

Inquiry into Public Administration - Effective Scottish Government decision-making



Response to Finance and Public Administration Committee

February 2023

Established by the Commissioner for Children and Young People (Scotland) Act 2003, the Commissioner is responsible for promoting and safeguarding the rights of all children and young people in Scotland, giving particular attention to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner has powers to review law, policy and practice and to take action to promote and protect rights. The Commissioner is fully independent of the Scottish Government.

Introduction

The Children and Young People's Commissioner Scotland welcomes the opportunity to respond to the Finance and Public Administration Committee's request for views on its Inquiry into Public Administration – Effective Scottish Government decision-making.

Our response draws upon the experience of the office in engaging with Scottish Government decision-making at all levels, from Ministerial priority setting through to civil service directorates delivering individual projects. It also includes contributions from our Young Advisors, who met to discuss this Inquiry and share their views.

We have chosen to focus on three key areas of interest to the Committee:

1. Transparency of the current approach

Engaging with consultations and bill scrutiny, and the role of the civil service.

2. Process and scrutiny

Using Child Rights Impact Assessment (CRIA), and the participation of children and young people.

3. Information and analysis

Child rights-based budgeting.

Rights Framework

Article 4 of the UN Convention on the Rights of the Child (UNCRC) requires States to undertake all appropriate legislative, administrative and other measures to ensure that children's rights are respected, protected and fulfilled. The Committee on the Rights of

the Child (CRC) has given authoritative guidance on this obligation through General Comment 5 on general measures of implementation.¹

The CRC has identified that making human rights a reality for children – requires States to engage all sectors of society and, of course, children themselves. Ensuring that all domestic legislation is fully compatible with the UNCRC and that the Convention’s principles and provisions can be directly applied and appropriately enforced is fundamental. The CRC has identified a wide range of measures that are needed for effective implementation, including the development of special structures and monitoring, training and other activities in Government, parliament and the judiciary at all levels.

General Comment 5 highlights a number of key requirements relevant to effective Scottish Government decision making:

- The need for a comprehensive national strategy rooted in the UNCRC
- Coordination of implementation of children’s rights
- Monitoring implementation – the need for Child Rights Impact Assessment (CRIA) and Child Rights Impact Evaluation (CRIE)
- Data collection and analysis and development of indicators
- Making children visible in budgets
- Training and capacity building
- Cooperation with civil society
- International cooperation
- Independent Children’s Rights Institutions

Our response highlights some of these areas in the context of our experience with Scottish Government decision-making, but we would endorse the wider work of the CRC in developing Scotland’s approach to effective, rights based, decision-making.

We note that it is now two years since the Scottish Parliament unanimously passed the UNCRC (Incorporation)(Scotland) Bill and 18 months since the Supreme Court determined that reconsideration of some sections of the Bill was required to ensure legislative competence. The Bill contains a significant number of tools and accountability mechanisms which are recommended by the CRC to ensure Scottish Government decision-making respects, protects, and fulfils children’s rights. It is essential that the Bill is reintroduced to the Scottish Parliament as a matter of urgency and that Scottish Government commits to immediate commencement to avoid further delays.

1. Transparency of the current approach

1.1 Consultations and Bill Scrutiny

We are concerned that too often Scottish Government bill consultations are published without any draft legislation, or **without concrete legislative proposals**. This reduces the scope for effective pre-legislative scrutiny and can lead to poorly drafted legislation being introduced in the Scottish Parliament. At the consultation stage, proposals are rarely published alongside a full Child Rights Impact Assessment (CRIA). This is

¹ General Comment No. 5 CRC/GC/2003/5

unacceptable, inconsistent with legal obligations, and reduces the scope for effective scrutiny of legislative proposals.

During consultation stages, there has been a recent tendency to ask respondents to share their views on what should be included in a CRIA. The capacity required across third sector and public bodies to do this meaningfully would be significant. This work should be undertaken by Scottish Government.

