



# Draft statutory guidance on Part 2 and Part 3, section 18 of the UNCRC Act

## Scottish Youth Parliament consultation response

### Summary of our recommendations

- **Recommendation 1:** Public authorities should take a rights-based approach in every aspect of their work and act compatibly with the UNCRC in any situation where they are carrying out functions in relation to children and young people, and this principle should be highlighted first and foremost in the statutory guidance.
- **Recommendation 2:** Officials and decision-makers - as duty bearers - should utilise *The Right Way* project 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.
- **Recommendation 3:** Public authorities should publish youth-friendly and accessible information explaining what duties they owe under the *UNCRC (Incorporation) (Scotland) Act 2024*, and they should be supported to do so through resources created in consultation with young people.
- **Recommendation 4:** Listed authorities should meaningfully involve children and young people in the children's rights report development process and consider how they can break down barriers to participation to ensure seldom-heard groups are included.
- **Recommendation 5:** Listed authorities should meaningfully engage children and young people in discussions about the findings of children's rights reports and give them an opportunity to provide feedback.

# Who we are

## Vision

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.

## Mission

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. MSYPs 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.

## 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.

## Focus Groups

To help respond to the consultation SYP held a focus group with young people in one of Sistema Scotland's Youth Voice groups. The group used interactive, youth work activities to engage with the questions in the consultation. Their views form parts of this response. We would like to thank Sistema Scotland and the young people in their Youth Voice group for the views they shared, helping to ensure our response is informed directly by the voices of young people.

## Previous responses and consultations

Young people have previously shared their views with SYP on the *UNCRC (Incorporation) (Scotland) Act 2024* (the Act). In our response we reference previous responses and reports produced by SYP and our partners.

## 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 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 Sittings, the membership gets together and MSYPs have 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.

# Responses to consultation questions

## Part 2 Guidance

### 1. I have read the draft statutory guidance on Part 2 of the UNCRC Act

Yes

No

### 2. Section 3, 'Background and introduction to the UNCRC Act', provides sufficient information on the UNCRC and the background to incorporation.

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please give us your views:

Young people in our focus group session took part in a number of activities to consider what young people in Scotland understand their UNCRC rights to include and explore what young people think decision makers need to know about their rights. Due to the technical and specific nature of the questions included in this consultation, it was not possible to design participatory activities to gather young people's views on the exact consultation questions. As such, the below information is not intended to comment on the current content of Section 3, but rather give the Scottish Government an idea of the types of things that young people would expect to be included in an introduction to the UNCRC.

#### What are rights?

Young people in our focus group highlighted the connection between human rights that we all have and the additional rights that children have. They also recognised that rights are protected in law. In their word association activity, young people felt that rights were "*necessary*" and "*required*". "*Equality*" was a common term that group members associated with rights, as were safety and survival.

#### What rights do young people have under the UNCRC?

We asked young people in our focus group to consider what rights they had. The group's discussions centred around rights relating to education, play, healthcare, food, safety, equal rights, shelter, and survival. It is important to note that these are just examples to highlight the rights that our focus group attendees were particularly aware of.

### Advice for decision-makers

Young people in our focus group were then asked what they would want to tell decision-makers about their rights. To assist them in doing so, they were asked to imagine they were having a conversation with one of the following decision-makers in their lives: their Head-Teacher, their Doctor, or the First Minister. It is important to note that the below are just examples of what information our focus group members felt decision makers should know about the UNCRC and their rights and are not intended to be an exhaustive list of young people's views.

When imagining speaking to their **Head-Teacher**, young people in our focus group argued:

- Their head-teacher should know about all of the rights children and young people in their school have.
- They need to speak and listen to children and young people about decisions that affect them. This opportunity should be open for everyone, but participation should be optional for children and young people involved.
- Article 12 and Article 13 of the UNCRC would be key for this.

When imagining speaking to their **Doctor**, young people in our focus group argued:

- Their Doctor should know about the right to privacy, the right to freedom of expression and access to information, the right to health, the right to an identity and the right to freedom of thought and religion.
- The group also highlighted the following general principles as being of particular importance in this discussion: non-discrimination, respect for the views of the views of the child and the right to life, survival, and development.

