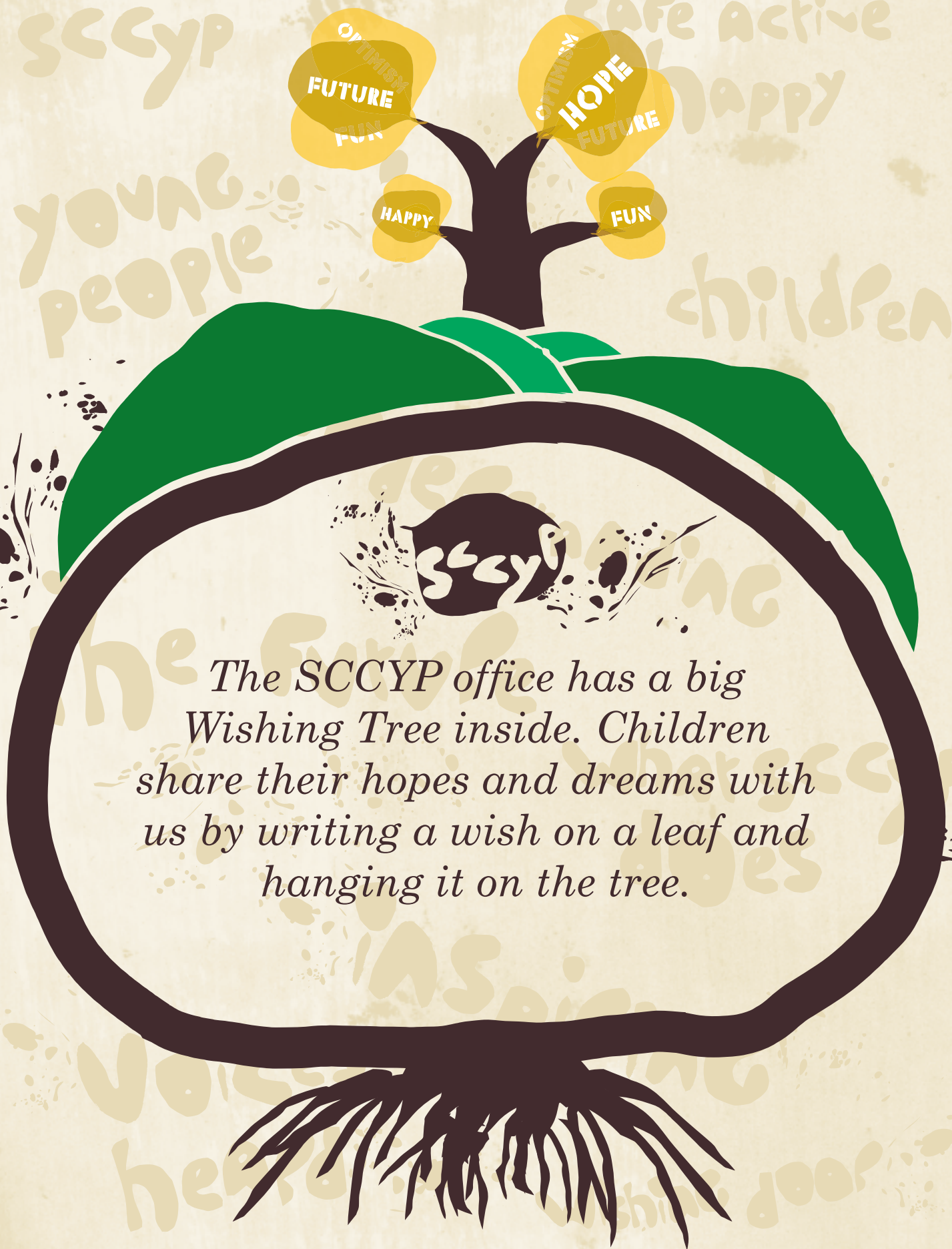


Scotland's
Commissioner
for Children and
Young People





The SCCYP office has a big Wishing Tree inside. Children share their hopes and dreams with us by writing a wish on a leaf and hanging it on the tree.

The role of Commissioner is vital and there are surely no more important endeavours in this 21st century than that of advocacy for children and young people. Kathleen's term has brought tangible results for this generation and her thoughtful engagement with others has ensured a solid foundation for the future. Her integrity and resolute pursuit of the issues that are important to young people and affect their lives has ensured her legacy.

John Carnochan, Violence Reduction Unit

It's hard to believe 5 years have gone by - but then it does make more sense when you consider what's been accomplished. You have brought this vital post a very long way for children and young people - thank you.

Anne Houston, CHILDREN 1ST

The Children's Parliament has been privileged to have been able to work closely with you and your great team for the past few years. You have, most importantly, been friendly and accessible which is evident among Members of The Children's Parliament who frequently say 'We should tell Kathleen that!'

Thank you for your passion and commitment and for being willing to be the first Commissioner with all the challenges and opportunities that affords. We'll miss you - but hopefully you won't be far away.

All best wishes,
Cathy McCulloch, The Children's Parliament

Thank you for supporting our 'make school make sense' campaign and for working hard to make sure our voices are heard.

Best wishes,
Pupils and Students at Daldorch House School

In these last 5 years you have been so good at causing trouble! Thank goodness, for when things are wrong trouble should be caused. Because of you, Scottish children and young people are listened to more than they were; and because of you, the most disadvantaged children in particular are listened to more than they were. I have so much enjoyed our work together: I have never had a dull conversation with you!

Andrew R C McLellan, HM Chief Inspector of Prisons for Scotland

Kathleen- you put heart and soul into your job, an example not just to all other commissioners, but an inspiration to all your European counterparts as well. No one could have done more in the time - I shall miss you very much, but will remain fired up by your example for a long time. Best of luck and don't lose touch with us!

Robin Harper MSP (Lothians)





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introduction

1. Introduction

This is my fifth and last annual report as Scotland's Commissioner for Children and Young People. I demit office on 25 April 2009 as my five year term expires. The Commissioner for Children and Young People (Scotland) Act 2003 allows for a second term, but I decided not to seek reappointment. I have, from the start, expressed the opinion that 10 years is too long a period for one person to hold this influential and independent role. There is benefit in introducing fresh energy with different skills and a different perspective. I have expressed to the Scottish Parliament my preference for the model operated in Wales where the Children's Commissioner has a single, non-renewable, seven-year term of office. This approach, which strengthens independence and introduces the kind of certainty that facilitates transition planning, seems to be gathering support in the discussions surrounding the Parliament's Review of Scottish Parliament Corporate Body Supported Bodies (RSSB) Committee, of which more overleaf.

It seems appropriate at this point to recap on the shape of my five-year term as this provides the context for the review of my activities in the year 2008-09.

Shape of five year term (current year in colour)

1. Establishment
2. Consultation on priorities
3. Two inter-connected strands:
 - a. Policy – Action Plan year 1 – mapping and evidencing priority issues
 - b. Participation – establishing and nurturing standing groups of children and young people
4. Two inter-connected strands:
 - a. Policy – Action Plan Year 2 – focusing and addressing
 - b. Participation – developing role of standing groups and extending general awareness of SCCYP and the UNCRC (United Nations Convention on the Rights of the Child)
5. Two main activities:
 - a. Action Plan Year 3 – resolution and dissemination
 - b. Preparation for next Action Plan



Katherine A. Marshall



9 APRIL 2008
Commissioner visits
Dungavel



24 APRIL
Commissioner
attends opening of
The Edge, a youth
initiative in Glasgow



“I have had an incredible and exciting five years as Commissioner for Children and Young People; it has been a significant privilege.”

An additional, and unanticipated, task for year five was the need to contribute to the considerations of the RSSB Committee. On 13 November 2008, Parliament agreed to the establishment of this ad hoc committee of the parliament to ‘consider and report on whether alterations should be made to the terms and conditions of the office-holders and the structure of the bodies supported by the SPCB; to consider how any proposals for future arrangements should be taken forward, including by way of a Committee Bill, and to make recommendations accordingly’¹. This initiative was related to but separate from work undertaken by the Scottish Government to ‘rationalise’ the landscape of scrutiny and complaints bodies following the recommendations of the Crerar Review. I submitted written and oral evidence to the Committee and staff were also involved in monitoring the discussions.

Another major task this year was the finalisation of the UK Children’s Commissioners’ report to the United Nations Committee on the Rights of the Child and attendance at two sessions of the Committee in Geneva. The Concluding Observations and Recommendations of the Committee will set a benchmark for its next scrutiny of UK progress on implementation in five years time. This is discussed in more detail in 5.10.

I have had an incredible and exciting five years as Commissioner for Children and Young People; it has been a significant privilege. I should like to extend a huge thank you to everyone who has enlightened, advised and supported me during my term in office: my staff; our young people’s groups; the Children’s Parliament; the Safe, Active, Happy Advisory Group; the Leaving Care Advisory Group; voluntary and statutory agencies, and all of the children, young people and adults who contributed so enthusiastically to the reports we produced and acted upon. I extend my best wishes to my successor, Tam Baillie, in assuming the mantle of this unique position.

7 MAY

Commissioner attends Safer Strangers, Safer Buildings launch

8 MAY

Safe, Happy, Active Advisory Group meeting

¹ By motion S3M-02870 in the name of Bruce Crawford MSP, lodged on 12 November 2008.

Recommendations

2. Recommendations

1. The Office of Commissioner

The RSSB Committee has been considering a proposal that SCCYP and the Scottish Human Rights Commission should be brought together to form one "rights" body. In my evidence to the Committee I have set out my reasons for opposing this recommendation. Children and young people need their own independent, statutory voice to promote and safeguard their rights, especially in these days of economic downturn when services are being cut.

