

Submission on children and young people who are human rights defenders, for the UN Special Rapporteur on the situation of human rights defenders, Mary Lawlor.



November 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.

1. Have child and young human rights defenders played an active role in the civil society of your country?

Child and young human right defenders play an important and active role within Scottish society.

The Commissioner has a statutory duty to consult with children and young people and involve them in our work.¹ We have the privilege to support and facilitate work with so many inspiring children and young people, in their role as child human rights defenders (CHRDs). We recognise and celebrate the role of CHRDs. We acknowledge that their role is about more than attending activist events or protests, being a CHRD involves a whole range of activities such as, sharing information, promoting online petitions, or being involved in discussion groups. Across Scotland, we see many young people engage in these activities. They advocate for the realisation of human rights for themselves, their peers, and others as human rights defenders on a local, national and international scale.

In August 2018, we facilitated the creation of the Child Human Rights Defenders Action Group, Scotland.² Through this, we were able to learn about various achievements and challenges they faced as CHRD in Scotland. The group consisted of young people aged 14 – 20 from diverse backgrounds. They prepared a report with 8 key recommendations. These were areas they recommended that the Scottish Government, Parliament, and all public bodies can improve, to better support CHRD.

1. Publicly recognise the role of children as human rights defenders
2. Strengthen the relationship between Scotland and the international community on children's human rights
3. Ensure children human rights defenders are part of the strengthened relationship between Scotland and the international community
4. Embed human rights and human rights defenders education in children and young people's learning
5. Protect children human rights defenders who engage in activism and peaceful protest

¹ Commissioner for Children and Young People (Scotland) Act 2003

<https://www.legislation.gov.uk/asp/2003/17/section/6>

² [promote-protect-defend-child-human-rights-defenders.pdf \(cypcs.org.uk\)](https://www.cypcs.org.uk/promote-protect-defend-child-human-rights-defenders.pdf)

6. Create safe spaces online and offline for children human rights defenders to mobilise, share stories, and influence people in power
7. Establish and promote complaints mechanisms for children human rights defenders
8. Incorporate the UN Convention on the Rights of the Child into domestic law in Scotland in this Parliamentary session

One young person in the action group said;

“Being part of this group has really pushed me to voice [the things I’m passionate about] and not put myself down and just go for it because if someone else sees me doing it and they don’t have much confidence they can look up to me to push themselves to do it.”³

Despite the many clear achievements of young people shared through the Action Group, they still spoke of challenges. They spoke of being belittled and ignored and called for this to stop. They made it clear that they wanted adults to sit up and listen to them, to support and empower them.

Children and young people across Scotland have shown us that they are passionate about a huge variety of issues and are often willing to stand up and speak out on matters when adults do not. They often offer a perspective on issues which others might miss.

Children and young people have made it very clear that climate change is one of the most important issues to them and they played an active part in COP 26, in Glasgow. This built on the movement created by the Fridays for Futures campaign and the school strikes that many children and young people participated in.⁴

While many children in Scotland do already play an active role in civil society, there needs to be increased investment in teaching children and young people about being a child human rights defender. Children and young people are not often visible within decision-making structures. Greater investment is needed to ensure children and young people have access to safe and supported spaces where they can mobilise and influence decision-making, and create change in order to promote, protect and defend children’s human rights.

It is the role of adult duty bearers to recognise, empower, support, and protect CHRDS.

2. Is there a specific protection accorded to child and youth human rights defenders in your country, either as part of a law on the protection of human rights defenders, or through policies and action plans? Do child and youth human rights defenders have access to national and international protection mechanisms? Are there national, regional or international networks that you are part of?

In March 2021, the Scottish Parliament passed the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill,⁵ this aim of this bill is to directly incorporate the UNCRC into Scots law and to provide remedies to children and young people where their rights are breached by public authorities. This Bill is not yet in force as it was subject to legal

³ [promote-protect-defend-child-human-rights-defenders.pdf \(cypcs.org.uk\)](https://www.cypcs.org.uk/promote-protect-defend-child-human-rights-defenders.pdf)

⁴ [Fridays For Future is an international climate movement active in most countries and our website offers information on who we are and what you can do.](#)

⁵ [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Bill – Bills \(proposed laws\) – Scottish Parliament | Scottish Parliament Website](#)

challenge by the UK Government over the legislative competency.⁶ The Bill is currently being reconsidered by the Scottish Parliament. When commenced, this law will have a direct impact on the rights of CHRDs and offer some protections they do not yet have.

