

Education, Children and Young People Committee
Wednesday 2 April 2025
12th Meeting, 2025 (Session 6)

Children and Young People's Commissioner Scotland

Introduction

1. The Children and Young People's Commissioner Scotland is one of the seven officeholders appointed and supported by the Scottish Parliamentary Corporate Body (SPCB).
2. While the SPCB is responsible for funding officeholders, they all have operational independence in carrying out their functions.
3. The SPCB has a governance role for officeholders, covering areas including setting the terms of appointment of the officeholder, agreeing staff terms and conditions proposed by an officeholder, office location and approval of an annual budget. The SPCB makes provision for personal accountability through annual evaluations and it scrutinises officeholders in relation to their financial accountability.
4. Scottish Parliamentary committees hold officeholders to account, in the exercise of their functions, on the Parliament's behalf. Committee scrutiny work focuses on how officeholders are carrying out their functions at a high level; it is not intended to review, direct or control specific decisions or actions, but rather to look at how they set their priorities or measure their impact. Committees do not have a governance role in respect of officeholders, although they may consider governance arrangements as part of their scrutiny work.
5. The Education, Children and Young People Committee is responsible for looking at the work of the Children and Young People's Commissioner Scotland.

Strategic Report 2024-28

6. In April 2024, the Children and Young People's Commissioner Scotland laid its new strategic plan for 2024-28. The Committee took evidence on that plan at its meeting on [17 April 2024](#).
7. At its meeting on 2 April 2025, the Committee will focus on the progress being made against the aims and objectives of plan and will seek an update on the Commissioner's current work.
8. The Committee will take evidence from the Commissioner and officials:
 - Nicola Killean, Commissioner
 - Gina Wilson, Head of Strategy
 - Nick Hobbs, Head of Advice and Investigations

Supporting information

9. SPICe has produced a briefing for this session which is included at **Annexe A**.
10. The Commissioner has provided a written submission for this session. This has been included at **Annexe B**.

Committee Clerks
March 2025

Annexe A

SPICe

The Information Centre
An t-Ionad Fiosrachaidh

Education, Children and Young People Committee

2 April 2025

The Children and Young People's Commissioner Scotland

Introduction

The Committee has agreed to hold a session with the Children and Young People's Commissioner Scotland, Nicola Killean. This session is intended to around the work of the Commissioner and her office generally and follows on from a similar session the Committee held [on 17 April 2024 on the Commissioner's Strategic Plan 2024-28](#).

In advance of the session, the Commissioner's office provided a useful written submission which sets out its activities and priorities over the past year. This paper will not repeat that information. It is also worth noting that the Commissioner expects to publish a range of reports shortly, including a report on education reform due to be published on 31 March.

Scrutiny of Officeholders

The Children and Young People's Commissioner Scotland is an officeholder directly accountable to the Scottish Parliament. In January 2023, the SPCB and Conveners Group signed a Written Agreement which noted the importance of committee scrutiny for public accountability of officeholders. Officeholders have operational independence in carrying out their functions.

[The Finance and Public Administration Committee undertook an inquiry into 'Scotland's Commissioner Landscape'](#) and reported in September 2024.

This concluded that the approach to the creation of SPCB supported officeholders has led to a "disjointed landscape comprised of a collection of individual bodies, with varying functions and powers". The Committee recommended a moratorium on the creation of new similar bodies and for a "root and branch review" to take place.

A recommendation directed at officeholders said:

“SPCB supported bodies are invited to set out more clearly in their annual reports how they have fulfilled the functions included in their enabling legislation and what specific outcomes they have delivered, to support more effective scrutiny of their performance by committees.”

A recommendation directed at relevant committees said:

“In addition to annual evidence sessions, [we ask relevant committees] to undertake more detailed scrutiny of the performance of supported bodies once a session, wherever possible.”

The Scottish Parliament held a debate on FPAC’s report on [31 October 2024](#). Following that debate, Parliament agreed a motion that included agreeing that Parliament establish a new committee to undertake the “root and branch review”.

The [SPCB Supported Bodies Landscape Review Committee was established](#) in December 2024. Its first meeting was on 27 March 2025.

Role, strategy and budget

Statutory roles

The Children and Young People's Commissioner Scotland was established by the [Commissioner for Children and Young People \(Scotland\) Act 2003](#). Its statutory functions are:

- to promote and safeguard the rights of children and young people, which may include: promoting the awareness and understanding of the rights of children and young people; considering law, policy and practice; promoting best practice; and undertaking/commissioning research.
- to encourage the involvement of children and young people in the work of the Commissioner
- to carry out investigations into service providers’ approach to supporting rights, interests and views of children and young people – this can either be a general investigation or about a specific child or young person. The Commissioner may only carry out an investigation if the investigation would not duplicate work that is properly the function of another person.

In carrying out their functions the Commissioner must have regard to the UNCRC. The CYPCS is recognised as an Independent Children’s Rights Institution by the UN.

United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 provided the Commissioner with a power to bring or intervene in legal proceedings in relation to compliance with that Act.

