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**Report to People Committee**

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**Date of Meeting: 18 November 2021**

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**Subject: United Nations Convention on the Rights of the Child  
(Incorporation) (Scotland) Bill**

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**Report by: Catriona Scott, Improving Outcomes Manager**

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**1.0 Purpose**

- 1.1. To advise the People Committee on the plans for the implementation of United Nations on the Rights of the Child (Incorporation) (Scotland) Bill in Clackmannanshire.
- 1.2. To update Committee on the decision of the Supreme Court taken on 6 October 2021 regarding this Bill and the resultant next steps for implementation.

**2.0 Recommendations**

- 2.1. It is recommended that the Committee note and comment on this report.

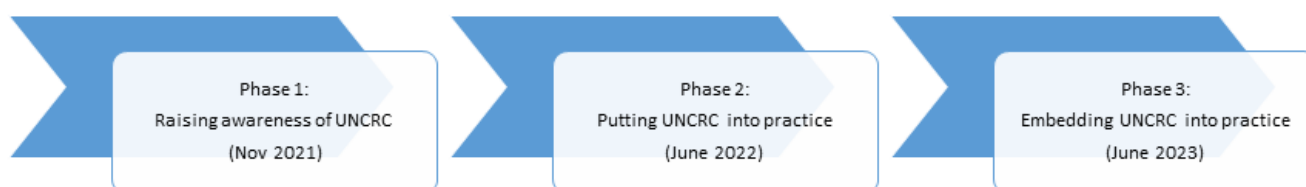
**3.0 Background**

- 3.1. The United Nations Convention on the Rights of the Child (UNCRC) is the global 'gold standard' for children's rights and sets out fundamental rights of all children. On 16 March 2021, the Scottish Parliament voted unanimously to bring the UNCRC into Scots Law when it passed the UNCRC (Incorporation) (Scotland) Bill.
- 3.2. Scotland is set to become the first country in the UK to directly incorporate UNCRC into domestic law. This means that it will be unlawful for public authorities to act in a manner which is incompatible with the incorporated UNCRC requirements, giving children and young people and their representatives the power to go to court to enforce their UNCRC rights.
- 3.3. The articles being brought into Scots law will include requiring public authorities, in actions concerning children, to make the best interests of children a primary consideration; to protect children from violence, injury or abuse; to recognise the rights of children with disabilities to enjoy a full and decent life; and to uphold children's rights to an adequate standard of living

- 3.4. On 6 October 2021, following a legal challenge brought by UK government law officers, the Supreme Court judges unanimously agreed that certain parts of the UN Convention on the Rights of the Child (UNCRC) (Incorporation) (Scotland) Bill, and the European Charter of Local Self-Government (ECLSG), went beyond the limits of the Scottish Parliament's powers, as set out in the Scotland Act 1998.
- 3.5. It was stressed however, that there is no issue with the Scottish Parliament's decision to incorporate the UNCRC and the ECLSG into Scots Law, but rather the concerns that certain sections of the Bills would impinge on matters which lie outside the legislative competence of the Scottish Parliament. The Bills were returned to the Scottish Parliament for further consideration and to modify areas which had been highlighted.
- 3.6. On 12 October 2021 Scottish Government announced that they remain committed to the incorporation of the UNCRC into Scots law and acknowledged that the provisions referred to the Supreme Court would have to be revisited but that they would continue to drive forward with the embedding of children's rights in Public Services to the maximum extent possible, as outlined in paragraphs 3.7, 3.8 and 3.9 below:
- 3.7. The Scottish Government has committed to a three-year UNCRC Implementation Programme in collaboration with public authorities and children and young people. Between now and March 2024 they will invest £4m over three years to support the delivery of a fundamental shift in how children's rights are respected, protected and fulfilled in Scotland. As part of the programme, the experiences, ideas and feedback of children, young people and their families will continue to inform decision-making across all levels of governance through a programme of meaningful and inclusive participation.
- 3.8. In accordance with Part 1 (duties of public authorities in relation to the United Nations Convention on the Rights of the Child), section 2 of the Children and Young People (Scotland) Act 2014, Clackmannanshire Council will report every 3 years on the steps we have taken in that period to secure better or further effect of the requirements of the United Nations Convention on the Rights of the Child (UNCRC).
- 3.9. The Embedding Children's Rights in Public Services Team will deliver one strand of the UNCRC Implementation Programme alongside its ongoing work, providing advice and support for public authorities seeking to embed a children's rights approach in their organisations. The Team will also collaborate with an advisory working group consisting of key partners from public authorities and the third sector to develop guidance on UNCRC implementation. Scottish Government plan to soon announce a detailed package of support tools to assist public bodies to evaluate, improve and innovate their approach to embedding children's rights at a local level, as well as opportunities for sharing practice and resources at a national level.

