help families with upfront childcare costs. The aim of this is to reduce barriers to affordable ELC, which may help parents who wish to return to work or education. This is open to families who meet the 2 year old eligibility criteria (as outlined above), and additionally for those who are in receipt of any tax credits or any level of universal credit. The pilot local authorities are Glasgow City, City of Edinburgh, and Dumfries and Galloway.

The Children and Young People Improvement Collaborative (CYPIC)<sup>110</sup> seeks to make early years, health, family services and schools more effective and responsive in tackling inequality and improving children's outcomes. Through the CYPIC, the Scottish Government is supporting local authorities, health boards and third sector organisations to apply quality improvement (QI) to their work. This is helping to improve life chances, close the poverty-related attainment gap and ensure that children and young people receive support for their health, wellbeing and learning wherever they live.

## 7.10 Resources for Parents to Support Learning

Parents have a vital role in a child's learning and development throughout their lives. Learning at home can happen through a range of events including play, leisure activities, fun events, sports, trips, cultural or volunteering experiences. It can also happen through curriculum related activities, homework, reading and sharing books.

PlayTalkRead (PTR) is the Scottish Government's campaign to highlight the importance of playing, talking and reading with children from birth to 3 years old to boost their development. The campaign tours across Scotland, visiting each local authority to take messages of how crucial to a child's development, playing, talking and reading are in the first 3 years of a child's life. The project offers practical support and ideas on how to create the best foundations for children's development. In 2017-18, almost 40,000 children and parents visited a PTR bus. Since 2014-15, Scottish Government has provided almost £4m towards the PTR campaign.

The Scottish Government also funds the Scottish Book Trust Early Years Programme which provides a range of free book packs for every child in Scotland from birth to Primary 1. The Bookbug Outreach Programme is also a Scottish Government-funded initiative, which trains early years professionals to introduce the principles of Bookbug Sessions into the homes of vulnerable families across Scotland. The programme, which has trained over 3,000 early years professionals, is being delivered in all 32 local authorities.

Parental involvement and engagement, family learning and learning in the home also play a key role in supporting children's attainment and achievement at school, for example, in supporting the development of literacy skills and children's social and emotional wellbeing. Parental engagement has been identified as one of the 6 key 'drivers' in Scotland's National Improvement Framework for education and is a priority in the Scottish Attainment Challenge. The Scottish Government is committed to continuing to strengthen and support parental involvement and engagement in their child's education. [Learning Together: Scotland's National Action Plan on Parental Involvement, Parental Engagement, Family Learning and Learning at Home 2018 – 2021](#) (August 2018) contains over 50 actions and sets out a vision for parental involvement and engagement from pre-birth to age 18, including proposals to strengthen statutory guidance and a new equalities fund for parent involvement.

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110 <https://beta.gov.scot/policies/improving-public-services/children-and-young-people-improvement-collaborative/>

## 7.11 Support for Play

*“Play helps us to be happy, make friends, be more confident and learn new things.”*

*Member of the Children’s Parliament, Rights Event, 2018*

Play is also an essential aspect of early learning. In 2013 the Scottish Government published a National Play Strategy, [Play Strategy for Scotland: Our Vision](#) and a supporting action plan [Play Strategy for Scotland: Our Action Plan](#). The Scottish Government’s vision 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 which offer variety, adventure and challenge.

In support of the strategy, the Scottish Government published [Playing with Quality and Equality: a Review of Inclusive Play in Scotland](#) (2015), which makes recommendations to help the government, local authorities and those involved in community planning ensure equal access to inclusive play services across Scotland. In addition, in November 2015, the Scottish Government launched a book called *Play This Way*, aimed at all children throughout Scotland aged 8-10 years old. The book seeks to bring to life key elements of the Play Strategy in a way that is relevant and engaging for children and their families. Published in both English and Gaelic, it was distributed in June 2016 to every child in Primary 3, 4 and 5 in Scotland.

Thrive Outdoors (previously Go2Play) is a £4m, 7 year fund delivered by Inspiring Scotland in partnership with the Scottish Government. It aims to support the development and expansion of free play in disadvantaged communities across Scotland. In addition, the year-long campaign, ‘Away and Play’, launched in summer 2017, was funded by the Scottish Government and powered by Inspiring Scotland. The campaign highlighted the benefits of free and unstructured play in encouraging imagination, promoting risk-taking, improving health and helping collaboration.

As part of the work of the Play Strategy Implementation Group, the Scottish Government has also established, through Play Scotland, a refreshed Play Council, supporting the play sector to share good practice, and develop its collective capacity to positively influence policy and practice at both local and national levels. A Play Map resource has also been developed to support Community Planning Partnerships to integrate play into local policy and planning.

### Outdoor Play

Scottish Government recognises the value and benefits of outdoor play and learning for children and young people and has committed to provide £0.6m of funding over the next 2 years through the Outdoor Learning in Nature Fund for up to 16 projects in nurseries, schools and community groups across Scotland. The projects will work with schools and nurseries to help children from Scotland’s most deprived areas to spend time in nature. As part of the expansion of early learning and childcare, the Scottish Government has also provided £0.86m of funding to Inspiring Scotland to work with 8 local authorities to increase and improve their outdoor learning. In addition, the Scottish Government will continue to invest in Thrive Outdoors Fund, to support the development and expansion of free play in disadvantaged communities across Scotland.

The Scottish Government recently launched [Scotland’s National Position Statement on Outdoor Play Based Learning](#). A coalition of over 50 influential national bodies and organisations have committed to work together to embed playing and learning outdoors as an everyday activity for all children and to celebrate it as a fundamental part of growing up in Scotland.

## 7.12 Youth Work

The National Youth Work Strategy for Scotland 2014-19 includes a statement on the nature and purpose of youth work, including its role in the delivery of the UNCRC. A Stakeholder Reference Group reviewed the Strategy and, in July 2017 published the national Youth Work Strategy Interim Report. The Group has also worked to review progress of the Strategy's initial commitments and actions; and has subsequently agreed priorities for 2017-19.<sup>111</sup> Rights and Participation is the second of the 8 priorities focusing on working with Government and partners to progress young people's rights and participation in decision making. Actions under this priority include:

- Delivery of the 'Recognising and Realising Children's Rights Toolkit' training;
- promotion of best practice in Equalities and Human Rights through the Equalities in Youth Work Steering Group;
- development of an Inclusive Practice toolkit (ALLin) for Youth Workers(Erasmus+) and broad dissemination to the youth work sector;
- promotion of the Youth Work Awards, which support rights and participation;
- support for activities which promote democratic engagement and participation and which focus on young people at the heart of policy making; at local and national level; and
- identifying the role of youth work and contributing to the Public Authority Children's Rights Reports (under Part 1, Section 2 of the CYP Act 2014), prior to first plans reporting in 2020.

The UNCRC is also embedded in the national Youth Work Outcomes framework for Scotland. The Outcomes<sup>112</sup> have been developed by the youth work sector, led by the National Voluntary Youth Organisations Scotland and Local Authority Youth Work Managers Networks, facilitated by YouthLink Scotland. The Outcomes were developed following research into other outcome frameworks and models from across the UK and Europe.

The awareness raising toolkit: 'Recognising and Realising Children's Rights', mentioned above, was developed by Education Scotland, in partnership with YouthLink Scotland.<sup>113</sup> This is a professional learning resource which aims to raise knowledge and awareness of the UNCRC. The resource supports those working with young people in a youth work setting and has been designed as a train-the-trainer, continuing professional development opportunity.

## 7.13 Post School Transition/Further Education

Transitions and changes are part of every child and young person's life. The vast majority of children and young people look forward to moving on from school. However transitions can be challenging for some young people. Schools should ensure, through effective transition planning, that every child has an appropriate offer of post-16 learning or training in place before the date that they plan to leave school.

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111 <https://www.youthlinkscotland.org/media/2266/nyws-outline-priorities-and-actions-for-201719-for-the-sector.pdf>

112 <https://www.youthlinkscotland.org/policy/youth-work-outcomes>

113 <https://education.gov.scot/improvement/learning-resources/Recognising%20and%20Realising%20Children%27s%20Rights%20in%20Youth%20Work>

The Education (Additional Support for Learning) (Scotland) Act 2004 makes specific provisions to enable children and young people with additional support needs to receive help when they experience changes in their education, including transitions. During 2017, the Scottish Government consulted on actions to update the Supporting Children’s Learning Code of Practice under the 2004 Act.<sup>114</sup> The revised Code of Practice, including guidance on transitions for young people with additional support needs leaving school education, was published in December 2017.<sup>115</sup>

## 7.14 Learner Journey

The Scottish Government has now concluded the Education Delivery Plan commitment to “... review the learning journey for all 16-24 year olds to ensure that education provision for young people is as effective and efficient as possible and provides more stepping stones for those needing most support”. The commitment was recast into a 15-24 learner journey review, to encompass all young people in the senior phase to ensure that young people have the confidence to choose the career path that is right for them. To have this confidence young people need the right advice and support.

The Review was approached through 5 projects, covering careers advice, access, provision, transitions and progression, and funding and established 17 recommendations for improvement. As part of this review, the Scottish Government commissioned research, undertaken by SQW Consultancy in partnership with Young Scot, into young people’s experience of the education and training system in Scotland. The findings of the research are available on the Scottish Government website.<sup>116</sup>

The Scottish Government will now take forward the recommendations of the [15-24 Learner Journey Review](#), published in May 2018. Implementation has commenced and the Scottish Government is committed to improving the experience for the learner and setting a clear expectation for more purposeful collaboration between schools, colleges, universities and employers. In the year ahead this includes, starting work to:

- Ensure every pupil in Scotland has access to an online account to collate their skills and experiences, enhancing the personalised support available when choosing courses and planning a career;
- deliver a new careers strategy by autumn 2019 to set the vision for high quality career information, advice and guidance services accessible to all; and
- improve choice through the expansion of Graduate Apprenticeships to provide new higher level technical skills.

The Scottish Government continues engagement with stakeholders and users extensively around the Learner Journey Review, including organisations representing the interests of parents, young people and employers.

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114 <https://consult.gov.scot/supporting-learners/code-of-practice/>

115 <https://www.gov.scot/Publications/2017-12/9598>

116 <https://beta.gov.scot/publications/young-peoples-experience-education-training-15-24-years/>

## 7.15 Access to Higher Education

The Commission on Widening Access (CoWA) was established in April 2015 to advise Ministers on the steps necessary to achieve their ambition that a child born today, irrespective of socio-economic background, should have an equal chance of entering university by the time he or she leaves school. The Commission published its final report, [A Blueprint for Fairness](#), in March 2016, making 34 recommendations, which were accepted in full by the Scottish Government. This included a recommendation that the Scottish Government should appoint a Commissioner for Fair Access.

The Minister for Further Education, Higher Education and Science made a statement to Parliament on progress on implementation in May 2017.<sup>117</sup> This was accompanied by a report on progress on implementation, also published in May 2017.<sup>118</sup> Within the report, a commitment was made to establishing a delivery group to “... coordinate and monitor progress with implementation across all parts of the system”.

The Access Delivery Group, chaired by the Minister for Further Education, Higher Education and Science was established in August 2017. Its members include representatives from across the whole education system. Scottish Government officials have also established an Access Data Working Group to deliver the Commission’s recommendations for improved measures and use of data to support access. The Group’s remit is to consider what other measures should be used in addition to SIMD to support fair access.

The Commissioner for Fair Access, Professor Sir Peter Scott, published his first annual report in December 2017, making a number of recommendations for the Scottish Government, the Scottish Funding Council and universities. The Minister for Further Education, Higher Education and Science responded to that in a statement to the Scottish Parliament on 6 March 2018.<sup>119</sup> The Commissioner for Fair Access is also leading development of the Scottish Toolkit for Fair Access, which will identify and share best practice in supporting access students. The Toolkit will be formally launched by early 2019.

