

RESPONDENT INFORMATION FORM

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

Please Note this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

SCOTTISH YOUTH PARLIAMENT

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The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
 No

Response to the Scottish Government's Consultation on Progressing Children's Rights in Scotland: An Action Plan 2018-21

Submission from the Scottish Youth Parliament
September 2018



Introduction

The Scottish Youth Parliament (SYP) represents Scotland's young people. Our vision for Scotland is of a nation that actively listens to and values the meaningful participation of its children and young people. Our goal is to make this vision a reality, in order to ensure Scotland is the best place in the world to grow up.

We are a fundamentally rights-based organisation, and our mission, vision and values are grounded in the United Nations Convention on the Rights of the Child (UNCRC). In particular, our purpose embodies Article 12: that young people have the right to express their views freely and have their opinions listened to in all matters affecting them. As a completely youth-led organisation, the words and sentiment of Article 12 have a profound importance for our work.

Our democratically elected members listen to and recognise the issues that are most important to young people, ensuring that their voices are heard by decision-makers. We exist to provide a national platform for young people to discuss the issues that are important to them, and campaign to effect the change they wish to see.

SYP's values are:

Democracy - We are youth-led and accountable to young people aged 12 to 25. Our democratic structure, and the scale of our engagement across Scotland, gives us a mandate that sets us apart from other organisations.

Rights - We are a fundamentally rights-based organisation. We are passionate about making young people aware of their rights, and ensuring that local and national government deliver policies that allow those rights to be upheld.

Inclusion - We are committed to being truly inclusive and work tirelessly to ensure the voices of every young person from every community and background in Scotland are heard. Please see how diverse our membership is in our census for 2017-19 [here](#).

Political Impartiality - We are independent from all political parties. By working with all stakeholders, groups, and individuals who share our values, we can deliver the policies that are most important to young people.

Summary of SYP's recommendations

- SYP welcomes the Scottish Government's proposal to separate the Scottish Ministers' reporting requirement under Section 1 (4) (a-c) of the Children and Young People (Scotland) Act into:
 - A **Report** on the actions taken by Ministers to secure better or further effect of the UNCRC and to promote public awareness and understanding of children's rights since the Part 1 duties first commenced in 2015; and
 - A separate **Action Plan** which will set out key activities that will be taken forward from June 2018 until June 2021.

SYP has been campaigning and working with the Scottish Government for this initiative over the past year through our *Right Here, Right Now* campaign, and we are delighted that Scottish Ministers are listening to young people's views in this meaningful way.

- We propose that the plan be called a 'Children and Young People's Rights Action Plan 2018-2021' as opposed to 'Progressing Children's Rights in Scotland: An Action Plan 2018-2021' - as young people are omitted from the former.
- We warmly welcome the commitment in the Programme for Government from the First Minister to 'incorporate the principles of the UN Convention on the Rights of the Child into domestic law.' We now need to see a clear timetable for how this will happen (including when a draft Bill will be introduced to Parliament) that ensures the legislation is able to receive Royal Assent in advance of the next Scottish Parliament election in 2021.
- The recommendations from the Young People's Rights Review event (see video report [here](#) and summary of MSYP's recommendations [here](#)) should each be considered on its own merit for inclusion within the Action Plan. Where there is overlap with the subject matter and the remit of another 'living' portfolio or wider policy specific initiative within the Scottish Government, we suggest that the specific action be included in the Action Plan with reference to (and with prior agreement with) that portfolio and initiative.
- SYP believes that the 'rights awareness' programme for children and young people in Scotland must be framed around the Article 2(2) of the UN Declaration on Human Rights Education and Training (UNDHRET), to ensure that the education is holistic and meaningful, with Article 2 in mind as a useful framework for assessing the provision of human rights education 'about', 'through' and 'for' human rights.¹

¹ Alison E.C. Struthers (2015) Human Rights Education: educating about, through and for human rights, *The International Journal of Human Rights*, 19:1, 53-73, DOI: 10.1080/13642987.2014.986652. See [here](#).