When imagining speaking to the **First Minister**, young people in our focus group argued:

- The First Minister is responsible for "*making rights real*".
- The First Minister should listen to what young people have to say and think before they make decisions that affect young people.
- In particular, the young people in our focus group wanted the First Minister to consider how the Scottish Government could prevent abuse and discrimination and make the cost of things cheaper.

SYP believes that young people are the experts in their own experiences. Young people in our focus group were clear in their discussions that decision-makers should listen to what young people have to say when making decisions. This is key to ensuring children and young people's Article 12 rights are realised. UNCRC statutory guidance should therefore reflect young people's views, including those above, on the need for duty-bearers to fully understand their rights. SYP would strongly encourage the Scottish Government to use the information and views shared by our focus group members to inform the final version of the statutory guidance.

### Section 3.2 - Incorporation history in Scotland

SYP believes this section should acknowledge the role that children, young people and adult human rights defenders played in campaigning for the incorporation of the UNCRC.

Our 2016 youth manifesto, *Lead the Way* found that 76% of young people agreed that:

*“The United Nations Convention on the Rights of the Child (UNCRC) should be fully incorporated into Scots law, and the rights of children and young people should be protected and promoted”.*

Our *Right Here, Right Now* campaign in 2017 then saw SYP work with other human rights defenders to urge the Scottish Government to commit to incorporation.

Mollie McGoran MSYP, Chair of the Scottish Youth Parliament issued a statement following the passing of the Act. In this she said:

*“This is a momentous day for the children and young people who have long campaigned for their rights to be respected in law and I want to thank and congratulate everyone who has worked for UNCRC incorporation”.*

### 3. Section 3.4 (3.3), ‘Meaning of UNCRC requirements’, clearly articulates what is meant by this in relation to the section 6 duty.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give us your views:

As an organisation where rights are one of our foundational values, SYP advocate for the strongest possible model of incorporation to ensure children and young people’s rights are realised in full. As such, SYP supports the approach to incorporate the direct text of the UNCRC to the maximum extent possible within the legislative competence of the Scottish Parliament.

### 4. Section 4.2, ‘Remedies for unlawful acts (sections 7 to 10)’ is useful.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give us your views:

Section 4.2 notes that raising legal proceedings may be a daunting process for children and young people. SYP believes that financial inequalities may create further barriers to children and young people accessing remedies and achieving justice for unlawful acts. In response to this, MSYPs have passed policy calling for increased funding for legal aid in Scotland:

*“The Scottish Youth Parliament calls upon the Scottish Government and other key decision makers to further increase funding for legal aid in Scotland.” (92% agree).*

As a completely youth-led charity, the words and sentiment of Article 12 of the UNCRC have profound importance for our work. We support the inclusion of Section 9 of the Act and the involvement of young people in decisions relating to remedies for unlawful activities. We would encourage decision makers to put time and resource into upholding young people’s Article 12 right in this context.

**5. Section 4.2.3 (4.3.2) ‘Definition of a public authority’ is clear.**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give us your views:

As noted at Question 3 above, SYP campaigns for incorporation to the maximum extent possible in order to ensure children and young people’s rights are realised in full. As such, SYP supports duties applying to as many public bodies and private and third sector organisations carrying out public functions as possible within the legislative competence of the Scottish Parliament.

**6. Section 4.3.1 ‘Definition of functions of a public nature’ is clear.**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give us your views:

As above, SYP campaigns for incorporation to the maximum extent possible in order to ensure children and young people’s rights are realised in full. As such, SYP calls for as broad a

definition of functions of a public nature as possible within the legislative competence of the Scottish Parliament.

**7. Section 4.4, ‘Explanation of the duties on public authorities in Part 2, section 6’ clearly explains the nature of the section 6 duty on public authorities, including clearly articulating that the section 6 duty applies only when a public authority is carrying out devolved functions conferred under Acts of the Scottish Parliament or common law powers.**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give us your views:

As a rights-based organisation, SYP welcomes the opening statement in Section 4.4 and calls upon public authorities to act compatibly in any situation where they are carrying out functions in relation to children and young people.

MSYPs have described the passing of the Act as a “*key milestone*” and “*crucial step*” towards ensuring children and young people’s rights are respected and valued. This makes clear that the Act is only a starting point and that public authorities can and should work to respect, protect and fulfil children and young people’s rights in every aspect of their work.

