



**United Nations Convention  
on the Rights of the Child  
(UNCRC): Progress Report  
2017-2020**

The Scottish Legal Aid Board

[www.slab.org.uk](http://www.slab.org.uk)

# Children and Young People (Scotland) Act 2014

## Duties of Public Authorities in Relation to the United Nations Convention on the Rights of the Child (UNCRC): Progress Report 2017-2020

### Introduction

The Scottish Legal Aid Board (SLAB) is the national funding body for most solicitor and advocate delivered publicly funded legal services.

SLAB is a Non-Departmental Public Body (NDPB) of the Scottish Government and was established in 1987. The Scottish Government is responsible for the overall direction of legal aid policy which finds expression in rules and regulations which form an extensive and complex body of legal aid legislation.

Legal aid in Scotland is primarily designed around case-by-case funding for services provided by solicitors and others instructed by them, such as advocates and experts. This is known as *judicare*.

Most services paid for through the Legal Aid Fund are delivered by *judicare* through the private sector. The third sector and our own in-house legal services also deliver case-by-case services but on a much smaller scale.

### United Nations Convention on the Rights of the Child

The UNCRC recognises children's capacities as autonomous rights holders with the ability to identify and claim rights on their own behalf. Established in 1989, the [UN Convention on the Rights of the Child](#) is a core human rights treaty which sets out an internationally agreed framework for the rights of all children and young people.

Children and young people have long been considered to require special attention in respect of their rights because of their particular vulnerabilities and their reliance on adults. Even though they are autonomous rights holders, children and young people are generally dependent on others to give effect to their rights. These rights are set out in the 54 Articles and three Optional Protocols of the UNCRC.

Part 1 (section 2) of the Children and Young People (Scotland) Act 2014 ("the Act") places a duty on a range of public authorities (including all local authorities and health boards) to report, "as soon as practicable" after the end of each three year period, on the steps they have taken to secure better or further effect of the requirements of the United Nations Convention on the Rights of the Child (UNCRC).

## Progress Report

The Scottish Legal Aid Board update has been organised to reflect the **clusters of articles** as has been recommended for reporting purposes.

Not all of the articles have direct relevance to SLAB. There are a number of limitations imposed by the legislative framework that governs the functioning of the organisation and the levers SLAB has to fulfil the duties in the convention are consequently restricted.

Nevertheless, a wide range of work undertaken by SLAB does directly or indirectly further the goals of the Convention.

For example, the Civil Legal Assistance Office (CLAO) is a network of solicitors' offices staffed by SLAB employees. CLAO offers advice and representation on a wide range of civil legal matters that can include children's hearings, child protection and related family law work.

Furthermore, SLAB works closely with other justice sector partners including Children's Hearing Scotland (CHS) where we strive for improvements for all users of the system, the beneficiaries of which include children.

It is through that work that SLAB endeavours to fulfil the duties set out in the articles of the Convention.

### **Cluster (i): General measures of implementation; Cluster (v): Family environment and alternative care**

We are committed to the implementation of UNCRC rights, through complying with rights provisions and duties within the 2014 Act and other relevant legislation and policy as identified (Article 4).

The services that we fund enables access to the legal system and therefore that associated rights are protected (Article 4). For example, Children's legal aid is available for anyone under 16 or someone who is 16 or 17 if the children's hearing has placed them on a compulsory supervision order.

SLAB's funding and services is relevant to children in a number of different ways:

- During the period April 2017 to March 2020 we processed a total of 33,808 applications for Children's legal aid and made 33,167 grants
- The Scottish Legal Aid Board operates direct legal services to clients through our Civil Legal Assistance Office (CLAO) and Public Defence Solicitors' Office (PDSO). Through their work children's rights are being safeguarded in the civil and criminal courts and the Children's Hearings system
- CLAO in particular takes on a small number of child related cases through their work with Children's Hearings, Child Protection and Family Law where a Public Law Duty is engaged<sup>1</sup>
- In the period from April 2017 to March 2020 CLAO had 54 Children's Legal Assistance grants for clients under the age of 18 most of which were in relation to Children's Hearings

- The majority of the clients CLAO act for in children's hearings are not the child themselves but may be a parent or older sibling over the age of 18<sup>2</sup> thus indirectly supporting a child's access to the justice system. From April 2017 to March 2020 CLAO had 447 such grants
- In the period April 2017 to March 2020 CLAO had five grants for family cases and two for non-family cases where the client would have been under the age of 18 at the time of the application
- The CLAO acts for adults in case categories where there is a possibility a child may be involved
- Data on whether a child is involved is not possible to determine so we consider the case categories where there was an increased likelihood where a child might be either involved or affected by the outcome of a case. For example, CLAO may act in defending an eviction order for a family. From April 2017 to March 2020 there were 194 grants of Civil Legal Assistance for such cases<sup>3</sup>
- The PDSO also act in cases involving children and are on the duty scheme for Children's Hearings and attend police station interviews when required
- From April 2017 to March 2020 there were 310 grants of Criminal Legal Assistance to persons under the age of 18 at the time of application.

<sup>1</sup> Cases where a public law duty is involved include:

- Applying for/Opposing contact, residence, specific issue and/or Parental Rights and Responsibilities Order under section 11 of the Children's Hearings (Scotland) Act 1995 where ongoing social work involvement; i.e. only if ancillary to child protection work and enforcing public law duty is part of the work that it is anticipated will be carried out
- Applying for/Opposing/Appealing in relation to an Adoption Order
- Applying for/Opposing/Appealing in relation to a Kinship Care Order (under section 11 of the CSA 1995)
- Child/Young Person requiring advice and representation
- Exclusion Orders/Interdicts/Non-Harassment Orders where social work involvement with the family; i.e. only if ancillary to child protection work.

<sup>2</sup> Sections 28C to F of the Legal Aid (Scotland) Act 1986 and regulation 5 of the Children's Legal Assistance (Scotland) Regulations 2013 provide that children's legal aid is available to:

- a child
- a Relevant person
- a deemed relevant person
- a person seeking to be deemed relevant
- a "section 126" individual.

<sup>3</sup> Cases include Family, Permanency, Residence, Contact and Adoption.

Publications and information of particular relevance to children such as the Corporate Parenting Plan are available on our website.

### **Cluster (iii): General principles of the UNCRC**

Although the PDSO and CLAO rarely interact directly with children they work in close partnership with other agencies, which include Children's Hearing Scotland, the Police, Scottish Courts and Tribunal Service, relevant local authority social work departments, parents, guardians and other authorised adults.

On the occasions when direct contact with a child is required then written correspondence is adapted to simplify language and ensure the child understands the processes they are involved with.

Looking ahead to the 2020-23 period there are plans to further improve the reach of services to children with, among other things, staff training and improved written communications.

We provide information, correspondence and guidance in an accessible and easy to read format and we also make additional reasonable adjustments if required.

### **Cluster (iv): Civil rights and freedoms**

Our information materials are available in a range of formats and in specific settings in order to meet the needs of individual children and young people (Article 17).

In relation to our discharge of our functions under our governing legislation, children and young people are not subject to any form of treatment which is deemed to be inhuman or degrading, and the legal aid system (including the duty solicitor schemes we manage) provides access to legal and other assistance in instances where they are detained (Article 37).

Our information sharing is proportionate and appropriate and complies with the Data Protection Act while recognising a child's right to privacy (Article 16):

- We are the public authority which administers legal aid in Scotland in terms of the Legal Aid (Scotland) Act 1986
- In carrying out these functions we collect, use and retain different types of personal information about people
- We rely on specific provisions under Article 6 and 9 of the General Data Protection Regulation as the lawful basis for processing of data, as a task carried out in the public interest or in the exercise of official authority vested in the controller
- Our lawful basis for processing personal data will also include contractual obligations with service providers and suppliers
- Collection and use Personal Data is done in accordance with the UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018 and any other applicable data protection law in the United Kingdom
- It applies to Personal Data provided to us, by both individuals or by others.
- We provide individuals with privacy information at the time we collect their personal data. We have a privacy policy which explains how we use any personal information we collect.

### **Cluster (viii): Special protection measures:**

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

We uphold a child's rights via participation directly in the Children's Hearing System in Scotland either through the funding of legal representation, through the availability of our direct legal services and also through participation in the **Children's Hearing Improvement Partnership (CHIP)**.

CHIP is a multi-agency group chaired and coordinated by the Scottish Government. It brings together partners from across the Hearings System including charities, justice sector partners and government agencies and its focus is on change and improvement within the Children's Hearing system.

## Children belonging to a minority or an indigenous group

As a public body in Scotland, SLAB has a number of duties under the Equality Act 2010 and Scottish specific equality duties provide a clear planning and reporting framework to help us achieve this.

SLAB publishes its progress against equality outcomes every three years and in the 2017-20 cycle Equality outcome 2 was aimed at ensuring minority ethnic and disabled people experience equal access to quality accessible services and information about legal aid.

Progress towards this was achieved by improving the accessibility of our website and written communications.

In terms of the wider legal aid system SLAB guidance states that interpreters and translation costs are chargeable as outlays on accounts. No prior approval is required unless the outlay(s) incurred exceed £3,000 in Civil/Children's and £2,000 in Criminal (excluding VAT).

SLAB also provides a register of interpreters and translators to assist solicitors seeking such a service for their clients.

The full guidance on language interpreting and translating can be read [here](#).