

Response ID ANON-4HQB-BQ3C-R

Submitted to Children's Rights: Consultation on incorporating the United Nations Convention on the Rights of the Child into our domestic law in Scotland
Submitted on 2019-08-27 14:28:31

Theme 1: Legal mechanisms for incorporating the UNCRC into domestic law

1 Are there particular elements of the framework based on the HRA as described here, that should be included in the model for incorporation of the UNCRC in domestic law?

Not Answered

Please explain your views.:

The incorporation of the UNCRC must be sensitive to existing legislation and must give due weight to the need to respect the rights and responsibilities of parents. Parents are the first educators of their children and the family is the bedrock of society. This should not be compromised.

2 Are there any other aspects that should be included in the framework?

Not Answered

Please explain your views.:

3 Do you agree that the framework for incorporation should include a "duty to comply" with the UNCRC rights?

Yes

Please explain why.:

It would seem appropriate to include a duty to comply.

4 What status, if any, do you think General Comments by the UN Committee on the Rights of the Child and Observations of the Committee on reports made by States party to the UNCRC should be given in our domestic law

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5 To what extent do you think other possible aids would provide assistance to the courts in interpreting the UNCRC in domestic law?

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6 Do you agree that it is best to push forward now with incorporation of the UNCRC before the development of a Statutory Human Rights Framework for Scotland?

Not Answered

Please explain your views.:

It would appear sensible to incorporate the UNCRC into a comprehensive, consolidated human rights act in order to make it as accessible and as easy to understand as possible.

7 We would welcome your views on the model presented by the advisory group convened by the Commissioner for Children and Young People in Scotland and Together (the Scottish Alliance for Children's Rights).

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8 How should the issue of whether particular UNCRC rights are self-executing be dealt with?

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9 How could clarity be provided to rights holders and duty bearers under a direct incorporation approach, given the interaction with the Scotland Act 1998?

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10 Do you think we are right to reject incorporating the UNCRC solely by making specific changes to domestic legislation?

Not Answered

Please explain why.:

11 If the transposition model was followed here, how would we best enable people to participate in the time available?

If the transposition model was followed here, how would we best enable people to participate in the time available?:

12 What is your preferred model for incorporating the UNCRC into domestic law?

Please explain why.:

It would seem sensible to adopt the transposition model, though none of the text of the UNCRC should be lost.

Theme 2: Embedding Children's Rights in public services

13 Do you think that a requirement for the Scottish Government to produce a Children's Rights Scheme, similar to the Welsh example, should be included in this legislation?

Not Answered

Please explain why. :

14 Do you think there should be a "sunrise clause" within legislation?

Not Answered

Please explain why. :

15 If your answer to the question above is yes, how long do you think public bodies should be given to make preparations before the new legislation comes into full effect?

Please explain why. :

16 Do you think additional non-legislative activities, not included in the Scottish Government's Action Plan, are required to further implement children's rights in Scotland?

Yes

Please explain why.:

Wide engagement is to be encouraged. However, care must be taken not to overload schools and children's/young people's services.

Theme 3: Enabling compatibility and redress

17 Do you agree that any legislation to be introduced in the Parliament should be accompanied by a statement of compatibility with children's rights?

Yes

Please explain your views.:

It would seem prudent to include a statement of compatibility with children's rights along with any legislation.

18 Do you agree that the Bill should contain a regime which allows right holders to challenge acts of public authorities on the ground that they are incompatible with the rights provided for in the Bill?

Yes

Please explain your views.:

Public authorities must be aware of their duties under the new legislation. Any challenge must come from the children affected.

19 Do you agree that the approach to awards of financial compensation should broadly follow the approach taken to just satisfaction damages under the HRA?

Not Answered

Please explain your views.:

20 Do you agree that the UNCRC rights should take precedence over provisions in secondary legislation as is the case under the HRA for ECHR rights? Are there any potential difficulties with this that you can see?

Not Answered

Please explain why.:

Legislation must continue to respect the rights of parents to raise, guide and direct their children, including making decisions on their behalf.

21 Do you agree that the Bill should contain strong provisions requiring an ASP to be interpreted and applied so far as possible in a manner which is compatible with the rights provided for in the Bill?

Not Answered

Please explain your views.:

22 Should the Bill contain a regime which would enable rulings to be obtained from the courts on the question of whether a provision in an ASP is incompatible with the rights secured in the Bill?

Not Answered

Please explain your views.:

Please explain your views.:

23 Do you consider any special test for standing to bring a case under the Bill should be required?

Not Answered

Please explain your views.:

About you

What is your name?

Name:

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What is your email address?

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Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

Catholic Parliamentary Office of the Bishops' Conference of Scotland

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Very satisfied

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Very satisfied

Please enter comments here.: