

# **Consultation on Children's Rights and Services Planning**

**March 2016**

# **CONSULTATION ON CHILDREN'S RIGHTS AND SERVICES PLANNING**

## **Overview**

This consultation seeks your views on a) non-statutory guidance for Part 1 (section 2) of the Children and Young People (Scotland) Act 2014, which cover duties on each public authority named in the Act to publish a report every 3 years on steps it has taken to give better or further effect within its areas of responsibility to the United Nations Convention on the Rights of the Child 1989 (UNCRC) requirements, and b) statutory guidance for Part 3 of the Act which covers arrangements for children's services planning – purpose, requirements, process, reporting and review.

## **CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014**

### **1. Introduction**

1.1 The Children and Young People (Scotland) Act 2014 was passed by the Scottish Parliament on 19 February 2014, and received Royal Assent on 27 March 2014. The legislation is a key part of the Scottish Government's strategy for making Scotland the best place to grow up. By facilitating a shift in public services towards the early years of a child's life, and towards early intervention whenever a family of young person needs help, the legislation encourages preventative measures, rather than crises responses. Underpinned by the Scottish Government's commitment to the UNCRC and the national children's services improvement programme, Getting It Right For Every Child (GIRFEC), the Act also establishes the new legal framework within which services are to work together in support of children, young people and families.

### **2. Part 1 – Rights Reporting**

2.1 Part 1 (section 2) of the Children and Young People (Scotland) Act 2014 places a duty on a range of public bodies (including all local authorities and its relevant health boards) to report, as soon as practicable after the end of each three-year period, on the steps they have taken to better secure, or give further effect to, the requirements under Part 1 of the United Nations Convention on the Rights of the Child (UNCRC).

2.2 This non-statutory guidance is aimed at those with responsibilities within public authorities for implementing and delivering on the provisions of the Act. This is likely to include strategic leaders and senior planning managers in health boards, local authorities and other bodies listed in schedule 1 to the Act.

### **3. Part 3 – Children's Services Planning**

3.1 Part 3 of the Children and Young People (Scotland) Act 2014 relates to children's services planning and seeks to improve outcomes for all children and young people in Scotland by ensuring that local planning and delivery of services is integrated, focused on securing quality and value through preventative approaches, and dedicated to safeguarding, supporting and promoting child wellbeing. To this

end, Part 3 sets out a legal framework for children's services' planning, including its scope and aims.

3.2 Overall responsibility for children's services planning will now rest clearly with a local authority and its relevant health board, with a range of other relevant local and national bodies, either consulted with, or obliged to participate, at various stages of the plans development to review.

3.3 This guidance has been developed to assist the professional and community representatives involved in children services planning, but it will also be of interest to individual and organisations involved in the delivery of services, as these have the potential to be directly affected by the process.

3.4 While this guidance has designed to support effective implementation, it is not prescriptive about how functions should operate. Each local authority and its relevant health board, in collaboration with children's services planning partners, may shape their own approach, in reference to their local context (within the parameters set by Part 3 of the Act).

3.5 Scottish Ministers intend to commence this Part of the Act so that a "Children's Services Plan", prepared in accordance to the provisions of Part 3 of the Act, must be in place by 1 April 2017. A report on how the local area has delivered on its plan must be published after the conclusion of each financial year. Please note that the Children's Services Plan", required by Part 3, succeeds the "Integrated Children's Services Plan" prepared under the Children (Scotland) Act 1995.

# **Children and Young People (Scotland) Act 2014**

**Guidance on Part 1:  
Duties of Public Authorities in  
Relation to the United Nations  
Convention on the Rights of the  
Child (UNCRC)**

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## PREFACE

1. This guidance is issued by Scottish Ministers to provide public authorities with information and advice about how they should fulfil the duties set out in Part 1 of the Children and Young People (Scotland) Act 2014 (Duties of Public Authorities in Relation to the UNCRC). The guidance seeks to establish best practice in relation to the implementation of these duties.
2. Part 1 (section 2) of the Children and Young People (Scotland) Act 2014 (“the Act”) places a duty on a range of public bodies (including all local authorities and health boards) to report, as soon as practicable after the end of each three-year period, on the steps they have taken to better secure, or give further effect to, the requirements of the United Nations Convention on the Rights of the Child (UNCRC)<sup>1</sup>.
3. The public authorities subject to this duty are listed in schedule 1 to the Act. They can satisfy this duty to publish in such manner as they consider appropriate – for example, through the preparation of a specific report, or by including relevant information in another report. Two or more public bodies can also satisfy this duty through the preparation and publication of a joint report.
4. To properly understand the duties set by Part 1 of the Act, individual sections should not be taken out of context or read in isolation from each other. The guidance is aimed at those with responsibilities within public authorities for implementing and delivering on the provisions of the Act. This is likely to include strategic leaders and senior planning managers in health boards, local authorities and the other bodies listed in schedule 1. A table setting out the public authorities to which the Part 1 duties apply currently is attached at

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1. “UNCRC requirements” in Part 1 (section 4) of the Act means the rights and obligations set out in Part 1 of the UNCRC (Articles 1 to 41) and Articles 1 to 6(1), 6(3) and 7 of the first Optional Protocol, and Articles 1 to 10 of the second Optional Protocol. An Optional Protocol is an additional UN legal mechanism that complements and adds to an international treaty after its original adoption.

Appendix 1. (It is worth noting that this table could be amended by virtue of section 3 of the Act at some point in the future.)

5. Although children, young people and their families may wish to refer to this guidance, further information on the new duty on public authorities under Part 1 of the Act will need to be developed at the local level to support their understanding of the operation of the new provisions.
  
6. Section 2(1) of the Act requires an authority to which this section applies to publish its report “as soon as practicable after the end of each 3-year period”. Section 2(2) provides that the three-year period begins with the day on which section 2 comes into force”. This section of the Act is due to come into force on 1 April 2017. The end of the first three-year period would therefore be 31 March 2020. There is an ongoing duty to report after each subsequent period of three years.

## CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014

7. The [Children and Young People \(Scotland\) Act 2014](#) (the Act) was passed by the Scottish Parliament on 19 February 2014, and received Royal Assent on 27 March 2014. The legislation is a key part of the Scottish Government's strategy for making Scotland the best place to grow up. By facilitating a shift in public services towards the early years of a child's life, and towards early intervention whenever a family or young person needs help, the legislation encourages preventative measures, rather than crises responses. Underpinned by the Scottish Government's commitment to the [United Nations Convention on the Rights of the Child 1989](#) (UNCRC), and the national children's services improvement programme, [Getting It Right For Every Child](#) (GIRFEC), the Act also establishes a new legal framework within which services are to work together in support of children, young people and families.
  
8. Composed of 18 distinct Parts, the Act makes important changes to the provision of early learning and childcare, looked after children's and care leaver services, the provision of named person services and the child's plan, and children's services planning. Where relevant, guidance on these different Parts will be made available by Scottish Ministers. This non-statutory guidance relates to Part 1, section 2.

## INTERPRETATION OF FREQUENTLY USED TERMS

9. Throughout this document the following terms will be used:

### **The Act**

10. This refers to the Children and Young People (Scotland) Act 2014.

### **Child**

11. For the purposes of the duties outlined in this guidance, an individual is a child from birth until their 18<sup>th</sup> birthday. In this guidance, the Scottish Government's preferred term of "children and young people" is used. It is important to note that Parts 4 and 5 use the term a 'young person' in a manner specific to those parts of the Act.

### **UNCRC**

12. This refers to the [UN Convention on the Rights of the Child](#) . This is the core international treaty which sets out the civil, political, economic, social and cultural rights to which all children are entitled. The 54 Articles of the Convention cover all aspects of a child's life

### **Optional Protocol**

13. An Optional Protocol is an additional UN legal mechanism that complements and adds to an international treaty after its original adoption.<sup>2</sup> The UK Government is signed up to two of the three Optional Protocols to the UNCRC. The first Optional Protocol is on the sale of children, child prostitution and child pornography<sup>3</sup> and the second Optional Protocol is on the involvement of children in armed conflict<sup>4</sup>.

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<sup>2</sup> <http://www.togetherscotland.org.uk/about-childrens-rights/optional-protocols-to-the-uncrc/>

<sup>3</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>

<sup>4</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRC.aspx>

## **UNCRC requirements**

14. “UNCRC requirements” in Part 1 (section 4) of the Act means the rights and obligations set out in Part 1 of the UNCRC (Articles 1 to 41) and Articles 1 to 6(1), 6(3) and 7 of the first Optional Protocol<sup>5</sup>, and Articles 1 to 10 of the second Optional Protocol<sup>6</sup>. There is no duty on public authorities under the Act to report on compliance with matters which fall outwith this definition.

## **Children’s Rights Reports**

15. This refers to the reports that public authorities have a duty to prepare under Part 1 (section 2) of the Act.

## **Children’s Services Plan**

16. This refers to the document which must be prepared, every three years, by a local authority and the relevant health board, under the terms of Part 3 (Children’s Services Planning) of the Act.

## **Rights-based approach**

17. This refers to mainstreaming human rights (such as the UNCRC) across services, policy and practice.

## **Child rights-based approach**

18. This approach uses the UN Convention on the Rights of the Child as the framework for working with and for children and young people. It has the goal of promoting and securing the full range of children’s human rights and places children and young people at the centre of policy development, and the design, delivery and evaluation of services.

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<sup>5</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>

<sup>6</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRRC.aspx>

## **Child Rights and Wellbeing Impact Assessment**

19. The [Child Rights and Wellbeing Impact Assessment](#) (CRWIA) has been developed by the Scottish Government in order to measure the compliance of Scottish Government proposals with the Articles of the UNCRC. It supports the Scottish Government in fulfilling the existing obligations under the UNCRC and the new Ministerial duties under Part 1 (section 1) of the Act.

## **INTRODUCTION**

20. The Scottish Government is committed to making Scotland the best place for children to grow up; a Scotland where the rights of children and young people are respected, protected, enabled and fulfilled across our public services and society as a whole.
21. If the Scottish Government is to deliver on this commitment, it is crucial that children's rights are a primary consideration whenever decisions are being taken which will affect children and young people, whether that is at the individual, local or national level.
22. The UNCRC is at the heart of the Government's commitment to ensuring that all children and young people have the best possible start to life, regardless of their circumstances. As duty bearers under the UNCRC, public authorities are expected to do all they can to implement the Convention and uphold children's rights.
23. The reports produced under Part 1 of the Act will provide evidence of the contribution of specified public authorities in Scotland in ensuring that children's rights are respected, protected, enabled and fulfilled. As such, these reports will help by considering how public authorities realise the shared ambition of making Scotland the best place to grow up.

### **Human rights**

24. The duty on public authorities under Part 1 of the Act seeks to give further effect to human rights. These are the basic rights and freedoms to which we are all entitled in order to live with dignity, equality and fairness and to develop and reach our potential. Everyone, including children, has these rights, irrespective of their circumstances.

25. The UNCRC recognises children’s capacities as rights holders with the ability to identify and claim rights on their own behalf. Despite being autonomous rights holders, children up to the age of 18 years have long been considered to require special attention in respect of their rights because of their particular vulnerabilities and their reliance on adults in claiming and realising their rights. This is reflected in the UNCRC.

### **The UN Convention on the Rights of the Child**

26. Established in 1989, the [UN Convention on the Rights of the Child](#) is a core human rights treaty which sets out an internationally agreed framework for the rights of all children and young people.
27. The rights set out in the 54 Articles and three Optional Protocols<sup>7</sup> of the UNCRC provide for every aspect of a child or young person’s life, from birth up to the age of 18 years. They apply wherever the child is at home, at school, in any institution and in the community.
28. The Articles provide a framework of standards, principles and guidance on implementation, which take into account specific childhood needs. The UNCRC recognises that countries have different legal systems and that implementation can be broadly applied. In line with other UN treaties, all rights are indivisible (i.e. all rights are considered equal), interrelated and interdependent (i.e. the enjoyment of one right depends on the ability to freely exercise other rights).
29. The UNCRC provides children and young people with a series of individual rights, including the right to education, health, play and recreation, and an adequate standard of living.
30. The UNCRC also provides for specific groups of children by age, setting or those who need special protection or other forms of support. This includes: children in urban and rural areas; disabled children and those with additional

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<sup>7</sup> Optional Protocols are additional UN legal mechanisms that complement and add to an international treaty after its original adoption  
<http://www.togetherscotland.org.uk/about-childrens-rights/optional-protocols-to-the-uncrc/>

support needs; looked after children; children who are affected by poverty; deprivation or homelessness; children affected by violence, drugs or alcohol; victims of abuse or exploitation including trafficking, economic or sexual; and child asylum-seekers or refugees.

31. The UNCRC establishes the concept of a child's "evolving capacities" (Article 5) which states that direction and guidance provided by parents and others with responsibility for the child, must take into account the capacities of the child to exercise rights on their own behalf.
  
32. Four General Principles underpin each and all of the specific rights outlined in the UNCRC:
  - for rights to be applied without discrimination (Article 2);
  - for the best interests of the child to be a primary consideration (Article 3);
  - for the right to life, survival and development (Article 6); and
  - for the right to express a view and have that view taken into account (Article 12).

### **The UK as the State Party to the United Nations**

33. The responsibility for signing and ratifying international Conventions is reserved to the UK Government.
  
34. Following its ratification in 1991, the UNCRC came into force across the UK in 1992. As the State Party to the Convention, the UK Government has primary responsibilities for the preparation and submission of the required monitoring reports to the UN Committee on the Rights of the Child. However, in accordance with Schedule 5 of the Scotland Act 1998, the Scottish Government is required to "observe and implement international obligations", including the UNCRC. The Scottish Government also drafts its own reports which inform the preparation of the UK-wide monitoring reports and prepares its own Action Plans in relation to the implementation of the UNCRC in Scotland.

35. Further information on the operation and monitoring of the UNCRC and other human rights treaties is attached at Appendix 2.

### **Rights-based approach**

36. The international human rights framework provides standards which governments are obliged to respect, protect and fulfil. A rights-based approach takes these commitments and provides a means of embedding rights across services, policy and practice. It provides a framework for monitoring and evaluating progress on realising rights in different contexts and settings. It therefore is a useful way for government and other public bodies to take forward their commitments to human rights as part of their policy and practice.
37. The PANEL principles provide one framework for taking forward a human rights-based approach (see Appendix 5 for more details).

### **Child rights-based approach**

38. A child rights-based approach uses the UNCRC as the framework for working with and for children and young people. It has the goal of promoting and securing the full range of children's human rights and places children and young people at the centre of policy development, and the design, delivery and evaluation of services.<sup>8</sup> This guidance focuses on giving effect to the UNCRC and, therefore, public authorities are encouraged to use the UNCRC as the framework for reporting.

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<sup>8</sup>Scottish Government (2015) When and how to best use the Child Rights Wellbeing Impact Assessment (CRWIA)

## OVERVIEW OF PART 1

39. The following sections provide relevant public authorities with advice about how to fulfil their Part 1 duty. Specifically, it provides:

- information on the UNCRC on which the new duties are based;
- information on the new duty on public authorities under Part 1 of the Act;
- information on the links between Parts 1 and 3 of the Act;
- information on the possible application of the proposed approach to public authorities' reporting on rights; and
- details of useful resources (see Appendices).

### Duties on Scottish Ministers

40. Part 1, section 1(1)(a) and (b) of the Act place duties on Scottish Ministers to:

- keep under consideration whether there are any steps which they could take which would or might secure better or further effect in Scotland of the UNCRC (taking appropriate account of the relevant views of children) and, if they consider it appropriate to do so, take any steps identified by that consideration;
- promote public awareness and understanding in Scotland of the rights of the child, including amongst children; and
- report to the Scottish Parliament every three years on relevant progress in relation to the above and what they intend to achieve over the subsequent three-year period. The first report is due in 2018. The views of children and young people will be integral to the effective implementation of this reporting duty.

41. Within the context of these duties, the Scottish Government has developed a model for Child Rights and Wellbeing Impact Assessment (CRWIA) for use

across the Scottish Government.<sup>9</sup> The impact assessment will ensure that all ministerial portfolios must consider the extent to which proposed policies and legislation will impact on children in terms of their rights and wellbeing. Since the views of children and young people are integral to the Child Rights and Wellbeing Impact Assessment process, the CRWIA guidance includes information to support the effective engagement with, and participation of children and young people, in national policy-making.

42. The CRWIA is discussed further below. It is also referenced throughout the guidance as a useful resource on the UNCRC and for additional information which may be helpful for children's rights reporting.

### **Duties on public authorities**

43. Section 2 of the Act places a duty on a range of public bodies (including all local authorities and health boards) to report, as soon as practicable after the end of each three-year period, on the steps they have taken to better secure, or give further effect to, the UNCRC requirements.
44. Public bodies can choose to satisfy this duty as they consider appropriate. This can be through the preparation of a specific report, or by including relevant information in another report. Two or more public bodies can also satisfy this duty through the preparation and publication of a joint report.
45. At the time of publication (of this guidance), the public authorities to which Part 1, section 2 apply are:

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<sup>9</sup> [<http://www.gov.scot/Topics/People/Young-People/families/rights/child-rights-wellbeing-impact-assessment>]

- a) A local authority
- b) Children’s Hearings Scotland
- c) Scottish Children’s Reporter Administration
- d) A health board
- e) A “special health board” (a board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978)
- f) Healthcare Improvement Scotland
- g) Scottish Qualifications Authority
- h) Skills Development Scotland
- i) Social Care and Social Work Improvement Scotland (the Care Inspectorate)
- j) Scottish Social Services Council
- k) Scottish Sports Council (SportScotland)
- l) Chief Constable of the Police Service of Scotland
- m) Scottish Police Authority
- n) Scottish Fire and Rescue Service
- o) Scottish Legal Aid Board
- p) Mental Welfare Commission for Scotland
- q) Scottish Housing Regulator
- r) Bord na Gaidhlig
- s) Creative Scotland

### **Reporting timescales**

46. Section 2(1) of the Act requires an authority to which this section applies to publish its report “as soon as practicable after the end of each 3-year period”. Section 2(2) of the Act provides that the three-year period begins with the day on which section 2 comes into force. This section of the Act is due to be commenced on 1 April 2017. The end of the first three-year period would, therefore, be 31 March 2020.

## CHILDREN’S RIGHTS REPORTS AND OTHER FRAMEWORKS

47. Before preparing a Children’s Rights Report, public authorities are advised to consider the following aspects:
- the UNCRC assessment framework and its applicability for developing Children’s Rights Reports;
  - the CRWIA developed for the Scottish Government;
  - the child wellbeing indicators developed as part of the GIRFEC approach and their links with the UNCRC;
  - a commitment to involving children and young people in preparing Children’s Rights Reports; and
  - the potential links between the Part 1, section 2 duty to report on children’s rights and Part 3 duties relating to Children’s Services Plans.

### Child Rights and Wellbeing Impact Assessment

48. The [CRWIA](#) uses the UNCRC in order to measure the compliance of Scottish Government proposals with the Articles of the UNCRC.
49. The CRWIA supports the Scottish Government to “identify, research, analyse and record the anticipated impact of any proposed law and policy on children’s human rights and wellbeing”.<sup>10</sup> It supports the Scottish Government in fulfilling the existing obligations under the UNCRC and the new ministerial duties under the Act. This includes the duty to report progress on the implementation of the UNCRC to the Scottish Parliament every three years.
50. The CRWIA uses two frameworks for assessment: the UNCRC; and the child wellbeing indicators developed as part of the GIRFEC approach to children’s service provision in Scotland. It aims to ensure that leading UNCRC principles, the best interests of the child (Article 3 of the UNCRC) and children’s views

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<sup>10</sup> Scottish Government (2015) When and how to best use the Child’s Rights and Wellbeing Impact Assessment

(Article 12) are integrated into policy development. It is, therefore, a useful resource for public authorities to support their duties in reporting on children's rights.

51. The Scottish Government CRWIA model has been designed to produce outputs which record how decisions that impact on children and young people in Scotland have been reached, and provides a basis for ongoing monitoring and evaluation of the policy or measure. It is a model that could be utilised by public bodies to evidence their consideration of the rights of children across all areas of their activity.
52. Although the CRWIA was developed for use by the Scottish Government, the CRWIA resources are available for wider use by public authorities should they wish to utilise these. The CRWIA includes a [guide to its use, a training resource and a quick reference guide to children's rights legislation in Scotland](#). Since the views of children and young people are integral to the CRWIA process, the CRWIA guidance includes detailed information regarding the effective participation of children in national policy-making (see also this guidance Appendix 4 for Involving Children and Young People in Children's Rights Reports).

### **The child wellbeing indicators**

53. GIRFEC is the national approach to improving outcomes through public services that support the wellbeing of children and young people. Based on the UNCRC, it supports children, young people and their parents to work in partnership with the services that can help them.
54. The Act places key elements of GIRFEC in statute. In particular, section 96 provides a statutory definition of wellbeing, relating it directly to the eight wellbeing indicators – Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, Included (known by the acronym SHANARRI). The statutory guidance for Part 18 (Section 96) of the Act provides further detail.

55. The importance of the relationship between children’s rights and wellbeing is central to the Act, and to realising Scottish Ministers’ commitments to children and young people. It is suggested that public authorities explore their organisational understanding of the interaction between children’s rights and the wellbeing indicators in advance of undertaking children’s rights reporting.
56. The CRWIA provides helpful interpretation of the relationship between rights and wellbeing:

*“The UNCRC is a set of substantive, legal and procedural standards that focus on the role of the State in ensuring that these standards are met. It is the overarching framework within which all policy that affects children and young people should be developed, and within which child wellbeing sits.”<sup>11</sup>*

57. The CRWIA goes onto to describe wellbeing as:

*“a measure of the quality of a child’s life”. It is understood in relation to objectives measures (such as income, health status, being a victim of crime, educational achievement) and subjective measures (such as life satisfaction or reported levels of happiness).”<sup>12</sup>*

58. Appendix 3 identifies Articles of the UNCRC and matches them to wellbeing indicators. This is drawn from materials developed for the CRWIA and is an interpretation of the interaction between wellbeing indicators and UNCRC Articles which can be used flexibly by authorities. It should be noted that UNCRC Articles may match to more than one wellbeing indicator – e.g. Article 3 (best interests of the child).
59. Identifying the links between children’s rights and wellbeing will be particularly useful for authorities who wish to align their Part 1 duties on Children’s Rights Reports with their Part 3 duties on Children’s Services Plans.

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<sup>11</sup> Children’s Rights Legislation in Scotland: A Quick Reference Guide

<sup>12</sup> Ibid

60. It may also be useful for other public authorities using the wellbeing indicators or another framework such as the National Health and Wellbeing Outcomes to identify which Articles of the UNCRC would apply to their responsibilities.
61. For further guidance on the GIRFEC approach please refer to [Statutory Guidance on Part 4, 5 and 18 \(Section 96\) of the Act](#).

### **The assessment framework for the UNCRC**

62. The UNCRC Articles provide for every aspect of a child or young person's life from birth up to the age of 18 years. The range of Articles provides duty bearers with a structure for informed dialogue and assessment of the range of issues and circumstances that affect children and young people in Scotland. They therefore provide the basis for both Government and public authorities realising, or giving further effect to, children's rights.
63. As part of the requirements for State periodic reports<sup>13</sup> the different Articles of the UNCRC are grouped into clusters. This is the structure that is recommended for reports to the UN Committee on the Rights of the Child and one that the UK Government and the Scottish Government in its contribution follow.
64. For the purposes of Children's Rights Reports, the clusters offer a framework which can facilitate reporting. This is explored in more detail in the following chapter ('A Framework for Children's Rights Reporting'). The clusters are:
1. *Definition of the child*  
Article 1 of the UNCRC defines a child as anyone under the age of 18.
  2. *General measures of implementation*  
This cluster deals with structures and resources to implement the UNCRC including legal and non-legal measures.

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<sup>13</sup> The UK Government (as the State party) submits periodic reports (approximately every 5 years) to the UN Committee on the Rights of the Child on its implementation of each treaty. These reports address both reserved and devolved matters and incorporate contributions from the Scottish Government.

3. *General principles of the UNCRC*

These are four guiding principles of the UNCRC: non-discrimination; best interests; to life and maximum development; and the right to be heard.

4. *Civil rights and freedoms.*

This cluster focuses on children's civil rights and freedoms including children's right to move freely in public space, to access information, to privacy and to be protected from inhumane or degrading treatment.

5. *Family environment and alternative care*

This cluster focuses on the family environment, the right of children to be well cared for if they live apart from their parents; and the right to be protected from all forms of violence and abuse.

6. *Basic Health and welfare*

This cluster focuses on the health and welfare of all children and the consideration of disabled children's rights.

7. *Education, leisure and culture*

This cluster focuses on the right of all children to have a right to an education that will help them achieve their potential without discrimination.

8. *Special protection measures*

This cluster focuses on groups of vulnerable and marginalised children who require special protection.

**Potential links between Part 1 and Part 3 (Children's Services Planning) of the Act**

65. Some public authorities to which Part 1 applies will also be subject to duties under Part 3 (Children's Services Planning); in particular, local authorities and health boards. Children's Services Plans seek to improve outcomes for all children and young people through the delivery of services that will support their wellbeing, promote early intervention and preventative approaches, demonstrate best use of resources, and allow for the better planning and coordination of those services.
66. There is no requirement within Part 3 for local authorities and relevant health boards to adopt a child's rights-based approach within their children's services

planning process or to link with the Part 1 duty described in this guidance. However, given the complimentary timescales, the fact that the duties fall on both public bodies, and that Part 1 permits the publication of joint reports, local authorities and relevant health boards may wish to consider the benefits of aligning their duties under Part 1 and Part 3 as far as possible.

67. Indeed, children's services planning offers a potential structure to support the children's rights reporting duty. A local authority and health board could, for instance, incorporate their children's rights report into their annual children's services plan report (required under section 13 of the Act). Alternatively, they could incorporate their children's rights report into the final annual report of the children's services planning cycle (which is linked to the same three-year period as Part 1).
68. With its focus on 'wellbeing', children's services planning already put children's rights at the heart of the planning and delivery of children's and related services. Children's services planning presents a local authority and relevant health board with a valuable opportunity to give these rights real articulation in practice. For instance, a local authority and its relevant health board could, in consultation with its partners and community, choose to set themselves an aim, within their Children's Services Plan, to "secure, or give further effect to, children's rights". Their plan could then articulate what steps will be taken, over the three-year period, to achieve this aim and how it will be monitored, and, as mentioned above, annual reports could document progress.
69. Although the alignment of Part 1 and Part 3 duties is not required by the Act, to do so may benefit both processes. Not only could it provide a structure (for local authorities and health boards) within which to plan, review and report on children's rights, it could also cement the links between children's rights and wellbeing.
70. However, it is important to note that although Part 1 and Part 3 duties could be aligned, attention would need to be given to the scope and extent of children's rights, with consideration given to the interaction between the UNCRC and the

wellbeing indicators (see Appendix 3, 'Links between Wellbeing Indicators and the Articles of the UNCRC'). In particular, local authorities and health boards would need to consider if there are any areas of children's rights not covered by their services, noting the definitions set out by Scottish Ministers (under section 7(1)).<sup>14</sup> This may include, for example, children whose rights and wellbeing are affected due to the circumstances of their families (e.g. where a parent is in prison).

