



# Child Rights and Wellbeing Impact Assessment (CRWIA) for children's legal aid approval of unusual work

## Stage 1 – Screening

### 1.1. What's the aim/purpose of your policy/measure?

SLAB's policy sets out how decision-makers apply the Regulations to prior and retrospective approvals for "unusual work" in children's legal assistance. Unusual work is defined as work that would not ordinarily be expected in the average case of its kind and/or in the circumstances of the case. Where work meets this definition, SLAB applies a test of reasonableness: whether, in all the circumstances of the case, authorising the work is likely to advance the case or assist in its resolution, with due regard for economy of litigation and whether relevant consents are in place (for instance from the child or from prison authorities). Retrospective requests are assessed against the same test and a "special reason" threshold for late submission.

### 1.2. What's the impact of your policy/measure on children?

Requests for approval to carry out unusual work are made by solicitors rather than by children, so any direct administrative impact arises for the solicitor; in that sense, impacts on the child will be indirect and depends on whether the specific item of unusual work relates to their needs in the case.

The policy influences the range of costs that can be incurred by a solicitor authorised to progress a child's case, including special measures to enable best evidence, alternative arrangements for engaging with clients and other case-specific actions (many of which will have no specific relation to a child's age or their rights and wellbeing). Positive impacts may include facilitating legal representation being given in a way which is accessible, and supports being provided to children to allow for evidence to be given in a trauma-informed and child-centric manner.

In practice, the number of requests for approval for unusual work made directly on behalf of child applicants (as opposed to adult applicants involved in children's proceedings) was very small, at around 5% of the total (which itself was relatively low in volume). This does not suggest that the policy is particularly important or relevant for children.

### 1.3. Are certain groups of children more affected than others?

Potentially affected groups include children with disabilities (whether physical disability, learning disability or mental health issues), children requiring language/communication support, and children who are witnesses or otherwise directly giving evidence in proceedings. Age may be relevant where special measures to assist someone giving evidence are required (such as a commissioner taking evidence or a remote live link from a site not operated by Scottish Courts and Tribunals Service).

## 1.4. Is a full CRWIA required?

The EqIA found no evidence that refusals are linked to applicants' protected characteristics. In almost all cases, refusals occur because the request did not actually require unusual work approval, rather than because of anything relating to the applicant themselves. The extremely small number of applications made by solicitors on behalf of a subject child suggests that the policy is no more relevant or important for children than it is for other applicants.

- ***What's the number of children affected?***

The number of children directly affected in the years' worth of applications which we considered was very low, at around 4% of the total. Only one of these requests appeared to relate specifically to children's rights, concerning the use of special measures to support the child to give evidence.

Whilst we recognise that in all instances where a request to undertake unusual work is made a child will be involved in *some* capacity (even where the applicant is an adult), the extent to which our policy has an impact on non-applicant children appears to be limited and not directly at SLAB's hands.

- ***Will the policy/measure be subject to consultation?***

No external consultation is planned. Given the technical and procedural nature of this policy and our view that the impacts on children are likely to be limited and infrequent, our assessment is that internal engagement alone is proportionate and appropriate.

- ***Is there a lack of evidence on the impact of the policy/measure on children?***

The amount of specific data we hold is limited by the small volumes of applications, and there appears to be limited external evidence of direct relevance to the impact of this policy. However, our assessment is that the evidence seen is sufficient to show that children are rarely affected by this policy, and where they are, there appear to be no negative impacts.

- ***Is it difficult to anticipate what the impact will be on children?***

Our assessment is that the policy is established and predictable in its likely outcomes. We recognise that the potential scope of work which could be requested under this policy is extremely wide, but in practice, the number of requests received by us are small, and the policy has significant flexibility built into it which allows it to deal with a wide range of circumstances.

A full CRWIA is warranted because although the number of requests is very small, unusual work can in some cases relate directly to children's rights and needs.

## Approval and sign off

**Director/SRO sign off:** 20/04/2026.

**Chief Executive approval:** 20/04/2026.

# Stage 2 – Full CRWIA

## Step 1: Gathering evidence

### 1.1. What evidence have you found to inform your assessment?

#### UNCRC Article 3 – decisions must be in the best interest of the child.

**SLAB statistics:** Unusual work approval requests in children’s legal aid court cases were mainly made by applicants aged 25-34 and 35-44. There were noticeably fewer requests from younger applicants aged 24 and under, and from older applicants aged 55 and above. Grant rates are high overall (≈78% total), and particularly high in some bands (45–54 and 55–64 both >95% granted). Where unusual work relates to special measures which can be sought to assist a witness - including a child - to give evidence in court in a safe and secure manner, grant rates are very high.<sup>1</sup> These figures indicate that where unusual work is sought to secure best evidence is given by a child – which would ultimately contribute to decisions being taken in the child’s best interests - approvals are commonly granted; but again, the overall context is one where applications directly from child applicants are rare.

