



T : 0300 244 4000
E : scottish.ministers@gov.scot

Mhairi Snowden
Mhairi@hrcscotland.org

Our Reference: 202300383497
Your Reference: SHRC

18 December 2023

Dear Mhairi Snowden,

Thank you for writing to me, expressing your support for UNCRC incorporation. I am delighted that since your letter the UNCRC Bill has now been reconsidered and passed by the Scottish Parliament, and we now await Royal Assent, which we expect early in the new year.

Firstly, I wish to echo your point on learning from the experience of passage of the UNCRC Bill, and applying this learning to the development of our proposed Human Rights Bill, which we will bring forward before the end of the current 2023/24 parliamentary year. Ensuring that the Human Rights Bill is within competence will be an important factor in decisions about the scope of provisions, along with ensuring that the Bill is accessible, coherent and consistent in terms of drafting and operability, bearing in mind the complexity of incorporating 4 international human rights treaties.

I will now seek to answer each of the points you raise, in turn.

Set out a clear timetable for legislative review

As stated at the most recent Committee session, I will commission the review as soon as possible after the Bill receives Royal Assent.

Without more scoping work, it is not possible at this stage to estimate how long the review of provisions in UK Acts would take to complete and the Committee's conclusions acknowledge that such a review will take time.

To allow us to receive findings as quickly as possible, the review could prioritise provisions in key areas

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that are particularly relevant to strengthening children's rights (such as education) or for particular groups of children (such as those who are care experienced). It could also prioritise areas where there is a potential to reduce inequalities if we bring some provisions in to the scope of the compatibility duty.

As soon as practicable after the Bill receives Royal Assent, my officials will work with stakeholders, including children and young people, to agree how to commission and phase the review.

Commit to using specific legislative opportunities to expand the scope of the UNCRC Bill

It is not possible to commit to using specific legislation to re-enact UK Act provisions in Acts of the Scottish Parliament without first knowing what provisions would benefit from being legislated for in an Act of the Scottish Parliament and what impact that would have on the scope and timetable for specific bills.

To avoid any risk to the timetable for bills that the Government has already committed to, it may be more appropriate to use separate bespoke bills to expand the scope of the compatibility duty and we will consider this further in due course following the findings of the review.

However, as you are you aware, the Bills you cite and our policy intentions associated with them, very much align with UNCRC principles such as our approach to GIRFEC and ensuring The Promise results in children and young people growing up loved, safe and respected.

Commit to minimising future Scottish Parliament amendments to UK Acts

Once the UNCRC Bill is enacted, we acknowledge that it will be a priority to ensure wherever possible that new functions provided for by new legislation introduced by the Scottish Parliament fall within scope of the compatibility duty.

To ensure that as much future legislation as possible is in scope for the powers in the UNCRC Bill, we can try to minimise making amendments to UK Acts and instead make relevant provisions in standalone Acts of the Scottish Parliament. The Government's commitment to maximise the reach of the Bill's UNCRC protections, and in time the Human Rights Bill protections, will be a factor weighing in favour of making freestanding provision in future Acts of the Scottish Parliament.

When deciding whether a change to the law should be expressed as a freestanding provision in an Act of the Scottish Parliament or as an amendment to Westminster legislation, the government would need to consider the most appropriate and accessible way to provide for this. Given that existing statutory frameworks in some key policy areas are contained within pre-devolution UK Acts, there may be some instances where avoiding amendment to an existing UK Act would prove complex, in the sense that it would be challenging to provide for a coherent change to the law without any reference to the existing provision. Each new legislative proposal would therefore need to be considered on its own merits.

Commit to the continuation of the UNCRC Implementation Programme

There is some crucial work still underway as part of the current UNCRC implementation programme that will need to continue as the provisions in the Bill commence, hopefully next year. Decisions about levels of future funding are of course a matter for the budget process and future parliamentary approval of the Scottish Government's budget proposals. However, the Scottish Government will continue to

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work closely with public authorities, children, young people and their representatives such as yourselves, to build on the comprehensive support already provided so far.

I note that you have highlighted various priorities that you feel should feature in a new phase of the implementation programme. As you will be aware, much of the support is already in train, for example: national funding for the Rights Respecting School Award; funding for Clan Childlaw; funding for the Improvement Service to support local authorities and their partners; and funding for the Scottish Public Services Ombudsman to develop and promote a model child-friendly complaints process. In addition, we are providing financial support for testing and implementing approaches to embedding children's rights through the Innovation Fund and funding the development of a national Child Rights Skills and Knowledge Framework that will provide a single point to easily access new and existing resources and training on children's rights.

I trust this response is useful.

Yours sincerely



SHIRLEY-ANNE SOMERVILLE

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St Andrew's House, Regent Road, Edinburgh EH1
3DG
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