The Scottish Government introduced the Care Experienced Bursary in 2017 and increased it from £7,625 to £8,100 for the 2018-19 academic year. The Bursary replaces student loans for students with care experience, taking an inclusive approach to eligibility so as many young people as possible with care experience qualify.

Good progress on widening access is being made. The latest UCAS figures on placed applicants show a 16% increase over the past 2 years in the number of Scots from the most deprived communities getting places to study at a UK university.

## Independent Review of Student Support

In October 2016, Scottish Ministers commissioned the Independent Review of Student Support to assess the effectiveness of the system of support for all students engaged in further and higher education in Scotland, and make recommendations for beneficial change. The Review was independently chaired by Jayne-Anne Gadhia, then CEO of Virgin Money UK. The final report of the Independent Review was published in November 2017.<sup>120</sup>

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117 <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10978&i=100348>

118 [Implementing A Blueprint for Fairness](#)

119 <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11398&mode=pdf>

120 <https://www.gov.scot/Publications/2017-11/3884>

The Scottish Government responded to the independently chaired Student Support Review in June 2018 and Scottish Ministers committed additional funding of over £21m per year by the end of this parliamentary term for improvements across further and higher education student support. This will include investment of over £5m in 2018-19 to support an increase in the care-experience bursary to £8,100 per year for students across Further Education (FE) and Higher Education (HE)(as referred to above). In 2019-20, £16m will be invested to increase bursaries for students from the lowest income families across FE and HE; deliver a guaranteed bursary for eligible students in FE; and increase the HE bursary income threshold to support access.

## 7.16 Developing the Young Workforce (DYW)

*“I recommend that the Government ensures that all young people have the skills and knowledge that they need to be successful in life, in the career that they wish to pursue.”*

*Sanna, MSYP, Rights Review Event, 2018*

[Developing the Young Workforce – Scotland's Youth Employment Strategy](#) aims to reduce youth unemployment levels by 40% by 2021. In October 2017, it was announced that this target had been met 4 years early.<sup>121</sup> Labour market statistics from May 2018 show that this target is continuing to be met. To date, through this programme, the Scottish Government has: grown vocational provision for young people in the senior phase, with 27,145 Modern Apprenticeship (MA) starts in 2017-18 and a significant expansion in Foundation Apprenticeships; established 21 regional DYW employer groups across the country; created new national standards for work placements and careers education in schools and colleges; and set out how it will tackle gender imbalances and promote equality of access in relation to subject and career choices, through the Apprenticeship Equality Action Plan and Scottish Funding Council Gender Action Plan for colleges and universities.

Since 2013-14, there has been an upward trend in the uptake of vocational pathways for senior phase pupils. Completion rates for senior phase pupils studying vocational qualifications have also increased. In 2018-19, the Scottish Government will continue to implement DYW recommendations including:

- Continuing to extend the reach of careers advice to younger school pupils;
- embedding a new work experience standard;
- expanding the number of Foundation Apprenticeships;
- continuing to develop Graduate Apprenticeships; and
- funding and supporting the development of employer led DYW Regional Groups across the country to encourage and support more employers to engage with education and to recruit more young people.

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121 [www.gov.scot/Topics/Statistics/Browse/Labour-Market/Publications/Youthunemp](http://www.gov.scot/Topics/Statistics/Browse/Labour-Market/Publications/Youthunemp)

## Culture

### 7.17 Culture Strategy

The Scottish Government has committed to developing A Culture Strategy for Scotland.<sup>122</sup> This will recognise the fundamental value of culture and its transformative and empowering potential, which everyone in Scotland, including children and young people, should have an equal opportunity to experience. The strategy will also celebrate the contribution that children and young people make to culture now, and their critical role in shaping the future of culture in Scotland.

The views of children and young people have been gathered throughout both the early engagement<sup>123</sup> and public consultation phases of strategy development and a [Partial CRWIA](#) also formed part of the public consultation on the draft strategy<sup>124</sup> which closed on 19 September 2018. More than 200 responses have been received including from children's and young people's organisations. These responses are currently being analysed and will inform the final draft of *A Culture Strategy for Scotland*.

The Scottish Government has also committed to establish a Cultural Youth Experience Fund.<sup>125</sup> The Fund will seek to support a number of pilots in the next year, with a focus on areas of deprivation, helping to ensure that location is not a barrier to experience the best of Scotland's culture. The Fund will create new opportunities for young people of school age in Scotland, particularly those who live in areas of multiple deprivation, to experience and enjoy Scotland's diverse cultures and heritage, both in and outside of the classroom. It will also offer positive experiences which can change the way young people feel about themselves, school and learning.

### 7.18 Music

This Government recognises the pivotal role that culture, creativity and music plays in people's lives across Scotland, which is why the 2018-19 Budget includes an increase in culture funding of almost 10%.

The Scottish Government's long-standing investment of £109m since 2007 in the Youth Music Initiative (YMI) has made a significant impact, helping young people across Scotland access music making opportunities and develop their wider skills and learning. In March 2018, a YMI Impact report highlighted that 244,000 young people took part in the Initiative in 2016-17 across all 32 local authorities, and provided clear evidence that young people enjoyed their YMI activities, making them feel happy, involved, excited and motivated. As part of the Year of Young People, the Scottish Government has committed a further £9m funding (2018-19) in the YMI, ensuring that every school pupil in Scotland is offered a year of free music tuition by the time they leave primary school and enabling access to music making opportunities for thousands of young people across Scotland.

The Scottish Government also supports Sistema Scotland which has Big Noise Centres in Raploch, Govanhill, Torry and Douglas. The £2.5m 4-year funding package (2016-20) is enabling the youth orchestra programme to sustain and build on its work to enhance the health, wellbeing and prospects of young people in the communities in Stirling, Glasgow, Aberdeen and Dundee.

All of the 5 Scottish Government-funded National Performing Companies also have initiatives to encourage cultural activity and participation, with the Royal Scottish National Orchestra and

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122 Programme for Government, 2016-17, 2017-18 and 2018-19.

123 <https://beta.gov.scot/publications/culture-strategy-engagement-report>

124 <https://beta.gov.scot/publications/culture-strategy-scotland-draft-consultation/>

125 Programme for Government 2018-19.

the Scottish Chamber Orchestra providing programmes that connect to disabled musicians, often in collaboration with partners such as Drake Music Scotland, universities and hospitals. Creative Scotland also works with a range of partners to ensure people have the opportunity to engage in music. The recently announced 2018-21 Creative Scotland Regular Funding Network consists of 121 organisations supported by £101.6m, which includes funding of £0.65m to the National Youth Orchestras of Scotland.

## 7.19 Access to Libraries and Galleries

[Ambition and Opportunity](#), Scotland's first National Strategy for Public Libraries 2015-2020, was published in June 2015. Since 2014, the Scottish Government has invested more than £4.7m to help re-invigorate the role of public libraries. This funding has supported improvements including a roll out of Wi-Fi and 3D printers, supporting the development and delivery of 6 pioneering film clubs, and delivering training for over 150 public library staff to enable them to host and lead the coding clubs in libraries across Scotland. All library services offer Code Clubs for young people, which operate after school and/or at weekends and usually last for an hour. In addition, over 6m items were borrowed by children from Scotland's Public libraries in the last year.

In PfG 2018-19, the Scottish Government committed to:

- Further develop the library offer for children and young people through an engagement programme which enables every child to become a library member;
- build on the success of the 'One Card' pilot for library membership, extending this beyond North East Scotland and paving the way for a national library card; and
- invest £0.45m in the Public Library Improvement Fund to continue to support innovative ways for people to use public libraries. For example last year, the Fund supported South and North Ayrshire Library Services to evaluate how the use of reading and books can support young people's mental health and wellbeing with their *Mind an Read Well* 'books on prescription' project.

The National Library of Scotland is the largest library in Scotland, with over 26m items to which it adds more than 320,000 items every year. The collections are used to support research in the widest sense and learning and education at all levels. The Library has been building its online presence for a number of years and offers educational resources to children and young people through its Learning Zone. In addition, every year, the Library mounts a hundred public events and workshops for audience, including, children, young people and families.<sup>126</sup>

The Library is committed to helping remove unnecessary barriers to the employment of young people and has pursued a wide range of activities to take this forward. Since 2014, the Library has also been partnering with the National Galleries of Scotland in the Heritage Lottery Fund Skills for the Future Programme to train young people in digitising and offering mentoring support with a focus on enhancing their employability.

The Scottish Ministers have also committed to continuing to ensure free access for all to Scotland's national museums and galleries. Learning and access are key priorities and central to the National Collections' vision as Scotland's leading cultural institutions. During the Year of Young People, the National Galleries of Scotland and National Museums Scotland developed a number of projects and exhibitions with children and young people, including the National Galleries of Scotland's *What is the Art of the Future?* exhibition, which invited and encouraged young people from across Scotland to produce artworks which delivered an imaginative and innovative response to this question.

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<sup>126</sup> <http://www.nls.uk/events>

## 8. 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.

### 8.1 Children and Young People Involved in Offending or at Risk of Offending Behaviour

*“The minimum age of criminal responsibility increase is positive. However, we still need to look at wider factors affecting young people rather than criminalising them.”*

*Amy Lee, MSYP, feedback on December 2017 meeting with the Centre for Youth and Criminal Justice, Glasgow*

The Scottish Ministers view youth justice through the prism of children’s rights. There is also strong commitment across partners within the youth justice and Children’s Hearings Systems to the principles of the UNCRC. Trauma, distress and adversity are the day to day realities for young people involved in offending and the Government’s focus is on strengthening family, place and community and responding to the needs of individual young people. Offending behaviour is harmful to individuals and communities and the guiding principle of ‘needs not deeds’ from the 1964 Kilbrandon Report remains core to preventing offending and improving life chances.

Research and evidence, including the influential Edinburgh Study of Youth Transitions<sup>127</sup>, highlights that contact with the justice system is one of the key predictors of future offending. A bold shift to prevention in 2008 and the roll out of the Whole System Approach (WSA) to youth justice in 2011 placed a focus on increasing opportunities to divert young people from prosecution and promoting the use of early and effective interventions (EEI) as far as possible.

An [evaluation](#) published in June 2015 demonstrated that the WSA has been a galvanising factor in driving improvements in partnership working, information sharing and shared learning across agencies with improved outcomes for children and young people. Illustrations of progress over the last 11 years include an 81% reduction in the number of children referred to the Children’s Reporter on offence grounds, a 79% fall in 12-17 year olds proceeded against in court and a 79% decrease in under 18s in custody.

In June 2015, the Scottish Government also published a youth justice strategy [Preventing Offending: Getting it Right for Children and Young People](#), which aims to build on striking success over the last 11 years in reducing offending and keeping children and young people out of the criminal justice system. The Strategy focuses on 3 priority areas:

- Advancing the Whole System Approach to ensure young people get the right help at the right time;
- improving life chances; and
- developing capacity and improvement to support the workforce and improve systems.

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127 <http://www.esytc.ed.ac.uk/>

Delivery of the strategy is supported by partners on the Youth Justice Improvement Board (YJIB) which meets quarterly. A [progress report](#) was published in June 2017, highlighting areas of impact and influence on the 3 priority areas as delivered through the Board and its implementation groups. The Scottish Government continues to work with partners to deliver improvements to youth justice through delivery of the strategy.

## 8.2 Age of Criminal Responsibility

A key focus for the Scottish Government's youth justice strategy is raising Scotland's age of criminal responsibility. The current age of criminal responsibility in Scotland is 8 years old. A child under 12 cannot be prosecuted through the courts but can be referred on an offence ground to the Children's Hearings System.

An expert Advisory Group was convened in 2015 to consider the policy, legislative and procedural implications of raising the Age of Criminal Responsibility from 8 years to 12. Its report<sup>128</sup>, published in March 2016, made a number of recommendations which informed the public consultation, which ran from 18 March to 17 June 2016. Separate engagement took place with children and young people aged from 8 to 22 years at a series of events across Scotland from May to July 2016, targeting those affected by current legislation and those that have experienced negative life events as a result of contact with the criminal justice system from an early age.