I therefore recommend that the office of Commissioner for Children and Young People remain as an independent agency.

* STOP PRESS...on 21 May 2009 the RSSB Committee recommended that the office of SCCYP should remain an independent agency.

2. Incorporation of the UNCRC

In the light of the supportive Concluding Observations of the UN Committee on the Rights of the Child, I repeat and reaffirm the recommendation from last year's annual report that **the Parliament should make its undoubted commitment to the rights of children more powerful by incorporating the UN Convention on the Rights of the Child into Scottish law.**

In previous annual reports, I have flagged up other issues without making them formal recommendations, but indicating a possibility that they might become recommendations in the future. Now that I have completed my term of office, it seems appropriate to reflect back on these and reformulate some of them into formal recommendations.

3. Age limit for disability

In the light of the insights from the report *Handle with Care: the Moving and Handling of Children and Young People with Disabilities*, which I laid before parliament on 27 February 2008, and also *The Paper Hydra: A Transition Quest* written by a young person Lucy Ritchie with the support of Playback Ice and funded by my office, **I recommend that the age limit for the remit of the Commissioner be extended to cover young people with disabilities up to the age of 21.**

4. Accessing information

When the Commissioner is setting up a formal investigation, this brings with it power to require the production of documents. However there is no power to do so in other situations. It would be helpful to be able to require answers and information in other situations, for example, in order to inform a decision about whether a formal investigation should be held. Service providers and other relevant persons should be required to respond within a given time frame. **I recommend that the Commissioner be given the power to require information from service providers and other relevant persons within a specified time frame, even where no formal investigation has been established.**



10 MAY
SCCYP's Care Action
Group session

19 MAY
Commissioner speaks on
Radio Four's The
Learning Curve about
the 'increasing climate
of fear' teachers work in

31 MAY
SCCYP's Care Action
Group session



5. Power of Entry

In the other UK jurisdictions, the Children's Commissioner has a right of entry to establishments where children are being held (such as children's homes, secure units and young offenders' institutions). **I recommend that the Children's Commissioner for Scotland be given analogous powers both to enter premises and to speak in private to any children there.**

6. Individual cases

I have previously reserved judgement on whether the Commissioner should be able to investigate individual cases. There are pros and cons to this, but there needs to be a discussion about it as the UN Committee on the Rights of the Child has recommended that this should happen. My personal view is that there would be merit in allowing the Commissioner to pursue exceptional cases where there was no clear or readily accessible form of redress for a child or young person. **I recommend that serious consideration be given to allowing the Commissioner to investigate individual cases.**

7. Reserved matters

It is the view of all of the UK Children's Commissioners that each of them should be able to exercise their functions with respect to the children in their country regardless of the subject matter. **I recommend that dialogue be initiated with the Westminster Parliament about extending the remit of the Commissioner for Children and Young People to include matters reserved to Westminster.**



5 JUNE

Wishing door session
with Croftamie
Nursery

9 – 13 JUNE

Work experience
week with young
person from
Donaldson's School

11 JUNE

Commissioner gives
oral evidence to
Committee on the
Rights of the Child

Commissioner

3. The Commissioner's Job

3.1 What SCCYP does

The Commissioner's job is to promote and safeguard the rights of children and young people in Scotland. Those rights are set out in Scottish, UK and international law, but the Act of the Scottish Parliament that set up the post placed particular emphasis on the United Nations Convention on the Rights of the Child (UNCRC). The Convention was passed by the UN in 1989. When the UK Government ratified it in 1991, it promised to translate the Convention's requirements into law, policy and practice. The promises are often referred to as the '3 Ps':

- **Provision** of services to promote survival and development;
- **Protection** from abuse, neglect and exploitation; and
- **Participation** by children and young people in decisions that affect them.

These rights should be available to all children without discrimination.

The Commissioner's job is to raise awareness of these rights, to keep reminding people of them and to take steps to ensure that they are respected. The Commissioner's responsibilities extend to all children and young people under the age of 18, and those aged up to 21 who have ever been in care or looked after by a local authority.

The Commissioner has a power of formal investigation where it seems that the rights of groups of children and young people might have been breached, but cannot investigate matters that apply to only one child. The role is more about ensuring that the frameworks set up by law, policy and practice respect the rights of children, than intervening in

individual cases. The Commissioner cannot investigate matters that are reserved to the Westminster Parliament, such as immigration, benefits and employment.

The Commissioner has to consult children and young people, and organisations working with and for them, about the work the office undertakes. This allows the Commissioner to identify policy priorities that will help target resources rather than spreading them too thinly over every matter that might affect every child. The 'Safe, Active, Happy Action Plan' referred to in this report is the result of such consultation.

In short, I describe the Commissioner as:

- A **watchdog** for the rights of children, guarding their rights and looking out for breaches of them;
- An **educator** – raising awareness of children's rights and what they require in particular situations; and
- An **energy boost** – developing the children's rights dimension of the policy priority areas identified through consultation.

The law establishing the Commissioner's post is the Commissioner for Children and Young People (Scotland) Act 2003. The Commissioner is appointed by the Queen on the nomination of the Scottish Parliament for a period of five years. There is a possibility of a second term, but no-one can be Commissioner for more than two terms. The Commissioner is independent of Government and Parliament but is the Scottish accountable to the Scottish Parliament for the work done and the money spent.

3.2 Staffing

On 31 August 2008, I advised the Scottish Parliamentary Corporate Body of my intention not to seek reappointment. This had implications for my approach to filling subsequent staff vacancies. When Stephen Bermingham, Head of Participation, left SCCYP in September 2008, I decided not to recruit a successor but to make interim arrangements, conscious of the need to leave some flexibility for my successor to restructure and/or recruit key people to take forward their own priorities. This need also influenced my decision to recruit a Temporary Chief Officer for six months to help with the transition to a new Commissioner.

3.4 Children and Young People's Groups

This year has also witnessed the end of the term of office of the three standing groups of young people set up in accordance with the Participation Strategy which I laid before Parliament on 17 January 2006. The activities of these groups – the Reference Group, the Care Action Group (CAG), and the Young People's Health Advisory Group (YPHAG) – are described elsewhere in this report. I should like to give a huge thank you to the young people who so generously gave their time to help SCCYP fulfil its role and develop its approach to participation. We have learned a lot from you and we have enjoyed being with you.

14 JUNE

SCCYP's Young People's Health Advisory Group session

19 JUNE

Commissioner lays annual report before the Scottish Parliament

25 JUNE

Commissioner gives oral evidence to Education Committee



25 JUNE
Commissioner and young people attend Sweet 16? debate in parliament

12 JULY
SCCYP's Care Action Group session

24 JULY
Safe, Happy, Active Advisory Group meeting



4. Issues for Scotland's Children

The widely discussed economic downturn that has gathered pace this year has serious implications for children and young people. It will take time and proper research to identify and measure its impact, but there is anecdotal evidence about cuts in services for some of our most vulnerable children and young people, for example those with disabilities or those in, and leaving the care system. I fear that the poorest will suffer the most. I am concerned that, in a climate where local authorities and others are having to cut back to concentrate on very basic priorities, concepts like the rights of the child, and the need to take forward the recommendations of the UN Committee on the Rights of the Child, will be marginalised as additional burdens, rather than understood and accepted as valuable aids to a prioritisation process that is necessarily difficult. Article 3 of the UNCRC requires us to regard the best interests of children as a primary consideration in all matters that affect them, including the allocation of resources. This duty adheres to Parliament, central government, local authorities, other administrative bodies, and public and private social welfare institutions. Article 4 obliges governments to implement economic, social and cultural rights to the maximum extent of available resources. These legally binding requirements of international law, freely adopted by our government, should be very visible and core criteria for the difficult decisions that are being made. Decision making processes should be transparent and should refer specifically to these standards.

The Children's Rights Impact Assessment (CRIIA) which I laid before Parliament on 31 October 2006 provides a readily available and simple tool for monitoring proposals to ensure that they respect the rights of children and young people - to ensure that we, as a society, live up to the promises we made to them when we ratified the UNCRC. This legal instrument is the descendant of the 1924 League of Nations Declaration on the Rights of the Child, an early exhortation, originally drawn up as the aims of the Save the Children International Union that was set up in 1920 in the wake of the terrible afflictions suffered by children in the First World War. It is salutary to read the simple and inspiring words of this document - even if some of the phraseology is out of tune with modern sensibilities. It reminds us of the moral claims that underpin the legal right to have those claims met - a legal right that is proclaimed and promoted by the UNCRC.

I would suggest that every agency and individual making hard decisions about resources should reflect on this Declaration and ask themselves:

- In making this decision are we giving children "the best we have to give"?
- In this time of economic distress, are we making sure that children are "the first to receive relief"?

Geneva Declaration of the Rights of the Child

Adopted 26 September, 1924, League of Nations

Geneva Declaration of the Rights of the Child

By the present Declaration of the Rights of the Child, commonly known as "Declaration of Geneva," men and women of all nations, recognizing that mankind owes to the Child the best that it has to give, declare and accept it as their duty that, beyond and above all considerations of race, nationality or creed:

1. The child must be given the means requisite for its normal development, both materially and spiritually;
2. The child that is hungry must be fed; the child that is sick must be nursed; the child that is backward must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and succored;
3. The child must be the first to receive relief in times of distress;
4. The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation;
5. The child must be brought up in the consciousness that its talents must be devoted to the service of fellow men.

