



Children's Rights in Scotland (UK)

Civil society report to inform the UN Committee on the Rights of the Child's List of Issues Prior to Reporting
By Together (Scottish Alliance for Children's rights)

together

Scottish Alliance for Children's Rights

About Together (Scottish Alliance for Children's Rights)

Together (Scottish Alliance for Children's Rights) is an alliance of over 400 non-governmental organisations (NGOs), academics and interested professionals. Our vision is that all children and young people in Scotland have their human rights respected, protected and fulfilled. To achieve this, we work to inspire and enable everyone in Scotland to put children and young people's human rights at the heart of everything they do.

Supporting organisations

A large number of organisations and individuals have contributed to this report, bringing together a range of skills, knowledge and understanding of children's human rights across Scotland. This has included over 500 people who took part in a series of online webinars over summer 2020 and many organisations who submitted evidence to underpin the findings and recommendations. The investment of time and resources by so many of Together's members demonstrates the strength of commitment to children and children's rights and the value placed on having progress in Scotland scrutinised by the UN Committee. This report embodies an overall consensus of opinion and may not necessarily represent in all respects or detail the views of every member of Together, nor every organisation that has contributed to this report. Views expressed separately by Together's members should also be taken into account. The following non-governmental organisations support this report.

Aberlour	Includem
Action for Children	IPA Scotland
Alcohol Focus Scotland	LASC Childcare Services
ALYVE UK	LGBT Youth Scotland
Article 12 in Scotland	Licketyspit
Barnardo's Scotland	NSPCC Scotland
Befriending Networks	One Parent Families Scotland
Carers Trust Scotland	Parenting Across Scotland
CELCIS	Peace Childcare
Children and Young People's Centre for Justice	Play Scotland
Child Rights International Network (CRIN)	Quakers in Scotland
Children 1st	respectme
Children in Scotland	Royal Caledonian Education Trust (RCET)
Children's Health Scotland	Salvesen Mindroom Centre
Children's Parliament	Save the Children
Children's University Scotland	Scottish Child Law Centre
Clan Childlaw	Scottish Commission for Learning Disability (SCLD)
Compass Child and Family Services	Scottish Families Affected by Alcohol & Drugs
Contact Scotland	Scottish Independent Advocacy Alliance
Craigmillar Literacy Trust	Scottish Out of School Care Network (SOSCN)
Early Years Scotland	Scottish Throughcare and Aftercare Forum (Staf)
Edinburgh Children's Hospital Charity	Scottish Sensory Centre
Families Outside	Scottish Women's Aid
Family Fund	Scottish Youth Parliament
for Scotland's Disabled Children (fSDC)	Shared Parenting Scotland
Forces Watch	Starcatchers
Girlguiding Scotland	TACT Fostering and Adoption
Health and Social Care Alliance Scotland (the ALLIANCE)	The Yard
Highland Children and Young People's Forum	Upstart Scotland
Home-Start Scotland	Who Cares? Scotland
Humanist Society Scotland	YouthBorders
Human Rights Consortium Scotland (HRCS)	YouthLink Scotland

Artwork

The artwork in this report was created by children supported by the Children's Parliament. This includes murals in which children from Dunkeld and Birnam shared their vision for the future of their community, and giant shields created by Members of Children's Parliament ahead of the UN Day of General Discussion on Children as Human Rights Defenders.

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Introduction

This List of Issues Prior to Reporting (LOIPR) has been collated by Together (Scottish Alliance for Children's Rights) through close consultation with its membership of over 400 children's charities, playgroups, individuals, academics and professionals. It identifies the key issues impacting on children's human rights in Scotland, and where possible, draws from the views and experiences of children and young people from across Together's membership.

Among Together's members, there has been widespread celebration that Scotland is set to become the first country in the UK to directly incorporate the UN Convention on the Rights of the Child (UNCRC) into domestic law. This has followed on from decades of campaigning by children and young people, civil society and the Children and Young People's Commissioner Scotland. The [UNCRC \(Incorporation\) \(Scotland\) Bill](#) has widespread support across political parties and should be passed by the Scottish Parliament in early 2021. Since last reporting to the UN Committee in 2016, there have been other areas of significant progress in implementing children's human rights, such as [giving children equal protection from assault in law](#) and [raising the age of criminal responsibility from eight to 12](#) (although this has not yet been brought fully into force and we strongly believe it needs to be raised further). The Scottish Government's focus on children's human rights through its [2018-21 Action Plan](#) and [annual update](#) has also been widely welcomed.

Whilst recognising the potential of these commitments, children continue to face significant challenges in having their rights upheld. The COVID-19 pandemic has created unprecedented challenges and has had a disproportionate impact on those children already most at risk, including children living in poverty, children at risk of physical abuse and neglect, disabled children and children in the justice system. With more limited access to support services, the pandemic has exacerbated many existing child rights concerns, including children and young people's mental health, food insecurity and the poverty-related attainment gap. This submission does not contain all the concerns expressed by our membership but represents the key concerns raised by children and civil society.

Devolution

It is essential that the context of devolution is taken into account when assessing UK implementation of the UNCRC. Whilst part of the UK, Scotland has a very different policy and legislative landscape and has considerable devolved powers over issues that affect the fulfilment of children's rights. For example, Scotland's education system, legal and justice system, NHS and local government are fundamentally distinct from the rest of the UK. Although Scottish Government has legislative responsibility over these devolved matters, reserved decisions made by UK Government on matters such as benefits and social security, immigration and employment can still have a profound effect.

The interaction between reserved and devolved powers significantly impacts on the implementation of the UNCRC in Scotland and across the devolved nations. As such, a gap exists in the scrutiny of the UK's UNCRC compliance. It is essential that the UN Committee's List of Issues Prior to Reporting to the UK adequately reflects the differences in legislation and policy across the devolved nations of the UK. In partnership with our sister organisations across the UK – the Child Rights Alliance England, Children's Law Centre Northern Ireland and the Wales UNCRC Monitoring Group – we would be happy to support the UN Committee in navigating the complexities of devolution and the impact it has on children's experiences of their rights.

General measures of implementation



1. Children's rights not consistently reflected in legislation

The UNCRC is currently reflected on a piecemeal basis in Scots law, resulting in inconsistent protections of children's human rights in law.

Scottish Government has introduced a Bill to incorporate the UNCRC into law by early 2021 "in full and directly" insofar as the powers of the Scottish Parliament allow.¹ [The UNCRC \(Incorporation\) \(Scotland\) Bill](#) places a duty on public authorities not to act incompatibly with the UNCRC requirements; allows children and their representatives to challenge potential violations of their rights in court; gives Scottish courts powers to grant remedies and make orders in respect of incompatible legislation. The Bill also includes measures to embed children's rights into decision making and prevent future breaches. When passed, it will be a significant step towards ensuring children's rights are respected, protected and fulfilled.

Alongside UNCRC incorporation, Scottish Government should undertake a rigorous review of existing legislation to identify and address areas where Scots law falls short of UNCRC standards. Issues to address include:

- Inconsistencies in the definition of a child: defined as under 16 in some legislation, contrary to Article 1 UNCRC, with the result 16- and 17-year-olds are often excluded from the protection they require as children.^{2,3}
- Minimum age of criminal responsibility: legislation will raise this from eight to 12 years old once fully implemented.⁴ This falls short of the minimum internationally acceptable standard of 14 years.⁵

i Please provide information on:

- All mechanisms in place to ensure policy and legislation comply with the UNCRC, including use of rights-based budgeting and impact assessments.**
- The steps taken to conduct a comprehensive review to ensure all legislation, policy and practice affecting children at a local and national level is compatible with the UNCRC.**

2. Child rights impact assessment processes need further improvement

Scottish Government introduced Child Rights and Wellbeing Impact Assessments (CRWIA) in 2015. Supporting [guidance](#) is clear CRWIA should be used on all legislation and policy that impacts on children, not just children's services.

A 2019 [analysis](#) of Scottish Government CRWIAs revealed inconsistencies, including misidentification of UNCRC articles, lack of consideration of wider UN Committee jurisprudence, insufficient data collection, and lack of involvement of children in later stages of the CRWIA process. It concluded Scotland had the tools to produce exemplary CRWIAs but refinement was needed. Our members raise additional concerns that CRWIA often inadequately address the views and experiences of young children, disabled children and those with communication needs.

¹ United Nations on the Rights of the Child (Incorporation) (Scotland) Bill.

² Section 93(2)(b)(i). Children (Scotland) Act 1995.

³ Section 199(1). Children's Hearings (Scotland) Act 2011.

⁴ Age of Criminal Responsibility (Scotland) Act 2019.

⁵ CRC/C/GC/24.

Scottish Government has committed to evaluate the use and impact of CRWIA in 2021 to further support and promote its use. The UNCRC Incorporation Bill requires Scottish Government to prepare and publish CRWIA for all new legislation and “decisions of a strategic nature”.⁶ The Bill does not include any duty on public bodies to prepare CRWIA. Stronger mechanisms are required to ensure children’s human rights are embedded into decision-making at all levels of government – national and sub-national.



i Please provide information on:

- a. Child rights impact assessments carried out by all levels of government, including detail on how findings have influenced decision-making.
- b. Mechanisms in place to ensure transparency and scrutiny of CRWIA on a routine basis.
- c. Training for officials and other measures in place to ensure the CRWIA process is child-centred, facilitates meaningful child participation and is intersectional, recognising the diversity of children impacted by decision-making.