This approach is key to achieving what the guidance describes at Section 3.4 as a “*proactive culture of everyday accountability for children’s rights across public services in Scotland.*” Isla Grant MSYP spoke to the Scottish Government’s Executive Team in November 2023 about this topic. She argued that “*creating a change of culture is key to ensuring that the implementation of the UNCRC has a real, tangible effect on Scottish life.*” We would encourage public authorities and decision makers to adopt a rights-based approach to help create this culture change.

**Recommendation 1:** Public authorities should take a rights-based approach in every aspect of their work and act compatibly with the UNCRC in any situation where they are carrying out functions in relation to children and young people, and this principle should be highlighted first and foremost in the statutory guidance.



**8. Annexes A.1 - A.5, ‘Clarification of conceptual aspects of the UNCRC’ are clear.**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give us your views:

As a youth-led organisation, SYP embodies Article 12 of the UNCRC. SYP developed *The Right Way* project to support and challenge officials and decision-makers, as duty bearers, to work to ensure young people’s Article 12 rights are respected, protected, and fulfilled in policy decision-making. We believe that to embed a culture of meaningful participation, it must start from the top and *The Right Way* provides decision-makers with materials and resources to assist them in doing so. We would encourage the Scottish Government to refer to some of the recommendations and models of participation included in *The Right Way* in this section. In particular, we would recommend including reference to the Lundy Model of Participation developed by Professor Laura Lundy.

**9. Annexes B.1 - B.4 ‘Sources to guide interpretation’ are useful.**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give us your views:

As noted at Question 2 above, at SYP, we believe that young people are the experts in their own experiences. As such, we would strongly recommend including resources designed by young people in Annex B.

As noted in response to Question 8 above, meaningful participation with young people is crucial to rights being realised and a requirement under the UNCRC. SYP would encourage the Scottish Government to refer to *The Right Way* project materials in Annex B. Further, SYP calls on officials and decision-makers - as duty bearers - to utilise 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.

**Recommendation 2:** Officials and decision-makers - as duty bearers - should utilise *The Right Way* project 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.

10. Annex C, ‘**Framework for Reviewing Compatibility (s.6 duty)**’ is presented in an accessible manner, e.g. the content, style, and length make this a user-friendly and practical resource.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give us your views: N/A

11. I clearly understand how to use the Compatibility Review Framework.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give us your views: N/A

12. Overall, the guidance is presented in an accessible manner, e.g. the content, style, and length make this a user-friendly and practical resource.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give us your views:

We note that this statutory guidance is intended for those with responsibilities for implementing and delivering the Act within public authorities. We further note that the Preface suggests *“Public authorities may wish to develop accessible information on their duties within the Act as they relate to their functions, to support the awareness and understanding of children, young people and their families.”*

We believe that youth-friendly versions of documents are essential to allow young people to understand the duties they are owed by public authorities. As Olivia Brown MSYP explains:

*“We need to recognise that part of upholding our rights includes making this proposed legislation easy for children and young people to understand. It must be made extremely clear what it will and won’t do, and how it will empower us.”*

As such, SYP believes that public authorities should be required to publish youth-friendly and accessible information explaining what duties they owe under the Act.

**Recommendation 3:** Public authorities should publish youth-friendly and accessible information explaining what duties they owe under the *UNCRC (Incorporation) (Scotland) Act 2024*, and they should be supported to do so through resources created in consultation with young people.

13. Overall, the guidance supports an improved understanding and ability to fulfil the duties under Part 2 of the Act.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

14. Are there any areas where you think the Part 2 guidance could be improved? Please cite specific parts of the guidance if relevant.

Please give us your views: N/A

## Part 3 Guidance

The following consultation questions 14-20, relate to the draft statutory guidance on Part 3 (section 18) of the UNCRC Act. This is particularly relevant to public authorities listed in section 19 of the Act.

### 15. I have read the draft statutory guidance on Part 3 (section 18) of the UNCRC Act

Yes

No

### 16. Section 4, 'Reporting duties of listed authorities' is sufficiently clear on the reporting requirements under Part 3 of the Act.

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please give us your views:

SYP are strong advocates of accessible, youth-friendly communications. SYP agrees that listed authorities should - as part of the children's rights report development process - work with children and young people to identify what a youth-friendly report looks like for them. Having young people involved in this process is key to their Article 12 right being realised.

