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**Part 1, Section 2 of the Children and Young People (Scotland) Act 2014:¹
A Weak Reporting Duty Resulting in Inconsistent Children's Rights Reports**

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¹ Children and Young People (Scotland) Act 2014 pt 1, s 2.

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I. Introduction

Children are one of the most vulnerable groups in society, one of the most reliant on public services, and most likely to suffer from to reductions in public spending.² It is therefore particularly important to monitor the realisation of their human rights through reports and impact assessments.³ Meaningful and effective children’s rights reporting is essential to monitor duty bearers’ accountability and compliance with the United Nations Convention on the Rights of the Child (hereinafter UNCRC or the Convention). In Scotland, there are two major pieces of legislation that pertain to children’s rights. First, the Children and Young People (Scotland) Act 2014 (CYP Act 2014) indirectly incorporated the UNCRC. Part 1 of the Act required Scotland’s public authorities, including local authorities, health boards, integration joint boards and others, to produce and publish triennial reports on children’s rights,⁴ and the Scottish Government provided a non-statutory guidance on public authorities’ Part 1, Section 2 reporting duty (hereinafter CYPA Guidance).⁵ Second, the Scottish Parliament adopted the UNCRC (Incorporation) (Scotland) Bill in 2021 (Incorporation Bill) which will directly incorporate the Convention and expand on the public authorities’ children’s rights reporting duty.⁶ In January 2023, the Observatory of Children’s Human Rights Scotland (the Observatory) sent requests under the Freedom of Information (Scotland) Act 2002 (FOI) to the 101 public authorities listed in the Act for their children’s rights reports from the 2017-2020 and 2020-2023 periods.⁷ As of June 2023, the Observatory received responses from 78 public authorities, 11 of which explained they did not hold information that fell within the scope of the request. 51 of the authorities indicated they had produced a children’s rights report for the 2017-2020, and 47 have started work on their children’s rights report for the 2020-2023 period. The FOI requests and responses

² Simon Hoffman, ‘Ex Ante Children’s Rights Impact Assessment of Economic Policy’ (2020) 24 *The International Journal of Human Rights* 1333, 1335; CESCR, ‘Assessing Austerity: Monitoring the Human Rights Impacts of Fiscal Consolidation’ (2018) 17 <https://www.cesr.org/sites/default/files/Austerity-Report-Online2018.FINAL_.pdf> accessed 27 July 2023; Bea Cantillon and others, ‘Children of Austerity: Impact of the Great Recession on Child Poverty in Rich Countries’ (Oxford University Press 2017) <https://www.unicef-irc.org/publications/pdf/Children_of_austerity.pdf>.

³ Hoffman (n 2) 1335; CESCR (n 2); Cantillon and others (n 2).

⁴ CYP Act 2014 (n 1) s 2.

⁵ Scottish Government, *Guidance on Part 1, Section 2 (Duties of Public Authorities in Relation to the UNCRC) of the Children and Young People (Scotland) Act 2014* (2016).

⁶ United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill 2020 ss 15, 16, 16A.

⁷Freedom of Information (Scotland) Act 2002; CYP Act 2014 (n 1) sch 1.

are held on file by the Observatory. The authorities who received FOI requests and the provided reports are listed in Appendices 1-4. As little attention has been paid to the reports produced under the CYP Act 2014, I seek to fill this gap with this research report. Due to a dearth of literature on best practices in children’s rights reporting, I will draw primarily from the Committee on the Rights of the Child’s (the Committee) recommendations for State party reports and children’s rights impact assessment (CRIA) literature. In this report, I will argue that the CYP Act 2014’s vague and unenforceable children’s rights reporting duty for public authorities, combined with the non-statutory CYPA guidance’s flexible recommendations, resulted in a disarray of reports that do not consistently report on children’s rights in a meaningful or effective way. In section II, I will contextualize children’s rights reporting duties under the UNCRC and the CYP Act 2014 and highlight the tensions that arose from the Act between children’s rights and children’s wellbeing. In section III, I will delineate five key issues uncovered in my examination of the public authorities’ reports: children’s services plans provided in lieu of children’s rights reports, the inclusion of UNCRC articles and clusters, unsubstantiated reporting and a lack of data, the participation of children and young people, and inaccessible reports. Finally, I will provide recommendations for the Scottish Ministers to consider as they prepare the statutory guidance for the authorities’ section 15 duty under the Incorporation Bill.⁸