3. Child rights-based budgeting needs to be embedded

Scottish Parliament’s budget tool outlines the funds Scottish Government has allocated to health boards, local authorities and other bodies. This tool is helpful in comparing proposed and past budget allocations, yet Scottish Government should make children more visible within its budget to aid transparency and accountability.

Scottish Government is exploring wellbeing-based approaches to budgeting.⁷ It is crucial that this work is underpinned by children’s rights. Scottish Government should revise its children’s rights Action Plan 2018-21 to include a workstream on child rights budgeting at national and local level that ensures effective, efficient, equitable, transparent and sustainable public budget decision-making in line with UNCRC Article 4.

i Please provide information on steps taken to ensure:

- a. Children’s rights are embedded into budgeting processes at national and local levels.
- b. Budgeting processes are transparent and involve child participation.
- c. Children’s human rights are fulfilled and protected from the impacts of austerity and the economic consequences of COVID-19, with particular focus on the rights of children from disadvantaged and minority backgrounds.

⁶ Section 14(3). United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill.

⁷ Children in Scotland, Carnegie Trust UK, Cattanach (2020). Children’s Wellbeing and the Scottish Budget.

4. Action needed to raise awareness and understanding of children's rights

Children have a strong desire to learn more about the UNCRC and how it affects their lives.⁸ They say children must know their rights if the UNCRC Incorporation Bill is to be effective.^{9 10} Despite this, children's rights do not explicitly form part of the national curriculum.¹¹ A systematic and embedded approach to rights-based education is needed which enhances dialogue, power sharing and decision-making with children.

Information for parents and carers is not always rights-based nor does it consistently demonstrate the UNCRC's focus on supporting families. Decision makers do not always recognise the relevance of children's rights to their work or feel confident facilitating children and young people's participation. Existing information, resources and training should be reviewed and adapted where necessary to ensure children's rights are at their core.



The foundations for progress are already in place: the [Children and Young People \(Scotland\) Act 2014](#) placed an [awareness-raising duty](#) on Scottish Ministers and in 2018, Scottish Government committed to develop and deliver “an ambitious programme to raise awareness and understanding of children's rights across all sectors of society” through co-production.¹² Progress is anticipated as a result of the UNCRC Incorporation Bill, which includes a duty on Scottish Ministers to prepare a Children's Rights Scheme which may include arrangements to raise awareness and promote children's rights.¹³

i Please provide information on steps taken to ensure:

- a. Those working directly with children or whose work impacts on children are aware of and understand the UNCRC, its Optional Protocols and the Committee's Concluding Observations, and understand how to implement these in their work and decision-making.
- b. Everyone working with or for children undergoes continuous rights-based training and has the tools to facilitate children's participation in decision-making processes.

⁸ Children's Parliament (2019). 'It's one of your rights to know your rights!' Report on the Children's Parliament consultation on the Progressing Children's Rights in Scotland Action Plan 2018-2021.

⁹ Scottish Government (2019). Consultation on incorporating the United Nations Convention on the Rights of the Child into our domestic law in Scotland: Analysis Report. p.97.

¹⁰ Children's Parliament (2019). 'All rights are important, so all rights should be law': A consultation on incorporating the UNCRC into domestic law in Scotland.

¹¹ Jerome, L., Emerson, L., Lundy, L. and Orr, K. (2015). Teaching and learning about child rights: A study of implementation in 26 countries, p.39.

¹² Scottish Government (2018). Progressing the Human Rights of Children in Scotland: An Action Plan 2018-2021.

¹³ Section 11. United Nations on the Rights of the Child (Incorporation) (Scotland) Bill.

5. Barriers in accessing justice

Children say they need a range of ‘tools’ to challenge breaches of their rights, including child-friendly complaints mechanisms.¹⁴ At present, children say complaints processes are lengthy, inaccessible and can result in them being punished for raising their concerns.^{15 16}

There is a lack of informal complaints mechanisms across all levels of services which prevents children from being able to raise concerns when they need to and have these resolved close to the source. While informal complaints mechanisms are important to ensure children’s concerns are addressed as soon as possible, they should never replace or be a prerequisite for accessing formal (including legal) processes.

Additional barriers to accessing justice include a lack of child-friendly information about complaints processes (both formal and informal), difficulties in accessing independent advocacy and complex procedures for securing legal representation and advice.¹⁷ A lack of information in accessible formats and attitudinal barriers particularly impact people with learning disabilities from accessing justice.^{18 19}

Since 2011, eligibility for civil legal assistance (a form of legal aid) has been assessed taking account of parent/carer finances – rather than the child’s finances alone. This can prevent children from accessing legal advice confidentially, as they are reliant on parents or carers providing financial information in order to get legal assistance. This is a particular issue for children who are in contention with – or not safe with – the parent or carer from whom this information is required. Furthermore, legal aid forms and systems are complex and designed for use by adults. This can deter children from accessing legal advice and is a barrier to accessing the courts in serious cases.²⁰ Scottish Government intends to introduce legislation to reform the current system.²¹ It is essential that this takes a child rights-based approach.

Children also say speaking out can be difficult so it is important they have access to supportive adults who can help them assert their rights.²² Some progress has been made in this area, including granting investigatory powers to the Children and Young People’s Commissioner Scotland.²³ The UNCRC Incorporation Bill proposes further changes - including new powers for the Commissioner to bring or intervene in proceedings, and for representatives to raise cases on children’s behalf to challenge alleged violations of their rights.

i Please provide information on steps taken to ensure:

- a. All children can access child-friendly complaints mechanisms (both formal and informal).**
- b. Children whose rights have been breached have access to a remedy.**
- c. Availability of specialist legal services, legal aid and independent advocacy services for all children.**

¹⁴ Children’s Parliament (2019). All rights are important, so all rights should be law: A consultation on incorporating the UNCRC into domestic law in Scotland.

¹⁵ Who Cares? Scotland (2020). Response to the Equality and Human Rights Committee Call for views on United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill.

¹⁶ Children 1st (2020). Response to Equalities and Human Rights Committee’s Call for Evidence on the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill.

¹⁷ Evans, M. (2017). Rethinking Legal Aid An Independent Strategic Review.

¹⁸ Flynn, E. (2015). Disabled Justice?: Access to Justice and the UN Convention on the Rights of Persons with Disabilities.

¹⁹ Norah Fry Research Centre and University of Bristol (2013). What happens when people with learning disabilities need advice about the law?

²⁰ Clan Childlaw (2019). Legal Aid Reform in Scotland: Consultation Response.

²¹ Scottish Government (2020). Legal aid reform: consultation analysis.

²² Children’s Parliament (2019). All rights are important, so all rights should be law: A consultation on incorporating the UNCRC into domestic law in Scotland.

²³ Part 2. Children and Young People (Scotland) Act 2014.

6. Gaps in data collection and monitoring

There are gaps and inadequate data on a wide range of issues including: restraint and seclusion, children affected by domestic abuse, children experiencing homelessness, children with learning disabilities,²⁴ health data across protected characteristics, and children in armed forces families.²⁵

A range of existing structures and processes could be utilised and/or strengthened to address these gaps. These include statutory reporting duties on national and local government, work with research institutions, outcomes and indicators for children, and National Performance Framework outcomes.

There is no specific set of nationally applicable child rights indicators to monitor UNCRC implementation. Scottish Government is developing new outcomes for children, young people and their families, with associated indicators. This provides an opportunity to ensure a set of rights-based indicators through which UNCRC implementation can be monitored.

i Please provide information on steps taken to:

a. Develop a child rights-based set of indicators to monitor UNCRC implementation.

b. Improve the collection and dissemination of disaggregated data on UNCRC implementation, particularly with regard to:

- (i) children affected by domestic abuse
- (ii) children giving evidence in criminal court proceedings
- (iii) young carers
- (iv) children who experience online abuse and exploitation
- (v) the use of restraint and isolation rooms in all settings against children
- (vi) children in the armed forces
- (vii) children in armed forces families
- (viii) contributory factors leading to children's unintentional injuries
- (ix) children in conflict with the law.

²⁴ SCLD (2020). Building back with better data: the importance of collecting and recording appropriate data on people with learning disabilities in Scotland.

²⁵ See Together (2020). State of Children's Rights in Scotland 2019, pp.53-54 (restraint and seclusion), pp.47-49 (strip searches), p.52 (taser and spit hood use), pp.64-65 ("honour" crimes), p.66 (bullying), p.82 (homelessness), p.90 (learning disabilities), p.93 (health data), p.96 (mental health services), p.132 (age disputed children), p.150 (child trafficking), pp.86-67 (armed forces families).

General principles



7. Efforts to engage children are often tokenistic or missed

Children's participation is gaining increased attention in Scotland. Examples include the annual cabinet meeting with children and young people, children's First Minister's Question Time events, the Year of Young People 2018, and some improvements at local authority level. Further work is needed to ensure participation is rights-based, accessible to all children, and guaranteed at all levels – national, local and within individual services.