71. For further information on Children's Services Plans, please refer to the guidance on Part 3 (Children's Services Plans) of the Act.

### **Potential links to other Plans**

72. Many public authorities will also be under duties from other legislation that requires them to both consult and publish reports, in particularly the Joint Working (Public Bodies) (Scotland) Act 2014, the Community Empowerment (Scotland) Act 2015 as well as Parts 3 and 9 (Children's Services Plans and Corporate Parenting) of the Act.
73. Early consideration of how the duties in this section can be applied and complied with could also assist in the alignment of these duties with those in these other pieces of legislation. There are similar, compatible and complimentary duties across all these separate pieces of legislation.
74. In line with the ambitions of the Christie Commission, to maximise use of limited resources and avoid duplication of effort, an early consideration of if and how these duties can work effectively together would be advisable. In addition such an approach would assist in the achievement of the Scottish Government's National Outcome of making "our public services, high quality, continually improving, efficient and responsive to local people's needs".

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*Children's services* – services which are provided wholly or mainly to, or for the benefit of, children (or a specific group thereof, such as looked after children or children with a disability); and *related services* – services which, while not falling into category (a), are still capable of having a significant impact on children's wellbeing.

## **A FRAMEWORK FOR CHILDREN’S RIGHTS REPORTING**

75. This chapter of the guidance sets out a potential framework for reporting on children’s rights. The framework takes a child rights-based approach using the clusters of the Articles of the UNCRC. It provides practical detail to support its application.

### **Using the UNCRC clusters to prepare Children’s Rights Reports**

76. Using the UNCRC clusters is an internationally recognised approach to the implementation, monitoring and reporting of children’s rights<sup>15</sup>, and it therefore provides a useful approach to the development of statutory Children’s Rights Reports. For the purposes of children’s rights reporting, the clusters are described below in terms that relate to ‘how’ and ‘what’ public authorities should do to implement rights.

77. When reviewing the clusters, public authorities may wish to consider which clusters (if not all) apply to their role and responsibilities. Some will apply to all public authorities while others may be more applicable to some public authorities than others. For example, the clusters General Measures of Implementation and General Principles will apply to all public authorities because the focus is on protection and promoting knowledge of children’s rights and the main principles of non-discrimination, best interests, survival and development and right to be heard. Other cluster areas may be more (but not necessarily solely) applicable to a specific public authority – for example, Family Environment and Alternative Care or Education and Leisure will be core to the responsibilities of a local authority.

78. The “UNCRC requirements” in section 4 of the Act means the rights and obligations set out in Part 1 of the Convention and certain articles of the first

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<sup>15</sup> UNICEF Implementation Handbook for the Convention on the Rights of the Child; Full Revise Third Edition [http://www.unicef.org/publications/index\\_43110.html](http://www.unicef.org/publications/index_43110.html)

and second Optional Protocol to the UNCRC<sup>16</sup>. There is no duty on public authorities to report on compliance with matters which fall outwith this definition. The clusters below therefore focus on the rights set out in Part 1 of the Convention. Public authorities should also consider if the articles of the first<sup>17</sup> and second Optional Protocols<sup>18</sup> are relevant to their activities. In these instances, reporting could be included in a relevant cluster or as additional information.

79. Public authorities may wish to make explicit links in reporting on children's rights with the wellbeing indicators. A table linking the SHANARRI indicators with examples of Articles of the UNCRC is at Appendix 3. This list is not exclusive and public authorities should consider if other UNCRC Articles are relevant.

### **UNCRC clusters**

80. A summary of each UNCRC cluster (and associated Articles), drawing on the materials developed for the CRWIA is set out below. At the end of each cluster 'reflective statements' have been included to give examples of areas that public authorities may wish to report on. These examples are illustrative and are not meant to be either prescriptive or exhaustive. They should be used as a basis for further consideration and development by authorities in consultation with other stakeholders including children and young people, parents and carers, and third sector organisations.
81. Public authorities may wish to use the following questions (or similar) to consider their progress in the cluster areas:

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<sup>16</sup> Optional Protocols are additional UN legal mechanisms that complement and add to an international treaty after its original adoption

<http://www.togetherscotland.org.uk/about-childrens-rights/optional-protocols-to-the-uncrc/>

<sup>17</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>

<sup>18</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCCRC.aspx>

- What do we provide or undertake in relation to this cluster/and/or UNCRC Article?
- How are we progressing in this area of activity? What is working well and where are there gaps?
- What evidence do we have? What is our baseline information? Is there evidence on outcomes for children and young people?
- How is our evidence informed by the views and experiences of children and young people?
- What next steps or actions do we need to take arising from the initial questions?

### **Cluster (i): General measures of implementation**

82. This cluster focuses on what government is expected to do to implement the UNCRC through law, policy and decisions which impact on children. It applies to legal measures (through legislation). It also applies to non-legal measures which progress implementation of the Convention including: national strategies and action plans; resource allocation and monitoring; children's rights training, awareness-raising and capacity-building; development and collection of data on children's lives; collaboration with all sectors including children. The specific relevant UNCRC Article is:

- protection of rights (Article 4): ensuring that the UNCRC rights are implemented through legislation and other measures (to the maximum extent of available resources)

### **Examples of reflective statements**

We ensure that our visions and values promote the rights of the child and that these are reflected in all our public documents and statements. (Article 4)

We are committed to the implementation of UNCRC rights, through complying with rights provisions and duties within the 2014 Act and other relevant legislation and policy as identified. (Article 4)

We proactively consider children's rights in service planning, engaging with and undertaking consultation with relevant stakeholders (including children and young people and parents/carers). (Article 4)

We ensure that the services we provide for children and young people conform to established national standards and provide high quality services and staffing. (Article 4)

We have a skilled and competent workforce committed to upholding children's rights. Training on children's rights is available to our staff and elected members (where appropriate) and is provided for those in senior, managerial and practitioner roles and takes into account the Common Core. (Article 4)

With reference to policy and service delivery, we take our commitment to children's rights into account in decisions on resource allocation. (Article 4)

- Article 42 (knowledge of children's rights: making the principles and the provision of the UNCRC widely known) and Article 44(6) (implementation measures: making reports on implementation widely known) are relevant to the General Measures of Implementation cluster. They are not included here as they do not form part of the UNCRC requirements under the Act. Public authorities are therefore not under a duty to report on these in terms of section 2(1).

## **Cluster (ii): General principles of the UNCRC**

83. This cluster focuses on the four general principles of the UNCRC:

- non-discrimination (Article 2): children should not be discriminated against;
- best interests of the child (Article 3): every decision and action must be in a child's best interests;
- survival and development (Article 6): every child has the right to life and to develop to their full potential; and
- respect for the views of the child (Article 12).

## **Examples of reflective statements**

We can demonstrate how the principle and practice of non-discrimination have been taken into account in our services. (Article 2)

We can show through evidence, including disaggregated data, that children and young people from marginalised groups are able to access their rights. (Article 2)

We respect children and young people's rights to develop to their full potential in early learning and childcare settings, school, home and community. (Article 6)

Children and young people are encouraged and supported to participate in all stages of planning, provision and delivery of our services. (Article 12)

We use a range of measures to seek children and young people's views about matters that affect them and always consider the child's views in determining what is in the child's best interests. (Articles 3 and 12)

We ensure that communication or learning difficulties are not considered an exception to the requirement to obtain and consider the views of the child or young person. (Articles 2 and 12)

Children and young people have access to independent advocacy where they find it more difficult to claim their rights or if their rights have been violated. (Article 12)

We signpost children and young people who want to make a complaint, and/or those acting on their behalf, to clear and transparent complaints processes. (Article 3 and 12)

We ask children and their parents/carers routinely about matters that affect them and provide feedback on how their views have been acted on. (Article 12)

We seek out and use examples of the best approaches to engaging with children and young people in order to support their right to have their voices heard. (Article 12).

### **Cluster (iii): Civil rights and freedoms**

84. This cluster focuses on children's civil rights and freedoms including: children's right to move freely in public space and to meet with others; children's right to think and believe what they like, to access information and speak their mind as long it is not harmful to others; children's right to keep personal matters and communications private; and their right to be protected from inhumane or degrading treatment:

- birth registration, name, nationality, care: Article 7;
- protection and preservation of identity: Article 8;
- freedom of expression: Article 13;
- freedom of thought, conscience and religion: Article 14;
- freedom of association: Article 15;
- right to privacy: Article 16;
- access to information and mass media: Article 17;
- right to education: Article 28;
- inhumane treatment and detention: Article 37; and
- recovery and rehabilitation of child victims: Article 39.

#### **Examples of reflective statements**

We support children and young people's freedom of association through the provision of public spaces where they can meet safely. (Article 15)

Information sharing is proportionate and appropriate and complies with the Data Protection Act while recognising a child's right to privacy. (Article 16)

Information materials are available in a range of formats and in specific settings in order to meet the needs of individual children and young people. (Article 17)

Children and young people are not subject to any form of treatment, which is deemed to be inhuman or degrading and have access to legal and other assistance in instances where they are detained. (Article 37).

## **Cluster (iv): Family environment and alternative care**

85. This cluster focuses on: the primary role of parents and the support parents should have to bring up their children; the right of children to not be separated from parents unless this is in their best interests; the right of children to be well cared for where they live apart from their parents; the right of a child to maintain contact with both parents if that is in their best interests; the right of a child to have a say when decisions are made about where they should live, with placements subject to regular review; and the right of all children to be protected against all forms of violence and abuse:

- parental guidance and a child's evolving capacities: Article 5;
- separation from parents: Article 9;
- family reunification: Article 10;
- abduction and non-return of children: Article 11;
- parental responsibilities and state assistance: Article 18(1-2);
- protection from all forms of violence: Article 19;
- children deprived of a family: Article 20;
- adoption: Article 21;
- review of treatment in care: Article 25;
- adequate standard of living: Article 27; and
- recovery and rehabilitation of child victims: Article 39.

### **Examples of reflective statements**

We take into account children's evolving capacities, making sure that all younger children are able to access their rights. (Article 5)

We seek and take account of children and young people's views prior to making decisions that affect them. (Article 12)

Children and young people who are looked after have access to the services they need and have a say in decisions about where they live. (Article 9)

Young people who are moving onto independence but continue to require our services, have access to the support they need (e.g. care leavers or disabled young people). (Article 5)

We provide support and services to parents/carers in order that they can care for their children. (Article 18)

We provide support to children and young people who experience complex family circumstances (e.g. young carers; children with experience of domestic abuse; children who have a parent in prison). (Article 18)

Our management team is informed of their duties and fulfills their responsibilities as corporate parents. (Article 18)

All placements of children and young people who are looked after are subject to regular review. (Article 25).

### **Cluster (v): Basic health and welfare**

86. This cluster focuses on the health and welfare of all children and the consideration of disabled children's rights. All children should have the best possible standard of health, including access to relevant health services. There should be a focus on the determinants of children's health, including mental health. Under Articles 26 and 27, where families do not have enough to live on, children have a right to financial support from the Government to meet their basic needs. The cluster includes:

- life, survival and development: Article 6;
- parental responsibilities and state assistance: Article 18(3);
- children with disabilities: Article 23;
- health and health services: Article 24;
- social security: Article 26;
- adequate standard of living: Article 27 (1-3); and
- drug abuse: Article 33.

### **Examples of reflective statements**

We provide early learning and childcare services which benefit both children and their parents/carers. (Article 18)

We actively promote the right of disabled children to have access to a range of services and have choice and control over the services they receive e.g. education, health care, play and leisure services etc. (Article 6 and 23)

We ensure that children and young people have access to the high quality health care they need and this extends to preventative health care services. (Article 24)

We ensure that children and young people with long term health conditions have access to the services and support they need. (Article 24)

We provide resources and support for children and young people in order to meet their mental health needs. (Article 24)

We provide support to children and families, where this is within our authority responsibilities, to meet children's essential needs in relation to food, clothing and housing. (Article 27)

### **Cluster (vi) Education, leisure and culture**

87. This cluster focuses on the right of all children to have a right to an education that will help them achieve their potential without discrimination. Education should be child-centred and empowering and strengthen their capacity to enjoy the full range of children's human rights including their right to express their views and participate in all aspects of their education. Article 29 entitles children to a broad curriculum. Article 31 states that children have a right to play, recreational activities, rest and leisure and to take part in cultural life. The cluster includes:

- the right to education: Article 28;
- the goals of education: Article 29;
- children of minorities/indigenous groups: Article 30; and
- leisure, play and culture: Article 31.

### **Examples of reflective statements**

We ensure that all children and young people access their right to education and to their fullest potential. (Article 28)

We aim to ensure that all children do not experience any form of discrimination in their education, regardless of their circumstances. (Article 28)

We ensure that early learning and childcare and school environments support children and young people's participation in all aspects of the Curriculum for Excellence. (Article 28)

We provide children and young people with access to play and leisure opportunities and address barriers to inclusive play and leisure. There are sufficient high quality outdoor play and recreation places for children and young people to access including spaces suitable for disabled children and young people. (Article 31)

Children and young people have access to and can participate in a range of arts and cultural opportunities. (Article 31)

### **Cluster (vii): Special protection measures**

88. This cluster focuses on groups of vulnerable and marginalised children who require special protection. These are often the children who are most at risk of having their rights ignored or infringed. They include asylum-seeking and refugee children, child victims of trafficking or exploitation, and children in trouble with the law.
89. Under Article 22, asylum-seeking children and child refugees are entitled to special protection and other UNCRC rights. The Convention states that, where possible, children should be dealt with outwith the criminal justice system and a welfare response is appropriate to meet the needs of the child. Under Article 40, children who enter the criminal justice system have a right to fair treatment and legal representation. The cluster includes:

- refugee children: Article 22;
- children of minorities/indigenous: Article 30;
- child labour: Article 32;
- drug abuse: Article 33;
- sexual exploitation: Article 34;
- abduction, sale and trafficking: Article 35;
- other forms of exploitation: Article 36;
- inhumane treatment and detention: Article 37(a-d);
- war and armed conflicts: Article 38;
- recovery and rehabilitation of child victims: Article 39; and
- juvenile justice: Article 40.

### **Examples of reflective statements**

We assess the numbers and situation of children and young people and their families who are asylum seeking and are migrants in order to provide them with services and support. (Article 22)

We ensure that children and young people at risk of sexual exploitation or drug use have access to the child protection and specialist support and services they require. (Articles 33 and 34)

We provide support to children and young people in response to their needs so that they do not enter the criminal justice system, as far as possible. (Articles 37 and 40)

We ensure that children and young people who enter the criminal justice system have the right to legal representation and fair treatment. (Article 40).

## PROCESS OF PREPARING A CHILDREN'S RIGHTS REPORT

### Developing baseline information

90. In order to produce Children's Rights Reports, public authorities should consider how they will establish baseline information which will inform the reports.
91. The importance of collecting baseline information is highlighted by the UN Committee on the Rights of the Child which recommends that there is "collection of sufficient and reliable data on children, disaggregated to enable identification of discrimination and/or disparities in the realisation of rights..."<sup>19</sup>
92. The duty under Part 1 of the Act applies to reporting. However, it is unlikely that this duty can be fulfilled without consideration of wider public authority responsibilities in relation to planning, systematic collection of baseline information and monitoring. It is, therefore, recommended that the processes relating to gathering information for children's rights reporting are aligned with other existing processes where possible, particularly with respect to the duties under Part 3. This will assist in evidencing change, and support public authorities in considering how to report on children's rights. It will also avoid duplication of activities and promote better integration between different processes and duties.
93. Baseline information, evidence and data are likely to be readily available through existing sources within the public authority or through other authorities. In some areas of children's rights, additional evidence might require to be gathered.
94. Public authorities are encouraged to consider the following in collecting evidence:

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<sup>19</sup> para 48, General Comment No. 5 on the General Measures of Implementation of the UNCRC

- the age, gender, ethnicity, disability, and deprivation levels of the children and young people who will be affected;
- the numbers and groups of children and young people who are affected by the specific areas of children's rights;
- whether evidence exists for all groups of children and young people;
- the views and experiences of children and young people in the areas being considered;
- the availability of information collected by other relevant agencies or services;
- whether specific questions can be added to broad public consultations; and
- whether commissioning and undertaking additional evidence collection is necessary where there are significant gaps.

## **Consultation and engagement**

95. Public authorities may wish to consider how they will undertake consultation and engagement exercises. This should include the staff of public authorities as well as other stakeholders including other authorities, third sector organisations and wider civic society as well as children and young people and parents and carers. This engagement could assist in establishing benchmarking processes and baseline information. It could also help in beginning to identify local priorities and particular areas or issues of concern.
96. Establishing consultation and engagement processes at an early stage of preparing Children's Rights Reports is likely to be beneficial in engaging the support and expertise of stakeholders and in gathering evidence and baseline information.
97. Many authorities will already have the existing structures to support the engagement of children and young people e.g. local youth councils, pupil councils, young people-led organisations, young people's committees and other formal or informal structures. In addition, third sector organisations also have

extensive experience in supporting the participation of children and young people. These structures and organisations can help public authorities in ensuring children and young people contribute to, and inform, children's rights reporting.

98. National organisations which are public bodies under the Act should consider the most appropriate way to report according to their duties and responsibilities. It is suggested that a national public body should report as a national organisation and contribute to local reports where they provide a service in that area.

### **Involving children and young people in preparing Children's Rights Reports**

99. The participation of children and young people in all decisions that affect them and in the processes, systems and services that they access is an underpinning principle of the UNCRC, specifically emphasised in Article 12 (a child's right to be heard) but threaded throughout the Convention. It is also a commitment that the Scottish Government has provided leadership for through its approach to policymaking and implementation.
100. The commitment to involving children and young people is also highlighted in other parts of the Act and associated guidance (e.g. Part 3 on Children's Services Plans). It is endorsed by GIRFEC which aims to ensure that all children and young people are supported as they grow and develop into successful learners, confident individuals, effective contributors and responsible citizens<sup>20</sup> and that children and young people have a voice, be involved in decisions that affect them and are respected. Public authorities have also demonstrated their commitment to the involvement of children and young people through their support for structures and mechanisms that enable children and young people to participate.

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<sup>20</sup> <http://www.gov.scot/Topics/Education/Schools/curriculum>

101. In line with existing legislation and guidance and a rights-based approach, engaging with children and young people is, therefore, an essential component in the preparation of Children's Rights Reports. Approaches should be inclusive so that children and young people regardless of age, disability, communication needs and circumstances can take part.
102. Public authorities are encouraged to consider at an early stage how children and young people will be meaningfully involved in the process of preparing reports as well as contributing their views and experiences to the gathering of information and evidence.
103. Approaches to involving children and young people in preparing Children's Rights Reports are explored in detail in Appendix 4.

### **Informing children, families, communities and practitioners**

104. The three-year reports on children's rights will provide a valuable resource for public authorities and for the communities they serve including children and young people, parents and carers, practitioners, other authorities, third sector organisations and wider civic society.
105. In order to support this process, public authorities may wish to develop further specific information on the new duty on public bodies under Part 1 of the Act at the local level to support wider understanding of the operation of the new provisions among children and young people, families, communities and practitioners.

### **Governance**

106. As well as determining timescales for the collection and analysis of data ahead of publication of the report, authorities will need to have in place robust governance and accountability processes. Public authorities should ensure that their staff have the opportunity to be informed about, understand and can demonstrate their role as duty bearers in relation to children's rights. This may

require opportunities for training and/or professional development as well as ensuring that there is clarity about lines of accountability for children's rights reporting. Public authorities may have post-holders with expertise in children's rights, participation or support to children and young people (e.g. Children's Rights Officers or other rights-focused posts) who can provide organisational expertise to support the development of Children's Rights Reports.

### **Training and professional development**

107. Common Core describes the skills, knowledge, understanding and values that everyone should have if they work with children, young people and families.<sup>21</sup> It is an approach that works through the existing range of services that support children and young people, particularly the universal services of health and education, building on what practitioners and families recognise as the good practice that already exists in how those services are delivered.
108. The Common Core skills, knowledge and understanding are explicitly cross-referenced to the guiding principles of the UNCRC (non-discrimination; best interests of the child; right to survival and development and respect for the views of the child). This approach emphasises that observing and promoting the UNCRC need not be complicated and is fundamental to work with children and young people. It suggests that the Common Core can be used as a starting point for self-reflection and discussion on how to strengthen the use of UNCRC principles. It is, therefore, a useful resource for public authorities to support the development of Children's Rights Reports.
109. Public authorities may wish to undertake an assessment of what training and professional development is currently in place to support their role as duty bearers for children's rights. They may then wish to consider what training and professional development in children's rights should be made available to support staff and facilitate the development of the reports.

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<sup>21</sup> <http://www.gov.scot/Publications/2012/06/5565>

## **PUBLICATION OF THE REPORT**

110. Section 2(1) of the Act refers to publication “as soon as practicable” after the end of the three-year period. Authorities will need to consider their other duties and responsibilities that will be falling upon them at or around that time. Long term planning will assist in this process, especially if authorities are seeking to maximise effort by combining and/or aligning reporting mechanisms and processes.
111. Section 2(1) requires the report to be published “in such manner as the authority considers appropriate”. Consideration should be given to producing the reports in a variety of formats including traditional formats or non-traditional formats using social media. The production of the report should take into account the range of stakeholders that should have access to, and will have an interest in, the Children’s Rights Report. The report should be accessible to children and young people and parents and carers.
112. Public authorities should also create opportunities for children and young people, families, communities, practitioners and civic society to be engaged in scrutinising the findings of Children’s Rights Reports once they are published. This process of scrutiny should also provide mechanisms for evaluative feedback which can inform the next process of developing Children’s Rights Reports.

### **Publication of joint reports by two or more authorities**

113. Section 2(3) permits “two or more authorities to which this section applies” to publish a joint report. This provision was included in the legislation to facilitate maximisation of resources and avoid duplication of effort. This could include a range of arrangements.

114. Public authorities publishing joint reports should also ensure that accessible child- and young person-friendly formats of the reports are available to all children and young people.

### **Structure and format of reports**

115. Whilst the Act does not proscribe the format, structure or length of Children Rights Reports, the framework described above provides authorities with an outline structure, using the UNCRC clusters and suggestions for key considerations.

116. Where a child rights-based approach is taken to the development of Children's Services Plans, this may help to meet the needs of the Children's Rights Reports. However, duty bearers would also need to reflect on what steps have been taken to further children's rights that fall outwith the remit of Children's Services Plans.

117. It is important that the steps authorities have taken to "secure better or further effect" children's rights under the requirements of the UNCRC are clearly delineated within the report. The reports should explicitly draw on the views and experiences of children and young people as well as other evidence from a range of sources that explores progress or areas where improvement is required in realising children's rights.

The structure and format of the Children's Rights Report could include:

- high level statements of ambition and intent relating to the UNCRC;
- baseline information about the population and situation of children and young people;
- analysis of changes over time and monitoring of progress relating to the public authorities' responsibilities in realising children's rights;
- areas where children's rights have not progressed and there are gaps and where improvements are required;
- examples of effective practice; and
- what is to be done by whom and when as a result of the report.

118. Consideration should be given to the balance between detail which provides insight into children's rights in authorities' areas of responsibility and making the Children's Rights Reports accessible to a wide range of stakeholders, including children and young people.
119. In advance of publication, public authorities should explore the most appropriate and child- and young person-friendly formats for Children's Rights Reports with input from children and young people. Public authorities should ensure that the report is made available and accessible to all children and young people, taking account of the range of age-related and communication needs. Appendix 4 has further detail on involving children and young people in Children's Rights Reports.

## **SCOTTISH GOVERNMENT ROLE/RESPONSIBILITIES**

### **List of public authorities covered by the duties of Part 1, section 2**

120. Section 3(2)(a)(b) and (c) enables Scottish Ministers by secondary legislation to use Order making powers to add, remove or vary the list of persons and organisations listed in Schedule 1 of the 2014 Act and who are thereby covered by the duty in Part 1, section 2.
121. At the time of the publication of this guidance, the Scottish Government, following discussion with stakeholders, has decided not to exercise this power granted to them at this time by the Act. It is felt that the list of persons and organisations in Schedule 1 is comprehensive and sufficiently covers all the necessary and relevant public bodies that need to be engaged in the process of promoting and enacting children's rights in Scotland.

### **Scottish Government's interaction with authorities' reports**

122. It is the intention of Scottish Government that the Children's Rights Reports are made public. Authorities are not required to submit reports to Government directly.
123. Scrutiny of, observation and comment on the reports is intended to come from children and young people themselves, families, practitioners, the wider community, public bodies and civic society. Public authorities may find it helpful to give consideration on how, or if, they intend to respond formally and publicly to such scrutiny.
124. Scottish Ministers will continue to contribute to the UK Report to the UN Committee on the Rights of the Child as well as publishing their own separate report. As part of the process of utilising evidence from different sources, the Scottish Government may cite and illustrate activity within Scotland by references to the reports prepared by authorities, within both their own report

and in their submission to the UK Report. Permission will be sought for specific mentions of activity relating to an authority and with full acknowledgment of their role.