II. Duty to report on children’s rights

II.1. UNCRC

Although other conventions and covenants address rights that apply to children, the General Assembly adopted the United Nations Convention on the Rights of the Child (UNCRC) in 1989 to set an international legal standard on the rights of children under the age of eighteen.⁹ The UNCRC – ratified by all State parties except the United States – requires State parties to implement the UNCRC articles.¹⁰ The UNCRC highlights key principles when it comes to all actions

⁸ UNCRC (Incorporation) (Scotland) Bill (n 6) s 16A(1), 15.

⁹ E Kay M Tisdall, ‘Children’s Rights and Children’s Wellbeing: Equivalent Policy Concepts?’ (2015) 44 *Journal of Social Policy* 807, 809–10.

¹⁰ Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) E/CN.4/RES/1990/74 art 4; Tisdall (n 8) 809–10.

and matters concerning children, including non-discrimination,¹¹ a child's best interest must be the paramount consideration,¹² their rights to survival and development,¹³ and their right to express their views freely.¹⁴ Monitoring the implementation of the UNCRC is essential to ensuring the fulfilment of children's rights. These over-arching principles are not hierarchical: "the rights are inalienable and indivisible."¹⁵

States are held accountable to the UN through regular reports to the Committee on the Rights of the Child (hereinafter the Committee). As the United Kingdom ratified the UNCRC in 1991, Scotland is beholden to the UNCRC under the Scotland Act 1998.¹⁶ Children's rights have gained prominence in Scotland as a framework for children's policy and the government's aspiration is "for Scotland to be the best place to grow up in."¹⁷ In 2013, the Scottish Government announced the Children & Young People (Scotland) Bill which seeks to "make real this ambition by putting children and young people at the heart of planning and delivery of services and ensuring their rights are respected across the public sector."¹⁸ This announcement demonstrates the "high profile of children's rights in Scottish Government rhetoric."¹⁹ Although the UNCRC is not directly justiciable in UK domestic courts, Scotland's children's legislation – the CYP Act 2014 and Incorporation Bill – stress the national government's commitment to children's rights.²⁰ As such, Scotland has both domestic and international legal commitments to enact the Convention.²¹ Reporting is an essential mechanism to monitor and ensure the fulfilment of these commitments.

¹¹ Scottish Parliament, 'Children and Young People Scotland Bill Policy Memorandum' (2013) <[http://archive2021.parliament.scot/S4_Bills/Children%20and%20Young%20People%20\(Scotland\)%20Bill/b27s4-introd-pm.pdf](http://archive2021.parliament.scot/S4_Bills/Children%20and%20Young%20People%20(Scotland)%20Bill/b27s4-introd-pm.pdf)>; Convention on the Rights of the Child (n 10) art 2.

¹² Convention on the Rights of the Child (n 10) art 3.

¹³ *ibid* 6.

¹⁴ *ibid* 12.

¹⁵ Tisdall (n 8) 810; CRC, 'General Comment No. 5: General Measures of Implementation of the Convention on the Rights of the Child' (UN, 2003) UN Doc CRC/GC/2003/5 para 12.

¹⁶ Scotland Act 1998, Schedule 5 s 7(2)(a); Tisdall (n 5) 812.

¹⁷ Scottish Parliament (n 11) 1.

¹⁸ *ibid*.

¹⁹ Tisdall (n 9) 812.

²⁰ *ibid*.

²¹ *ibid*.