Children want a say in the issues that affect them – from public transport to Brexit - yet efforts to engage them can often be missed.^{26,27} Children and young people's views were not sought around the cancellation of exams due to COVID-19 or the alternative grading system; children are frequently not involved in the later stages of child rights impact assessments; and the views and experiences of certain children are often missed – including BAME children, younger children and disabled children. Where engagement does occur, efforts are often tokenistic. Policy events which are not young-person-centred have left young participants feeling their involvement was not meaningful and result in decisions that are not rights-respecting.²⁸

A 2018 Scottish Government survey found 58% of children aged 11-18 felt adults were good at listening, yet 20% did not. The most commonly cited reasons for adults not listening to (or acting on) children's views were that they "[didn't] fit with what they want to hear" and "they don't like their views being challenged".²⁹

Officials and professionals do not always have the necessary knowledge, skills and understanding to support children's participation – particularly for younger children and children with communication needs. Research at local authority level suggests an over-reliance on key individuals to support children's engagement and drive forward change.³⁰ Scottish Government's 2018-21 Action Plan aims to mainstream children's participation in decision-making across Scottish society. This intention is welcome yet more is needed to ensure this takes a child rights-based approach and challenges the legal, political, economic, social, structural and cultural barriers currently impeding children's right to be heard.

i Please provide information on steps taken to ensure:

- a. Children have the opportunity to participate in decision-making in all areas of law, policy and practice which impacts their lives.
- b. Everyone working with and for children has the knowledge and skills to facilitate child participation and ensure their views and experiences inform practice and decision-making.
- c. Mechanisms and structures are in place to facilitate participation in a way that meets the needs of each individual child.
- d. Professionals are trained and equipped to facilitate the participation of children with language and communication difficulties, with learning disabilities and who use non-verbal communication.



²⁶ Children's Parliament (2017). What Kind of Scotland?

²⁷ Together (2020). State of Children's Rights in Scotland 2019, p.35.

²⁸ Together (2020). State of Children's Rights in Scotland 2019, p.35.

²⁹ Scottish Government (2018). Young people's participation in decision making in Scotland: attitudes and perceptions - research findings.

³⁰ Scott, J. R. and Leask, K. (2020). #BeingHeard One Year On.

8. Children continue to face discrimination

Children belonging to certain groups are at increased risk of discrimination, including disabled children, minority ethnic, Gypsy/Traveller, migrant, asylum seeking, refugee, care experienced and LGBTI children, girls and young women.³¹ This discrimination takes a range of forms including bullying, stereotyping, negative public attitudes, and barriers to accessing services.

For example, children from minority ethnic communities are at higher risk of poverty, living in overcrowded homes and having poor health.^{32 33} Racist bullying persists in communities and schools, with many BAME secondary pupils feeling that teachers are not aware of these challenges or the processes required to address racist incidents in schools.³⁴ Resources and texts can lack diversity and there are calls to ensure children are supported to learn more about racism and colonialism.

Similarly, LGBTI young people report that hate speech and bullying are common, particularly against those who are transgender. Our members report that relationships, sexual health and parenting (RSHP) educators often feel ill prepared, lack the skills and confidence to teach inclusive topics, such as LGBTI RSHP.

COVID-19 has exacerbated the inequalities experienced by many children. There has been an increase in hate speech and bullying of individuals perceived to be of Chinese heritage, and disabled children who may have difficulty understanding and complying with social distancing restrictions.³⁵ Third sector organisations have reported BAME children and young people are more likely to be targeted by the police than their peers and that extended police powers due to COVID-19 have exacerbated existing inequalities. Throughout the pandemic, barriers to digital access have particularly affected children in poverty,^{36 37} from ethnic minorities, asylum-seeking children³⁸ and Gypsy/Traveller children³⁹ disrupting their access to education, support services and friendships. More on this issue can be found in section 23.

Whilst the introduction of a new Hate Crime Bill is welcome, there are some concerns it may not achieve its policy objective, particularly in relation to groups not already protected under the current law.

i Please provide information on steps taken to ensure:

- a. Measures are in place to tackle and prevent discrimination and inequalities experienced by children at school and in the community, including BAME children, children experiencing poverty, disabled children, Gypsy/Traveller, migrant, asylum seeking, refugee, care experienced, LGBTI children, girls and young women – and how such measures recognise the intersectionality between groups.**
- b. Policing practices do not disproportionately target BAME children.**
- c. BAME children and their families do not experience disproportionately higher levels of poverty and homelessness.**

³¹ Together (2020). State of Children's Rights in Scotland 2019, pp.29-30.

³² Scottish Government (2017). A Fairer Scotland for All: Race Equality Action Plan 2017-21, p.5.

³³ Scottish Government (2020). Race equality action plan: year two progress update.

³⁴ IYS and EDI Scotland (2019) In sight: The perceptions and experiences of Black, Asian and Minority Ethnic young people in Scottish schools.

³⁵ Scottish Commission for Learning Disability (2020). The impact of Coronavirus on people with learning disabilities and their Parents, Carers and Supporters.

³⁶ Includem (2020). Poverty and the Impact of Coronavirus on Young People and Families in Scotland.

³⁷ MCR Pathways (2020). How To Build Back Better: Listening To The Voices Of Our Young People.

³⁸ Scottish Refugee Council (2020). The impact of COVID-19 on refugees and refugee-assisting organisations in Scotland.

³⁹ 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.

Civil rights and freedoms



9. Children have no right to withdraw from religious observance in schools

All state-funded schools are under a statutory duty to provide 'religious observance' to pupils with a focus on Christianity.^{40 41} Parents have a right to withdraw their child from religious observance but pupils do not have an equivalent right.^{42 43} As highlighted by the Committee in its 2016 Concluding Observations to the UK, there are concerns this breaches children's rights under Articles 12 and 14 UNCRC.

Children's organisations have called for reforms to ensure full compliance with the UNCRC and other human rights treaties. Children and young people should play a central role in this review.



? Will Scottish Government commit to legislative change to ensure all children have the right to withdraw from religious observance?

⁴⁰ Section 8(1)-(2). Education (Scotland) Act 1980.

⁴¹ Scottish Government (2017). Curriculum for Excellence: religious observance.

⁴² Section 9. Education (Scotland) Act 1980.

⁴³ Scottish Government (2017). Curriculum for Excellence: religious observance.

10. Minimum age of marriage falls below international standards

The minimum age for marriage in Scotland is 16 and no parental/guardian consent is required.⁴⁴ This falls short of the international standard of 18 and behind the rest of the UK where 16- and 17-year-olds require parental/guardian consent.⁴⁵

- ? Will Scottish Government commit to legislation to raise the minimum age of marriage to at least 18 in line with international standards?**

11. Online offences against children are increasing

Three-quarters of victims of cyber-enabled offences are under 16.^{46 47} Online sexual crimes against children have increased, in line with increased technology use by children. In other areas, data is limited or not disaggregated - creating barriers to developing effective policies and delivering services.

Anecdotal evidence from members suggests heightened levels of online abuse during lockdown, as children spent more time online for education and social purposes.⁴⁸ Often this abuse is perpetrated by children against other children. There is some evidence that girls have been particularly affected.⁴⁹ Lockdown has also disrupted access to support services as children had less contact with professionals. Such services are often located in the third sector with insecure funding and have faced a significant increase in demand during the pandemic.

Evidence suggests children and adults are increasingly aware of the risks associated with the digital environment,⁵⁰ but lack practical skills and strategies to ensure children's safety online.⁵¹

- i Please provide information on steps taken to ensure:**

- a. Children are safe from online abuse, violence and exploitation.
- b. Online platforms have satisfactory safety features to protect children.
- c. A multi-sectoral approach is taken to prevent and detect child exploitation and abuse.
- d. Child victims of online abuse can access support services to aid their recovery.



⁴⁴ Marriage (Scotland) Act 1977

⁴⁵ Part 1. Marriage Act 1949

⁴⁶ Scottish Government (2017). Recorded Crime in Scotland: Other Sexual Crimes, 2013-14 and 2016-17, p.4.

⁴⁷ Bentley, H. et al. (2019). How safe are our children? An overview of data on child abuse online, p.18.

⁴⁸ Romanou, E. and Belton, E. (2020). Isolated and Struggling.

⁴⁹ Children's Parliament (2020). How are you doing? A report on the findings from the How are you doing? survey using data from April, May and June 2020.

⁵⁰ Scottish Government (2019). Life at age 12: Initial findings from the Growing Up in Scotland study.

⁵¹ Bentley, H. et al. (2019). How safe are our children? An overview of data on child abuse online, pp.41-42.

12. Inappropriate use of restraint

Children in residential and non-residential settings are being subjected to inappropriate restraint. This is being used as an inappropriate reaction to challenging behaviour rather than as a last resort where necessary to protect the safety of the child or others.⁵²

A [2018 investigation](#) by the Children and Young People's Commissioner Scotland (CYPCS) identified 2674 incidents of restraint and seclusion in schools. It found local authorities' policies and practices were inconsistent, inadequately reflected children's rights, incidents were largely unmonitored, children were rarely involved in the development or revision of policies, and that restraint and seclusion were disproportionately used against children with additional support needs.⁵³ Many of these children struggled to achieve justice as they were not interviewed by police or other authorities because of their age and/or disability.⁵⁴ There is currently no specific legal protection around the misuse of restraint and seclusion in schools. More needs to be done to ensure all children have the right to legal protection from harm, irrespective of their age, the person who harms them or who 'has care' of the child. All children who experience harm must have access to child-friendly justice and recovery services.