- The strategic action for a 3 year children’s rights awareness programme needs to include young people and young people’s rights as well as children’s rights.
- The programme should include ‘empowerment’ in its name and its delivery - as it should achieve far more than ‘awareness-raising’.
- The programme should be part of a wider, long-term, progressive movement towards human rights education and training in Scotland for everyone in society.
- The ‘rights awareness-raising’ programme should link up to the PSHE review to ensure joined-up action in this area, where possible.
- For the strategic participation framework to succeed, it needs to:
 - Include a meaningful role for children and young people.
 - Include adequate and sustainable resourcing for those external organisations that will be tasked with delivering it.
- We also propose that the Scottish Government include either as specific actions or strategic actions in the Action Plan elaborating an intent to raise with the UK Government any reserved issues which are affecting children and young people’s rights in Scotland.

Contact us:

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Visit us:

On our website: www.syp.org.uk

On Twitter: @OfficialSYP

Our approach

SYP welcomes the opportunity to respond to the Scottish Government's Scottish Government's Consultation on Progressing Children's Rights in Scotland: An Action Plan 2018-21 (hereinafter referred to as 'the Action Plan consultation').



SYP wishes to respond as part of its *Right Here, Right Now* national campaign on young people's rights, which launched in October 2017 after MSYPs voted to focus on this topic at the 63rd National Sitting in West Dunbartonshire in June 2017. This was following consultation with over 5,000 young people across Scotland.

Right Here, Right Now works to ensure that Scotland's young people are aware of and understand their own rights, and are empowered to take action to defend their own rights and those of others. Furthermore, *Right Here, Right Now* calls for Scotland's decision-makers to take a human rights-based approach to all policy-making, service provision, and planning, ensuring young people's voices are at the heart of decisions affecting them.

One of the objectives of this campaign is to influence law, policy, and practice in order to strengthen the protection of young people's rights, and a key output for this objective was for MSYPs to ask the Scottish Government to produce a Children and Young People's Rights Action Plan, ensuring that young people's views are at the heart of the Scottish Government's 2018 report under the Children and Young People (Scotland) Act 2014.

Moreover, SYP strongly believes that the United Nations Convention on the Rights of the Child (UNCRC) should be incorporated into Scots law to make children's rights binding and not guiding to Scottish decision-makers; as per the *Lead the Way* Manifesto Commitment passed on 12th March 2016 with 79% agreement.

These campaign objectives and related findings from engagement activities to their effect co-produced with the Scottish Government (as detailed in Annex B of the Action Plan consultation paper) form the basis of this response, which has been approved by SYP's Conveners Group (a group of ten democratically elected young people who lead on policy and campaigning at SYP and their respective ten Subject Committees).

Our membership represents young people aged 12-25, SYP's response is not representative of children below the age of 12, or of adults over 26.

Our specific engagement activities included:

- Two Ministerial Rights Road Trips in on 4th and 5th December 2017. For more info, see page 3 of our campaigns newsletter [here](#).
- The annual meeting of children and young people with the Scottish Cabinet on 6th March 2018. For more info, see page 3 of our campaigns newsletter [here](#).
- The Young People's Rights Review event on 18th April 2018.

Our response is structured around the Action Plan consultation questions:

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

i. Identified strategic actions intended to secure transformational change in how children and young people experience their rights.

Yes.

ii. A summary of specific initiatives being taken forward across all Scottish Government portfolios that captures what we will do in the next 3 years to secure better or further effect of the UNCRC principles.

Yes.

iii. A number of key policy specific actions identified through the consultation process that are not currently being taken forward through other Scottish Government initiatives.

Yes.

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

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

Yes.

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

Yes.

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

Yes.

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

Yes.

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

Yes - under the following headings:

i. Participation Framework for Children and Young People.

We warmly welcome the commitment ‘to scope out, in consultation with children and young people and relevant partners, the development of a strategic framework to better support the participation of children and young people at national and local levels’.

There are numerous examples of how the Scottish Government has worked with partners on specific projects to deliver the meaningful participation of young people. The highest profile of these, from our perspective, is the annual meeting between the Scottish Cabinet with children and young people. This event is significant at a strategic level due to the message it says about the degree to which the Government values the experiences of children and young people at the most senior level. It is also meaningful due to the way it reviews actions from the previous meeting, and plans actions in advance of the next meeting. There are many other examples of excellent practice of participation of young people on specific policy areas.

However, we also feel that the overall approach to participation of children and young people has been patchy and ad hoc, where it should be strategic and systemic. A participation framework provides the Government with an opportunity to resolve this. For this framework to succeed, however, it needs to:

- Include a meaningful role for children and young people.
- Include adequate and sustainable resourcing for those external organisations that will be tasked with delivering it.

ii. 3 year children's rights awareness programme.