The Scottish Government have a duty to consult with a broad range of stakeholders in an inclusive and open way, making special efforts to engage with marginalised groups and those whose rights are at most risk. **We are concerned that Scottish Government consultations are not accessible**, lack diversity in engagement, not child-friendly or promoted in ways suitable for children. Failure to undertake a full and proper consultation exercise can lead to poorly drafted legislation, which is more amenable to judicial challenge. For example, we note that the Scottish Government did not undertake a transparent and targeted consultation exercise when introducing amendments to the Students' Allowances (Scotland) Regulations 2007. This ultimately resulted in the Court of Session finding that the amendments violated the education rights of a category of migrant young people, who were prevented from accessing college or university alongside their peers.² The lack of consultation or impact assessment before the introduction of the amendments was found to be a relevant factor in reaching the Court's conclusion.³

We are concerned by the use of **framework legislation**. We consider that the Scottish Government's proposals for a National Care Service illustrate the problems that these issues can create. Proposals for a National Care Service were initially introduced following the Independent Review of Adult Social Care. The scope of the proposals was subsequently expanded to include children's services during the consultation phase. This left little opportunity for the empowerment of and meaningful participation in decision making by service users, particularly children, young people and their families. The proposals were published without a CRIA, which is not consistent with a human-rights based approach. It means that scarce parliamentary time is then spent trying to resolve issues with poor drafting, badly framed proposals and technical issues that could be addressed at an earlier stage.

The absence of sufficient detail and evidence underlying the proposals meant that it was difficult for stakeholders to meaningfully assess the potential impact of the proposals on children's rights. We gave evidence before the Scottish Parliament's Education, Children and Young People and expressed concern that much of the detail of any future transfer of children's services to the National Care Service would be delegated to Ministers, thereby preventing the Parliament from exercising its role as a human rights guarantor and fully scrutinising changes.⁴

² Petitioner (Jasim) for Judicial Review of a decision of the Student Awards Agency Scotland, on behalf of the Scottish Ministers, 9 December 2021, [2022] CSOH 64. Available here: https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2022csoh64.pdf?sfvrsn=3412ebe0_1

³ Paragraph 42

⁴ Scottish Parliament, Education, Children and Young People Committee, National Care Service (Scotland) Bill - Stage 1 Report, 11th Report, 2022 (Session 6)

Finally, we consider that the Scottish Government should review the use of the **consultation e-portal**. In our experience, the e-portal does not provide sufficient flexibility for stakeholders to respond effectively to Government consultations. The portal appears designed to allow for easy preparation of a largely quantitative analysis paper; not for eliciting detailed views on complex matters of law and policy. The e-portal is designed with adults and organisations in mind, not for children and young people and does not seek to help them fully participate. Article 12 of the UNCRC places positive obligations to ensure meaningful participation of children of all ages in relation to matters which affect them. Active measures must therefore be taken to create dedicated spaces for children and young people to engage in their own right and in ways that are accessible, informative, and fun.

1.2 Civil service

In our experience, children and young people have a general understanding of the role of Scottish Ministers but have little to **no awareness** or understanding of the role of the civil service, who they are, and what decisions they make in relation to children and young people.

Our Young Advisors think that it is vital that Scottish Government officials working on issues impacting their lives should have **training on children's rights**.

"[The UNCRC is] the backbone of the future and the safety and security, and potential of our young people throughout Scotland. I think that's really important. It has to be that backbone. I think it will really allow opportunities to expand in all directions in a positive way and I think if civil servants have that training, I think it would be a really positive thing." (Young Advisor)

There is a lack of demonstrable evidence of understanding across Scottish Government directorates of what children's rights obligations are or how they should be **incorporated into policy development**. In this respect, children rights are too often seen as an add on, rather than being viewed as a central framework to guide decision making. If rights obligations are being considered, it is not being done in a transparent way.

The UN Committee on the Rights of the Child has emphasised the importance of training and capacity-building on children's rights for all those involved in the policy development and implementation process. Those responsible for developing and delivering policy measures need to have an understanding of the core human rights obligations under the UNCRC, particularly the cross-cutting principles of non-discrimination, best interests of the child and maximum use of available resources for human rights realisation. There should be regular **evaluation of the effectiveness of training** delivered to government officials, focusing in particular on the extent to which it has contributed to developing attitudes and practice which actively promote enjoyment by children of their rights.⁵

Our Young Advisors are clear that **civil servants should be subject matter experts**. Where this is not possible, steps should be taken to ensure that expertise is secured using all available resources. The priority should be on recruiting and retaining experts in relevant disciplines, as well as outlining a new vision and way that the civil service

