

Response to the Human Rights Bill for Scotland consultation

Scottish Youth Parliament
October 2023





Introduction:

SYP's response to the Human Rights Bill Consultation is based on a number of sources. We have not responded to more technical questions in the consultation, but have also contributed to the process through our work with The Rights Detectives, run by Together: Scotland's Alliance for Children's Rights and through an upcoming consultation workshop at our National Sitting SYP80 in Aberdeen on Saturday 9th October.

Summary of our key recommendations:

SYP would strongly encourage all decision-makers to utilize these resources and engage meaningfully with young people on rights issues to ensure those with decision-making responsibility have a deep understanding of rights-based youth participation.

Scottish Government should ensure that people who take drugs are not discriminated against and their right to health and health care services is protected.

Scottish Government should ensure that the Right to Food is upheld fully, including the right to a sustainable food system.

Who We Are

The Scottish Youth Parliament - www.syp.org.uk

The United Nations Convention on the Rights of the Child (UNCRC) is the basis for the Scottish Youth Parliament's (SYP's) vision, mission and values. In particular, SYP embodies Article 12 of the UNCRC, which states 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 charity, the words and sentiment of Article 12 have profound importance for our work.

Our Vision

The Scottish Youth Parliament (SYP) is the democratic voice of Scotland's young people. Our vision for Scotland is of a nation that actively listens to and values the meaningful participation of its young people. Our goal is to make this vision a reality, in order to ensure young people in Scotland grow up loved, safe and respected, and able to realise their full potential.

Our Mission

SYP is a rights-based charity, with members supported by all of Scotland's 32 local authorities and 11 National Voluntary Organisations. SYP's mission is to provide a national platform for young people to discuss the issues that are important to them, and campaign for changes to the nation that they live in. We support our members in their work by training them, supporting their personal development, and empowering them, using a youth work ethos. Our democratically elected members listen to and recognise the issues that are most important to young people in every community across the country and ensure that decision-makers listen to their voices.

Our Values



Democracy - We are youth-led and accountable to young people aged 14 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 rights-based organisation. We are passionate about making young people aware of their rights and ensuring that local and national governments uphold their rights.

Inclusion and Diversity - We are committed to being truly inclusive and work tirelessly to ensure policymakers and politicians hear the voices of young people from every community and background in Scotland.

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

Our Approach

As a youth-led organisation, we are constantly seeking the views of our MSYPs and other young people to ensure our policy positions represent their views as clearly as possible. This means that we have numerous opportunities to collect qualitative and quantitative data on a variety of issues underneath the umbrella of education. To ensure our response can accurately reflect the views of our members and the young people they represent, we pulled our information from various sources. These included:

Focus Groups

To help respond to the consultation SYP held a focus group with members from across the membership. The focus group took place online in early September and had 5 MSYPs attended.

The group focused on two key aspects of the Bill, the four treaties and the right to a healthy environment.

A second focus group was made up of 12 MSYPs who were members of SYPs Equalities and Human Rights committee. The group focused on minimum core obligations, and what standards were needed for these to be met.

SYP's 2021-2026 Manifesto

The calls in SYP's 2021-2026 Manifesto (available [here](#)) came directly from young people aged 12-25 across Scotland. The consultation as a whole was led by MSYPs and supported by the staff team. Due to the innovative and multifaceted approach we took to this manifesto, we do not have the exact number of young people engaged throughout this process. However, we estimate this to be around 10,000.

SYP Policy passed as a Members' Motion

At SYP Sitings, the membership gets together and has the opportunity to propose Member Motions that will become SYP policy statements. To submit a motion, they will have consulted with young people in their constituencies to demonstrate it is an issue important to young people. At the Sitting, the membership then votes on whether the motion should pass, again based on consultation of the proposed Motions with their constituents. By way



of example, at the last SYP Sitting, SYP79 in July 2023, nearly 5000 young people were consulted before MSYPs voted on Members' Motions.

