



# ARTICLE 12 IN SCOTLAND

**LIST OF ISSUES PRIOR TO REPORTING**

**FOR THE COMMITTEE ON THE RIGHTS OF THE CHILD**

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Article 12 in Scotland - SCIO SC027711



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## *About Article 12 in Scotland*

Established in 1996, *Article 12 in Scotland* is a young person focused organisation that works to promote young people's participation and information rights as set out in international human rights charters. We believe that governments, professionals, and the wider community all have a role to play in building an environment that respects, values and validates the contributions of young people.

Our work is underpinned by the principle of *free participation*: the right to participate as equal citizens at all levels of society, without fear or favour; a process that facilitates the participation of all young people on their own terms and according to their own realities, a principle that, if realised, facilitates informed choice, freedom, dignity, respect and demonstrates an acceptance that young people have the same human rights entitlements as adults.

We work to achieve this by supporting some of the most marginalised young people, such as young Gypsy/Travellers, care-experienced young people and young people experiencing mental ill-health to:

- undertake research to identify needs and concerns relating to their human rights;
- have those needs and concerns given due weight and attention by key decision makers at local, national and international level.

As such, this response is inclusive of, and weighted towards, the views, opinions and recommendations of the young people who have engaged in our previous work with regards to the *UNCRC*, and the issues which *they feel* continue to impact upon their lives, and those of their families, friends and communities.

NB: all direct quotes have been taken from our report *The Concluding Observations: Young people's views of the UNCRC Committee's Concluding Observations (2016) on the implementation of the UNCRC in the UK*, which was published in 2018.<sup>i</sup>



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**General measures of implementation: art. 4 (implementation of the Convention); art. 42 (knowledge of rights); art 44(6) (States Parties shall make their reports widely available to the public in their own countries)**

*“Rights are more important now than ever, don’t let the current political climate erode them”*

Please provide information on the measures in place to ensure:

- 1) policy and practice are compliant with the *UNCRC* in order to facilitate equality and continuity of access to children and young people’s rights – across the UK - as set out in the *UNCRC*;
- 2) legislation surrounding children and young people is subject to continual scrutiny and recommendations made by the *UNCRC Committee* are given due consideration on a regular basis;
- 3) additional funding be made available, and directed towards relevant stakeholders already involved with *UNCRC* awareness-raising and The Reporting Process, in order to ensure that the children and young people they represent can be fully informed and empowered to amplify their voice;
- 4) the monitoring and evaluation of policy and legislation is transparent and jargon-free in order to make it accessible to all, and enable inclusive dialogue surrounding children and young people’s rights. This should be undertaken annually;
- 5) that children and young people, particularly marginalised children and young people, are meaningfully involved in the Child Rights Impact Assessments process;
- 6) all professionals and policy makers are trained in order to fully understand the *UNCRC*;
- 7) transparent financial support is in place to ensure children and young people’s rights are at the forefront of all local and national policy planning – particularly given our current economic climate;
- 8) financial provisions are in place to mitigate the effects of the COVID-19 pandemic on already marginalised groups;
- 9) that children and young people already living in poverty are not forgotten, and will receive additional support to ensure they do not fall further behind due to the effects of austerity.

Please explain:

- 1) how laws and policy account for the unique needs of marginalised groups of children and young people, such as: young Gypsy/Roma/Travellers, young disabled people, care-experienced young people, young carers, young people experiencing mental ill-health, young offenders, young LGBTQI+ people, young people with refugee status, and all other marginalised and disenfranchised groups;
- 2) how are rights holders currently supported to challenge public authorities when their actions are incompatible with their rights as set out in the *UNCRC*;
- 3) the way(s) in which reports will be disseminated in order to reach as many children and young people – and those who seek to represent them – as possible.



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## Definition of the child (art.1)

*“Rights are rights, you can’t pick and choose them”*

Please provide information on the considerations in place regarding:

- 1) Article 1 of the *UNCRC* defines the age of the child as being all those under 18 years old: *Article 12 in Scotland* believes that the *UNCRC* must go further to push the rights of marginalised children and young people, protecting them up until the age of 25;
- 2) the means by which the State Party ensures all children and young people, and in particular marginalised children and young people, are treated as individuals and not stereotypes.

## General principles

### Non-discrimination (art. 2)

*“We must do more to challenge prejudice”*

Please provide information on the measures in place to ensure:

- 1) robust monitoring of hate speech online and on social media platforms;
- 2) the media use their power in a positive way - to instigate positive change, based on real, lived experiences - with particular regard to discrimination against children and young people from the Gypsy/Roma/Traveller communities, children outside their country of origin seeking refugee protection, unaccompanied asylum-seeking children, internally displaced children, migrant children and children affected by migration;
- 3) more national campaigns are implemented in order to tackle negative stereotypes and raise awareness of the issues faced by children and young people from marginalised groups;
- 4) schools are encouraged to participate in the *Rights Respecting Schools* scheme;
- 5) increased peer education in school: empowering marginalised children and young people to inform others of their realities;
- 6) funding is in place to ensure that children and young people from marginalised groups – and their families – do not face disproportionate levels of poverty and discriminatory policy and practice.

Please explain:

- 1) in what way will the *UNCRC* be taught in schools to all students and staff;
- 2) what the government intends to do to ensure all children and young people not in mainstream education are fully aware of the *UNCRC* and their rights entitlements.



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## Best interest of the child (art. 3)

*“Encourage involvement, working together is the best way to move forward”*

Please provide information on the measures in place to ensure:

- 1) increased provisions for transitional services (for disabled children and young people, care-experienced children and young people, young carers and young offenders), which are essential in building upon the foundations for positive life paths;
- 2) support for more young-person-led projects which empower young people to directly educate professionals (and other young people via peer education) in health and education services;
- 3) carers and professionals carefully consider how protective care can negatively impact upon children and young people’s rights and freedoms.

## Right to life, survival and development (art. 6)

*“Marginalised groups of young people can become very isolated; help make sure everyone is involved and supported”*

Please provide information on the measures in place to ensure:

- 1) all children and young people have access to a safe, healthy environment and a wide range of available, accessible support and facilities to aid their development and increase well-being;
- 2) the living conditions and access to essential services (including access to health and education services; further education and employment opportunities; social and recreational activities and participation in civil and cultural life; access to personal support; financial assistance and suitable accommodation) of **all** marginalised children and young are being given due attention.

## Respect for the views of the child (art. 12)

*“The views of young people must be heard; we want to participate and have our voices heard on the issues that affect us”*

Please provide information on the measures in place to ensure:

- 1) the voices of marginalised children and young people are heard on the matters that directly impact upon their lives. Marginalised children and young people must be able to participate, at all levels, in the decision-making processes that affect their lives, and the lives of others from their community;
- 2) marginalised children and young people have a bigger say in the services and choices that are involved in their lives (particularly with regards to personal support, accommodation and education); there must be a clearer understanding of the issues faced, in order for these children and young people to fully participate at all levels of society;



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- 3) all professionals working with, and for, marginalised children and young people are trained up on the *UNCRC*, in order for the principles to be properly implemented into policy and practice for all services, at all levels;
- 4) seldom-heard children and young people know their rights. We believe there is a particular need for this regarding children and young people from the Gypsy/Roma/Traveller communities.

**Civil rights and freedoms: birth registration, name and nationality (art. 7); preservation of identity (art. 8); right to seek, receive and impart information (art. 13); freedom of thought, conscience and religion (art. 14); freedom of association and of peaceful assembly (art. 15); protection of privacy and protection of the image (art. 16); access to information from a diversity of sources and protection from material harmful to his or her well-being (art. 17); measures to promote physical and psychological recovery and social reintegration of child victims (art. 39)**

*“Young people must be confident to speak up, raise awareness and have their voices heard”*

Please provide information on the measures in place to ensure:

- 1) Gypsy/Roma/Traveller culture and traditions are treated with respect; Gypsy/Roma/Traveller communities continue to face huge levels of inequality and discrimination;
- 2) increased awareness-raising with the settled community to help ease tensions; young Gypsy/Roma/Travellers should lead on this, particularly in their community relationship with the police;
- 3) young carers are listened to and involved in decision making processes at all levels, in order to ensure the support that is so crucial to their lives and development is relevant to their needs and the needs of their families;
- 4) information regarding services and support is straightforward and accessible; young carers should be empowered to take control of finding the best fit for themselves and their families;
- 5) improved privacy provisions for care-experienced children and young people;
- 6) more freedom, managed in a safe and appropriate way, for care-experienced children and young people;
- 7) involved professionals are working together, that services are ‘joined-up’, ensuring young disabled people can access the most appropriate available support;
- 8) marginalised children and young people will continue to experience empowerment through the organisations that support them, particularly given the current economic climate - the support offered by such organisations is invaluable and should be protected;
- 9) information and protection will be easily accessible and supported, particularly for children and young people from marginalised groups;
- 10) young disabled people have a greater say in the services and choices that are involved in their lives; in order for young disabled people to fully participate at all levels of society there must be a clearer understanding of the issues they face.