On 1 December 2016, the Scottish Government announced that it would introduce a Bill in the current parliamentary session, to increase the age of criminal responsibility from 8 to 12 years old; aligning it with the current minimum age of prosecution and reflecting Scotland's commitment to international human rights standards. The Bill was introduced in March 2018 and is now proceeding through the Scottish Parliament. The Bill contains provisions relating to police investigatory powers; handling of forensic samples; disclosure; and risk management arrangements along with sustaining victim and community confidence.

Delivery Groups were established in November and December 2017 to focus on the work required to plan, prepare for and implement the provisions in the Bill. Further engagement with children and young people has taken place throughout the Bill process, and opportunities to involve them in the implementation of the Bill are being explored.

### Disclosure of Childhood Offending

The Scottish Government has also committed to looking afresh at the disclosure of early childhood offending to enable young people to move beyond early mistakes. Disclosure of offending by under 12 year olds is being dealt with by way of provisions in the current Bill to raise the age of criminal responsibility. In addition, the Management of Offenders (Scotland) Bill, also progressing through Parliament, includes reforms to the system of basic disclosure for those aged under 18. The main effect of these reforms will be, if approved by the Scottish Parliament, no disclosure at all of disposals from children's hearings and more restricted disclosure of convictions received by an under 18 in a criminal court. These are important changes in helping young people to move on from offending behaviour and to access positive life opportunities through education and employment.

The review of the Protection of Vulnerable Groups and Disclosure of Criminal Information<sup>129</sup> offers an opportunity to take further steps on the journey to improving, and simplifying the disclosure regime for all; and providing positive impacts for those with convictions whilst balancing public protection. The review includes proposals that, if enacted, would represent a further improvement in the position of children and young people aged 12 and over with regards to the disclosure regime.

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128 <http://www.gov.scot/Publications/2016/03/3627>

129 <https://consult.gov.scot/disclosure-scotland/protection-of-vulnerable/>

### 8.3 Children's Hearings System

Scottish Ministers continue to fully support and fund the Children's Hearings System, Scotland's unique system of care and justice for children and young people. Children can be referred to the hearings system both on offence and welfare grounds. The Children's Hearings (Scotland) Act 2011, which came into force in June 2013, strengthened and modernised the System, whilst continuing to respect the fundamental principles set out by Lord Kilbrandon's Committee in 1964, 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 safeguarding and promotion of a child's welfare going through the Children's Hearings system are paramount and every effort is made to ensure that their voices are elicited, and heard, at every stage of the proceedings.

#### Hearing the views of Children and Young People in the Hearings System

Where children appear before a Hearing, either on welfare or offence grounds, the Children's Hearings (Scotland) Act 2011 requires the children's hearing or the sheriff to give the child an opportunity to express their views and to have regard to those views (apart from child protection order cases) when coming to a decision. Children and young people have an opportunity to give their views through a number of different means, for example, verbally at the hearing, in writing or through a recording.

The Scottish Government is funding a Digital Strategy for the Children's Hearings System. The Strategy is designed to improve the service provided to children, young people and their families, improving participation through the use of digital tools.

Progress has been made on the development of an effective and sustainable advocacy service for the Children's Hearings System. Beginning in 2015, and working closely with advocacy providers in different parts of the country, the Scottish Government has been testing different models of delivery. A model for the delivery of advocacy services has now been approved and, working with an Expert Reference Group of stakeholders, a National Practice Model and Service Specification has been agreed. The necessary work on procurement and regulations is underway and it is planned to introduce a national Advocacy Service for the Children's Hearings System by late 2019, early 2020'.

The Scottish Government has also supported other areas of work, including promoting the involvement of children and young people in the training of panel members; the creation of the Our Hearings, Our Voice, children and young people's board for the Hearings System; and the continuing modernisation of hearings rooms to help create a more child friendly and less formal atmosphere, with the involvement of young people.

Improvements are also being made through the Children's Hearings Improvement Partnership (CHIP).<sup>130</sup> Chaired by Scottish Government, CHIP is a multi-agency partnership with a common commitment to work together to improve outcomes for Scotland's most vulnerable and at risk children and young people.

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130 <http://www.chip-partnership.co.uk>

## 8.4 Focus on Prevention

Alongside action to raise the age of criminal responsibility and the work of the Children's Hearings System, the Scottish Government and key agencies are promoting a range of measures to prevent offending and to keep children and young people out of the hearings and criminal justice systems.

### No Knives Better Lives

No Knives Better Lives (NKBL), is Scotland's national initiative which works with local organisations to provide information and support to raise awareness of the consequences of carrying a knife and provide information on local activities and opportunities for young people. Since 2009, the NKBL National Delivery Team (based at YouthLink Scotland) and the Scottish Government have supported partners in local authority areas to implement NKBL as a local initiative. This support is now available to every local authority area in Scotland. Resources include online practitioner training packages, peer education training, educational toolkits for schools and youth work settings and a range of supporting resources from high-quality videos and animations to posters, leaflets, reports and evaluations. Over the past decade there has been a dramatic reduction in the number of people carrying knives, with the number of young people under 18 convicted of handling offensive weapons falling from 430 in 2007-08 to 91 in 2016-17.

### Mentors in Violence Prevention

The Mentors in Violence Prevention (MVP) model is a tool to help tackle rape, dating violence, sexual harassment, bullying and other forms of violent and abusive behaviour. MVP aims to give young people, both male and female, the skills to safely intervene and prevent violence. Over recent years, the Scottish Government has expanded significantly its investment in the MVP. The coverage of the programme has increased and is now available in schools in 23 out of 32 local authority areas in Scotland. Evidence of the impact of MVP has been gathered through staff feedback, attitude questionnaires and focus groups. A National MVP Steering Group was established in 2016 to remove obstacles to the successful implementation of the programme. Year-on-year the programme is growing and in 2018-19 MVP will be delivered in 4 extra local authority areas as well as starting to adopt the programme in primary as well as secondary schools.

### Expert Group on Preventing Sexual Offending

In September 2017, the Solicitor General for Scotland and then Cabinet Secretary for Justice announced the establishment of an expert working group on preventing sexual offending involving children and young people. The Group, chaired by former Crown Office Chief Executive, Catherine Dyer, brings together a range of interests including the Scottish Youth Parliament, Youthlink Scotland and Rape Crisis Scotland. The Group was established following the findings of research into an increase in reported sexual offending, including a rise in the number of young people affected both as victims and perpetrators of digitally enabled sexual crimes. The Group's focus is on prevention, what actions would better prevent sexual crime involving children and young people, and how to mitigate the harm it causes. Its remit includes all sexual offending and harm, and there will be a particular focus on cyber-enabled offending involving children and young people. The Group is expected to report to Scottish Ministers in spring 2019.

## **CashBack for Communities Programme**

The CashBack for Communities programme is a unique Scottish Government initiative, which takes funds recovered through the Proceeds of Crime Act 2002 and invests them back into communities. The Programme, which commenced in 2008, is designed to focus on positive outcomes for young people aged 10 to 25, and their communities. The Scottish Government is currently in year 2 of phase 4 of CashBack, which runs from April 2017 to end March 2020, with £17m of monies projected to be recovered from criminals being committed. This has an even stronger focus on helping tackle Scotland's inequalities by raising the attainment, ambition and aspirations of young people across Scotland who are disadvantaged.

## **8.5 16 and 17 Year Olds in the Justice System – Diversion from Prosecution**

Youth justice practice for 16 and 17 year olds sits within both children's legislation and adult criminal processes in Scotland. An Early and Effective Intervention Forum was set up in July 2017 to consider best practice with reference to 16 and 17 years olds within the justice system. Information is being gathered around the use of early and effective intervention and diversion from prosecution for this group.

Most current youth justice diversion schemes adopt a deferred prosecution model and prosecution is suspended until the young person has successfully completed the diversion intervention. If successful then it would not lead to criminal conviction. However, a diversion from prosecution is regarded as an alternative to prosecution in terms of the Rehabilitation of Offenders Act 1974 and, as such, would be disclosable for a period of three months, after which time it would be considered spent. For the purposes of disclosure of criminal record information, a 'relevant matter' is either a conviction which is not a protected conviction or a caution which is not spent. A diversion from prosecution would not normally be disclosed after it was spent unless the police considered it to be 'other relevant information'.

The number of diversion from prosecution cases commenced for 16 and 17 year olds increased from 142 in 2010-11 to 408 in 2016-17. A Diversion from Prosecution Group was convened in October 2017 to consider how to further increase the availability of diversion for 16 and 17 year olds. Guidance around Diversion from Prosecution for all people, including young people, is being considered.

In addition, a short-life working group has been created to consider 16 and 17 year olds in the hearing system (both those on offending and welfare concerns) as part of the Child Protection Improvement Programme. The group was asked to review both the measures available to protect 16 and 17 year olds and whether the Children's Hearings (Scotland) Act 2011 should be amended to allow any young person aged 16 and 17 years old, including those not already on a Compulsory Supervision Order, to be referred to the Principal Reporter where there is a need for compulsory measures. The group is also looking at the ability of the hearing system to continue Compulsory Supervision Orders past a young person's 16 birthday.

## **Police Detention**

In very rare circumstances, it is necessary for a child to be detained in police custody. In terms of current operational practice, Police Scotland attempts to ensure that all children and young people are kept in custody for as short a time as possible.

Sections 50 and 51 of the Criminal Justice (Scotland) Act 2016, commenced on 25 January 2018, place a duty on Police Scotland not to detain a person (which includes a child) 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. In addition, when a decision is taken to hold a child in police custody, section 52 of the Act requires that (in so far as reasonable practicable) the police must prevent the child

from associating with any adult who is officially accused of committing an offence, unless a constable believes that it may be detrimental to the wellbeing of the child to prevent the child and adult from associating with one another.

Further provisions relating to children are contained within the current Age of Criminal Responsibility (Scotland) Bill. For example, where it is necessary to manage an immediate risk posed by a child, the police will have the power to take the child to a place of safety. This is a short-term measure to allow them to determine appropriate next steps for the care and protection of the child.

## 8.6 Sentencing of Under 18s

Despite actions focused on prevention and diversion from prosecution, a number of young people aged 12 and over will be the subject of judicial proceedings due to offending behaviour. With reference to sentencing, the independence of the judiciary is fundamental to the operation of the Scottish criminal justice system. In all cases, including those involving young people, it is for the court to determine the most appropriate sentence, taking account of the relevant circumstances and within the overall legal framework.

Evidence demonstrates that short-term custodial sentences are less effective than community sentences in reducing re-offending. Short custodial sentences undermine housing, employment and family connections that can help to reduce the risk of further offending. In the PfG 2018-19, the Scottish Government confirmed its intention to extend the current presumption against short sentences from 3 to 12 months. The Scottish Government will commence this change after relevant provisions of the Domestic Abuse Act 2018 are brought into force in 2019 so as to ensure that safeguards are in place for victims and children affected by domestic abuse.

The Scottish Sentencing Council was established in 2015 as an independent advisory body to promote consistency in sentencing, assist in the development of sentencing policy and to promote awareness and understanding of sentencing. In its 2015-18 Business Plan<sup>131</sup>, the Sentencing Council committed to starting work to prepare a guideline on sentencing young people. The Council noted that sentencing of young people is a complex area. In preparing the guideline, the Council undertook to look at the potential effects of different types and levels of sentence on young people and the circumstances which are common to many young people who offend, including experience of trauma and bereavement. The Council hosted a sentencing and young people conference during 2017 to help inform planning for the guidelines. The Scottish Government will work with key stakeholders to consider any implications arising from the final publication of the guidelines.

Under section 207 of the Criminal Procedure (Scotland) Act 1995 (1995 Act), where a person aged 16 or over (but under the age of 21) commits an offence which is punishable by imprisonment, the court cannot impose imprisonment on that person but may impose a sentence of detention in a young offenders institution.