A priority aim for the Children and Young People's Commissioner Scotland is to promote a culture of children's human rights in Scotland. We seek opportunities for CHRD in Scotland to engage in international mechanisms and networks to share their own experiences and learn from others. In 2016, we supported children from Scotland to attend a UN Day of General Discussion (DGD) on climate justice, where the importance of the right to protest in combatting environmental degradation was discussed.⁷ In 2018, we supported children and young people from the Children's Parliament, Scottish Youth Parliament and Who Cares? Scotland to take an active role in the UN DGD on CHRD in Geneva.⁸ In 2020 we supported two members of our Child Human Rights Defenders Group to give evidence on Scotland's rights record to the UN Committee Against Torture in Geneva, they shared concerns on the low age of criminal responsibility, use of restraint and seclusion in schools, physical punishment and use of mosquito devices. At the time, they were the youngest people ever to give evidence to the Committee. Most recently we supported a group of young people to speak at the UN Committee on Rights on Child in February 2023.

The Commissioner's aim to ensure children and young people's voices influence our own decisions and those of decision makers across Scotland. We work with a group of Young Advisors, aged 13-17 and from across Scotland and seek to involve them in national and international networks. They speak out on children's rights issues, including giving evidence to the Scottish Parliament. They help shape children's rights across Europe when they represent Scotland and take part in the European Network of Young Advisors (ENYA) and European Network of Ombudspersons for Children (ENOC) work.

Scotland needs to build on the recommendations of the Child Human Rights Defender Action Group, to strengthen the relationship between Scotland and the international community on children's human rights.⁹ A stronger relationship with the international community on children's human rights will mean that child human rights defenders are more likely to receive support from the state, civil society and international community.

It must be made clear that children and young people can participate in protests and not face punishment. Our office created a document for children and young people to inform them of their rights at protests.¹⁰

In Scotland, we see a lack of access to effective remedies; UNCRC incorporation will be a step in the right direction. Children need to be aware of institutions and organisations that can provide support and assistance and they must be able to access them alongside increased public awareness of the rights of rights of CHRD and specific training for professionals.

⁶ [REFERENCES \(Bills\) by the Attorney General and the Advocate General for Scotland - United Nations Convention on the Rights of the Child and European Charter of Local Self-Government \(Incorporation\) \(Scotland\) \(supremecourt.uk\)](#)

⁷ [2016 day of general discussion: Children's rights and the environment | OHCHR](#)

⁸ <https://www.ohchr.org/en/events/days-general-discussion-dgd/2018/2018-day-general-discussion-protecting-and-empowering>

⁹ [promote-protect-defend-child-human-rights-defenders.pdf \(cypcs.org.uk\)](#)

¹⁰ [Under 18? Your Human Rights at Protests - The Children and Young People's Commissioner Scotland \(cypcs.org.uk\)](#)

3. Are child and young human rights defenders facing any particular risks or challenges? If so, provide examples.

Child human rights defenders have told us that not having access to information about their rights and not being taken seriously by adults are barriers to them. Some report experiencing abuse online and bullying. We have heard of CHRDs being stopped by their families, their schools and even the police. They spoke of not having enough support from those around them.¹¹ These barriers stem from the lack of agency and power that children and young people have when seeking to defend their rights, and their dependence on adults and other duty bearers to act in compliance with those rights.

Some children face distinct and intersecting barriers as CHRDs. Disabled children face particular challenges; these might be physical barriers relating to the accessibility of demonstrations or events or could relate to the provision of knowledge and materials in understandable formats for those with learning disabilities. As highlighted in UNCRC General Comment No. 20 – disabled children are ‘commonly excluded from opportunities available to other adolescents.’¹²

In June 2023, the UN Committee on the Rights of the Child’s Concluding Observations on the UK highlighted, as one of its main areas of concern, issues of persistent discrimination for some groups of children and young people.

“The Committee remains deeply concerned about persistent discrimination, such as through expressions of racism and bullying, against children in disadvantaged situations, including children belonging to minority groups and lesbian, gay, bisexual, transgender and intersex children; insufficient progress in ensuring the protection of all children under 18 years of age against discrimination on the grounds of their age; and the overrepresentation of children of Asian and African descent and Muslim, Roma, gypsy and traveller children in the criminal justice system and the large proportion of these groups of children who are living in poverty.” (UN CRC, UK Concluding Observations, June 2023)¹³

In Scotland, the age of criminal responsibility is 12. Over 16s are frequently treated as adults within the criminal justice system. When children and young people engage in public protests and demonstrations, there carries a risk of them becoming criminalised. Research from the Edinburgh Study of Youth Transitions and Crime evidences that criminalisation of young people causes far more risks for their future.¹⁴ In light of this we are particularly concerned about the policing of young people when they are acting as CHRDs.

Migrant and refugee children, particularly if they are unaccompanied, may have visa or application processes affected if they were to come to the attention of the police.¹⁵ Consequences can involve the possibility that a criminal charge or conviction linked to attendance at a protest could cause a visa to be curtailed or cancelled, or a future visa application refused.

Children need protection when involved in actions that could become violent when being policed. There have been many demonstrations in Scotland where the police support that

¹¹ [promote-protect-defend-child-human-rights-defenders.pdf \(cypcs.org.uk\)](https://www.cypcs.org.uk/promote-protect-defend-child-human-rights-defenders.pdf)

¹² [1621563 \(un.org\)](https://www.un.org/1621563)

¹³ UN CRC, UK Concluding Observations, June 2023

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhskHOj6VpDS%2F%2FJqg2Jxb9gneCSVxGVjVOkzNqKQlfqkPWhZZ88oYLh6GgITPdojzFi9IFi3B7SPVgM%2BQqVUVvYZqvGm3fRTpchuK%2F4tcpdyq>

¹⁴ <https://www.law.ed.ac.uk/research/impact-and-engagement/edinburgh-study-of-youth-transitions-and-crime>

¹⁵ [Your Right to Protest in Scotland explained - JRSKnowhow](https://www.jrsknowhow.org.uk/your-right-to-protest-in-scotland-explained)

action and use de-escalation tactics, they have demonstrated an increased awareness and facilitation of rights to assembly,¹⁶ but we have also seen examples of poor practice. A report co-produced by Netpol and the Article 11 Trust¹⁷ highlighted the deterrents children and young people faced at COP 26. There were reports of kettling, this included young people.

4. Are child and young human rights defenders systematically involved in the decision-making processes in public and political affairs in your country? Do you have dedicated platforms available in this regard? Are child friendly versions of laws and policies, as well decision-making processes available?

The Commissioner's office produces child friendly versions of our materials and reports. Civil society organisations in Scotland also prioritise this approach. Young Scot is Scotland's national youth information platform, sharing accessible information on all areas of life for young people aged (11-26).¹⁸

The Scottish Parliament and Government are inconsistent in their approach to developing child friendly versions. Where policy areas are specific to children, child friendly materials are more likely to be made available. Child friendly materials are not made available for areas like the budget.

The Scottish Youth Parliament (SYP) and the Children's Parliament both meeting on an annual meeting with the Scottish Cabinet.¹⁹ But despite these opportunities there are still many gaps in the effective participation of children and young people in Scottish society and places where improvements could be made.

While the Scottish Government has taken steps to involve children in the development of national law and policy, children say that opportunities to be involved in meaningful participation processes are still rare. The Committee has raised concerns about persistent failures to take account of children's views in decisions that affect them at all levels.

Within School environments participation structures, such as pupil councils, are rarely influential in teaching matters and pupils are often not involved in final decision-making. There are many gaps in meaningful opportunities at a local level for children and young people in decisions that affect their day to day lives. There is need to provide participation opportunities for infant children, alongside a need to provide child friendly versions of documents and materials in a range of languages and also in formats accessible to those with learning disabilities.

There are examples of good practice in Scotland. The Centre for Youth and Child Justice produced a guide entitled 'Justice Journey' to assist those in conflict with the law.²⁰ The Scottish Throughcare and Aftercare Forum created a toolkit for care leavers.²¹ The work done by 'The Promise' encompassed the participation of thousands of care experienced children and young people and their reports have all been reproduced in child friendly formats.²²

¹⁶ [COP26: Thousands of young people take over Glasgow streets demanding climate action | UN News](#)

¹⁷ [Respect or Repression report web version - Netpol](#)

¹⁸ [Young Scot – Information and Opportunities for Young People](#)

¹⁹ [Cabinet Takeover 2023 - Children's Parliament \(childrensparliament.org.uk\)](#)

²⁰ [Helping young people navigate the youth justice system - Children and Young People's Centre for Justice \(cycj.org.uk\)](#)

²¹ [The Real Toolkit | Staf \(Scottish Throughcare and Aftercare Forum\)](#)

²² [The Promise](#)

5. Is human rights education provided in schools, and is human rights activism encouraged and supported in educational and academic settings?