Budget

Last year the Commissioner was reflecting on the new powers the UNCRC Act created and their potential impact on costs. She said—

“It was important for us to say that we will work hard as a team to cope with the allocation that we have. We are very conscious of the difficult financial climate that everyone is operating in, but we are talking about new powers that create opportunities for children and young people. As we develop a better understanding of what the future holds, we will approach the Scottish Parliamentary Corporate Body to find out whether there is an opportunity for more.” ([OR 17 April 2025, Col 22](#))

The table below sets out the budgets for the Commissioner for the past 4 years (including for 2025-26). The budget in 2025-26 will be £1.78m. This has increased by 20% since 2022-23. This increase is driven by staff costs.

| | Children and Young People's Commissioner Scotland Approved Budget £000s | | | |
|-----------------------------|---|--------------|--------------|--------------|
| | 2022-23 | 2023-24 | 2024-25 | 2025-26 |
| <u>Revenue</u> | | | | |
| Staff Costs | 1,066 | 1,135 | 1,333 | 1,407 |
| Staff Related/General Costs | 66 | 67 | 64 | 51 |
| Property Costs | 0 | 0 | 0 | 0 |
| Professional Fees | 34 | 36 | 44 | 47 |
| Running Costs | 289 | 293 | 241 | 253 |
| <u>Capital</u> | 2 | 5 | 5 | 5 |
| Total | 1,457 | 1,536 | 1,687 | 1,763 |

2024-28 Plan

[The Children and Young People's Commissioner Scotland's Strategic Plan for 2024-2028](#) outlines the office's vision and priorities.

The strategic aims for this period are:

- **Leadership:** Children and young people will be meaningfully involved in decision-making and duty bearers held accountable for realising children's rights.
- **Protect:** Laws, policies and practice will fulfil children's rights, and where rights breaches happen children will have improved access to justice.
- **Promote:** An ambitious and positive culture of children's rights, where awareness and understanding of the UN Convention on the Rights of the Child contribute to improvements for children.

Under each of these aims were a number of objectives. There are clear links to the statutory duties of the Commissioner and these included:

- Under 'Leadership' the Commissioner said she would undertake research on how children are experiencing their rights in Scotland, and will hold duty bearers accountable for decision-making and delivery of commitments to children and young people.
- Under 'Protect', the Commissioner will use her legal powers to challenge systemic breaches of children's rights; and will collaborate with others to address deep-rooted challenges for children whose rights are most at risk.
- Under 'Promote', the Commissioner said that she would raise awareness and understanding of how to take a children's rights approach in decision-making and improving services; and engage with children and young people to improve their understanding of their rights.

The submission the Committee has received from the Commissioner's office goes into much more detail on all of the objectives in the plan and the progress in the past year.

The plan stated it would prioritise 3 issues: poverty, education, mental health. The plan said the Commissioner would also work on climate change and discrimination.

A key aspect of the plan was around children and young people's voices and opinions being heard. The Commissioner highlighted how children and young people had contributed to the development of the plan as well as prioritising children's right to express their opinion and public services listening to children and young people.

Session in 2024

The Committee explored the content of the plan with the Commissioner and two of her colleagues in an evidence session in April 2024.

The Commissioner stressed the collaborative efforts with children and young people in developing the plan and informing the work of her office more generally. She particularly highlighted the input of the Commissioner's Young Advisers; Gina Wilson Head of Strategy at the Commissioner's office said—

“At the moment we have 25 young advisers whom we ask to reflect constantly on how we are delivering our work. Are we meeting the objectives that we have set? How do they find working with us? We are, based on their feedback, constantly evolving how we work with them. Not everything works, so we respond to that and change our practice.” (OR 17 April 2025, Col 23)

Gina Wilson explained how the Young Advisers were recruited. She said that there was a mix of open recruitment and working with specific organisations to ensure that the group is “balanced and has as many different characteristics as possible so that we get a really broad range of experiences and views.” (Col 27)

The Commissioner also highlighted that she was reaching out to a wider group of children, for example through online assemblies.

The Commissioner said that her office was developing a training programme for the Young Advisers to allow them to follow their interests. The Commissioner said that the work of the Young Advisers tended to be led by the Young Advisers themselves and that the Commissioner at that point had not gone to them on “some of the really challenging current issues”. She said that children and young people could engage with issues where there are tensions in policy, budget allocations and where different groups’ rights are seen to be in conflict, but that this needs to be done in “age-appropriate ways and they have to be well supported”. (Col 12)

The Commissioner said that her office was interested in how “systematically children and young people are involved in decision making.” She highlighted work they had undertaken to understand best practice in local authorities in involving children and young people in deliberations on the budget. (Col 22) The Commissioner also said in the context of education provision—

“We will do a systematic review to find out where there are groups that can support young people to contribute really well and which young people are still not having their voices as well heard. We will work to build relationships and trust with those groups of young people. Based on how they would like to be involved, we will try to create a way in which they can have their voices heard.” (Cols 18-19)

In relation to the implementation of the UNCRC Bill, Gina Wilson noted that the Commissioner’s office sits on the Scottish Government’s strategic implementation board and were reviewing the suite of guidance for the public sector (which has now been published). Nick Hobbs, Head of Advice and Investigations, highlighted work developing a framework for strategic litigation where it might be seen to be necessary. He explained—

“The cases that we want to take are the ones that will have the most impact—that is, those that offer the opportunity to change the law, to establish precedents and to address issues where there are systemic rights breaches that affect large numbers of children or perhaps a smaller group of children in a really fundamental way. That is why we have taken that step of developing the decision-making framework, so that all the decisions that we make are very clear, transparent, accountable and grounded in children’s human rights standards.” (Cols 8-9)