## APPENDIX 1: PART 1: REPORTING REQUIREMENTS

<b>Children’s Rights</b>	
<b>Legislation</b>	Part 1, Children and Young People (Scotland) Act 2014
<b>Purpose</b>	To reflect the role of the United National Convention on the Rights of the Child (UNCRC) in influencing the design and delivery of policies and services in Scotland.
<b>Public bodies responsible</b>	<ul style="list-style-type: none"> <li>a) A local authority</li> <li>b) Children’s Hearings Scotland</li> <li>c) Scottish Children’s Reporter Administration</li> <li>d) A health board</li> <li>e) A “special health board” (A board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978)</li> <li>f) Healthcare Improvement Scotland</li> <li>g) Scottish Qualifications Authority</li> <li>h) Skills Development Scotland</li> <li>i) Social Care and Social Work Improvement Scotland (Care Inspectorate)</li> <li>j) Scottish Social Services Council</li> <li>k) Scottish Sports Council (SportScotland)</li> <li>l) Chief Constable of the Police Service of Scotland</li> <li>m) Scottish Police Authority</li> <li>n) Scottish Fire and Rescue Service</li> <li>o) Scottish Legal Aid Board</li> <li>p) Mental Welfare Commission for Scotland</li> <li>q) Scottish Housing Regulator</li> <li>r) Bord na Gaidhlig</li> <li>s) Creative Scotland</li> </ul>
<b>Other organisations and persons to be involved (at certain stages)</b>	N/A
<b>Scope of plan</b>	N/A (No plan required)
<b>Aims of plan</b>	N/A (No plan required)
<b>Timespan of plan</b>	N/A (No plan required)
<b>Review of plan</b>	N/A (No plan required)
<b>Reports</b>	As soon as practicable after the end of each three-year period, the relevant

	<p>public bodies (listed above) must publish, in such a manner as they consider appropriate, a report on what steps they have taken in that period to secure better, or further effect within its areas of responsibility, the UNCRC requirements.</p> <p>Two or more of the public bodies (listed above) may publish a report jointly.</p>
<p><b>Submit reports / information to Scottish Ministers</b></p>	<p>No. (However, every three years Scottish Ministers must lay before the Scottish Parliament a report detailing what steps they have taken to secure better, or give effect further to, the UNCRC requirements in Scotland, and their plans for the next three years; to inform this process Scottish Ministers may use the Children’s Rights Reports of public bodies.)</p>

## **APPENDIX 2: HUMAN RIGHTS TREATIES**

### **UNCRC and Scottish legislation**

125. The UK Government ratified the UNCRC in 1991. Although it is the UK that is the state party to the UNCRC, the Convention and its Articles are reflected in many aspects of existing Scottish legislation. For example, ‘best interests’ (Article 3) is reflected through provisions that treat welfare as ‘the paramount consideration’ in the Children (Scotland) Act 1995 and Children’s Hearings (Scotland) Act 2011. The importance of the child’s voice being heard (Article 12) is reflected through the 1995 Act obligation on those fulfilling a parental responsibility, and on courts, to give children the opportunity to express their view, and to have regard to their view taking into account the child’s age and maturity. The Standards in Schools (Scotland) Act 2000 provides that it shall be ‘the right of every child of school age’ to have a school education provided (or arranged by) the State and repeats parts of the provisions of Article 29 of the UNCRC.
126. For additional information on the links between children’s rights and Scottish legislation see the Scottish Government’s ‘Quick Guide to Children’s Rights Legislation in Scotland’, produced to accompany the [CRWIA guidance](#).

### **UK and Scottish Government reporting on international human rights treaties**

127. The UK is signatory to seven United Nations human rights treaties, including the International Covenants on Civil and Political Rights (ICCPR), and on Economic, Social and Cultural Rights (ICESCR) as well as conventions against torture (CAT) and discrimination against women (CEDAW), and conventions on the rights of the child (UNCRC) and the rights of persons with disabilities (UNCRPD) (see below for list of treaties).
128. On a 4-7 year cycle, the UK submits reports to the relevant UN Committee on its implementation of each treaty. These reports address both reserved and

devolved matters and usually incorporate contributions from the Scottish Government. After considering evidence from a range of sources, including a verbal examination of representatives from the UK, the Committee issues a set of Concluding Observations and recommendations on how the UK can make progress in implementing the particular Convention and upholding its international obligations. Several of the recommendations relate to matters for which the Scottish Government is responsible in Scotland. As well as the Convention on the Rights of the Child, recommendations concerning children's rights have been made by UN Committees during reviews of the UK under other treaties, such as ICCPR, ICESCR, the UN Convention against Torture and the UN Convention on the Elimination of all forms of Discrimination against Women. Other UN member states also made recommendations concerning children's rights during the UK's last overarching review of its human rights record under the Universal Periodic Review process in 2012.

129. The UN Committee on the Rights of the Child has responsibility for overseeing compliance with the UNCRC in all 195 states that have ratified it, and takes evidence regarding implementation in the UK approximately every 5 years. The last Concluding Observations focussing on the UK were published in 2008. These observations made specific reference to the need for action to better align domestic legislation with the UNCRC. The next examination of the UK by the UN Committee on the Rights of the Child is proposed to take place in 2016 with the Concluding Observations to be published following the examination.
  
130. In 2009 the Scottish Government published '[Do the Right Thing](#)'<sup>22</sup>, its response to the 2008 Concluding Observations of the UN Committee on the Rights of the Child. This was a clear commitment by the Scottish Government to account for actions to further promote children's rights. As part of that commitment the Scottish Government subsequently published a [Progress Report](#)<sup>23</sup> in 2012 on the progress they had made since the 2009 document. They gave a further commitment to demonstrate the importance the Scottish Government place on children's rights through the promise to publish similar reports in the future.

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<sup>22</sup> <http://www.gov.scot/Publications/2009/08/27111754/0>

<sup>23</sup> <http://www.gov.scot/Resource/0039/00392997.pdf>

131. The Fifth Periodic report to the UNCRC<sup>24</sup> was published by the UK Government in May 2014. As the UK Report covers the whole of the UK it has limited information on Scotland. The Scottish Parliament and the Scottish Government have devolved powers in respect of the majority of areas which impact on children and families, including health, social care and justice. As such the Scottish Government published its own Report as part of its submission to the UK Report in June 2013<sup>25</sup>. However, the UK Government retains control over a number of reserved matters. This limits the extent to which the Scottish Government and Scottish Parliament can give effect to the UNCRC. Nevertheless, steps have been taken to strengthen the delivery of person-centred public services in Scotland, often differing to other parts of the UK. One of those steps is Part 1 of the Act.

132. The UNCRC is the only international Human Rights Treaty which expressly gives Non-Governmental Organisations (NGOs) a role in monitoring its implementation. NGOs are encouraged to submit reports to the Committee on the Rights of the Child about the implementation of the UNCRC.

### **Together (Scottish Alliance for Children's Rights)**

133. Together (Scottish Alliance for Children's Rights) is an alliance of Scottish NGOs whose work impacts on children and young people. Together works to improve the awareness, understanding and implementation of the UNCRC. As part of its activity, the organisation reports to the UN on behalf of children's organisations across Scotland with the most recent report produced in 2015.<sup>26</sup> Together also publishes its annual '[State of Children's Rights in Scotland](http://www.togetherscotland.org.uk/news-and-events/news/detail/?news=916)'<sup>27</sup> report with the most recent published in November 2014. The Scottish Government welcomes Together's, and other NGO's independent perspectives on how far children in Scotland are able to enjoy and exercise their rights.

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<sup>24</sup> <http://www.equalityhumanrights.com/sites/default/files/uploads/Pdfs/The%20UK's%20Fifth%20Periodic%20Review%20Report%20on%20the%20UNCRC.pdf>

<sup>25</sup> <http://www.gov.scot/Resource/0042/00426765.pdf>

<sup>26</sup> <http://www.togetherscotland.org.uk/news-and-events/news/detail/?news=916>

<sup>27</sup> <http://www.togetherscotland.org.uk/pdfs/SOCRRTTogetherReport2014.pdf>

## **Human Rights Act 1998 (section 6)**

134. The Human Rights Act 1998 is an Act of the Westminster Parliament and came into force on 2 October 2000. The Act gives further effect to rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) by incorporating certain core ECHR rights into domestic law. It makes it unlawful for a UK public authority to act incompatibly with the Convention rights and allows for a case to be brought in a UK court or tribunal against the authority where it does so.

## **The European Convention on Human Rights (ECHR)**

135. The ECHR is a treaty of the Council of Europe. It was adopted in 1950, ratified by the Westminster Parliament in 1951, and came into force in September 1953. It has now been ratified by 47 states. The Convention guarantees a series of rights and freedoms, many of which have a direct impact on the rights of children including:

- the right to life (Article 2);
- the right to freedom from torture and inhuman or degrading treatment or punishment (Article 3);
- the right to freedom from slavery, servitude and forced or compulsory labour (Article 4);
- the right to liberty and security of person (Article 5); and
- the right to access to education (Protocol 2, Article 1).

136. All public authorities have a positive obligation to ensure that respect for human rights is at the core of their day to day work. The Human Rights Act underpins this by making it unlawful for a public authority to act (or fail to act) in a way which is incompatible with a Convention right. Additionally the Scotland Act 1998 provides constitutional protection for human rights in that the Scottish Parliament may not pass legislation that is incompatible with the ECHR and

provides that it is outside the 'devolved competence' of the Scottish Ministers to make, confirm or approve any provision that would be outside the legislative competence of the Scottish Parliament.

## **Scotland's National Action Plan for Human Rights**

137. Following a development phase coordinated by the Scottish Human Rights Commission, Scotland's National Action Plan for Human Rights (SNAP) was launched in December 2013 as a roadmap for the progressive realisation of international human rights standards.<sup>28</sup> The Scottish Government was closely involved in SNAP's development and is committed to working with a range of partners to make real its vision of a Scotland in which everyone is able to live with dignity.
138. SNAP adopts a three pillar approach: the creation of a better culture, better lives and a better world. Human Rights Action Groups have been formed to take work forward, involving public, private and third sector organisations alongside wider civic society.
139. The first SNAP Annual Report was published on 26 November 2014 and outlines how partners have been moving forward, with a particular focus on establishing implementation groups, bringing organisations together, seeking to shape existing strategies and plans, and developing a coherent outcomes framework.<sup>29</sup> The second SNAP Annual Report was published in December 2015, maintaining a focus on how human rights can tackle and overcome barriers to everyone accessing and realising their human rights.<sup>30</sup>

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<sup>28</sup> <http://www.scottishhumanrights.com/application/resources/documents/SNAP/SNAPpdfWeb.pdf>

<sup>29</sup> [http://www.scottishhumanrights.com/application/resources/documents/SNAP\\_Year\\_One\\_report\\_final\\_approved.pdf](http://www.scottishhumanrights.com/application/resources/documents/SNAP_Year_One_report_final_approved.pdf)

<sup>30</sup> <http://www.scottishhumanrights.com/resources/reports/SNAPYearTwo>

## List of international human rights treaties

[International Convention on the Elimination of All Forms of Racial Discrimination](#)

(ICERD) (1965)

[International Covenant on Civil and Political Rights](#) (ICCPR) (1966) and its Optional Protocols (1976 and 1989)

[International Covenant on Economic, Social and Cultural Rights](#) (ICESCR) (1966) and its Optional Protocol (2008)

[Convention on the Elimination of All Forms of Discrimination against Women](#)

(CEDAW) (1979) and its Optional Protocol (1999)

[Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment](#) (CAT) (1984) and its Optional Protocol (2006)

[Convention on the Rights of the Child](#) (UNCRC) (1989) and its Optional Protocols (2000, 2000 and 2011)

[International Convention on the Protection and Rights of all Migrant Workers and Members of their Families](#) (ICMW) (1990)

[International Convention on the Protection of Persons from Enforced Disappearance](#) (CPED) (2006)

[Convention on the Rights of Persons with Disabilities](#) (UNCRPD) (2006) and its Optional Protocol (2006)

## APPENDIX 3: LINKS BETWEEN WELLBEING INDICATORS AND THE ARTICLES OF THE UNCRC

140. Extract from Scottish Government (June 2015), When and how to best use the Child Rights Wellbeing Impact Assessment (CRWIA), p35. This list is not exclusive and public authorities should consider if other UNCRC Articles are relevant.

Wellbeing indicator	Articles of the UNCRC
<b>SAFE</b>	(11) abduction and non-return of children (19) protection from violence, abuse and neglect (22) refugee children (32) child labour (33) drug abuse (34) sexual exploitation (35) abduction, sale and trafficking (36) other forms of exploitation (37) inhumane treatment and detention (38) war and armed conflicts
<b>HEALTHY</b>	(3) best interests of the child (6) life, survival and development (24) health and health services (39) recovery and rehabilitation of child victims
<b>ACHIEVING</b>	(4) Governments must do all they can to make sure every child can enjoy their rights in systems that promote and protect these rights (18) parental responsibilities and state assistance (28) right to education (29) goals of education
<b>NURTURED</b>	(4) Governments must do all they can to make sure every child can enjoy their rights in systems that promote and protect these rights (5) parental guidance and a child's evolving capacities (18) parental responsibilities and state assistance (20) children deprived of a family (21) adoption (25) review of treatment in care (27) adequate standard of living
<b>ACTIVE</b>	(3) best interests of the child (23) children with disabilities (31) leisure, play and culture
<b>RESPECTED</b>	(2) non-discrimination (3) best interests of the child (4) Governments must do all they can to make sure every child can enjoy their rights in systems that promote and protect those rights. (5) parental guidance and a child's evolving

	<p>capacities</p> <p>(8) protection and preservation of identity</p> <p>(12) respect for the views of the child</p> <p>(13) freedom of expression</p> <p>(14) freedom of thought, belief and religion</p> <p>(16) right to privacy</p> <p>(17) access to information; mass media</p> <p>(18) parental responsibilities and state assistance</p> <p>(30) the right to learn and use the language, customs and religion of their family</p>
<b>RESPONSIBLE</b>	<p>(3) best interests of the child</p> <p>(12) respect for the views of the child</p> <p>(14) freedom of thought, conscience and religion</p> <p>(15) freedom of association</p> <p>(40) juvenile justice</p>
<b>INCLUDED</b>	<p>(3) best interests of the child</p> <p>(6) life, survival and development</p> <p>(18) parental responsibilities and state assistance</p> <p>(23) children with disabilities</p> <p>(26) social security</p> <p>(27) adequate standard of living</p>

## **APPENDIX 4: INVOLVING CHILDREN AND YOUNG PEOPLE IN CHILDREN'S RIGHTS REPORTS**

### **Children and young people's participation in Children's Rights Reports**

Public authorities should consider how to meaningfully engage with, and support the participation of, children and young people in the preparation of Children's Rights Reports. This is in line with the principles of the UNCRC, specifically Article 12 (a child's right to be heard) and is also central to GIRFEC as well as a range of other Scottish legislation and guidance.

### **Existing processes and mechanisms to support participation**

Many authorities will already have the existing structures to support the engagement of children and young people e.g. local youth councils, pupil councils, young people-led organisations, young people's committees and other formal or informal structures. In addition, third sector organisations also have extensive experience in supporting the participation of children and young people. These structures and organisations can help public authorities in ensuring children and young people contribute to, and inform, children's rights reporting.

### **Children and young people's right to participate**

The UNCRC clearly states that all children have the right to participate. There is no minimum age at which children can exercise their right to participate. Younger children should therefore be supported to have their say, in line with their evolving capacities (Article 5). Children with language, communication or learning difficulties should similarly have access to assistance so that they are able to fully participate.

### **How to involve children and young people**

Public authorities may wish to explore at an early stage how to engage with children and young people. Some public authorities may not be working directly with children and young people or may not have mechanisms in place to support children and

young people's participation. They may wish to work with other organisations that can support them. Others will have in-house experts such as Children's Rights Officers or education, childcare, play and youth staff etc. who can support the participation of children and young people.

There are many organisations and resources available that can support public authorities in involving children and young people. Suggested organisations and resources are included at the end of this Appendix.

### **Approaches to involving children and young people**

Public authorities should consider the best approaches to involving children and young people in the preparation of Children's Rights Reports. They may wish to consider the following steps. This is not an exhaustive or prescriptive list and should be adapted to meet public authorities' needs.

#### ***Step 1: Involving children and young people***

Public authorities should involve children and young people as early as possible in order to consult them on the best approach to developing Children's Rights Reports. Consideration should be given to ways of involving children and young people during the whole process and not solely in one-off consultation activities. This might involve establishing an advisory group of children and young people and/or more informal approaches to ongoing engagement.

This early engagement would benefit from working with existing structures for children and young people such as local youth councils, pupil councils, young people-led organisations, young people's committees and other formal or informal structures. It should also include working with others such as third sector organisations that provide services and support to children and young people.

Children and young people who might not be included in existing formal structures and require support to participate should also have opportunities to engage in and influence the process of developing Children's Rights Reports.

### ***Step 2: Gathering evidence from children and young people***

Public authorities should establish what baseline information and evidence is already available which reflects the views and experience of children and young people, and where there are gaps. It is anticipated that this will include quantitative (numerical based data) or qualitative (interviews, consultations, surveys etc.) information.

Public authorities should consider how to gather children and young people's views and experiences to inform the Children's Rights Reports. This should be explored in consultation with children and young people. Again, this may use existing processes and structures. Attention should be given to *all* areas of children's rights that the public authority is reporting on.

Detailed consideration should be given to including children and young people who might not be included or have a voice in existing structures (e.g. younger children, disabled young people, young Gypsy Travellers), be vulnerable (e.g. children and young people who are looked after) or have demands which makes it difficult to participate (e.g. young carers, children affected by domestic violence, children in hospital).

### ***Step 3: Identifying the best approaches to gathering views and experiences***

Public authorities should consider the most appropriate approaches to gather evidence (e.g. web-based surveys, talks with school or youth groups, special consultation events, road shows, focus groups, one-to-one interviews, arts-based approaches).

Consultation or engagement materials might be disseminated to children and young people through appropriate websites, schools or colleges, childcare, play and youth services or social media.

Engagement with children and young people should:

- ensure that information is provided and children and young people's informed consent is sought (and parents/carers as required);

- ensure children and young people’s right to privacy, anonymity and confidentiality (in line with child protection procedures);
- support the participation of children and young people across the age range; and
- take into account children and young people’s different communication needs (e.g. younger children, children whose first language is not English, young people with non-verbal communication needs).

#### **Step 4: Producing child- and young people-friendly reports**

Public authorities should explore with children and young people the most appropriate and child- and young person-friendly formats for Children’s Rights Reports. This could include traditional formats such as paper reports and verbal feedback and other non-traditional formats using social media and arts-based approaches.

Public authorities should ensure that child- and young person- friendly formats of the report are made available and accessible to all children and young people, taking account of age and different communication needs.

#### **Step 5: Children and young people are involved in scrutinising Children’s Rights Reports**

Children and young people should receive information about the outcomes of their engagement, and how their views are reflected in the Children’s Rights Reports.

Public authorities should create opportunities for children and young people to be engaged in scrutinising the findings of Children’s Rights reports and to provide mechanisms for evaluative feedback which will inform the next process of developing Children’s Rights Reports.

#### **Involving families, communities and practitioners**

Engagement in the development of Children’s Rights Report should also extend to families, communities and practitioners (both those employed by the public authority and those from the voluntary sector or other public bodies). Public authorities should

similarly explore the most appropriate ways to involve people from these different interests and at what point and how.

These engagement processes should take account of other commitments as outlined in the Community Empowerment (Scotland) 2015 Act and other legislation and guidance.

### **Additional information**

The UN Committee on the Rights of the Child, General Comment No. 12: The right of the child to be heard

<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>

Scottish Government (2015), When and how to best use the Child Rights Wellbeing Impact Assessment (CRWIA) (see p13-15 and Annex 6, p 44)

The Children and Young People's Commissioner Scotland, The 7 Golden Rules for Participation <http://www.cypcs.org.uk/education/golden-rules>

The Children and Young People's Commissioner Scotland has produced a range of other useful resources on participation <http://www.cypcs.org.uk/education/rights-resources>

[Capability Scotland, Empowered and Effective Decision-Making](http://www.capability-scotland.org.uk/what-can-i-do-for-capability/policy-campaigns/current-research/empowered-and-effective-decision-making)

<http://www.capability-scotland.org.uk/what-can-i-do-for-capability/policy-campaigns/current-research/empowered-and-effective-decision-making>

Roshni (2015) Minority Ethnic Children and Young People's Views on Children's Rights in Scotland, Scottish Government

<http://roshni.org.uk/wp-content/uploads/2013/12/UNCRC-Report-Final.pdf>

Scottish Health Council, The Participation Toolkit

[http://www.scottishhealthcouncil.org/patient\\_public\\_participation/participation\\_toolkit/the\\_participation\\_toolkit.aspx#.VmC0jEhcS2y](http://www.scottishhealthcouncil.org/patient_public_participation/participation_toolkit/the_participation_toolkit.aspx#.VmC0jEhcS2y)

**Further information** on involving and consulting with children and young people is available from the following organisations

- [Children and Young People's Commissioner Scotland \(CYPCS\)](#)
- [Article 12 in Scotland](#)

- [Capability Scotland](#)
- [Children in Scotland](#)
- [Children's Parliament](#)
- [Enable Scotland](#)
- [Roshni](#)
- [Scottish Youth Parliament \(SYP\)](#)
- [Together: Scottish Alliance for Children's Rights](#)
- [Who Cares? \(Scotland\)](#)
- [Young Scot](#)
- [Youthlink Scotland](#)
- [Childrens Parliament](#)

## APPENDIX 5: HUMAN RIGHTS-BASED APPROACH

The PANEL principles provide a useful framework for taking forward a human rights based approach.<sup>31</sup> The PANEL principles are:

*Participation* – People should be involved in decisions that affect their rights.

*Accountability* – There should be monitoring of how people’s rights are being affected, as well as remedies when things go wrong.

*Non-Discrimination* – Nobody should be treated unfairly because of their age, gender, ethnicity, disability, religion or belief, sexual orientation or gender identity. People who face the biggest barriers to realising their rights should be prioritised when it comes to taking action.

*Empowerment* – Everyone should understand their rights, and be fully supported to take part in developing policy and practices which affect their lives.

*Legality* – Approaches should be grounded in the legal rights that are set out in domestic and/or international law.<sup>32</sup>

The PANEL principles complement the General Principles<sup>33</sup> of the UNCRC and the General Measures of Implementation (implementing the UNCRC through law, policy and decisions which impact on children) and the wider range of UNCRC Articles. They therefore provide a useful resource for human rights-based approaches and underpin, for example, the National Health and Wellbeing Outcomes.<sup>34</sup> This guidance focuses on giving effect to the UNCRC and therefore public bodies are encouraged to use the UNCRC as the framework for reporting.

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<sup>31</sup> Scottish Human Rights Commission

<http://www.scottishhumanrights.com/humanrights/humanrightsbasedapproach>

<sup>32</sup> Scottish Human Rights Commission

<http://www.scottishhumanrights.com/humanrights/humanrightsbasedapproach>

<sup>33</sup> UNCRC General Principles: Non-discrimination, best interests, survival and development, and right to have views heard

<sup>34</sup> National Health and Wellbeing Outcomes: A framework for improving the planning and delivery of integrated health and social care outcomes

<http://www.gov.scot/Publications/2015/02/9966/downloads> (see p14-16)

## **APPENDIX 6: FURTHER INFORMATION**

### **UN Convention on the Rights of the Child**

Convention on the Rights of the Child

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

*Examples of General Comments on various UNCRC Articles*

United Nations Committee on the Rights of the Child (2003) General Comment No. 3 (2003) General measures of implementation of implementation of the Convention on the Rights of the Child (art. 4, 42 and 44, para 6)

United Nations Committee on the Rights of the Child (2009) General comment No. 12 (2009) on the right of the child to be heard

<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>

United Nations Committee on the Rights of the Child (2013) General comment No.14 (2013) on the right of the child to have his or her best interests taken as a primary consideration

[http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC\\_C\\_GC\\_14\\_ENG.pdf](http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf)

UNICEF, Implementation Handbook for the Convention on the Rights of the Child (3<sup>rd</sup> edition) [http://www.unicef.org/publications/index\\_43110.html](http://www.unicef.org/publications/index_43110.html)

### **Scottish Government information and publications**

Children's Rights

<http://www.gov.scot/Topics/People/Young-People/families/rights>

The Fifth UK Government Report to the UN Committee on the Rights of the Child: Scottish Government Submission

<http://www.gov.scot/Resource/0042/00426765.pdf>

UK Government Periodic Report to the UN Committee on the Rights of the Child (2014)

<http://www.equalityhumanrights.com/sites/default/files/uploads/Pdfs/The%20UK's%20Fifth%20Periodic%20Review%20Report%20on%20the%20UNCRC.pdf>

(2014)

Do the Right Thing - a progress report on the Scottish Government's response to the 2008 concluding observations from the UN Committee on the Rights of the Child

<http://www.gov.scot/Publications/2012/05/3593>

Scottish Government (June 2015), When and how to best use the Child Rights Wellbeing Impact Assessment

<http://www.gov.scot/Topics/People/Young-People/families/rights/child-rights-wellbeing-impact-assessment>

Scottish Government (September 2015) A Quick Guide to Children's Rights Legislation in Scotland

<http://www.gov.scot/Topics/People/Young-People/families/rights/child-rights-wellbeing-impact-assessment>

Children and Young People (Scotland) 2014 Act

<http://www.gov.scot/Topics/People/Young-People/legislation/proposed-bill>

Getting it right for every child (GIRFEC)

<http://www.gov.scot/Topics/People/Young-People/gettingitright>

Wellbeing indicators

<http://www.gov.scot/Topics/People/Young-People/gettingitright/well-being>

Common Core of Skills, Knowledge and Understanding and Values for the "Children's Workforce" in Scotland

<http://www.gov.scot/Publications/2012/06/5565>

Elsley, S, Tisdall E.K.M., & Davidson, E. (2013) Children and Young People's Experiences of, and views on issues relating to the implementation of the United Nations Convention on the Rights of the Child, The Scottish Government

<http://www.gov.scot/Resource/0042/00427287.pdf>

[Health and Social Care Alliance Scotland \(2015\) Disabled Children and Young People's Views on Children's Rights in Scotland, Scottish Government](http://www.alliance-scotland.org.uk/what-we-do/our-work/children-and-young-people/getting-to-know-girfec/)

<http://www.alliance-scotland.org.uk/what-we-do/our-work/children-and-young-people/getting-to-know-girfec/>

Roshni (2015) Minority Ethnic Children and Young People's Views on Children's Rights in Scotland, Scottish Government

<http://roshni.org.uk/wp-content/uploads/2013/12/UNCRC-Report-Final.pdf>

## **Resources**

Children and Young People's Commissioner for Scotland

<http://www.cypcs.org.uk/publications>

7 Golden Rules for Participation

<http://www.cypcs.org.uk/education/golden-rules>

Education Scotland, Recognising and Realising Children's Rights

<http://www.educationscotland.gov.uk/resources/r/childrensrightsresource.asp>

Scottish Health Council, The Participation Toolkit

[http://www.scottishhealthcouncil.org/patient\\_public\\_participation/participation\\_toolkit/the\\_participation\\_toolkit.aspx#.VmC0jEhcS2y](http://www.scottishhealthcouncil.org/patient_public_participation/participation_toolkit/the_participation_toolkit.aspx#.VmC0jEhcS2y)

Scottish Human Rights Commission, Human Rights Approach (PANEL)

<http://www.scottishhumanrights.com/humanrights/humanrightsbasedapproach>

Together (2014) The State of Children's Rights in Scotland 2014

<http://www.togetherscotland.org.uk/pdfs/SOCRRTTogetherReport2014.pdf>

UNICEF, Child Rights Partners <http://www.unicef.org.uk/child-rights-partners>

### **Scottish organisations that can provide additional support**

[Children and Young People's Commissioner Scotland \(CYPCS\)](#)

[Article 12 in Scotland](#)

[Children's Parliament](#)

[Children in Scotland](#)

[Play Scotland](#)

[Scottish Human Rights Commission](#)

[Scottish Youth Parliament \(SYP\)](#)

[Together: Scottish Alliance for Children's Rights](#)

[Who Cares? \(Scotland\)](#)

[Young Scot](#)

[Youthlink Scotland](#)

[Alliance Scotland](#)

# **Children and Young People (Scotland) Act 2014**

## **Statutory Guidance on Part 3: Children's Services Planning**

DRAFT

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## PREFACE

1. This statutory guidance is issued by Scottish Ministers under section 15 of [Children and Young People \(Scotland\) Act 2014](#) (the Act). It provides local authorities and health boards, working in partnership with other public bodies and organisations, with information and advice about how they should exercise the functions conferred by [Part 3 \(Children's Services Planning\)](#) of the Act.
2. Part 3 seeks to improve outcomes for all children and young people in Scotland by ensuring that local planning and delivery of services is integrated, focused on securing quality and value through preventative approaches, and dedicated to safeguarding, supporting and promoting child wellbeing. To this end, Part 3 sets out a legal framework for children's services' planning, including its scope and aims. Overall responsibility for children's services planning will now rest clearly with a local authority and its relevant health board<sup>1</sup> (i.e. the territorial health board in whose area the local authority falls), with other members of the Community Planning Partnership, and some national public bodies, either consulted with, or obliged to participate, at various stages of the plans development and review.
3. All persons and organisations named in section 15(2) of the Act are required to have regard to this guidance when carrying out their functions (in respect of children's services planning). Compliance with the duties described herein will be monitored through informal reviews of "Children's Services Plans" and reports (carried out by Scottish Ministers), and joint inspections of children's services.
4. However, while this guidance has been designed to support effective implementation by explaining the purpose and detail of each duty, it is not prescriptive about how certain functions should be realised in practice (except in those instances where the legislation is specific on a matter). Each local

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<sup>1</sup> Please note that the duties set out under section 19 (local authority plans for services for children) of the Children (Scotland) Act 1995 are now repealed (by section 98 and paragraph 4(2) of Schedule 5 to the Act) and replaced by Part 3 (Children's services planning) of the Act.

authority and health board, in collaboration with their children's services planning partners, may shape their own approach, in reference to their local context, within the parameters set by Part 3. Where appropriate, this guidance does illustrate how duties may be fulfilled, but these are suggestions only.

