

Introducing CRWIA

A twenty-minute training tool
Start course

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Purpose of training

Part one – Rights

Gaining an understanding of children's rights, rights frameworks (e.g. UNCRC) and rights-based legislation (e.g. the Children and Young People (Scotland) Act 2014).

A **'prior knowledge' prompt** helps pre-empt the next topic, for those able to skip ahead.

Part two – CRWIA itself

Introducing Child Rights and Wellbeing Impact Assessment (CRWIA) as a policy 'approach' to help us better consider how to support children in experiencing their rights.

Part two also summarises how CRWIA is used as a 'process' and a 'published output' for improvement planning of policies, measures and legislation.

'Prior knowledge' prompt

Which Scottish legislation is children's rights-based?



Article 13: You should be able to express yourself freely, while respecting other people's rights

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Introduction

We want Scotland to be the best place in the world for a child to grow up, with opportunities for all in Scotland to flourish. An integral part of our vision is the recognition of, respect for and promotion of children's human rights.

The [UN Convention on the Rights of the Child](#) (UNCRC) is the internationally mandated children's rights framework that informs our strategies and programmes.

Part 1 of the [Children and Young People \(Scotland\) Act 2014](#) embeds UNCRC rights in Scottish legislation and places children's rights duties on Scottish Ministers and public authorities.

'Prior knowledge' prompt

What do 'rights' really mean?



Article 27

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What are 'human rights'?

Human rights 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. Human rights are:

- universal
- inalienable (not taken/given away)
- indivisible
- interdependent (loss of one impacts all).

Everyone, including children, has these rights, no matter what their circumstances. Under international law, States/Governments are obliged to respect, protect and fulfil human rights.

'Prior knowledge' prompt

Which commitment on human rights became the foundation for international human rights law? Do any of the nine core international human rights instruments/treaties spring to mind?

Howz it goin'?

aap kiaseh hain?

Ote kwana!



Article 30: You should be able to use your own language and enjoy the culture of your community in Scotland

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International human rights instruments

The [Universal Declaration of Human Rights](#) is the foundation for international human rights law. It was adopted by the UN General Assembly in 1948 to provide common human rights standards for all peoples and nations in a post-war world.

From this arose [nine core international human rights instruments](#) or treaties, including the [UN Convention on the Rights of the Child \(UNCRC\)](#). The UNCRC duplicates some of the rights found in other international instruments. This is because the UNCRC affirms and articulates the significance of these rights for children and young people. The [UN Committee on the Rights of the Child](#) monitors the implementation of the UNCRC.



Article 42

‘Prior knowledge’ prompt

Can you recall equivalent European rights mechanisms?

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Human rights mechanisms in Europe

The [European Convention on Human Rights](#) (ECHR) - drafted by the Council of Europe in 1950 and in force from 1953 - was the first regional agreement for the protection of human rights. The primary focus of the ECHR is on political and civil rights.

This is complemented by the [European Social Charter](#) which sets out economic, social and cultural rights - what the Council of Europe calls 'the rights of every day', many of which are of importance to children and young people, including the right to housing, health, education, and legal and social protection.

In 2009, the European Union adopted the [EU Charter of Fundamental Rights](#) which is legally binding on EU members through the Treaty of Lisbon. The EU Charter brings together ECHR rights, rights found in Court of Justice case law, and rights and principles from international treaties and the common constitutional traditions of EU countries.

'Prior knowledge' prompt

Which human rights bodies are based in Scotland?



Article 35

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Human rights in Scotland

The ECHR has been incorporated into UK domestic law through the [Human Rights Act \(HRA\) 1998](#). It has been applied in a series of legal cases affecting children and young people, a growing number of which refer to Articles of the UNCRC.

There is a reporting cycle for Scottish commitments to the various UN and European human rights monitoring Committees (as part of the UK-wide reports). To inform our human rights approaches, we can seek advice from two public bodies based in Scotland:

1. The [Scottish Human Rights Commission \(SHRC\)](#) works on legal, policy and practice issues that affect people's human rights in Scotland.
2. The [Equality and Human Rights Commission \(EHRC\)](#) in Scotland works closely with the SHRC.

'Prior knowledge' prompt

Why do we need separate 'children's' rights to 'human' rights?



Article 40: Young people accused of crimes should be helped through the legal process, which should take account of the young person's needs

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What are children's rights and what is the UNCRC?