26 JULY
SCCYP's Care Action
Group session

2 AUGUST
SCCYP's Young
People's Health
Advisory Group
session

25 AUGUST
Commissioner and
young person from
Reference Group visit
community projects
in Drumchapel



“We need to demonstrate to young people that we take their safety concerns seriously and that we are taking effective measures to make the streets safer for them.”

The need for greater investment in child protection, family support and aid for addictions was tragically brought home by the death of Brandon Muir, a child less than two years of age who died of horrific injuries inflicted by his mother’s boyfriend against a background of drug misuse and prostitution.

Offending behaviour by children and young people was also in the news. There was welcome debate about the approach to knife crime, including publication of a report by Action for Children Scotland in April 2008 as well as a chamber debate in the Scottish Parliament, in which I participated, on 23 January 2009. Time and again, research shows that young people carry knives primarily because they see it as a measure of self protection. It is hard to shift this view through argument and evidence about the dangers of knife-carrying. We need to demonstrate to young people that we take their safety concerns seriously and that we are taking effective measures to make the streets safer for them.

Last year, I welcomed an announcement by the Scottish Government that it would take steps to keep children under 16 out of prison; the culmination of a longstanding campaign by Andrew McLellan, HM Chief Inspector of Prisons. Unfortunately, this excellent policy aim was frustrated by disturbances in the children’s secure estate that led to more young people being held in prison establishments. I have been involved in discussions about how the secure estate might be developed to enable it to hold onto the most difficult, disturbed and needy young people. This is essential if this policy aim is to be fulfilled.

I welcomed the report of the Scottish Prisons Commission to combat the use of short term sentences and seek alternatives to imprisonment where this is compatible with public safety and well-being. This has implications both for young offenders and for the children of prisoners who are often the unintended, further victims of crime and its consequences.

As I leave office, the Scottish Parliament is considering a government proposal to prohibit prosecution of children under 12. This is designed to address an oft-repeated concern of the UN Committee on the Rights of the Child that Scotland should raise its age of criminal responsibility, which is currently set at the very low age of eight. The government’s intention is welcome; however, there remain questions about what is proposed in the Criminal Justice and Licensing (Scotland) Bill. Granting children under 12 immunity from prosecution is a positive step forward, because prosecutions of children can and do happen under the present law, even though the numbers are very low. Notwithstanding this, the Bill’s provisions will continue to allow for children aged eight to 11 to be referred to the Children’s Hearing on an offence ground, with the ‘criminal consequences’ that ensue where the child accepts the ground, or where a sheriff makes a finding to that effect.

Questions may be raised as to whether raising the minimum age for prosecution to 12, while leaving the age of criminal responsibility at 8 will satisfy our obligations under international law. As I demit office, SCCYP staff will continue to work with the government, the Justice Committee, and partners to find the best way forward on this issue.

26 AUGUST
United Nations
Committee on the
Rights of the Child
Rapporteur event

30 AUGUST
SCCYP’s Care Action
Group session

2-3 SEPTEMBER
Commissioner speaks about UK
Children’s Commissioners’ joint
report to UN at a European
Network of Ombudspersons for
Children (ENOC) conference

Activities



5. The Commissioner's Activities

5.1 Awareness and Understanding of the UNCRC

Publications

Last year I reported on a booklet and poster on the UNCRC that my office had produced in partnership with the Scottish Government. These have been widely disseminated and have been visible in many locations I have visited this year. This collaboration continued with the Scottish Government's publication of a child-friendly version of the Concluding Observations of the UN Committee on the Rights of the Child, which is again adorned by SCCYP's illustrations of the UNCRC. The illustrations have been a tremendous success. This is significant as they were the product of a very reflective dialogue between the artist Alex Leonard (who was identified with the assistance of young people), and staff and young people from SCCYP. A lot of thought went into identifying the best approach to communicating the core of each article of the Convention. There are two separate sets of illustrations, one aimed at young people and one at younger children. It was a challenge to find a model of depicting the issue of sexual exploitation, for example, in a way that was appropriate for young children. Happily, all this work seems to have borne fruit and struck a chord with others across the world. We encourage other organisations and individuals to use the illustrations to raise awareness of the UNCRC and rights.

We marketed the illustrations through the international Children's Rights Information Network (CRIN) website and they have been requested by 18 countries, including Nepal, Hong Kong and Australia. Altogether, there have been over 400 requests to use the illustrations so far.

The four UK Children's Commissioners jointly published a report for the UN Committee on the Rights of the Child on the state of implementation of the Convention. This publication represents a useful reference point for individuals and agencies.

The Detective Kit published last year for upper primary school children has proved to be a great success. This project is discussed in more detail over leaf and also at 6.27.



18 SEPT
Commissioner visits Good Shepherd School

24 SEPTEMBER
UK Government examination at United Nations, Geneva

27 SEPTEMBER
SCCYP's Young People's Health Advisory Group session



In January 2009, we published a newsletter update on the report, Sweet 16? The Age of Leaving Care in Scotland. This was designed to keep stakeholders informed of progress in implementation of the report's recommendations. It also highlighted the possible use of Section 25 of the Children (Scotland) Act 1995 as a mechanism that would allow young people to return to care in some circumstances. Section 25 sets out the duties local authorities have to young people up to the age of 18. An information sheet on Section 25 was also prepared for distribution by the SCCYP Enquiries service. Following receipt of information from local authorities and other stakeholders, I published a report to mark the anniversary of Sweet 16? This report, called Sweet 16? One Year On – Is life any sweeter? was laid before Parliament on 25 March 2009.

Website

Work has continued on a new website for children and young people, with members of the Reference Group providing some of the written content, undertaking photography and animation assignments to help populate the site.

Children's Rights Workshops

A series of downloadable workshops on children's rights has been developed by SCCYP participation staff from their direct work with children and young people. The workshops help participants think about what rights are, and gives them greater understanding of the UNCRC and how the rights enshrined in the Convention relate to their lives. The workshops will be available on the SCCYP website in summer 2009.

5.2 The Safe, Active, Happy Action Plan

Overview

Safe, Active, Happy was the name given to the Action Plan I launched at an event at the Scottish Parliament on 4 May 2006. It was the product of two separate consultations on the policy priorities my office should adopt. The priority of "things to do" was chosen by a vote involving 16,000 children and young people. The complementary priority of "promoting proportionate protection" was chosen following consultation with organisations that work with and for children and young people. The Commissioner for Children and Young People (Scotland) Act 2003 requires me to consult with children and young people, and agencies working with and for them, about the work my office should take on. The Action Plan set out the broad themes that we intended to pursue. However, my office is intended to give added value to the work of other agencies in Scotland, so it was important to make sure that we focused our efforts on things others were not doing, or would find it difficult to do, as well as supporting relevant work that these others were doing themselves. We therefore held a full day meeting to brainstorm with our stakeholders about how my office could most effectively pursue this agenda. This resulted in identification of ten work streams. The first year of the Action Plan involved mapping out those work streams and concluded with identification of more concrete objectives that were pursued over the ensuing 18 months.

A separate report is available on the achievements of the Safe Active Happy project. Within this annual report, I will give a summary and reflection. The activities that were included in the project are described over leaf.

Things To Do

Removing barriers:

- Leisure and Recreation for Disabled Young People
- Outdoor Activities for Looked After Children
- Moving and Handling Disabled Children
- Anonymity before Conviction

Encouraging provision:

- Play Strategy
- Detective Kits
- Yes Ball Games
- Schools in the Community

Promoting Proportionate Protection

- Children too "protected"?
- Outdoor Activity for Looked After Children
- Overnight Stays with Friends of Looked After Children
- Moving and Handling Disabled Children
- Anonymity before Conviction

Children not protected enough

- Leaving Care
- Physical Punishment
- Children Affected by Parental Substance Misuse

27 SEPTEMBER
SCCYP's Care Action
Group session

3 OCTOBER
United Nations
Committee on the Rights
of the Child publishes its
Concluding Observations

¹ And indeed, there is now a proposal to abolish 'unruly certificates' that enable children aged 14 and 15 to be remanded to prison or Young Offenders Institutions in s.47 of the Criminal Justice and Licensing (Scotland) Bill, which is currently being considered by Parliament. This will go some way to address the problem.



Play

SCCYP's work to promote the right to play involved close association with key stakeholders such as Play Scotland. We advocated effectively for a strategic approach to play to be included in the government's Early Years Framework and secured supporting concluding observations and recommendations from the UN Committee on the Rights of the Child. The Committee's specific focus on play for disabled children will also help progress the issues identified in SCCYP's 2007 report commissioned from Playback on Leisure and Recreational Opportunities for Disabled Children. SCCYP will continue to call for the inclusion of play as a priority in the plan of action being developed by the Scottish Government as part of its formal response to the Committee's recommendations.

Detective Kit

400 schools across Scotland requested kits, with 104 choosing to return their results to SCCYP to be included in the analysis. This represented the efforts of almost 2500 children. The results are available in a summary report entitled, Closing the Case: Detective Kit reports on what children told SCCYP about "things to do". Feedback to children is also available through a Detective Kit poster to be distributed to schools and via an interactive web site (www.detectivekit.co.uk) which enables children to access their local results. Towards the end of March 2009, schools were asked for feedback on the project to enable SCCYP to find out more about how schools had used the resource, and how well children had engaged with the activities.

This information will help SCCYP to review its future use as a free-standing resource and/or to use a similar format for other areas of work. More detail on the kit and the findings are discussed in 6.27.