Human rights education and support for child human rights defenders within schools is not consistent in Scotland. Improving human rights education in schools is a priority issue raised by children and young people with the Commissioners office.

Within Scotland, UNICEF's 'Rights Respecting Schools' programme²³ has been rolled out to the majority of schools. However, many children and young people report that the way education is delivered does not go as far as to teach them about what it means to be a human rights defender or provide support and encouragement for them to do this. Nor does it focus on accountability mechanism, linking into the available remedies for children and young people in the UK who experience a breach of their rights.

Our Child Human Rights Defenders Action Group made the recommendation to 'embed human rights and human rights defenders' education in children and young people's learning'.²⁴ Making it compulsory part of the curriculum is one of most effective ways to achieve this. teaching not just what rights are but how to claim them.

While the social status of a CHRD may depend on the individual young person and their social context, work needs to be done to tackle social stigma and bullying associated with being a child human rights defender.

6. Are there any policies in place to limit the discretion of educational institutions to expel or otherwise sanction students for engaging in legitimate human rights activism?

Children and young people recommend that more be done to protect CHRD who engage in activism and peaceful protest. One young person told us;

'Teachers call it disobedience when we speak up, not human rights defending'.²⁵

Whilst we see some examples of educational establishments actively encouraging children and young people to take part in legitimate human rights activism, we hear many reports of those who are discouraged or punished as a result of their participation within it.

Children across the UK have walked out of their primary and high schools in protest for action on climate change. Our office received reports about school pupils being threatened with detention or other punishments for going on climate strikes.²⁶ We expressed concerns over this approach and took the step of writing to the Directors of Education in Scotland in September 2021, urging them not to punish children. We were disappointed to hear from some young people that got involved in the global climate strike for urgent climate action on Friday 24 September 2021, that they had in fact received punishment for this.²⁷

²³ [The Rights Respecting Schools Award | UNICEF UK](#)

²⁴ [promote-protect-defend-child-human-rights-defenders.pdf \(cypcs.org.uk\)](#)

²⁵ [promote-protect-defend-child-human-rights-defenders.pdf \(cypcs.org.uk\)](#)

²⁶ [Climate change is a human rights issue: Commissioner supports children on #ClimateStrike - The Children and Young People's Commissioner Scotland \(cypcs.org.uk\)](#)

²⁷ [Letter to Education Directors: Supporting Climate Strike - The Children and Young People's Commissioner Scotland \(cypcs.org.uk\)](#)

The discouragement and threats of punishment act as a barrier to children and young people engaging in human rights activism. For a school pupil, the thought of having a reward or grade revoked or facing detention can be very distressing.

Local Authorities, schools and the Scottish Government should make a renewed commitment to uphold CHRDs' right to freedom of expression, campaigning and peaceful protest, without fear of reprisal.

7. Are reporting systems for human rights violations accessible for child and young human rights defenders?

Some organisations, including the Commissioner's office, encourage children and young people to report human rights violations and provide accessible ways to do so. This is not a practice which is routinely available through the Scottish Government, public authorities, or courts. There is a real need to establish and promote complaints mechanisms for CHRDs.

The Commissioner's office also uses strategic litigation to actively challenge human rights violations on behalf of children and young people.

The UK has yet to sign or ratify Optional Protocol 3 to the UNCRC on a complaints procedure, that allows an individual young person to make a complaint to the UN Committee on the Rights of the Child, if they believe their human rights have been violated. Scotland has yet to incorporate the UNCRC into domestic law. Without these options, it is almost impossible for children to challenge rights violations by the state.

In order to protect CHRDs who experience abuse, both online or in person, reporting procedures need updated with the help of young people from a diverse range of groups, to ensure they are truly accessible.

We recommend that Police Scotland, the Scottish Government and public bodies take online and offline abuse and harassment of child human rights defenders very seriously and that they create and promote child-friendly and accessible complaints mechanisms with and for CHRDs.

8. Is there awareness-raising among youth and child human rights defenders of existing mechanisms, platforms and protection mechanisms in place?

The capacity of children to be human rights defenders is largely dependent on opportunities for them to meaningfully engage in civil society and political spaces. Whilst there are a range of organisations who seek to raise awareness of existing mechanisms, platforms, and protection mechanisms, there are significant gaps in this service provision and much more that could be done to achieve this.²⁸

²⁸ [promote-protect-defend-child-human-rights-defenders.pdf \(cypcs.org.uk\)](https://www.cypcs.org.uk/promote-protect-defend-child-human-rights-defenders.pdf)

9. Have you experienced negative media coverage of child and young human rights defenders?

The media plays an essential role in supporting human rights and many human rights defenders use the media as a means to demand change. However, there are risks that come along with such public exposure, and the media has a responsibility to protect human rights defenders from reprisals. We have seen many examples of negative media coverage and the effects this has on children and young people, in some cases acting as a deterrent to being a child human rights defender.