Scottish Government has committed to produce new human rights-based guidance on the use of restraint and seclusion practices in schools, and measures to support consistent recording and monitoring of incidents. The guidance has not yet been published. Despite calls, Scottish Government has not taken steps to ensure monitoring and regulation of restrictive practices at national level across care homes, foster care, school clubs, hospitals, immigration detention centres and Young Offenders Institutions. There is a lack of data and consistency across all settings.

i Please provide information on steps taken to ensure:

- a. Restraint is only used as a measure of last resort to prevent harm to the child or others.
- b. Every person who works with children receives consistent, appropriate guidance and training on using therapeutic and nurturing responses to protect children and others from harm.
- c. Isolation and seclusion are no longer used.
- d. Children with additional support needs and victims of restraint and seclusion have access to advocacy services, support and legal advice.
- e. A clear complaints procedure is in place to allow children and their families to challenge incidents of restraint and seclusion.

⁵² Kendrick, A. (2014). Protecting and Safeguarding Children in Care: A Review of Developments in Services for Children in Care in Scotland.

⁵³ Children and Young People's Commissioner Scotland (2018). No Safe Place, p.26.

⁵⁴ Children and Young People's Commissioner Scotland (2018). No Safe Place, p.12.

Family environment and alternative care



BRIGHTER BURNAM and DUNKELD

Friends crossing

13. Inconsistent access to family support services

Children living in poverty are disproportionately represented in the child protection system. Those living in the most deprived areas are nearly 20 times more likely to be on the Child Protection Register or “looked after”.⁵⁵ Further support is needed to ensure children living in poverty are not disproportionately represented through practical, financial and emotional support. This support must be sensitive to issues of child poverty without being stigmatising.

Charities have emphasised the importance of early and community-based support to resolve issues early without the need for more powerful interventions. Legislation provides that a range of services must be available to children and their families so that they get the support they need to stay together where safe to do so. These services include parenting support and family group decision making services. Evidence from members suggests increased availability of family group decision making in certain areas but that it requires further embedding.⁵⁶ There is a lack of specialist support for families where parents have a learning disability.⁵⁷

Social work services have been significantly impacted by financial pressures, demographic changes, labour shortages and legislative changes.⁵⁸ Even prior to COVID-19, current approaches were described as “unsustainable” without a significant increase in investment.⁵⁹ The pandemic has created further issues around access to support. Most children already within the system continued to be seen or supported remotely. Meanwhile, “new” referrals significantly decreased despite the number of calls to helplines and families seeking support increasing.⁶⁰ More needs to be done to ensure support is accessible in the event of further restrictions, particularly given the number of children becoming “newly vulnerable” as a result of restrictions. Members have further highlighted the need for funding to ensure that children have equitable access to high-quality services to enable them to recover from trauma.

Scottish Government has made some progress in this area through the National Trauma Training Programme yet more needs to be done to ensure the programme takes a rights-based approach. The programme aims to support the development of a trauma-informed workforce across all sectors and is currently funded until 2023.

i Please provide information on steps taken to:

- a. Ensure all families can access holistic, whole family support when they need it.
- b. Invest in trauma-sensitive family support to enable children to stay at home with their families where it is safe and appropriate to do so.
- c. Ensure all children and families have access to Family Group Decision Making services, so no important decision about a child is made without their involvement.
- d. Ensure children experiencing poverty are not disproportionately represented in the child protection system, by ensuring the availability of emotional, practical and financial support.
- e. Ensure children and families can access the support they need in the event of future COVID-19 restrictions.

⁵⁵ Bywaters, P. et al. (2017). Identifying and Understanding Inequalities in Child Welfare Intervention Rates: comparative studies in four UK countries. Briefing Paper 4: Scotland, pp.1-2.

⁵⁶ CELCIS (2019). Supporting Families.

⁵⁷ SCLD (2016). Supporting Parents with Learning Disabilities in Scotland: Challenges and Opportunities.

⁵⁸ Together (2020). State of Children’s Rights in Scotland 2019, p.8.

⁵⁹ Audit Scotland (2016). Social work in Scotland.

⁶⁰ Scottish Government (2020). Vulnerable children report: 15 May 2020.

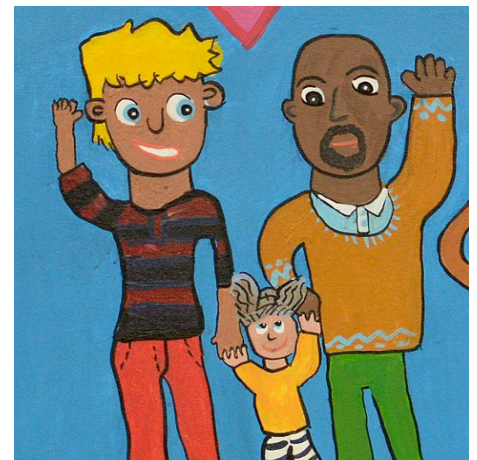
14. High cost of childcare and gaps in provision

Sourcing affordable, accessible and high-quality childcare remains a challenge for families. Childcare costs in Scotland are among the highest in Europe,⁶¹ putting it out of reach for many, particularly those with children aged 0-2 years. Few local authorities have sufficient childcare for disabled children, particularly over-12s. There continue to be gaps in access to highly qualified, well supported staff across all settings.

Three-, four- and eligible two-year olds, are entitled to 600 hours of funded Early Learning and Childcare per year, yet over 70% of parents and carers rely on paid or informal childcare to supplement this.⁶² While Scottish Government has committed to expand the entitlement to 1140 hours there are concerns that rapid expansion may compound existing issues around workforce training and growth, infrastructure and quality of provision. There is also the need to ensure families with children not covered by the expansion get the childcare they need. The expansion was due to be completed by August 2020 but this deadline was removed in light of COVID-19.

i Please provide information on steps taken to ensure:

- a. Childcare is affordable, especially for low-income families, either through subsidies to childcare providers or grants to families.
- b. High-quality childcare is available and accessible for all children, including children with additional support needs up until the age of 18 years.



15. Gaps in support for care experienced children

Care experienced children face a range of challenges in having their rights upheld, including: stigma and discrimination, poor mental health, poverty, failures to ascertain and take account of their views (particularly for young and disabled children), poor sibling contact, issues around privacy, increased likelihood of leaving school earlier with fewer qualifications than their peers, inconsistent access to advocacy support, and inconsistent access to support to which they are entitled as care leavers. COVID-19 has exacerbated these issues.

Care experienced children are not receiving the mental health support they need. Mental health issues are often exacerbated by factors such as placement changes or poor sibling contact. Placement changes often fail to take account of children's views, occur at short notice and disrupt children's relationships.⁶⁴ Separation of siblings is common, with local authorities frequently citing a lack of resources or placements able to accommodate sibling groups.⁶⁵ Research has shown children's views on sibling contact are often not recorded during the Children's Hearings process.⁶⁶ It is crucial that a

⁶¹ Coram (2019). Scottish families face rising tide of childcare costs as prices rise again.

⁶² Section 48. Children and Young People (Scotland) Act 2014.

⁶³ Together (2020). State of Children's Rights in Scotland 2019, pp.74-83.

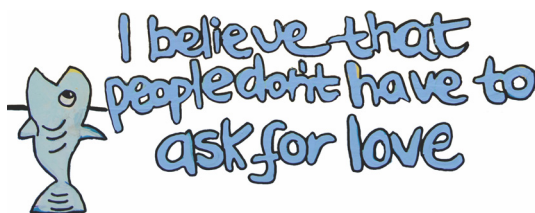
⁶⁴ Together (2020). State of Children's Rights in Scotland 2019, p.78.

⁶⁵ Care Inspectorate (2019). Fostering and adoption 2018-19 A statistical bulletin.

⁶⁶ Jones, C. and Henderson, G. (2017). Supporting Sibling Relationships of Children in Permanent Fostering and Adoptive Families.

rights-based approach is taken to implementing new legislation that seeks to promote sibling contact. Recording and monitoring will be key to determining whether approaches are effective.⁶⁷

Care leavers face challenges on their journey to independence. They are disproportionately impacted by poverty and over-represented in homelessness figures, although there are significant gaps in official data.⁶⁸ Legislation sets out care leavers' rights to advice, assistance and support, including the right to remain in their current placement until they turn 21.^{69 70} However, inconsistent implementation has meant some children have been encouraged to leave care at 16 and lost access to this support. Scottish Government can go further to ensure full implementation of care leavers' rights under the legislation, including through sufficient funding and resources, awareness-raising and training. Young care leavers should be actively involved in all stages of preparing for, planning and evaluating their support.



i Please provide information on steps taken to ensure:

- a. Children are supported and empowered to participate in decisions about their family environment and care, and evaluating these decisions.
- b. Siblings are only placed separately if it is in their best interests and having taken account of their views.
- c. If siblings are separated, the local authority facilitates regular, high-quality contact where this is in their best interests and taking account of the child's views.
- d. Children in local authority care and care leavers have access to high-quality and well-resourced mental health support.
- e. Care leavers have access to the support to which they are statutorily entitled and are actively involved in all stages of planning and evaluating this support.
- f. The rights of care experienced children are fulfilled and protected from the consequences of COVID-19.

16. Children's rights not considered when parents imprisoned

Almost two-thirds of people in prison (62%) have children yet there is no recording system of how many children are affected.⁷¹ The lack of data on number or characteristics of these children makes it difficult to develop policies and services to meet their needs.

Imprisonment of a family member is in itself traumatic – particularly if children witness the arrest. Children can be impacted emotionally, socially, psychologically, financially, relationally, physically and developmentally. This trauma is exacerbated by inadequate protection of the child and their family's rights to privacy. The media frequently publishes details of the imprisoned parent and their address,

⁶⁷ Children (Scotland) Act 2020.