The Right Way project

In April 2022 The Right Way project group of Members of the Scottish Youth Parliament (MSYPs) selected three policy areas of the Scottish Government to research how they can best practice the meaningful participation of young people in their work. They were:

Violence Against Women and Girls (VAWG) Scottish Education Exchange Programme
Gambling & gambling related harms.

After selecting the these policy area, MSYPs interviewed officials that work in that area. The purpose was to identify the specific participation challenges that the policy area will have to overcome to practice meaningful participation. The research questions were then drafted using the information from the interviews. MSYPs then worked with SYP staff to create three surveys, which received around 300 responses from young people, and to run five focus groups, with young people with experience of participation work. The results were then analysed and summarised by MSYPs into recommendations included in reports. We reference these recommendations in our response below.

SYP Campaign Priorities

In March 2022 MSYPs consulted their constituents before voting for four National Campaign Priorities for the rest of their term (until November 2023). For each priority, MSYPs have worked with SYP staff to deliver a number of campaign activities which have included consultation with young people and awareness raising of the issues relating to our work.

In our response we specifically refer to our Campaign Priorities on [The Right to Food](#) and [Drug Related-Harm as a Public Health Issue](#).



Questions

Part 4: Incorporating the Treaty Rights

1. What are your views on our proposal to allow for dignity to be considered by courts in interpreting the rights in the Bill? Allow / Don't Allow

SYP believes that dignity is a foundation of human rights, including of the UNCRC and as a rights-based organisation, we advocate for decision-makers to embed these foundations into law to give them a stronger footing. Our value as a rights-based organisation means that “We are passionate about making young people aware of their rights and ensuring that local and national governments uphold their rights.” A key part of upholding that is respecting dignity and calling on others to do the same.

Young people have consistently throughout consultation supported changes to uphold people’s dignity when accessing their rights. SYP carries out consultation with young people on a number of topics, with having their dignity respected a common theme in a number of those topics including The Right to Food, which has been a National Campaign Priority for the current SYP Membership (2021-2023). SYP’s Right to Food report called for “*Greater efforts must be made to ensure any stigma associated with asking for help to access food is eliminated, and young people must be involved in making these discussions*”. One young person said: “*People find it embarrassing to ask for food as it is something they feel they should easily be able to afford/access for both them and their family of which they may also feel they are letting down.*” MSYPs have [raised the issue of dignity in accessing right to food](#) with the Scottish Cabinet at the Annual Cabinet Meeting with Children and Young People where Members of the Children’s Parliament also raised the issue of Dignity in Schools.

4. What are your views on the proposed model of incorporation?

SYP’s 2021-2026 Manifesto, [From Scotland’s Young People](#), includes 30 policies developed in consultation with young people across Scotland, with a specific focus on reaching young people from seldom-heard groups. One policy states that: “*Human rights and civil liberties should be strongly protected by law*”, which passed by 82%.

As such, SYP advocate for the strongest possible model of incorporation to ensure rights are realized in full. In particular, SYP’s Manifesto policy on the CRPD shows strong support from young people across Scotland (82.8% agreement) for this treaty to be brought ‘fully’ into Scots Law. The policy says “*The United Nations Convention on the Protection of Persons with Disabilities (CRPD) should be fully brought into Scots law to protect the rights of disabled children and young people, ensure access to independent living, support those with invisible disabilities and reduce stigma.*”

MSYPs in our focus groups also said that the model needs to be clear and accessible, giving young people and others better access to their rights as they fully understand where and how they are protected.

5. Are there any rights in the equality treaties which you think should be treated differently?

Members of SYP see value in every single treaty and wish for them to be protected fully in law, as was made clear in our focus groups carried out prior to this consultation. Each treaty protects and supports vulnerable groups and MSYPs were clear in their support of them.



At the focus group carried out in August 2023 an MSYP said

‘They are equally as important as each other, it is unfair to compare them as they all have their own purpose.’