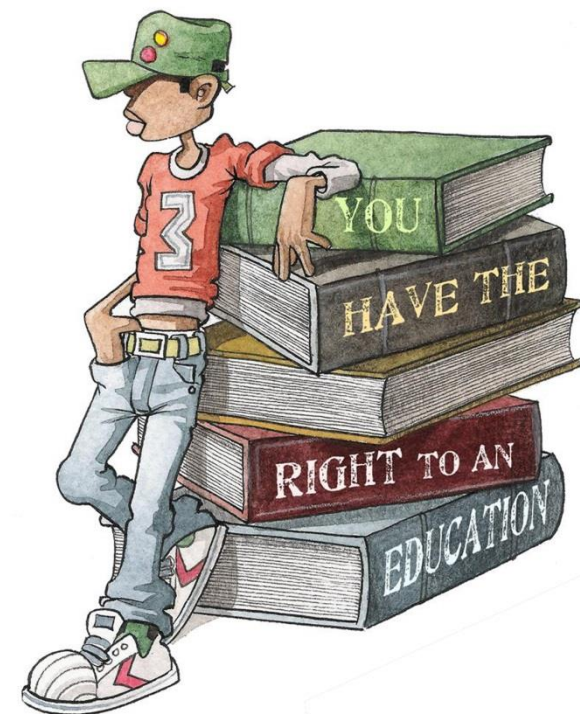
All children have the same rights as adults under human rights treaties but only the [United Nations Convention on the Rights of the Child \(UNCRC\)](#) articulates these rights within the framework of children's lives and experiences. Governments are expected to do all they can to implement the UNCRC.

Children and young people require special attention in respect of their rights because of their particular vulnerabilities and their reliance on adults. Even though they are autonomous rights holders, children and young people are dependent on others to give effect to their rights.

Children's rights cover every aspect of life from birth up to the age of 18, and exist wherever the child is: at home, at school, in any institution, and in the community. They recognise that children are key actors in their own development.

'Prior knowledge' prompt

Have you come across particular articles of the UNCRC?



Article 28

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How does the UNCRC work?

There are four **general principles** of the **UNCRC**:

- apply rights without discrimination (Article 2)
- the best interests of the child to be a primary consideration (Article 3)
- the right to life, survival and development (Article 6), and
- the right to express a view and have that view taken into account (Article 12).

Children's rights are inextricably linked with the rights of parents and carers, whose important role in children's lives is recognised throughout.

However, Article 5 of the UNCRC introduces the concept of a child's '**evolving capacities**' as they grow older, to exercise rights on their own behalf.

It also provides children with a series of **individual rights** - such as to a name and nationality, to education, to health, to play and recreation, and to an adequate standard of living - alongside additional rights for specific groups of children, such as disabled children, children who have been exploited or mistreated, refugee and migrant children, children in custody, or children in care.

'Prior knowledge' prompt

Who is Scotland's Independent Commissioner for Children and Young People and what is their role?



Article 1: Rights for everyone under 18

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Children's rights and the Scottish Government

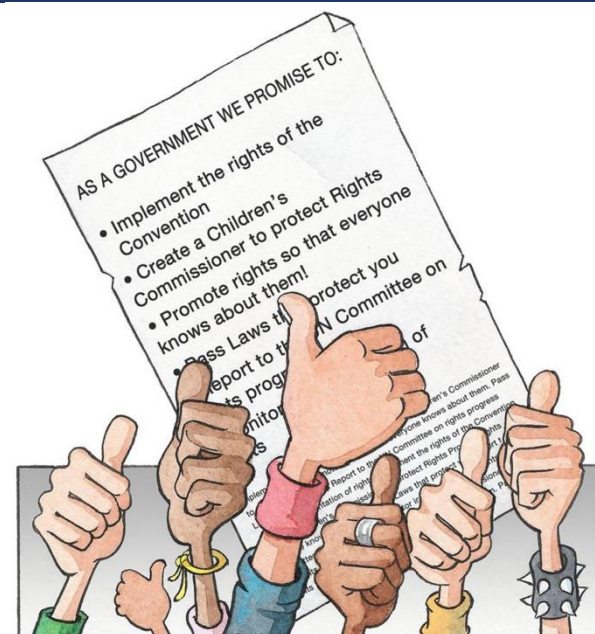
The Scottish Government was last examined by the [UN Committee on the Rights of the Child in 2016](#), as part of UK reporting. Our report, [Progressing the Human Rights of Children in Scotland: 2018](#) sets out the progress made in relation to children's rights since June 2015. To accompany the report, our [action plan for 2018-2021](#) sets out our ambition to deliver the building blocks and the foundations that help children and young people to experience their rights.

Scotland created an independent [Commissioner for Children and Young People \(CYPCS\)](#) in 2004 - to promote and safeguard the rights of children, with particular emphasis on the UNCRC. Scotland's current Commissioner is Bruce Adamson.