A child convicted of an offence in summary proceedings in the sheriff court may be ordered by the sheriff to be detained in such place as the local authority consider appropriate for a maximum period of one year (section 44 of the 1995 Act).

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131 <https://www.scottishsentencingcouncil.org.uk/media-1494/business-plan-2015-18-for-sg.pdf>

With reference to the most serious crimes, a child convicted on indictment may be sentenced to be detained in such place and on such conditions as the Scottish Ministers may direct (section 208 of the 1995 Act). In those circumstances, the child would be placed in a secure unit up to the age of 17 and, if their sentence went beyond that age, they would transfer to a Young Offenders Institution (YOI) and then to a prison on reaching 21. Section 205 of the 1995 Act provides that a person under the age of 18 who commits murder cannot be sentenced to life imprisonment but is sentenced to be detained without limit of time and in a place as directed by the Scottish Ministers.

Under section 51 of the 1995 Act, a child can be remanded in custody pending trial or sentence. In these circumstances, if the child is under 16, the court may order the child to be detained by the local authority in secure accommodation or in a suitable place of safety chosen by the local authority. If the child is 16 or over and subject to a Compulsory Supervision Order, the court may order the child to be detained in secure accommodation or a suitable place of safety by the local authority or may order the child to be detained in a prison or young offenders institution. If the child is 16 or over and not subject to a Compulsory Supervision Order, the court may order the child to be detained in a prison or young offenders institution.

## 8.7 Secure Care Accommodation

Secure accommodation 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. Their needs and risks can only be managed in secure care's controlled settings. Secure care aims to provide intensive support, safe boundaries and a nurturing environment to help these highly vulnerable children re-engage and move forward positively in their communities.

The majority of young people placed in secure care are placed through the Children's Hearings System as a result of a secure accommodation authorisation made in conjunction with, for example, a Compulsory Supervision Order. Secure placements, once made, are only for so long as it is in the best interests of the child. The suitability of the placement must be reviewed at intervals of not more than three months, or sooner if necessary or appropriate, in light of the child's development.

Ministers have indicated that reduced reliance on the secure estate should be explored to meet the needs of young people and contribute to better outcomes. The Secure Care National Project involved an 18 month fact finding and stakeholder engagement programme and heard from a wide range of people and agencies including young people with secure care experience, practitioners, Chief Social Work Officers, and the third sector. In October 2016, an independent, analytical, practice focused review report, [Secure Care in Scotland – Looking Ahead](#), was published.

Following from this research, the Scottish Ministers established a Secure Care Strategic Board to lead the development of a strategic approach to responses to children and young people in and on the edges of secure care in Scotland. The Board is giving consideration to the development of a strategic vision and direction for secure care in Scotland and the development of Secure Care National Standards to improve the experiences and outcomes for some of Scotland's most vulnerable young people. Care experienced young people have a key role on the Board. Evidence from the Young People's Voices research will also inform its work. The Board will report to Ministers shortly. Following which, consideration around the strategic vision of secure care will fall within the remit of the Independent Care Review.

## 8.8 Young Offenders Institutions

As noted above, there has been a substantial reduction in the numbers of children in custody in recent years. For example, on 30 June 2006 there were 223 children aged 16 and 17 in custody in Scotland and on 30 June 2017 that number had fallen to 51 (including one girl). Almost all young people in custody in Scotland are cared for at HMP&YOI Polmont, with the exceptions being small numbers of young women being cared for in HMP&YOI Grampian.

Scottish Ministers' policy is that, whenever possible, children under the age of 16 are not held in either a YOI or Prison but serve their sentence in a secure unit. No child under the age of 16 has been detained in either a prison or a young offenders' institution in Scotland in the last 8 years.

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 (most often none and often only 1 or 2) 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.

The SPS *Vision for Young People in Custody* (2014) sets out the intention to use the time a young person spends in custody to enable them to prepare for a positive future. This has informed improvements during the reporting period including:

- Developing the range of activities available for young people in custody, to enable them to develop the skills, knowledge and attributes they will need for their lives in the community (examples include project-based educational activities, parenting, vocational training opportunities, etc.);
- major investment in the learning areas at HMP & YOI Polmont to improve the learning environment and provide new facilities for performing arts, media, inclusion and employability, for example;
- new individual planning processes for how the young person will use their time in custody;
- a focus on increasing levels of engagement by the young people in the activities on offer;
- providing support for transition to the community, especially for those who need it most; and
- introduction of Quality Indicators for self-evaluation within the YOI, to identify areas of good practice in the care and experiences of young people in custody and aspects which require improvement. Children and young people are participating in the SPS self-evaluation process to identify areas for further improvement.

The SPS is also continuing to prioritise the professional development of its staff and has recognised that those who work with young people in custody need special knowledge and skills because of the specific legal status, needs, developmental stage and circumstances of the young people in their care. Staff have therefore undertaken training to build their understanding of the rights, needs and vulnerabilities of the young people. Topics have included: Emotional and Social Wellbeing; Trauma, Bereavement and Loss; Learning Difficulties and Disabilities; and Adolescent Brain. SPS staff are also aware of Getting it right for every child, the Scottish Government's approach to wellbeing. Future developments will take account of *the Common Core of Skills, Knowledge & Understanding and Values for the Children's Workforce in Scotland*.

## Healthcare Services

Healthcare services in custody are provided by NHSScotland, and NHS standards for health care provision, including primary care, apply within the prison setting. The Scottish Government expects health boards to act appropriately to meet these standards. A new joint Justice and Health Improvement Collaborative Board has been established to help oversee improvement in the delivery of health and justice outcomes, including meeting the needs of people in custody.

On 23 November 2018, Scottish Ministers announced an immediate review of the provision of mental health services and support for young people entering and in the care of HMP&YOI Polmont, including suicide prevention. The review, which will be undertaken by a mental health expert and HM Inspectorate of Prisons for Scotland with other relevant agencies, is due to report in spring 2019. The review will include direct engagement with young people in HMP&YOI Polmont about their experiences of these services.

## Removal from association

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.

## 8.9 Management of the Prison Estate

All activity areas at HMP&YOI Polmont have been upgraded in the last 3 years to improve the experience of all young people to reflect the GIRFEC principles and the wellbeing indicators.

The Scottish Government is committed to developing a new model for the female custodial estate, with a smaller national women's prison and up to 5 local community custody units (CCUs). This new model will provide trauma-based care and accommodation for women offenders.

The Scottish Government recognises that children may be upset and traumatised by separation from a parent; it may be difficult to establish or sustain bonds between children and their mother and this in turn may inhibit attachment, and affect the child's development and mental health. In recognition of this, both the new national facility and the CCUs will be designed to incorporate accommodation that will support mothers and their children. Mothers will be provided with the opportunity to develop enhanced parenting skills, supporting positive links with their family and the local community. The Scottish Government aims to open the national prison and the first of the CCUs by December 2020.

## 8.10 Scottish Prison Service Family Strategy

Imprisonment damages families and family relationships. In partnership with Barnardo's Scotland and Families Outside, the SPS has designed a strategy<sup>132</sup> for working with men and women in its care as well as supporting their families and wider social networks. Considerable research has been carried out in recent years looking at the impact prison has, not only on people who find themselves sentenced to a period of imprisonment, but also those family members they leave behind in the community.

Individuals who offend are less likely to reoffend upon release from prison when they return to a supportive environment in their communities. That support is more likely to exist where families have been encouraged and supported to maintain effective and meaningful contact with their relative while in custody, particularly in the case of children who can be profoundly affected by the temporary absence of a parent/guardian. The SPS works collaboratively with key partners and stakeholders to deliver its Family Strategy, to help prisoners and families maintain meaningful contact and to involve families, where possible, in prisoners' rehabilitation. Through the Strategy, SPS will actively promote the wellbeing and positive life outcomes for children affected by parental imprisonment.

### Prison Visitors' Centres

An estimated 20,000 children are affected by parental imprisonment in any year in Scotland. Imprisonment of a family member is recognised as an Adverse Childhood Experience with significant lifelong effects, including increased risk of both physical and mental health problems. The Scottish Government has provided £1.8m in additional funding over 2016-19 to improve and increase the provision of prison visitor centres as a way of mitigating the negative impact parental imprisonment can have on children.<sup>133</sup>

Prison Visitors' Centres are independent services provided by non-statutory, not for profit organisations independent of the Scottish Prison Service. They provide practical and emotional support to people visiting prisoners (with particular attention paid to supporting children), and help individuals engage successfully with other support services (i.e. health, welfare, family services etc.) which meet their needs. They also help voice the needs of families affected by imprisonment to the prison they work alongside. The National Performance Framework for Prison Visitors' Centres in Scotland, published in April 2017, was developed by the National Prison Visitors Centre Steering Group in collaboration with the Scottish Government and the Scottish Prison Service.<sup>134</sup>

## 8.11 Support for Victims and Witnesses

Children and young people come into contact with Scotland's criminal justice system as both the victims and witnesses of crime. The Scottish Courts and Tribunal Service published in 2015 its Evidence and Procedure Review report.<sup>135</sup> The report concluded that, despite legislative changes to improve the experiences of child and other vulnerable witnesses, there were clearly still instances where criminal justice processes were not best suited to their needs or to the interests of justice in enabling them to provide reliable and accurate evidence.

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132 <http://www.sps.gov.uk/Corporate/Publications/Publication-5042.aspx>

133 <https://news.gov.scot/news/new-visitor-centre-at-glenochil-prison>

134 <https://www.familiesoutside.org.uk/national-performance-framework-for-prison-visitors-centres-in-scotland/>

135 Evidence and Procedure Report, 2015, <https://www.scotcourts.gov.uk/docs/default-source/aboutscs/reports-and-data/reports-data/evidence-and-procedure-full-report---publication-version-pdf.pdf?sfvrsn=2>

Following the publication of the subsequent Scottish Courts and Tribunal Service's Evidence and Procedure Review – Joint Investigative Interviews Workstream Report<sup>136</sup> in June 2017 – the Scottish Government is overseeing the implementation of its 33 recommendations. This involves collaborative working with key partners across the justice and child protection system to improve the training, guidance, technical aspects and facilities for Joint Investigative Interviews (JIIs) of child witnesses undertaken by police and social workers.

As well as work on JIIs, the Scottish Government is working with partners to expand the use of pre-recorded evidence. In March 2017, the Lord Justice Clerk, Lady Dorrian, published a High Court practice note to encourage greater use of taking of evidence from vulnerable witnesses by a commissioner in the High Court. Between 29 June and 29 September 2017, the Scottish Government consulted on possible legislative changes to further remove barriers to the taking of pre-recorded evidence from child and vulnerable witnesses in Scotland. The responses to this consultation have informed the development of policy proposals for the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill which was introduced to the Scottish Parliament in June 2018. The Bill, if approved by Parliament, represents an important step towards the longer term vision of removing the need, where possible, for children to give evidence in court, whilst maintaining the rights of the accused.

The Scottish Government is also considering how the Barnahus concept could operate in Scotland. The Barnahus concept provides an immediate trauma-informed health, child protection and justice response to child victims and witnesses of serious and traumatic crimes, and is now in place in at least 9 EU countries.

## **8.12 Building Safer Communities**

Working collaboratively with national and local partners, the Scottish Government is continuing to focus and align its efforts to Build Safer Communities. The Scottish Government supports Inspiring Scotland's Link Up Programme, which helps to address the underlying causes of crime in deprived communities across Scotland. Link Up workers organise a range of activities, including for children and young people, to help increase social interaction and nurture positive relationships, with a particular focus on those who are most vulnerable and at risk of harm, crime and offending. The Link Up Programme is strongly aligned with the current focus on the impact of Adverse Childhood Experiences.

The Scottish Government is also working with key partners including the Scottish Fire and Rescue Service, Royal Society for the Prevention of Accidents (RoSPA), Child Accident Prevention Trust (CAPT), the Scottish Community Safety Network, as well as COSLA and local partnership networks to collectively share messages and support initiatives and approaches that focus on reducing unintentional harm including among young children, particularly those under the age of five, who are more likely to experience unintentional harm. As part of this, the Scottish Government is developing an unintentional harm online hub that will gather and share examples of local activity that is directly reducing unintentional harm. This online tool will be launched in 2019, and will provide a number of examples that can support improving outcomes among young people.