MSYPs in the focus group also noted that all treaties were protecting basic human rights, and felt that they were of equal importance as basic human rights should be protected for everyone. This ensures that those who are protected by the treaties have access to their redress if their rights are not being met as well as contributing to a culture change around decision-makers realizing the benefits of a rights-based approach.

MSYPs talked about how Scotland is a diverse place and so felt that these treaties were important to ensure that rights were upheld for people from a variety of different backgrounds. This is specifically backed up by the SYP manifesto policy:

“Children and young people from seldom heard groups (such as immigrants and refugees, gypsy traveler communities, single parents, disabled people, Armed Forces, care experienced, and justice experienced) must be listened to by policymakers on issues that affect them.” -80% agreement.

Whilst SYP agrees with the treaties being treated equally it is worth noting that an MSYP did say *‘Whilst I would say they are equally as important, I believe that it is unfair to compare the treaties as they all have their own value and purpose.’* This highlights that whilst they are equally important they do protect each group differently and do not need to be directly compared. As such, SYP supports calls made by Together, that Scottish Government should start with the presumption of maximum possible incorporation except in cases where this isn’t possible within the devolved powers of the Scottish Parliament.

Part 5: Recognising the Right to a Healthy Environment

**6. Do you agree or disagree with our proposed basis for defining the environment?
Agree / Disagree**

SYP broadly agree, with some additions explained in our answer to question 8.

8. What are your views on the proposed formulation of the substantive and procedural aspects of the right to a healthy environment?

SYP would welcome the formulation of substantive aspects of the right to include clean air, safe climate, safe and sufficient water, non-toxic environments, and healthy biodiversity and ecosystems. MSYPs in our focus groups said they saw this as ‘basic human rights’ and agreed with the need to protect it.

However, SYP would disagree with the exclusion of the Right to Food as it is clearly related to the Right to a Healthy Environment and should be protected to the maximum extent possible. One of the themes in response to a question in our National Right to Food survey (which is summarized in our [Right to Food report](#), March 2023) on action young people would like to see decision-makers take was to increase Awareness of climate impacts of food waste. This theme aligns with the need to recognise the environmental impact of our food systems.



The procedural element aligns with SYP's policy stating that *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.* 92% support, passed in 2018. Showing the strong support young people have for high quality human rights education within schools as a core part of young people accessing information about their human rights. While UNCRC would often be a focus of this, it is important this is broad and includes other human rights treaties as well.

SYP also supports effective and meaningful participation on environmental decision-making. At the Annual Cabinet meeting with Children and Young People this year, Fraser Adams MSYP said:

“Data published by Harvard shows that that movements with extensive youth participation are more likely to be successful than movements without, due to their creative and pioneering approach to activism in the digital age. When young people are part of the conversation, they ensure policies and targets are ambitious and hold decision makers to account. But it is also a critical part of building climate solutions.”

9. Do you agree or disagree with our proposed approach to the protection of healthy and sustainable food as part of the incorporation of the right to adequate food in International Covenant on Economic, Social and Cultural Rights (ICESCR), rather than inclusion as a substantive aspect of the right to a healthy environment? Agree / Disagree

SYP Disagree.

As part of SYP's 2021-26 Manifesto, 90.4% of young people consulted agreed that: *'The right to food should be upheld in Scotland by creating a fair, healthy and sustainable food system that is accessible to everyone.'*

In the guidance produced by the Human Rights Consortium for Scotland for the Human Rights Bill consultation, the consortium said that *“The right to healthy and sustainably produced food has previously been identified as a core substantive feature of the right to a healthy environment by UN Special Rapporteurs.”* SYP is concerned that by not following international good practice and including The Right to Food as a standalone feature of the Right to a Healthy Environment, Scottish Government would not be fully upholding the vision behind SYP's manifesto policy.

As distinguishing between the Right to Food as defined in the ICESCR and The Right to a Healthy Environment helps to ensure a food system is not only fair and healthy, but also sustainable as outlined in our manifesto policy, SYP would support the inclusion of The Right to Food as a distinct feature.