New powers of investigation into rights issues commenced in 2017. Meanwhile the '7 Golden Rules for Participation' are a set of principles that can help anyone working with – and for – children and young people.

'Prior knowledge' prompt

How are UNCRC rights formally embedded within Scottish Legislation?



Article 4: The Government has promised to make rights a reality for all young people

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The Children and Young People (Scotland) Act 2014

The 2014 Act places in statute key elements of [Getting It Right for Every Child](#). GIRFEC is Scotland's national approach to improving the wellbeing of children and young people, and was built up from the UNCRC. Amongst its most important principles are:

- putting the best interests of the child at the heart of decision-making
- taking a holistic approach to the wellbeing of a child

The 2014 Act is an example of so-called 'rights-based' legislation and is a milestone for children's rights in Scotland. Under [Section 1\(1\)](#) our Ministers have a duty to:

- give better or further effect to the requirements of the UNCRC
- take account of the relevant views of children of which they are aware
- promote public awareness and understanding of the rights of children

The **Child Rights and Wellbeing Impact Assessment (CRWIA)** helps fulfill the existing UNCRC and Ministerial duties under the 2014 Act.

'Prior knowledge' prompt

Both 'rights' and 'wellbeing'? Why are we using two different frameworks in developing our children's policies and measures in Scotland?



Article 19: You have the right to be protected from abuse or neglect by parents or carers

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Linking of 'rights' and 'wellbeing' in the 2014 Act

The 2014 Act uses eight **indicators of wellbeing** - Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, Included (sometimes known by the acronym **SHANARRI**).

While children's rights and child wellbeing are two discrete concepts, they are intrinsically linked. 'Wellbeing' is a measure of the quality of a child's life. 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. **Child Rights and Wellbeing Impact Assessments (CRWIAs)** utilise each of these frameworks to assess the potential impact of a policy/measure on children and young people's rights and wellbeing in Scotland.

End of Part one

Continue to Part two



Article 23: If you are disabled you have the right to special care and education and to be included in the community

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What is the Child Rights and Wellbeing Impact Assessment (CRWIA)?

CRWIA is a purpose built policy and legislation impact assessment (IA) originally developed for use by Scottish Government officials (but can also be used by external organisations). It was launched on 15 June 2015 as part of the implementation strategy for Ministerial duties under Part 1 of the Children and Young People (Scotland) Act 2014.

CRWIA covers individual children, groups of children, and all children up to age 18. It has been developed as an approach, a tool and a published output. It is intended to help us champion the interests of children, as well as challenge us to think about what more we can do to place children and young people at the centre of our policies.



Article 41: Where our laws give young people more rights, we should stick with them

‘Prior knowledge’ prompt

Which children’s issues might a CRWIA cover that an EQIA might not?

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Why do we need CRWIAs?

Ministers committed to CRWIAs as a means of delivering their children's rights duties under the **2014 Act** which embeds UNCRC rights in Scottish legislation.

The reach of the UNCRC is far wider than Equalities legislation although some categories of individuals may be covered by both, for example those with protected characteristics under the **Equality Act 2010**: disability, race, religion or belief, sex, sexual orientation.

The UNCRC considers all individual children or groups of children, for example by age band or setting, or those who are eligible for special protection or assistance, e.g. pre-school children, children with additional support needs, children in hospital, children in rural areas, looked after children (children in care), young people who offend, children affected by violence, drugs or alcohol, poverty or deprivation, homelessness, victims of abuse or exploitation (trafficking, economic or sexual), child asylum-seekers or refugees.

'Prior knowledge' prompt

When can CRWIA help with improvement planning?



Article 33: You have the right to protection from illegal drugs

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When to use the CRWIA?

As soon as possible in the policy cycle, to challenge ourselves to:

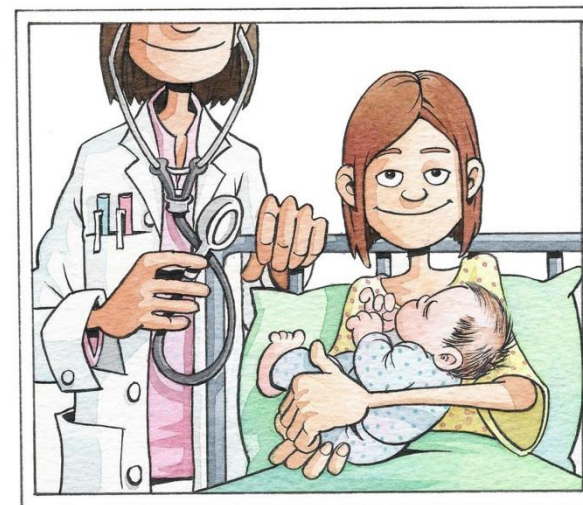
- think as widely as possible about our policy's impact on children
- find out the views and experiences of children themselves
- use available opportunities to improve children's wellbeing outcomes
- champion the interests of children, and place them at the centre of relevant policies

At its best this kind of IA should be a catalyst for improvement planning, for example by

- leading to increased dialogue
- more joined up approaches across policy areas
- greater anticipatory and preventative thinking.