⁵ General Comment No. 5, paragraphs 53 to 55, CRC/GC/2003/5

operates. Our office recognise that civil servants may have general expertise in areas which are invaluable and necessary such as, leadership of teams, drafting legislation, policy, and knowledge and understanding of parliamentary processes. In these instances, the combination of general technical skills and experience, alongside subject expertise should be considered best practice and adopted by Scottish Government. Notwithstanding, they consider that training is necessary to equip all civil servants with the knowledge and skills necessary to allow them to effectively deliver policy measures. They felt that civil servants from all departments required children's rights training, as **minimum standard**. They were also confused by the fact that civil servants could work and lead in areas where they are not subject specialists.

"It doesn't make sense." (Young Advisor)

"Like with education, if they come from health or something [...] they need to be surrounded by people that are in the education system, to give them advice so they can help improve the system." (Young Advisor)

When asked what skills and experience officials should have, our Young Advisors suggested that key attributes include strong 'leadership' skills; an ability to communicate effectively and powerfully with children; and experience of working directly with children. They spoke about the need for engagement to be both 'inclusive and targeted', especially when working with specific groups on key issues, such as care experienced children. This point was also reflected strongly in final report of the Independent Care Review and should underpin general policy development.

"A significantly greater effort will be required to ensure the meaningful participation of people with lived experience in decisions about their own journey, and to inform relational policy and practice. Lived experience must directly and consistently inform continuous quality improvement with a rich qualitative as well as quantitative evidence base".⁶

It is our experience that Scottish Government directorates often appear to be **working in silos**. This is particularly the case when dealing with policy issues that cut across different remits, with civil servants sometimes not having an awareness of what other directorates are doing. There is a lack of internal and external transparency in the policy development process.

We would highlight for example our office's work on restraint and seclusion in care settings in Scotland.⁷ Tackling the unlawful use of restraint and seclusion requires a multi-disciplinary approach to developing legislative and policy measures, drawing on expertise from different directorates (including health and social care, education, children protection, and youth justice). However in our engagement with Scottish Government officials, it has been clear that civil servants from different directorates are working on the same issues, with little strategic coordination. This has resulted in our office repeating the same positions time and time again, in a number of separate meetings with Scottish Government officials from various directorates.

⁶ The Independent Care Review, 2020. *The Promise* [The-Promise_v7.pdf \(carereview.scot\)](#)

⁷ <https://www.cypcs.org.uk/news-and-stories/statement-commissioner-responds-to-the-latest-update-by-scottish-government-on-restraint-and-seclusion/>

Similarly, our office has been approached by various directorates asking the same questions regarding models of Commission/Commissioners during Scottish Government policy development processes. We consider that the Scottish Government could improve efficiency by avoiding holding repeat discussions with stakeholders, and by **improving its internal database of information**.

Civil service staff turnover and **lack of continuity** can at times lead to problems relating to implementation of legislative and policy measures. By way of example, we understand that under current practice, a bill team is assembled to guide legislation through the legislative process. However, in our experience, members of this team are sometimes not involved in the pre-legislative scrutiny phase, or the implementation phase once a bill or critical SSI has passed. Not only does this pose a problem with regards to continuity, it can lead to implementation problems, for example, where there is confusion over the policy intention underlying a particular provision. We therefore consider that where possible, it is preferable to have the same civil service staff member leading a bill through the pre-legislative, legislative, and implementation phase.

2. Process and scrutiny

2.1 Child Rights Impact Assessment (CRIA)

CRIA (Child Rights Impact Assessments) and CRIE (Child Rights Impact Evaluation) have been identified by the Committee on the Rights of the Child as two administrative measures (actions) that can aid implementation of the UNCRC.⁸ They are part of a wide range of general measures that States Parties can act upon to give priority to children's needs and interests, and **focus attention on children's rights**, leading to better implementation of the Convention.