10. Do you agree or disagree with our proposed approach to including safe and sufficient water as a substantive aspect of the right to a healthy environment? Agree / Disagree

SYP was in complete agreement that safe and sufficient water was a substantive aspect of the right to a healthy environment. It is a basic human right and an element that MSYPs noted in our focus groups that humans need to survive so should be included in the bill.

MSYPs also talked about how water is not easily and regularly available to members of the public. The focus groups discussed how at festivals free water is provided and items



like this should be advertised in public places in cities. And so MSYPs reflected that enshrining this right into law would ensure decision-makers consider policy solutions to address situations where people's right to sufficient water was not being upheld.

11. Are there any other substantive or procedural elements you think should be understood as aspects of the right? Yes / No

If yes, please specify what substantive or procedural elements and explain how this could be achieved

SYP echoes the opinion laid out by the Rights Detectives that The Right to a Healthy Environment should also ensure that sustainable travel options are accessible to all and affordable.

SYP 2021-2026 manifesto policy with 79.2% support says that *“The possibility of discounted or free transport should be explored for groups who struggle to access travel such as carers, Armed Forces young people and those in recovery from drug and alcohol addiction.”*

Our [All Aboard report](#) from 2019, focusing on sustainable transport options, found that more needed to be done to ensure all young people could access public transport, with Nearly two in three respondents (61.2%) with a disability or access requirement saying they do not feel comfortable using public transport. Considering access to sustainable transport as part of a rights framework would help ensure accessibility was better considered in designing public transport networks.

Part 6: Incorporating Further Rights and Embedding Equality

13. How can we best embed participation in the framework of the Bill?

Meaningful participation with young people is crucial to rights being realized and a requirement under the UNCRC.

As experts in meaningful youth participation, SYP have provided and worked with Scottish Government on a number of pieces of advice on participation, particularly through The Right Way project.

Recommendations from [The Right Way](#) project for specific policy areas of Scottish Government, that should also be followed by other areas, included:

- Learn and improve -- Rights-based participation is a journey. It is important to plan participation work now, but learn, develop, and improve it in the future. When first designing participation work with young people, evaluate it and consider what you can improve during the next stage.
- Reaching out to young people, particularly those furthest from their rights -- Reach out to organisations that work with young people to develop participation work. Be prepared to put time and resource into upholding young people's Article 12 right to be heard and taken seriously.
- Youth-led approaches -- Barriers to participation are not felt equally by all young people. Taking a youth-led approach to participation would help to ensure that young people help to design participation that works for them.
- Ensure safety and support -- The safety of young people involved in participation work was a priority repeated throughout our research with repeated references to confidentiality and anonymity. This is a must when it comes to working with young people and especially those with lived or living experience.



Other support and advice on participation can be found through [The Right Way hub](#), which includes good practice principles for participation with young people in a number of formats. Including:

- UNCR Article 12 participation training which covers topics including reaching seldom-heard groups of young people, developing meaningful feedback loops, and what it means to make participation meaningful.
- Checklists for Officials to use to ensure their participation is Accessible, Inclusive, and Meaningful.
- A guide for officials to use when inviting young people to join strategic Boards or oversight groups.
- Frequently Asked Questions on participation with answers developed by young people.

SYP would strongly encourage all decision-makers to utilize these resources and engage meaningfully with young people on rights issues to ensure those with decision-making responsibility have a deep understanding of rights-based youth participation.

15. How do you think we should define the groups to be protected by the equality provision?

SYP support the position outlined in Who Cares? Scotland's as signatories to [their response to the Human Rights Bill](#) consultation for Care Experienced people of all ages to be named in and explicitly protected by the equality provision.

SYP's 2021-26 [From Scotland's Young People Manifesto](#) Policy calls for, with 80.4% agreement from the young people we engaged with:

“Children and young people from seldom heard groups (such as immigrants and refugees, gypsy traveller communities, single parents, disabled people, Armed Forces, care experienced and justice experienced) must be listened to by policy makers on issues that affect them.”