Yes Ball Games

This small scale project was designed to look at issues surrounding "No Ball Games" signs and to encourage people to reflect on decisions to erect them, who was involved in those decisions and what alternatives there were for children and young people. It was initially intended that there would be a participatory element involving street work with young people, but this proved impractical in the short time scale available. Nevertheless, there was contact with young people and the name of the project was changed from "No Ball Games" to "Yes Ball Games" in response to their comments. The output from this project is a web-based game highlighting the issue which will feature on the forthcoming SCCYP children and young people's website. It will also be put on a number of independent (and appropriate) online game sites.

Schools in the Community

I convened the Schools in the Community group in response to a concern by stakeholders to make the most of the current huge major expenditure on building and refurbishing schools. My interest was to ensure that children and young people were appropriately consulted so that the new resources took forward the young people's priority of "things to do." The group included architects, designers and contractors as well as professionals with an interest in open space and in sport. The resulting publication of a model of procurement that involves appropriate and timely consultation will be available in early summer 2009.



Leisure and Recreational Activities for Looked After Children

Following reports from children and staff about the apparently restrictive impact of health and safety policies and procedures on the lives of children in residential care, SCCYP invited the Scottish Institute for Residential Child Care (SIRCC) to undertake the piece of research in 2006. The aim of this research was to describe and explain the barriers to, and opportunities for, outdoor play and recreation that exist in residential child care services and culminated in the publication of the report, Playing it Safe: A study of the regulation of outdoor play for children and young people in residential care. Amongst the findings, it was noted that organisational policies and procedures were a barrier to normal outdoor play, that children and young people in care may have been unfairly stigmatised because of the health and safety requirements laid down by organisations, and that practice around health and safety was largely transmitted by word of mouth with few units able to immediately access copies of health and safety procedures (and with staff in all sectors also being unclear about issues of consent). It also revealed that the independent sector had a more realistic approach to risk assessment compared to the statutory sector, in spite of working to the same legislation.

31 OCTOBER

Commissioner speaks at SIRCC seminar on 'Transitions and Leaving Care'

4 NOVEMBER

Commissioner gives oral evidence to Justice Committee

6 NOVEMBER

Commissioner speaks at Children in Scotland annual conference



This year, SCCYP did some follow up work on the report. The office contacted all 32 Scottish local authorities and various independent care providers to tell them about these findings and subsequently issued a questionnaire which asked them about the status of guidance on this subject in their workplace – whether it was designed for residential child care or for a different context, what rules applied and what impact this had on play and leisure opportunities. Local authorities were also asked if they felt that some sort of national guidance would be helpful. Very high responses from both sectors were received and whilst the information was varied, the overall consensus was that developing national guidance on policies and procedures for outdoor play and recreation for residential child care services would be extremely welcome.

Given the level of expertise required to develop such guidance, SCCYP approached SIRCC to undertake work. The key objective is to consult with key stakeholders on the development of guidance and to compile a framework for policies and procedures for guidance on outdoor play and recreation for residential child care services. A reference group will be set up for this purpose and the output will be a guidance document on outdoor play and recreation. SCCYP hopes eventually to publish and disseminate completed guidance document to all residential child care providers in Scotland.

Moving and Handling Disabled Children

In 2008, I laid before Parliament a report entitled *Handle with Care: The Moving and Handling of Children and Young People with Disabilities*. This has been warmly welcomed by stakeholders from across the UK and beyond. It has secured a promise of government guidance to be developed in consultation with young people and their carers. It has also led to two further pieces of work:

Hoists and Slings

Young people and their carers had described to us how the diverse range of hoists and slings purchased by service providers caused problems for them and inhibited their freedom of movement and access to services including leisure facilities. The *Handle with Care* report recommended that consideration be given to the compatibility of hoists and slings and other mobility equipment, either through agreement with manufacturers or through purchasing decisions through Scottish agencies. With this in mind, I commissioned Glasgow Caledonian University to undertake research to:

- Gather information about which hoists and sling supplies are purchased and provided and by whom;
- Explore the rationale of equipment procurement; and
- Suggest ways of taking the issue forward.

The report is expected by the end of May 2009.

The Paper Hydra

Conscious of the transition issues consistently raised with me by disabled young people, I commissioned Playback ICE to support Lucy Ritchie, a young person with disabilities, to write a report on her transition from school to higher education. The report, called 'The Paper Hydra' traces Lucy's personal journey from school to University. It focuses on the difficulties she encountered on the way and the barriers she faced as well as her positive and negative experiences. The story ends in her giving up on her career choice (that of being a primary school teacher) and on her reflecting on her experiences and suggesting areas for improvement - from communication, collaboration, information through to planning. She talks about how she could have behaved differently through her time at University, but also of the learning that she gained whilst she was there and how her experiences can help professionals and service providers develop and improve their services/practices.

Leaving Care

On 25 March 2009, I laid before Parliament, *Sweet 16? One Year On – Is life any sweeter?* This marked the anniversary of the original report and built upon feedback from a survey of local authorities and other stakeholders, some of it in response to the *Sweet 16?* newsletter distributed widely in January 2009. The anniversary report set out progress in implementation of the report's recommendations, including the government response.

8 NOVEMBER

SCCYP's Care Action Group session

11 NOVEMBER

Reference Group communications sub group session

13 -14 NOVEMBER

SCCYP hosts British and Irish Network of Ombudsmen and Children's Commissioners conference

“I am proud of what my office has achieved and grateful for the support of our partners in making Scotland a place where children have the prospect of safer, more active and happier lives than was the case five years ago.”



While there are encouraging signs of change in some areas, much remains to be done and it is important that this matter does not slip down the public agenda, especially in time of economic distress when many authorities are having to make difficult decisions about cuts in services. Their willingness to safeguard and develop services for young people in and leaving care will be a litmus test of their commitment to the corporate parenting ideal so energetically promoted by the Scottish Government.

Children affected by Parental Substance Misuse

This falls into the “proportionate protection” theme of the Safe, Active, Happy Action Plan. The aim has been to constantly reaffirm the fact that the children affected by parental substance misuse are often not protected enough. My contributions to the debate, in the media and in policy fora has been to emphasise that what is at stake is the fundamental right of the child to survive and develop and to advocate for a more confident assessment of options and, if necessary, intervention in the early years when there is still a possibility of permanent placement and healthy development.

Physical Punishment

The main focus this year has been to promote public education as a complement to the legal reform which continues to be recommended by the UN Committee on the Rights of the Child. We thought this had been taken forward by the Early Years Strategy, the earlier drafts of which contained an explicit reference to, and support for, non-violent parenting. Disappointingly, this was omitted from the final draft although having spoken to the Scottish Government they are confident that the principles of non-violent parenting are implicit in the document.

Vetting and Barring (and related issues)

SCCYP has continued its concern to ensure that vetting and barring arrangements, designed to make it difficult for unsuitable adults to have access to children, are proportionate and easy to understand and implement. We have continued our dialogue with government and relevant agencies.

Anonymity before Conviction

In previous annual reports, I have discussed the research I commissioned which shows the disproportionate fear adults have of contact with children, as they believe their lives and reputations would never recover from an allegation of abuse, however unfounded. The fact that there are few false (or malicious) allegations, gives little comfort because the scale of the fear outweighs the logic of the facts. I have suggested that one way to allay this fear would be to allow suspects’ identities to remain anonymous until the point of conviction. I have received considerable support for this view, especially from the teaching profession. However, it touches on a big debate involving fundamental principles of open justice. My preference would be for it to be referred to the Scottish Law Commission for thorough analysis and consultation. In the meantime, I continue to raise the issue and my office is involved with other agencies in examining how allegations in relation to child protection might be better managed.

Reflection on Safe, Active, Happy

When I launched the Safe, Active, Happy Action Plan, I was conscious that this was a first attempt at establishing a proactive work plan for this new office and that it was not yet clear what capacity there would be to take all matters forward in the way we would like. There is plenty of reactive work in the form of responses to government and parliament consultations and issues arising from enquiries from members of the public, professionals and other agencies. My office is also often approached for comment – and involvement – in emerging matters of public interest, such as the tragic deaths of individual children, or abuse in residential institutions. We could easily spend all of our time on such reactive work and be fully occupied. However, there is a clear sense from the legislation founding the office that it will take the lead on some policy issues identified by children, young people and agencies. That was what Safe, Active, Happy was about. In retrospect, I think it was very ambitious and I would have fewer areas of work if I were doing it again. Nevertheless, I am proud of what my office has achieved and grateful for the support of our partners in making Scotland a place where children have the prospect of safer, more active and happier lives than was the case five years ago.



“The prospect of a pilot scheme for alternatives to detention for families is also a welcome innovation and one that I sincerely hope will succeed.”

5.3 Prisoners' Children

Last year, I reported on Not Seen. Not Heard. Not Guilty: the rights and status of the children of prisoners in Scotland – a report that I laid before Parliament on 7 February 2008. This year I have been disseminating the report and pursuing implementation of its recommendations. The Scottish Prison Service are taking the report into account in the current revision of the Prisoners and Young Offenders Institutions (Scotland) Rules 2006 and Directions. They have also committed to undertaking a Children's Rights Impact Assessment of their policies. There has been international interest in the report, which has been cited in the documentation of the UN Human Rights Council and in a report from the European Commissioner of Human Rights. But we, in Scotland, can also learn from other countries. One of the most important recommendations of the report was that a children's rights impact assessment be undertaken at the point of sentence so that, where there are sentencing options, the impact on the rights of children to respect for their family life can be brought to bear on the decision. In order to help the legal profession and other stakeholders to regard this recommendation in a positive light, my office has invited Justice Albie Sachs of the South African Constitutional Court to Scotland to speak about the rights of the children of offenders. Justice Sachs is a world renowned advocate for human rights and will be speaking about a landmark judgment in which he held that the best interests of the child should be taken into account in sentencing decisions involving primary caregivers. Justice Sachs will give a public lecture hosted by SCCYP on 24 June 2009. Senior legal figures are amongst those who will be attending the lecture.