A key part of the plan will be to hold duty bearers accountable for decision-making and delivery of commitments to children and young people. The Commission elaborated and said—

“The first piece of work in which we will look at an accountability tracker is on mental health. I will explain this a little bit more. If I use the Scottish Government as an example, as a duty bearer the Government will make recommendations and commitments. Sometimes, those commitments will result in additional reports and action groups being set up. There will be minutes of those groups and actions for them. Sometimes, when you are trying to follow the thread of when a commitment was made to children and young people and what has happened with it, it can become very complex to track all the different ways in which that is being done and who is responsible for that.” (Col 10)

The Commissioner highlighted a gap between policy intention and legislation and implementation. She said—

“We still struggle—not just in relation to the Promise but across many areas of children’s services—to systematically embed good examples and pilots throughout our services. That is why our strategic plan is really interested in implementation. We have lots of good legislation, including emerging legislation, and we have great policies, but how does that convert into a reality for children and young people on the ground?” (Col 17)

Gina Wilson also spoke about how the effectiveness of the plan would be monitored. In terms of legislation, she said that success is measured by “the degree to which we were able to influence legislative change”. She also said that success would be measured on how the Commissioner’s work is viewed and influences a variety of external parties: children and young people, internationally and professionals and decision makers in the public sector. (Col 23)

**Ned Sharratt, Senior Researcher (Education, Culture), SPICe Research
27 March 2025**

Note: Committee briefing papers are provided by SPICe for the use of Scottish Parliament committees and clerking staff. They provide focused information or respond to specific questions or areas of interest to committees and are not intended to offer comprehensive coverage of a subject area.

The Scottish Parliament, Edinburgh, EH99 1SP www.parliament.scot

Annexe B

Education, Children and Young People Committee Children and Young People's Commissioner Scotland annual session 24 March 2025

Established by the Commissioner for Children and Young People (Scotland) Act 2003, the Commissioner is responsible for promoting and safeguarding the rights of all children and young people in Scotland under 18, and young people up to 21 who are care experienced. The Commissioner must pay particular attention to the United Nations Convention on the Rights of the Child (UNCRC).

The Commissioner has broad powers and functions:

- promote awareness and understanding of children's rights
- keep under review law, policy and practice relating to the rights of children and young people with a view to assessing its adequacy and effectiveness
- undertake research on matters relating to children's rights and promote best practice by service providers
- carry out investigations into the extent a service provider has regard to children's rights
- power to intervene in legal proceedings or to bring proceedings in our own name on a range of different children's rights issues
- consult children and young people on the work we do and pay special attention to groups of children and young people who have difficulty in making their views and experiences known

Introduction

This paper has been provided to support the Scottish Parliament's Education, Children and Young People Committee to scrutinise the progress of the Children and Young People's Commissioner Scotland (CYPCS) against our Strategic Plan 2024-28¹.

Our Strategic Plan is supported by a two-year Delivery Plan 2024-26. We have yet to complete the first financial year of our Delivery Plan; we will produce our annual report for 2024-25 in the coming months.

This report is structured to provide evidence and examples of progress towards all objectives, against each of our three strategic aims.

¹ CYPCS, 2024. *Our Plan 2024-28*. <https://www.cypcs.org.uk/resources/our-plan-2024-28/>

Our Strategic Aims and Objectives for 2024-28 Year 1, 2024-25

Leadership

***Aim:** Children and young people will be meaningfully involved in decision-making and duty bearers held accountable for realising children's rights.*

Objective: Undertake action research with children and young people to make visible to decision-makers how children are experiencing their rights in Scotland.

What we've been doing

We have been undertaking action **research with children and young people on education reform** to help us understand what the challenges and possible solutions are within the current education system. This is an ongoing piece of work involving children and young people in mainstream schools, in additional support units, and in alternative education.

To ensure we hear the views and experiences of children and young people outside of mainstream schools we have been working with partner organisations, the Cottage (Interrupted Learners Service, Falkirk), FARE (Youth Group in Easterhouse) and RUTS (Rural and Urban Training Scheme, Midlothian). This has enabled us to undertake research sessions with young people they support, hearing from children and young people in situations of vulnerability or furthest from having their rights met.

Our Young Advisors have helped the Commissioner and staff to design and deliver research sessions in schools and have produced a film that describes the methodology.² Our initial research sessions took place Dundee, we are currently visiting schools in Glasgow, and we are planning sessions in Moray next.

What we've found out

Insights from children and young people who have participated in the research sessions to date have been analysed, alongside the data gathered from the strategic plan consultation work, helping us to identify consistent themes that fall into the following five categories:

1. Culture – how does school makes us feel?
2. Curriculum – what we get to experience and learn
3. Personalisation and support – how am I supported to learn in ways that work for me
4. Assessment and qualifications – how do I understand and show all my skills and achievements
5. Purpose – what is school for?

² <https://www.cypcs.org.uk/news-and-stories/new-film-showcases-young-advisors-work-to-improve-education-in-scotland/>

Recommendations for decision-makers

We are publishing a detailed report with recommendations on 31st March 2025.

Objective: Champion and challenge leaders to improve national and local practice which involves children and young people in decision-making and reform.