As part of *The Right Way* project, SYP produced [AIM The Right Way](#) checklists which provide some practical tips for creating youth-friendly, accessible materials and reports. In this MSYPs state that: "*Youth-friendly doesn't mean patronising. Youth-friendly versions should also benefit adults and should remove jargon, explain acronyms, and get the point across clearly and concisely.*" SYP welcomes the confirmation that reports do not need to be in a written format and would encourage listed authorities to explore alternative formats if they work better for the children and young people involved.

SYP recognises that not all young people experience their rights in the same way and that certain groups of young people face different barriers to the realisation of their rights. As a result of these barriers, their views are not often heard by decision-makers or can be drowned out by the views of other groups. All young people face barriers to participation, but they are not all felt equally. SYP encourages decision-makers to consider how they can break these barriers down when planning young people's engagement in the children's rights report development process and make sure that seldom-heard groups are included.

**Recommendation 4:** Listed authorities should involve children and young people in the children’s rights report development process and consider how they can break down barriers to participation to ensure seldom-heard groups are included.

17. Section 5, ‘**Publication requirements of reports**’ is sufficiently clear on the publication requirements under Part 3 of the Act.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give us your views:

Young people in our focus group told us that they would like to see reports shared via online platforms such as Google classroom. They also suggested that reports could be shared with young people at events that highlight children and young people’s rights such as Rights Weeks in schools or World Children’s Day in November.

As noted above, SYP welcomes the inclusion of accessibility considerations relating to the publication of reports including the confirmation that listed authorities can consider alternative formats to written reports. The MSYPs involved in *The Right Way* project highlighted the following as key considerations when making accessible materials. It may be helpful for the Scottish Government to include these in Section 5.3:

- Colour Contrast
- Easy Read versions
- Large print version
- Using fonts like ariel or comic sans for people with dyslexia
- Providing information in multiple formats (not just pdf).

Feedback is one of the most important parts of meaningful participation as it is key to ensuring that children and young people’s views have influence. As such, SYP calls upon listed authorities to engage children and young people in discussions about the findings of reports and give them an opportunity to provide feedback. To assist them in doing so, SYP recommends that the Scottish Government refer to Professor Laura Lundy’s *Four Fs of Feedback* (Fast, Full, Followed-up, youth-Friendly) in Section 5.4.

**Recommendation 5:** Listed authorities should meaningfully engage children and young people in discussions about the findings of children’s rights reports and give them an opportunity to provide feedback.

**18. Section 6, ‘Policy intention of children’s rights reports under section 18 of the Act’, clearly explains how the reporting process contributes to progressing children’s rights.**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give us your views:

SYP welcomes the opening statement that: *“Reporting requirements are an important mechanism in ensuring that children’s rights are given full effect in practice.”* SYP believes that reporting provides not only an opportunity to capture learning and share good practice examples but also to highlight gaps. Isla Grant MSYP said the following to the Scottish Government’s Executive Team in 2023:

*“To young people, knowing that the adults tasked with looking after us really do care about our rights and wellbeing is as important as the implementation of the rights themselves. The Government can commit to this culture change at a minimum though committing to the task of thoroughly and accurately reporting on children’s rights. We hope this awareness can help you to understand where there are gaps in your work.”*

Another MSYP explained that MSYPs *“will be encouraging and supporting”* duty bearers throughout the implementation of the Act but *“will also be unafraid in reminding them when they need to go further.”*

As explained in our response to Question 18 above, it is essential that listed authorities consider how children and young people can scrutinise and feedback on reports and how the listed authority intends to response or act on that scrutiny.

**19. Annexes B.1 - B.4 Frameworks for children’s rights reporting are helpful.**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give us your views: N/A

**20. Annex C, ‘Scottish Government use of children’s right’s reports’, is clear.**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give us your views:

As noted in response to Question 18 above, SYP agrees that the reporting process can help deliver the culture change required to progress the realisation of children and young people’s rights in Scotland.

**21. The guidance is presented in an accessible manner, e.g. the style, length and content are useful in aiding implementation of duties in respect of the Act.**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give us your views:

Please see response to Question 12 above.

**22. Are there any areas where you think the Part 3 guidance could be improved? Please cite specific parts of the guidance if relevant.**

Please give us your views: N/A