5.4 Asylum

One of the first things I did upon becoming the Commissioner was to visit Dungavel Immigration Detention Centre where families were being held. I made my second visit on 9 April 2008. Only one woman and child were resident; still one family too many, but better than before. As noted in the UK Children's Commissioners' Report to the UN Committee on the Rights of the Child, in Scotland, we have made considerable progress in asylum, with the speeding up of the review of the "legacy cases" so that over 90% of those who have been here for a number of years have been allowed to stay. This has helped children and families settle down and has had a hugely beneficial impact on the schools and communities that were suffering from the enforced removals. The prospect of a pilot scheme for alternatives to detention for families is also a welcome innovation and one that I sincerely hope will succeed. There are still sad cases and some worrying scenarios where it appears that families are being returned to places that most of us would regard as unsafe. There is still more work to be done.



2 DECEMBER

Commissioner talks with children from Carron primary working on a project about children's rights.

5-6 DECEMBER

SCCYP's Reference Group session

8 DECEMBER

Commissioner speaks at All Party Parliamentary Group on Children at Westminster

5.5 Children in Prison and Secure Units

I continued my visits to prisons and secure units for children to inform both my work on young people who are detained and on the rights of the children of prisoners. This year, I visited Polmont Young Offenders Institution, the Visitors Centre at Saughton Prison, Edinburgh, and the Good Shepherd Secure/Close Support Unit in Bishopton. I had a number of meetings designed to help identify what provision needed to be made in the secure estate to hold safely those young people who might otherwise spend periods in adult prisons. This informed my response to the government consultation on the abolition of the "unruly certificates" that are one of the main mechanisms for consigning a young person to prison.

5.6 Children's Rights Impact Assessment

My office has continued to use children's rights impact assessments in its policy work. Using the assessment model developed by my office, we have carried out numerous assessments of proposed legislation and policy for their impact on children's rights. In addition, we have continued to promote the use of children's rights impact assessments by the Scottish Government, local authorities and other organisations whose work has an impact on children, such as the Scottish Prison Service. The aim is to encourage greater consideration of children's rights in the policy development and decision making processes. The assessment model has also continued to generate interest outwith Scotland: in February 2009, we were asked to present the model at a conference in Austria and deliver an impact assessment workshop to local professionals working with children and young people.

5.6 CASE Studentship

This year my office has continued its collaboration with the University of Edinburgh to fund an Economic Social Research Council Case studentship. The research, being undertaken by Emma Davidson, is concerned with how children and young people define and understand the concept of antisocial behaviour (ASB). Using ethnographic research methods, the project aim is to explore how ASB policies have affected the everyday lives of young people and their places, spaces and relationships.

The study is now in its second year and fieldwork will be principally located in a youth centre in North Edinburgh. With a range of research methods are being used including observations, maps and photography, peer research and focus groups. During the summer the fieldwork will be extended to other settings, including the local library and public spaces (through detached youth work). The research will be completed in October 2011, with interim findings in March 2010.



13 DECEMBER
8 SCCYP's Care
Action Group session

17 DECEMBER
Safe, Happy, Active
Advisory Group
meeting

5.7 Consultation Responses

The Commissioner submitted the following written and oral responses to government and parliament proposals:

Written Responses to the Scottish Government

Early Years and Early Intervention: A Joint Scottish Government and COSLA Policy Statement.	April 2008
Scottish Road Safety Consultation – a 10 year strategy to improve road safety in Scotland.	April 2008
Climate Change: Consultation on Proposals for a Scottish Climate Change Bill.	April 2008
National Delivery Plan for Children and Young People's Specialist Services in Scotland: Draft for Consultation.	May 2008
Better Cancer Care: response to the discussion paper on future priorities for cancer care in Scotland.	May 2008
Safeguarding Children in Scotland who may have been Trafficked.	July 2008
Abolition of Unruly Certificates.	July 2008
Consultation on the Education (Additional Support for Learning) (Scotland) Act Amendment Bill 2008.	July 2008
Changing Scotland's relationship with alcohol: a discussion paper on our strategic approach.	September 2008
Safeguarding our Rural Schools and improving school consultation procedures: proposals to change legislation.	September 2008
Scottish Government Draft Early Years Framework.	October 2008
Strengthening for the future: a consultation on the reform of the Children's Hearings System.	October 2008
Wheelchair and Seating Service Modernisation Draft Action-Plan.	October 2008
Sentencing Guidelines and a Scottish Sentencing Council: Consultation and Proposal.	November 2008

Consultation on the acquisition and retention of DNA and fingerprint data in Scotland.	November 2008
Patients' Rights: a public consultation on a Patients' Rights Bill for users of the NHS in Scotland.	January 2009
Proposal to develop an acknowledgment and accountability forum for adult survivors of childhood abuse.	January 2009
16+ Learning Choices: first step activity and financial support.	February 2009
Review of Fatal Accident Inquiry Legislation.	February 2009
Improving the Lives of Children in Scotland – are we there yet?	March 2009
Equipment and Adaptations Guidance for Health and Local Authority Partnerships – Consultation on Draft Guidance.	March 2009

Written Responses to the Scottish Parliament

Inquiry into Child Poverty in Scotland.	June 2008
Sexual Offences (Scotland) Bill.	October 2008
PE1150: Location of Prisons and the associated impact on prisoners' families.	October 2008
PE 1169: Display of Sexually Graphic Material.	October 2008
Review of SPCB Supported Bodies.	December 2008
Inquiry into child and adolescent mental health services.	January 2009

Others

A Children's Environment and Health Strategy for the UK. Health Protection Agency.	April 2008
Consultation on Revision of Train and Station Design for Disabled Passengers: A Code of Practice. Transport Scotland and the Department of Transport.	April 2008
Proposed Code of Practice for Keeping Children Safe from Harm. UK Border Agency.	April 2008

23 JANUARY 2009
Commissioner participates in a parliamentary debate on knife crime

30 JANUARY
Commissioner speaks at Scottish Government seminar on Concluding Observations

31 JANUARY
SCCYP's Care Action Group session

Working Document 1/2008 on the protection of children's personal data. European Commission.	June 2008
Independent Review of Policing: Stakeholder Consultation.	August 2008
Audit Scotland Consultation of future study programme 2008-2010. Audit Scotland.	September 2008
Old enough to make a mark? Should the voting age be lowered to 16? Youth Citizenship Commission.	January 2009
Inquiry into children's rights. Joint Committee on Human Rights.	February 2009
Scottish Human Rights Commission Steering Plan Consultation.	March 2009
Revision of the Prisons and Young Offenders Institutions (Scotland) Rules 2006 and Directions. Scottish Prison Service.	March 2009

All written responses are available on the SCCYP website www.sccyp.org.uk

Oral Evidence to Parliamentary Committees

Scottish Parliament

Equal Opportunities Committee – Roundtable on Age.	9 September 2008
Equal Opportunities Committee – Roundtable on Carers.	7 October 2008
Justice Committee – Sexual Offences (Scotland) Bill.	4 November 2008
Public Petitions Committee – Debate on Knife Crime.	23 January 2009
Review of SPCB-Supported Bodies Committee – Inquiry into SPCB-Supported Bodies.	3 February 2009

UK Parliament

Joint Committee on Human Rights – Children's Rights Inquiry.	10 March 2009
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5.8 Other Parliament Activity

At the end of this year, the Justice Committee had just completed its scrutiny of the Sexual Offences (Scotland) Bill at stage 2. I previously submitted written evidence on the Bill and appeared before the Committee to give my assessment of the Bill's general principles and detailed provisions. As the Bill proceeds towards its final stage, I remain concerned about the fact that the Bill will criminalise girls and boys aged 13-15 for consensual underage sexual activity. While I have been clear that such activity is inappropriate and may be cause for concern, I am worried that this may prevent young people from using essential services and have detrimental effects on their health and wellbeing.

Also, I was concerned that the government did not consult with young people prior to introducing the Bill. We simply do not know whether the threat of criminalisation is effective in encouraging young people to delay sexual activity to reduce adverse impacts on their wellbeing and regret, an aim shared by all in this debate.

A further concern is that under the terms of the Bill young people under 13 may face criminalisation for behaviour that they cannot themselves consent to, if they are over the new minimum age for prosecution as proposed in the Criminal Justice and Licensing (Scotland) Bill. This anomaly could be removed by raising the age of criminal responsibility to 13 or higher.

Within Scotland, I spoke at the Cross Party Group on Children on 20 November 2008 to mark the 19th anniversary of the passing of the UNCRC. I participated in the knife crime debate held in the parliament's chamber on 23 January 2009.

I twice attended parliamentary events in Westminster in connection with the Concluding Observations and recommendations of the UN Committee on the Rights of the Child: the All Party Parliamentary Group for Children on 8 December and 2008 and the Joint Committee on Human Rights on 10 March 2009.