⁶⁸ CELCIS (2019). Homelessness and care experience: Beyond the Headlines.

⁶⁹ Section 29. Children Scotland Act 1995, as amended by Section 66. Children and Young People (Scotland) Act 2014

⁷⁰ Section 67. Children and Young People (Scotland) Act 2014, inserting Section 26A. Children (Scotland) Act 1995

⁷¹ Carnie, J. (2018). Prisoner Survey 2017.

exposing the child and family to stigma and harassment.⁷² Fear of stigma can prevent children confiding in friends or seeking support.

Children are not at the forefront of decision-making regarding parental imprisonment despite the significant impact on their lives. Unlike sentencing guidelines in England and Wales,⁷³ there is no requirement for Scottish courts to take a child's best interests into account when deciding whether to imprison a parent. Despite calls from children's organisations to improve access to virtual visiting for children and their families, provision was inconsistent until necessitated by COVID-19. The routine use of Child and Family Impact Assessments is needed to assess the impact of parental imprisonment on a child, ensure children's views are taken into account, children's rights are upheld, and that appropriate support is put in place.⁷⁴

i Please provide information on steps taken to ensure:

- a. A child rights-based approach is taken to sentencing decisions, including the use of child rights impact assessments.
- b. Children and families' rights to privacy, non-discrimination and freedom from violence are protected by preventing the media from publishing identifying details.
- c. Children and families affected by imprisonment receive adequate financial support to minimise disruption to their lives.
- d. Children are able to visit their parent in prison (either virtually or in person).
- e. Children with a parent in prison have access to holistic, trauma-informed support.

17. Lack of data or support for children in armed forces families

An estimated 100,000 children have a parent or sibling in the armed forces.⁷⁵ They face a variety of challenges, including frequent moves, interrupted learning, anxiety and worry when a member of their family is deployed, and issues associated with the transition to civilian life when the parent(s) leaves the armed forces.

Scottish Government does not publish data on the number of children in armed forces families. Schools are encouraged to collect data, but this is not compulsory and relies on pupils self-identifying. The lack of data is a barrier to developing policy and services which meet children's needs. Children in armed forces families feel overlooked and report difficulties in having their voices heard by decision-makers.

i Please provide information on steps taken to ensure:

- a. Reliable data is collected on the number of children in armed forces families.
- b. The views of children in armed forces families are gathered to ensure policies and services reflect their needs.
- c. Children in armed forces families have access to support for their mental health and wellbeing.



⁷² Families Outside (2019). #NoAddressInThePress.

⁷³ Sentencing Council (2011). Sentencing Guidelines Assault.

⁷⁴ Families Outside (2009). Child and Family Impact Assessments in Court: Implications for policy and practice.

⁷⁵ Nash, J. (2017). Shining a light on the needs of armed forces children and young people.

Basic health and welfare



18. Child poverty is increasing

Almost one in four of Scotland's children live in poverty (approximately 230,000). This impacts all areas of a child's life, including nutrition, standard of living, relationships, social and emotional wellbeing, play and education. Children living in poverty are more likely to be solitary, play alone and be bullied frequently.⁷⁶ Some children are disproportionately likely to experience poverty, including children with a disabled family member⁷⁷ and Gypsy/ Traveller children. Gypsy/Traveller children have reported a range of problems about residential sites, including lack of hot water, pests, dangerous materials, unsafe playparks, poor digital access and transport links.⁷⁸



Despite recent actions, Scottish Government is not on track to meet its poverty reduction targets.^{79 80} ⁸¹ Actions include the [Tackling Child Poverty Delivery Plan](#), increased [school clothing grant](#), a [duty](#) on public bodies to consider how they can reduce poverty-related inequalities when making decisions, and the [Improving the Lives of Scotland's Gypsy/Travellers Action Plan](#). In 2019, [Scottish Government announced](#) it would introduce a new benefit for lower income families from December 2020. The first payment has been [delayed](#) until the end of February 2021 due to COVID-19.

Even prior to the pandemic, reliance on food banks was increasing and child poverty was projected to rise sharply in 2020-21 in response to UK Government welfare reforms.⁸² COVID-19 has clearly [exacerbated the situation](#), pushing many more children and their families into poverty. Alternative provision was put in place for children in receipt of free school meals, yet local authorities took [different approaches](#). Some offered supermarket vouchers instead of cash payments, while others required families to collect packed lunches from school hubs. Many families felt provision did not respect their dignity as it restricted their choice and/or required access to transport they did not have.⁸³ Delays to Scottish Government's new benefit will severely impact children's right to an adequate standard of living and must not be delayed.

i Please provide information on steps taken to ensure:

- a. All local and national decisions on resource allocation are carried out so as to secure children's rights, paying particular attention to children living in poverty or at risk of social exclusion.
- b. Parents and carers are supported to realise children's right to an adequate standard of living, including their right to benefit from social security.
- c. No child experiences food poverty or has to rely on foodbanks.
- d. In the event of COVID-19 restrictions, every child's right to an adequate standard of living (including access to food) and right to education are protected and fulfilled.
- e. All children have safe and secure accommodation, and more specifically Gypsy/ Traveller children have access to culturally sensitive safe and secure housing.

⁷⁶ Joseph Rowntree Foundation (2016). Growing up in poverty detrimental to children's friendships and family.

⁷⁷ Together (2020). State of Children's Rights in Scotland 2019, pp.108-109.

⁷⁸ Article 12 in Scotland (2018). I witness: The concluding observations.

⁷⁹ Child Poverty (Scotland) Act 2017.

⁸⁰ Poverty and Inequality Commission (2019). Poverty and Inequality Commission's response to the Scottish Budget 2019-20.

⁸¹ Joseph Rowntree Foundation (2020). Poverty in Scotland 2020: The independent annual report.

⁸² Reed, H. and Stark, G. (2018). Forecasting Child Poverty in Scotland.

⁸³ Treanor, M.C. (2020) How COVID-19 crisis measures reveal the conflation between poverty and adversity.

19. Widening health inequalities

Child health in Scotland remains amongst the poorest in Western Europe.⁸⁴ Deprivation is a key determinant of health inequalities, significantly impacting children from an early age. Children in the most deprived areas are more likely to have at least one health concern, less likely to be a healthy weight and more likely to have tooth decay.^{85 86 87} Infant mortality is also significantly higher.

A range of other factors significantly impact children's health outcomes and access to healthcare – including sex, race, migration status and disability – yet limited data prevents detailed analysis.⁸⁸ Recent [research](#) has highlighted disproportionate morbidity rates for children with learning disabilities. The rate of premature mortality was 12 times higher in children with learning/intellectual disabilities compared to other children, rising to 17 times higher for girls and young women. The research indicated that timely and effective healthcare intervention could have prevented many of these deaths.

Prevention and early intervention approaches are crucial to ensuring children and young people have good health throughout their lives. Scottish Government has introduced strategies on [healthy weight](#), [dental health](#), [mental health](#), [expanded provision of health visitors](#), and introduced a package of benefits to help families on low incomes – including a prepaid card they can use to [buy healthy foods](#) for children under three. While these developments are welcome, a [comparison](#) of child health indicators from 2017 and 2020 reveals a widening gap between the health of children from wealthy and deprived backgrounds. Scottish Government should act to tackle the causes of poverty to ensure all children have the best start to life.

Children want to be involved in the planning and provision of their health services but say this is not happening and they feel ignored when they express opinions.⁸⁹ Children's views are not sought in patient experience surveys at GP services – despite calls on Scottish Government to change this.⁹⁰

i Please provide information on steps taken to ensure:

- a. Contributory factors behind child health inequality, particularly poverty, are prioritised in public health planning.**
- b. Addiction services receive adequate funding to allow for the support of families impacted by addiction and substance misuse.**
- c. Sufficient funding is invested in early intervention and preventative approaches to protect and fulfil children's right to health.**
- d. Health services are safely resumed, and planning is undertaken to ensure further COVID-19 restrictions do not result in a loss of support and access.**

⁸⁴ BBC (2018). Child health care progress in Scotland praised.

⁸⁵ ISD Scotland (2019). Child Health 27-30 Month Review Statistics Scotland 2017/18, p.13.

⁸⁶ ISD Scotland (2018). Body Mass Index for Primary 1 Children in Scotland, p.10.

⁸⁷ ISD Scotland (2018). National Dental Inspection Programme (NDIP) 2018, p.16.

⁸⁸ Together (2020). State of Children's Rights in Scotland 2019, p93.

⁸⁹ Scottish Health Council and Includem (2017). Involving young people in planning and delivery of health and social care: Scoping a pan-Scotland collaborative approach, p.6.

⁹⁰ Scottish Health Council and Includem (2017). Involving young people in planning and delivery of health and social care: Scoping a pan-Scotland collaborative approach, p.6.

20. Inadequate support for transgender children

A [2017 survey](#) of 684 LGBT children and young people (age 13-25) found that 84% of LGBT and 96% of transgender participants had experienced poor mental health. Most expressed disappointment with support services received. Issues included: staff not confident talking about trans identities, lack of suitable communication, and children and young people not feeling comfortable enough to 'come out'.⁹¹

In 2019-20, Scottish Government [consulted on proposals](#) to amend the process for obtaining a Gender Recognition Certificate and to ascertain what support is needed for children who are uncertain of their gender identity. Sixty percent of responses supported amending the process, yet COVID-19 has delayed the reform. Scottish Government has committed to develop guidance on supporting trans pupils in schools, as well as guidance for policymakers and service providers to ensure that the rights of women and trans people are collectively realised.⁹²

i Please provide information on steps taken to ensure:

- a. Support services for transgender children, including mental health services, are easily accessible and sufficiently funded.
- b. Transgender children are not disadvantaged in accessing services and employment on account of being unable to change their legal gender until they are 18.
- c. Rights-based guidance is produced for schools, policymakers and service providers.