What we've been doing

Our recommendations report for **education reform** (publishing 31st March 2025) contains actions for key duty-bearers to support and provide meaningful participation opportunities for children and young people throughout the education system.

We have been scrutinising and challenging current education agency reform work to ensure children and young people are included in shaping proposals and changes. We have provided written and in person evidence on the Education Bill, as well as ongoing meetings with MSPs and the Bill team to discuss options to amend and further strengthen the Bill. We detail more on this against objective 3.1.

Over the last year, the Commissioner has been undertaking high-level meetings with senior education officials across the key education agencies, to understand barriers and to champion change to the education system now. Where promising practices have been emerging (including the exploration of increased involvement of children in inspections), we have been offering support or sharing the example.³

As a champion for children's rights, the Commissioner has been consistently proactive in communicating children's need for system-wide educational reform.⁴ One of our key messages is that children and young people must be meaningfully involved in any decisions about education reform. Our Young Advisor Grace powerfully makes the point:

“Especially vulnerable children and young people, if they are not in the room and they can't help decide what's going on, then they are more likely to be left behind in policy and decision-making.”

We have also been clear that the recommendations from independent education reviews led by Professors Ken Muir, Louise Hayward and Angela Morgan should be implemented.

We have been meeting with key senior officials in the Tackling **Child Poverty** and Social Justice Directorate. We share our expectations that children and young people will be directly involved in the development and ongoing monitoring of the forthcoming tackling child poverty delivery plan.

³ Video of good practice case study will be released before the end of March 2025.

⁴ CYPCS, 2024. *Commissioner: Children are being let down by education system*

<https://www.cypcs.org.uk/news-and-stories/commissioner-children-are-being-let-down-by-education-system/>

What we've found out

We are continuing to see decisions being taken on education reform with little involvement of children and young people and minimal consideration of their human rights.

Recommendations for decision-makers

Children and young people must be supported to meaningfully participate in the education improvement and reform process at local, regional and national level.

We ask that when proposals for reform come before you, you interrogate whether and in what way children's views have been considered. Pay particular attention to whether there is evidence that children who are furthest from enjoying their rights have been included.

Objective: Hold duty bearers accountable for decision-making and delivery of commitments to children and young people.

What we've been doing

We believe that one way we can do this is to track major recommendations for improvements to law, policy and practice for children to find out what key duty bearers have agreed to, measuring their actions or delivery against this. For this year, we have **focussed on mental health**.

We have been working jointly with SAMH and Young Scot to track the implementation of recommendations from the 2019 Youth Commission on Mental Health⁵. The Commission was a group of young people aged 15-25 who developed recommendations and actions to improve the experiences of young people when accessing mental health services in Scotland.

The nine recommendations selected for review are:

1. Waiting times for CAMHS
2. Community support
3. Whole school approach
4. Support in further and higher education
5. Person-centred approach – transitions
6. Young people at the centre of decisions
7. Mental health training
8. Funding levels; and
9. Funding monitoring

For each recommendation we have tracked the Scottish Government response, commitment/plan/activities undertaken and outcomes.

⁵ Young Scot, 2019. *Youth Commission on Mental Health Services Report*.

https://static1.squarespace.com/static/5cee5bd0687a1500015b5a9f/t/5d5bff2d3e4b3a0001235a5c/1566310232664/YS_Youth_Commission_Mental_Health_FINAL.pdf

What we've found out

Our review of the implementation of the Youth Commission's recommendations will be finished at the end of March 2025, and we will publish what we found out in Spring 2025.

The findings from the review will provide us with the data to establish an accountability tracker for mental health that we and others can use to hold duty bearers to account.

Tracking the progress of duty bearers in their delivery of actions and commitments to children and young people is more complex than it should be. Outcomes will always be harder to attribute, but actions and allocated budget provide one means of tracking progress.

Recommendations for decision-makers

When recommendations are accepted by duty bearers, it should be possible to track actions and budget used to deliver them over the relevant period. Responses from duty bearers to recommendations should be specific; using phrases such as 'commit to consider' make it challenging to track progress and limit transparency.

Objective: Highlight barriers and gaps in knowledge, resources, or ways of working which affect the realisation of children's rights.

What we've been doing

We **responded to the UN Committee on the Rights of the Child's** consultation on a proposed new General Comment on advancing children's rights to access to justice and effective remedies⁶.

The overall objective of the General Comment is to provide authoritative guidance to States to help them create justice systems that are inclusive, child-friendly and effective. In doing so the General Comment aims to identify the practical, legal, social and cultural barriers that hinder children from accessing justice and provide clear guidance to States on actions needed to ensure an effective remedy. To assist the UN Committee as it prepares its new General Comment we provided an outline of key issues around access to justice in Scotland, together with a selection of illustrative case studies. Our work on General Comment 27 will also inform our response to the Equality, Human Rights and Civil Justice Committee's inquiry into civil legal aid.

Our Young Advisors also submitted a response to the children and young people's consultation, focussing on complaints processes in education.⁷ They thought that children should be able to make complaints, but their experiences were that there was seldom any response to complaints unless adults got involved. None of them were sure that they would even receive a response to a complaint.