Practising CRIA and CRIE **reinforces the responsibility of the duty bearer** – governments at all levels, public bodies, institutions and practitioners – to consider how their proposals, functions and actions will affect or have affected children and young people up to the age of 18. In 2020 the European Network of Ombudspersons for Children produced a Common Framework of Reference on Child Rights Impact Assessment, A Guide on How to carry out CRIA.⁹

Scottish Government has undertaken non-statutory Child Rights and Wellbeing Impact Assessments (CRWIA) on a voluntary basis since 2015 and developed its own model and accompanying guidance.¹⁰ Although promoted across Government the voluntary nature means that its use is inconsistent and, in many cases, non-existent.

⁸ General comment no. 5 (2003), General measures of implementation of the Convention on the Rights of the Child, CRC/GC/2003/5, at paragraphs 45 to 47

⁹ ENOC, Common Framework of Reference on Child Rights Impact Assessment A Guide on How to carry out CRIA. Published November 2020 <https://enoc.eu/wp-content/uploads/2020/12/ENOC-Common-Framework-of-Reference-FV.pdf>

¹⁰ Scottish Government, Child Rights and Wellbeing Impact Assessment (CRWIA), External Guidance. Published November 2021. <https://www.gov.scot/publications/childrens-rights-wellbeing-impact-assessment-guidance/>

As currently drafted, the UNCRC (Incorporation) Bill will make CRWIA mandatory for Scottish Government when introducing new legislation or making strategic decisions.¹¹

A list of CRWIAs is prepared and published by Government on its website, however we are concerned they are **seldom prepared or published early enough** when policy and legislation are developed. In Scottish Government's position statement on 'embedding children's rights', they highlighted that they are continuing to take steps to raise awareness of the CRWIA process and resources and to promote their use across all areas of the Scottish Government, public sector and the third sector.¹² The involvement of children and young people is not mentioned in the statement and there is no clear plan or strategy as to how the Government aim to do this systematically or practically.

Although the Scottish Government has published Children's Rights and Wellbeing Impact Assessments¹³ on some of the legislation passed during the Covid-19 pandemic, it was clear that it was not done in all matters that affect children and young people, meaning that their rights were more likely to be adversely impacted.

In 2020, our office commissioned an Independent CRIA, designed to provide thorough analysis of how emergency laws and policies around the COVID-19 pandemic impacted the human rights of children and young people in Scotland.¹⁴ A key finding was that more attention should be directed towards a child's best interests (UNCRC Article 3), non-discrimination (UNCRC Article 2) and participation (UNCRC Article 12) — even in times of emergency measures and the need for quick solutions.¹⁵ The CRIA highlights areas where children's best interests could and should be a primary consideration, but this principle is missing from the emergency measure or guidance. The CRIA underlines that certain groups of children and young people are **more adversely affected by measures than others**, and these adverse impacts are not always recognised nor mitigated. Children and young people's views and experiences were not taken into account routinely in key decisions that affect them.

To develop understanding and good practice on how **children and young people can be involved** in CRIA and CRIE processes, during 2021-22 our office worked with partner organisations on the 'Listen, engage, have fun' project.¹⁶

A key part of the project was to work with a group of children to investigate CRIA and CRIE in East Lothian. The project partners drew on this work to develop a guide that gives practical advice and guidance in involving children in CRIA and CRIE for leaders, policy-makers and practitioners.

¹¹ Section 14, United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill (as passed). <https://www.parliament.scot/-/media/files/legislation/bills/current-bills/united-nations-convention-on-the-rights-of-the-child-incorporation-scotland-bill/stage-3/bill-as-passed.pdf>

¹² Scottish Government, Embedding children's rights: position statement, page 28. Published 18 November 2022. <https://www.gov.scot/publications/embedding-childrens-rights-scotland-scottish-position-statement/>

¹³ <https://www.gov.scot/publications/childrens-rights-wellbeing-impact-assessment-guidance/>

¹⁴ CYPSCS, Independent Children's Rights Impact Assessment on the Response to Covid-19 in Scotland. Published July 2020 <https://www.cypscs.org.uk/coronavirus/independent-impact-assessment/>

¹⁵ Page 52, Independent CRIA

¹⁶ CYPSCS, Listen, engage, have fun: Guide on involving children in child rights impact assessment (CRIA) and child rights impact evaluation (CRIE). Published October 2022.