21. Significant barriers in accessing mental health services

Children's mental health is a serious and growing concern. COVID-19 has exacerbated existing issues, caused new anxieties and placed additional pressure on a system which was already struggling to cope.^{93 94} Referrals to child and adolescent mental health services (CAMHS) fell significantly in the first three months of lockdown, suggesting children and young people were struggling to access GPs and other services in order to be referred.⁹⁵ [Young Carers](#), [care experienced](#), [disabled](#) and [LGBTI](#) children have faced significant worsening of their mental health and face additional barriers in accessing support.

Even prior to the pandemic, children's mental health was in decline and the number of referrals to specialist child and adolescent mental health services (CAMHS) was increasing.^{96 97} Access to support is significantly compromised by high thresholds for referral to CAMHS, long waiting times, and a lack of provision for the early years.^{98 99 100} More than 20% of referrals are rejected,¹⁰¹ referral criteria vary across Scotland, the system is difficult for children and their supporters to understand, signposting to

⁹¹ LGBT Health and Wellbeing, Scottish Trans, Equality Network, LGBT Youth Scotland and Stonewall Scotland (2018). LGBTI Populations and Mental Health Inequality.

⁹² Scottish Government (2019). Gender Recognition Reform (Scotland) Bill.

⁹³ Scottish Youth Parliament, YouthLink Scotland and Young Scot (2020). LockdownLowdown - what young people in Scotland are thinking about COVID-19 Lockdown.

⁹⁴ Children's Parliament (2020). How are you doing? A report on the findings from the How are you doing? survey.

⁹⁵ Public Health Scotland (2020). Child and Adolescent Health Services in Scotland: Waiting Times: Quarter Ending 30 June 2020, figure 6.

⁹⁶ Scottish Government (2018). Child and adolescent health and wellbeing: Evidence review, p.31.

⁹⁷ Audit Scotland (2018). Children and young people's mental health, p.30.

⁹⁸ Audit Scotland (2018). Children and young people's mental health, p.14.

⁹⁹ ISD Scotland (2019). Child and Adolescent Mental Health Services in Scotland: Waiting times, p.7.

¹⁰⁰ Together (2020). State of Children's Rights in Scotland 2019, p.96.

¹⁰¹ ISD Scotland (2019). Child and Adolescent Mental Health Services in Scotland: Waiting times.

to other services is often unhelpful when it occurs, and young people report becoming ineligible after turning 18 during the long waiting time.^{102 103 104}

In 2018, Scottish Government published an audit of rejected referrals to CAMHS but concerns remain that current data is inadequate.^{105 106 107}

A lack of monitoring means it is difficult to know whether a child has received any support following a rejected referral.¹⁰⁸ It is not currently possible to assess the outcomes of children accessing mental health services at national level.



In 2018, Scottish Government announced a [£54.1 million investment](#) to reduce waiting times and set a target that 90% of children referred to CAMHS would be seen within 18 weeks. Between January-March 2020, this target was met for just 66.6% of children, consistent with previous quarters.¹⁰⁹

Children have said they sometimes feel [treated as a statistic](#) by CAMHS, rather than an individual. They want improved access to information, advice and sources of support which meets a wide range of needs and is not compromised by local variation. Children have also been clear they want to be involved in shaping mental health initiatives.¹¹⁰

i Please provide information on steps taken to ensure:

- a. Early intervention and prevention services are available and accessible for all children.
- b. Child and adolescent mental health services are well funded and accessible to all children at the point of need without long waiting times.
- c. A clear and consistent set of national referral criteria for child and adolescent mental health services.
- d. Children experiencing increased mental health issues due to COVID-19 can access the services and support they need, with particular attention to care experienced children, young carers and disabled children.
- e. All professionals working with children receive training in mental health and trauma-informed practice.

¹⁰² Scottish Government (2018). Rejected referrals to child and adolescent mental health services: audit.

¹⁰³ Audit Scotland (2018). Children and young people's mental health.

¹⁰⁴ Public Audit and Post-legislative Scrutiny Committee (2019). Report on children and young people's mental health.

¹⁰⁵ Scottish Government (2018). Rejected referrals to child and adolescent mental health services: audit.

¹⁰⁶ Audit Scotland (2018). Children and young people's mental health.

¹⁰⁷ Public Audit and Post-legislative Scrutiny Committee (2019). Report on children and young people's mental health.

¹⁰⁸ Together (2020). State of Children's Rights in Scotland 2019, p.97.

¹⁰⁹ Public Health Scotland (2020). Child and Adolescent Health Services in Scotland: Waiting Times: Quarter Ending 30 June 2020, Table 1.

¹¹⁰ See Me (2019). Feels FM: The Emoji Jukebox.

22. Action needed on children's right to a healthy environment

Decision-makers and professionals often do not take account of the impact of climate change and air pollution on children's rights. Environmental policies have focused predominantly on climate change yet neglected other issues. Further consideration must be afforded to air pollution which is often an issue near schools and is an issue missing from the UK-wide Clean Air Strategy.¹¹¹ Children from deprived areas are disproportionately affected as they are more likely to live near major roads.¹¹² Meanwhile, emissions data shows Scotland is falling behind its legislative targets.¹¹³ Measures such as banning parking near schools and investment in public transport are needed to protect children's right to health.

Children have emphasised the need for further education on environmental issues, including climate change, and measures for ensuring that children and young people are fully consulted in environmental policy discussions.¹¹⁴



i Please provide information on steps taken to ensure:

- a. The negative impact of climate change and environmental harm on children's human rights is recognised and a child rights-based approach to is embedded into all legislative and policy responses at national and local levels.
- b. Children's right to a healthy environment is embedded into all legislation and policy making at national and local levels, in line with the UN General Assembly resolution on realising the rights of the child through a healthy environment.
- c. Children are supported and empowered to participate in decision-making and the development of environmental policy.
- d. An end to fossil fuel investment and use, with a clear commitment for a zero-fossil fuel Scotland by 2030 to mitigate climate change.
- e. Investment and expansion of public transport services to reduce air pollution.

¹¹¹ UK Government (2019). Clean Air Strategy 2019.

¹¹² Defra and Department for Transport (2017). UK Plan for tackling roadside nitrogen dioxide concentrations: Technical Report (Annex D).

¹¹³ Committee on Climate Change (2019). Reducing UK Emissions 2019 Progress Report to Parliament, pp.32-34.

¹¹⁴ Together (2020). State of Children's Rights Report 2019, p.114.

Education, leisure and cultural activities



23. Children from disadvantaged backgrounds have lower attainment

Socioeconomic deprivation continues to have a significant impact on attainment. Early years children living in the most deprived areas are more than twice as likely to have a recorded development concern than those living in the least deprived areas (including speech, language and communication).¹¹⁵ For school-aged pupils, those in the least deprived areas outperform peers in the most deprived areas across literacy and numeracy, with the gap widening throughout primary school.¹¹⁶ Children find schools are overly focused on qualifications, at the expense of supporting their wider development and addressing other needs.¹¹⁷

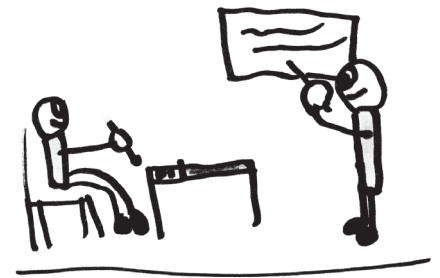
A range of additional factors can impact children's attainment (and often overlap with deprivation) including care experience, ethnic background and wider additional support needs. Scottish Government has made a series of investments and initiatives to tackle the attainment gap,¹¹⁸ yet children have raised concerns funding does not always reach the young people who need it and have outlined plans for fairer distribution.¹¹⁹

COVID-19 has highlighted a 'digital divide' between children with access to technology and those who do not. This has significantly impacted children's ability to engage in online learning, access services and socialise with friends during school closures. Children in low-income families are at greater risk of being digitally excluded - particular concerns have arisen for care experienced children and Gypsy/ Traveller children. Poor digital literacy is also an issue for families, with 21% of the Scottish population lacking basic digital skills prior to COVID-19.

Scottish Government introduced the Connecting Scotland initiative to get 30,000 digitally excluded households online in 2020. However, there have been reports of delays.

Good teacher

helpful
good listener
good explaining
caring



i Please provide information on steps taken to ensure:

- a. The poverty-related attainment gap is closed, with particular attention to children living in poverty, BAME children, Roma, Gypsy/Traveller children and care experienced children.
- b. Schools have the funding and resources they need to support children from disadvantaged backgrounds to reach their potential.
- c. Children's right to education is fulfilled and protected from the impacts of COVID-19, with particular attention to preventing and mitigating any discriminatory impacts on children living in poverty, BAME children, Roma, Gypsy/Traveller children and care experienced children.
- d. The 'digital divide' is closed, and all children have access to the devices, connection and support required for online learning in the event of future COVID-19 restrictions.

¹¹⁵ ISD Scotland (2019). Child Health 27-30 Month Review Statistics.