5. This guidance has been developed to assist the professionals and community representatives involved in children's services planning, but it will also be of interest to individuals and organisations involved in the delivery of services, as these have the potential to be directly affected by the process. The guidance will also be useful to those involved in other strategic planning processes (such as community planning, or health and social integration strategic planning), enabling links and synergies to be identified.
6. Persons and organisations involved in children's services planning should be familiar with all the duties set out in Part 3, and how these interact with each other, and other relevant duties set out elsewhere (either in the Act or other legislation). As such, it is important that this guidance is read as a whole. Furthermore, organisations may find it useful to read this guidance alongside other guidance, such as the guidance for Part 1 (Rights of Children), Part 6 (Early Learning and Childcare) and section 96 (Assessment of wellbeing) of the Act. Other relevant legislative and policy guidance is listed at Appendix A. Details of which Part 3 duties apply to specific persons (e.g. local authority, Scottish Ministers, etc.) is available at Appendix B.
7. It is intended that the duties under this Part of the Act are commenced so that a "Children's Services Plan", prepared in accordance with the provisions of Part 3 of the Act, should be in place by 1 April 2017. Subsequently, a report on how the local area has delivered on its plan must be published, as soon as practicable after the end of each one-year period (April to March). Please note that the "Children's Services Plan", as required by Part 3, replaces the 'Integrated Children's Services Plan' prepared under the Children (Scotland) Act 1995.

## CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014

8. The [Children and Young People \(Scotland\) Act 2014](#) (the Act) was passed by the Scottish Parliament on 19 February 2014, and received Royal Assent on 27 March 2014. The legislation is a key part of the Scottish Government's strategy for making Scotland the best place in the world to grow up. By facilitating a shift in public services towards the early years of a child's life, and towards early intervention whenever a family or child needs help, the legislation encourages preventative measures, rather than crisis responses. Underpinned by the Scottish Government's commitment to the [United Nations Convention on the Rights of the Child 1989](#) (UNCRC), and the national children's services improvement programme, [Getting It Right For Every Child](#) (GIRFEC), the Act also establishes a new legal framework within which services are to work together in support of children, young people and families.
  
9. Where relevant, guidance on the different Parts of the Act will be made available by Scottish Ministers. This guidance relates to Part 3 (Children's Services Planning).

## INTERPRETATION OF FREQUENTLY USED TERMS

### **‘Child’, ‘children’ and ‘young people’**

10. For the purposes of Part 3, the term “child” or “children” refers to persons who have not yet attained the age of 18 years.<sup>2</sup>
11. The terms ‘young people’ and ‘young person’<sup>3</sup> are not used in Part 3, but in the context of this guidance they are used to refer to older children (e.g. 12 – 17 years old) and those adults still eligible to receive a “children’s service” (e.g. care leavers aged 18 – 25 years old).

### **Children’s service**

12. The definition of a “children’s service” is set out in section 7(1) of the Act. The term should be interpreted to mean any service provided in the local authority area wholly or mainly to, or for the benefit of, children by (a) the local authority, (b) the relevant health board, (c) an “other service provider”, or (d) Scottish Ministers (in exercising their functions under the Prisons (Scotland) Act 1989). This includes services provided by private or third sector organisations on behalf of, or in partnership with, the local authority, relevant health board, “other service providers” or Scottish Ministers.
13. A “children’s service” is one which is available to all children, or to children and young people with needs of a particular type (such as looked after children, children with a disability or those with additional support in learning needs). Some of the services captured by this definition will be providing services both to children and to those over the age of 18 (such as care-leavers).

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<sup>2</sup> As set out in section 97(1) of the Children and Young People (Scotland) Act 2014.

<sup>3</sup> Please note that, in respect to the specific operation of the Named Person service (Part 4 of the Act) a “young person” is defined as an individual who has attained their 18th birthday and continues to be on a school roll (as per section 22(2)). This guidance is not using this definition for the reasons set out above.

## **Related service**

14. The definition of “related service” is set out in section 7(1). The term should be interpreted to mean any service provided in a local authority area by (a) the local authority, (b) the relevant health board, (c) any “other service provider”, or (d) Scottish Ministers (in exercising their functions under the Prisons (Scotland) Act 1989), which, although it does not fall into the definition of a “children’s service”, is still capable of having a significant effect on the wellbeing of children and young people.

## **Children’s Services Plan**

15. The term “Children’s Services Plan” is defined at section 8(2) of the Act, and refers to the document which must be prepared, every three years, by a local authority and the relevant health board setting out their plans for the provision over that period of all children’s services and related services.
16. Please note that, while the Act and this guidance refer exclusively to a “Children’s Services Plan” (or a “plan”), a local authority and their relevant health board are welcome to adopt a different title (such as ‘Children and Young People’s Services Plans’ or ‘Integrated Children’s Services Plan’).

## **Other service provider**

17. The term “other service provider” refers to a number of public bodies which provide services in Scotland. These bodies, specified in section 7(1) of the Act, are:
  - (a) the Chief Constable of the Police Service of Scotland;
  - (b) the Scottish Fire and Rescue Service;
  - (c) the Principal Reporter;
  - (d) the National Convener of Children's Hearings Scotland;
  - (e) the Scottish Courts and Tribunals Service; and

- (f) an integration joint board established by order under section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014.

### **Relevant health board**

The term “relevant health board” is defined in section 7(1) as meaning:

- (a) if the area of the local authority is the same as that of a health board, that health board; and
- (b) if the area of the local authority is not the same as that of a health board, the health board within whose area the area of the local authority falls.

18. A relevant health board is, therefore, one of Scotland’s 14 territorial health boards, responsible for the protection and the improvement of their population’s health and for the delivery of healthcare services.

### **Scottish Ministers**

19. The term “Scottish Ministers” refers to the Scottish Government and its Executive Agencies.
20. Please note that unless this guidance expressly states otherwise, references to “Scottish Ministers” should be interpreted to mean the collective Scottish Government and its agencies.

### **Social landlord**

21. The term “social landlord” has the meaning given by section 165 of the Housing (Scotland) Act 2010, which defines it as “a registered social landlord, local authority landlord or a local authority which provides housing services”.

## INTRODUCTION

22. Scottish public services are facing a number of challenges, with pressure growing for them to do ‘more with less’, and in ways which require new partnerships and cultures. Changing demography and persistent inequality are fuelling demand, while at the same time public spending is increasingly constrained.<sup>4</sup> In the foreword to his 2011 report on the future delivery of public services in Scotland, Dr Campbell Christie noted that:<sup>5</sup>

*“If we are to have effective and sustainable public services capable of meeting the challenges ahead [...]:*

- *Reforms must **empower individuals and communities** receiving public services by involving them in the design and delivery of the services they use.*
- *Public service providers must be required to work much more closely in partnership, to **integrate service provision** and thus improve the outcomes they achieve.*
- *We must prioritise expenditure on public services which **prevent negative outcomes** from arising.*
- *And our whole system of public services – public, third and private sectors – **must become more efficient** by reducing duplication and sharing services wherever possible.*

23. Part 3 (children’s services planning) aims to facilitate the shift to this future state, encouraging and enabling local authorities and health boards to take a strategic approach to the design and delivery of the services used by children and families. The duties set out in Part 3 establish aspects of the framework within which public bodies will work (with their partners in the third and private

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<sup>4</sup> Joint Improvement Team, Scottish Social Services Council, NHS Education for Scotland (2014) [Strategic Commissioning \(Online Learning Tool\)](http://learn.sssc.uk.com/strategiccommissioning/sc_module_2.html), Module 2: National Policy Context [http://learn.sssc.uk.com/strategiccommissioning/sc\_module\_2.html] (Website accessed on 16 December 2015).

<sup>5</sup> [Commission on the future delivery of public services](http://www.gov.scot/resource/doc/352649/0118638.pdf) (June 2011) *Foreword*, p. vi [http://www.gov.scot/resource/doc/352649/0118638.pdf]

sectors) to ensure services are organised and equipped to get it right for every child, no matter what their start in life or current circumstances.

24. A Children's Services Plan should 'tell a story', helping communities to understand where they (and their services) have come from, and where they are heading in the future. It should describe clearly how people's wellbeing will be improved in that local area. Although the legislation does not prescribe a complete 'strategic commissioning'<sup>6</sup> process (restricting itself to duties related to the aims, preparation, implementation and review of a plan), children's services planning should be seen as a driver towards the development of local commissioning processes which are based on robust information about needs, costs and quality, and ongoing engagement with service users and the wider community.<sup>7</sup>
25. In order to do this, children's services planning will need to incorporate a number of distinct but interdependent processes, all of which sit within the 'analyse-plan-do-review' cycle of good strategic planning. These include:
- (i) undertaking a detailed assessment of the current position (population needs, community assets, service resources, etc.);<sup>8</sup>
  - (ii) establishing a clear vision of what will be achieved by the end of the plan (i.e. the outcomes), identifying priorities, objectives and indicators (i.e. how progress will be measured);
  - (iii) agreeing what activities (services, interventions, etc.) will be delivered in order to realise that vision;

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<sup>6</sup> 'Strategic commissioning' is the term used for all the activities involved in assessing and forecasting needs, links investment to agreed desired outcomes, consider options, planning the nature, range and quality of future services and working in partnership to put these in place.

<sup>7</sup> Audit Scotland (2012) [Commissioning Social Care](#), p.3

[[http://www.audit-scotland.gov.uk/docs/health/2012/nr\\_120301\\_social\\_care.pdf](http://www.audit-scotland.gov.uk/docs/health/2012/nr_120301_social_care.pdf)]

<sup>8</sup> To assist local authorities and relevant health boards in the development of local assessment, the Scottish Government funds the [Realigning Children's Services](#) (RCS) programme. The RCS team helps local areas to: (1) collect data on wellbeing directly from children and parents; (2) map children's services that are currently provided and how much they cost; and (3) deliver a development and facilitation programme for community planning partners [<http://transformingchildrensfutures.scot/>].

- (iv) deciding, through a coherent and transparent process, how those activities will be resourced over the course of the plan (including what areas will see disinvestment in order to shift resources towards prevention);
  - (v) holding persons to account for delivery of activities, with governance over implementation of the plan embedded in existing structures (for example through elected local councillors); and
  - (vi) monitoring progress through a structured process of review and refinement, making sure the plan (with its outcomes and deliverables) continues to fit the context (needs, resources, etc.) which it seeks to affect.
26. Children’s services planning will, therefore, be an ongoing process, within which the ‘plan’ is only a component, not the end in itself. Throughout all the different stages described above, local authorities and health boards will want to engage with staff, service users and the community, through consultation and opportunities for participation.
27. Planning alone will not, of course, bring about the transformational change needed in the design and delivery of public services in Scotland. As the [Commission on the Future Delivery of Public Services](#) (‘the Christie Commission’) noted, that will require an investment in people and the empowerment of communities too. But joined-up, evidence-based, strategic planning is the catalyst; without it, effective and sustainable public services will remain always the ambition, and not the reality.
28. Local government and public bodies have long understood this, and have already built extensive networks of collaboration and partnership between themselves, and with other sectors. Part 3 seeks to build on these networks, strengthening and clarifying the arrangements through which partners will work together to understand the needs of their populations, and develop the services and approaches proven to have the most significant positive impact.

# STATUTORY GUIDANCE

## SECTION 7: INTRODUCTORY

29. The purpose of section 7 is to define the terms “children’s service”, “related service” and “relevant health board”, and explain which organisations are covered by the term “other service provider”. It also provides Scottish Ministers with powers to specify services which are to be included in, or excluded from, the definitions of “children’s service” or “related service”. Finally, section 7(6) clarifies that functions conferred, by Part 3, on a local authority and relevant health board, must be exercised by those organisations jointly.

### Definition of terms used in Part 3

30. The term “children’s service” means any service in the local authority area provided wholly or mainly to, or for the benefit of, children by (a) the local authority, (b) the relevant health board, (c) any “other service provider”, and (d) Scottish Ministers (in exercising their functions under the Prisons (Scotland) Act 1989).

31. A “children’s service” is one which is available to all children (up to their 18<sup>th</sup> birthday), or available to children and young people with needs of a particular type (such as looked after children or children with a disability). Examples of children’s services might include schools, nurseries, health visitors, youth groups, child and adolescent mental health services (CAMHS), disability services, children and families’ social work, community paediatrics, befriending, and adoption.

32. The term “related service” means any service in a local authority area provided by (a) the local authority, (b) the relevant health board, (c) an “other service provider”, and (d) Scottish Ministers (in exercising their functions under the Prisons (Scotland) Act 1989), which, although it does not fall into the definition of a “children’s service”, is still capable of having a significant effect on the

wellbeing of children and young people. Examples of related services might include leisure services, housing, drug and alcohol services, etc. (Further guidance on how to identify “children’s services” and “related services” can be found below, under the chapter ‘Requirement to prepare Children’s Services Plans’.)

33. For the purposes of children’s services planning, the term “relevant health board” means the territorial health board in whose geographical area a local authority is situated.
34. The term “other service provider” means:
  - (c) the Chief Constable of the Police Service of Scotland;
  - (d) the Scottish Fire and Rescue Service;
  - (e) the Principal Reporter;
  - (f) the National Convener of Children's Hearings Scotland;
  - (g) the Scottish Courts and Tribunal Service; and
  - (h) an integration joint board established by order under section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014.<sup>9</sup>

## **Modifications**

35. Section 7(3) allows for Scottish Ministers to, through secondary legislation, specify which services must be included within or excluded from the definition of “children’s services” and “related services”. Scottish Ministers also have the power to specify certain aspects (“matters”) of a service which should be included or excluded. However, before taking such steps, Scottish Ministers must (under section 7(4)) consult every health board and local authority, and if the service concerned is provided by an “other service provider”, that organisation or person. At the time of writing, this power has not been exercised.

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<sup>9</sup> Integrated Joint Boards were added to the list of “other service providers” by [section 58 of the Public Bodies \(Joint Working\) \(Scotland\) Act 2014](http://www.legislation.gov.uk/asp/2014/9/section/58/enacted) [www.legislation.gov.uk/asp/2014/9/section/58/enacted].

36. Section 7(5) provides Scottish Ministers with the power to, through secondary legislation, modify the definition of “other service provider”, by adding a person or “description of persons” (e.g. an organisation), removing an entry or varying an existing entry. Again, at the time of writing, this power has not been exercised.

### **Joint responsibility**

37. Section 7(6) states that a function conferred on a local authority and relevant health board by Part 3 is a function which must be exercised jointly by these two organisations. In other words, a local authority and the relevant health board are considered to be jointly and equally responsible for children’s services planning and reporting.

## SECTION 8: REQUIREMENT TO PREPARE CHILDREN’S SERVICES PLANS

38. Section 8(1) of the Act requires every local authority and its relevant health board to jointly prepare a Children’s Services Plan for the area of the local authority, in respect of each three-year period. The start of the first three-year period will be determined by Scottish Ministers, and set out in a Ministerial Order.<sup>10</sup>
39. Sub-section (2) sets out that a Children’s Services Plan means a document setting out the local authority and health board’s plans for the provision of all “children’s services” and “related services” over the three-year period.

### Identifying “children’s” and “relevant” services

40. In order to prepare a Children’s Services Plan, a local authority and the relevant health board will need to establish which of their services, and the services offered in their area by “other service providers” and Scottish Ministers<sup>11</sup>, fall within the definitions. These definitions are:
- (a) *children’s services* – services which are provided wholly or mainly to, or for the benefit of, children generally (or a specific group thereof with needs of a particular type, such as looked after children or children with a disability); and
  - (b) *related services* – services which, while not falling into category (a), are still capable of having a significant effect on children’s wellbeing.
41. At the time of writing, Scottish Ministers have not specified which services should be included in Children’s Services Plans, and the Act itself does not prescribe a process by which local authorities and health boards should determine whether services fall into the categories above. However, local

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<sup>10</sup> Under Commencement Order X, the first three-year period will run from 1 April 2017 to 31 March 2020. Plans will need to be in place by April 2017.

<sup>11</sup> But only in relation to a service provided by them in exercise of their functions under the Prisons (Scotland) Act 1989.

authorities and relevant health boards must still ensure that their Children's Services Plan is comprehensive in its scope, covering the local services (provided by the local authority, relevant health board, "other service providers" and Scottish Ministers<sup>12</sup>) which fall into categories (a) and (b) above. This includes services delivered by private or third sector organisations on behalf of, or in partnership with, the local authority, relevant health board, "other service providers" or Scottish Ministers (e.g. a leisure service provided for the local authority by an Arm's Length External Organisation (ALEO) or a disability support service provided on behalf of the relevant health board by a charity)

42. To make sure that all "children's" and "related" services are covered in the plan, local authorities and health boards may wish to consider using all, or some of, the following steps. (Please note that these steps are suggestions only; a local authority and the relevant health board are free to use whatever methods they wish to identify the relevant "children's" and "related" services provided in the local authority area.)

### **Step 1: Review**

Review which services were covered in the most recent "Integrated Children's Services Plan".

According to guidance issued by Scottish Ministers in 2004, Integrated Children's Services Plans should have included (at a minimum) details of the services to be provided under:

- Children's Services Plans
  - Services for 'children in need'
  - Child protection services
  - Services for children affected by disability
  - Services for looked after children and care leavers
  - Adoption and fostering services

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<sup>12</sup> But only in relation to a service provided by them in exercise of their functions under the Prisons (Scotland) Act 1989

- Targeted and universal early years and childcare services (including Sure Start Scotland, pre-school education, childcare and out-of-school care services)
- Community Learning and Development (including youth work)
- Support for Children’s Hearings system
- Statements of Education Improvement Objectives
- Local Health Plans/Joint Health Improvement Plans/Child Health Strategies
  - Primary care
  - Community nursing
  - Community paediatric
  - Therapy services
  - Out-patient and hospital based services
  - Child and Adolescent Mental Health services
- Youth Justice Strategies

It is likely that all the services covered by an Integrated Children’s Services Plan will meet the definition of either (a) children’s service, or (b) related service.

## Step 2: Mapping

Map out, through a variety of case studies and the use of local service directories, all of the services and community assets which a child or young person would currently have access to, or benefit from, in the course of their lives, from antenatal through to their 18<sup>th</sup> birthday.<sup>13</sup>

With the case studies, a variety of scenarios will be needed in order to reflect the wide range of childhood experiences. Particular attention will need to be paid to children with needs of a particular type (such as looked after children, children with a disability or a need for additional support in learning), and the wide range of services which have a (potentially) significant effect on their wellbeing.

As the scope of the Children’s Services Plan is all local services provided (by the

<sup>13</sup> Unfortunately, not all children will reach their 18<sup>th</sup> birthday. It may be helpful, therefore, to include a case study of a child with a life-limiting condition.

organisations listed in section 7(2)) “*wholly or mainly to, or for the benefit of, children generally*” as well as those services which have “*the capacity to have a significant effect on the wellbeing of children*” it will be necessary to look beyond just services provided directly to children and young people (such as nursery, school, etc.). Consideration will need to be given to services provided to adults by virtue of their role as children’s parents or carers (such as parenting classes, support groups, etc.), as these services are likely to be provided “for the benefit” of children. In addition, a number of services provided to adults, regardless of their relationship to a child may have significant effects on a child’s wellbeing (such as adult drug and alcohol treatment and mental health services).

It is also worth noting that children and young people utilise many community services, such as libraries, public transport and leisure centres, which are capable of significantly affecting their wellbeing. The availability of public transport, for instance, may play a role in determining the accessibility of services or initiatives provided for looked after children, as they may have no alternatives. To ensure the case study exercise is as robust as possible, all such interactions should be included.

When populating the case studies with information, it may be helpful to make reference to local directories of services and community support, such as [ALISS \(A Local Information System for Scotland\)](#), a Scottish Government funded platform designed to help people identify local health and wellbeing resources.

When the various case studies are complete, you should have a comprehensive list of the services used by (directly or indirectly) children, young people and families. Using this list, local authorities and their relevant health boards can then determine which of the services fall into either (or neither) of the categories (a) a children’s service, or (b) a related service.

### **Step 3: Consultation**

Under section 10 of Part 3, a local authority and the relevant health board are under a duty to consult with:

- each of the “other service providers” and Scottish Ministers
- such organisations, whether or not formally constituted, which -
  - (a) represent the interests of persons who use or are likely to use any children’s service in the area of the local authority, or
  - (b) provide a service in the area which, if it were provided by the local authority, relevant health board, “other service provider” or Scottish Ministers, would be a “children’s service” or a “related service”;
- such social landlords as appear to provide housing in the area of the local authority; and
- such other persons as Scottish Ministers may specify.

#### **Step 4: Analysis of population need**

Reviews of existing plans, scenario mapping and consultation (steps 1 – 3 above) should provide much useful information about which existing services should be included in a Children’s Services Plan. However, as the plan should be a forward looking document (outlining the services which will be provided, over the three-year period, to meet the population’s needs) it will also need to describe the services which will be developed in the future. To complete that process, a local authority and health board are likely to need detailed information about the local population’s wellbeing needs.

Consultation with services users may provide part of the answer to this question, but on its own it cannot represent a thorough assessment of population need. That requires the analysis of a wide range of evidence, including (but not restricted to) service-level data (referrals, demographics of service users, etc.), population wellbeing surveys (such as those carried out under the [Realigning Children’s Services programme](#)) and existing indicators (immunisation rates, school attendance, etc.).

Taken together, these sources of information will present a detailed picture of how the local population use local services, and where there are wellbeing issues which services are not currently adequately addressing. Such an analysis should help to determine which services need to be included in the plan.

43. Whatever method(s) a local authority and health board choose to identify the services to be covered by their Children's Services Plan, it is important that it is a thorough and transparent process. The Act (and this guidance) has avoided being prescriptive about which services to include in order to ensure local authorities and health boards have the autonomy, in collaboration with relevant partners, to make decisions which reflect local context and assessments of need. But in exercising that autonomy, local authorities and health boards should keep the purpose of Children's Services Plans clearly in focus: to articulate how various services will work together to best safeguard, support and promote the wellbeing of all children in the area concerned; ensures that any action to meet needs is taken at the earliest appropriate time and that, where appropriate, action is taken to prevent needs arising; is most integrated from the point of view of recipients; and constitutes the best use of available resources.

### **The three-year period**

44. Section 8(1) states that a local authority and the relevant health board must, in respect of each three-year period, prepare a Children's Services Plan for the area of the local authority.
45. The first three-year period begins on such date as Scottish Ministers may specify, following the coming into force of Part 3. Scottish Ministers are intending that the three-year period will begin on 1<sup>st</sup> April 2017. This means that the first "three-year period" runs from 2017 to 2020, and that the first Children's Services Plan must be prepared by April 2017. A local authority and the relevant health board are obligated to prepare a new Children's Services Plan for each subsequent period of three years (section 8(2)(b)).

### **Where a Children's Services Plan is already in place at start of the three-year period**

46. A local authority and the relevant health board may have, prior to commencement of Part 3, prepared a Children's Services Plan which is

associated with a different time period to that specified by Scottish Ministers. (For instance the plan could cover the years 2015 to 2018.) In such instances the local authority and relevant health board would need to consider whether the existing plan meets the requirements set out in Part 3 of the Act, and described in this guidance. Please note that, regardless of when a Children's Services Plan was originally prepared, from April 2017 all Part 3 duties will apply, including those related to review (section 11), implementation (section 12) and reporting (section 13).

47. In addition, a process should be put in place to facilitate the synchronisation of the local planning cycle with the statutory "three-year period". And where possible, the existing Children's Services Plan should be adapted to the initial three-year period (April 2017 to March 2020).