The UNCRC sets out monitoring provisions in Article 44, which outlines the State party reporting system.²² Monitoring through reports has been particularly fruitful when it comes to the UNCRC, which has resulted in the most consistent state reports of any UN treaty.²³ However, it is not enough to produce reports, their effectiveness hinges on their quality, content, children's participation and accessibility. Like HRIAs and CRIAs, there are many examples of State party reports, but, as summed by McCall-Smith, "Some practice is good. Some is better. Some is best."²⁴ Šahović and colleagues found that State party reports have improved in quality over time and the quantity of information accessible to the Committee has increased.²⁵ NGO reports to the Committee have similarly improved in both structure and in their capacity to "evaluate the situation for children in their countries and to eloquently present it to the CRC Committee."²⁶

The reports produced by public authorities will likely follow the lead of State parties and NGOs and improve in quality over time. However, the latter two had more extensive and detailed guidance to follow when it came to reporting on children's rights.²⁷ Unlike states, public authorities are not required under the CYP Act 2014 to demonstrate to the Committee that they are complying with the UNCRC,²⁸ as further discussed in section II.II below. The Act did not demand the same calibre of reporting from public authorities as the Committee demands from states. When reports and CRIAs are effective, fact-driven, and deal with rights in a meaningful way, they can provide evidence for states' compliance to their UNCRC obligations and the realisation of children's rights at a national level as well as instigate future change.²⁹ In order for the public authorities' reports to maximise this potential, a more comprehensive and enforceable reporting duty and statutory guidance are needed.

²² Convention on the Rights of the Child (n 10) art 44.

²³ Nevena Vučković Šahović, JE Doek and Jean Zermatten, *The Rights of the Child in International Law: Rights of the Child in a Nutshell and in Context: All about Children's Rights* (Stämpfli Publishers 2013) 362; Julia Sloth-Nielsen, 'Monitoring and Implementation of Children's Rights' in Wei Gao (ed), *Metrology* (Springer Singapore 2018) 4.

²⁴ Kasey McCall-Smith, 'Good Better Best? Human Rights Impact Assessment in Crisis Lawmaking' [2022] *The International Journal of Human Rights* 3 <<https://www.research.ed.ac.uk/en/publications/good-better-besthuman-rights-impact-assessment-in-crisis-lawmakin>> accessed 11 July 2023.

²⁵ Šahović, Doek and Zermatten (n 23) 342; Sloth-Nielsen (n 23) 14.

²⁶ Šahović, Doek and Zermatten (n 23) 350; Sloth-Nielsen (n 23) 14.

²⁷ CRC (n 15).

²⁸ CYP Act 2014 (n 1) s 2(1).

²⁹ McCall-Smith (n 24) 3.

II.II. Children and Young People (Scotland) Act 2014

The CYP Act 2014 requires reporting on several fronts, namely from Scottish Ministers and public authorities who must produce children’s rights reports for every three-year period.³⁰ However, their substantive obligations with regards to the contents of the reports, the participation of children and young people, and the implementation of the UNCRC differ. Under Section 1(1), Scottish Ministers “*must...keep under consideration whether there are any steps which they could take which would or might secure better or further effect in Scotland of the UNCRC requirements, and...if they consider it appropriate to do so, take any of the steps identified by that consideration.*”³¹ The report “*must*”³² include what they have done to promote public awareness and understanding of the rights of children³³ and their plans for the next three-year period.³⁴ The ministers “*must*” also take steps to obtain the views of children on what their (4)(c) plans should be and give their reports to the Scottish Parliament.³⁵ Scottish Ministers are thus required to be transparent and held accountable on the steps taken to further children’s rights, implementing the UNCRC, and their future plans to that end.³⁶ There is no such duty required by public authorities.

Despite public authorities being the direct providers of children’s services,³⁷ the Act dedicates only a single sentence to their children’s rights reporting duty. It reads as follows:

“As soon as practicable after the end of each 3 year period, an authority to which this section applies must publish (in such manner as the authority considers appropriate) a report of what steps it has taken in that period to secure better or further effect within its areas of responsibility of the UNCRC requirements.”³⁸

³⁰ CYP Act 2014 (n 1) ss 1–3.

³¹ *ibid* 1(1)(a)-(b). (emphasis added)

³² *ibid* 1(4). (emphasis added)

³³ *ibid* 1(3), 1(4)(b).

³⁴ *ibid* 1(4)(c).

³⁵ *ibid* 1(4-5). (emphasis added)

³⁶ Tisdall (n 9) 812.