5.9 Other Government Activity

I participated in the Scottish Road Safety Strategy Panel, convened by the Minister for Transport, Infrastructure and Climate Change. I have also attended and have been represented at the Youth Justice Framework Implementation High Risk Children and Young People Group.

My office has continued its involvement in the Scottish Government's UNCRC Partnership Group throughout the year.



7 FEBRUARY
SCCYP's Care Action
Group session



13 FEBRUARY
Commissioner speaks
at Scottish
Government UNCRC
seminar



20-21 FEBRUARY
SCCYP Reference
Group's last session



“The government has initiated a parliamentary debate on the Concluding Observations and has begun to develop a plan of action to take the recommendations forward.”

5.10 Reporting to the UN Committee on the Rights of the Child

The Committee on the Rights of the Child was set up by Article 43 of the UN Convention on the Rights of the Child (UNCRC). The Committee is required to monitor implementation of the UNCRC by assessing reports submitted to it by States which have ratified the Convention. These reports set out the steps the State has taken to implement the Convention, what difficulties have been encountered and what future plans it has. As well as receiving reports from States, the Committee also accepts ‘alternative’ reports from NGOs or from Children’s Commissioners. The Committee looks to these alternative reports to give a more objective and independent assessment of the extent to which children’s rights are respected. After considering all written reports and after hearing oral evidence from governments, NGOs and Commissioners, the Committee makes recommendations to assist the State to ensure greater respect for children’s rights. These recommendations are known as ‘Concluding Observations’.

For the first time, the Children’s Commissioners in the UK played a significant role in this international reporting process. Given that the UK as a whole is the State Party to the UNCRC and it is the UK Government which submits a report to the Committee, the four Children’s Commissioners in the UK decided that any alternative report would best be produced jointly. My office led on the production of this report which was submitted to the Committee in May 2008. I then gave oral evidence to the Committee in June 2008 alongside my UK counterparts.

Concluding Observations

The Committee published Concluding Observations in respect of the UK’s performance on children’s rights on 3 October 2008. The joint report by the UK Commissioners was well-reflected in the Committee’s recommendations, indicating that our report was influential. I have welcomed the Committee’s recommendations, the majority of which apply equally to Scotland as to the rest of the UK. I have also welcomed the Scottish Government’s engagement in the reporting process and its efforts to respond to the recommendations. The government has initiated a parliamentary debate on the Concluding Observations and has begun to develop a plan of action to take the recommendations forward. It has sought feedback on this action plan from children and young people and from adult stakeholders.

SCCYP has played a supportive role in the organisation of consultation seminars for stakeholders and has commented in writing on the government’s plans. We will look forward to the publication of the government’s final action plan and will continue to encourage and support the government to implement the UNCRC in Scotland.

21 FEBRUARY

Young People’s Health Advisory group final session

27 FEBRUARY

Commissioner and staff present the office’s Children’s Rights Impact Assessment at a conference in Austria

“Thank you for helping me try and fix the problem with my powerchair...”

(Young Person)

“There’s no way they can brush children’s views under the carpet now...Can’t thank you enough.”

(Parent)

“Thanks again for your response. There are a number of good suggestions and contact points here.”

(Parent)

5.11 Enquiries

The SCCYP Enquiries Service provides a comprehensive information and signposting service to children and young people, parents, grandparents, social workers, health and education professionals, MSPs and any other interested people.

Where an issue affects a broader group of children and young people, The Commissioner may decide to take further action. For example, SCCYP may write to a local authority to query how children and young people have been consulted when a decision is being made that directly affects them.

The service also plays a crucial role in helping SCCYP keep under review law, policy and practice relating children and young people’s rights -with enquiries often helping to shape SCCYP’s views on a children’s rights issue.

The enquiries received are often closely linked to SCCYP publications and media coverage of the office’s work.

This year the office has seen a marked increase in enquiries relating to looked after children and young people following the launch of Sweet Sixteen? – One Year On Is life any sweeter? reports and the Think Before You Move leaflet for young people.

SCCYP enquiries staff also have regular contact with Children’s Rights Officers and a range of key organisations supporting children and young people across Scotland.



In early 2009, concerns were raised via the Enquiries Service that changes in throughcare provision in one local authority area meant that young people were potentially missing out on their entitlements and support.

The Commissioner wrote to the local authority, highlighting key areas of concern.

The local authority has now taken action and issues raised by the Commissioner have been or are in the process of being addressed. SCCYP will continue to monitor the situation to ensure that young people there receive the help they are entitled to.

Other examples of enquiries received this year have included:

- The mother of a teenager being treated on an adult hospital ward wanting to check whether her daughter was entitled to flexible visiting hours (as would be the norm on the Children’s Ward).
- A young person querying whether a local coffee shop had the right to impose a curfew – effectively banning under-18s from being there after 7.30pm each night
- A parent querying the use of strip-searching by staff after her son returned to his residential unit from a home visit



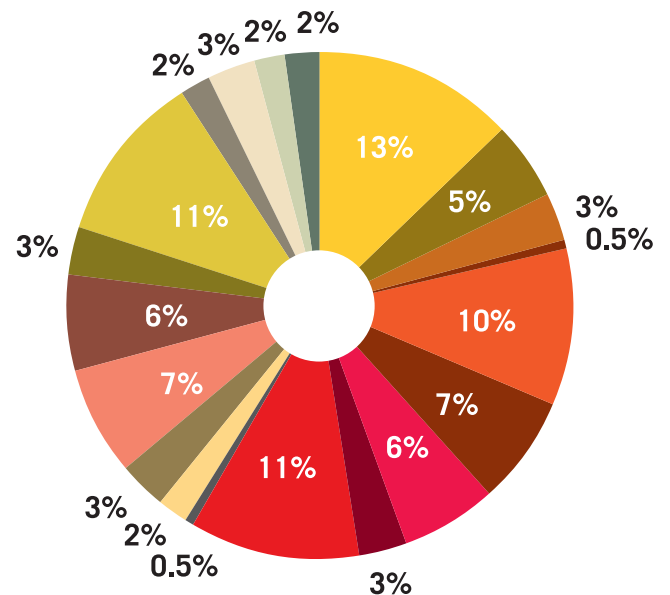
6 MARCH
SCCYP support
Children’s
Parliament’s annual
Gathering event on
‘Me and My School’



10 MARCH
Commissioner gives
evidence to Joint
Committee on
Human Rights at
Westminster

ENQUIRIES RECEIVED BY SCCYP (APRIL 2008-MARCH 2009)

Adoption/Looked After CYP	53	13%
Asylum	20	5%
Bullying	10	3%
Child Care	3	0.5%
Child Protection	40	10%
Child Rights	28	7%
Contact Issues	23	6%
Disability	13	3%
Education	43	11%
Employment	2	0.5%
Equality Issues	6	2%
Family Issues	11	3%
General	28	7%
Health	25	6%
Housing	10	3%
Legal	16	8%
Leisure	10	2%
Participation	12	3%
Social Work	6	2%
Other	7	2%
TOTAL:	394	100%



12 MARCH
YPHAG host an event in the Scottish Parliament to celebrate their achievements

13 MARCH
Detective Kit prizegivings to the top schools.

25 MARCH
SCCYP publishes Sweet 16? One Year On – Is life any sweeter?

involving

6. Involving Children and Young People

6.1 SCCYP's Commitment

A core principle of the UNCRC is a commitment to involving children and young people in decisions that affect them. This is reflected in the Act establishing SCCYP which requires the Commissioner to consult children and young people about the work of her office and to involve them in that work. She must also prepare and keep under review a strategy for doing this. SCCYP's first Participation Strategy, which was laid before Parliament on 17 January 2006, identified the following principles as the basis of our approach

- Participation is a visible commitment that is well resourced;
- Children and young people's involvement is valued in all areas of SCCYP work;
- Children and young people are integral to decision making structures;
- All children and young people have equal opportunities to participate, with additional resources allocated to involve harder to reach groups;
- Policy priorities are informed by the views of children and young people, and shaped by the UN Convention on the Rights of the Child; and
- Participation is continually monitored, evaluated and improved.

6.2 What Happened this Year

6.21 Young People's Groups

This year witnessed the end of the term of office of the first standing groups of young people. In line with the Participation Strategy laid before Parliament on 17 January 2006, I recruited three groups: a Reference Group of 12 young people aged 14 to 21 to support and advise on matters of organisational development, and two pilot groups focusing on specific policy areas - a Care Action Group and a Young People's Health Advisory Group, each comprising eight young people aged 14 to 21. I set out below some reflections on our participation work which may help inform the participation strategy that will be formulated by my successor.

6.22 Reference Group

We were fortunate in recruiting a dedicated group of young people who have helped us, not just in some of the specific tasks outlined above, but in re-thinking and developing the focus and ways of working with the group. It has become clear that the initial idea of six meetings a year at venues across Scotland was not effective in terms of building up a group ethos and cementing relationships between group members and between members and staff. The tasks of the group were diverse and there was a difficulty in balancing quantity of involvement with quality; widespread involvement at a superficial or "consultative" level as against more in-depth involvement in a few issues – true "participation". As the group evolved, there was a shift to less formal ways of working and more project-based work, which the young people found more satisfying.





This year working in sub groups has worked particularly well, with members being involved in a research group, and with the group working in content for the new young people's website through animation and communications work.

We have reflected on the work of all our groups and are preparing a paper on lessons learned to help shape both SCCYP's future activities and to help inform others who are exploring methods of participation through standing groups of young people. In relation to the Reference Group, these may include:

- Spending more time at the beginning on team-building – within the group and with the staff team;
- Identifying personal development plans for each group member, linking their interests and skills with the policy priorities identified through SCCYP's national consultation; and
- Having more sub-groups for practical interests as well as specific policy interests.