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136 <http://www.scotcourts.gov.uk/docs/default-source/aboutscs/reports-and-data/reports-data/evidence-and-procedure-review.docx?sfvrsn=4>

## 8.13 Support for Refugees

Scotland has a long history of welcoming refugees and asylum seekers and recognises it is a human right to be able to seek asylum in another country. Scottish Government policy recognises child refugees, in particular unaccompanied children, as a particularly vulnerable group of young people for whom support must be provided.

Scotland has received over 2,450 refugees under the Syrian Resettlement Programme into 31 of the 32 local authorities since October 2015. Around half of the refugees are children. The Scottish Government's vision is for a Scotland where refugees are able to build a new life from the day they arrive and to realise their full potential with the support of mainstream services, and where they become active members of our communities with strong social relationships.

In March 2017, the Scottish Government and its partners concluded work on the first New Scots Refugee Integration Strategy with the publication of a final report.<sup>137</sup> The Scottish Government then worked with its partners, including the Scottish Refugee Council and COSLA, to develop the second [New Scots Refugee Integration Strategy 2018-2022](#), which was published in January 2018.

The Scottish Government has allocated £1m to projects which support the resettlement and integration of Syrian refugees in Scotland. It is also investing £0.94m from the equality budget in organisations working to support refugees and asylum seekers in 2018-19.

## 8.14 Children in Employment

In August 2017, the Scottish Government published [Young Performers: A Guide for Parents and Guardians](#) and [Employment of Children: A Guide for Children](#). The publications were developed in collaboration with Clan Childlaw, as easy-read guidance for parents, guardians and children respectively. Guidance to assist local authorities and those individuals or bodies who are required to organise performances or licensed sporting or modelling activities involving children and young people, *Getting it Right for Young Performers*, is also available on the Scottish Government website.

*“We have a choice. We have a voice. We have rights. We deserve them. Please respect them.”*

*Member of the Children's Parliament, Rights Event, 2018*

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<sup>137</sup> <http://www.gov.scot/Publications/2017/03/5825>

# ANNEX A

## A Summary of the UN Convention on the Rights of the Child Articles<sup>138</sup>

<b>Article 1</b>	Definition of the child
<b>Article 2</b>	Non-discrimination
<b>Article 3</b>	Best interests of the child
<b>Article 4</b>	Implementation of the Convention
<b>Article 5</b>	Parental guidance and a child's evolving capacities
<b>Article 6</b>	Right to life, survival and development
<b>Article 7</b>	Birth, registration, name, nationality and care
<b>Article 8</b>	Protection and preservation of identity
<b>Article 9</b>	Separation from parents
<b>Article 10</b>	Family reunification
<b>Article 11</b>	Abduction and non-return of children
<b>Article 12</b>	Respect for the views of the child
<b>Article 13</b>	Freedom of expression
<b>Article 14</b>	Freedom of thought, belief and religion
<b>Article 15</b>	Freedom of association
<b>Article 16</b>	Right to privacy
<b>Article 17</b>	Access to information from the media
<b>Article 18</b>	Parental responsibilities and state assistance
<b>Article 19</b>	Protection from violence, abuse and neglect
<b>Article 20</b>	Children unable to live with their family
<b>Article 21</b>	Adoption
<b>Article 22</b>	Refugee children
<b>Article 23</b>	Children with a disability
<b>Article 24</b>	Health and health services
<b>Article 25</b>	Review of treatment in care
<b>Article 26</b>	Social security
<b>Article 27</b>	Adequate standard of living
<b>Article 28</b>	Right to education
<b>Article 29</b>	Goals of education
<b>Article 30</b>	Children from minority or indigenous groups
<b>Article 31</b>	Leisure, play and culture
<b>Article 32</b>	Child labour
<b>Article 33</b>	Drug abuse
<b>Article 34</b>	Sexual exploitation

138 [https://www.unicef.org.uk/wp-content/uploads/2010/05/UNCRC\\_summary-1.pdf](https://www.unicef.org.uk/wp-content/uploads/2010/05/UNCRC_summary-1.pdf)

<b>Article 35</b>	Abduction, sale and trafficking
<b>Article 36</b>	Other forms of exploitation
<b>Article 37</b>	Inhumane treatment and detention
<b>Article 38</b>	War and armed conflicts
<b>Article 39</b>	Recovery from trauma and reintegration
<b>Article 40</b>	Juvenile justice
<b>Article 41</b>	Respect for higher national standards
<b>Article 42</b>	Knowledge of rights
<b>Articles 43-54</b>	How adults and governments must work together to make sure all children can enjoy all their rights

## ANNEX B

### UN Committee on the Rights of the Child – Concluding Observations for the UK State Party – CRC/C/GBR/CO/5

#### High Level Response

Scottish Government actions and initiatives relevant to the Concluding Observations are included in the 2018 Report and in the Annex to the Action Plan, *Progressing Children’s Human Rights in Scotland 2018-2021*. This table cross-references Concluding Observations with relevant sections of the Report.

CONCLUDING OBSERVATION	REPORT REFERENCE/RESPONSE
<p><b>GENERAL MEASURES</b></p>	
<p>7(a) Expedite bringing its domestic legislation, at the national and devolved levels as well as in the Overseas Territories and the Crown Dependencies, in line with the Convention in order to ensure that the principles and provisions of the Convention are directly applicable and justiciable under domestic law.</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>Integrate fully the principles and provisions of the UNCRC into domestic law and ensure its implementation across national and local governments, with effective coordination and monitoring structures (Recommendations 134.59-60, 134.65, 134.191 – Chile, Hungary, Kazakhstan, Slovakia).</li> </ul>	<ul style="list-style-type: none"> <li>Report sections 1.3-1.4</li> </ul>
<p>8(a) Revise the UK-wide strategy, Working Together, Achieving More’ (2009) to cover all areas of the Convention and ensure its full implementation.</p>	<ul style="list-style-type: none"> <li>Report section 1.5</li> </ul>
<p>8(c) In Scotland, ensure the full implementation of the action plan <i>Do the Right Thing</i> (2009) and the <i>National Action Plan for Human Rights</i> (2013-2017); In doing so, allocate sufficient human, technical and financial resources, set up clear timelines as well as a monitoring and evaluation framework for the implementation of the strategy and the action plans, and pay special attention to children belonging to the most vulnerable groups.</p>	<ul style="list-style-type: none"> <li>Do the Right Thing (2009) has been overtaken by new Scottish Government plans and actions, e.g. Fairer Scotland Action Plan, Equally Safe Delivery Plan, Child Poverty Delivery Plan, etc.</li> <li>The reporting process implemented through Part 1 duties on Ministers (CYP Act) provides an overarching framework.</li> </ul>
<p>(10a) Introduce a statutory obligation at national and devolved levels to systematically conduct a child rights impact assessment when developing laws and policies affecting children, including in international development cooperation;</p> <p>(b) Publish the results of such assessments and demonstrate how they have been taken into consideration in the proposed laws and policies.</p>	<ul style="list-style-type: none"> <li>Report section 1.6</li> </ul>

<p>11(a) establish an appropriate statutory body at a high inter-ministerial level with a clear mandate and sufficient authority to coordinate all activities across relevant sectors related to the implementation of the Convention; (b) Allocate sufficient human, technical and financial resources to the said coordinating bodies for their effective operation; (c) Strengthen coordination and evaluation of the implementation of the Convention at the national level.</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Establish effective coordination and monitoring structures to ensure Convention on the Rights of the Child implementation across national and local governments (Recommendation 134.59 – Kazakhstan).</li> </ul>	<ul style="list-style-type: none"> <li>• Report sections iv., 1.4-1.5</li> </ul>
<p>13(a) Utilize a child-rights approach in the elaboration of the State budget, by implementing a tracking system for the allocation and use of resources for children throughout the budget; (b) Ensure transparent and participatory budgeting through public dialogue, including with children;</p> <p>(c) Define budgetary lines for children in disadvantaged or vulnerable situations that may require affirmative social measures and make sure that those budgetary lines are protected even in situations of economic recessions; (d) Regularly conduct child rights impact assessments of budget and economic decision-making processes and outcomes, including austerity measures, in areas that are directly or indirectly related to children's rights;</p> <p>(e) Establish mechanisms to monitor and evaluate the adequacy, efficacy and equitability of the distribution of resources allocated to the implementation of the Convention.</p>	<ul style="list-style-type: none"> <li>• Report sections 1.8-1.10</li> </ul>
<p>16(a) Further strengthen the independence of established Children's Commissioners, in line with the Paris Principles, and enable them, <i>inter alia</i>, to receive and investigate complaints from or on behalf of children concerning violations of their rights; (b) Allocate to the Commissioners the necessary human and financial resources in order to carry out their mandate in an effective and coordinated manner.</p>	<ul style="list-style-type: none"> <li>• Report section iv.</li> </ul>
<p>18. That the State party ensure that its international development cooperation supports the recipient States in guaranteeing the right to free compulsory primary education for all, by prioritizing free and quality primary education in public schools, refraining from funding for-profit private schools, and facilitating registration and regulation of private schools.</p>	<ul style="list-style-type: none"> <li>• Report section 1.16</li> </ul>
<p>19(a) Integrate an explicit focus on children's rights, including the requirement for businesses to undertake child-rights due diligence, in the revised version of its first National Action Plan on Business and Human Rights; (b) Establish and implement regulations to ensure that the business sector, including in the context of public procurement, complies with the rights of the child.</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Introduce measures (including legislation) to ensure oversight of British companies and accountability for any adverse human rights and environmental impacts of business operations overseas, including in conflict areas (Recommendations 134.80, 134.127, 134.153 – Namibia, Palestine, Philippines).</li> </ul>	<ul style="list-style-type: none"> <li>• Report sections 1.13-1.15</li> </ul>

<p>20. Raise the minimum age of marriage to 18 years across all devolved administrations, Overseas Territories and Crown Dependencies.</p>	<ul style="list-style-type: none"> <li>• Report section 4.12</li> <li>• The Scottish Government recognises concerns about forced marriages and has taken a number of steps to tackle these. The Scottish Government has no plans to change the minimum age (16 years) at which people can enter a marriage or a civil partnership in Scotland. The number of people who enter a marriage or civil partnership in Scotland at age 16 or 17 is low, but the Scottish Government would be concerned that raising the minimum age would take rights away from young people.</li> </ul>
<p><b>GENERAL PRINCIPLES</b></p>	
<p>22(a) Consider the possibility of expanding legislation to provide protection of all children under 18 years of age against discrimination on the grounds of their age.</p> <p>22(b) Strengthen the oversight mechanism, including regular independent reviews, to assess and ensure that the implementation of the counter-terrorism and counter-extremism measures, including the Prevent Strategy (2011), will not have a discriminatory or stigmatising impact on any group of children.</p> <p>A similar recommendation was made by CERD in its 2016 Concluding Observations (Recommendation 19).</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Ensure that counter-terrorism legislation does not discriminate against particular groups on grounds of race, ethnic background or religion, particularly Muslim communities, and is in conformity with the UN Charter and international human rights law, including due respect for necessity and proportionality (Recommendations 134.62, 134.128, 134.130, 134.131 – Botswana, Malaysia, Iran, Palestine).</li> <li>• Establish an evaluation mechanism of the anti-terrorist strategy that takes into account the observations made by Special Procedures and Treaty Bodies, and that evaluates its human rights implications (Recommendation 134.129 – Mexico).</li> </ul>	<ul style="list-style-type: none"> <li>• Report section 2.2</li> <li>• Report section 2.7</li> </ul>