³⁷ E Kay M Tisdall and John M Davis, ‘Children’s Rights and Well-Being: Tensions within the Children and Young People (Scotland) Act 2014’ in Anne B Smith (ed), *Enhancing Children’s Rights: Connecting Research, Policy and Practice* (Palgrave Macmillan UK 2015) 219.

³⁸ CYP Act 2014 (n 1) s 2(1).

This “undoubtedly weak” reporting obligation came despite a push for more substantive obligations for public authorities from public-sector organisations and children’s rights alliances.³⁹ A public authority could report they have not done anything to further children’s rights other than fulfil the minimum requirements of domestic legislation, and they would meet the Act’s legal requirement.⁴⁰ The only duty they “*must*” fulfil is publish a report on what they have done pertaining to children’s rights,⁴¹ with no obligation to actually *take* steps to implement the UNCRC. Moreover, the Act’s demands regarding the timing and format of the reports are equally nebulous. The reports only need to be published “as soon as practicable” after each period and “in such manner as the authority considers appropriate,”⁴² allowing for wide interpretations of what this appropriateness might entail. Although Covid-19 delays were inevitable and permitted by the Coronavirus (Scotland) Act 2020,⁴³ this flexibility in the reporting requirement may have contributed to several public authorities not publishing their reports at all for the 2017-2020 period,⁴⁴ as further discussed in section III.V.I.

In contrast, public authorities’ Part 3 duties pertaining to children’s wellbeing are much more extensive and substantive. The Act itself contains an uneven number of sections dedicated to children’s rights relative to children’s wellbeing – four sections on the rights of children in Part 1⁴⁵ and eleven sections on children’s services planning in Part 3⁴⁶ – which translate to equally uneven reporting obligations. Under Part 3, public authorities have a duty to create children’s services plans for every three-year period to orient planning and provision towards children’s wellbeing.⁴⁷ They must also publish annual progress reports to monitor children’s service provision, how goals have been achieved, and wellbeing outcomes.⁴⁸ The plans outline services

³⁹ Maire McCormack, ‘Children and Young People (Scotland) Act: Reflections on the Passage of the Act’ (2014) 13 *Scottish Journal of Residential Child Care* 15, 20; Tisdall and Davis (n 37) 219.

⁴⁰ Tisdall (n 9) 813; Tisdall and Davis (n 37) 220.

⁴¹ CYP Act 2014 (n 1) s 2(1). (emphasis added)

⁴² *ibid*; Tisdall and Davis (n 37) 219.

⁴³ Coronavirus (Scotland) Act 2020 s 6, pt 3, para 8(1–2).

⁴⁴ E.g., Argyll and Bute Council, the Scottish Fire and Rescue Service and Highland Council. Email from HSCP FOI Argyll and Bute to Gillian Munro (17 January 2023); Email from Sharon Reid to Gillian Munro (14 February 2023); Email from The Highland Council to Gillian Munro (21 February 2023).

⁴⁵ CYP Act 2014 (n 1) ss 1–4.

⁴⁶ *ibid* 7–18.

⁴⁷ *ibid* 8(1), 9(2)(a); Tisdall (n 9) 812–13; Tisdall and Davis (n 37) 220.

⁴⁸ CYP Act 2014 (n 1) s 8(1), 9(2)(a); Tisdall (n 9) 812–13; Tisdall and Davis (n 37) 220.

which seek to improve outcomes for children and young people by enhancing their wellbeing.⁴⁹ Although wellbeing outcomes could contribute to realising children's rights, there is not a single mention of "rights" in Part 3 of the Act.⁵⁰ The plans "*must* be prepared with a view to securing" the following aims through children's services:⁵¹ safeguarding, supporting and promoting children's wellbeing, taking action to meet needs at the earliest appropriate time, and best use of available resources.⁵² Additionally, the Act outlines the aims,⁵³ process,⁵⁴ review,⁵⁵ implementation⁵⁶ and reporting⁵⁷ of the children's services plans. In sum, not only are public authorities required to plan for and report on children's wellbeing, but they are also legally obligated to deliver services and safeguard, support and promote children's wellbeing.⁵⁸