We welcome such a programme in principle and feel that, to an extent, our policy calls are being listened to, for example, the awareness theme of the *Right Here, Right Now* campaign:

'Promoting young people's rights to young people and those responsible for upholding these rights, and empowering individuals to defend their own rights and the rights of others.'

Furthermore, Derry Moore MSYPs' recommendations at the Young People's Rights Review:

Derry Moore MSYP - Empowering Rights Awareness

- *I recommend that children and young people's rights education be made mandatory, including teacher training, as per the UNCRC's recommendation in 2016, paragraph 73.*
- *Furthermore, this education must be about the rights beyond the UNCRC, Human Rights Act and the ECHR to empower us to be human rights defenders.*

Fatima Bari MSYP, Jack Brady MSYP, Jack Dudgeon MSYP, Josh Kennedy MSYP, Rebecca Craig MSYP also called on the Scottish Government to make human rights education mandatory to address issues affecting young people in Scotland such as: Islamophobia, bullying, climate change, physical punishment and restrictions to freedom of speech respectively.

However, there are a couple of issues with the proposals which we would like to raise. As SYP believes that the 'rights awareness' programme for children and young people in Scotland must be framed around the Article 2(2) of the UN Declaration on Human Rights Education and Training (UNDHRET), to ensure that the education is holistic and meaningful, these issues should be read with Article 2 in mind as a useful framework for assessing the provision of human rights education²:

'Article 2

1. Human rights education and training comprises all educational, training, information, awareness-raising and learning activities aimed at promoting universal respect for and observance of all human rights and fundamental freedoms and thus contributing to, inter alia, the prevention of human rights violations and abuses by providing persons with knowledge, skills and understanding and developing their attitudes and behaviours, to empower them to contribute to the building and promotion of a universal culture of human rights.

² Alison E.C. Struthers (2015) Human Rights Education: educating about, through and for human rights, *The International Journal of Human Rights*, 19:1, 53-73, DOI: 10.1080/13642987.2014.986652. See [here](#).

2. Human rights education and training encompasses education:

(a) **About human rights**, which includes providing knowledge and understanding of human rights norms and principles, the values that underpin them and the mechanisms for their protection;

(b) **Through human rights**, which includes learning and teaching in a way that respects the rights of both educators and learners;

(c) **For human rights**, which includes empowering persons to enjoy and exercise their rights and to respect and uphold the rights of others.'

1) Young people are currently nominally omitted from the terminology of this programme, as well as young people's rights from the content.

Our comprehensive understanding of young people's rights certainly includes the UNCRC, but it does not stop there.

'Substantial additional efforts need to be made to ensure that all of Scotland's young people have a good understanding of their rights as set out in the UNCRC.'
SYP recommendation in response to a 2012 consultation on the Children and Young People Bill, extended by the Conveners Group on 25th August 2018.

Whereas the UNCRC outlines the rights of young people under the age of 18 (or 21 for young people who have experience of care in Scotland), there are, of course, a number of other instruments which lay out the binding and guiding rights of all people, including children and young people (and the 18/21-25 age-range of our membership and the young people we represent) in Scotland, the UK and internationally.

These include the Human Rights Act 1998, the Scotland Act 1998, the European Convention on Human Rights (ECHR) and the other UN treaties the UK has signed up to:

- International Convention on the Elimination of All Forms of Racial Discrimination.
- International Covenant on Civil and Political Rights.
- International Covenant on Economic, Social and Cultural Rights.
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Convention on the Elimination of All Forms of Discrimination Against Women.
- Convention on the Rights of Persons with Disabilities.

Alison E.C. Struthers uses Scotland as a case study to demonstrate that: ³

‘Elements of education *through* and *for* human rights do seem to be punctuating... though this is occurring in the absence of a solid foundation of contextually relevant education *about* human rights extending beyond the rights in the UNCRC only’.

Therefore, the programme needs to include young people and young people’s rights as well as children’s rights - this will also prepare children and young people to continue to promote and defend rights as they grow up.

2) We recommend the programme include ‘empowerment’ in its name and its delivery - as it should achieve far more than ‘awareness-raising’.