¹¹⁶ Scottish Government (2019). School leaver attainment and initial destinations.

¹¹⁷ Young Scot and SQW (2017). Young people's experience of education and training from 15-24 years: A Report to the Scottish Government.

¹¹⁸ Together (2020). State of Children's Rights in Scotland 2019, p.117.

¹¹⁹ Children's Parliament (2019). What kind of Edinburgh?

24. Action needed to ensure inclusive education

Approximately 30% of pupils have a recorded additional support need (ASN). This can include factors related to learning environment, family circumstances, disability or health need, social and emotional factors. Although ASN pupils' attendance and qualification rates have improved, they remain lower than their peers'.^{120 121 122} Reported challenges include lack of support and insufficient training for staff, in addition to class size, noise levels, sensory stimulation and bullying.

Children with learning/intellectual disabilities do not have the same access to education as their non-disabled peers. Research shows schools cultivate low expectations, leading to low levels of attainment.^{123 124} School leavers with learning/intellectual disabilities are also less likely to go on to a positive follow-up destination. Alongside this, children with learning/intellectual disabilities are often denied their right to meaningful Relationship, Sexual Health and Parenting (RSHP) education.¹²⁵

Key factors affecting children's education include insufficient resources and reductions in numbers of specialist staff.¹²⁶ In a survey of 1,417 parents and carers of children with autism 30% said that they had kept their child at home because they did not consider there to be adequate support available. Parents and school staff have both identified the need for additional resources so teachers develop a better understanding of autism.¹²⁷

Some progress has been made - Scottish Government committed to invest £15 million in existing support assistants and recruit approximately 1,000 more in 2019. However, there are concerns that Additional Support for Learning (ASL) legislation is not consistently implemented – including children's right to a Coordinated Support Plan to identify their needs and put support in place.¹²⁸ An independent review of ASL legislation found resource alignment, active measurement for visibility and improvement, and aligned workforce development were not currently in place. The review found that that Additional Support for Learning is not visible or equally valued within Scotland's Education system. Consequently, the implementation of ASL legislation is over-dependent on committed individuals, is fragmented and inconsistent and is not ensuring that all children and young people who need additional support are being supported to flourish and fulfil their potential.¹²⁹ COVID-19 has highlighted further support is needed.

i Please provide information on steps taken to ensure:

- a. Children with additional support needs receive the support required to promote and fulfil their right to education.**
- b. All staff in mainstream schools receive ongoing training on delivering inclusive education.**
- c. Schools receive sufficient funding to ensure disabled children's rights are not eroded through lack of resources to meet their additional support needs.**
- d. Any future online learning is accessible and tailored to meet the individual needs of children, and that parents and carers are offered support to enable them to develop the confidence and skills required to support their child's access to online learning.**

¹²⁰ Scottish Government (2019). Additional Support for Learning: Research on the experience of children and young people and those that support them.

¹²¹ Scottish Government (2017). Summary statistics for schools in Scotland No. 8: 2017 edition. p.25.

¹²² Scottish Government (2019). School leaver attainment and initial destinations, p.15.

¹²³ SCLD (2016). Managing the Employability Landscape for People with Learning Disabilities in Scotland.

¹²⁴ Scottish Government (2019). Attainment, leaver destinations and healthy living: summary statistics.

¹²⁵ SCLD (2018). Safe and Healthy Relationships: Empowering and Supporting People with Learning Disabilities through Education.

¹²⁶ Education and Skills Committee (2017). How is Additional Support for Learning working in practice? 6th report, 2017 (Session 5).

¹²⁷ Scottish Government (2019). Additional Support for Learning: Research on the experience of children and young people and those that support them, p.75.

¹²⁸ Scottish Government (2018). Summary statistics for schools in Scotland no.9: 2018 edition.

¹²⁹ Scottish Government (2020). Review of additional support for learning implementation: executive summary.

25. Lack of play-based, relationship-centred learning in early years

Numerous challenges prevent play-based and relationship-centred pedagogy from being fully embedded in early years education. The low school starting age (four or five years old) causes problems for many children, creating a disruptive transition from the nursery ethos to school ethos midway through early childhood.¹³⁰ In the first year of primary school, pupils face compulsory literacy and numeracy assessments which are not informed by early child development research and create academic pressure. Qualifications among nursery staff are highly variable and they are underpaid. Meanwhile, Primary 1-2 teachers' education is largely focused on the academic curriculum with little or no training in child-development, play-based pedagogy or outdoor education. Early years organisations say more needs to be done to ensure early years professionals and teachers work together to share expertise and inform effective practice. Primary 1 children have limited access to outdoor play beyond recess periods.



Overall, there are concerns the “Early Level” of the current curriculum (covering ages three to six) does not operate as a coherent whole. There have been calls for its replacement by a kindergarten stage which is rights-based, relationship-centred and play-based.

Some progress has been made. Playful learning is part of the curriculum and Scottish Government has published non-statutory guidance which encourages developmentally-appropriate practice. However, challenges remain in implementing these approaches due to inadequate staff training, inadequate adult:child ratios and inadequate facilities (e.g. lack of access to outdoor space). Anecdotal evidence suggests that even when Primary 1-2 teachers are keen to apply more developmentally appropriate practice, there is often resistance from senior management or the local authority who are keen to focus on formal literacy and numeracy teaching. This is exacerbated by Scottish Government pressure to close the attainment gap (see section 23).

Scottish Government has provided funding to support early learning and play outdoors in nursery settings, published guidance for practitioners on accessing outdoor spaces and design guidance for the provision of high-quality outdoor spaces for early learning and childcare and out of school care. However, our members report this guidance largely does not address the particular adjustments and requirements of children with additional support needs generally, and children with learning disabilities specifically.

In 2018, Scottish Government made a commitment to change the law to ensure automatic deferral of 4-year-olds' entry to school and a further year of nursery care upon the parent/carer's request. This has not yet been implemented.

¹³⁰ Dee, T. S., Sievertsen, H. H. (2015). The gift of time? School starting age and mental health.

i Please provide information on steps taken to ensure:

- a. Rights-focused, relationship-centred, play-based pedagogy is embedded into childcare and education for children aged three to six.
- b. All staff working with early years and young children have knowledge and understanding of child development, play-based pedagogy and outdoor education, including through appropriate qualifications and training.
- c. The skills and experience of early years practitioners are recognised and remunerated appropriately.
- d. Early years professionals and teachers work together to share knowledge, expertise and skills to inform effective practice.
- e. The developmental pedagogical principles recognised in Scottish Government guidance are embedded across the early level.
- f. All children in the early level (including Primary 1) have daily access to outdoor play and learning (including time spent in green places every week).
- g. Children's care and education is supported by the involvement of parents, carers and local communities who in turn are empowered and supported to learn about and understand the developmental principles.

26. Lack of quality and accessible play space

Almost 320,000 people in Scotland do not live within a ten-minute walk of green space, with disadvantaged communities having significantly less access. Between 2010-11, spending on parks and open spaces reduced by 32.1%.

Disabled and disadvantaged children face multiple barriers to play - whether this is at home, at nursery, school, early learning and childcare or in the community. Play areas in more deprived neighbourhoods are of poorer quality than those in the least deprived areas, and parents/carers are far less likely to think it is safe for their child to use them.¹³¹ Disabled children face barriers due to a lack of venues that are close to home, lack of skilled staff, lack of transport, cost issues, lack of accessibility and due to attitudinal issues (including parental fears and/or lack of acceptance by peer groups).

The quality of play space is as important as accessibility. Spaces need to include features that stimulate play, physical activity and facilities to make them accessible for all. Children identify a range of challenges relating to play space – including people drinking alcohol in parks, fear of violence, dog mess and parents/carers worrying about traffic. Other concerns include access to play spaces for disabled



¹³¹ Ellaway, A., Kirk, A., Macintyre, S., Mutrie, N. (2007). Nowhere to play? The relationship between the location of outdoor play areas and deprivation in Glasgow, pp.557–561.

children, availability of public toilets and changing facilities. Smoking is not prohibited in outdoor play spaces or at the school gates raising concerns for children's rights to health and protection from harmful substances.¹³²

Children want to be involved in decisions about their local community but are often not consulted. As a result, play spaces do not always meet the needs of all children – often money is used for playgrounds for younger children when older children would prefer space to play sports and vice versa. More needs to be done to ensure children's voices are heard and taken into account in planning decisions.



i Please provide information on steps taken to ensure:

- a. Children's rights are embedded in planning decisions, including through direct engagement with children.
- b. Outdoor play spaces are accessible, safe and engaging for all children, with particular attention to children in areas of deprivation and disabled children.
- c. Local authorities implement quality standards on green spaces which are regulated and monitored.

¹³² Together (2020). State of Children's Rights in Scotland 2019, p.127.

Special protection measures



27. Improvements needed to child justice system

The child justice system in Scotland includes the Children's Hearing System and the courts. Some improvements have been made but significant challenges remain.

The minimum age of criminal responsibility remains below international standards, despite recent legislation which will increase the minimum age from eight to 12 years once fully implemented. The new legislation contains extensive police powers to investigate behaviour of children under 12 years. A child rights-based approach must be followed in the exercise of these powers, supported by systematic training.