6.23 Care Action Group (CAG)

The Participation Strategy referred to the establishment of a 'looked after and accommodated action group'. This evolved into the Care Action Group, recruited initially in partnership with the Scottish Throughcare and Aftercare Forum. The young people involved in this group have contributed to our understanding of issues for looked after young people and those who have left the care system.

The young people's views have been obtained through our ongoing communication with them rather than through formal consultation, as originally envisaged. SCCYP's involvement with the Care Action Group has been a significant learning curve in relation to working with groups of young people. To provide effective and meaningful participation work with young people who have had experiences of being looked after it is necessary to ensure sufficient supports are in place together with a staff team that is experienced, creative and skillful.

During the year, SCCYP supported the young people to work further on their identified issues with a view to holding a youth jury event. However, due to some of the above factors this was unable to go ahead as planned. The learning that has developed through our experience of working with the group and from the evaluation of this work has been disseminated in the form of a briefing paper. This documents our learning together with the key considerations and resources required when working with looked after young people. This will be made available as a useful resource to organizations interested in working with looked after young people.

6.24 Young People's Health Advisory Group (YPHAG)

Like the Care Action Group, this was a pilot group set up to address a specific policy area, where SCCYP worked in partnership with NHS Education for Scotland, acting on behalf of NHS Scotland. The aim of the group was to draw on members' own experiences, informal contacts and formal communication with other groups of young people. This would be used by the group to convey young people's perspectives to policy and decision makers in the health field. The group has been involved in a number of policy initiatives this year.

As a means of ensuring that young people are aware of the kind of health care they are entitled to the group has written and designed a young people's guide to current NHS policies affecting children and young people's health in Scotland that has been distributed to secondary schools, health centres and hospitals. To help improve communication between health professionals and young people, YPHAG devised written scenarios for a National Emergency Care course. Young people have spoken to YPHAG about key health issues they face including the difficulties they experience as a young person feeling isolated in an adult ward and the poor procedures in place for them whilst moving from child to adult services. YPHAG has used this feedback to inform their work on the young people's group on the rebuild of the Edinburgh Sick Kids Hospital and the Adolescents Transition Group. All of this work culminated in an event at the Scottish Parliament in March 2009 to showcase the work of the group.



The young people loved the opportunity to talk to health professionals, policy makers, MSP's, and other young people about the health policy work that they have been involved in, how effective this has been and the challenges they have faced.

Independent evaluation has concluded that the YPHAG has had a positive impact on healthcare policy, the organisations it works with, the young people it represents and the members of the group. It appears to have been the catalyst for a significant culture change in the way in which health organisations engage with young people. The evaluation has recommended that NES, SCCYP, YPHAG and the Scottish Government consider the options for the future development of the YPHAG, and decide how to take the group forward as soon as possible. Particular consideration should be given to the use of a YPHAG as a national group that links formally to a network of local groups across the country.

6.25 Children's Parliament

SCCYP's partnership with the Children's Parliament is the main means of engaging with children under the age of 12, and this year SCCYP staff have continued to act as ambassadors to the local Children's Parliament groups, gaining vital skills and experience. SCCYP also supported and closely worked with the Children's Parliament to organise their annual event; The Gathering. Entitled 'Me and My School', the event was held on 6 March 2009 in Edinburgh, with groups of Children's Parliament members from all over Scotland coming together to explore and express ideas about adult/child relationships within the school community. The children worked through different themes using creative arts to express their ideas.

The event was attended by a group of 30 adults all working either in the field of education or in jobs which involve them in making decisions that affect children; this included the Commissioner and the Minister for Schools Keith Brown. Adults were encouraged to listen to the children's thoughts which were presented in different mediums, including poetry, acting, painting and model making. The adults then made pledges about what they could do to help improve educational experiences for children. Everyone was in agreement about what an inspiring event The Gathering was, and SCCYP was proud to support such an opportunity for children to have their voices heard.

6.26 Work Experience

As noted in last year's annual report, contact with children and young people with additional support needs made SCCYP aware of the difficulties they faced in finding work experience placements. The office decided to work with schools to offer placements to young people each year. This year SCCYP worked with Donaldson's in Linlithgow. Donaldson's is Scotland's national residential and day school providing education and care who are deaf or have severe speech and language difficulties. We were delighted when Abi Matheson joined the team for a week in June 2008. Every member of staff was given deaf awareness training by Donaldson's prior to the placement, and with Abi's courageous decision to undertake the placement without the aid of an interpreter, this proved invaluable.



Throughout the week, Abi worked closely with staff; projects included photography work, tackling the issues of a lack of things to do in her creation of a dryly humorous postcard, and travelling with participation staff to Kirriemuir to work on a young people's focus group on the Educational Maintenance Allowance. Abi brought a real energy to the team and it was a wholly positive experience for everyone involved.

6.27 Detective Kit

The Kit comprised a cartoon-style workbook for each child, and a Detective Kit pencil, notebook and badge. It was complemented by a dedicated website with games and activities designed to inform about children's rights and the UN reporting process. It had a double aim of raising awareness of SCCYP and the UNCRC, and providing a child's perspective on "things to do". Children in Primary 6 and 7 were invited to map out "things to do" in their area, find out what there was to do "for free", interview an adult about what they did when they were a child, identify the top five barriers to things to do and draw up a wish list.

Analysis of the returns showed the top things to do were swimming, football, the park, cycling and playing with friends. These top activities were mainly active and outdoor activities. Indeed overall 71% of activities listed in the responses can be classified as 'active' compared to 'sedentary' (20%) and mixed (9%). The main barriers to activities were: cost, distance and age limits. There were also some hidden issues in the barrier responses about perceived dangers and risks (e.g. vandals, scary people, fear of strangers, dangerous areas, and vicious dogs). These clues serve as a useful reminder of the anxieties of children.



The trainee detectives were encouraged by Detective Kit to be imaginative about the top five things they would like to be able to do in their area. Their wishes use words like 'more', 'new', 'local', 'free', 'bigger' and 'better' with reference to an activity they wanted to do or a facility to have. Most of their wishes were realistic. The fanciful wishes appeared – e.g. to be rich, to wish a million pounds would rain down, a year's supply of donuts – as did the implausible and impossible – e.g. ruling the world, people made of chocolate, meeting aliens. The Detective Kit website (www.detectivekit.co.uk) has set out the 'clues' the children recorded their area. Each participating school also received a poster with local clues attached.

6.28 Young Researchers Group

Three young people from the Reference Group embarked upon a research project with support from members of SCCYP staff. The main aim of the project was to enable a group of young people to identify, undertake and report on a small research project, with an opportunity to reflect on the process which could encourage other young people and adults to do more peer led research. The report was finalised in February 2009 and was called EMA: Our Say. The research question was 'To produce research into the differing opinions on the Educational maintenance Allowance in Scotland among young people aged 15-20' and through training and ongoing support from SCCYP the group gathered their data using various methods, including focus groups, a questionnaire and vox pops in the street. There were a lot of learning points and a great deal of the report is given over to reflections on the process.

Part Four of the report is a top tips section for other young people who may wish to embark upon research into topics that affect them. The report formed part of SCCYP's response to the Scottish Government's consultation on 16+ Learning Choices: first step activity and financial support. The group were rightly very proud of all their hard work and found themselves featured in Young Scot magazine.

6.29 Wishing Door

The SCCYP office has a child-size door which has been decorated as a "wishing door" with the help of children from Croftamie Nursery in Stirlingshire. The door is part of a scheme to make the office interesting and accessible to younger children and to help find out their perspective on life through wishes posted on a "wishing tree" which sits behind the door. The children gave their ideas on what a "wishing door" would look like. This was translated into a design with the help of an artist. The children also visited the office to help paint the door, which has the potential for development into a highly imaginative and useful tool for involving young children.



6.3 The Participation Strategy- what next?

Reviewing the strategy

As detailed in this chapter, SCCYP's first Participation Strategy was laid before the Scottish Parliament on 17 January 2006. This year, evaluations of each of the young people's groups have been undertaken and the learning points and positives reflected upon. The office has also been reviewing other participatory work and working partnerships in order to inform the new direction. The new Commissioner and the team will build upon the learning to produce an updated strategy to enable SCCYP to continue to engage effectively with children and young people. Although it would be inappropriate to speculate on what the strategy will contain, there is no doubt that it will be an exciting programme, built upon a depth of experience and learning.

"It was important for us to have ownership of the project and I felt like we did. SCCYP staff helped guide our ideas and worked with us to facilitate them, they never ruled out an idea or told us we couldn't do something, but helped us think practically about what was achievable."

Young Researchers Group



7. The Coming Year

As this is the end of my term of office, it would not be appropriate for me to set out a prescriptive programme for the coming year. I submitted a one year business plan to accompany my budget for 2009 -2010 which included planned activities; however I am mindful that my successor will be taking that plan forward so it may be subject to change. The unchanging work of the office (reviewing law, policy and practice and responding to consultations and enquiries) will continue, and a new Participation Strategy will no doubt be developed, building on the office's experience and that of the other Children's Commissioners and Obudsmen's offices in the UK and beyond.