⁶ CYPCS, 2024. *General Comment 27 on Children's Rights to Access to Justice and Effective Remedies*. <https://www.cypcs.org.uk/resources/gc27-aug-24/>

⁷ CYPCS, 2024. *Draft General Comment 27 on Children's Rights to Access to Justice and Effective Remedies – YAG response*. <https://www.cypcs.org.uk/resources/gc27-yag-dce24/>

Our work on education reform has reinforced the need for the Scottish Government and education authorities to look holistically and in depth at the resources required to deliver an **inclusive education system** that meets the needs of all children and young people, particularly those with additional support needs.

We have prepared an evidence paper for the **UK Government's Child Poverty Taskforce**⁸. It highlights the views of children and young people in Scotland, sharing the voices of those experiencing poverty. The views and experiences included in this paper come from a wide range of sources and organisations, including work by the Children and Young People's Commissioner Scotland. We are sharing this paper with the Scottish Government as part of the call for evidence to develop the next tackling child poverty delivery plan.

What've found out

It is not yet clear when the UK Government intends to publish their child poverty strategy, nor what impact their decisions will have on the development of the Scottish Government's next Tackling Children Poverty Delivery Plan.

Recommendations for decision-makers

Local authorities should ensure that children have access to child friendly complaint processes in schools and that all complaints from children receive a response.

Scottish Government must use the forthcoming child poverty delivery plan to address gaps in the current plan. They must involve children and young people and ensure that all groups of children who experience poverty (beyond the priority families) are covered by measures in the plan.

Objective: Commit to continuous improvement to maximise impact and keep under review resource requirements to fulfil statutory duties and use of powers.

What we've been doing

Children and young people must be central to determining whether we have delivered our work well. To help us continually improve the way we measure, describe and share evidence of our impact, our Young Advisors are working with us to develop an **Impact Framework** with indicators against each of our statutory functions. We intend to pilot this child-friendly Impact Framework later this year; we hope that it will support parliament's scrutiny of our work against meaningful criteria determined by children and young people.

This year we have completed two **internal audits**, one on legal procurement, and the other on our compliance with the UK GDPR (General Data Protection Regulation). This has provided us with an independent objective assessment of the systems and processes we have in place to ensure we are meeting key elements of good governance.

As we prepared to **utilise our new legal powers** we did not seek additional resource through the UNCRC (Incorporation) (Scotland) Act 2024 Act's Financial

⁸ Available on our website after 28 March 2025.

Memorandum, as it was not clear at that stage what the scope and scale of UNCRC Act litigation would be. Instead, we reprioritised our existing resource to deliver the function. There are a number of ways in which we are seeking to make the most effective use of our available resources.

- Cases are managed internally wherever possible, seeking counsel's advice and representation only when necessary
- Fees are negotiated on a capped basis wherever possible, improving our ability to plan and budget longer-term
- One of our legal officers will be supported to undertake the solicitor-advocate course, further limiting the need for us to instruct counsel

What we've found out

For our internal audit on legal procurement, we received a 'substantial level of assurance' over the controls and systems we have in place to ensure our compliance with internal policies and external regulations. We will be notified of our rating for our audit on GDPR compliance soon, our interim feedback is very positive.

Protect

***Aim:** Laws, policies and practice will fulfil children's rights, and where rights breaches happen children will have improved access to justice.*

Objective: Review and influence law, policy and practice in relation to children's rights, learning from and influencing international human rights mechanisms where it adds value.

What we've been doing

This year, we have **reviewed and monitored over 40 policy and legislative proposals** providing analysis of their impact on children's rights. To ensure effective use of resources, we have tracked and selected which proposals we will respond to against criteria (our strategic aims, objectives, priority issues and statutory functions).

An example is our response to the Scottish Government consultation to amend the legislation on religious observance in schools,⁹ an issue which children and young people continue to raise with us. In our response we explained that we do not think the current Scottish Government proposal represents significant progress towards UNCRC compliance, as the proposal does not empower children to make a decision on their participation in collective worship.

A further example is our evidence to the Scottish Parliament's Equality, Human Rights and Civil Justice Committee's inquiry into the Non-Implementation of Acts of the Scottish Parliament, with a focus on the Children (Scotland) Act 2020.¹⁰ This was a landmark piece of legislation, the development of which our office significantly

⁹ CYPCS, 2025. *Religious Observance in schools*. <https://www.cyPCS.org.uk/resources/religious-observance-in-schools/>

¹⁰ CYPCS, 2024. *Non-Implementation of Acts of the Scottish Parliament*.

<https://www.cyPCS.org.uk/resources/non-implementation-of-acts-of-the-scottish-parliament/>

contributed to. The Act represented a potential transformation of children's experiences of court hearings regarding child contact and residence disputes. Disappointed by the fact that much of the 2020 Act has not been commenced, we highlighted the importance of the un-commenced sections of the 2020 Act, which included the creation of a presumption that all children can express a view, as well as measures to increase the support children receive to participate.

Throughout our work to review and influence law, policy and practice we maintain a focus on how to **maximise the incorporation of the UNCRC**. This includes at a system level through feedback on the use of Children's Rights Impact Assessments, influencing the development of the Children's Scheme and by seeking a broad interpretation of what's in scope as a 'decision of a strategic nature'.

It is worth also noting the ongoing resource that the office is putting towards responding to the statutory requests for witness statements and evidence packs from the UK Covid Inquiry.

Our consultation responses and evidence to Parliament are published on our website at https://www.cypcs.org.uk/resource-category/consulation_response/

Objective: Use our legal powers to challenge systemic breaches of children's rights.