The Scottish Government sought to handle both children's rights and wellbeing in a single piece of legislation;⁵⁹ but instead of unifying the two, the Act prioritized wellbeing over rights. Although both agendas aim to ensure positive outcomes for children in Scotland, including being empowered to participate in decisions that affect them and being treated as social actors worthy of respect, they are not the same.⁶⁰ The "harder edge" usually characteristic of children's rights, further discussed in section II.III, which would demand that the government and public authorities fulfil their children's rights obligations, is missing in the Act.⁶¹ Despite the ministers' more substantive children's rights reporting duty, neither the ministers nor the public authorities are legally held to account by the Act if they do not meet their UNCRC obligations.⁶² The Act, perhaps inadvertently, highlighted children's rights and children's wellbeing as linked, but

⁴⁹ Scottish Government (n 5) para 73.

⁵⁰ CYP Act 2014 (n 1) ss 7–18.

⁵¹ *ibid* 9(1). (emphasis added)

⁵² *ibid* 9(2)(a)-(b).

⁵³ *ibid* 9.

⁵⁴ *ibid* 10.

⁵⁵ *ibid* 11.

⁵⁶ *ibid* 12.

⁵⁷ *ibid* 13.

⁵⁸ Tisdall (n 9) 813.

⁵⁹ Tisdall and Davis (n 37) 220.

⁶⁰ *ibid*.

⁶¹ *ibid*.

⁶² *ibid*.

distinct, in both definition and policy framework, resulting in overlapping and unclear reporting duties for public authorities.

II.III. Children's wellbeing vs. children's rights

Although children's wellbeing and children's rights are often paired together, they are not twins.⁶³ Their relationship is "more akin to that of cousins – definitely related but with a different genealogy."⁶⁴ Children's wellbeing is often more aspirational and can have a better capacity to include children's relationships and collective needs.⁶⁵ There tends to be more advanced quantitative measurement of wellbeing through wellbeing indicators and statistics, but there is also a risk of the concept being apolitical and utilitarian.⁶⁶ On the other hand, children's rights tend to focus on minimum standards, can fail to incorporate such important matters to children as love and friendship, and have a history of limited quantitative measurement and investment.⁶⁷ However, they benefit from being "politically powerful, backed by law, and hold duty bearers accountable."⁶⁸

There are many definitions of wellbeing, as the concept continues to be contested.⁶⁹ However, McAllister identified recurring ideas in relevant literature: wellbeing is more than "the absence of illness or pathology," it has both self-assessed and ascribed factors, it can be measured individually or societally, and it captures "elements of life satisfaction that cannot be defined, explained or primarily influenced by economic growth."⁷⁰ Wellbeing is characterized by

⁶³ Laura Lundy, 'United Nations Convention on the Rights of the Child and Child Well-Being' in Asher Ben-Arieh and others (eds), *Handbook of Child Well-Being: Theories, Methods and Policies in Global Perspective* (Springer Netherlands 2014) 2440; Tisdall (n 9) 808.

⁶⁴ Lundy (n 63) 2440; Tisdall (n 9) 808.

⁶⁵ Tisdall (n 9) 807; David Taylor, 'Wellbeing and Welfare: A Psychosocial Analysis of Being Well and Doing Well Enough' (2011) 40 *Journal of Social Policy* 777; Laura Camfield, Natalia Streuli and Martin Woodhead, 'What's the Use of "Well-Being" in Contexts of Child Poverty? Approaches to Research, Monitoring and Children's Participation' (2009) 17 *International Journal of Children's Rights* 65.

⁶⁶ Tisdall (n 9) 815.

⁶⁷ *ibid* 807.

⁶⁸ *ibid*.

⁶⁹ F McAllister, 'Wellbeing: Concepts and Challenges' (2005) 2

<http://www.sdresearch.org.uk/wellbeing/documents/SDRNwellbeingpaper-Final_000.pdf>.