Although Scotland has a Children's Hearing System, 37% of children who come into contact with the formal justice system go to court.¹³³ In 2017-18, this included one 13-year-old, one 14-year-old, nine 15-year-olds, 384 16-year-olds and 1,381 17-year-olds. This is particularly concerning given the lack of amendments made to Court processes for children, meaning the process is more likely to be traumatising and difficult to participate in, raising questions about whether children have a fair trial.¹³⁴ In 2020, Scottish Government consulted on raising the maximum age at which a young person can be referred to a Children's Hearing from 16 to 18. While this is positive, more serious offences will still go to court so the above concerns will remain. There is also a need to enhance early and effective intervention mechanisms to support the child at an earlier stage.

Concerns remain around child detention.¹³⁵ The majority of children in prison or Young Offenders Institutions (YOI) in Scotland are on remand - meaning they have not yet had a trial or been sentenced. In October 2020, the average proportion of children on remand in a YOI/prison was 74% (this was 73% the previous month).¹³⁶

i Please provide information on steps taken to ensure:

- a. Child justice standards, as expressed in General Comment No. 24, are fully implemented – including raising the minimum age of criminal responsibility to at least 14 years old, ending the trial of children as adults and ensuring that the detention of children is the option of last resort.
- b. All children (under 18s) are diverted from formal justice processes or, where this is not possible, are supported through the Children's Hearings System rather than the courts.
- c. All adults involved in the child justice system receive systematic child rights training – including police, judiciary, lawyers, social workers, children's reporters and panel members.
- d. Children have access to specially trained advocacy workers and independent legal advice to ensure all children understand proceedings, know their rights and have a mechanism to realise them.
- e. Improvements to Children's Hearing System and court processes are informed by children's views and experiences.

¹³³ CYCJ (2020). Rights Respecting? Scotland's approach to children in conflict with the law, p.5.

¹³⁴ Ibid

¹³⁵ CYCJ (2020). "Not cut out for prison": Depriving children of their childhood.

¹³⁶ Scottish Prison Service (2020). SPS prison population data.

27. Destitution among families in the migration system

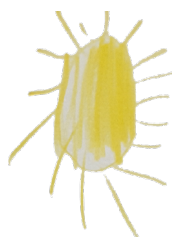
Refugee and asylum-seeking children and their families continue to face a range of challenges, including poor mental health, poverty, substandard accommodation, barriers in access to healthcare and education.¹³⁷ Many children face age assessments and/or separation from family causing additional distress and anxiety. While powers over immigration and parts of social security are reserved to the UK Government, Scotland has control over essential services including health, housing and education.

Unaccompanied children have a statutory right to support through the Scottish Guardianship Service (SGS). SGS acts as a first point of contact and continuity as the child progresses through the immigration system, supports their recovery from trauma, improves awareness of their rights and integration into community life. Anecdotal evidence suggests the SGS does not have the capacity to accommodate all age disputed children.¹³⁸

Many families have “no recourse to public funds” meaning they are not eligible for social security. Available financial support for asylum seekers is insufficient to avoid destitution¹³⁹ and this situation has worsened during COVID-19. Scottish Government has committed to publish an Anti-Destitution Strategy, focused on people with no recourse to public funds.¹⁴⁰

Accommodation for asylum seekers is subcontracted to private providers and has been described as a “disgrace”.¹⁴¹ Of 1,467 inspections across Scotland and Northern Ireland between 2016-18, less than a quarter of properties were found to be safe, habitable and fit for purpose.¹⁴² Families have also been subject to inappropriate treatment by subcontractor staff – including “lock change” evictions in Glasgow.¹⁴³

While there have been some improvements around access to healthcare for asylum-seekers and refugees (e.g. improved online information)¹⁴⁴ significant barriers remain – including language and communication, practical barriers such as lack of transport to surgeries, and fears of being reported to the immigration authorities.¹⁴⁵



Children’s access to education is a further concern. There are long waiting lists for ESOL provision (English for Speakers of other Languages) and inappropriate placements in college where school would be more appropriate and vice versa.¹⁴⁶

Scottish Government has committed to a range of actions through its New Scots Refugee Integration Strategy 2018-22.

¹³⁷ Together (2020). State of Children’s Rights in Scotland 2019, pp.132-142.

¹³⁸ Those dispersed as adults with an age dispute are supported by the British Red Cross Youth Service.

¹³⁹ Together (2020). State of Children’s Rights in Scotland 2019, p.141.

¹⁴⁰ Scottish Government (2019). Protecting Scotland’s Future: The Government’s Programme for Scotland 2019-20, p.156.

¹⁴¹ Affairs Committee (2017). Asylum Accommodation.

¹⁴² Independent Chief Inspector of Borders and Immigration (2018). An inspection of the Home Office’s management of asylum accommodation provision, p.48.

¹⁴³ Together (2020). State of Children’s Rights in Scotland 2019, p.139.

¹⁴⁴ NHS Inform (2018). Healthcare for Asylum Seekers and Refugees in Scotland (Factsheet).

¹⁴⁵ Together (2020). State of Children’s Rights in Scotland 2019, p.140.

¹⁴⁶ Unicef UK (2019). Education for Refugee and Asylum Seeking Children: Access and Equality in England, Scotland and Wales, p.24.

i Please provide information on steps taken to ensure:

- a. Asylum-seeking, refugee and migrant children have access to basic services and support, with particular attention to mental health support.
- b. Children whose families have no recourse to public funds are protected from experiencing destitution.
- c. The Scottish Guardianship Service is adequately funded, expanded and available to all unaccompanied and separated children.
- d. Age assessments are only carried out in limited circumstances where absolutely necessary, and subject to strict safeguards to protect the child's rights.
- e. Age disputed children have access to appropriate accommodation.

29. Additional safeguards needed to protect child victims and witnesses of crime

Child victims and witnesses of crime continue to face additional trauma, distress and harm due to complex procedures, being required to repeat their story many times, use of victim-blaming language by professionals and a lack of appropriate safeguards when giving evidence in court. Members report there is a gap between protective legislation and children's experiences. They note challenges securing special measures including the use of screens, pre-recorded evidence, evidence by video link or separate entrances.

Some progress has been made through legislation passed in 2019 (and gradually being rolled out). This requires that in the most serious cases, children's evidence should be pre-recorded in advance of the trial unless this would cause a "significant risk of prejudice to the fairness of the hearing". While the general rule is welcome, there are concerns about how the exception could be applied. The new law falls short of what is needed to ensure all child victims and witnesses are protected from further trauma and harm. Scottish Government has suggested adopting the 'Barnahus' approach for child victims and witnesses. An element of this approach is that children should only be asked to give evidence once within a therapeutic environment. Work to develop a Barnahus model for Scotland is underway.

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Trauma-informed training for all professionals involved in the justice system is crucial. Some progress has been achieved through the National Trauma Training Framework commissioned by Scottish Government but further work and embedding is required.

i Please provide information on steps taken to ensure:

- a. Special measures are put in place by default for all child victims and witnesses of crime, including the use of pre-recorded evidence, evidence by video-link, screens and separate entrances.
- b. The Barnahus model is implemented across Scotland.
- c. All professionals who interact with child victims and witnesses of crime receive ongoing trauma-informed training.

30. Armed forces recruitment targets vulnerable children

The UK is one of the only countries that still recruits children to the armed forces. The Army is increasingly reliant on 16- and 17-year-olds who make up nearly 26% of recruits. Those who enlist at a young age have a longer minimum period of service than adult recruits, and are at higher risk of injury and death, PTSD, alcohol misuse, and self-harm.¹⁴⁷

There are significant concerns that the recruitment of children is often not based on voluntary and fully informed consent. Recruitment information emphasises benefits while downplaying risks, seeks to exploit adolescent vulnerabilities and targets those in lower income groups.^{148 149} Written consent from a parental/guardian is required before enlistment but cannot later be withdrawn. Parental consent safeguards are inadequate – information for parents/carers is deficient and there is no requirement to meet recruiters prior to the child enlisting.

Official data on armed forces visits to Scottish schools is lacking. Neither the armed forces, the Ministry of Defence, schools, nor local authorities publish this. Local authorities have very different arrangements regarding consultation with parent/carers about visits and not all agree that parents and pupils should be able to opt out of armed forces activities.¹⁵⁰ Between 2016-19, a Scottish Parliament committee considered a petition calling for greater scrutiny, guidance and consultation on armed forces visits to schools. The Committee recommended a Child Rights and Wellbeing Impact Assessment be completed but this has not happened.

i Please provide information on steps taken to ensure:

- a. The minimum age for recruitment into the armed forces is increased to 18.
- b. Those who enlist as children do not have a longer minimum period of service than those who enlist as adults.
- c. Military recruitment practices and information are factual, balanced and make clear the risks and legal obligations.
- d. Disaggregated data on armed forces visits to schools is collected and published.
- e. Guidance on armed forces visits to schools is developed and published which supports voluntary and informed consent and ensures children are provided with balanced information.
- f. Schools give children and their parents/carers the opportunity to decide whether or not they wish to take part in armed forces visits.



¹⁴⁷ Medact (2016). The recruitment of children by the UK Armed Forces - A critique from health professionals.

¹⁴⁸ Ibid, p.11.

¹⁴⁹ Louise, R. and Sangster, E. (2019). Selling the military: a critical analysis of contemporary recruitment marketing in the UK. ForcesWatch and Medact.

¹⁵⁰ Forces Watch (2016). Armed forces visits to schools in Scotland: A lack of transparency and insufficient consultation.

Children's Rights in Scotland (UK)

Civil society report to inform the UN Committee on the Rights of the Child's List of Issues Prior to Reporting

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