What we've been doing

The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 provides us with powers to **intervene in legal proceedings and to bring legal cases** in our own name.

To ensure effective delivery of our legal powers, we are committed to taking cases that are strategic in nature. We are not, and cannot be, legal representatives for individual children. There are broadly two types of cases we are actively pursuing:

1. Those which impact on the scope and interpretation of the Act, aimed at ensuring that we and others can use it to best effect.
2. Those which engage systemic priority issues, and which have the most potential for positive impact on rights, especially in relation to children whose rights are most at risk.

An example of the first type is the High Court's ruling in January 2025 that the Lord Advocate's power to prosecute children is within the scope of the UNCRC (Incorporation) (Scotland) Act 2024. The Commissioner considered it essential to exercise her statutory power to intervene in the case to defend the scope of the UNCRC Act and the intention of the Scottish Parliament and was successful in doing so.¹¹ The judgment means that all future decisions to prosecute children must meet the standards set out in the UNCRC Act and may be challenged in court if they fail to do so.

¹¹ CYPSC, 2025. *Future decisions to prosecute children must meet UNCRC Act standards*. <https://www.cypcs.org.uk/news-and-stories/future-decisions-to-prosecute-children-must-meet-uncrc-act-standards/>

An example of the second type includes our intervention in a case at the Court of Session to ensure that the rights of children are taken into account in eviction proceedings. Children threatened with homelessness/destitution are a group whose rights are particularly at risk. This case remains ongoing.

The **majority of potential cases are arising in the First Tier Tribunal Health and Education Chamber** (formerly the Additional Support Needs Tribunal). We have assessed eight cases concerning additional support for learning, intervening in four of these. In all four, the local authority has settled. While this is positive for the individual child, it has limited our opportunities to obtain the decisions we are seeking on issues such as part-time timetables, “in-school exclusions”, and minimum standards of education. We are considering alternative ways of using the legal arguments we have developed to empower individual children and their representatives to resolve these kinds of cases positively without the need for our direct involvement.

Of serious concern to us is data from the Scottish Police Authority (SPA) which shows that children in Scotland are more than twice as likely to **experience use of force by the police** than adults. We have therefore started an investigation to examine the lawfulness of the different practice into the use of force against children when they come into contact with the Police.¹²

Objective: Actively seek opportunities to collaborate with others to address deep-rooted challenges for children whose rights are most at risk.

What we’ve been doing

For many years, alongside families, campaigners and charities, we have demanded that the Scottish Government introduce legal protection for children on the use of physical **restraint and seclusion** in all situations where children are in the care of the State, including schools, mental health provision, residential and secure accommodation.

In February 2025 together with the Scottish Human Rights Commission, the Promise Scotland and the Equality and Human Rights Commission we wrote to several Cabinet Secretaries and Ministers calling on the Scottish Government to commit to a coherent statutory framework regulating the use of restraint and seclusion on children across all state and education settings.

1. We have worked on progressing the **rights of young footballers** for over a decade. In November 2024, alongside campaigning organisation RealGrassroots we filed complaints with the Competition and Markets Authority (CMA) challenging the Scottish Football Association (SFA) and Scottish Professional Football League (SPFL) rules that restrict youth players’ freedom to move between club academies.

¹² CYPCS, 2024. *Police use of force on children investigated by Children’s Commissioner* <https://www.cypcs.org.uk/news-and-stories/police-use-of-force-on-children-investigated-by-childrens-commissioner/> and *Terms of Reference: Investigation*. <https://www.cypcs.org.uk/resources/terms-of-reference-investigation/>

2. These rules violate UK competition law and amount to economic exploitation of children, which breaches their human rights. The current rules give child footballers less protection, and less control over their own lives, than adult professionals. The CMA is the only body with the authority and the legal powers to make the SFA and SPFL change the rules.

3. This long-running issue affecting children was first raised in a petition at the Scottish Parliament in 2010. The Parliament's Public Petitions Committee produced a report in 2020, making clear recommendations to remove the worst of the SFA and SPFL restrictions. However, despite assurances to the Commissioner's office, the SFA has not implemented those changes.

Recommendations for decision-makers

Our joint letter (14 February 2025) to the Scottish Government details our recommendations on restraint and seclusion.¹³

We have repeatedly supported the Public Petitions Committee recommendations on youth football and also expressed support for an independent regulator to ensure that children's rights are properly protected.¹⁴

Objective: Address discrimination throughout our activity on priority issues.

What we've been doing

We have commissioned two pieces of research where there are gaps in evidence to identify the experiences and challenges faced by groups of children and young people whose rights are most at risk within the education system.

To find out more about the prevalence of children and young people who have experienced **discrimination based on religion and belief** and gain insight into who is most affected we commissioned questions in Young Scot's latest Truth About Youth Survey (results being published 2nd April 2025).

Building on an informal session held with advocacy workers in November 2024, we commissioned Who Cares? Scotland research with young people and advocacy workers on **care experienced children's experiences in education**. This will be published in Spring 2025.