Experts with young members who are care experienced, such as Who Cares? Scotland, have been clear in their views that naming and explicitly protecting care experienced people will help ensure they have access to their rights.

In addition to care experienced people being mentioned, SYP have been advocating for the rights of people who take drugs to be protected in human rights legislation. SYP's 2021-26 [From Scotland's Young People Manifesto](#), which consulted with around 10,000 young people, 83% agreed that “drug-related harm should be treated as a public health issue and should be tackled by investing more in support services for those affected.” This manifesto statement became the basis of our campaigning priority to treat drug-related harm as a public health issue, which was selected by to 2021-2023 membership as a priority issue for the young people they represent.

To achieve the vision of a public health approach with accessible and effective services, the campaign delivery group developed four campaign calls, with one being to “call for any future Scottish Human Rights legislation to ensure that people who take drugs are not discriminated against and their right to health and health care services is protected.” This campaign call was then approved by our Conveners group, made up of young people leading each Subject Committee, who are in charge of decisions on our campaigns.



People who take drugs are often discriminated against, and we have been campaigning to reduce stigma and educate young people on common, yet harmful, misconceptions about people who take drugs. Inclusion in the equality provision would provide a strong basis of protection for people who take drugs against discrimination in the law. This Bill is especially relevant for people who take drugs as ICESCR rights include the right to adequate housing, health, social security, and work. These are areas where they commonly face discrimination and are interlinked with recovery and prevention.

As one MSYP in our focus group on the [Right to Recovery Bill consultation response](#) acknowledged: “human rights are not only fundamental but are interdependent”. People who take drugs must have access to all their rights, as discrimination in one (such as their right to health care) should not end up having a cumulative negative impact on their other rights.

Part 7: The Duties

19. What is your view on who the duties in the Bill should apply to?

As with SYP’s work on the UNCRC Incorporation (Scotland) Bill and as an organisation where Rights are one of our foundational values, SYP campaigns for incorporation to the maximum extent possible.

Recognising the outcome of the Supreme Court Challenge, which has led to a more significant delay in UNCRC incorporation than initially anticipated, SYP supports duties applying to as many public bodies and private bodies carrying out public functions as possible within devolution.

This approach ensures that incorporation can happen within the intended timeline and protects rights for those that need it as soon as possible.

22. Do you think certain public authorities should be required to report on what actions they are planning to take, and what actions they have taken, to meet the duties set out in the Bill?

Yes

23. How could the proposed duty to report best align with existing reporting obligations on public authorities?

SYP supports the involvement of young people on decision-making on all issues that affect them and the explicit inclusion of seldom-heard groups and those furthest from their rights in all participation work. Throughout the reporting cycle, young people, particularly those from these groups, should be explicitly reached out to and included to ensure their views shape reports that public bodies create.

When developing these reports, public bodies should use good practice participation as standard using resources such as The Right Way resources available through [The Right Way hub](#).

Scottish Government should prepare guidance with clear signposting to rights-based participation resources for public authorities to ensure they have the support they need to comply.



Part 9: Implementing the New Scottish Human Rights Act

43. How can the Scottish Government and partners provide effective information and raise awareness of the rights for rights-holders?

SYP are strong advocates of accessible, youth friendly communications and rights education for young people. Scottish Government should therefore offer a wide range of ways for children and young people to engage with their rights. They should work with children and young people to use games, drawings, voice messages and more!

SYP believes that for young people to access their rights, they need to be supported with the knowledge of what their rights are. One MSYP who took part in SYP's The Right Way project said *'When young people understand and know their rights and their value and power, supported by law, it gives them power to stand up for themselves and say "no, you're not meeting my needs'*

As such, SYP would strongly support embedding human rights education into places of learning to ensure young people have a full and deep understanding of their rights, and how they are protected.

Thank you to all the young people, MSYPs, and SYP staff who contributed to this response.

For more information about our consultation response, please contact SYP's Head of Policy and Public Affairs, Matt McDonald, on Matt.m@syp.org.uk.