

To: Council

On: 27 June 2024

Report by: Chief Executive

**Heading: United Nations Convention on the Right of the Child
(Incorporation) Scotland Act 2024**

1. Summary

- 1.1. The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill was initially passed with unanimous approval of the Scottish Parliament on 16 March 2021. The UK Government issued a challenge to the Bill under Section 33 of the Scotland Act 1998. The challenge focused on the potential the Bill was seeking to legislate on areas outwith the competency of the Scottish Parliament.
- 1.2. The Supreme Court considered the challenge and found three provisions of the Bill were outwith the competency of the Scottish Parliament. The judgement of the Supreme Court meant the Bill was returned to the Scottish Parliament for reconsideration. The Bill was reconsidered by the Scottish Parliament on 7 December 2023 and was approved unanimously. The Bill received Royal Assent on 16 January 2024 and is now the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (referred to as the 2024 Act in this report).
- 1.3. The Scottish Government arranged for the early commencement of the provisions in the 2024 Act in relation to allowing it to consult and publish statutory guidance for public authorities and to produce court rules for dealing with incompatibility cases. All other provisions will commence on 16 July 2024.
- 1.4. In effect the 2024 Act embeds the United Nations Convention on the Rights of the Child (UNCRC) in Scots law. The 2024 Act states that designated public authorities (which includes local authorities) must not act in a manner which is incompatible with the UNCRC. It provides children, young people or their representatives an option to pursue court action to ensure their rights are recognised. The 2024 Act extends the powers of the Children and Young People's Commissioner. The 2024 Act required public authorities to actively promote children's rights, consider how child friendly budgeting can progress, develop children's rights wellbeing impact assessments and report on how

they are ensuring compliance with their duties (including a child friendly version of the report).

- 1.5. Some young people from Renfrewshire, supported by community learning and development staff contributed to an [animation](#) commissioned by the Scottish Government on UNCRC and how public authorities can promote and protect children's rights. The Scottish Government has produced guidance on the 2024 Act. The Improvement Service has developed [resources](#) for elected members to understand their responsibilities under the 2024 Act.
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2. Recommendations

2.1. Members are asked to:

- [a] note the provisions of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 will commence on 16 July 2024,
 - [b] note the new duty on Renfrewshire as a public authority to actively promote children's rights, listen to the views of children and young people in policy development and publish a report every three years on how the council is ensuring compliance with the 2024 Act,
 - [c] note the contribution of some of Renfrewshire's young people to the Scottish Government animation,
 - [d] note the resources developed by the Improvement Service to assist elected members to understand their responsibilities in relation to the protection and promotion of the rights of children, and
 - [e] agree to the addition of a new section in the implications section of reports for Council and policy boards on Children's Rights.
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3. Background

United Nations Convention on the Rights of the Child (UNCRC)

- 3.1. The UNCRC details specific human rights for children and young people. The UNCRC considers anyone under the age of 18 to be a child and offers a vision for how their needs should be met as an individual, a member of a family and part of a wider community.
- 3.2. The UNCRC consists of 54 [articles](#). Part I (articles 1 to 42) is known as the provisions, Part 2 (articles 42 to 45) is about implementation and monitoring and Part 3 (articles 43 to 54) is the final clauses.
- 3.3. Examples of the articles are:
 - The right to life, survive and develop their full potential (Article 6)
 - The right of the child to express their views and have that view considered (Article 12)

- The right to information in an accessible way (Article 17)
- The right to be protection from violence, abuse and neglect (Article 19)
- The right to special protection, assistance and care if the child can't live with their immediate family (Article 20)
- The right to government help and support (Article 26)
- The right to a proper house, food and clothing (Article 27)
- The right to education (Article 28)
- The right to culture, language and religion (Article 30)
- The right to play and to rest (Article 31).

3.4. The following principles apply to children's rights:

- Universal – they apply to all children
- Inalienable – cannot be taken away
- Indivisible – all equally important
- Interdependent – breach of one impacts on all
- Interrelated – all connected to each other.