## SECTION 9: AIMS OF CHILDREN'S SERVICES PLANS

48. Section 9 sets out the strategic aims for a Children's Services Plan. Under these provisions every Children's Services Plan must be prepared with a view to securing the achievement of the following five aims<sup>14</sup>:
- (a) that "children's services" in the area are provided in the way which –
    - (i) best safeguards, supports and promotes the wellbeing of children in the area concerned,
    - (ii) ensures that any action to meet needs is taken at the earliest appropriate time and that, where appropriate, action is taken to prevent needs arising,
    - (iii) is most integrated from the point of view of recipients, and
    - (iv) constitutes the best use of available resources; and
  - (b) that "related services" in the area are provided in the way which, so far as consistent with the objects and proper delivery of the service concerned, safeguards, supports and promotes the wellbeing of children in the area concerned.
49. Taken together, these aims are about creating and maintaining a local environment which facilitates effective GIRFEC practice for individual children and young people. The Children's Services Plan itself is the description of how public bodies and their partners will work together to achieve this, providing services which are organised and equipped to deliver high-quality, joined-up, responsive and, where possible, preventative support to children and families.
- (i) Best safeguards, supports and promotes the wellbeing of children in the area concerned**
50. A Children's Services Plan must be prepared with a view to providing services in such a way that they best safeguard, support and promote the wellbeing of

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<sup>14</sup> Section 9(2), Part 3 (Children's Services Planning), Children and Young People (Scotland) Act 2014

all children and young people in the local area. The purpose of this aim is to put the concept of “wellbeing” firmly at the heart of children’s services planning. In turn, it should mean that children’s services across the local authority area operate on a holistic and multi-dimensional understanding of “wellbeing”, in which all the various aspects of a child’s life are seen as interrelated, and given due consideration in the course of assessment and support.

51. Section 96(2) of the Act identifies eight “wellbeing indicators”, to which all assessments of wellbeing must refer. The wellbeing indicators are:

**Safe** – protected from abuse, neglect or harm at home, at school and in the community.

**Healthy** – having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy and safe choices.

**Achieving** – being supported and guided in learning and in the development of skills, confidence and self-esteem, at home, in school and in the community.

**Nurtured** – having a nurturing place to live in a family setting, with additional help if needed, or, where this is not possible, in a suitable care setting.

**Active** – having opportunities to take part in activities such as play, recreation and sport, which contribute to healthy growth and development, at home, in school and in the community.

**Respected** – having the opportunity, along with carers, to be heard and involved in decisions that affect them.

**Responsible** – having opportunities and encouragement to play active and responsible roles at home, in school and in the community, and where necessary, having appropriate guidance and supervision, being involved in decisions that affect them.

**Included** – helping to overcome social, education, physical and economic inequalities, and being accepted as part of the community in which they live and learn.

52. These eight wellbeing indicators are sometimes known collectively by the acronym SHANARRI. While each indicator is separately defined, in practice they are connected and overlapping. Different services may be able to affect one indicator more than another, but the interconnected nature of wellbeing means professionals, and service planners, must consider how actions will have an impact across all wellbeing indicators.

53. In relation to the concept of wellbeing, the terms “safeguards”, “supports” and “promotes” should be taken to mean:

**Safeguards** – protects from harm or damage.

**Supports** – gives assistance, approval, encouragement.

**Promotes** – actively encourages or further develops.

54. For further guidance on “wellbeing”, and implementation of the GIRFEC approach in general, please refer to the [Statutory Guidance on Parts 4, 5 and 18 \(Section 96\) of the Children and Young People \(Scotland\) Act 2014](#), and the materials available on the GIRFEC webpages (such as the ‘Measuring Progress’ benchmarking tool). 15

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<sup>15</sup> Scottish Government, [Getting It Right For Every Child website](http://www.gov.scot/Topics/People/Young-People/gettingitright)  
[<http://www.gov.scot/Topics/People/Young-People/gettingitright>]

**(ii) Ensures that any action to meet needs is taken at the earliest appropriate time and that, where appropriate, action is taken to prevent needs arising**

55. A Children's Services Plan must be prepared with a view to providing children's services in such a way that they are able take action to support children at the earliest appropriate time, to prevent needs arising. This aim is about making sure children, young people and families get the right support at the right time. Whenever feasible, the 'right time' will be before a child's wellbeing is adversely affected ("primary prevention"). But where that is not possible, support for the child should be secured as soon as possible after wellbeing starts to be adversely affected ("early intervention"). A Children's Services Plan must therefore be prepared with a view to securing children's services which can fulfil both "primary prevention" and "early intervention", across all aspects of wellbeing.

56. To explain further, "primary prevention" means providing the child, young person and parents/carers with the support they need in order to prevent the child or young person from experiencing adversity. Effective primary prevention is usually characterised by:

- support and help being directed to parents, carers and families, as well as the child directly;
- support being provided in the first few years of child's life (pre-birth to pre-school); and
- children, young people and families work with the wider community to improve their quality of life.

57. In a similar vein, "early intervention" means working with children, young people and families as soon as there are signs of difficulty. It is about recognising that wellbeing needs may emerge at any age, without warning, and that the speed of the response makes a significant difference to how successful services can be in helping to address the need. Indeed, effective early intervention constitutes good preventative action, because it often prevents further and more severe difficulties arising. Examples of early intervention might include the

support put around a child after the first incident of domestic abuse in the home, or the provision of additional support to a child who is beginning to struggle with their learning.<sup>16</sup>

58. However, irrespective of whether a service is orientated towards primary prevention or early intervention, the aim of a Children's Services Plan is to detail how partners will identify and address needs. This will mean working with, and through, families, communities and universal services. This has important implications for the process of children's services planning.
59. Firstly, success will depend heavily on the effective implementation of the GIRFEC approach across all universal and specialist children's services. Nurses, teachers and other professionals, linked up through parents/carers and the Named Person, will provide the continuous assessment from which potential issues can be identified, and actions developed in response. The quality of assessment, and how information is shared appropriately among key professionals, will be critical; Children's Services Plans should make clear how such processes will be managed and quality assured.
60. Secondly, to prevent needs arising planners will want to know: (a) what kind of needs currently (or are likely to) exist across the population of children and young people; and (b) what kinds of services and support actually work to prevent those needs developing further. To answer either of these questions planners will require information, coming from multiple sources (such as community engagement, professional assessment, research) and in multiple forms (qualitative and quantitative). Children's services planning partners should give proper consideration to what and how information is collected to inform the Children's Services Plan.

### **(iii) Is most integrated from the point of view of recipients**

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<sup>16</sup> The services provided to families whose children are at risk of becoming looked after (as per the duties set out in [Part 12 of the Act](#)) should also be seen as "early intervention", their work focused on preventing the need for more significant intervention in the child's life; for further information please read the Guidance on Part 12: Services in relation to children at risk of becoming looked after, etc of the Children and Young People (Scotland) Act 2014.

61. A Children's Services Plan must be prepared with a view to providing children's services in such a way that they appear to be "integrated" from the perspective of "recipients" (i.e. children, young people, carers and families). In the context of children's services planning, "most integrated" refers to cooperation between providers of children's services, working together to ensure services are planned and delivered in a way which best meets the needs of children and families. Successful realisation of this aim will mean that a child or family receives only the support they need, when they need it, from the service best placed to provide it. It will mean that children and families are confident that information about them is being shared sensitively and appropriately among professionals, in order to secure them the best support, without any unnecessary intrusion into their lives. An 'integrated' service also means that children and families will be able, as their needs change, to move easily between different services (whether universal or targeted), confident that they will have access to appropriate support at every stage. This will be particularly important for vulnerable young people moving out of children's services and into 'adult services' in areas such as disability, social care, mental health, drug and alcohol treatment, etc.
62. In the context of children's services planning, it is important to note that 'integration' does not refer to the formal delegation of functions (such as that taking place within adult health and social care). The focus here is on securing a joined-up approach, between local partners, to service planning and delivery. This joined-up approach is one of the foundations of GIRFEC, and a key pillar of the Scottish Government's public service reform programme. It requires collaboration at every level (i.e. strategic, operational, frontline), and across all service providers, whether public or third sector. The process of children's services planning is, in itself, a critical opportunity through which to embed the joined-up approach, bringing together all relevant parties to agree priorities and actions. Indeed, it will only be through close cooperation of local planning partners that all the links and key transition points between services will be identified, and a suitable plan put in place to make these more 'integrated' from the perspective of children and families.

63. In enhancing the partnership and cooperation between service providers at the front line, this aim of children's services planning should also help the local area to maximise the use of available resources through reduced duplication of activity, and the identification of, and subsequent investment in, the most successful interventions.

**(iv) Constitutes the best use of available resources**

64. A Children's Services Plan must be prepared with a view to providing services in such a way as constitutes the best use of available resources. This means that the plan should make clear how children's services are going to be provided in a way which allows them to complement and enhance each other (rather than impede or duplicate each other). It also means that the children's services provided should be, in themselves, efficient and effective.

65. This aim is therefore about securing 'best value' from the services available in a local area. That is 'best value' measured in terms of results, not just resources. In respect of children's services planning, the aim is set out clearly (in section 9(2)): the provision of services which best safeguard, support and promote child wellbeing in the local area.

66. This aim (of securing and improving child wellbeing) will be achieved, in part, through the provision of preventative and joined-up services (see aims (ii) and (iii) above). In eliminating the duplication of processes (such as assessments), improving communication throughout the system, ensuring the best placed person provides the support to a child or family, and intervening early, the GIRFEC approach should help local areas to make the best use of their resources. But critically, intervening early and coordinating activity will not, in themselves, deliver positive results. The support provided needs to be both appropriate and of quality, for an ineffective or inappropriate intervention is unlikely to ever constitute the best use of available resources.

67. Children's services planning partners, therefore, need to give careful consideration to how they will evaluate the effectiveness of children's services

(both universal and targeted), in terms of their success in responding to and addressing children's wellbeing needs. This process will require information on the costs and outcomes of services to be collected and analysed, supplemented by qualitative evaluation (feedback from service users, etc.).

68. With its focus on securing children's services in such a way that they constitute the best use of available resources, children's services planning should be seen as a strategic commissioning process. That is one based on thorough assessments of population need (current and projected), and an informed understanding about which services/interventions work most effectively (in terms of costs and outcomes) to help children and families. (For further details about the strategic commissioning of children's services, please refer to the 'Introduction' above, and the chapter below on 'Children's Services Plan – Process'.)

**b) Related services [...] provided in the way which [...] safeguards, supports and promotes the wellbeing of children**

69. The final strategic aim of a Children's Services Plan is focused on the provision of related services. Under section 9(2)(b) a Children's Services Plan must be prepared with a view to providing related services in such a way that they (insofar as is consistent with the objects and proper delivery of the service concerned) safeguard, support and promote the wellbeing of children in the area concerned.

70. "Related services" are those services provided in the local authority area by (a) the local authority, (b) the relevant health board, (c) an "other service provider", or (d) Scottish Ministers (in exercising the functions under the Prisons (Scotland) Act 1989), which, although they do not fall into the definition of a "children's service", are still capable of having a significant effect on the wellbeing of children and young people.

71. Every local authority and relevant health board will make their own determination about which public services meet the definition of a "related

service” in their local area. Once that has been agreed, the Children’s Services Plan must then detail, with a view to achieving this aim, how those related services will be delivered in a way which safeguards, supports and promotes children’s wellbeing. This requirement mirrors that placed on “children’s services” by section 9(2)(a)(i), and it demands that related services have an understanding of the concept of ‘wellbeing’, and that they are provided in such a way that they can respond positively and proactively to individual children’s (and by association families’) needs. For example, if housing were to be included as a “related service”, a Children’s Services Plan could explain how housing will contribute to keeping children safe and healthy.

72. However, the aim of securing related services which safeguard, support and promote children’s wellbeing must be done so in a way which is “*consistent with the objects and proper delivery of the service[s] concerned*” (section 9(2)(b)). This means that, while related services must be focused on meeting children’s wellbeing needs, they can only do so within the parameters afforded by their primary function(s). To return to the housing example, the primary function of this service is to provide housing options and support to the community, therefore its contribution to this aim will be made (primarily) through the provision of high-quality housing options and support to families and young people.

### **Local outcomes and objectives**

73. While all Children’s Services Plans must be prepared with a view to securing the achievement of the aims set out in section 9, Scottish Ministers have not set specific outcomes. This is to provide a local authority and the relevant health board with the flexibility to identify outcomes and objectives which correspond to local needs and context (i.e. demographics, community assets, resources, etc.), and to ensure that the Children’s Services Plan can be linked into the ‘local outcomes improvement plan’, the Health and Social Care Strategic Plan, and other relevant local plans.

74. A local authority and relevant health board should also ensure that relevant national outcomes and objectives are reflected in the Children’s Services Plan. This includes the national commitment to reducing child poverty. The [Child Poverty Strategy for Scotland](#) provides a detailed outcomes framework by which the underlying causes of poverty will be tackled, and a set of specific indicators with which to measure progress.<sup>17</sup> It is recommended that both outcomes and indicators are reflected in the Children’s Services Plan.
75. The outcomes and/or objectives identified by a local authority and the relevant health board should be consulted on with partners. This will be particularly relevant in respect of the ‘progress indicators’ chosen, where a specific metric (e.g. immunisation rates) may be used to evidence progress and/or contribution towards realising improved child wellbeing (healthier, safer, respected, etc.).

### **Children’s rights in the context of the children’s services planning aims**

76. The Act’s definition of “wellbeing” seeks to give children’s rights, as set out in the UNCRC, practical expression. But although “children’s rights” and “wellbeing” are intrinsically linked, they remain two discrete concepts. As the guidance on the Scottish Government’s [Children’s Rights and Wellbeing Impact Assessments](#) summarises<sup>18</sup>:
- The UNCRC is a set of substantive, legal and procedural standards that focus on the role of the State in ensuring that these standards are met. It is the overarching framework within which all policy that affects children and young people should be developed, and within which child wellbeing sits.
  - “Wellbeing” is a measure of the quality of a child’s life. It is understood in relation to objective measures (such as income, health status, being a victim of crime, educational achievement) and subjective measures (such as life satisfaction or reported levels of happiness).

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<sup>17</sup> Scottish Government (2014) [Child Poverty Strategy for Scotland – Our Approach](http://www.gov.scot/Publications/2014/03/5304) [http://www.gov.scot/Publications/2014/03/5304]

<sup>18</sup> Scottish Government (2015) Children’s Rights and Wellbeing Impact Assessment Guidance: Children’s Rights Legislation in Scotland: A Quick Reference Guide

77. The implementation of the UNCRC is a mechanism through which wellbeing can be achieved; where a child's rights have been respected, protected and fulfilled, their wellbeing should improve. Therefore, as mentioned in the chapter on 'Links to other statutory plans and reports' below, it may be helpful (in terms of fulfilling duties under Part 1 of the Act) to develop a specific aim within a Children's Services Plan, focused on securing better or giving further effect to the UNCRC requirements. (For further information, please refer to the Guidance on Part 1 (Duties of Public Authorities in Relation to the UNCRC) of the Children and Young People (Scotland) Act 2014.

## **SECTION 10: CHILDREN'S SERVICES PLAN – PROCESS**

78. Section 10 of the Act sets out requirements in respect of how a local authority and the relevant health board must engage and consult with other service providers, Scottish Ministers and other relevant persons in the development of a Children's Services Plan. It also includes provisions regulating the publication of the Children's Services Plan, and describes the steps which must be followed when Scottish Ministers or any other service provider disagrees with the plan (in relation to a service delivered by them).

### **Opportunity for other service providers and Scottish Ministers to participate in or contribute to the preparation of the plan**

79. Under section 10(1)(a), when preparing a Children's Services Plan a local authority and the relevant health board must:

*“Give each of the other service providers and Scottish Ministers an effective opportunity (consistent with the extent to which the services they provide are to be subject of the Children's Services Plan) to participate in or contribute to the preparation of the plan.”*

80. The “other service providers” are set out in section 7(1) of the Act, and listed on page 26 above. Opportunities extended to Scottish Ministers under section 10(1)(a) (to participate or contribute in the preparation of the plan) are restricted to where they (Scottish Ministers) provide a service in the local area under the Prisons (Scotland) Act 1989.
81. An “effective opportunity” is an opportunity which is both meaningful and practicable to the person(s) it is extended to. It is associated with things like (a) giving persons' appropriate advance notice of when they can participate or contribute, and (b) giving persons' appropriate time and means by which to participate or contribute. What constitutes an “effective opportunity” will be contingent on the individual circumstances of each “other service provider” and Scottish Ministers, and in every case the opportunity provided should be

consistent with that persons' level of involvement in the Children's Services Plan (in respect of the number and/or types of services they provide which are covered by the plan).

82. The phrase "participate in or contribute to the preparation of the plan" covers a wide range of potential actions, from the provision of information and advice, through to active involvement in the discussions which underpin the development of a plan. As with "effective opportunity", the appropriate scale and type of 'participation or contribution' will be contingent on the individual circumstances of each "other service provider" and Scottish Ministers; in particular, the extent to which services they provide are covered by the Children's Services Plan.
83. However, please note that under section 10(5) each of the "other service providers" is, and the Scottish Ministers are, obliged to participate in or contribute to the preparation of the Children's Services Plan, in accordance with the opportunity given to them under section 10(1)(a). This means that "other service providers" and Scottish Ministers (to the extent that they provide children's or related services in the local area) must take any "effective opportunity" extended to them by the local authority and relevant health board.

### **Consultation with relevant persons**

84. Under section 10(1)(b) and section 10(2) of the Act, when preparing a Children's Services Plan a local authority and the relevant health board must consult with:
- (i) such organisations, whether or not formally constituted, which –
    - (a) represent the interests of people who use, or are likely to use, any children's service or related service in the local authority area, or
    - (b) provide a service in the area which, if that service were provided by either the local authority, relevant health board, "other service provider" or Scottish Ministers, would be considered a children's

service or related service (under the definitions provided in section 7(1) of the Act);

(ii) such social landlords as appear to provide housing in the area of the local authority; and

(iii) such other persons as Scottish Ministers may by directions specify.

85. The reference to organisations which “represent the interests of people who use, or are likely to use, any children’s or related services” should be interpreted to mean any community group and third or private sector organisations which seek to represent the views, concerns and wishes of current and/or potential service users. These organisations may seek to represent the interests of all service users in the local area, or just a group thereof (such as those living within a specific locality). Examples of organisations which might fall into this category are advocacy groups for children with disabilities, youth or pupil councils, kinship carer groups, school parent councils/associations, etc.
86. The reference to organisations which “provide a service in the area” should be interpreted to mean those community groups and third or private sector organisations which provide services in the local area which are (a) wholly or mainly to, or for the benefit of, children and young people, or (b) capable of having a significant effect on the wellbeing of children. These organisations are likely to be diverse in their focus, size and constitution, encompassing large and small third sector organisations, and a variety of private sector enterprises. Examples in this category might include residential schools for children with additional support needs, nurseries, drug and alcohol treatment, providers of respite services, fostering agencies, parenting support groups, etc.
87. Section 10(3) clarifies that the term “social landlords” has the meaning given by section 165 of the [Housing \(Scotland\) Act 2010](#)<sup>19</sup>. This states that a social

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<sup>19</sup> [Housing \(Scotland\) Act 1989](#), section 165, p. 76  
[[http://www.legislation.gov.uk/asp/2010/17/pdfs/asp\\_20100017\\_en.pdf](http://www.legislation.gov.uk/asp/2010/17/pdfs/asp_20100017_en.pdf)]

landlord “means a registered social landlord, local authority landlord, or local authority which provides housing services”.

### **Identifying persons to consult**

88. A local authority and relevant health board’s duty to consult in the preparation of a Children’s Services Plan extends to all organisations in the local area that meet the definitions set out at section 10(1)(b).
89. In order to meet this obligation a local authority and relevant health board will need to identify the persons with whom they must consult. An initial scoping of which services may be included in the Children’s Services Plan (as described above) should help to set the parameters for this exercise, and the process will be facilitated through engagement with the local [Third Sector Interface](#). Indeed, the local Third Sector Interface could play a valuable role in the broader consultation and planning process itself, mediating or coordinating responses from across the third sector.

### **Other persons to consult (directions from Scottish Ministers)**

90. Under section 10(1)(b)(iii) Scottish Ministers may by direction specify other persons with whom a local authority and the relevant health board must consult in the preparation of a Children’s Services Plan. At the time of this document’s publication (autumn 2016), no “other persons” have been specified. Any direction issued under section 10(1)(b)(iii) may be revised or revoked by Scottish Ministers (under provision made at section 10(4) of the Act).

### **The process of consultation**

91. The Act does not prescribe how consultation in preparation of a Children’s Services Plan is to be undertaken by a local authority and the relevant health board. The process will depend, in large part, on the range and type of local organisations with whom consultation must be undertaken. This should determine which methods of consultation (i.e. consultation events, online

surveys, etc.) are chosen, the length of time over which consultation will be carried out, etc. However, whatever process is chosen, all public bodies carrying out public or targeted consultations should refer to the [National Standards for Community Engagement](#), and take the necessary steps to ensure that the process is accessible to the widest number of respondents possible. (For further information and guidance on how to engage with communities and service providers, please refer to Appendix D.)

92. Moreover, under the duties set out in the Community Empowerment (Scotland) Act 2015, community planning partners (including local authorities and relevant health boards) must make all reasonable efforts to secure the participation of community bodies which the Community Planning Partnership considers likely to be able to contribute to community planning. Should the community body wish to participate, they must take reasonable steps to enable that community body's participation.<sup>20</sup>
  
93. Indeed, local authorities and relevant health boards are subject to a range of consultation and engagement duties, set out in other Parts of the Act or other Acts.<sup>21</sup> For example, Part 6 (section 50) of the Act places a duty on every education authority to consult with, at least once every 2 years, "such persons as appear to be representative of parents of children under school age in its area". Others examples relate to corporate parenting and school education planning. (Please see the chapter on 'Links with other statutory plans and reports' for further information). In this context, before deciding on the consultation process for the Children's Services Plan it may be helpful for a local authority and relevant health board to carefully scope out the various consultation and engagement duties which relate to children's and related services. This process will not only help detect opportunities for aligning distinct planning processes, but also help ensure compliance with legal obligations.

### **Requests (made to relevant persons) to participate or contribute**

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<sup>20</sup> [Community Empowerment \(Scotland\) Act 2015, Part 2, Section 4\(6\)](#); for further information, please refer to the Statutory Guidance on Part 2 (Community Planning) of the Community Empowerment (Scotland) Act 2015.

<sup>21</sup> For further information please refer to the Scottish Government's [Community Empowerment webpage](http://www.gov.scot/Topics/People/engage) [http://www.gov.scot/Topics/People/engage].

94. Under section 10(6), the persons consulted under section 10(1)(b) are under a duty to meet any reasonable request which the local authority and the relevant health board make of them to:
- (a) participate in the preparation of the Children’s Services Plan for the area;  
and
  - (b) contribute to the preparation of that plan.
95. As stated earlier in this chapter, the terms “participate” and “contribute” (in relation to the preparation of a Children’s Services Plan”) cover a wide range of potential actions. “Participate” could entail attending a consultation event, or playing an active part in the group responsible for drafting the plan. “Contribute” may involve the sharing of relevant information (i.e. statistics about service use) or carrying out a process to gain the views of services users.”
96. A “reasonable request” is one which is relevant (in view of the person’s function), practicable (in view of the person’s capacity) and consistent with the person’s expected level of involvement in delivering the Children’s Services Plan. The reasonableness of a request will therefore be determined, in large part, by the individual circumstances of the person whose participation or contribution is being requested.
97. However, while it is important that requests do not overburden (or make unachievable demands of) the people working in or representing an organisation, it is important that local authorities and the relevant health board seek out and facilitates the contribution of a wide range of different persons. It is the variety of third sector and community organisations, some small, some large, which can provide insight on the needs of the local population, and help in identifying the interventions which are most effective at meeting those needs. A local authority and the relevant health board should, therefore, make all reasonable efforts to facilitate the participation and/or contribution of a broad range of third sector organisations in the children’s services planning process, providing different types of opportunities (through which to participate or

contribute) and, where appropriate, support to enable them to do so. This would be consistent with the duties placed on Community Planning Partnerships under the Community Empowerment Act 2015.<sup>22</sup>

98. An organisation does not necessarily have to comply with all requests for information. It may not be able to provide information in response to such a request for a number of reasons, for example because the organisation considers it to be commercially sensitive.

### **Format of the Children's Services Plan**

99. The Act (and this guidance) does not prescribe any particular format for Children's Services Plans. However, local authorities and relevant health boards are encouraged to consider formats which facilitate review (section 11), annual reporting (section 12) and local accountability. These would be formats where priorities and objectives are clear and measurable, and where the rationale behind them is explicit. The inclusion of comprehensive baseline information (linked to the aims and/or objectives) and short-to-medium term 'indicators of progress' would also be helpful.
100. One option would be to structure the plan's content around the eight wellbeing indicators (safe, health, achieving, etc.). Local priorities and 'indicators of progress' could then be clustered under these headings, along with details of the actions which will be taken to ensure services are delivered in a way which is as 'integrated' and preventative as possible. These sections could be supplemented by more general commentary on how the local authority and relevant health board will ensure that children's and related services are provided in a way which represents the 'best use of available resources' over the three-year period.
101. However, a Children's Services Plan should also hold some practical, day-to-day value to the services and professionals to which it relates. As indicated in

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<sup>22</sup>Community Empowerment (Scotland) Act 2015, Part 2, Section 4(6); for further information, please refer to the Statutory Guidance on Part 2 (Community Planning) of the Community Empowerment (Scotland) Act 2015.

the chapter on 'Links to other statutory plans and reports', plans could contain a brief description or diagram of the area's planning structure, illustrating the links to other processes (such as corporate parenting and community planning). This would help practitioners working in different areas to coordinate their activity. In addition, if the Children's Services Plan provided comprehensive information about the children's and related services available in the local area, it could become a resource for professionals working with children and families, helping them to identify what support is available to safeguard or promote a child's wellbeing needs.

### **Publication of Children's Services Plans**

102. Under section 10(7), as soon as reasonably practicable after a Children's Services Plan has been prepared, the local authority and the relevant health board must:

- (a) send a copy to –
  - (i) the Scottish Ministers, and
  - (ii) each of the "other service providers" (listed in section 7(1)); and
- (b) publish it (in such manner as the local authority and the relevant health board consider appropriate).