<p>22(c) Strengthen its awareness-raising and other preventive activities against discrimination and stigmatization, and, if necessary, take temporary special measures for the benefit of children in vulnerable situations.</p> <p>Similar recommendations on awareness raising and prevention of discrimination were made by ICESR (Recommendation 23), CRPD (Recommendation 15), ICCPR (Recommendation 10), CERD (Recommendation 25(a)).</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Reinforce measures to combat all forms of discrimination and inequality, including in access to services (Recommendations 134.81-82, 134.85, 134.87-93, 134.95, 134.97-99, 134.102-106, 134.109-112, 134.118, 134.120, 134.123, 134.163, 134.165, 134.184 – Georgia, Iran, Malaysia, USA, China, Guatemala, Indonesia, Lebanon, Sierra Leone, Venezuela, Kazakhstan, Argentina, Russia, Bangladesh, Kyrgyzstan, Maldives, Netherlands, Pakistan, Singapore, Thailand, Tunisia, Chile, Egypt, Nepal, Bosnia-Herzegovina).</li> <li>• Simplify, harmonise and strengthen legal provisions for equality for the most vulnerable (Recommendations 134.83, 134.125, 134.169, 134.178, 134.225 – Paraguay, Australia, Sri Lanka, Uzbekistan, Hungary).</li> </ul>	<ul style="list-style-type: none"> <li>• Report sections 2.2-2.6.7.5</li> </ul>
<p>23 The Committee recalls its previous recommendation that the State party take urgent measures to address the “intolerance of childhood” and general negative public attitude towards children, especially adolescents, within society, including in the media.</p> <p>Similar recommendations were made by CERD in its 2016 Concluding Observations (Recommendation 16(e)) and CRPD in its 2017 Concluding Observations (Recommendation 23).</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Take steps to curb incitement of hatred by some British tabloid newspapers (Recommendations 134.84, 134.107, 134.109 – Spain, Korea, Russia).</li> </ul>	<ul style="list-style-type: none"> <li>• Report sections 2.4-2.5</li> </ul>
<p>27(a) Best interests of the child 27(a) Ensure that this right is appropriately integrated and consistently interpreted and applied in all legislative, administrative and judicial proceedings and decisions as well as in all policies, programmes and projects that are relevant to and have an impact on children;</p> <p>(b) Develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving it due weight as a primary consideration.</p>	<ul style="list-style-type: none"> <li>• Report sections 1.6, 2.8, 5.2, 8.6</li> <li>• The independence of the judiciary is fundamental to the operation of the Scottish justice system.</li> </ul>
<p>29(a) Address underlying determinants of infant and child mortality, including social and economic deprivation and inequality;</p>	<ul style="list-style-type: none"> <li>• Report sections 2.13-2.14, 6.20-6.24</li> </ul>

<p>29(b) Introduce automatic, independent and public reviews of unexpected death or serious injury involving children, including in custody, care and mental health care institutions in all the territory of the State party.</p>	<ul style="list-style-type: none"> <li>• Report sections 2.13-2.14</li> </ul>
<p>31(a) Establish structures for the active and meaningful participation of children and give due weight to their views in designing laws, policies, programmes and services at the local and national level, including in relation to discrimination, violence, sexual exploitation and abuse, harmful practices, alternative care, sexual and reproductive education, leisure and play. Particular attention should be paid to involving younger children and children in vulnerable situations, such as children with disabilities;</p>	<ul style="list-style-type: none"> <li>• Report sections 1.6, 2.15-2.20, 6.1</li> </ul>
<p>31(b) Assess the impact and expedite the review of the reforms on legal aid in England, Wales and Scotland, in order to ensure that such reforms do not negatively affect children's access to justice, and guarantee effective participation of children in such assessment and review.</p> <p>Similar recommendations around assessing the impact to ensure no group is negatively affected were made by the ICESCR in its 2016 Concluding Observations (Recommendation 21), by CEDAW in its 2013 Concluding Observations (Recommendation 23) and CERD, in its 2016 Concluding Observations (Recommendation 21).</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Facilitate access to justice, including appropriate legal aid, for minority groups (Recommendations 134.115, 134.154 – Angola, Netherlands).</li> </ul>	<ul style="list-style-type: none"> <li>• Report section 2.20.</li> </ul>
<p>31(c) Expedite the establishment of Youth Parliaments in all devolved administrations and territories as permanent for children's effective engagement with national legislative processes on issues that affect them;</p>	<ul style="list-style-type: none"> <li>• Report section 2.17</li> </ul>
<p>31(d) Ensure that children are not only heard but also listened to and their views given due weight by all professionals working with children.</p>	<ul style="list-style-type: none"> <li>• Report section 2.18</li> </ul>
<p>33. Should the voting age be lowered, the Committee recommends that the State party ensure that it is supported by active citizenship and human rights education in order to ensure early awareness of children that rights are to be exercised as part of citizenship, with autonomy and responsibility, and that the measure does not lend itself to undue influence.</p>	<ul style="list-style-type: none"> <li>• Report section 2.21</li> </ul>

<b>CIVIL RIGHTS AND FREEDOMS</b>	
<p>36. 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 worship at school.</p>	<ul style="list-style-type: none"> <li>• Report section 3.2</li> </ul>
<p>37(a) Prohibit the use of mosquito devices (acoustic youth dispersal devices) in public spaces.</p>	<ul style="list-style-type: none"> <li>• Report section 3.6</li> </ul>
<p>37(b) Collect data on measures used against children, including children aged 10–11 years, to deal with anti-social behaviours, as well as dispersal, and monitor the criteria and proportionality of their use.</p>	<ul style="list-style-type: none"> <li>• Report section 3.7</li> </ul>
<p>38(a) Prohibit the use of non-statutory stop-and-search checks against children; (b) Ensure that the statutory use of the stop-and-search checks is proportionate, taking into consideration the age and maturity of the child, and non-discriminatory; (c) Regularly collect, analyse and publish data relating to the use of stop-and-search on children, disaggregated by age, sex, disability, geographic location, ethnic origin and socioeconomic background. Similar recommendations were made by ICCPR in its 2015 Concluding Observations (Recommendation 11) and CERD in its 2016 Concluding Observations (Recommendation 27).</p>	<ul style="list-style-type: none"> <li>• Report section 3.8</li> </ul>
<b>VIOLENCE AGAINST CHILDREN</b>	
<p>40(a) Prohibit the use of electrical discharge weapons, such as Taser guns and any other harmful devices on children and systematically collect and publish age disaggregated data on their use in order to monitor the implementation of such prohibition. A similar recommendation was made by UNCAT in its 2013 Concluding Observations (Recommendation 26).</p>	<ul style="list-style-type: none"> <li>• Report section 4.14</li> </ul>
<p>40(b) Abolish all methods of restraint against children for disciplinary purposes in all institutional settings, both residential and non-residential, and ban the use of any technique designed to inflict pain on children; (c) Ensure that restraint is used against children exclusively to prevent harm to the child or others and only as a last resort; (d) Systematically and regularly collect and publish disaggregated data on the use of restraint and other restrictive interventions on children in order to monitor the appropriateness of discipline and behaviour management for children in all settings, including in education, custody, mental health, welfare and immigration settings. Similar recommendations were made by UNCAT in its 2013 Concluding Observations (Recommendation 28) and the CRPD in its 2017 Concluding Observations (Recommendation 37(c)).</p>	<ul style="list-style-type: none"> <li>• Report section 4.15</li> </ul>

<p>41(a) Prohibit as a matter of priority all corporal punishment in the family, including through the repeal of all legal defences, such as “reasonable chastisement”; (b) Ensure that corporal punishment is explicitly prohibited in all schools and educational institutions and all other institutions and forms of alternative care; (c) Strengthen its efforts to promote positive and non-violent forms of discipline and respect for children’s equal right to human dignity and physical integrity, with a view to eliminating the general acceptance of the use of corporal punishment in child-rearing.</p> <p>Similar recommendations were made by ICPCR in its 2015 Concluding Observations (Recommendation 20), by CEDAW in its 2013 Concluding Observations (Recommendation 35) and UNCAT in its 2013 Concluding Observations (Recommendation 29).</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Prohibit corporal punishment, including in the family, schools and educational institutions, and all other institutions and forms of alternative care; repeal all legal defences, such as “reasonable chastisement” (Recommendations 134.193-199 – Liechtenstein, Ireland, Mongolia, Sweden, Croatia, Estonia).</li> </ul>	<ul style="list-style-type: none"> <li>• Report section 4.6</li> <li>• Corporal punishment is banned in schools, residential accommodation and registered childcare settings.</li> </ul>
<p>43(a) Revise the Children and Young Persons Act (1933) in order to protect all children under 18 years from child abuse and neglect.</p>	<ul style="list-style-type: none"> <li>• Report section 4.5</li> </ul>
<p>43(b) Strengthen systematic data collection and recording of information on violence against children, including domestic violence, gender-based violence, abuse and neglect, in all settings, as well as information sharing and referral of cases among relevant sectors;</p>	<ul style="list-style-type: none"> <li>• Report sections 4.5 and 4.10</li> </ul>
<p>43(c) Increase the number of social workers and strengthen their capacity to address violence against children;</p>	<ul style="list-style-type: none"> <li>• The Scottish Government is not aware of any current issues with reference to the recruitment of social workers in Scotland.</li> </ul>
<p>43(d) Give due weight to the views of children concerned in the responses to violence, including in criminal and family law proceedings.</p>	<ul style="list-style-type: none"> <li>• Report sections 2.18, 5.2, 8.3, 8.11</li> </ul>
<p>43(e) Consider ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence.</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) (Recommendations 134.43-48 – Italy, Montenegro, Spain, Turkey, Bosnia-Herzegovina, Finland).</li> </ul>	<ul style="list-style-type: none"> <li>• Report section 4.11</li> </ul>

<p>45(a) Systematically collect and publish comprehensive and disaggregated data on child exploitation and abuse, including through mandatory reporting, in all settings; (b) Develop and implement comprehensive multi-sectoral strategies on child exploitation and abuse, including online, to ensure effective prevention, early detection and intervention, at the national and devolved levels; (d) Further develop comprehensive services to support children who are victims or at risk of sexual exploitation and abuse; (e) Strengthen the capacity of law enforcement authorities and the judiciary to detect and prosecute child sexual exploitation and abuse, and grant effective remedies to the child victims; (f) Consider ratifying the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Develop and implement comprehensive multi-sectoral strategies on child exploitation and abuse (Recommendations 134.186, 134.200, 134.202- China, Timor-Leste, Algeria).</li> <li>• Ratify the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) (Recommendations 134.42, 134.49-50 – Slovenia, Andorra, Bulgaria).</li> </ul>	<ul style="list-style-type: none"> <li>• Report sections 4.2–4.3, 4.7, 4.10-4.11</li> </ul>
<p>47(a) Take effective measures to ensure that marriage of children of 16-17 years of age takes place only in exceptional circumstances and is based on the full, free and informed consent of the concerned children;</p> <p>(b) Continue and strengthen preventive and protection measures to address the issue of harmful practices, including collecting data, training of relevant professionals, awareness-raising programmes, provision of protection and care to the child victims and the prosecution of those found guilty of perpetrating such acts;</p> <p>(c) Ensure that no one is subjected to unnecessary medical or surgical treatment during infancy or childhood, guarantee bodily integrity, autonomy and self-determination to children concerned, and provide families with intersex children with adequate counselling and support; (d) Provide redress to the victims of such treatment;</p> <p>(e) Educate medical and psychological professionals on the range of sexual, and related biological and physical, diversity and on the consequences of unnecessary interventions for intersex children.</p> <p>Similar recommendations were made in CEDAW's 2013 Concluding Observations (Recommendation 37).</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Continue efforts to tackle VAWG, domestic violence and harmful practices (possibly through national legislation and/or introduction of a national framework), for example by ensuring that all cases are thoroughly investigated and perpetrators are prosecuted (Recommendations 134.83, 134.180-187 – Paraguay, Libya, Maldives, Slovenia, Sudan, Bosnia-Herzegovina, Indonesia, China, Czech Republic).</li> <li>• Take measures to prevent secondary victimisation and the negative impact of domestic violence on children (Recommendations 134.187 – Czech Republic).</li> <li>• Strengthen its legislative framework by including penal sanctions for perpetrators of acts of forced marriage and non-protection against female genital mutilation (Recommendation 134.188 – Gabon).</li> <li>• Review its Equality Act in relation to gender identity and the rights of intersex persons in the context of rights to health services (Recommendation 134.125 – Australia).</li> </ul>	<ul style="list-style-type: none"> <li>• In Scotland, both parties to a marriage or civil partnership must be present when the ceremony takes place and both must give consent. Few 16 and 17 year olds in Scotland marry or enter a civil partnership.</li> <li>• Report sections 4.12-4.13</li> </ul>