In summary, some of the key findings¹⁷ from the project are that:

- Direct engagement with children and young people during CRIA and CRIE shows the **value of such assessments for adult decision-makers** and highlights the importance of children's participation.
- Children and young people's participation in CRIA and CRIE is best embedded in meaningful and ongoing opportunities more generally, and **not as one-off initiatives**.
- CRIA and CRIE are most valuable as a **process of engagement**, reflection, and monitoring, rather than solely a desk-based activity.
- CRIA and CRIE, and children and young people's engagement with them, require time, resources and capacity.

The theme of engagement as regular and ongoing in decision-making processes was also raised by our Young Advisors.

"If it is a decision about young people, that needs to be regular contact that can't just be something that's like 'oh we'll speak to them once a year', because things are changing and moving so fast. There has to be that constant consultation to allow for informed decisions to be made." (Young Advisor).

Young advisors also highlighted the importance of those who have 'lived experience' or who are most or most likely to be affected by the issue, being central to the policy development process. They spoke about occasions where they were asked by Scottish Government about issues and matters that did not affect them, through consultations or surveys and stressed the need to **engage with the appropriate and relevant groups**. This demonstrates that there is a need for better assessment and targeted engagement in decision-making processes.

"I believe it needs to be done by people affected by these issues. We were consulted on the mental health thing, and someone said 'I think they need to go to someone that's been affected by these issues'." (Young Advisor)

General Comment 5 draws governments' attention to the emphasis in Article 12 to "matters that affect them", which should be taken in the broadest sense to include as many children as possible, but also recognises the need to give particular weight to the views of children whose rights are most at risk and who have lived experience of particular issues.

In relation to **accountability**, our Young Advisors said that they would not have the confidence to challenge the Scottish Government and were vague about the mechanisms that they would use to do this.

"I think I did have occasions where, sometimes, I didn't agree with some of the things the Scottish Government made decisions on, but obviously I don't have enough confidence to tell someone about it". (Young Advisor)

¹⁷ Tisdall, K and Wright, L, Involving children in child rights impact assessment (CRIA) and child rights impact evaluation (CRIE): Report from the Observatory of Children's Human Rights Scotland. Published October 2022.

2.2 Participation

Article 12 of the UNCRC requires States to ensure that children's views are heard in all matters which affect them. The CRC has placed particular relevance on the fact that most children are unable to vote or stand for public office, and therefore there is an additional obligation to ensure their views are otherwise included in government decision-making.

Listening to children should not be seen as an end in itself, but rather as a means by which States make their interactions with children and their actions on behalf of children ever more sensitive to the implementation of children's rights.

The Scottish Government has taken a number of practical steps to increase general levels of children's participation in decision-making. Their publication 'Decision-making: children and young people's participation'¹⁸ provides how-to examples and is a useful collection of research and practice examples that demonstrate the value of involving children and young people in all aspects of decision-making.

The Scottish Government supports an annual Cabinet meeting with children and young people, which gives young people a **platform to directly influence** decision makers.¹⁹ The commitment to holding this space for children and young people is now in its seventh year. The challenge for the Scottish Government is to demonstrate how they are responding and allocating resources to the issues raised by children.

Under the pressure of decision-making during the pandemic, systems defaulted immediately to excluding children and young people.²⁰ Decision-making processes are **designed as adult processes**, even when they relate to children's issues like school closures and exams.

It is clear from our own engagement work that most children and young people do not have a clear understanding of how they can be involved in Government decision-making processes, or a consistent set of expectations. Children and young people often express frustration and concern to our office that their views are 'not being listened too or taken seriously by decision-makers'. Where they have been involved in consultations, they often do not know what happens after they share their views. Currently, there is a clear **disconnect between the principles of participation and the experience** of children and young people, this gap must be closed.

Although progress is being made in Scotland, we are of the view that it needs to be more ambitious in terms of the strategic nature of participation.²¹ The UN Committee on the Rights of the Child's General Comment No. 5 states that "It is important that

¹⁸ Scottish Government, Decision-making: children and young people's participation, published 2 March 2020. <https://www.gov.scot/publications/decision-making-children-and-young-peoples-participation/>

¹⁹ Minutes from sixth meeting of the annual cabinet meeting with children and young people, held on 1 March 2022 <https://www.gov.scot/publications/annual-cabinet-meeting-with-children-and-young-people-sixth-meeting-1-march-2022/>

²⁰ CYPICS, Independent Children's Rights Impact Assessment on the Response to Covid-19 in Scotland. Published July 2020

²¹ General Comment No. 12 (2009) The Right of the Child to be Heard. CRC/C/GC/12

Governments develop a direct relationship with children, not simply one mediated through non-governmental organizations (NGOs) or human rights institutions”.²²

The Scottish Government relies primarily on other organisations to involve children in decision-making and lacks engagement with marginalised and underrepresented groups. Scrutiny and **accountability for meaningful participation** processes is limited. Most processes, including online platforms and decision-making forums are designed for adults, not children and young people.