This would ensure that the programme does empower children and young people ‘so that they can confidently express their views as Human Rights Defenders’ (paragraph 4.4 of the Action Plan consultation document), and it would contribute to the ‘ongoing development of a rights-based culture across Scotland’ (paragraph 4.12).

It would be education ‘*for* human rights’ - empowering children and young people and other stakeholders to enjoy and exercise their rights and to respect and uphold the rights of others (Article 2.2[c]) of the UNDHRET). This would ensure not only knowledge of human rights, but also skills, attitudes and behaviours are developed to help children and young people prevent human rights violations and respect rights, realising Scotland’s culture of ‘dignity, equality and human rights for all’.

3) The programme should be part of a wider, long-term, progressive movement towards human rights education and training in Scotland for everyone in society.

Therefore, while the Action Plan is likely to be updated every three years as per the Ministers’ reporting duties under the 2014 Act, the ‘rights awareness-raising’ programme must be sustainable and should be a starting point.

A National Action Plan on Human Rights Education and Training, or stronger reference to Human Rights Education and Training in Scotland’s National Action Plan for Human Rights, should be considered in light of the proposals. Please see international examples of these [here](#) - Scotland needs to catch up with the leading countries in this area and not get left behind.

³ Ibid, page 66.

4) The ‘rights awareness-raising’ programme should link up to the PSHE review to ensure joined-up action in this area, where possible.

For example:

‘The Scottish Youth Parliament believes that young people should be taught about, and empowered to stand up for, their human rights through Personal, Social and Health Education (PSHE) or its equivalent in the curriculum.’

Policy statement passed with 92% agreement on 14th April 2018, Joint Committee Motion by the Education and Lifelong Learning (ELL) Committee & the Equality and Human Rights (EQU) Committee.

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

We warmly welcome the commitment in the Programme for Government from the First Minister to ‘incorporate the principles of the UN Convention on the Rights of the Child into domestic law.’ We now need to see a clear timetable for how this will happen (including when a draft Bill will be introduced to Parliament) that ensures the legislation is able to receive Royal Assent in advance of the next Scottish Parliament election in 2021.

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

- We propose that the plan be called a ‘Children and Young People’s Rights Action Plan 2018-2021’ as opposed to ‘Progressing Children’s Rights in Scotland: An Action Plan 2018-2021’ - as young people are omitted from the former. We also feel it’s a less wordy name for an Action Plan, which is easier for children, young people and adults alike to remember and refer to.
- We also propose that the Scottish Government include either as specific actions or strategic actions in the Action Plan elaborating an intent to raise with the UK Government any reserved issues which are affecting children and young people’s rights in Scotland.

For example:

The Scottish Government intend to lobby the UK Government put in force a blanket ban on the sale of 'mosquito devices' throughout the UK, in order to stop the discrimination and violation of children and young people's rights, particularly the right to peaceful assembly (also Arts. 2, 3, 15, 19 and 31 of the United Nation Convention on the Rights of the Child and arts. 3, 8, 11 and 14 of the European Convention on Human Rights, protected by the Human Rights Act 1998 in the UK).

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

Our understanding from the Action Plan consultation document paragraph 3.6;

('3.6 In addition to this, it is proposed that, where appropriate, the Action Plan will also include a number of policy specific actions that have been identified through the consultation process and which are not currently provided for within the initiatives mentioned above.')

, is that the recommendations from the Young People's Rights Review event (see video report [here](#) and summary of MSYP's recommendations [here](#)) will each be considered on its own merit for inclusion within the Action Plan.

Most of these Young People's Rights Review recommendations refer to both the draft high summary level of content of the Action Plan, as well specific UN Treaty Body recommendations and Universal Periodic Review recommendations to the UK - and therefore, can be easily organised around the 'cluster groupings' used in reporting to the UN Committee on the Rights of the Child as proposed for the Action Plan in paragraph 3.1 of the consultation document.

Where there is overlap with the subject matter and the remit of another 'living' portfolio or wider policy specific initiative within the Scottish Government, we suggest that the specific action be included in the Action Plan with reference to (and with prior agreement with) that portfolio and initiative. This joined-up approach would ensure that the update to and planning of further children and young people's rights mainstreaming across all portfolios within the Scottish Government happens as smoothly and efficiently as possible.

It will also clearly demonstrate that the Scottish Ministers heard and were inspired to take action by the young people who consulted for and took part in the Young People's Rights Review event - ensuring their meaningful participation.