#### General evidence:

External evidence indicates that children involved in justice processes can experience barriers to effective participation due to their age, developmental stage, and trauma histories. Research shows that children may struggle to understand legal concepts, feel intimidated in formal environments, and require tailored support to give their best evidence.<sup>2</sup> Children’s vulnerability can be heightened where court hearings involve sensitive subject matters, and inappropriate environments or questioning may exacerbate anxiety or distress.<sup>3</sup>

Unusual work measures, such as commissioner taking evidence from a child rather than a judge or sheriff or remote-link options (evidence given elsewhere via a TV/computer screen) can therefore help uphold the child’s best interests by reducing fear, improving comprehension, and enabling trauma-informed engagement in a way that could contribute to decisions being made in the child’s best interests.

#### UNCRC Article 12 – respect for the views of the child.

**SLAB statistics:** Unusual work requests can arise where a child would struggle to give their best evidence in a normal courtroom. Special measures may therefore include giving evidence to a commissioner outside the courtroom, giving evidence by live video link from another location, adapting the courtroom setting, or providing communication support

The high overall approval rate, especially for requests involving evidence-by-commissioner, indicates that these measures are approved when it is clearly shown that they will help a child or vulnerable person participate effectively.<sup>4</sup>

**General evidence:** Measures such as commissioners, adapted settings and communication support can improve how children’s views and evidence are expressed and considered, supporting meaningful participation and helping children feel less anxious in children’s court proceedings.

<sup>1</sup> SLAB internal data.

<sup>2</sup> [Cashmore, J. & Parkinson, P. \(2008\), Children’s and parents’ perceptions on children’s participation in decision-making after parental separation and divorce.](#)

<sup>3</sup> [Plotnikoff, J. & Woolfson, R. \(2019\), Falling Short? A snapshot of young witness policy and practice.](#)

<sup>4</sup> SLAB internal data.

## UNCRC Article 16 – right to privacy.

**SLAB statistics:** A proportion of unusual work approval requests in children’s legal aid cases seek to limit exposure (for instance, using non-court venues or restricted attendance) where standard arrangements would risk unnecessary publicity or distress. Approval rates for these commission/remote-link requests are very high.<sup>5</sup>

## UNCRC Article 23 – rights of disabled children.

**SLAB statistics:** In theory, we recognise that some requests for unusual work may concern disability-related adaptations, such as providing communication support or adjusting how evidence is taken. Volumes of applications are currently low, so we are unable to undertake a robust analysis by applicant disability status, but we have no evidence to suggest that where such requests are made that they face difficulties with regards to how the policy is operating.

**General evidence:** Scottish Government guidance on supporting disabled children, young people and their families’ states that inclusive communication is essential for children to understand and express their views, and that communication accessibility must be treated as equal to physical accessibility. This is direct support for *accessible communication* as a reasonable adjustment.<sup>6</sup>

## UNCRC Article 40 – administration of juvenile justice (right to be treated with dignity and respect after having been accused of breaking the law).

**SLAB statistics:** In youth-justice-related matters connected with children’s legal aid, unusual work can be authorised where default procedures would not support effective participation or fairness (for instance to ensure a developmentally appropriate mode/venue), with very high approval where evidence on commission or non-court live link is justified.

**General evidence:** Where children are accused of committing offences, appropriate unusual work approval applications may support dignity, fair treatment and effective participation.

### 1.2. Which articles of the UNCRC does this policy/measure impact on?

Primarily articles 3, 12, 16, 23 and 40.

### 1.3. Consider whether there might be different impacts on different groups of children. Are certain groups of children affected differently by the policy/measure?

Disabled children, children with language/communication needs, care-experienced children, and children directly participating as witnesses or accused themselves of committing criminal offences may benefit most from unusual work that enables tailored, accessible, and trauma-informed arrangements to be put in place for them.

### 1.4. How will the policy/measure contribute to the wellbeing of children in Scotland?

See [Annex 2](#).

- **Safe:** Unusual work approval can allow evidence to be taken in ways that reduces a child’s exposure to intimidating settings, helping create a more secure environment for their involvement and to ensure that they give their best evidence.

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<sup>5</sup> SLAB internal data.

<sup>6</sup> [Scottish Government guidance: Inclusive communication - Supporting disabled children, young people and their families](#).

- **Healthy:** Where approval for unusual work allows arrangements, such as a commissioner or remote TV/VDU link, this can help reduce stress for the child, keep them physically apart from other alleged perpetrators and ensure that they are able to give their best evidence. In limited cases, unusual work may also support engagement where a child's disability or health condition makes standard arrangements for giving evidence on court or expressing a view unsuitable and/or unsafe.
- **Achieving:** N/A.
- **Nurtured:** N/A.
- **Active:** N/A.
- **Respected:** by facilitating access to tailored special measures, this policy may be used to strengthen a child's voice and participation in legal proceedings, in line with Article 12.
- **Responsible:** N/A.
- **Included:** Adaptations and special measures promote inclusion for children facing barriers (disability, language, care-experienced status) in expressing views and giving evidence in children's court proceedings.