<p>49(a) The Committee recommends that the State party: intensify its efforts to tackle bullying and violence in schools, including through teaching human rights, building capacities of students and staff members to respect diversity at school, improving students' conflict resolution skills, monitoring regularly the incidences of bullying at school, and involving children in the initiatives and monitoring aimed at eliminating bullying;</p> <p>(b) In the light of the recommendations resulting from the day of general discussion on digital media and children's rights, train children, teachers and families on the safe use of information and communication technologies, raise awareness among children on the severe effects that online bullying can have on their peers, and increase the involvement of social media outlets in the efforts to combat cyber-bullying.</p> <p>A similar recommendation was made by CERD in its 2016 Concluding Observations (Recommendation 35) and CEDAW, in its 2013 Concluding Observations (Recommendation 45).</p>	<ul style="list-style-type: none"> <li>• Report sections 4.3, 7.5</li> </ul>
<p><b>FAMILY ENVIRONMENT AND ALTERNATIVE CARE</b></p>	
<p>51. Conduct a rigorous child rights impact assessment of the recent reduction of funding for childcare and family support and adjust the family support policy in order to make childcare services available to all those who need it.</p> <p>A similar recommendation was made by CEDAW in its 2013 Concluding Observations (Recommendation 47) and ICESCR in its 2016 Concluding Observations (Recommendation 44).</p>	<ul style="list-style-type: none"> <li>• Report section 7.9</li> <li>• The Scottish Government is increasing investment and expanding access to Early Learning and Childcare.</li> </ul>
<p>53(a) Intensify its efforts to render appropriate assistance to parents and legal guardians, including informal kinship carers, in the performance of their child-rearing responsibilities;</p> <p>(b) Ensure that the removal of children from their families is always subject to thorough investigation, is in accordance with the best interests of the child and is only used as a measure of last resort;</p> <p>(c) Wherever possible find a placement for the child which will facilitate contact with his or her biological parents and siblings;</p> <p>(e) Take all measures necessary to provide stability for children in care, including efforts to retain social workers and to avoid unnecessary changes in placement;</p> <p>(f) Inform and consult with children from an early stage on plans for their care and transition and provide sufficient support for care leavers, including for accommodation, employment or further education.</p> <p>A similar recommendation to Recommendation 53(a) CRC Concluding Observations 2016 was made by CRPD in its 2017 Concluding Observations (Recommendation 49(a)).</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Provide protection to the family as a natural and fundamental unit in society (Recommendation 134.152- Egypt).</li> </ul>	<ul style="list-style-type: none"> <li>• Report sections 5.3-5.5</li> </ul>
<p>55(a) Ensure that child protection authorities are always informed when a person who has a child (children) is imprisoned in order to avoid situations where children are left unattended;</p> <p>(b) Take into account the best interests of the child as a primary consideration when sentencing parents, avoiding, as far as possible, sentences for parents which lead to their being separated from their children.</p>	<ul style="list-style-type: none"> <li>• Report sections 2.10, 8.10</li> <li>• Sentencing decisions in Scotland are matters for the independent judiciary.</li> </ul>

<b>DISABILITY, BASIC HEALTH AND WELFARE</b>	
<p>57. Adopt a human rights-based approach to disability, set up a comprehensive strategy for the inclusion of children with disabilities and:</p> <p>(a) Ensure full respect of the rights of children with disabilities to express their views and to have their views given due weight in all decision-making that affect them, including on access to and choice of personal support and education; (b) Set up comprehensive measures to further develop inclusive education, ensure that inclusive education is given priority over the placement of children in specialized institutions and classes, and make mainstream schools fully accessible to children with disabilities; (c) Provide children with disabilities with a comprehensive and integrated package of services for transition to adulthood, from a sufficiently early stage, by coordinating legislation, policy and programmes across relevant sectors, and ensure fully-informed decision by children with disabilities on their personal choice in the transition, by involving them in the design of services and by providing advice and information on available options.</p> <p>Similar recommendations were included in the CRPD in its 2017 Concluding Observations (Recommendations 21(b) and 53).</p>	<ul style="list-style-type: none"> <li>• Report sections 6.1, 7.4</li> </ul>
<p>59. Develop comprehensive and multi-sectorial strategies on child health:</p> <p>(a) With allocation of the maximum extent of available resources and a robust monitoring mechanism;</p> <p>(b) With a strong focus on eliminating inequalities in health outcome and in access to health services; (c) Addressing underlying social determinants of health.</p> <p>Similar recommendations were made by CRPD in its 2017 Concluding Observations (Recommendation 55(a), CEDAW in its 2013 Concluding Observations (Recommendation 53) and CERD in its 2016 Concluding Observations (Recommendation 31).</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Strengthen measures to foster access of vulnerable populations, including migrants, to public services and social and health services (Recommendations 134.166, 134.169 – Cote d’Ivoire, Sri Lanka).</li> </ul>	<ul style="list-style-type: none"> <li>• Report sections 6.2-6.19</li> </ul>

<p>61(a) Regularly collect comprehensive data on child mental health, disaggregated across the life course of the child, with attention to children in vulnerable situations, and covering key underlying determinants;</p> <p>(b) Rigorously invest in CAMHS and develop strategies at national and devolved levels, with clear time frames, targets, measurable indicators, effective monitoring mechanisms and sufficient human, technical and financial resources. Such strategy should include measures to ensure availability, accessibility, acceptability, quality and stability of such services, with particular attention to children at greater risk, including children living in poverty, children in care and children in contact with the criminal justice system;</p> <p>(c) Expedite the prohibition of placement of children with mental health needs in adult psychiatric wards or police stations, while ensuring provision of age-appropriate mental health services and facilities;</p> <p>(d) Support and develop therapeutic community-based services for children with mental health conditions;</p> <p>(e) Review current legislation to ensure that the best interests and views of the child are taken into account in cases of mental health treatment of children below the age of 16, in particular with regard to hospitalization and treatment without consent.</p> <p>A similar recommendation was made by ICESCR in its 2016 Concluding Observations (Recommendation 58).</p>	<ul style="list-style-type: none"> <li>• Report sections 6.11-6.16</li> </ul>
<p>63(a) Regularly collect data on the amount and regularity of psychotropic drugs (Ritalin, Concerta etc.) being prescribed to children, and make the data transparent;</p> <p>(b) Ensure that prescription of drugs is used as a measure of last resort and only after an individualized assessment of the best interests of that child, and that children and their parents are properly informed about the possible side effects of this medical treatment and about non-medical alternatives;</p> <p>(c) Establish a system of independent expert monitoring of the ADHD and related disorders diagnoses, and undertake a study on the root causes of their increase, also aimed at improving the accuracy of diagnoses.</p>	<ul style="list-style-type: none"> <li>• Report section 6.12</li> </ul>
<p>65(a) Develop and adopt a comprehensive sexual and reproductive health policy for adolescents, with particular attention to reducing inequalities and with participation of adolescents;</p> <p>(b) Ensure that meaningful sexual and reproductive health education is part of the mandatory school curriculum for all schools, including academies, special schools and youth detention centres, in all areas of the State party. Such education should provide age-appropriate information on: confidential sexual and reproductive health-care services; contraceptives; prevention of sexual abuse or exploitation, including sexual bullying; available support in cases of such abuse and exploitation; and sexuality, including that of LGBT children.</p> <p>A similar recommendation was made by CEDAW in its 2013 Concluding Observations (Recommendation 45).</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Take necessary measures to provide reproductive health-care services for women and girls in line with its Convention on the Elimination of All Forms of Discrimination against Women obligations (134.171 – Burma/Myanmar).</li> </ul>	<ul style="list-style-type: none"> <li>• Report sections 4.10, 6.6, 6.17, 7.5, 7.8</li> </ul>

<p>67(a) Systematically collect data on food security and nutrition for children, including those relevant to breastfeeding, overweight and obesity, in order to identify root causes of child food insecurity and malnutrition; (b) Regularly monitor and assess effectiveness of policies and programmes on food security and nutrition of children, including school meal programmes and food banks, as well as programmes addressing infants and young children.</p> <p>A similar recommendation was made by ICESCR in its 2016 Concluding Observations (Recommendation 54).</p>	<ul style="list-style-type: none"> <li>• Report sections 6.4, 6.8, 6.21</li> </ul>
<p>67(c) Promote, protect and support breastfeeding in all policy areas where breastfeeding has an impact on child health, including obesity, certain non-communicable diseases, and mental health, and fully implement the International Code of Marketing of Breastmilk Substitutes.</p> <p>A similar recommendation was made by ICESCR in its 2016 Concluding Observations (Recommendation 54).</p>	<ul style="list-style-type: none"> <li>• Report section 6.4</li> </ul>
<p>69(a) Set out a clear legal commitment, with appropriate technical, human and financial resources, to scale up and expedite the implementation of plans to reduce air pollution levels, especially in areas near schools and residential areas; (b) Place children’s rights at the centre of national and international climate change adaptation and mitigation strategies, including through its new domestic climate strategy, as well as in the framework of its international climate change programmes and financial support.</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Place children’s rights at the centre of climate change adaptation and mitigation strategies by mainstreaming child-sensitive risk and vulnerability reduction strategies into the National Adaptation Programme (Recommendations 134.189 – Maldives).</li> <li>• Adopt a rights-based approach to its forthcoming Emissions Reduction Plan (Recommendation 134.126 – Maldives).</li> </ul>	<ul style="list-style-type: none"> <li>• Report section 6.26</li> </ul>

<p>71(a) Set up clear accountability mechanisms for the eradication of child poverty, including by re-establishing concrete targets with a set timeframe and measurable indicators, and continue regular monitoring and reporting on child poverty reduction in all parts of the State party; (b) Ensure clear focus on the child in the State party's poverty reduction strategies and action plans, including in the new "Life Chances Strategy", and support production and implementation of child poverty reduction strategies in devolved administrations; (c) Conduct a comprehensive assessment of the cumulative impact of the full range of social security and tax credit reforms introduced between 2010 and 2016 on children, including children with disabilities and children belonging to ethnic minority groups; (d) Where necessary, revise the mentioned reforms in order to fully respect the right of the child to have his or her best interests taken as a primary consideration, taking into account the different impact of the reform on different groups of children, particularly those in vulnerable situations.</p> <p>A similar recommendation was made by ICESCR in its 2016 Concluding Observations (Recommendation 48).</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Increase efforts to eliminate child poverty, including through a clear national strategy, and by undertaking an assessment of the impact of the welfare reform on children from disadvantaged families (Recommendations 134.163-164, 134.168, 134.191-192 – Nepal, Singapore, Syria, Hungary, Kazakhstan).</li> </ul>	<ul style="list-style-type: none"> <li>• Report section 6.20</li> </ul>
<p>71(e) Strictly implement the legal prohibition of prolonged placement of children in temporary accommodation by public authorities in England, Wales and Scotland, and enact similar legislation in Northern Ireland; (f) Take necessary measures to reduce homelessness and to progressively guarantee all children stable access to adequate housing which provides physical safety, adequate space, protection against the threats to health and structural hazards, including cold, damp, heat and pollution, and accessibility for children with disabilities.</p> <p>A similar recommendation was made by ICESCR in its 2016 Concluding Observations (Recommendation 50).</p>	<ul style="list-style-type: none"> <li>• Report sections 6.23-6.24</li> </ul>
<p>71(g) In Scotland, introduce a statutory duty for local authorities to provide safe and adequate sites for Travellers, while ensuring meaningful participation of Roma, Gypsy and Traveller communities, including children, in planning and decision-making processes.</p> <p>Similar recommendations were by CERD in its 2016 Concluding Observations (Recommendation 25) and CEDAW in its 2013 Concluding Observations (Recommendation 61).</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Develop a general strategy (in consultation with communities and with collaboration between State and devolved governments) to ensure a systematic and coherent approach to addressing problems faced by Gypsy/Travellers and Roma, including discrimination and stigmatisation (Recommendation 134.89-92 – Guatemala, Indonesia, Venezuela, Lebanon).</li> </ul>	<ul style="list-style-type: none"> <li>• Report sections 2.3, 6.25</li> </ul>