What we've found out

We have an interim report of the raw survey results to our questions on discrimination based on religion and belief. The responses (sample of 2590) from

¹³ CYPCS et al, 2025. *Letter to Cabinet Secretaries and Ministers*. <https://www.cypcs.org.uk/wp-content/uploads/2025/02/2025.02.14-Joint-letter-to-Scottish-Ministers-re-restraint.pdf>

¹⁴ CYPCS, 2024. *Children's Commissioner and football campaigners launch competition law complaints against SFA and SPFL*. <https://www.cypcs.org.uk/news-and-stories/childrens-commissioner-and-football-campaigners-launch-competition-law-complaints-against-sfa-and-spl/>

children and young people suggest that there is a particular issue with Islamophobia, and it is particularly being experienced in educational settings and online.

We have a draft report from Who Cares? Scotland, who are now working with care experienced children and young people to refine the recommendations.

Recommendations for decision-makers

Scottish Government should include a focus on discrimination based on religion and belief within its Ministerial Taskforce on Online Harms.

Promote

***Aim:** An ambitious and positive culture of children's rights, where awareness and understanding of the UN Convention on the Rights of the Child contribute to improvements for children.*

Objective: Raise awareness and understanding of how to take a children's rights approach in decision-making and improving services.

What we've been doing

We have been clear that children and young people must be involved in decision-making. Working with our Young Advisors, we are setting a high-level example to others of **how to actively involve young people** in decision-making.

Our written evidence to the Scottish Parliament's Education, Children and Young People Committee on the Education Bill¹⁵ included the views of our Young Advisors on the proposals to increase children's participation in the governance of Qualifications Scotland. They strongly supported the need for children and young people to be listened to and felt that this was not the case with the SQA. They were critical of the proposals for the Learner Interest Committee, particularly that it was possible that there would be no children on the Committee (and that the majority of people on the Committee would be adults). They also felt strongly that disabled children and those with ASN should be represented and that children and young people should be supported to participate.

In December 2024 the Committee published their report on the Bill.¹⁶ A number of recommendations from the Committee reflected our suggestions, particularly about ensuring children are represented in the new exams body. Regarding proposals for children's participation one of the Young Advisors recommendations was adopted by the Committee:

"The Committee acknowledges the suggestion from the CYPCS Young Advisors group that a similar model to their own be used by Qualifications

¹⁵ CYPCS, 2024. *Education (Scotland) Bill: Stage 1 evidence*. <https://www.cypcs.org.uk/wp-content/uploads/2024/10/Education-Bill-Aug-24-Final.pdf>

¹⁶ Scottish Parliament, 2024. *Education (Scotland) Bill - Stage 1 Report*. <https://bprcdn.parliament.scot/published/ECYP/2024/12/3/0162b5b0-cbbf-4c49-aae1-a332fa0252c7/ECYP062024R06.pdf>

Scotland, to allow young people to influence its work. The Committee asks the Scottish Government for its view on whether a quality engagement process, exemplified by the CYPCS Young Advisors and others, could be supported and resourced, including digital approaches to support inclusion and as wide a range of voices as possible, and if it could work alongside the learner interest committee.”

Our Young Advisor Robert wrote a blog calling for their recommendation to become a reality.¹⁷

“I’m pleased that we have been listened to and it’s amazing that our recommendation has been included. I hope the recommendation becomes reality in the future.”

What did we find out

UNCRC incorporation is leading to greater awareness amongst duty bearers of the need to involve children and young people and to explicitly consider their views. We can see evidence of this through the number of requests for advice and support we receive.

Recommendations for decision-makers

Duty bearers must continue to resource youth work and third sector organisations.

For participation to be meaningful, ongoing, and include children furthest from their rights, those skilled organisations and professionals who hold relationships with children and young people must be adequately resourced.

Objective: Create resources with children and young people that support a broad understanding of children’s rights and how they should be experienced.

What we’ve been doing

We’ve been working with children and young people to deliver **national online assemblies** to primary-aged children to raise awareness and understanding of their rights. The assemblies are run in partnership with e-Sgoil, Scotland’s online teaching and learning platform. Our assemblies are all BSL interpreted.

Our first assembly of this school year took place on World Children’s Day – 20 November.¹⁸ The 30-minute assembly, hosted by the Commissioner and Young Advisor Sorcha, focused on climate change and children’s rights.

We worked with children and young people to create two films for the assembly. The first film highlighted the amazing work the Ullapool Seasavers are doing to protect

¹⁷ CYPCS, 2024. *Young Advisor Robert: “I hope our recommendation in education report becomes reality.”* <https://www.cypcs.org.uk/news-and-stories/young-advisor-robert-i-hope-our-recommendation-in-education-report-becomes-reality/>

¹⁸ CYPCS, 2024. *Celebrate World Children’s Day with the Commissioner at an interactive assembly with BSL interpretation.* <https://www.cypcs.org.uk/news-and-stories/celebrate-world-childrens-day-with-the-commissioner-at-an-interactive-assembly-with-bsl-interpretation/> (recording available)

their local environment, and how their Drain Campaign inspired children in Mearns Primary, just outside of Glasgow. The Young Advisors led development of a second film to give children a follow up activity to do after the assembly. Schools shared their creative contributions including raps, songs and dances on social media platforms both on the day and in the following days.

On UN International Day of Happiness – 20 March, the Commissioner and Young Advisor Saif hosted our second assembly on happiness, mental health and children’s rights.¹⁹ Emphasising that the UNCRC says that all children should grow up with happiness, love and understanding. The assembly kicked off with a laughter yoga session to help children, and schools with an activity that can help with regulating emotions. We also worked with nursery children to create a film with them, sharing the people, activities and environments that makes them feel happy.