## Step 2 – Stakeholder involvement and consultation

### 2.1. How have you involved children in the assessment?

Children have not been directly involved in this assessment, as the policy does not involve direct service delivery or interaction with children, given applications are submitted through the solicitor. Our view is that direct engagement would not be proportionate given the technical nature of the policy and its primarily indirect impacts.

### 2.2. List all the stakeholder groups that you will talk to about this policy/measure.

- Internal policy and legal teams
- Equality and diversity colleagues
- Subject matter experts on children's legal aid.

### 2.3. What did you learn from the consultation/involvement?

Whether approval requests for unusual work are consistently evidenced and authorised across groups, whether specific barriers exist (for instance, for children with disabilities or care-experienced children). Actions to address findings will be recorded in the action log.

## Step 3 - Impacts on children and young people and steps to address these

### 3.1 Does the policy/measure have any impacts (whether intended or unintended, neutral, positive or negative) on children?

#### UNCRC Clusters

**Article 3 – decisions must be in the best interest of the child.**

**Impact:** Positive impact.

**Analysis of impact:** Approving applications to carry out unusual work where reasonable enhances best interests by enabling best evidence and reducing distress by using special measures (for instance).

### ***Article 12 – respect for the views of the child.***

**Impact:** Positive impact.

**Analysis of impact:** Approving unusual work where reasonableness can help ensure that a child is able to express their views effectively in court, for example by allowing their evidence to be taken by a commissioner, enabling them to give evidence from a less intimidating setting, or by providing communication support where needed.

### ***Article 16 – right to privacy.***

**Impact:** Neutral impact.

**Analysis of impact:** Children’s Hearings court proceedings are already private and closed to the public, and privacy is protected through existing court rules and procedures. We found no evidence that unusual work approvals have any significant bearing on privacy outcomes, as they relate to how specific work is carried out rather than to how information is protected.

### ***Article 23 – rights of disabled children.***

**Impact:** Positive impact.

**Analysis of impact:** In a small number of cases, unusual work approvals may allow for adjustments that support a disabled child’s effective participation, such as arranging for evidence to be taken in a way that reduces stress or enabling additional communication support where this is necessary. While not all disability-related adaptations fall under unusual work, the policy has enough flexibility to consider these requests where they arise and where it is shown that the adjustment would assist the child in engaging with the proceedings.

### ***Article 40 – administration of juvenile justice (right to be treated with dignity and respect after having been accused of breaking the law).***

**Impact:** Positive impact.

**Analysis of impact:** Unusual work may have a limited role in supporting a child’s participation where offence grounds are being considered at a children’s proof, for example if an adjustment is needed to help the child engage with the process. However, dignity, fairness and respect in these proceedings are primarily ensured by the Children’s Hearings and court framework itself, rather than by this policy.

## **3.2. Which actions have you taken as part of the assessment?**

- Confirm that the policy/measure described at Stage 1 was robust
- Adjust the policy/measure
- Continue the policy/practice/process/service with adverse impact
- Stop and remove the policy/practice/process/service.

**Please select the outcome of the assessment:** Confirmed that the policy/measure was robust and did not need changes.

The assessment confirms that this policy complies with relevant UNCRC articles and supports children’s rights and wellbeing. EqIA findings demonstrate that the policy does not give rise to discriminatory outcomes and that a more restrictive approach would likely increase barriers for vulnerable children. No adverse impacts requiring mitigation have been identified. Ongoing monitoring will continue through the scheduled policy review cycle.

**Please explain the changes that have been made:** Not relevant given the assessment above.

## **Step 4 – Monitoring impact of the policy/measure**

### **4.1. Note here how you intend to monitor the impact of this policy/measure on children.**

We intend to set a review cycle for three years, in line with our EqIA and policy review cycle.

## **Step 5 – How will you communicate to children the impact of the policy/measure on their rights?**

Any changes to children's legal assistance will undergo our policy and development process. Policies laying out our decision making will either be developed or adjusted and EqIAs will be carried out. Additionally, this CRWIA will be published on our website.

## **Step 6 – Approval and sign off**

*All child rights and wellbeing impact assessments must be signed off by the relevant Director or Senior Responsible Owner (SRO), even where a CRWIA is not required. The Chief Executive must approve all CRWIAs. Note the relevant dates below.*

**Director/SRO sign off:** 20/04/2026.

**Chief Executive approval:** 20/04/2026.

**CRWIA review date**

20/04/2029.