<b>EDUCATION, LEISURE AND CULTURAL ACTIVITIES</b>	
<p>73(a) Enhance its efforts to reduce the effects of the social background or disabilities of children on their achievement in school and to guarantee the right of all children to a truly inclusive education in all parts of the State party.</p> <p>Recommendations focused on inclusive education and/or attainment with reference to social background and disabilities were made by ICESCR in its 2016 Concluding Observations (Recommendation 64) and CRPD in its 2017 Concluding Observations (Recommendation 53).</p>	<ul style="list-style-type: none"> <li>• Report section 7.4</li> </ul>
<p>73(b) Use the disciplinary measure of permanent or temporary exclusion as a means of last resort only, forbid and abolish the practice of “informal” exclusions, and further reduce the number of exclusions by working closely with social workers and educational psychologists in school and using mediation and restorative justice; (c) Ensure that children have the right to appeal against their exclusion, and are provided with legal advice, assistance and, where appropriate, representation for those without means;(d) Abolish the use of isolation rooms.</p>	<ul style="list-style-type: none"> <li>• Report sections 4.15, 7.6</li> </ul>
<p>73(f) Allocate sufficient human, technical and financial resources for the development and expansion of early childhood care and education, based on a comprehensive and holistic policy of early childhood development, with special attention to the children in the most vulnerable situations.</p>	<ul style="list-style-type: none"> <li>• Report section 7.9</li> </ul>
<p>73(g) Make children’s rights education mandatory.</p> <p>A similar recommendation was made by CERD in its 2016 Concluding Observations (Recommendation 35(c)).</p>	<ul style="list-style-type: none"> <li>• Report section 7.8</li> </ul>
<p>75(a) Strengthen its efforts to guarantee the right of the child to rest and leisure and to engage in play and recreational activities appropriate to the age of the child, including by adopting and implementing play and leisure policies with sufficient and sustainable resources; (b) Provide children, including those with disabilities and children in marginalized and disadvantaged situations, with safe, accessible, inclusive and smoking-free spaces for play and socialization and public transportation to access such spaces;(c) Fully involve children in planning, designing and monitoring the implementation of play policies and activities relevant to play and leisure, at community, local and national levels.</p>	<ul style="list-style-type: none"> <li>• Report sections 7.11, 7.17-7.19</li> </ul>

## SPECIAL PROTECTIONS

77(a) Systematically collect and publish disaggregated data on the number of children seeking asylum, including those whose age is disputed; (b) Establish statutory independent guardians for all unaccompanied and separated children throughout the State party; (c) Conduct age assessments only in cases of serious doubt through multidisciplinary and transparent procedures taking into account all aspects, including the psychological and environmental aspects of the person under assessment; (d) Cease the detention of asylum-seeking and migrant children; (e) Review its asylum policy in order to facilitate family reunion for unaccompanied and separated refugee children within and outside of the State party, including through implementation of the EU Dublin III regulation; (f) Provide sufficient support to migrant, refugee and asylum-seeking children to access basic services; (g) Review the Immigration Act (2016) in order to ensure its compatibility with the Convention; (h) Ensure that children are returned only where there are adequate safeguards, including a formal best interests determination, effective family tracing that includes individual risk and security assessments, and appropriate reception and care arrangements.

Similar recommendations (cessation of detention) were made by CERD in its 2016 Concluding Observations (Recommendation 39), and (children's access to services) by ICESCR in its 2016 Concluding Observations (Recommendation 56) and CERD in its 2016 Concluding Observations (Recommendation 39).

The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:

- Introduce a statutory time limit on immigration detention, seek alternatives to detention, and ensure that detention is not used in the case of vulnerable individuals or groups, for example children (Recommendations 134.82, 134.215, 134.217-219 – Iran, Brazil, Germany, Mexico, Bangladesh).
- Review the 2016 Immigration Act in order to ensure its compatibility with the Convention on the Rights of the Child (Recommendation 134.190, 134.213, 134.221 – Syria, Honduras, Indonesia).
- Establish family reunification mechanisms for unaccompanied asylum seeking children, and for children relocated to the UK or who have been recognised as refugees; and reduce the minimum age for family reunion from 21 to 18 (Recommendations 134.222-223 – Honduras, Argentina).
- Effectively guarantee the rights of refugees and migrants and review the policy of “safe return reviews” for refugees (Recommendations 134.121, 134.214 – China, Lebanon).
- Develop inclusive social integration policies towards, and improve conditions for, migrants and refugees (Recommendations 134.99, 134.214, 134.216 – Guatemala, Lebanon, Morocco).

- Report sections 4.7-4.8, 8.13.

<p>79(a) Raise the minimum age of criminal responsibility in accordance with acceptable international standards.</p> <p>A similar recommendation was made by ICCPR in its 2015 Concluding Observations (Recommendation 23(a)) and UNCAT in its 2013 Concluding Observations (Recommendation 27).</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>Review and raise the minimum age of criminal responsibility in accordance with acceptable international standards (Recommendations 134.205-208 – Albania, Peru, Belarus, Bulgaria).</li> </ul>	<ul style="list-style-type: none"> <li>Report section 8.2</li> </ul>
<p>79(b) Ensure that children in conflict with the law are always dealt with within the juvenile justice system up to the age of 18, and that diversion measures do not appear in children’s criminal records;</p> <p>79(c) Abolish the mandatory imposition of life imprisonment for children for offences committed while they are under the age of 18;</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>Consider abolishing mandatory life imprisonment for offences committed by children when under the age of 18 (Recommendations 134.203-205 – Paraguay, Greece, Albania).</li> </ul>	<ul style="list-style-type: none"> <li>Report sections 8.1-8.6</li> <li>Report section 8.6</li> </ul>
<p>79(d) Establish the statutory principle that detention should be used as a measure of last resort and for the shortest possible period of time and ensure that detention is not used discriminatorily against certain groups of children; (e) Ensure that child detainees are separated from adults in all detention settings; (f) Immediately remove all children from solitary confinement, prohibit the use of solitary confinement in all circumstances, and regularly inspect the use of segregation and isolation in child detention facilities.</p> <p>A similar recommendation was made by ICCPR in its 2015 Concluding Observations (Recommendation 23(b)).</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>Take concrete measures to reduce the current and future prison population, as well as to improve prisoner safety (Recommendation 134.158 – Serbia).</li> </ul>	<ul style="list-style-type: none"> <li>Report sections 8.6-8.9</li> </ul>
<p>81 Introduce, as a standard, video-recording of the interview with a child victim or witness during investigation and allow the video-recorded interview as evidence in court.</p>	<ul style="list-style-type: none"> <li>Report section 8.11</li> </ul>

<p>83(a) Ensure that all children up to 18 years of age are protected from all types of offence covered by the Optional Protocol on the sale of children, child prostitution and child pornography and that domestic legislation throughout the State party, including in its devolved administrations, enables it to establish and exercise extraterritorial jurisdiction, without the dual criminality criterion, over all the offences covered by the Optional Protocol; (b) Strengthen the National Referral Mechanism for identifying trafficked and exploited children which is embedded in existing child protection procedures; (c) Establish mechanisms and procedures to protect the rights of child victims of offences covered by the Optional Protocol, including establishing a clear obligation of non-prosecution, and ensure that they are treated as victims rather than criminals by the law enforcement and judicial authorities; (d) Operationalize the provision of a competent and statutory guardian during the criminal justice process; (e) Revise its legislation to ensure that all children up to 18 years of age are protected from all types of offence covered by the Optional Protocol.</p> <p>Similar recommendations were made by CEDAW in its 2013 Concluding Observations (Recommendations 39 and 55).</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Continue efforts to combat human trafficking, increasing protection and support for victims, particularly children, and ensuring proportionate punishment for perpetrators (Recommendations 134.140, 134.143-147 – Russia, Uganda, Lebanon, Australia, Bahrain, Morocco).</li> <li>• Adopt a comprehensive (victim-centred) national framework to prevent trafficking in women and girls (Recommendations 134.138-139, 134.142 – Iran, Philippines, Timor-Leste).</li> <li>• Strengthen the National Referral Mechanism to identify and assist victims of human trafficking (Recommendation 134.141 – Spain).</li> </ul>	<ul style="list-style-type: none"> <li>• Report sections 4.2, 4.7-4.8</li> <li>• The Sexual Offences (S) Act 2009 extends extra-territorial jurisdiction to the criminal offences covering this conduct. There is no requirement for dual criminality, when an offence is committed by a UK national.</li> </ul>
<p>85(a) Consider reviewing its position and raise the minimum age for recruitment into the armed forces to 18 years in order to promote the protection of children through an overall higher legal standard; (b) Reconsider its active policy of recruitment of children into the armed forces and ensure that recruitment practices do not actively target persons under the age of 18 and ensure that military recruiters' access to school be strictly limited; (c) In recruiting persons under the age of 18, strengthen its safeguards required by Article 3 of the Optional Protocol, in order to ensure that the recruitment is genuinely voluntary, and based on fully informed consent of the recruit as well as their parents and legal guardians, and ensure that recruitment does not have discriminatory impact on children of ethnic minorities and low-income families; (d) Ensure that the minimum period of service applied to children who enlist into the army is no longer than that applied to adult recruits.</p> <p>The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Withdraw the interpretative declaration to article 1 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and unconditionally forbid children from taking part in hostilities (Recommendation 134.22 – Czech Republic).</li> </ul>	<ul style="list-style-type: none"> <li>• The UK Government is responsible for recruitment to the armed forces.</li> </ul>

## MISCELLANEOUS - RATIFICATION AND COOPERATION

<p>88. Ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.</p> <p>A similar recommendation was made by ICCPR in its 2015 Concluding Observations (Recommendation 6). The third Universal Periodic Review of the UK in May 2017 resulted in recommendations to:</p> <ul style="list-style-type: none"> <li>• Ratify the third Optional Protocol to the Convention on the Rights of the Child (CRC) on a communications procedure (Recommendations 134.1, 134.7, 134.12, 134.17-21 – Mozambique, Portugal, Czech Republic, Slovakia, Georgia, Liechtenstein, Montenegro, Croatia).</li> </ul>	<ul style="list-style-type: none"> <li>• Report section v.</li> </ul>
<p>89. Ratify the core human rights instruments to which it is not yet a party</p> <p>Recommendations around ratifying all or some of the human rights instruments included in CRC Recommendation 89 were made in the UK's 2017 UPR, by ICESCR in its 2016 Concluding Observations (Recommendation 70) and CERD in its 2016 Concluding Observations (Recommendation 46).</p>	<ul style="list-style-type: none"> <li>• Under the Scotland Act 1998 the ratification of international instruments is a reserved matter. Neither the Scottish Government nor the Scottish Parliament currently have powers to ratify treaties.</li> </ul>
<p>90. Cooperate with the Council of Europe on the implementation of the Convention and other human rights instruments, both in the State party and in other Council of Europe member States.</p>	<ul style="list-style-type: none"> <li>• The Scottish Government fully supports the role of the Council of Europe in promoting human rights throughout Europe and beyond.</li> </ul>











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