103. With respect to when a Children's Services Plan must be finalised, this must be before the start of each "three-year period". The first three-year period is anticipated to begin on 1<sup>st</sup> April 2017.

104. Once the plan is finalised, the local authority and relevant health board have some flexibility about when they must (a) send copies of the plan to Scottish Ministers and "other services providers", and (b) publish the plan. "As soon as reasonably practicable" can be interpreted to mean "as soon as possible, in view of other duties, functions and commitments". However, as the plan is a key public-facing document, communicating the direction of children's services

in the local area to service users, publication and dissemination should be seen as a priority.

105. The completed plan must be sent to every “other service provider” and Scottish Ministers. (Please note that all completed (or revised) plans must be sent to Scottish Ministers, irrespective of whether Scottish Ministers provide services in the local area under the Prisons (Scotland) Act 1989.)
106. When ready to publish the plan, section 10(7)(b) affords the local authority and relevant health board discretion to do so “in such a manner [...] as they consider appropriate”. This flexibility relates to how the plan is presented (such as format and language) and mode of publication.
107. However, in making a decision about the appropriate manner of publication, every local authority and relevant health board will want to ensure that their Children’s Services Plan (or some summary version) is accessible to children, families and other key stakeholders. This is critical to facilitating both accountability and community engagement. The Children’s Services Plan is the local authority and health board’s vision for how public services used by children and families will develop in the local area, and it is therefore important that service users, and the wider community, can access and engage with it. (Please note that the reference above to “summary version” is an acknowledgement that local authorities and health boards may wish to publish their Children’s Services Plan in a variety of formats, to aid its accessibility and utility among different audiences.)

### **Linking the publication of different statutory plans**

108. In preparing the Children’s Services Plan for publication, a local authority and the relevant health board may identify opportunities for aligning other statutory plans. For example, under Part 9 (section 61) of the Act, every corporate parent (which includes all local authorities and health boards) must publish a plan for how it proposes to exercise its corporate parenting duties. These “Corporate Parenting Plans” may be published together with, or as part of, any other plan

or document, and as no specific time period for Corporate Parenting Plans is prescribed in legislation or guidance<sup>23</sup>, it is feasible that the Corporate Parenting Plan could be incorporated into the wider Children’s Services Plan. Similar possibilities exist in relation to the statutory early learning and childcare plan, prepared under Part 6 of the Act.

109. Across the various planning systems which apply to local authorities and health boards there are a number of such opportunities for aligning the publication of statutory plans. However, where a local authority and the relevant health board do choose to do so they must ensure that all relevant statutory requirements have been met, and that the combined plan (or some version thereof) continues to be accessible to relevant stakeholder (including children, young people and families).
110. For further information on the publication of different statutory plans, please see the chapter ‘Links to other statutory plans and reports’ below.

### **Disagreements with aspects of a Children’s Services Plan**

111. Section 10(8) provides that, where Scottish Ministers (in exercising functions under the Prisons (Scotland) Act 1989) or any of the “other service providers” disagree with the plan in relation to any matter concerning the provision of a service by them, they must prepare and publish (i.e. make public) a notice of their disagreement.
112. Scottish Ministers and “other service providers” may only disagree with an aspect of a plan which relates to a service provided by them. The published notice of disagreement must detail (a) the matters in relation to which they disagree (i.e. which aspects of the plan), and (b) a statement of their reasons for disagreeing. The notice of disagreement may be published in such a

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<sup>23</sup> [Statutory Guidance on Part 9 \(Corporate Parenting\) of the Children and Young People \(Scotland\) Act 2014](#)

manner as they (the Scottish Ministers or “other service provider”) consider appropriate (e.g. on their website, open letter, regular circular, etc.).

113. The requirement for disagreements over aspects of the plan to be made public is designed to ensure that, through a process of continuous and meaningful collaboration, any concerns about aspects of the plan should be dealt with at an early stage, long before the need for formal notices of disagreement. The expectation is that notices of disagreement would only be issued once all potential options (for resolving the disagreement) have been exhausted.
114. The local authority and relevant health board are not under a duty to respond to a notice of disagreement. However, as any notice of disagreement should be a public statement, it is likely that some form of response would be appropriate.
115. Under section 12(3)(b), the duty to provide a children’s or related service in accordance with the plan does not apply where a notice of disagreement (made under section 10(8)) has been made.

## **SECTION 11: CHILDREN'S SERVICES PLAN – REVIEW**

116. Under section 11(1) a local authority and the relevant health board:

- (a) must keep the Children's Services Plan under review; and
- (b) may in consequence prepare a revised Children's Services Plan.

117. A local authority and the relevant health board are therefore under a duty to keep their Children's Services Plan under review. This is to ensure that the plan continues, over the three-year period, to accurately reflect the local context (needs, priorities, resources, etc.) and is fit for purpose (i.e. in reference to the local context, sets out how all services will be provided in such a way as to achieve the plan's aims). As local circumstances may change relatively quickly, the duty to review provides a basis on which decisions to alter or adapt service provision can be made.

118. The Act does not prescribe timescales for the review of the Children's Services Plan. The duty is simply to 'keep its plan under review'. However, in view of the fact that a local authority and relevant health board are under a duty to report annually on their performance and progress in delivering the plan (section 13 of the Act), it would be logical to connect these two functions; the review becoming the process through which the annual report is prepared. (For further details on Children's Services Plan reports, please see the relevant chapter below.)

119. The Act also does not dictate how the review of the Children Services Plan should be undertaken. However, if the review is to contribute meaningfully to the overall children's services planning process, it must: (a) establish if services are being delivered in line with the plan's aims and objectives; (b) ascertain what impact, if any, the services covered by the plan are effectively safeguarding, supporting and promoting the wellbeing of children; and (c) identify ways in which either delivery and/or the plan may be improved (to better meet current aims and requirements).

120. This demands that systems be put in place to regularly collect and analyse information relating to service performance and child wellbeing. Such information should come from a range of sources, and include both quantitative and qualitative data. The views of children, young people and families, and the professionals and volunteers working with them will be particularly valuable in making assessments of progress (in respect of children and young people feeling safe, healthy, included, etc.). Thought should be given to how such information can be anonymised, collated and analysed in an appropriate, safe and proportionate way. (For further guidance on information sharing under Part 4 of the Act, please see the [Statutory Guidance on Part 4 \(Named Person\), Part 5 \(Child's Plan\) and Section 96 \(Wellbeing\) of the Children and Young People \(Scotland\) Act 2014.](#))
121. The findings of a review may suggest that changes are needed in the Children's Services Plan. Where this is the case, local authorities and relevant health boards are encouraged to take appropriate action. Section 11(1)(b) provides a local authority and the relevant health board with the power to prepare a revised Children's Services Plan.
122. If a local authority and the relevant health board choose to revise their Children's Services Plan, the duties set out in section 9 (Aims), section 10 (Process) and section 11(1) (Review) of the Act apply. This means that the revised plan must essentially be treated like a new plan, with "other service providers" and Scottish Ministers given the opportunity to participate and contribute to in the preparation of the revised plan, other persons (including social landlords and relevant organisations) consulted with, and the plan prepared with a view to securing the same 'aims of the Children's Services Plan'. The revised plan must itself be kept under review.

## **SECTION 12: IMPLEMENTATION OF CHILDREN'S SERVICES PLAN**

123. Under section 12(1), during the period to which the Children's Services Plan relates, the local authority, relevant health board, "other service providers" and Scottish Ministers (in exercising functions under the Prisons (Scotland) Act 1989) must, so far as reasonably practicable, provide children's and related services in accordance with the plan. This means that the public bodies providing services covered by a Children's Services Plan are under a duty to provide those services, within the parameters afforded by their capacity and function, in the way(s) described in the plan.

124. The duty to implement services in accordance with a Children's Services Plan does not apply where:

- (a) the person providing the service considers that to comply with the plan would adversely affect the wellbeing of a child; or
- (b) a notice of disagreement (made under section 10(8)) has been published about a matter.

125. For further guidance on the 'notice of disagreement', please refer to the relevant section above.

## SECTION 13: REPORTING ON CHILDREN'S SERVICES PLAN

126. As soon as practicable after the end of each one-year period, a local authority and the relevant health board must publish (in such manner as they consider appropriate) a report on the extent to which:

- (a) children's and related services have, in that one-year period, been provided in accordance with the Children's Services Plan; and
- (b) that the provision of services has achieved –
  - (i) the aims of children's services planning (section 9(2)), and
  - (ii) such outcomes in relation to the wellbeing of children in the area as the Scottish Ministers may by order prescribe.

127. The "one-year period" runs from 1 April to 31 March.<sup>24</sup> Each Children's Services Plan must be prepared in relation to a specific "three-year period" (under section 8(2)), so over the course of a Children's Services Plan there will be three annual reports.

128. These annual reports must be published "as soon as practicable" after the end of the one-year period. "For instance, it may be beneficial to align publication of the Children's Services Plan's annual report with other statutory reports which apply to local authorities and/or territorial health boards (such as the National Improvement Framework's annual report, or the Corporate Parenting report). However, these considerations should be balanced with the need to communicate progress to stakeholders in a relevant and timely manner. The annual report will be an important document, facilitating local accountability (to service users and the wider community); publication should therefore be seen as a priority, with delay after the conclusion of the one-year period kept to the absolute minimum.

129. The content of the annual report is not restricted by the Act, and each local area's report is likely to be shaped by the specific priorities and objectives

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<sup>24</sup> Under Commencement Order XX, the first "three-year period" runs from 1 April 2017 to 31 March 2020. This means the first "one-year period" runs from 1 April 2017 to 31 March 2018.

chosen set out within the plan. However, section 13 does demand that every annual report includes information about the extent to which the local area is delivering on any outcomes which might be set by Scottish Ministers under section 13(1)(b)(ii), and the five overarching aims of children's services planning (as set out in section 9(2)). These are:

- (a) that children's services [...] are provided in the way which –
  - (i) best safeguards, supports and promotes the wellbeing of children in the area concerned,
  - (ii) ensures that any action to meet needs is taken at the earliest appropriate time and that, where appropriate, action is taken to prevent needs arising,
  - (iii) is most integrated from the point of view of recipients, and
  - (iv) constitutes the best use of available resources; and
- (b) that related services [...] are provided in the way which, so far as consistent with the objects and proper delivery of the service concerned, safeguards, supports and promotes the wellbeing of children in the area concerned.

130. For a full explanation about what these aims mean in practice, please refer to the chapter on 'Aims of Children's Services Plans' above.

131. In order to meet this requirement to report on progress against the statutory planning aims, local authorities and the relevant health board will need to have systems in place to collect and analyse relevant information (such as service performance and outcomes for children and young people). Ideally, these systems will provide longitudinal information (e.g. quarterly or yearly), enabling the annual report to illustrate the extent of progress achieved over the one-year period. Such 'progress' information should always be situated in context, however, with the report also documenting relevant changes in, for instance, the availability or capacity of services, local political priorities, and the needs of children and young people in the area.

132. As with the Children's Services Plan itself, the Act does not prescribe a format for annual reports. In the chapter above on the process of preparing a Children's Services Plan, one option identified was to structure information around the eight wellbeing indicators (safe, healthy, achieving, etc.). This format would be appropriate for an annual report too, with certain measures linked to specific indicators (e.g. 'changes in literacy rates' under 'achieving'). Additional material in these chapters could detail the work undertaken to deliver services which were integrated and preventative in that particular area of wellbeing (e.g. how the cooperation between social work and housing contributed to making children 'safe'). These sections could be supplemented by more general analysis on service performance and resource allocation; both relevant indicators in assessing 'best use of available resources' and the shift to preventative action.
133. However, whatever format is chosen, a local authority and relevant health board will want to ensure that their annual report (or a summary version) is accessible to key stakeholders (such as children, young people and others with an interest in children's or related services). This is in order to facilitate engagement and accountability. As per section 13(1) of the Act, annual reports may be published in such manner as the local authority and relevant health board "consider appropriate". This gives each local area a measure of discretion about how the annual report is presented (format, language etc.) and the mode of publication (web document, print, etc.). Moreover, it means that local authorities and health boards can publish their annual report in a variety of formats, to aid its accessibility and utility among different audiences. (Accessibility relates to both the availability of the document (e.g. published online) and its format and language.)
134. As has already been noted in chapters above, there is an opportunity to align the duties to 'review' and to 'report'. Under section 11 a local authority and the relevant health board must keep their Children's Services Plan under review. If that process was framed as a continuous performance review, with progress in achieving the plan's aims being measured and assessed, it would act, simultaneously, as the process for preparing an annual report. Moreover, the

published annual report would facilitate engagement with service users and key stakeholders, the feedback from whom could inform whether changes were needed to the plan itself. This cycle, with robust, evidence-based assessments of progress feeding into on-going decision making, is a core component of strategic commissioning.

### **Outcomes set by Scottish Ministers**

135. Under section 13(1)(b)(ii), Scottish Ministers have the power to prescribe, by order, specific outcomes (in relation to the wellbeing of children) which local authorities and the relevant health board will have to report on, as part of their Children's Services Plan report.
136. At the time of this document's publication (September 2016), no such order has been made in relation to children's services planning. However, in selecting local outcomes for inclusion in Children's Services Plans (and associated annual reports), reference could be made to the Local Outcomes Improvement Plan and the National Improvement Framework for Scottish Education.

### **Links to other reports**

137. For guidance on how the Children's Services Plan annual report might be aligned with other statutory reports, please refer to the chapter 'Links to other statutory plans and reports' below.

### **Role of other service providers in reporting**

138. The duty to prepare and publish a Children's Services Plan annual report sits exclusively with the local authority and its relevant health board. The role of "other service providers" in this process is likely to be as a source of information about the delivery and performance of the children's or related services they provide in the local area. There is no requirement under Part 3 for "other service providers" to prepare an overarching, national report on the delivery of their children's or related services. However, there is also no restriction on them

doing so, and the collation of such information may help facilitate compliance with statutory reporting duties set out in other parts of the Act (such as Part 1 (Children's Rights) and Part 9 (Corporate Parenting)).

## **SECTION 14: ASSISTANCE IN RELATION TO CHILDREN'S SERVICES PLANNING**

140. Under section 14, those persons and organisations consulted with in the preparation of a Children's Services Plan<sup>25</sup>, other service providers and Scottish Ministers must comply with any reasonable request made of them, by the local authority and relevant health board, to provide information, advice and assistance which would facilitate the general process of children's services planning (as set in Part 3).

141. The persons and organisations to which this "duty of assistance" applies are:

(a) any "other service provider" and Scottish Ministers (but only insofar as the information, advice or assistance requested relates to a children's service or related service which these persons contribute to providing). Section 7(1) lists the "other service providers" as –

- (i) the Chief Constable of the Police Service of Scotland,
- (ii) the Scottish Fire and Rescue Service,
- (iii) the Principal Reporter,
- (iv) the National Convener of Children's Hearings Scotland, and
- (v) the Scottish Courts Service; and

(b) any of the persons mentioned in section 10(1)(b). These are –

- (i) organisations, whether or not formally constituted, which represent the interests of people who use, or are likely to use, any children's service or related service in the local authority area,
- (ii) organisations, whether or not formally constituted, which provide a service in the area which, if that service were provided by either the local authority, relevant health board, "other service provider" or Scottish Ministers, would be

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<sup>25</sup> For further details, please refer to section 10(1)(b) of the Act, or the chapter in this guidance on 'Section 10: Children's Services Plan – Process'.

considered a children’s service or related service (for the purposes of children’s services planning)<sup>26</sup>,

- (iii) social landlords who provide housing in the area of the local authority, and
- (iv) any such other persons as Scottish Ministers may by direction specify.

142. For an explanation of what is meant by “organisations [...] which represent the interests” and “organisations [...] which provide a service”, please see chapter ‘Section 10: Children’s Services Plan – Process’ above.

143. The term “information, advice and assistance” covers a range of activities which may be of benefit to children’s services planning and implementation. A request for assistance may come in the form of, among others, a request for data (e.g. on the number and characteristics of service users), a request for people to participate in a process (e.g. a planning group) or support in delivery (e.g. implementing an aspect of the plan). This breadth should enable a variety of different organisations to add value at different times.

144. A “reasonable request” is one which is relevant (in view of the person’s function), practicable (in view of the person’s capacity) and consistent with the person’s expected level of involvement in delivering the Children’s Services Plan. The reasonableness of a request will therefore be determined, in large part, by the person whose participation or contribution is being requested; what will be considered a reasonable request for one person may not be for another. For example, what would be a reasonable request of an “other service provider” (in terms of the provision of information, advice and assistance) may not be for independent organisations (and in particular those which receive no public funds).

145. However, while it is important that local authorities and health boards take into consideration the impact (e.g. the administrative and ‘opportunity’ costs) which

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<sup>26</sup> For the definitions of a “children’s service” and “related service”, please refer to chapter *Section 7: Introductory* above.

a request for information, advice or assistance may entail, they should not neglect the value smaller groups and organisations can bring. These smaller groups and organisations often play a critical role in safeguarding and improving the wellbeing of children, and while they may have less capacity to respond to a request for assistance, their insight can improve both the planning and implementation of Children's Services Plans. One solution to this would be for a local authority and the relevant health board to offer relevant organisations a range of opportunities to provide assistance, allowing the groups and organisations to determine their own level of engagement. In respect to third sector organisations, this process could be facilitated by the local [Third Sector Interface](#).

146. Finally, under section 14(3) the duty to comply with a request for assistance does not apply if the provision of the information, advice or assistance would:

- (a) be incompatible with any duty of the person; or
- (b) unduly prejudice the exercise of any function of the person.

147. This means if a person judges that fulfilling a request for assistance may be incompatible with another of their duties (such as those related to confidentiality or data protection), or that to do so would unduly prejudice them in exercising one of their functions (such as providing a service), they are entitled to refuse to comply with the request.

## **SECTION 15: GUIDANCE IN RELATION TO CHILDREN'S SERVICES PLANNING**

148. A local authority, relevant Health Board and “other service provider” (as defined in section 7(1)) must have regard to any guidance issued by Scottish Ministers about children’s services planning. Guidance may relate to any of the functions conferred by Part 3 (other than the function of complying with section 12).
149. Before issuing or revising guidance, Scottish Ministers must consult with any person or organisation to which it relates (i.e. local authorities, health boards, etc.) and any other persons they consider appropriate.
150. This guidance document (Statutory Guidance on Part 3) is issued under section 15 of the Act. Every local authority, territorial health board and “other service provider” must have regard to it.

## **SECTION 16: DIRECTIONS IN RELATION TO CHILDREN'S SERVICES PLANNING**

151. A local authority, relevant Health Board and “other service provider” (as defined in section 7(1)) must comply with any direction issued by Scottish Ministers about children’s services planning. Those directions may relate to any of the functions conferred by Part 3 (process, review, etc.), other than complying with section 12 (implementation of Children’s Services Plans).
152. Directions may be issued under the powers provided to Scottish Ministers by sections 16(1) and 17(2) of the Act.
153. Before issuing, revising or revoking a direction, Scottish Ministers must consult with any person or organisation to which it relates (i.e. local authorities, health boards, etc.) and any other persons they consider appropriate.

## **SECTION 17: CHILDREN'S SERVICES PLANNING – DEFAULT POWERS OF SCOTTISH MINISTERS**

154. Where Scottish Ministers consider that a local authority and the relevant health board are not exercising a function conferred on them by Part 3 (other than complying with section 12), or in exercising a function are not complying with any statutory guidance issued under section 15(1), they have the power to:
- (a) direct a local authority and the relevant health board to exercise the function in a particular way; or
  - (b) direct that the function is to be exercised instead by the local authority, the relevant health board, or another local authority or health board.
155. A local authority and/or health board must comply with any direction addressed to them. Directions issued by Scottish Ministers under section 17(2) of the Act may direct a local authority or health board to make a payment to a person (the local authority, relevant health board, or another local authority or health board) who is to exercise a function in place of the original local authority and relevant health board.
156. Before issuing, revising or revoking a direction under section 17(2), Scottish Ministers must consult the local authority and relevant health board whose failure is to be, or is, the subject of the direction, and any other persons they consider appropriate.
157. Please note that, while Scottish Ministers reserve these powers to facilitate compliance with the legislation, there are currently no plans for their use. Local authorities and health boards already work closely together, in partnership with the third sector, to plan and deliver services for their community, and in this context the functions of children's services planning are likely to represent a consolidation of established practice. Moreover, as per section 16(1) and section 17(1)(a), directions issued in relation to "children's services planning" cannot relate to the implementation of plans (i.e. how children's or related services should be delivered on a day-to-day basis). Scottish Ministers do not

anticipate using these powers apart from in exceptional circumstances, where it is clear that a process (i.e. planning, review, reporting, etc.) described by Part 3 is not being followed.

## ENFORCEMENT OF PART 3

158. The first three-year period under Part 3 (children’s services planning) is anticipated to begin on 1<sup>st</sup> April 2017. Compliance with the legislation will be carried out, primarily, at a local level. A Children’s Services Plan and its accompanying annual report are both public documents, enabling local communities to holding service providers to account on their performance. Moreover, by placing duties on local authorities and relevant health boards to consult with relevant persons and “other services providers” (section 10), and duties on those relevant persons and “other service providers” to participate in the process, the expectation is that all parties involved will hold each other to account. Considering the scope and importance of services covered by a Children’s Services Plan, those responsible for scrutiny and governance at a local level (such as elected councillors and non-executive board members) are likely to take a keen interest in both the development and implementation of the plan.
159. In addition to local enforcement mechanisms, Scottish Ministers also reserve powers (under a number of different sections) to issue directions in relation to certain aspects of children’s services planning.

## LINKS WITH OTHER STATUTORY PLANS AND REPORTS

160. As noted in the Introduction, “children’s services planning” is part of a wider legal framework within which local planning and reporting takes place. This chapter considers some of the links between key statutory planning requirements (related to the provision of children’s or related services).

### Principles and objectives of statutory plans

161. All statutory planning processes are designed to facilitate the delivery of improved outcomes for Scotland’s population. Set out across various parliamentary acts and regulations, the duties emphasise the importance of consultation and accountability, and of collaboration and joint working. They embed a common focus on the challenge of tackling disadvantage and inequality, and encourage public bodies and practitioners to attend to this task through a coordinated and evidence-led use of their resources.

162. In their response to the Christie Commission’s final report, the Scottish Government identified four pillars of public service reform.<sup>27</sup>

- a decisive shift towards prevention;
- greater integration of public services at a local level driven by better partnerships, collaboration and effective local delivery;
- greater investment in the people who deliver services through enhanced workforce development and effective leadership; and
- a sharp focus on improving performance, through greater transparency, innovation and use of digital technology.

163. These are the pillars on which the various planning duties are built. They represent the thread which ties distinct processes together into a broader strategic agenda, empowering communities by ensuring that the planning and delivery of public services is open and inclusive, informed by a detailed

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<sup>27</sup> Scottish Government (September 2011) [Renewing Scotland’s Public Services](#), p.5

understanding of the population's needs, and local knowledge about what works to improve outcomes.

### **Identifying links at the local level**

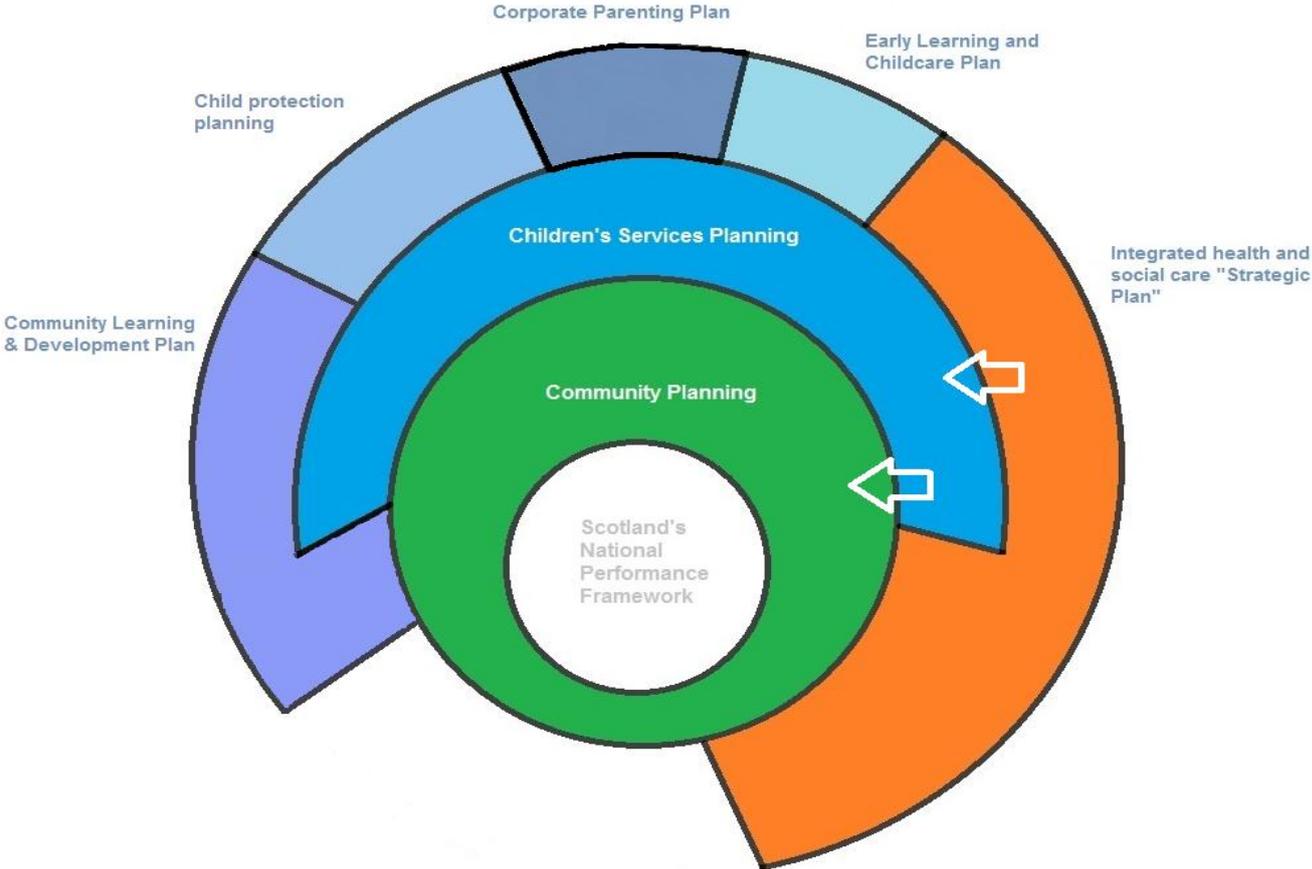
164. At a local level, identifying and clarifying the relationships between different planning and reporting processes has a number of potential benefits. For instance, to help improve efficiency it may be possible to use the same activity, such as consultation, needs assessment or progress reporting, to satisfy statutory requirements under multiple planning systems. Moreover, identifying the links is an important step in realising the joined-up delivery of public services recommended by the Christie Commission; if the planning of different services is not coordinated and joined up, it is unlikely that delivery will be.
165. Each local area may choose to link planning requirements in different ways, in reference to existing practice and local arrangements (such as whether integration joint boards are responsible for children's health and social care services). In some cases, a local area may choose to link different planning or reporting processes through a simple 'parent-child' relationship, with service-level plans and reports feeding into broader strategic documents. In other cases, where a local area operates two planning processes in parallel, there will be opportunities to share information and insight between the systems. Ultimately however, whatever configuration chosen, all local planning is focused on the achievement of the same aim: the improved wellbeing of the local population, through the delivery of efficient and effective public services.