# Annex 1 – UNCRC articles

[CRC Clusters \(unicef-irc.org\)](http://www.unicef-irc.org)

## **I - General measures of implementation**

Article 4 implementation obligations  
Article 41 respect for existing standards  
Article 42 making Convention widely known  
Article 44 (6) making reports widely available

## **II - Definition of a child**

Article 1

## **III - General principles**

Article 2 non-discrimination  
Article 3 (1) best interest to be a primary consideration  
Article 3 (2) State's obligations to ensure necessary care and protection  
Article 3 (3) standards for institutions services and facilities  
Article 6 the right to life, survival and development  
Article 12 respect for the views of the child

## **IV - Civil rights and freedoms**

Article 7 right to name, nationality and to know and be cared for by parents  
Article 8 preservation of child's identity  
Article 13 freedom of expression  
Article 14 freedom of thought, conscience and religion  
Article 15 freedom of association and peaceful assembly  
Article 16 protection of privacy  
Article 17 child's access to information, and role of mass media  
Article 37(a) right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

## **V - Family environment and alternative care**

Article 5 parental guidance and child's evolving capacities  
Article 18 (1) and (2) parental responsibilities and State's assistance  
Article 9 separation from parents  
Article 10 family reunification  
Article 11 illicit transfer and non-return  
Article 27 (4) recovery of maintenance for the child  
Article 20 children deprived of their family environment  
Article 21 adoption  
Article 25 periodic review of placement and treatment  
Article 19 protection from all forms of violence  
Article 39 rehabilitation and reintegration of victims of violence

## **VI - Basic health and welfare**

Article 6 right to life, survival and development  
Article 18(3) support for working parents  
Article 23 rights of disabled children

Article 24 right to health and health services  
Article 26 right to social security  
Article 27 (1)-(3) right to adequate standard of living

## **VII - Education, leisure and cultural activities**

Article 28 right to education  
Article 29 aims of education  
Article 31 right to leisure, play and participation in cultural and artistic activities

## **VIII - Special protection measures**

### **A - Children in situations of emergency**

Article 22 refugee children  
Article 38 children and armed conflict  
Article 39 rehabilitation of child victims

### **B - Children involved with the system of administration of juvenile justice**

Article 40 administration of juvenile justice  
Article 37(a) prohibition of capital punishment and life imprisonment  
Article 37(b)-(d) restriction of liberty  
Article 39 rehabilitation and reintegration of child victims

### **C - Children in situations of exploitation**

Article 32 child labour  
Article 33 drug abuse  
Article 34 sexual exploitation  
Article 35 sale, trafficking and abduction  
Article 36 other forms of exploitation

### **D - Children belonging to a minority or an indigenous group**

Article 30

## **Violence against children**

Article 19 protection from all forms of violence.  
Article 28 (2) right to education.  
Article 34 sexual exploitation.  
Article 37(a) prohibition of capital punishment and life imprisonment.  
Article 39 rehabilitation and reintegration of child victims.

**Optional Protocol to the UNCRC on the Involvement of Children in Armed Conflict Governments** should ensure that children under 18 who are members of the armed forces do not take a part in combat. Any recruitment of children under 18 must be voluntary and carried out with the full consent of the child's parents/carers. The UK Government has entered interpretive Declarations to this Optional Protocol. The UK would not exclude the deployment of under 18s who are members of the armed forces in direct combat if there is a genuine military need; it is not practicable to withdraw them before deployment; or doing so would undermine the operational effectiveness of their unit. The minimum age at which children may join the UK armed forces is 16 years, with parental consent required.

**Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution and Child Pornography Governments** must prohibit the sale of children, child prostitution and child pornography, and recognise the vulnerability of child victims, protect their privacy, provide appropriate support services and ensure their safety.

## **Annex 2 – Getting It Right For Every Child (GIRFEC) Factors**

Source: [Child rights and wellbeing impact assessment external guidance and templates \(Scottish Government\)](#)

### **Safe**

Protected from abuse, neglect and harm by others at home, at school and in the community.

### **Healthy**

Having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy and safe choices.

### **Achieving**

Being supported and guided in their learning and in the development of their skills, confidence and self-esteem at home, at school and in the community.

### **Nurtured**

Having a nurtured place to live, in a family setting with additional help if needed or, where this is not possible, in a suitable care setting.

### **Active**

Having opportunities to take part in activities such as play, recreation and sport which contribute to healthy growth and development, both at home and in the community.

### **Respected**

Having the opportunity, along with carers, to be heard and involved in decisions which affect them.

### **Responsible**

Having opportunities and encouragement to play active and responsible roles in their schools and communities and, where necessary, having appropriate guidance and supervision and being involved in decisions that affect them.

### **Included**

Having help to overcome social, educational, physical and economic inequalities and being accepted as part of the community in which they live and learn.