3. Information and analysis

3.1 Child rights-based budgeting

The UN Committee on the Rights of the Child has underlined that **children must be visible in budgets**.²³ In this respect, States should be able to identify the components of its budget that are allocated directly and indirectly to children. This is to ensure clarity and enable effective scrutiny. In particular, that budgetary decision-making is made with the best interests of children as a primary consideration (Article 3 UNCRC); does not impact disproportionately on certain groups of vulnerable children; and ensures maximum available resources are employed to progressively realise children’s rights (Article 4 UNCRC).

In line with children’s participation rights (Article 12 UNCRC), the UN Committee on the Rights of the Child has made clear that States should obtain **children’s views on budget decisions** that affect them, through mechanisms for the meaningful participation of children at the national and local levels.²⁴ Special attention should be given to children who face difficulties in making themselves heard, including children in situations of vulnerability.

The UN Committee also emphasises the importance of budget transparency as a prerequisite for meaningful participation. This means that State should ensure that **user-friendly information** is made publicly available, including quantitative budget data and relevant information about legislation, policies, programmes, the budget process timetable, motivation for spending priorities and decisions, outputs, outcomes and service delivery information.²⁵

The UN Committee made specific recommendations about child rights budgeting following its last review of the UK in 2016.²⁶ The Committee urged the UK to allocate the maximum

²² General comment No. 5 (2003), General measures of implementation of the Convention on the Rights of the Child, CRC/GC/2003/5, at paragraph 12

²³ ‘Making children visible in budgets’, General Comment No. 5 on General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), CRC/GC/2003/527

²⁴ Paragraph 52, General Comment No. 19 on public budgeting for the realization of children’s rights (art. 4), CRC/C/GC/19

²⁵ Paragraph 54, General Comment No. 19

²⁶ Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, 12 July 2016, CRC/C/GBR/CO/5, at paragraph 13.

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhskHOj6VpD S%2F%2FJqg2Jxb9gncnUyUqbnuttBweOilyfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjxij3uZ0bjQBOLNT NvQ9fUIEOvA5LtW0GL>

extent of available resources for the implementation of children's rights, with a special focus on eradicating child poverty and reducing inequalities within and across all jurisdictions. The Committee called on the UK to:

- implement a **tracking system for the allocation** and use of resources for children through government budgets;
- transparent and participatory budgeting processes which include children;
- targeted budget lines to address child poverty and inequalities;
- regular child rights impact assessments (CRIA) of budget decision making processes; and
- establish mechanisms to monitor and evaluate distribution of resources.

Our Young Advisors highlight the value of involving children and young people in decision-making on resource allocation and public budgets.

"I think it's important that we consult children on the amount of money that they're spending per service or between the services because I feel as though sometimes you see money going into places and, especially if they've put lots of money into something and it's failing, we're using those services and we can have those first-hand accounts." (Young Advisor)

Many children and young people are able to **identify specific examples of spending cuts** by national and local government which are having an impact on their economic and social rights. One Young Advisor pointed to sports and leisure facility closures in his local authority area, which in his view had a direct impact on opportunities for young people. Another noted that:

"We can see that our local council aren't getting enough funding because we walk outside and there's still trash everywhere because there isn't enough money to run these basic services." (Young Advisor)

While our Young Advisors understand that their right to be heard extends to public budget decision-making at the national and local level, they were not able to point to any specific examples where their views had been sought on **resource allocation** or budgeting matters. In this regard, one Young Advisor noted that there were clear barriers to children and young people becoming involved.