### **Links to children's services planning**

166. Where possible, a local Children's Services Plan may wish to detail (either through a narrative or visualisation) how the links are being made between the different statutory planning and reporting requirements. This will enable other organisations involved in children's services planning (such as those responding to a consultation or request for assistance) to see how a Children's Services Plan (and the process underpinning it) is connected into the wider

planning landscape. Given the requirement to plan for children's services and other related services, particular attention might usefully be paid to how children's services planning relates to the duties included in Part 1 (Children's Rights), Part 6 (Early Learning and Childcare) and Part 9 (Corporate Parenting) of the Children and Young People (Scotland) Act 2014, as well as the Public Bodies (Joint Working) (Scotland Act) 2014, Community Empowerment (Scotland) Act 2015 and the Community Learning and Development (Scotland) Regulations 2013. New legislation may also come into force, after the publication of this guidance, which may have to be taken account of.

**Figure 1: Schematic of the statutory planning framework for children's services<sup>28</sup>**



<sup>28</sup> This schematic includes a reference to 'Child protection planning', but please note that local child protection plans are not, at the time at which the guidance was published, a statutory requirement. The reference to a child protection planning has been included in the schematic due its importance. For further information on child protection planning, please see page 73 below.

167. Figure 1 above provides an illustration of how these different statutory planning (and reporting) requirements could relate to the children's services planning process. Please note that it is neither comprehensive (some statutory planning processes may not be represented) nor prescriptive (local areas may wish to link elements in different ways). It has been included to provide some ideas about how different elements could interrelate, but, as stated above, each local area will make its own connections.

168. To facilitate that process, a detailed summary of the statutory planning and reporting requirements related to children's services is included at Appendix C, and in the remainder of this chapter opportunities for alignment between key processes are set out.

## **Community planning**

169. Community planning is about how public bodies work together with the local community to plan for, resource and provide services which improve local outcomes. Part 2 of the [Community Empowerment \(Scotland\) Act 2015](#) places a range of duties on community planning partners in order to strengthen community planning (replacing provisions in the Local Government in Scotland Act 2003). Among the new duties, the community planning partnership (CPP) is required to prepare and publish a "local outcomes improvement plan" which sets out the local outcomes the CPP has prioritised for improvement<sup>29</sup>. In preparing the plan, the CPP is obliged to make all reasonable efforts to secure the participation of community bodies in the planning process. In carrying out their functions, the CPP is required to do so with a view to reducing inequalities of outcomes which result from socio-economic disadvantage.

170. Taken together, the duties in Part 2 of the Community Empowerment (Scotland) Act 2015 are intended to support an increase in the pace and scale of public service reform by cementing the focus on achieving outcomes and improving the process of community planning. This central purpose is mirrored

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<sup>29</sup> A Local Outcomes Improvement Plan is the term the legislation gives to what was previously referred to as a "single outcome agreement", but there is no significant difference between these documents in practice.

in children's services planning. Both seek to deliver better outcomes for the population by promoting a collaborative, partnership approach between public bodies and communities, and keeping a focus on tackling inequalities. While there are a number of important differences in the requirements of the two Acts (such as around the setting of aims and reporting criteria), they share similar approaches and ambitions for collaborative working together and with the local community to improve agreed local outcomes and reduce inequalities. Aligning these two planning systems, where possible, could bring benefits to both, ensuring a continuity and congruence between plans, and enhancing the CPP's ownership of the local strategy for improving the wellbeing of children and young people.

171. For further information, please refer to the statutory guidance on the Community Empowerment (Scotland) Act 2015.

### **Integrated health and social care Strategic Plan**

172. The [Public Bodies \(Joint Working\) \(Scotland\) Act 2014](#) ("the Public Bodies Act") provides for the integration of certain local authority and health services, with the aim of improving their quality and consistency, and, ultimately, the wellbeing of service users. Every local authority and its relevant health board has, under the Act, prepared and agreed an integration scheme wherein certain functions have been delegated to an integration authority. The Integration authority may be a separate integration joint board, or the local authority or health board may take on this role. The functions delegated must, in every area, relate to local adult health and social care services – but the legislation also enables some or all children's acute and community health and social care services to be delegated where agreed locally. Some health boards and local authorities have opted to take advantage of this power, leading to integration of most adult and children's health and social care services. In addition, as many health services are not population specific (e.g. A&E, primary care and general dental services), all integration schemes will include the delegation of some functions relating to services used by children.

173. Under the Public Bodies Act, every integration authority is required to prepare and publish a Strategic Plan (also known as a “Strategic Commissioning Plan” for its area (though a single Plan can cover more than one local authority area), setting out the arrangements for the delivery of the functions that have been delegated by the local authority and health board (health and social care services), and how these will meet the [National Health and Wellbeing Outcomes](#) set by Scottish Ministers.<sup>30</sup> The Strategic Plan must also be prepared with regard to the “integration delivery principles”, as detailed in section 31 of the Public Bodies Act. The Strategic Plan must be reviewed at least every three years
174. An integration authority is also required to prepare an annual performance report on, among other things, how the arrangements in the strategic plan are contributing to achieving the National Health and Wellbeing Outcomes. These reports are required to cover all services provided in the exercise of functions delegated to the integration authority, including, where applicable, children’s services.
175. As the children’s services planning requirements encompass a wider range of services than health and social care, a local authority and the relevant health board could employ the approach of the health and social care Strategic Plan, to the extent that it relates to children’s services, as potentially feeding into the broader Children’s Services Plan. The integration delivery principles which underpin a Strategic Plan would be consistent with the aims underpinning children’s services planning, and the National Health and Wellbeing Outcomes are based on similar principles to the revised National Care Standards (which will inform the self-assessment and inspection of all children’s health and social care services).
176. The precise nature of the relationship between these two planning requirements will in large part be contingent on whether (and which) children’s health and social care services have been included in the integration scheme. But whatever the integration of functions at a local level, there will always need to be

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<sup>30</sup> Reference to the regulations under the Act may be relevant here: <http://www.legislation.gov.uk/ssi/2014/343/contents/made>.

communication between these two planning domains. From the perspective of children's services planning, the adult health and social care context is important because most children live in families with adults. Adult family members' access to, and the quality of, health and social care services, is likely to have an effect on the wellbeing of children and young people. Similarly, for the providers of adult health and social care services, children and young people represent future service users. As part of their longer term planning strategy, integration authorities will need to work with the relevant local authority and health board to monitor the health and wellbeing of the child population in the area, understanding needs, identifying potential issues and, with partners, putting in place appropriate preventative actions.

177. Furthermore, in order to achieve the statutory aims prescribed for both a Strategic Plan and a Children's Services Plan, consideration may usefully be given (by integration authorities, local authorities and relevant health boards) to the transitions between children's services and adult services. This transition has been identified as a point where service support for individuals can be at risk of inadequate coordination, leading to a negative impact on wellbeing.
178. For further information, please refer to the guidance prepared to assist implementation of the Public Bodies (Joint Working) Scotland Act 2014.<sup>31</sup>

### **Children's rights**

179. Part 1 (section 2) of the Children and Young People (Scotland) Act 2014 places a duty on a range of public bodies (including all local authorities and territorial health boards) to report, as soon as practicable after the end of each three-year period, on the steps they have taken to better secure, or give further effect to, the UNCRC requirements. The public bodies subject to this duty can choose to satisfy it "in such a manner as the authority considers appropriate", such as through the preparation of a specific report, or by including relevant information

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<sup>31</sup> This guidance is available at <http://www.gov.scot/Topics/Health/Policy/Adult-Health-SocialCare-Integration/Implementation/ImplementationGuidance>.

in another report. Two or more public bodies can also satisfy this duty through the preparation and publication of a joint report.

180. For local authorities and territorial health boards, children's services planning offers a potential structure for the fulfilment of their children's rights reporting duty. A local authority and health board could, for instance, incorporate their children's rights report into their annual Children's Services Plan report (required under Part 3, section 13 of the Act). Or, alternatively, they could incorporate their children's rights report into the final annual report of the children's services planning cycle (which is linked to the same three-year period as Part 1).
181. Children's services planning also presents a local authority and relevant health board with a valuable opportunity to give children's rights real articulation in practice. For instance, a local authority and its relevant health board could, in consultation with its partners and community, choose to set themselves an aim, within their Children's Services Plan, to "secure, or give further effect to, children's rights". Their plan could then articulate what steps will be taken, over the three-year period, to achieve this aim, and, as mentioned above, annual reports could document progress.
182. Although the alignment of Part 1 and Part 3 duties is not required by the Act, to do so may well benefit both processes and help to cement the links between children's rights and wellbeing.
183. For further information on children's rights reporting, please refer to the guidance on Part 1 (Children's Rights) of the Children and Young People (Scotland) Act 2014.

### **Corporate parenting**

184. Part 9 of the Children and Young People (Scotland) Act 2014 designates certain public bodies (including all local authorities and territorial health boards)

as corporate parents, and places them under a range of duties designed to safeguard and promote the wellbeing of looked after children and care leavers.

185. Each corporate parent is required to prepare a plan about how they propose to exercise their corporate parenting duties, and they must keep the plan under review. Before preparing or revising this plan, a corporate parent must consult with other corporate parents and such other persons as they consider appropriate. (Statutory guidance makes clear that consultation should include looked after children and care leavers.) Corporate parents must publish their plan in such a manner as they consider appropriate; this includes incorporating it into another plan, and publishing it jointly with other corporate parents. Neither the Act nor statutory guidance prescribes a time period to which plans must apply.
186. Corporate parents are also under a duty to report on how they have exercised their corporate parenting duties. These reports may include information about standards of performance, and the progress achieved in securing positive outcomes for the eligible population. Corporate parents can publish their reports in such a manner as they consider appropriate; including as part of another plan, and publishing it jointly with other corporate parents. The Act does not prescribe a time period to which reporting must refer, but statutory guidance recommends that reports are prepared and published at least once every three years from the date of commencement (April 2015); corporate parents are entitled to publish reports more frequently if they wish, to facilitate alignment with other reporting requirements.
187. The flexibility afforded to corporate parents around the timescales and manner in which they must fulfil their Part 9 duties presents a local authority and a relevant health board with multiple opportunities to align corporate parenting and children's services planning requirements, should they wish. Moreover, as a corporate parenting plan and report will detail the provision of a wide range of children's and related services, alignment could minimise duplication.

188. For further information on corporate parenting, please refer to the [Statutory Guidance on Part 9 \(Corporate Parenting\) of the Children and Young People \(Scotland\) Act 2014](#).

### **National Improvement Framework for Scottish Education**

189. The Education (Scotland) Act 2016 establishes a statutory [National Improvement Framework](#). The legislation will require (amongst other duties) that, from August 2017, all education authorities prepare and publish annual plans describing the steps they intend to take during the planning period in pursuance of the National Improvement Framework for Scottish education. The annual plan must also describe the steps they intend to take to reduce the inequalities of outcome experienced by pupils as a result of socio-economic disadvantage and the ways in which they will consult key partners when deciding how this should be achieved. Finally, the plan must set out any educational benefits they intend to secure as a result of taking all of these steps. Education authorities must give a copy of the annual plan to the Scottish Ministers as soon as reasonably practicable after publishing the plan.
190. All education authorities are also required to prepare and publish an “annual report” setting out the steps they have taken in pursuance of the National Improvement Framework for Scottish education. The reports will also describe the steps they have taken to reduce the inequalities of outcome experienced by pupils as a result of socio-economic disadvantage and the ways in which they have involved key partners in that process. Finally, they will set out any educational benefits secured as a result of taking these steps.
191. Education authorities are also required to ensure that annual School Improvement Plans and associated reports (required under section 6 of the Standards in Scotland’s Schools etc. Act 2000), taking into account the planned and past improvement activity within the education authority area.
192. Although reporting requirements of the Education (Scotland) Act 2016 and Part 3 may operate on different timeframes, Part 3 affords local authorities and the

relevant health board some flexibility about when reports must be published (i.e. “as soon as practicable after the end of the 1-year period”). In this context, a local authority and the relevant health board may choose to align the publication schedules of Part 3 and reports relating to Part 1 of the Education (Scotland) Act 2016, incorporating the National Improvement Framework annual report into the broader Children’s Services Plan annual report. This is reflected in the fact that the 2016 Act expressly provides for any annual report produced by an education authority to take account of broader activity captured through the children’s services planning process.

193. Furthermore, while the Education (Scotland) Act 2016 does require the preparation of an annual plan, this does not prevent that process from informing the preparation and review of a Children’s Services Plan. Whilst the proposed duties linked to National Improvement Framework focus on the responsibilities of education authorities specifically, schools (and education services more generally) will represent a very significant part of a Children’s Services Plan. Similarly, when the local authority and relevant health board is identifying how its Children’s Services Plan can support delivery of national agreed priorities for education (set out through the National Improvement Framework), it is likely that actions will involve children’s services outwith ‘education’, such as social work and health. This highlights the importance, and opportunity, of aligning these two planning requirements.

### **Early learning and childcare, school education for pre-school children, and day care and out of school care**

194. Part 6 (section 50) of the Children and Young People (Scotland) Act 2014 places the education authority under a duty to consult, at least once every two years, “such persons as appear to be representative” of parents of children under school age in its area about how it (the education authority) should make early learning and childcare<sup>32</sup> available. Similarly, Part 7 (section 54) amends

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<sup>32</sup> “Early learning and childcare” is defined by section 46 of the Act as “a service, consisting of education and care, of a kind which is suitable in the ordinary case for children who are under school age, with regard being had to the importance of interactions and other experiences which support learning and development in a caring and nurturing setting”.

section 1 of the Education (Scotland) Act 1980 to place the education authority under a duty to consult, at least once every two years, “such persons as appear to be representative” of parents of pre-school children about whether and how it should exercise its power to provide discretionary early learning and childcare under the 1980 Act. Finally, Part 8 (section 55) amends section 27 of the Children (Scotland) Act 1995 to place the local authority under a duty to consult, at least once every two years, with “such persons as appear to be representative” of parents of young children and school aged ‘children in need’ about how they should provide day care and out of school care for such children; and, for children not in need, if and how they should provide day care and out of school care.

195. Each of these Parts of the legislation then requires the authority to, in reference to the views received through the consultation, prepare and publish plans in relation to those services.
196. As all of the services to which Parts 6, 7 and 8 relate will be considered “children’s services” under the definition set out in Part 3 (section 7) of the Children and Young People (Scotland) Act 2014, a local authority and relevant health board may wish to use these plans to inform their broader children’s services planning process. Consultation with relevant parents will be carried out at least every two years, under Parts 6, 7 and 8. The legislation does not specify how plans (prepared under Parts 6, 7 and 8) must be published, so a local authority (acting in its capacity of an education authority) and relevant health board may, should they wish, explore including these plans as part of their triennial Children’s Services Plan.
197. For further information, please refer to the [Statutory Guidance on Part 6 \(Early Learning and Childcare\) of the Children and Young People \(Scotland\) Act 2014](#).

## Community learning and development

198. The Requirements for Community Learning and Development (Scotland) Regulations 2013 (issued under the section 2 of the Education (Scotland) Act 1980) place every local authority under a duty to prepare, consult on and publish a three-year plan for the provision of community learning and development (CLD) in the local area.<sup>33</sup> The first CLD plan had to be published by 1<sup>st</sup> September 2015, and subsequently each third year from the date of publication of the previous plan.
199. CLD refers to programmes with an explicit learning focus and other types of activity that are designed to promote educational and social development. Its objective is to secure improved life chances for people of all ages, including young people in particular, through learning, personal development and active citizenship. In this way CLD contributes to securing stronger, more resilient, supportive, influential and inclusive communities.
200. Accessible to both children, young people (including those who have left school) and adults, many CLD programmes are likely to fall within the scope of the Children's Services Plan. It will, therefore, be important, as noted above, that appropriate linkages are made between the CLD and children's services planning processes. In respect to the consultation duty specifically, the potential for some alignment clearly exists, with crossover in terms of the service users covered by both plans.
201. For further information on CLD, please refer to the [Strategic Guidance for Community Planning Partnerships: Community Learning and Development](#), and the [Requirements for Community Learning and Development \(Scotland\) Regulations 2013: Guidance for Local Authorities](#).

## Non-statutory plans

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<sup>33</sup> [Requirements for Community Learning and Development \(Scotland\) Regulations 2013](#), regulations 3 and 4

202. Local authorities and territorial health boards are party to a number of non-statutory planning requirements, set out across a variety of national strategies and agreements. These non-statutory requirements can cover key policy areas, including child protection, mental health advocacy, drug and alcohol services, and housing. For further information on these key non-statutory requirements, please see Appendix A.
203. As with statutory planning requirements, a Children's Services Plan could usefully articulate the relationship between itself and these other planning processes, as well as providing appropriate cross referencing and consistency of vision, priorities and objectives.

## APPENDIX A: FURTHER LEGISLATIVE AND POLICY CONTEXT

204. This appendix provides a summary of relevant legislation, policy, national strategies and Scottish Government programmes not referred to at length in the main body of the guidance. Every local authority and their relevant health board are encouraged to consider how these agendas are addressed in, or by, their Children's Services Plan. Web links to further information are included throughout.

### Joint inspections of children's services

205. At the request of Scottish Ministers, the Care Inspectorate leads on a programme of 'joint inspections' of services for children and young people across Scotland.<sup>34</sup> The inspection team is made up of inspectors from the Care Inspectorate, Education Scotland, Healthcare Improvement Scotland and Her Majesty's Inspectorate of Constabulary for Scotland.

206. These strategic inspections look at the difference services are making to the lives of children, young people and families, and how services and professionals are meeting their duties and responsibilities. They take account of the full range of work within a Community Planning Partnership, examining how well the different services are working together. The process is designed to provide the public with assurance about the quality of services provided to children, young people and families, and provide the Community Planning Partnership with guidance about where improvements are needed. Each inspection team includes specially-trained 'young inspectors', who speak to children and young people about their experiences of using services in the local area.

207. A framework of quality indicators was published by the Care Inspectorate in October 2012, as part of ['How well are we improving the lives of children,](#)

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<sup>34</sup> In the context of joint inspections, "children and young people" means people under the age of 18, or 26 if they have been looked after.

[young people and families? A guide to evaluating services for children and young people using quality indicators](#)'.<sup>35</sup>

## Child protection

208. Legislation places a variety of duties and responsibilities on services and organisations in respect to child protection in Scotland. These relate, primarily, to the investigation and response required in cases of (actual or potential) child abuse and/or neglect. However, at the time of this guidance's publication, the specific structures of collaboration and service-level planning for child protection (such as Child Protection Committees) are not prescribed in legislation. These structures and processes are instead set out in detailed national guidance.<sup>36</sup>
209. The [National Guidance for Child Protection in Scotland](#) (2014) emphasises the importance of planning by all relevant services. It states that "child protection planning should fit with the wider planning processes in the local area, showing how child protection is integral to wider economic and social objectives as expressed through community and integrated children services planning [...]".<sup>37</sup> While there is no statutory requirement to undertake a discreet 'child protection planning' process in a local area, the National Guidance is clear that Children's Services Plans should "include planned action to take forward improvements in services to protect children and meet their needs", and that it is through children's services planning that child protection planning should be linked in with wider local and national processes, such as Local Outcome Improvement Plans.<sup>38</sup>
210. Local planning and reporting arrangements for child protection are at the discretion of Chief Officers of Child Protection Committees, but the National Guidance recommends that every local Child Protection Committee produces

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<sup>35</sup> [<https://www.glasgowchildprotection.org.uk/CHttpHandler.ashx?id=18032&p=0>] Website accessed on 31 January 2016

<sup>36</sup> Scottish Government (2014) [National Guidance for Child Protection in Scotland 2014](#) [<http://www.gov.scot/Resource/0045/00450733.pdf>]

<sup>37</sup> Ibid, p. 67

<sup>38</sup> Scottish Government (2014) [National Guidance for Child Protection in Scotland 2014](#), p.67

an annual plan/report, outlining the activities of agencies working together to protect children. In those local areas where such a plan and/or report is produced, it is important that the process is fully integrated into the wider children's service planning framework. The child protection planning process should be seen as a component part of children's services planning, contributing to the local Children's Services Plan and annual progress report (as required under section 13 of the Act).

### **Self-directed support**

211. The [Social Care \(Self-direction Support\) \(Scotland\) Act 2013](#) (the "Social Care Act") is intended to support, promote and protect the human rights and independent living of care and support users in Scotland. It aims to ensure that care and support is delivered in a way that supports choice and control over one's own life, and which respects the person's right to participate in society.
212. The Social Care Act establishes new legal principles of collaboration, informed choice and involvement, to which a local authority must have regard to when assessing and providing support to adults, children/families, adult carers and young carers. The local authority is also under a duty to take reasonable steps to facilitate the person's dignity and participation in the life of the community; which parallels their obligation to promote the 'included' aspect of a child's wellbeing.
213. To facilitate greater choice and control over one's own care and support, the Social Care Act requires the local authority to offer four options to the support person: Option 1, a direct payment to the individual or their carer; Option 2, giving the individual (or their carer) the power to direct the available support; Option 3, services arranged for the person by the local authority; and Option 4, a mix of the first 3 options. The local authority is also under a duty to explain the nature and effect of the four options to all eligible people, and to signpost them to other sources of information and support (such as independent advocacy).

214. For further information on self-directed support, please refer to the Scottish Government (2014) [Statutory Guidance to accompany the Social Care \(Self-directed Support\) Act 2013](#).

## **National Care Standards**

215. The [National Care Standards](#) were developed by Scottish Ministers to help everyone understand what they have a right to expect when they access health and social care services.<sup>39</sup> They also help services understand and meet the quality and standards of care which they should provide. The Standards cover six key areas: dignity, privacy, choice, safety, realising potential, equality and diversity. They form an important part of the regulation and inspection of health and social care services.

216. Please note that, at the time of writing, the National Care Standards are under review. New standards are expected to be published, more closely aligned to the human rights and wellbeing principles which underpin the Children and Young People (Scotland) Act 2014, self-directed support, health and social care integration, and other policy agendas. For further information on the review of the care standards, please refer to the [relevant pages of the Scottish Government website](#).<sup>40</sup>

## **Community justice**

217. The [Community Justice \(Scotland\) Bill](#) (introduced into the Scottish Parliament in 2015) aims to establish a new model for community justice services, with local delivery, partnerships and collaboration at their heart, and with national arrangements to provide the profile, leadership and assurance which are missing from the current structure.

218. If enacted, this legislation would place responsibility for local planning and monitoring of community justice services with a defined set of Community

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<sup>39</sup> The National Care Standards were created under the [Regulation of Care \(Scotland\) Act 2001](#).

<sup>40</sup> [<http://www.gov.scot/Topics/Health/Support-Social-Care/Regulate/Standards/NCSreview>] Website accessed on 31 January 2016.

Justice Partners (including local authorities, health boards and others). These partners will be under duties to collaborate in preparing a strategic plan, and be accountable for delivering it. The community justice services to be delivered under this plan will be mainly focussed on adults, but there is likely to be an impact on children too, particularly where the recipient of a community justice service is a parent.

## **Carers**

219. The [Carers \(Scotland\) Bill](#) (introduced to the Scottish Parliament in March 2015) aims to ensure better and more consistent support for carers and young carers, so that they can continue to care, if they so wish, in better health and with a life alongside their caring responsibilities. If enacted, the legislation will require each local authority to prepare a Local Carer Strategy, setting out their activities to identify and meet the needs of carers (including specific reference to young carers). The local authority will also be required to: (a) identify a carers' needs through an adult carer support plan or young carer statement; (b) provide support to carers; (c) enable carer involvement in certain services; and (d) provide information and advice services for carers.

## **Mental health advocacy**

220. The [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) provides every person with a mental disorder with a right to independent advocacy. For the purposes of this legislation, independent advocacy is advocacy provided by persons other than a local authority or health board responsible providing services in the area where the patient is to receive care or treatment. The legislation places a duty on local authorities and the NHS to ensure that such independent advocacy services are available in their area. Guidance accompanying the legislation recommends that a 'Strategic Advocacy Plan' be developed in each local area, based on information gathered from a needs assessment, scoping exercises and consultations. These plans should outline the development and investment in advocacy over a minimum three-year

period. For further information, please refer to [Independent Advocacy: Guide for Commissioners](#) (2013).<sup>41</sup>

## **Realigning Children's Services<sup>42</sup>**

221. The Scottish Government's aims to ensure that all parts of Scotland have the right services for children. Services geared towards prevention, early engagement, tailored to local needs, joined up and holistic. It aims to deliver this through supporting collaborative and evidence based planning and delivery.

222. The [Realigning Children's Services programme](#) works with Community Planning Partnerships to support communities to make informed decisions about where to invest in order to improve the lives of children. It supports a joint strategic commissioning approach, providing tools and support with which Community Planning Partners can gather better evidence, develop staff skills, and facilitate discussions within local partnerships.

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<sup>41</sup> Scottish Government (2013) [Independent Advocacy: Guide for Commissioners](#) [<http://www.gov.scot/Resource/0044/00441045.pdf>]

<sup>42</sup> Scottish Government webpages on Realigning Children's Services are available at <http://www.gov.scot/Topics/People/Young-People/realigning-childrens-services>.