Our final assembly of the school year will take place on International Day of Play – 11 June.

What we’ve found out

Around 18,000 children have come to our assemblies so far this year. Many children have also been taking part in our suggested post-assembly activities.

We have heard from schools about the ideas and initiatives that are taking place across the country, and those are shared on the day to inspire others.

We asked for specific suggestions on how we can continue to proactively make our assemblies more inclusive and are planning to implement those ideas for future assemblies.

Recommendations for decision-makers

As the duty bearer, Scottish Government must continue to invest and extend the availability of resources to support children and adults to understand and use the UNCRC.

Objective: Provide targeted engagement for children and young people whose rights are most at risk.

What we did

We went to all four **secure care centres** in Scotland and spoke with children and young people and with the staff supporting them. We visited the centres, seeing where children lived and where they learned. In most cases, we were shown around by one of the young people staying there and we had opportunities to speak to

¹⁹ CYPCS, 2025. *Spreading joy – thousands of children join Commissioner’s happiness assembly.*
<https://www.cypcs.org.uk/news-and-stories/spreading-joy-thousands-of-children-join-commissioners-happiness-assembly/>

young people in a variety of settings. These visits complemented our previous visits in 2023²⁰ and our investigation in 2021.²¹

The children and young people told us about their experiences in secure care and about the processes that led them there. We asked them if they were aware of their rights and whether their rights had been respected. For example, we asked whether they had had access to legal advice and representation, whether they could stay in contact with family and what opportunities they had for exercise and leisure. Young people told us they would like to eat healthier food with more fruit and vegetables and that they'd like more time for phone calls to friends and family.

The staff we spoke to highlighted good practice but also shared with us the challenges they faced and their experiences of changes to policy and legislation. They also raised with us areas of concern, including the issue of restraint.

We also **respond to urgent issues** that are raised with our office from groups of children who are furthest from their rights, for example the Young People's Voices group supported by the Scottish Refugee Council.²² The group met with Commissioner to ask for support to address their issues, we have since met and raised their concerns with the Minister for Children, Young People and Keeping the Promise, the Care Inspectorate and senior government officials.

What did we find out

The children and young people we spoke to told us lots about their experiences in secure care, we will be publishing a report in Spring 2025.

Objective: Commit to continuous improvement in making our communications accessible and inclusive.

What we've been doing

Our British Sign Language Plan (2024-30)²³ sets out how we will promote the use of BSL to **improve access to information and services for young BSL users**. Solar Bear, Scotland's Deaf Youth Theatre, BDA Scotland and NDCS Scotland all contributed as part of our consultation process.

One of the ways we have been promoting the use of BSL and improving access to information to young BSL users is providing live BSL interpretation as standard during our national online assemblies for primary-aged children. Proactively providing BSL interpretation, rather than waiting for specific requests means that

²⁰ CYPs, 2024. *Follow up report – Secure accommodation visits 2023*.

<https://www.cypcs.org.uk/resources/follow-up-report-secure-accomodation-visits-2023/>

²¹ CYPs, 2021. *Statutory Duties in Secure Accommodation: Unlocking Children's Rights*.

<https://www.cypcs.org.uk/resources/statutory-duties-in-secure-accommodation-unlocking-childrens-rights/>

²² Young People's Voices, (2024). *Your Voice Matters*. <https://scottishrefugeecouncil.org.uk/wp-content/uploads/2024/08/Your-Voice-Matters-YPV-Report.pdf>

²³ CYPs, 2024. *Our British Sign Language (BSL) Plan 2024-30*. <https://www.cypcs.org.uk/resources/our-british-sign-language-bsl-plan-2024-30/>

children and schools can confidently choose to take part on the day without having to organise in advance, just as all other schools and children can do.

Our symbols supported UNCRC rights resource is one that we use most often as a clear and accessible way to explain children's rights. This year we have produced this resource in BSL to support young BSL users to explore rights in their first, or preferred language.²⁴ We have also created the symbols resource in Urdu, Punjabi and Polish this year.

In response to feedback, we are creating a dedicated section of our website to BSL. This will be completed by the end of March 2025 and includes a welcome film from the Commissioner in BSL.²⁵ We have invested in BSL classes for the Commissioner, along with participation and communications staff.

We have also met with practitioners in different educational settings who work with children with complex needs to better understand what resources might be needed to support their rights work.

We have continued to work on our website to improve its accessibility.

What we've found out

Our website is now achieving a 94% accessibility rating. When benchmarked against central government organisations, this places us within the top 10%.

Creating resources for children with complex needs requires a varied approach and in-depth stakeholder engagement across a range of expertise. As a next step, we are exploring adapting our symbols supported UNCRC rights resource to create a set in High Contrast. This is a result of direct feedback from practitioners.

Recommendations for decision-makers

Encourage the creation of resources and provision of opportunities for children and young people that are inclusive, including providing BSL versions and sessions, with the recognition that it requires to be prioritised with sufficient time and budget resource.

²⁴ CYPCS, 2024. *UNCRC Symbols – British Sign Language*. <https://www.cypcs.org.uk/resources/uncrc-symbols-british-sign-language/>

²⁵ CYPCS BSL resources <https://www.cypcs.org.uk/bsl/>