**Violence against children: abuse and neglect, including physical and psychological recovery and social reintegration (arts. 19 and 39); measures to prohibit and eliminate all forms of harmful traditional practices, including, but not limited to, female genital mutilation and early and**

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forced marriages (art. 24(3)); right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, including corporal punishment (arts. 37(a) and 28(2)); sexual exploitation and sexual abuse (art. 34)

*“Use mainstream media for positive stories”*

Please explain:

- 1) if the government intends to take more responsibility in tackling the negative perceptions of marginalised children and young people;
- 2) does the government plan to implement a stronger stance on bullying;
- 3) will the government plan to better tackle hate crimes and online hate speech, with regards to children and young people from marginalised groups;
- 4) what measures are being taken to ensure the neglect and/or abuse of any child or young person is not ‘hidden’ as a result of isolation measures put in place due to the COVID-19 pandemic.

**Family environment and alternative care: family environment and parental guidance in a manner consistent with the evolving capacities of the child (art. 5); separation from parents (art. 9); family reunification (art. 10); illicit transfer and non-return (art. 11); parents’ common responsibilities, assistance to parents and the provision of childcare services (art. 18); children deprived of family environment (art. 20); adoption, national and inter-country (art. 21); periodic review of placement (art. 25); recovery of maintenance for the child (art. 27(4))**

*“No child chooses to be looked after away from home/mentally ill/disabled – don’t label us”*

Please provide information on the measures in place to ensure:

- 1) an increase in support and better respite care provisions;
- 2) increased additional support and information for young carers and families experiencing mental ill-health;
- 3) flexibility in services when moving areas;
- 4) young disabled people have a say in their respite care;
- 5) marginalised children and young people are able to easily access the right to specialist care and support;
- 6) increased support when leaving care, and not being forced to leave at a certain age before feeling ready;
- 7) access to independent services and organisations that support the rights of care-experienced children and young people;
- 8) the development of professional qualifications regarding participation rights for professionals (such as teachers, social workers, managers and care staff) which would help to enshrine the rights of marginalised children and young people;
- 9) those working with young people living in care strive to protect the young people first and foremost, not themselves;

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- 10) support is easily accessible and available to all children and young people, including those with additional learning needs and younger children;
- 11) an increase in benefits in order to access essential respite care – many disabled young people simply cannot afford to pay for care and living costs;
- 12) more respect, choice and control for all children and young people.

**Disability, basic health and welfare: measures taken to ensure dignity, self-reliance and active participation in the community for children with disabilities (art. 23); survival and development (art. 6(2)); health and health services, in particular primary health care (art. 24); social security and childcare services and facilities (arts. 26 and 18(3)); standard of living and measures, including material assistance and support programmes with regard to nutrition, clothing and housing, to ensure the child’s physical, mental, spiritual, moral and social development and reduce poverty and inequality (art. 27, paras. 1–3); measures to protect children from substance abuse (art. 33)**

*“We need access to more inclusive services that everyone can access”*

Please provide information on the measures in place to ensure:

- 1) local authorities and house builders consult with young disabled people, empowering them to influence planning and ultimately use their environment with ease and to its full potential;
- 2) awareness of ‘hidden disabilities’ and how this impacts on access to support and services;
- 3) safe, secure and culturally-sensitive accommodation provision for young Gypsy/Roma/Travellers - which is still sorely lacking;
- 4) robust monitoring of Local Authorities and a legal duty to provide good living standards for Gypsy/Roma/Travellers;
- 5) an immediate increase in the number of decent, well-appointed/located sites for Gypsy/Travellers;
- 6) improved transport provision near sites so young Gypsy/Travellers can travel to school, go shopping, socialise with their peers and so on;
- 7) a more flexible, culturally sensitive approach to healthcare for the Gypsy/Roma/Traveller communities;
- 8) more training on the Gypsy/Traveller culture for health-care workers; this would help to build trust and encourage young Gypsy/Travellers to use health-care services;
- 9) health care workers visit Gypsy/Traveller sites where appropriate;
- 10) services and support remain accessible to those living a transient lifestyle;
- 11) services and support remain accessible to those with mobility issues;
- 12) improved facilities catering to the specific needs of disabled young people; in particular, improved transport provisions;
- 13) more support with caring and child-care responsibilities;
- 14) mental health provisions are at the forefront of reform and service reviews;

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- 15) mental health provisions are increased, in order to be accessible for all, at the point of need, due to the negative impact of the COVID-19 pandemic and the isolation it has caused, to already marginalised groups;
- 16) increased, rather than decreased, financial support for families from marginalised groups;
- 17) increased awareness of the *UNCRC* for all young disabled people and the professionals that work with, and advocate for, them.

Please explain:

- 1) what is currently being done to ensure the distinct accommodation needs of young Gypsy/Travellers are being met - Gypsy/Travellers have the right to good accommodation, whether living in a house or on a site;
- 2) what is being done to mitigate and/or minimise the economic effects of current and future austerity on the health and well-being of marginalised children and young people;
- 3) the process(s) used in consulting with young Gypsy/Travellers on their accommodation needs;
- 4) what training is in place for all professionals working with children and young people, to equip them to provide support for increasing mental ill-health resulting from the COVID-19 pandemic.

**Education, leisure and cultural activities: right to education, including vocational training and guidance (art. 28); aims of education with reference also to quality of education (art. 29); cultural rights of children belonging to indigenous and minority groups (art. 30); rest, play, leisure, recreation and cultural and artistic activities (art. 31)**

*“We need to promote inclusion”*

Please provide information on the measures in place to ensure:

- 1) there is no ‘attainment gap’ for children and young people from marginalised groups;
- 2) that disenfranchised children and young people are not disproportionately affected by the economic effects of the COVID-19 pandemic;
- 3) that education represents and embraces the culture and identity of all those it means to teach;
- 4) the means by which children and young people with additional needs are supported to achieve their full potential within schools and other places of learning;
- 5) more courses are available for vocational skills and qualifications, targeted towards young Gypsy/Roma/Travellers;
- 6) an increase in meaningful, supported volunteering opportunities for all marginalised children and young people;
- 7) better respite care provisions so young carers can have the time to do all the things ‘regular’ young people do in order to develop and have fun;
- 8) training on the Gypsy/Roma/Traveller culture for all teachers; more teachers recruited from the Gypsy/Roma/Traveller communities;
- 9) increased help and support with work placements for young carers;

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- 10) an increase in the places and activities available in which young carers can safely socialise;
- 11) young carers have a say in how their education is delivered, and an increase in in-school support;
- 12) more young-person-led awareness-raising concerning the issues faced by young carers, which would increase understanding about the roles and responsibilities that come with caring; this would help lessen bullying and discrimination;
- 13) peer-led training for teachers which would help to identify any young carers that may be 'hidden' (or unwilling to come forward), ensuring that all young carers get the support to which they are entitled;
- 14) increased awareness-raising and training on the rights of young disabled people for education staff; schools must understand the requirement for time off (some teaching staff and medical professionals have a lack of understanding around the health issues of young disabled people, both mental and physical);
- 15) increased skill-based, vocational learning for all children and young people;
- 16) more young-person-led awareness-raising/peer education is in place within schools regarding the needs of, and issues faced by, care-experienced children and young people – for both young people and teachers;
- 17) improved participation and citizenship within early years educational settings;
- 18) children and young people from marginalised groups have better access to leisure facilities;
- 19) increased resources to support rights-based education;
- 20) flexible education to suit individual need – not a 'one size fits all' approach;
- 21) an end to unpaid work placements.

Please explain:

- 1) the means by which Local Authorities are monitored in their duty to deliver culturally appropriate, inclusive and flexible education for all marginalised children and young people;
- 2) how the government plans to take more responsibility in tackling the negative perceptions of marginalised children and young people, with particular regards to education, work and crime;
- 3) the way in which work places should become more sensitive to the individual needs of young disabled people;
- 4) the policies in place to ensure young Gypsy/Travellers and young disabled people have improved transport provision to and from places of education;
- 5) the policies in place to deliver sensitive pastoral support when required to children and young people from marginalised groups;
- 6) what is being done to improve work experience opportunities for children and young people from marginalised groups;
- 7) what is being done to increase support for further education, training and employment;
- 8) what funding is in place to ensure that children and young people from marginalised groups are properly supported to reach their full educational and vocational potential.

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## Digital inequality

*“Everybody is different”*

Digital inequality has long been an issue for children and young people from marginalised groups, the COVID-19 pandemic has highlighted just how much of a barrier to participation this is. In order for children and young people from these groups to fully participate, achieve their potential, and enjoy their full rights entitlements, this needs to be addressed. Digital inequality is particularly prevalent within children and young people living in the Gypsy/Traveller community with recent research *“on how the chasmic digital divide is impacting on young Gypsy/Travellers’ ability to continue their formal learning”* during the COVID-19 pandemic demonstrating that of seventy (70) families supported during lockdown fewer than ten percent (10%) had access to the internet and none had access to a ‘fit for purpose’ laptop/tablet/PC<sup>ii</sup>.