## APPENDIX B: PART 3 DUTIES BY PERSON(S) AND ORGANISATION

A local authority and relevant health board	For each three year period prepare a Children’s Services Plan for the local authority area (section 8)
	Give other service providers an effective opportunity to participate in, or contribute to the plan and any review or revision of the plan (sections 10(1)(a) and 11(2))
	Consult other organisations (section 10(1)(b))
	Provide copies of the Plan to Scottish Ministers and other service providers (section 10(7)(a))
	Publish the plan (section 10(7)(b))
	Keep the plan under review (section 11(1))
	Provide services in accordance with the plan (section 12(1))
	Publish an annual report (section 13(1))
	Comply with any directions by Scottish Ministers (section 16)
“Other service providers”	Participate in, and contribute to the preparation and review of the Plan (sections 10(5) and 11(2))
	If they disagree with the Plan, any review or revision of the Plan, to prepare and publish a notice of, and the reasons for the disagreement (section 10(8))
	Provide services in accordance with the plan (section 12(1))
	Meet reasonable requests for information, advice or assistance in relation to the Plan from a local authority or relevant health board (section 14)
	Comply with any directions by Scottish Ministers (section 16)
“Such organisations” as fall within section 10(2) and social landlords	Meet reasonable requests to participate or contribute to the preparation of a plan (section 10(6))
	Meet reasonable requests for information, advice or assistance in relation to the Plan from a local authority or relevant health board (section 14)

## APPENDIX C: STATUTORY PLANNING AND REPORTING REQUIREMENTS

<b>Children’s Services Planning</b>	
<b>Legislation</b>	Part 3, Children and Young People (Scotland) Act 2014
<b>Purpose</b>	<p>To improve the way services work together to support children, young people and families, by ensuring their planning and delivery is coordinated, and that there is a clear focus on wellbeing and improving outcomes. This will be done through:</p> <ul style="list-style-type: none"> <li>a) the preparation of a Children’s Services Plan (CSP), setting out how those bodies responsible for expenditure, planning and delivery of services will work together to improve the wellbeing of all children and young people in the local authority area; and</li> <li>b) annual reporting on the local area’s progress towards meeting the aims of the CSP.</li> </ul> <p>Children’s services planning should facilitate the implementation of the GIRFEC approach, and improve local services’ accountability for improving outcomes (through the production of relevant information on progress).</p>
<b>Public bodies responsible</b>	<ul style="list-style-type: none"> <li>a) A local authority</li> <li>b) Relevant health board</li> </ul>
<b>Other organisations and persons to be involved (at certain stages)</b>	<ul style="list-style-type: none"> <li>a) Scottish Ministers (but only in relation to a service provided by them in exercise of their functions under the Prisons (Scotland) Act 1989)</li> <li>b) Chief Constable of the Police Service of Scotland</li> <li>c) Scottish Fire and Rescue Service</li> <li>d) Principal Reporter</li> <li>e) National Convener of Children’s Hearings Scotland</li> <li>f) Scottish Courts and Tribunals Service</li> <li>g) An integration joint board established by order under section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014</li> <li>h) Social landlords</li> <li>i) Organisations (whether or not formally constituted) which: <ul style="list-style-type: none"> <li>i. represent the interests of persons who use, or are likely to use, any children’s service or related service in the area; and</li> <li>ii. provide a service in the area which, if that service were to be provided by the local authority, relevant health board or “other service provider”, would be considered a “children’s services” or “relevant service”.</li> </ul> </li> </ul>

<b>Scope of plan</b>	CSP to detail the provision of all “children’s services” and “related services” made available by the local authority, relevant health board and “other service providers” in the local authority area.
<b>Aims of plan</b>	<p>Each CSP is to be prepared with a view to securing a number of specific aims. Those aims are:</p> <p>a) that children’s services in area are provided in the way which -</p> <ol style="list-style-type: none"> <li>i. best safeguards, supports and promotes the wellbeing of children in the area concerned,</li> <li>ii. ensures that any action to meet needs is taken at the earliest appropriate time and that, where appropriate, action is taken to prevent needs arising,</li> <li>iii. is most integrated from the point of view of recipients, and</li> <li>iv. constitutes the best use of available resources; and</li> </ol> <p>b) that “related services” in the area are provided in a way which, so far as it is consistent with the objects and proper delivery of the services concerned, safeguards, supports and promotes the wellbeing of children.</p>
<b>Timespan of plan</b>	Each CSP to cover a three-year period; (the first CSP to cover April 2017 to March 2020).
<b>Review of plan</b>	A local authority and relevant health board must keep the CSP under review, and may, in consequence, revise it at any point.
<b>Reports</b>	A report to be published (in such manner as considered appropriate) as soon practicable after the end of each one-year period. (Each one-year period runs April to March; first report to cover the year April 2017 to March 2018.)
<b>Submit plan/reports/information to Scottish Ministers</b>	Yes. A copy of a CSP must be sent to Scottish Ministers.

<b>(Health and Social Care) Strategic Plans</b>	
<b>Legislation</b>	Part 1, Public Bodies (Joint Working) (Scotland) Act 2014
<b>Purpose</b>	To improve the quality and consistency of health and social care services in Scotland (in order to improve the wellbeing of service-users) through integration of certain local authority and health services. The legislation requires “integration authorities” to prepare and publish a strategic plan for the local authority area, setting out the arrangements for delivery of integrated functions (i.e. adult health and social care services), and how these will help meet the national health and wellbeing outcomes (as described by Scottish Ministers).
<b>Public bodies responsible</b>	The “integration authority”
<b>Other organisations and persons to be involved (at certain stages)</b>	<ul style="list-style-type: none"> <li>a) Such persons as the integration authority considers appropriate</li> <li>b) Such groups of persons as the Scottish Ministers may prescribe</li> <li>c) (Where a significant decision about a service is to be taken) users of the service which is being or may be provided</li> </ul>
<b>Scope of plan</b>	<p>An integration authority can include such material as it thinks fit, but it must set out:</p> <ul style="list-style-type: none"> <li>a) the arrangements for carrying out the integrated functions in the local authority area (which must, in turn, be divided into localities and the arrangements for each locality set out separately); and</li> <li>b) the way in which the arrangements for carrying out the integration functions will achieve (or contribute to achieving) the national health and wellbeing outcomes.</li> </ul>
<b>Aims of plan</b>	<p>None specified in legislation, but in preparing a plan an integration authority must have regard to:</p> <ul style="list-style-type: none"> <li>a) the integration delivery principles – <ul style="list-style-type: none"> <li>i. that the main purpose of services which are provided in pursuance of integration functions is to improve the wellbeing of service users;</li> <li>ii. that, insofar as consistent with the main purpose, those services should be provided in a way which, so far as possible, is: <ul style="list-style-type: none"> <li>➤ integrated from the point of view of service users,</li> <li>➤ takes account of the particular needs of different services users,</li> <li>➤ takes account of the particular needs of services users</li> </ul> </li> </ul> </li> </ul>

	<p>in different parts of the (local authority) area in which the service is being provided,</p> <ul style="list-style-type: none"> <li>➤ takes account of the particular characteristics and circumstances of different service users,</li> <li>➤ respects the rights of service users,</li> <li>➤ takes account of the dignity of service users, and</li> <li>➤ takes account of the participation by service users in the community in which service-users live,</li> <li>➤ Protects and improves the safety of service users,</li> <li>➤ improves the quality of the service,</li> <li>➤ is planned and led locally in a way which is engaged with the community (including in particular service users, those who look after service users and those who are involved in the provision of health or social care),</li> <li>➤ best anticipates needs and prevents them arising, and</li> <li>➤ makes the best use of the available facilities, people and other resources; and</li> </ul> <p>b) the national health and wellbeing outcomes –</p> <ol style="list-style-type: none"> <li>1) People are able to look after and improve their own health and wellbeing and live in good health for longer.</li> <li>2) People, including those with disabilities or long term conditions, or who are frail, are able to live, as far as reasonably practicable, independently and at home or in a homely setting in their community.</li> <li>3) People who use health and social care services have positive experiences of those services, and have their dignity respected.</li> <li>4) Health and social care services are centred on helping to maintain or improve the quality of life of people who use those services.</li> <li>5) Health and social care services contribute to reducing health inequalities.</li> <li>6) People who provide unpaid care are supported to look after their own health and wellbeing, including to reduce any negative impact of their caring role on their own health and wellbeing.</li> <li>7) People who use health and social care services are</li> </ol>
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	<p>safe from harm.</p> <p>8) People who work in health and social care services feel engaged with the work they do and are supported to continuously improve the information, support, care and treatment they provide.</p> <p>9) Resources are used effectively and efficiently in the provision of health and social care services.</p>
<b>Timespan of plan</b>	Strategic Plans must cover a period of at least three years.
<b>Review of plan</b>	An integration authority must carry out a review of its strategic plan at least every three years.
<b>Reports</b>	<p>An integration authority must prepare and publish an annual financial statement detailing the total resources which the integration authority intends to allocate under the provisions of its strategic plan. (The year begins from the date at which functions were delegated.)</p> <p>An integration authority must prepare and publish, within four months of the end of the reporting year, an annual performance report which details the performance of the integrated authority in carrying out the integrated functions. (The reporting year is a period of one year starting on the date that integration functions were delegated.)</p>
<b>Submit reports/information to Scottish Ministers</b>	No (not required under legislation)

<b>Community Planning</b>	
<b>Legislation</b>	Part 2, Community Empowerment (Scotland) Act 2015
<b>Purpose</b>	<p>To improve the achievement of outcomes resulting from, or contributed to by, the provision of services delivered by or on behalf of the local authority and other “community planning partners”. It places specific duties on CPPs around improving locally prioritised outcomes and acting with a view to reducing inequalities of outcome across communities within the area of the CPP. It does this by:</p> <p>a) establishing “community planning partnerships” on a statutory basis;</p> <p>b) requiring CPP to identify local outcomes for improvement (which must be consistent with the National Outcomes set by Scottish Ministers); and</p> <p>c) placing duties on the relevant “community planner partners” to</p>

	cooperate in the planning and delivery of local outcomes (including the development and publishing of a local outcomes improvement plan).
<b>Public bodies responsible</b>	<ul style="list-style-type: none"> <li>a) Relevant local authority</li> <li>b) Relevant health board (whose area includes, or is the same as, the local authority)</li> <li>c) Regional college (which is situated in the area of the local authority)</li> <li>d) Highlands and Islands Enterprise (where relevant)</li> <li>e) Historic Environment Scotland</li> <li>f) Any “integration joint board” to which functions of the local authority and health board are delegated</li> <li>g) A National Park authority (if relevant)</li> <li>h) A regional strategic body specified in schedule 2A of the Further and Higher Education (Scotland) Act 2005 (if relevant)</li> <li>i) Scottish Enterprise</li> <li>j) Scottish Environment Protection Agency</li> <li>k) Scottish Fire and Rescue</li> <li>l) Scottish Natural Heritage</li> <li>m) Scottish Sports Council (Sports Scotland)</li> <li>n) Skills Development Scotland</li> <li>o) A regional Transport Partnership (whose area includes, or is the same as, the local authority)</li> <li>p) VisitScotland</li> <li>q) Chief Constable of the Police Service of Scotland</li> </ul>
<b>Other organisations and persons to be involved (at certain stages)</b>	<p>The Community Empowerment (Scotland) Act 2015 places communities at the heart of community planning, with CPPs required to take all reasonable steps to secure the participation of any community body which it considers likely to be able to contribute to community planning to the extent that those bodies wish to do so with a particular regard to those representing the interests of persons experiencing socio economic disadvantage.</p> <p>Further the Act places duties on partners to contribute such funds staff and other resources to secure the participation of such community bodies.</p>
<b>Scope of plan</b>	All services delivered by, or on behalf of, the CPP. The plan will provide a description of the needs and circumstances of persons residing in the area of the CPP, a description of the improvement in local outcomes that is sought, and the timeframe for achieving the improvement.
<b>Aims of plan</b>	The improvement in the achievement of local outcomes, as identified by the CPP in consultation with community bodies and representatives. (These local outcomes must be consistent with the National Outcomes set by Scottish Ministers.)

	Reducing inequalities of outcome which result from socio-economic disadvantage (without precluding actions which improve outcomes but which do not, of themselves, reduce inequalities of outcomes which result from socio-economic disadvantage).
<b>Timespan of plan</b>	The legislation does not specify a timespan for the local outcomes improvement plan. (The timespan for the plan is at the discretion of CPPs.)
<b>Review of plan</b>	CPPs must monitor progress in improving the achievement of the outcomes specified in the plan, and keep the plan under review to determine whether it is still fit for purpose. (Any revised plan must be published.)
<b>Reports</b>	Each CPP must prepare and publish an annual report of progress, setting out: (a) its assessment of whether there has been any improvement in the achievement of the outcomes specified in their plan; (b) the extent to which the CPP has participated with community bodies; and (c) the extent to which that participation has been effective in contributing to community planning.  The reporting year runs from 1 April to 31 March.
<b>Submit reports/information to Scottish Ministers</b>	No.

<b>Children's Rights</b>	
<b>Legislation</b>	Part 1, Children and Young People (Scotland) Act 2014
<b>Purpose</b>	To reflect the role of the United National Convention on the Rights of the Child (UNCRC) in influencing the design and delivery of policies and services in Scotland.
<b>Public bodies responsible</b>	<ul style="list-style-type: none"> <li>a) A local authority</li> <li>b) Children's Hearings Scotland</li> <li>c) Scottish Children's Reporter Administration</li> <li>d) A health board</li> <li>e) A "special health board" (A board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978)</li> <li>f) Healthcare Improvement Scotland</li> <li>g) Scottish Qualifications Authority</li> <li>h) Skills Development Scotland</li> <li>i) Social Care and Social Work Improvement Scotland (Care Inspectorate)</li> <li>j) Scottish Social Services Council</li> </ul>

	<p>k) Scottish Sports Council (SportScotland)</p> <p>l) Chief Constable of the Police Service of Scotland</p> <p>m) Scottish Police Authority</p> <p>n) Scottish Fire and Rescue Service</p> <p>o) Scottish Legal Aid Board</p> <p>p) Mental Welfare Commission for Scotland</p> <p>q) Scottish Housing Regulator</p> <p>r) Bord na Gaidhlig</p> <p>s) Creative Scotland</p>
<b>Other organisations and persons to be involved (at certain stages)</b>	N/A
<b>Scope of plan</b>	N/A (No plan required)
<b>Aims of plan</b>	N/A (No plan required)
<b>Time span of plan</b>	N/A (No plan required)
<b>Review of plan</b>	N/A (No plan required)
<b>Reports</b>	<p>As soon as practicable after the end of each three-year period, the relevant public bodies (listed above) must publish, in such a manner as they consider appropriate, a report on what steps they have taken in that period to secure better, or further effect within its areas of responsibility, the UNCRC requirements.</p> <p>Two or more of the public bodies (listed above) may publish a report jointly.</p>
<b>Submit reports/information to Scottish Ministers</b>	No. (However, every three years Scottish Ministers must lay before the Scottish Parliament a report detailing what steps they have taken to secure better, or give further to, the UNCRC in Scotland, and their plans for the next three years; to inform this process Scottish Ministers may use the children's rights reports of public bodies.)

<b>Early learning and childcare plans</b>	
<b>Legislation</b>	Section 50, Part 6, Children and Young People (Scotland) Act 2014
<b>Purpose</b>	To make clear the education authority's plans for securing "early learning and childcare" (a service, consisting of education and care, suitable in the ordinary case for children who are under school age) for all eligible children in the local area.
<b>Public bodies responsible</b>	An education authority

<b>Other organisations and persons to be involved (at certain stages)</b>	Such persons as appear to be representative of parents of children under school age.
<b>Scope of plan</b>	Early learning and childcare services (within the parameters set out in Part 6 of the Act) for all eligible children.
<b>Aims of plan</b>	None specified in legislation.
<b>Time span of plan</b>	Maximum of two years. (An education authority must consult, and then prepare and publish a plan, at least once every two years.)
<b>Review of plan</b>	At least once every two years.
<b>Reports</b>	No report required.
<b>Submit reports/information to Scottish Ministers</b>	No

<b>Corporate Parenting plans and reports</b>	
<b>Legislation</b>	Part 9, Children and Young People (Scotland) Act 2014
<b>Purpose</b>	<p>Through the plan, detail how corporate parents (either singularly or in partnership with other corporate parents) will fulfil their “responsibilities” (section 58 of the Act), and other corporate parenting duties, towards eligible children and young people (looked after children and care leavers).</p> <p>Through the report, evidence how corporate parents (either singularly or in partnership with other corporate parents) have fulfilled their “responsibilities” (section 58 of the Act) and other corporate parenting duties.</p>
<b>Public bodies responsible</b>	<ul style="list-style-type: none"> <li>a) Scottish Ministers</li> <li>b) A local authority</li> <li>c) National Convener of Children’s Hearings Scotland</li> <li>d) Children’s Hearings Scotland</li> <li>e) The Principal Reporter</li> <li>f) Scottish Children’s Reporters Administration</li> <li>g) A health board</li> <li>h) A “special health board” (A board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978)</li> <li>i) Healthcare Improvement Scotland</li> <li>j) Scottish Qualifications Authority</li> <li>k) Skills Development Scotland</li> </ul>

	<ul style="list-style-type: none"> <li>l) Social Care and Social Work Improvement Scotland (Care Inspectorate)</li> <li>m) Scottish Social Services Council</li> <li>n) Scottish Sports Council (SportScotland)</li> <li>o) Chief Constable of the Police Service of Scotland</li> <li>p) Scottish Police Authority</li> <li>q) Scottish Fire and Rescue Service</li> <li>r) Scottish Legal Aid Board</li> <li>s) Commissioner for Children and Young People and Scotland</li> <li>t) Mental Welfare Commission for Scotland</li> <li>u) Scottish Housing Regulator</li> <li>v) Bord na Gaidhlig</li> <li>w) Creative Scotland</li> <li>x) A body which as “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005</li> </ul>
<b>Other organisations and persons to be involved (at certain stages)</b>	<ul style="list-style-type: none"> <li>a) Other corporate parents</li> <li>b) Such other persons as it (the corporate parent) considers appropriate</li> </ul>
<b>Scope of plan</b>	<p>The plan must detail how the corporate parent will exercise their corporate parenting duties towards eligible children and young people.</p> <p>It can be published in any such manner as the corporate parent considers appropriate, including together with, or as part of, any other plan or document.</p>
<b>Aims of plan</b>	<p>No specific aims or outcomes are specified in legislation. However, every corporate parenting plan must show how they will fulfil the corporate parenting duties. In summary, these are:</p> <ul style="list-style-type: none"> <li>1) corporate parenting responsibilities – <ul style="list-style-type: none"> <li>a) to be alert to matters which, or which might, adversely affect the wellbeing of looked after children and care leavers,</li> <li>b) to assess the needs of those children and young people for services and support it provides,</li> <li>c) to promote the interests of those children and young people.</li> <li>d) to seek to provide those children and young people with opportunities to participate in activities designed to promote their wellbeing, and</li> <li>e) to take such actions as it considers appropriate to help those children and young people to –</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>i. access opportunities it provides in pursuit of d) above, and</li> <li>ii. make such use of services, and access support, which it provides;</li> </ul> <ul style="list-style-type: none"> <li>2) preparing, publishing and keeping under review a plan;</li> <li>3) collaboration with other corporate parents;</li> <li>4) preparing and publishing a report; and</li> <li>5) providing information to Scottish Ministers.</li> </ul>
<b>Timespan of plan</b>	None specified in legislation
<b>Review of plan</b>	Corporate parents must keep their plan under review.
<b>Reports</b>	<p>Every corporate must report (either singularly or in partnership with other corporate parents) on how they have exercised their corporate parenting duties. Reports may also include information on standards of performance and outcomes achieved.</p> <p>Although no time-frame for the publication of reports is specified in the legislation, the accompanying statutory guidance recommends publication at least once every three years. This is to align corporate parenting reporting with Scottish Ministers reporting (see below). The period of three years runs from 1 April 2015 to 31 March 2018.</p>
<b>Submit reports/information to Scottish Ministers</b>	<p>Every corporate parent is under a duty to provide Scottish Ministers with such information as they may reasonably require about how they (the corporate parent) are exercising their corporate parenting duties, their standards of performance, and outcomes achieved.</p> <p>Furthermore, every three years Scottish Ministers must lay before the Scottish Parliament a report on how they have exercised their corporate parenting responsibilities during that period; Scottish Ministers may use corporate parent's reports to inform this process.</p>

<b>Adoption service plans</b>	
<b>Legislation</b>	Section 4, Part 1, Adoption and Children (Scotland) Act 2007
<b>Purpose</b>	To outline how each local authority will provide an "adoption service" (see Scope of Plan for further details).
<b>Public bodies responsible</b>	A local authority
<b>Other organisations and persons to be</b>	a) Each health board which provides services in the area of the local authority.

<p><b>involved (at certain stages)</b></p>	<ul style="list-style-type: none"> <li>b) Such voluntary organisations as appear to the local authority to represent the interests of person who use, or are likely to use, the adoption service in the area.</li> <li>c) Such voluntary organisations as appear to the local authority to provide services which, were they to be provided by the authority, might be an adoption service.</li> <li>d) Such other persons as may be prescribed by Scottish Ministers.</li> </ul>
<p><b>Scope of plan</b></p>	<p>Services which meet the needs, in relation to adoption, of:</p> <ul style="list-style-type: none"> <li>a) children who may be adopted;</li> <li>b) persons who have been adopted;</li> <li>c) parents and guardians of children who may be adopted;</li> <li>d) national parents of persons who have been adopted;</li> <li>e) persons who, before the placing of a child for adoption or the adoption of a child, treated the child as their child;</li> <li>f) siblings (whether of the whole-blood or half-blood), natural grandparents and former guardians of children who may be adopted, or persons who have been adopted;</li> <li>g) persons who may adopt a child;</li> <li>h) persons who have adopted a child;</li> <li>i) In relation to persons mentioned in paragraph (g) or (h), children of, or children treated as children of, such persons; and</li> <li>j) any persons who are – <ul style="list-style-type: none"> <li>i. affected by the placing, or proposed placing, of a child for adoption, or</li> <li>ii. affected by an adoption.</li> </ul> </li> </ul> <p>An adoption service includes services consisting of, or including:</p> <ul style="list-style-type: none"> <li>a) arrangements for assessing children who may be adopted</li> <li>b) arrangements for assessing prospective adopters;</li> <li>c) arrangements for placing children for adoption;</li> <li>d) the provision of information about adoption to any of the persons mentioned in the list above; and</li> <li>e) “adoption support services” – <ul style="list-style-type: none"> <li>i. counselling to any persons mentioned in the list above,</li> <li>ii. guidance about adoption to such persons, and</li> <li>iii. any other assistance in relation to the adoption process that the local authority considers appropriate in a particular case.</li> </ul> </li> </ul> <p>The adoption service plan may be published as part of a Children’s Services Plan (which replace local authority plans for services for children).</p>

<b>Aims of plan</b>	None specified in legislation
<b>Timespan of plan</b>	-
<b>Review of plan</b>	Each local authority must, from time to time, review the plan.
<b>Reports</b>	No report required
<b>Submit reports/information to Scottish Ministers</b>	Yes

<b>Community Learning and Development</b>	
<b>Legislation</b>	The Requirements for Community Learning and Development (Scotland) Regulations 2013
<b>Purpose</b>	<ul style="list-style-type: none"> <li>• To ensure communities across Scotland – particularly those who are disadvantaged – have access to the CLD support they need.</li> <li>• To strengthen coordination between the full range of CLD providers, ensuring that CPPs respond appropriately to the expectations set by the CLD Strategic Guidance</li> <li>• To reinforce the role of communities and learners in the assessment, planning and evaluation processes.</li> <li>• To make the role and contribution of CLD more visible.</li> </ul>
<b>Public bodies responsible</b>	Local authority (referred to in the regulations as the ‘education authority’)
<b>Other organisations and persons to be involved (at certain stages)</b>	Other persons who provide community learning and development within the area of the local authority.
<b>Scope of plan</b>	Community learning and development services in the local area.
<b>Aims of plan</b>	None specified in legislation.
<b>Timespan of plan</b>	Three years
<b>Review of plan</b>	-
<b>Reports</b>	No report required
<b>Submit reports/information to Scottish Ministers</b>	No

## APPENDIX D: FURTHER INFORMATION AND GUIDANCE

223. For further information and guidance on strategic planning and community engagement, please refer to the resources listed below:

Joint Improvement Team, Scottish Social Services Council, NHS Education for Scotland (2014) [Strategic Commissioning \(Online Learning Tool\)](http://learningzone.workforcesolutions.sssc.uk.com/mod/page/view.php?id=560)  
[http://learningzone.workforcesolutions.sssc.uk.com/mod/page/view.php?id=560]

Scottish Community Development Centre (2005) [National Standards for Community Engagement: Support Materials](http://www.scdc.org.uk/what/national-standards/support-materials/)  
[http://www.scdc.org.uk/what/national-standards/support-materials/]

Improvement Service (2015) [Support for Councils](http://www.improvementservice.org.uk/support-for-councils.html)  
[http://www.improvementservice.org.uk/support-for-councils.html] & [Support for Community Planning Partnerships](http://www.improvementservice.org.uk/support-for-community-planning-partnerships.html)  
[http://www.improvementservice.org.uk/support-for-community-planning-partnerships.html]

Social Work Inspection Agency (2009) [Guide to strategic commissioning: taking a closer look at strategic commissioning in social work services](http://www.gov.scot/Publications/2009/09/17112552/0)  
[http://www.gov.scot/Publications/2009/09/17112552/0]

Alliance (2014) [ALISS \(A Local Information System for Scotland\)](https://www.aliss.org/)  
[https://www.aliss.org/]

Scottish Government (2013) [Doran Review implementation](http://www.gov.scot/Topics/Education/DoranReview)  
[http://www.gov.scot/Topics/Education/DoranReview]

Joint Improvement Team (2016) [Commissioning](http://www.jitscotland.org.uk/action-areas/commissioning/)  
[http://www.jitscotland.org.uk/action-areas/commissioning/]

Community Places (2012) [Community Planning Toolkit](http://www.communityplanningtoolkit.org/) (England)  
[http://www.communityplanningtoolkit.org/]

National Institute for Health and Clinical Excellence (2008) [Community Engagement](http://www.nice.org.uk/guidance/ph9) [http://www.nice.org.uk/guidance/ph9]

National Audit Office (2011) [Successful Commissioning Guidance](https://www.nao.org.uk/successful-commissioning/)  
[https://www.nao.org.uk/successful-commissioning/]

[Scottish Family Information Service](https://www.scottishfamilies.gov.uk/Home.aspx?)  
[https://www.scottishfamilies.gov.uk/Home.aspx?]



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