'Prior knowledge' prompt

How similar is the CRWIA process to that used for EQIA?



Article 6: Children and young people have a right to survive and develop and the Government should give as much help as is needed

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How? The three-stage CRWIA process

The Child Rights and Participation Team has developed [guidance](#) for the preparation of CRWIAs, and a **flowchart** summarises when the three templates are used.

The majority of policies across the Scottish Government have either a **direct or indirect impact** on the rights and wellbeing of children and young people and this means that teams will be expected to prepare an initial CRWIA screening sheet (Stage 1) to determine whether a partial or full CRWIA is required.

Often impact of policies is not immediately obvious, for example where there is a **differential impact** (for example between non/disabled children). When groups of children and young people are affected - some adversely - the CRWIA should list options for modification or mitigation of the proposals. If this happens and you are **mid-way through a Bill/SSI** you could think about using a Policy Note to state any intention to build in a review mechanism as a later stage.

'Prior knowledge' prompt

How do we undertake joint IAs?



Article 24: You should get the best health care possible

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Where are CRWIAs published?

CRWIA publishing arrangements are similar to that in place for [EQIA](#). Stage 1 (screening) and Stage 3 (final) [CRWIA templates](#) are published on the [SG website](#). CRWIAs can be undertaken as part of a joint impact assessment (for example with an **EQIA**), provided that there is cross-referencing of issues relevant to each impact assessment, and that outputs are published separately.

All IAs require you to discuss your work carefully with your policy/legal/analysts team and line management. While they provide a systematic basis for making decisions, they are neither scientific nor totally objective. Children's rights and wellbeing cover every aspect of a child's life and, as such, CRWIAs will reflect the value judgments of the participants in the process. The most important thing is to make sure you evidence your thinking and the decisions you are making.

'Prior knowledge' prompt

Who signs off Stage 1 and Stage 3 CRWIAs?



Article 3: Anyone making decisions that affect young people should make young people's interests a priority

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Who can help? – SG Only

Your Deputy Director will be required to sign both the Screening and Final CRWIA templates.

All IAs require you to discuss your work carefully with your policy/legal/analysts team and line management. While they provide a systematic basis for making decisions, they are neither scientific nor totally objective. Children's rights and wellbeing cover every aspect of a child's life and, as such, CRWIAs will reflect the value judgments of the participants in the process. The most important thing is to make sure you evidence your thinking and the decisions you are making.

The [Children's Rights and Participation Team](#) will be able to offer general advice on the CRWIA process itself. We have responsibilities for co-ordinating the preparation of the 3 yearly reports to the Scottish Parliament provided for by Part 1 of the Children and Young People (Scotland) Act 2014) and for Scottish Government input into the UNCRC reporting cycle Published CRWIAs will assist with this.

'Prior knowledge' prompt

Who can help us find out about young people's views/experiences?



Article 5: Parents' rights to advise and guide you change as you grow up

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- [Why do we need it?](#)
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[Thank you](#)

Involving children and young people in policy and service development

Under Article 12 of the UNCRC, every child has the right to be heard in matters affecting them and to participate in the life of their family, community and society. The Children and Young People (Scotland) Act 2014 embeds this child's right in primary legislation, and places requirements on Scottish Ministers in relation to policy and service development and services planning to:

- *take such account as they consider appropriate of any relevant views of children of which the Scottish Ministers are aware (Section 1(2))*
- *take such steps as they consider appropriate to obtain the views of children to inform their plans for the next three years (Section 1(6)).*

The Ministerial duty is supplemented by a Scottish Government expectation that, where children and young people's views are not known on a matter that is likely to have an impact on them, steps should be taken to obtain their views. [Non-statutory guidance](#) on Part 1 of the Act explains in more detail rights based duties and expectations in relation to public bodies, including engagement with children and young people.

Further information on engagement with children, both use of existing evidence, and undertaking consultation work, is in the [Quick Reference Guide](#), which also highlights the [Common Core of skills and values](#) needed to work with children.



Article 12: You should have a say in decisions that affect you

Course quick links

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[Thank you](#)

With thanks to [CYPICS](#) for supplying the cartoon graphics used in this training tool, all illustrated by Alex Leonard.

Find out more about CRWIA on the [Scottish Government website](#)

End of 'Introducing CRWIA'