Please provide information on the measures in place to ensure:

- 1) that, if required, all children and young people will have ready access to the technology and resources required to participate in their learning online;
- 2) this online education can and will be tailored to meet the individual learning needs of the child or young person in question;
- 3) children and young people from marginalised groups will not face disproportionate barriers in accessing online education and the resources required;
- 4) procedures are in place to stop children and young people from marginalised groups from ‘falling through cracks’ in provision.

**Special protection measures: children outside their country of origin seeking refugee protection, unaccompanied asylum-seeking children, internally displaced children, migrant children and children affected by migration (art. 22); children belonging to a minority or an indigenous group (art. 30); economic exploitation, including child labour, with specific reference to applicable minimum ages (art. 32); use of children in the illicit production and trafficking of narcotic drugs and psychotropic substances (art. 33); sale, trafficking and abduction (art. 35); other forms of exploitation (art. 36); sentencing of children, in particular the prohibition of capital punishment and life imprisonment (art. 37 (a)) and the existence of alternative sanctions based on a restorative approach; children deprived of their liberty, and measures to ensure that any arrest, detention or imprisonment of a child shall be used as a measure of last resort and for the shortest appropriate time and that legal and other assistance is promptly provided (art. 37 (b)–(d)); children in armed conflicts (art. 38); including physical and psychological recovery and social reintegration (art. 39); physical and psychological recovery and social reintegration (art. 39); administration of juvenile justice (art. 40), the existence of specialised and separate courts and the applicable minimum age of criminal responsibility**

*“People need to feel as if someone cares about them and loves them”*

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Please provide information on the measures in place to ensure:

- 1) children and young people from the Gypsy/Roma/Traveller communities are not experiencing disproportionate levels of discrimination based on their ethnicity;
- 2) children and young people from the Gypsy/Roma/Traveller communities are able to express their identity and take pride in their heritage without fear or negative repercussions;
- 3) that children outside their country of origin seeking refugee protection, unaccompanied asylum-seeking children, internally displaced children, migrant children and children affected by migration are supported to ensure they have access to their full range of rights entitlements under the *UNCRC*, and to a range of services and support – financial and otherwise;
- 4) better knowledge and understanding of the *UNCRC* is implemented within the prison system, so that young offenders have a fuller understanding of their rights and how to further ensure them within their decision making.

Please explain:

- 1) what measures are in place to support and protect children and young people from marginalised groups from harm, when they are the victim of, or witness to, a hate crime;
- 2) plans to review provisions for basic rights entitlements such as warmth, comfort, education and training, health and nutritional food within the prison system.

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***“The government should listen to what WE think about our rights”***

***“Promises made by the government must be delivered”***

***“Keep up the pressure to implement the recommendations from the Concluding Observations”***

***“The government need to listen to what we need”***

The rights to live a life free from discrimination and to be respected are key rights entitlements; however, many children and young people continue to face discrimination, negative stereotyping and social stigmatisation on a daily basis, with marginalised children and young people being disproportionately affected by this. If we are to see a meaningful change in realising the rights of vulnerable children and young people – indeed all children and young people across Scotland and the United Kingdom - and in the spirit of Article 12 of the *UNCRC*, children and young people must be consulted on - and participate in - the development and monitoring of the laws and policies that directly impact on the realisation of their rights; increased participation and advocacy are essential and must be sincere and meaningful. It is vital that marginalised children and young people are adequately supported and empowered to enjoy the rights they are entitled to under the *UNCRC*.

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<sup>i</sup> *Article 12 in Scotland* (2018). *I Witness: The Concluding Observations: Young people’s views of the UNCRC Committee’s Concluding Observations (2016) on the implementation of the UNCRC in the UK*: [https://www.article12.org/wp-content/uploads/2020/09/I-Witness\\_the-Concluding-Observation\\_2018\\_web.pdf](https://www.article12.org/wp-content/uploads/2020/09/I-Witness_the-Concluding-Observation_2018_web.pdf)

<sup>ii</sup> Tammi, L. (2020). *Across the great divide: The impact of digital inequality on Scotland’s Gypsy/Traveller children and young people during the COVID-19 emergency*. *International Journal of Roma Studies*, 2(2), 52-65. doi: 10.17583/ijrs.2020.630