Children and young people are more vulnerable to harm, this is referenced in the most recent concluding observations.²⁹ Young people involved in the Child Human Rights Defenders Action Group did report instances of bullying and online harassment and one said:

*'I genuinely do feel that I'm unsafe at times.'*³⁰

Young LGBTQ+ people are more than twice as likely to experience hate speech online compared with those who identify as heterosexual, according to the annual Digital Youth Index study and research by LGBT Youth Scotland.³¹ Young women and girls face challenges with misogynistic and sexual harassment online which can limit their ability to use social media platforms.³²

Effective use of media is critical to the provision of the information that children need to be human rights defenders. Using media platforms to promote the work of child human rights defenders and celebrate their activities empowers children. However, it is also essential to address the risks posed by the media to the safety of CHRDs.

10. Have you had any successes as a result of your human rights activism, and if yes, what were they?

We have seen many successful endeavours resulting from the work of CHRDs, working with the Commissioners office.

In 2021-2022 a young migrant woman named Ola Jasim challenged the Scottish Government's rules governing access to further and higher education. In Scotland, young people who are resident can apply to have their tuition fees paid for by the Student Award Agency for Scotland but Ms Jassim had missed out on the residency criteria by around 50 days. She challenged this, on the basis of it being discriminatory, in the courts and it was ruled by the highest court in Scotland that she should have been entitled to them, that the policy was unfair. Our office provided supporting information to her legal team at JustRight Scotland and following on from her success, we organised, alongside the Scottish Refugee Council, for a group of young people to engage with the Scottish Government officials charged with redrafting the Regulations.³³ They were able to express the unfairness they had experienced and how this had made them feel. While they watched their peers move on to higher education they were left behind and their lives put on hold. They were able to provide lived experience

²⁹ docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhskHOi6VpDS%2F%2FJqg2Jxb9gneCSVxGVjVOkzNgKQIfqkpWhZZ88oYLh6GgITPdoizFi9Fi3B7SPVgM%2BQqVUVvYZqvGm3fRTpchvuK%2F4tcdpyq

³⁰ [promote-protect-defend-child-human-rights-defenders.pdf \(cypcs.org.uk\)](#)

³¹ [Digital Youth Index Year 2.pdf \(digitalyouthindex.uk\)](#), [What's going on for LGBT Young Women and Girls in Scotland? | LGBT Youth Scotland | LGBT Youth Scotland](#)

³² [Misogyny - A Human Rights Issue \(www.gov.scot\)](#)

³³ [Access to Higher Education for migrant students is now a real right \(justrightscotland.org.uk\)](#)

of the application system through the Home Office, where it had been claimed that applications were processed in under 6 months, these young people had been waiting years. The work of these human rights defenders contributed to the criteria being extended to offer support to migrant children and young people.

At the beginning of the Covid pandemic, some of our Young Advisers worked with Police Scotland to inform, educate, and ultimately influence the way the force engaged with young people. Young people had been alarmed at social media reports of heavy-handed policing, mainly from English forces, and wanted to positively impact Police Scotland's approach. The group had a series of meetings with Police Scotland and explained why adolescents found restrictions particularly challenging, how they disproportionately affected children from poorer backgrounds or with disabilities, and how the force should approach and engage with young people from a position of empathy and understanding. This work had an immediate impact, as Police Scotland very quickly produced training and guidance for officers which was a direct result of listening to the Young Advisers.

11. How could the Special Rapporteur on the situation of human rights defenders contribute to making your human rights work more visible, protected and highlighted?

We feel that the Special Rapporteur should encourage the Scottish government and parliament to act on the recommendations made by the Child Human Rights Defenders Action Group.³⁴ Encourage them to publicly recognise the role of children as human rights defenders.

UN Special Rapporteur on Human Rights Defenders have visited different states to review the situation of human rights defenders. The UK has not yet had a visit or specific recommendations on this theme.

³⁴ [promote-protect-defend-child-human-rights-defenders.pdf \(cypcs.org.uk\)](https://www.cypcs.org.uk/promote-protect-defend-child-human-rights-defenders.pdf)