## 4.0 Considerations

- 4.1. Clackmannanshire's Children's Services Plan 2021-2024 has UNCRC as a key priority (Appendix 1). Colleagues across People, Place and Partnership & Performance Directorates will collaborate to scope the activity required in relation to UNCRC implementation in Clackmannanshire. This workstream is anticipated to cover the full spectrum of partners working with children and young people and will involve work to develop awareness, capacity and knowledge as well as policy, process and regulatory developments. Working alongside us in the Children and Young People Partnership will be partners in Health, Police and the third sector.
- 4.2. Forth Valley and West Lothian Regional Improvement Collaborative have worked together since April 2021 to develop and implement a plan relating to the UNCRC legislation and to produce resources and professional learning to support Children's Services with the incorporation of UNCRC into their practice and work with children and young people. There are three phases to this plan, all of which involve evaluation and review cycles.



- 4.3. The first part of awareness raising took place on August - day, with an interactive training module, developed by our Regional Improvement Collaborative, together with Education Scotland (Appendix 2, 3 and 4). This was undertaken by **all staff** across Children's Services in Clackmannanshire to ensure they understand the implications of UNCRC on policy, practice and procedure and are aware of the potential for legal challenges via the children's commissioner if children's rights are not being met. Forth Valley West Lothian 'Train the trainer' sessions have commenced with staff and an online self-evaluation form has been issued and data collated, to ascertain further professional learning needs.
- 4.4. Work has commenced with the Regional Improvement Collaborative on involving young people, parents and carers in the plans for implementation. A collective questionnaire is under development and will be used as a tool to ascertain what children, young people and families recognise and understand in relation to their rights and a UNCRC toolkit will be available online for central staff and Children's Services staff by December 2021 This will support local authorities, educational establishments and children's services organisations to consider their current and future policies/ guidance with a UNCRC lens. The Toolkit questions and prompts will allow practitioners to self-evaluate whether their policies/ guidance fully support children's rights.

## 5.0 Sustainability Implications

- 5.1. The outcome of the period of re-consideration by the Scottish Government will determine when and how the implementation of UNCRC legislation will be taken forward.

## 6.0 Resource Implications

### 6.1. *Financial Details*

6.2.

### 6.3. *Staffing*

Staff from each Directorate will work together with partners

## 7.0 Exempt Reports

- 7.1. Is this report exempt? Yes  (please detail the reasons for exemption below) No

## 7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

- (1) **Our Priorities** (Please double click on the check box )

- |  |                                     |
|--|-------------------------------------|
| Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all | <input checked="" type="checkbox"/> |
| Our families; children and young people will have the best possible start in life                | <input checked="" type="checkbox"/> |
| Women and girls will be confident and aspirational, and achieve their full potential             | <input type="checkbox"/>            |
| Our communities will be resilient and empowered so that they can thrive and flourish             | <input type="checkbox"/>            |

- (2) **Council Policies** (Please detail)

## 8.0 Equalities Impact

- 8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?  
Yes  No

## 9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes  No

## 10.0 Appendices

None

## 11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes  (please list the documents below)

- Clackmannanshire's Children's Services Plan 2021-2024
- [FVWL UNCRC in-service session](#) (18 mins) – YouTube
- UNCRC Scotland 2021: [I am Sebastian](#) – Youtube
- UNCRC professional learning resource – [Thinglink](#)

### Author(s)

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### Approved by

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