



Karen Adam MSP
Convener
Equalities, Human Rights and Civil Justice Committee
The Scottish Parliament
Edinburgh

Monday 27th October 2025

Dear Convener

Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill

Thank you once again for the opportunity to give evidence to the Committee on the Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill. Together (Scottish Alliance for Children's Rights) welcomed the chance to set out how the Bill could be strengthened to ensure it complies with and gives further effect to children's rights in line with the UN Convention on the Rights of the Child (UNCRC).

We also welcome the Cabinet Secretary's engagement through her letter of 21 October. We continue to support the intention behind the Bill and believe it offers an important opportunity to take practical steps towards stronger protection of children's rights. Whilst amendments will be necessary to bring the Bill fully in line with Scotland's obligations to respect, protect and fulfil children's rights, we recognise the limited time remaining in this parliamentary session, and that it may be some years before another legislative opportunity arises.

As such, we urge the Committee to agree the Bill at Stage 1, in principle, to enable consideration of the necessary amendments at Stage 2 and secure immediate and meaningful progress for children's rights.

We have structured our comments below to address the two main areas of the Bill: Part 1, concerning children's participation in religious observance, and Part 2, which amends section 6 of the UNCRC (Incorporation) (Scotland) Act 2024.

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Scottish Charitable Incorporated Organisation (SCIO), Charity Reg No. SC029403

Part 1 -

First, the Bill continues to deny children an independent right to withdraw from RO, contrary to the UN Committee on the Rights of the Child's latest Concluding Observations, which call for governments to ensure the right of all children, including those under 16, to withdraw from religious observance without parental consent. The Cabinet Secretary's letter suggests that enabling a child to object to withdrawal, but not to initiate it, is compatible with the UNCRC. We respectfully disagree. This approach upholds the status quo in which respect for a child's rights is dependent on adult discretion, rather than recognising their evolving capacities under Articles 5 and 12.

Second, while the Cabinet Secretary acknowledges that RO and RME serve distinct purposes, this distinction remains blurred in the Bill itself. The conflation of the two has long caused confusion in policy and practice, risking inconsistency in how rights are realised in schools. We welcome the Cabinet Secretary's commitment to provide statutory guidance on the withdrawal process but reiterate that without clear legislative separation – protecting RME as a core curricular entitlement while ensuring RO remains voluntary – children's rights to education (Article 29) and to freedom of thought, conscience and religion (Article 14) may not be fully realised. The proposed statutory guidance must clearly distinguish between RO and RME and be accompanied by child-friendly information to support children and young people in their decision-making.

Third, the decision to insert new provisions into the Education (Scotland) Act 1980 places Part 1 of the Bill outwith the scope of the UNCRC (Incorporation) (Scotland) Act 2024. This means children will have no direct route to challenge breaches of their rights in relation these new provisions. While we welcome the Scottish Government's intention to try to work with the UK Government to address legislative barriers in the longer term, this does not remove the immediate gap nor guarantee future protections.

To ensure Part 1 of the Bill upholds children's rights and provides clarity for schools, parents and children alike, we would like to reiterate the need for the following amendments at Stage 2:

- **Independent right of withdrawal:** The Bill must be amended to ensure that children and young people have the independent right to withdraw from religious observance.
- **End the conflation of RME and RO:** The Bill should be amended in a way that protects RME as core curricular learning. Statutory guidance must clearly distinguish between RME and RO.
- **Bring within scope of UNCRC (Incorporation) (Scotland) Act 2024:** The Bill must be amended so that the provisions on children's involvement in decisions about withdrawal from religious observance are re-enacted as stand-alone sections within this Bill, rather than as amendments to the Education (Scotland) Act 1980.

Taken together, these changes would ensure Part 1 of the Bill fully aligns with the UNCRC and provides clarity for schools, parents and children alike.

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Part 2 -

Part 2 of the Bill raises a distinct set of issues, focusing on how the UNCRC (Incorporation) (Scotland) Act 2024 operates in practice. The following comments build on our earlier written and oral evidence and respond to the Cabinet Secretary's letter of 21 October.

We continue to broadly understand the Scottish Government's rationale for the Part 2 amendment to section 6 of the 2024 Act. In our earlier evidence, we recommended that the Committee take every opportunity to strengthen the Act so that incompatibilities can be identified and addressed, and babies, children and young people can access justice, remedy and redress – including through a clear, enforceable mechanism for reporting and acting on UNCRC incompatibilities, with progress transparently reported through the Children's Rights Scheme. We therefore welcome the Cabinet Secretary's commitment to strengthen notification through statutory guidance and the Scheme.

However, we remain concerned that Part 2 as currently drafted does not yet provide sufficient transparency, accountability or access to remedy. For that reason, we support the additional safeguards proposed by the Children and Young People's Commissioner Scotland (CYPCS):

- **Extend incompatibility declarators:** Declarators should apply to both pre- and post-commencement Acts of the Scottish Parliament. This change is critical to ensure children's rights are protected irrespective of when legislation was passed. It would mirror the approach under the Human Rights Act 1998, under which incompatibility declarators can apply to all Acts, while also maintaining the UNCRC Act's existing power to strike down pre-commencement legislation.
- **Empower a wider range of courts and tribunals to issue declarators:** Wider courts and tribunals dealing directly with children should be empowered to issue incompatibility declarators to allow breaches to be identified and remedied at the level where they most often arise.
- **Introduce a statutory reporting duty:** Public authorities should be legally required to notify both the Scottish Government and the CYPCS when they become aware that legislation obliges them to act incompatibly with UNCRC requirements. This would give practical effect to Ministers' duty under the 2024 Act to identify and address rights risks and would prevent incompatibilities remaining hidden.
- **Strengthen ministerial duties:** Ministers should be required to report to Parliament within three months of a declarator, assess the impact of the breach on children, and provide that assessment to the court, the affected child and the CYPCS, with a child-friendly version published.

We also repeat our view stated in oral evidence that sufficient scrutiny must be given to Part 2 of the Bill, which may bring to light further amendments or adjustments required to maintain the integrity of the UNCRC Act and protect children's access to justice.

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We would like reiterate that Together understands the principle of the Part 2 amendment but believes additional safeguards are essential to uphold the proactive accountability envisaged by the UNCRC Act. They would ensure that incompatibilities in legislation – past and future – can be identified and addressed swiftly, and that babies, children and young people can see their rights realised in law and in practice, in line with the cross-party commitment to the UNCRC demonstrated through the passage of the 2024 Act.

In summary, Together supports the Bill's overall purpose and urges the Committee to agree it at Stage 1 in principle, so that the necessary amendments can be developed and considered at Stage 2. With these improvements, the Bill could deliver real progress in embedding the UNCRC across law, policy and practice in Scotland.

I hope this additional information will prove useful to your committee as discussions on the Bill continue. If you would like to discuss any of the issues we have raised, please let me know.

Yours sincerely

Juliet Harris
Director
Together (Scottish Alliance for Children's Rights)

The views expressed in this submission are based on wide consultation with our members but may not necessarily reflect the specific views of every one of our member organisations. Views expressed separately should also be taken into account.