8. Office Issues

Equality Scheme Consultation Project

SCCYP is required to comply with its legislative duties to promote equality in the areas of disability, gender and race. SCCYP has drawn up a single Equality Scheme to promote equality across the organisation. To help inform this scheme, SCCYP commissioned Playback ICE to undertake some consultation work with young people in a small sample of secondary schools. The outcomes of this consultation exercise were to raise awareness and knowledge of SCCYP among young people and to provide perspectives and viewpoints on how young people define, view and value everyone's rights to equality. These insights enhance SCCYP's Equality Scheme and provide a benchmark for future monitoring.

BINOCC Staff Conference

BINOCC is the British and Irish Network of Ombudsmen and Commissioners for Children. SCCYP staff report the enormous benefits they receive from contact with their colleagues in other Children's Commissioner's offices in the UK and Ireland. BINOCC holds an annual staff conference to help cement relationships, share learning and support good practice. SCCYP hosted the third conference, held in Edinburgh in November 2008.

Internal Procedures

After a review of current policies and procedures, SCCYP finalised revised versions of:

- staff handbook
- child protection procedures



9. Accounts

The Commissioner's expenditure on operating activities for the year ended 31 March 2009 totalled £1,328,000 (2008 £1,317,000). This was on staffing costs £691,000 (2008 £655,000), other operating expenditure £581,000 (2008 £592,000) and depreciation £56,000 (2008 £70,000). Income for the year was £22,000 (2008 £22,000).

A further £2,000 (2008 £4,000) was spent on capital additions during the financial year giving total expenditure of £1,330,000. Excluding non cash items (Depreciation £56,000 and cost of Capital £5,000) total expenditure was £1,269,000. This compares to a budget of £1,312,000 representing an underspend of £43,000.

The chart opposite illustrates the cost of operating activities by category of expenditure. Excluding staffing costs of £691,000 and depreciation of £56,000, other operating expenditure amounted to £581,000, of which Property (17%) includes all rent, rates, energy costs, property insurance, repairs, maintenance and cleaning. Administration (10%) includes all normal office running costs, for example, stationery, postage, telephones, photocopying, printing, equipment maintenance etc. Recruitment (2%) includes costs for advertising and venue hire and Training (6%) includes investment in both the individual and staff teams. Travel and expenses (5%) includes costs incurred both by the Commissioner and the SCCYP staff team.

Promotion and Participation (37%) includes all activities, for example, publicity, promotion and participation, undertaken in fulfilment of the general function of the Commissioner, which is to promote and safeguard the rights of children and young people, and is expanded elsewhere in the Annual Report. Research (12%) includes a number of projects related to the Safe, Active, Happy Action Plan. IT (3%) includes the cost of support and maintenance for the Office and the Complaints Handling and Support (CHAS) servers. Website development and maintenance (1%) includes continued development of the SCCYP website as a major interactive tool for communicating

with children and young people. Professional fees (6%) include the costs of payroll support, legal and audit accountancy, along with the engagement of a consultant, to deliver child protection training. Notional cost of capital accounts for 1%

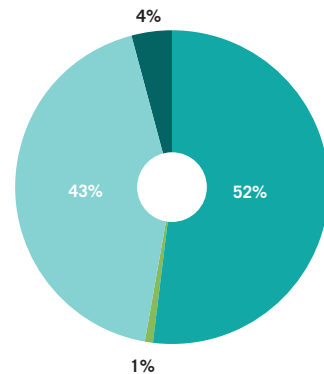
A full copy of the Annual Accounts 2008–09 can be obtained on request at the SCCYP office and are printed in full on www.sccyp.org.uk

The accounts are still subject to approval by external auditors.

EXPENDITURE

Staffing Costs	£691,000.00
Capital Expenditure	£2,000.00
Operating Costs	£581,000.00
Depreciation	£56,000.00
Total	£1,330,000.00

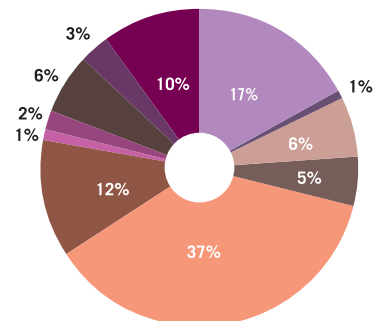
Source: Draft SCCYP Accounts 2008-09



OPERATING COSTS

Property Costs	£100,000	17%
Notional Cost of Capital	£5,000	1%
Professional Fees	£35,000	6%
Travel & Expenses	£28,000	5%
Promotion & Participation	£214,000	37%
Research	£67,000	12%
Website	£8,000	1%
Recruitment	£12,000	2%
Training	£34,000	6%
IT	£19,000	3%
Administration Costs	£59,000	10%
Total	£581,000	100%

Source: Draft SCCYP Accounts 2008-09





LEGAL COMPLIANCE

Commissioner for Children and Young People (Scotland) Act 2003

9 Annual report

- (1) The Commissioner must lay before the Parliament annually a report on the exercise of the Commissioner's functions.
- (2) The report must include –
 - a) a review of issues identified by the Commissioner in the period covered by the report as being relevant to children and young people;
 - b) a review of the Commissioner's activity in that period, including the steps taken to fulfil each of the Commissioner's functions;
 - c) any recommendations by the Commissioner arising out of such activity; and
 - d) an overview of work to be undertaken by the Commissioner in the year following the period covered by the report, including the strategy for involving children and young people in the work of the Commissioner.

Section	Function	Place in Annual Report	Page
4(1)	Promote and safeguard the rights of children and young people	The Commissioner's Activities	10 – 23
4(2)(a)	Promote awareness and understanding of rights of children and young people	Awareness and Understanding of SCCYP and the UNCRC	10 – 11
4(2)(b)	Keep under review the law, policy and practice relating to the rights of children and young people with a view to assessing the adequacy and effectiveness of such law, policy and practice	The Safe, Active, Happy Action Plan Prisoners' Children Asylum Children in Prison and Secure Units Consultation Responses Children's Rights Impact Assessment	11 – 14 15 15 16 17 – 19 16
4(2)(c)	Promote best practice by service provider	The Safe, Active, Happy Action Plan Prisoners' Children Asylum Children in Prison and Secure Units Consultation Responses	11 – 14 15 15 16 17 – 19
4(2)(d)	Promote, commission, undertake and publish research on matters relating to the rights of children and young people.	The Safe, Active, Happy Action Plan	11 – 14
6(1)	Encourage the involvement of children and young people in the work of the Commissioner	Involving Children and Young People Young People's Groups	24 – 27 24 – 26
6(2)(a)(i)-(iii)	Ensure that children and young people are aware of the functions of the Commissioner, the ways in which they may communicate with the Commissioner and the ways in which the Commissioner may respond	Involving Children and Young People Enquiries Update	24 – 27 22 – 23
6(2)(b)	Consult children and young people on the work to be undertaken by the Commissioner	Involving Children and Young People Young People's Groups The Safe, Active, Happy Action Plan	24 – 27 24 – 26 11 – 14
6(2)(c)	Consult organisations working with and for children and young people on the work to be undertaken by the Commissioner	The Safe, Active, Happy Action Plan	11 – 14
6(3)	Pay particular attention to children and young people who do not have other adequate means to make their views known	Involving Children and Young People Prisoners' children Asylum Children in Prison and Secure Units	24 – 27 15 15 16
6(4)	Prepare and keep under review a strategy for involving children and young people in the work of the Commissioner	Involving Children and Young People The Participation Strategy – what next?	24 – 27 27
7	Carry out investigations on the extent to which service providers have regard to the rights, interests and views of children and young people, on relevant matters of 'particular significance' to groups	None	
	Issues identified by the Commissioner	Issues for Scotland's Children	8 – 9
	Recommendations	Recommendations	4 – 5
	Future work and participation strategy	The Coming Year, The Participation Strategy – what next?	28 27

A few messages for Kathleen

Kathleen, we will be really sorry to see you move on from being Scotland's first Children's Commissioner. You have been excellent as the Children's Commissioner and have done such a lot to put children's participation and children's rights into the mainstream of the government's, the local authorities' and the public's thinking. You haven't been afraid to tackle the less popular issues and have been absolutely resolute and extremely effective in championing children. It has been great working with you and we will miss you. You will be a hard act to follow. We want to wish you all the best for the future and hope we can keep in touch. We imagine you won't be far from children's rights in whatever you do.

*Best wishes,
Kate Ramsden and Lynn Miller,*

*Children's Rights Service, Aberdeenshire
Council*

Thank you for your tremendous contribution to raising the positive profile of children and young people in Scotland. Yours has been the voice of reason and common sense around challenging issues for the public related to the rightful place of children and young people in Scottish society. We have learned as much from you about how to undertake empowering work with children and young people as we have learned about what must change. I'm convinced there has been a shift in perception as well as policy in many critical areas as a result of your credible, and even courageous, leadership.

I've no doubt you will be missed, and for many years to come we will find ourselves asking "...what would Kathleen say about this?"

*With admiration, much appreciation and very
best wishes,*

*Jennifer Davidson, Director, Scottish Institute
for Residential Child Care*

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*With admiration, much appreciation and very
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*Jennifer Davidson, Director, Scottish Institute
for Residential Child Care*

Kathleen has been a highly effective champion of children in Scotland. She has encouraged us all to accept the importance of what children say, listening to it and learning from it. She has given children a real voice in the corridors of power, and made us aware of their actual, substantive rights, which for too long have been ignored. The role of commissioner is a tough one, but Kathleen has demonstrated what can be achieved by an outstanding individual.

Best wishes from all at SCVO!





Scotland's
Commissioner
for Children and
Young People



Fifth Annual Report

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