Response to Scottish Government Consultation on ‘Facilitating Marine Nature Restoration Through Legislation’.

May 2024

Question 32
Do you agree with our assessment that the proposals set out in this consultation will not impact on people with protected characteristics as set out under the Equality Act 2010?

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.

Our response to this consultation forms part of our ongoing work on children’s right to a healthy environment and is informed by previous work with children and young people.

These proposed provisions are, at their core, about increasing conservation activities, protecting marine environments, and reversing biodiversity loss. We do not agree with the assessment that the legislative proposals set out in the consultation will not impact on children and young people. In fact, these provisions must be considered within the context of children’s rights, given the recent incorporation of the UNCRC into Scots law.

Biodiversity as a Childrens Rights Matter

As was recently pointed out by the John H. Knox, UN Special Rapporteur on human rights and environmental issues;

'Biological diversity (biodiversity) is necessary for healthy ecosystems, which in turn are necessary for the full enjoyment of human rights[1]'

The Special Rapporteur has also commented that children are more at risk from environmental problems than adults, but their views and interests are often left out of decisions.[2]

Scotland, along with the rest of the UK and indeed the world, faces an unprecedented nature-climate crisis. Biodiversity loss is a children's rights issue.

The climate crisis and the decline in biodiversity go hand in hand – we need to preserve nature to combat the climate crisis and provide clean air, water and food sources.

These issues directly engage the UNCRC rights including;

Article 6 - the right to life and development.

Article 12 - the right of children to participate in decisions which affect them.

Article 13 - the right to seek and receive information.

Article 24 - the right to good quality health care and a clean environment.

Article 27 - the right to a decent standard of living, including food, housing, water.

Article 29 - the right to an education, including the development of respect for the natural environment.

The UN Committee on Rights of the Child highlighted the importance of these issues in its most recent General Comment No. 26 (2023)[3] which focused on children's rights and the environment;

'The extent and magnitude of the triple planetary crisis, comprising the climate emergency, the collapse of biodiversity and pervasive pollution, is an urgent and systemic threat to children's rights globally'.

The most recent Concluding Observations made by the UN Committee on the Rights of the Child with regard to the UK highlighted the need to;

'Ensure that national policies and programmes on addressing environmental protection, climate change and disaster risk management… are developed and

[1] 'Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment' (2017) A_HRC_34_49_EN.docx (live.com)
[2] Children's rights and the environment | OHCHR
[3] CRC/C/GC/26: General comment No. 26 (2023) on children's rights and the environment with a special focus on climate change | OHCHR

implemented in accordance with the principles of the Convention and take into account children's needs and views[4]*.'*

Facilitating marine restoration and increasing conservation of blue spaces is an important part of this;

'Marine habitats such as seagrass meadows and native oyster reefs provide food, shelter, and nursery areas to commercial fishery species and countless other marine organisms; improve water quality, and potentially capture and store carbon. They have a role to play in meeting Scottish Government commitments on climate change and biodiversity loss.'[5]

Restoration is fundamental to the recovery of these ecosystems and the efforts of community groups, including those which involve children and young people should be supported.

What Children and Young People Say and Do

Children and young people know that the challenges facing biodiversity loss are as important as the challenge of combatting climate change. They care about Scotland's nature, whether this is protecting declining species from extinction, stopping pollution in our seas and rivers or protecting nature within towns and cities.

Our responses to consultations on the Biodiversity Strategy[6], the proposed Ecocide law[7] and the Climate Adaptation Plan have all included the views of our Young Advisors on climate change and biodiversity. They made suggestions about how to increase the participation of children and young people in these decisions;

'It works great if it's easily accessible to all children and young people.' (CYPCS Young Advisor).

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[4] Concluding observations on the combined 6th and 7th periodic reports of the United Kingdom of Great Britain and Northern Ireland :
[5] Marine habitat restoration - CCN Scotland (communitiesforseas.scot)
[6] Response to Scottish Government Consultation on 'Tackling the Nature Emergency - Strategic Framework for Biodiversity'. - The Children and Young People's Commissioner Scotland (cypcs.org.uk)
[7] Response to the Climate Change Adaptation Plan Consultation. - The Children and Young People's Commissioner Scotland (cypcs.org.uk)

We note that there has been a 'strong groundswell of interest from local communities across Scotland who want to take part in nature restoration in the marine environment'[8] – this includes groups of children and young people, for example:

- Ullapool Sea Savers[9] who have been doing some excellent work both to raise awareness of marine related issues and to actively be involved in conservation work.
- Young sea changers Scotland[10], who state as part of their mission;

  'We directly engage with marine policymakers and stakeholders to ensure that young people's voices are heard. We advocate for policy engagement processes that are accessible to young people, ensuring their ideas and solutions stand alongside those of established sectors'

Another recent project saw school children adopt oysters to be grown in cages before being released in the local loch, participants in this projects spoke of growing up with a sense of ownership for the oysters and thereafter the loch.[11]

Research has shown that many Scottish children and young people feel there are barriers to their involvement in contributing to a nature-rich future.[12] Although 76% of children and young people felt nature was important to them, the vast majority were not involved in any nature or conservation activities.[13] A lack of education and relevant opportunities have been highlighted as contributing to this.

The Proposed Regulations

The creation of marine nature restoration projects may seem to be an 'adult' issue, but it must be accessible to all who want to work to conserve nature. The process must be made less complicated and more readily accessible. Provision of information in easy-read formats will broaden engagement, including with children and young people. This will provide opportunities for projects to expand and grow.

Part two of the proposed regulations deals with ability to declare areas marine protected, with the aim to improve and support the biodiversity of these areas. We note that community groups have highlighted that the complicated regulatory environment and the lack of a clear mechanism to protect the habitats and species being restored is an issue.

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[8] Facilitating marine nature restoration through legislation (www.gov.scot)
[9] Ullapool Sea Savers
[10] News and Events — Young Sea Changers Scotland (youthforseas.org)
[11] 'Marine Restoration Scotland – Defining Potential for a Shared Vision' PowerPoint Presentation (fauna-flora.org)
[12] NatureScot Research Report 1295 - Youth Survey on NatureScot's Corporate Plan 2022-2026 | NatureScot
[13] Young Scot Corporate - Young People and Nature Text Only

We note that previous provisions surrounding marine protection orders did not go ahead, in part due to a lack of engagement with local communities and those in the fishing industry. It is necessary that these new plans form part of a just-transition, and that community engagement takes place. Community engagement is essential, and it must include children and young people who will be affected by proposals. These industries need to be supported to adapt their practices and made sustainable. Effective advice and support on climate change should be available to them, alongside appropriate restrictions.