United Nations Convention on the Right of the Child (Incorporation) Scotland) Act 2024

3.5. The United Nations Convention on the Right of the Child (Incorporation) Scotland) Act 2024 becomes fully operational from 16 July 2024. The 2024 Act aims to ensure children's rights are respected and protection in law in Scotland. The 2024 Act applies to legislation passed by the Scottish Parliament in respect of devolved functions.

3.6. The 2024 Act places specific duties on a range of public bodies which includes local authorities. These duties include the requirement to respect and protect children's rights in their work, proactively promote the rights of children and not to act in any way which is incompatible with the UNCRC.

3.7. Public bodies are required to ensure the voice and experience of children and young people inform the planning and delivery of services, develop a child friendly complaints process and publish a children's rights report (including a child friendly version).

3.8. The 2024 Act gives children, young people and their representatives access to courts if they feel their rights have been breached.

Embedding children's rights

3.9. By adopting some processes Renfrewshire can ensure it meets the duties under the 2024 Act. The Council should consider how it:

- Embeds children’s rights at the core of planning and delivery of services which affect them,
 - Ensures equity and non- discrimination by offering all children and equal opportunity to make the most of their lives and talents,
 - Empowers children by giving them knowledge and confidences to use their rights and to hold organisations to account, and
 - Ensures children can participate by listening to their views and taking their views seriously.
- 3.10. The Council can utilise a children’s rights impact assessment (CRIA) to assist it in achieving compliance with the 2024 Act. The CRIA can record how children’s views were gathered, considered and influenced policy development, that impact on children was informed by research and evidence, that gaps are identified and addressed, the impact on children’s rights and wellbeing have been considered and that any negative impact can be mitigated, or the policy improved.
- 3.11. Publication of a CRIA on any policy development can increase transparency and allows scrutiny of decision making.
- 3.12. The Improvement Service has developed a range of tools and information to assist elected members develop further knowledge on children’s rights and how to ensure that local authorities are compliant with the duties of the 2024 Act and promote a children’s rights approach.

Implications of this report

1. Financial

The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 introduces a new child friendly budgeting approach. When making budget decisions in future the council should consider a Children’s Rights Impact Assessment.

2. HR and Organisational Development

The new duties under the 2024 Act will impact on all members of staff employed by Renfrewshire. Initially staff in children’s services have been trained on the new responsibilities under the Act and the Renfrewshire Children’s Services Partnership is developing a briefing for all other staff.

3. Community/Council Planning

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| Our Renfrewshire is thriving | - <i>Being compliant with the 2024 Act will ensure that Renfrewshire meets children’s rights and improve the opportunity for them to thrive.</i> |
| Our Renfrewshire is well | - <i>Being compliant with the 2024 Act will ensure that Renfrewshire meets children’s rights and improve the opportunity for them to experience positive health or achieve the best</i> |

health they are able to.

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| Our Renfrewshire is fair | - | <i>Being compliant with the 2024 Act will ensure that Renfrewshire meets children's rights, thus promoting a fair and equitable approach across the council and within communities.</i> |
| Our Renfrewshire is safe | - | <i>Being compliant with the 2024 Act will ensure that Renfrewshire meets children's rights and improve the safety of children in our community.</i> |
| Tackling inequality, ensuring opportunities for all | - | <i>Being compliant with the 2024 Act will ensure that Renfrewshire meets children's rights promotes a culture of tackling inequality and promoting life chances for all children.</i> |

4. Legal

The 2024 Act places significant new duties on the local authority. The new duties have been outlined in the body of the report at paragraphs 3.6 and 3.7.

5. Property/Assets

None.

6. Information Technology

None.

7. Equality and Human Rights

The recommendation in this report will enhance the rights of children and young people. It will also ensure the Council is discharging its duties in relation to the promotion of children's rights.

8. Health and Safety

None.

9. Procurement

None.

10. Risk

Failure to discharge the duties in the 2024 Act could result in legal challenge to the local authority.

11. Privacy Impact

None.

12. Cosla Policy Position

This report is in line with the COSLA Policy Position on the rights of children and young people.

13. Climate Risk

None.

List of Background Papers

(a) None

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