"I think being in budgets would be a really good and important thing, but I think another thing that would be quite difficult with that is; how do you make it young people friendly? In my experience, I struggle to understand how it all happens because it's such a big thing. If you want to be involved in it as a young person, that's a massive commitment and you can't expect a young person to have that. You can't make it inclusive while having this extraordinary commitment. It's trying to get around that because people who are involved in budgets now will sometimes have a degree in finance or they'll have worked with that for many years." (Young Advisor)

To enable children and young people to participate in decisions on spending and resource allocation, our Young Advisors shared that it was important that an 'expert' was present to **support them to navigate and explain the meaning** of the 'random

numbers'. Documents setting out public spending proposals could be simplified and made more user-friendly, through the use of highlighting and annotation.

Young Advisors suggested that it was not necessary for the Scottish Government to consult children and young people on the 'whole budget'; rather the Scottish Government should identify what is likely to be of importance to children and young people.

We welcome the Scottish Government's commitment to publishing an equality and Fairer Scotland statement alongside the Scottish budget. We note that the latest statement does address the impact which certain spending policies will have on children and young people, though we note that the assessment is not child-rights focussed and lacks particular detail.²⁷ We also welcome the Scottish Government's commitment to exploring the potential to build in **child rights-based and participatory approaches** to budgetary decision-making.²⁸

However, while these commitments are welcome, children are still not visible in the latest Scottish Budget (2022-2023). In this respect, the current budgetary process is not undertaken with child rights obligations at the core. We consider that more needs to be done to embed children's rights from the outset of budgeting processes, including through the use of CRIAs and children's participation.

We share the concerns expressed by the Scottish Human Rights Commission that the current Scottish budget **lacks transparency**.²⁹ There is a need for transparent, and accessible financial information in a sufficient level of detail. This is required to facilitate a child's rights analysis of the budget and determine impact on progressive realisation of economic and social rights.

In line with recommendations from the UN Committee on the Rights of the Child, it is important that Scottish Government **data** identifies the components of the Scottish Budget that are allocated directly and indirectly to children. Devolved social security measures illustrate the importance of this. For example, the Scottish Government's latest budget documents set out the planned spending on delivering the Scottish Child Payment for the period 2023-2024, and the % increase from the previous year. The publicly available documents do not set out any evaluation of the measure, including the amount spent per eligible child and the impact of inflationary pressures on reducing eligibility. This information is vital to understand the direct impact which the measure has on children and young people in Scotland, not just viewed through the lens of families. In addition, the documents do not set out whether all funds allocated to delivery of the Scottish Child Payment in the period 2022-2023 were actually spent. This information is

²⁷ Scottish Budget 2023-24: equality and Fairer Scotland statement, 15 December 2022.

<https://www.gov.scot/publications/equality-fairer-scotland-budget-statement-2023-24/#:~:text=Assesses%20where%20the%20Scottish%20Government,read%20alongside%20associated%20Budget%20publications.>

²⁸ Scottish Government, Embedding Children's Rights in Scotland: Scottish Position Statement, November 2022, Section 2.12. <https://www.gov.scot/binaries/content/documents/govscot/publications/progress-report/2022/11/embedding-childrens-rights-scotland-scottish-position-statement/documents/embedding-childrens-rights-scotland-scottish-position-statement/embedding-childrens-rights-scotland-scottish-position-statement/govscot%3Adocument/embedding-childrens-rights-scotland-scottish-position-statement.pdf>

²⁹ SHRC response to Equality, Human Rights and Civil Justice Committee Pre-Budget Scrutiny 2023-24: The Impact of Human Rights Budgeting. <https://www.scottishhumanrights.com/media/2337/ehrcj-pre-budget-scrutiny-2023-24-080922-ah-final.pdf>

vital to track resource allocation, in order to determine whether the Scottish Government has made **full use of maximum available funds** or has limited progressive realisation progress.

Finally, incorporation of the UNCRC will require the Scottish Government to take specific actions to ensure that children's rights are given effect within budgetary and other decision-making processes. Currently, children's views are absent from the Scottish budgetary process.

We would be happy to expand on these points and offer additional comment.

For further information, please contact either Cameron-Wong McDermott, Policy Officer at cameron-wong.mcdermott@cy pcs.org.uk or Kevin Browne MacLeod, Policy Officer at kevin.browne-macleod@cy pcs.org.uk