⁷⁰ *ibid* 2; Tisdall (n 9) 809.

multitudes, varying in definition as well as measurement and application.⁷¹ In Scotland, wellbeing is central to the Getting it Right for Every Child (GIRFEC) initiative which emphasize providing appropriate services that children and families need.⁷² GIRFEC goes hand-in-hand with children's wellbeing, but how it fits with children's rights is less clear, despite the Scottish Government's 2013 report which addressed their relationship.⁷³ The report claims the UNCRC is the "foundation" of GIRFEC and that the two concepts are "aligned and linked," without defining wellbeing or discussing children's rights beyond short forms of the UNCRC Articles.⁷⁴

There is potential for complementary and reciprocal policy agendas for children's rights and children's wellbeing in Scotland. Some academics conceptualise the UNCRC as "an important tool for the promotion of the well-being of children."⁷⁵ Others contend that wellbeing is "central to the realisation of children's rights" and that children's rights constitute half of wellbeing's definition.⁷⁶ However, the CYP Act 2014 incorporates the children's rights framework in Part 1, though with insufficient implementation duties, children's wellbeing in Part 3, with much more extensive duties, and an overarching children's services focus with GIRFEC.⁷⁷ The Act's duties create a more comprehensive delivery mechanism and accountability for children's wellbeing through outcomes reporting.⁷⁸ Unresolved tensions and contradictions between rights and wellbeing, as well as uneven legal duties, could result in children's rights diminishing as both a policy and normative framework in Scotland.⁷⁹ As the relationship between the two frameworks

⁷¹ Tisdall (n 5) 809; See Nick Axford, 'Child Well-Being through Different Lenses: Why Concept Matters' (2009) 14 *Child & Family Social Work* 372.

⁷² Tisdall (n 10) 813; See Bob Stradling and Bill Alexander, 'Getting It Right for Children: Promoting Effective Change', *Children's Services* (Routledge 2012); E Kay M Tisdall and Malcolm Hill, 'Policy Change under Devolution: The Prism of Children's Policy' (2011) 10 *Social Policy and Society* 29; E Kay M Tisdall and John M Davis, 'Children's Rights and Well-Being: Tensions within the Children and Young People (Scotland) Act 2014' in Anne B Smith (ed), *Enhancing Children's Rights: Connecting Research, Policy and Practice* (Palgrave Macmillan UK 2015).

⁷³ Tisdall and Davis (n 37) 814.

⁷⁴ *ibid*; Tisdall and Davis (n 37).

⁷⁵ Jaap E Doek, 'Child Well-Being: Children's Rights Perspective' in Asher Ben-Arieh and others (eds), *Handbook of Child Well-Being: Theories, Methods and Policies in Global Perspective* (Springer Netherlands 2014) 213; Jean Zermatten, 'The Best Interests of the Child Principle: Literal Analysis and Function' (2010) 18 *The International Journal of Children's Rights* 483; Tisdall (n 9) 818.

⁷⁶ Camfield, Streuli and Woodhead (n 65) 65; Tisdall (n 9) 818.

⁷⁷ Tisdall and Davis (n 37) 222.

⁷⁸ Tisdall (n 9) 818.

⁷⁹ *ibid*.

has not been adequately addressed, the 2014 Act instead contributes to a “confusing complexity of policy priorities rather than resolving them,”⁸⁰ demonstrated by the tangled reporting duties and resulting inconsistent reports, as will be explored in the following section.

III. Inconsistencies in the public authorities’ children’s rights reports

III.I. Children’s services plans as children’s rights reports

There is a great deal of diversity in the structure, content and scope of the children’s rights reports produced by Scotland’s public authorities. This in part stems from the links between the authorities’ Part 1 and 3 duties, as highlighted by the Scottish Government in their CYP guidance.⁸¹ Although there is no requirement in Part 3 to use a child’s rights-based approach in the services plans, the guidance encouraged “cementing the link between the two” duties and reports which follow complementary timescales.⁸² The guidance presumes that children’s services planning positions children’s rights “at the heart of the planning and delivery of children’s services,” and, as such, the service planning duties offer an opportunity to articulate children’s rights in practice.⁸³ This exemplifies the frequent coupling of children’s rights with children’s wellbeing in literature, law and policy,⁸⁴ despite their differences in concept, practice, and – as was revealed by CYP Act 2014 – reporting.⁸⁵ Wellbeing-centric children’s services plans are unlikely to simultaneously function as an effective children’s rights report. However, 24 public authorities provided children’s services plans, corporate parenting plans, or annual reports in response to the FOI request for their triennial children’s services reports.

The guidance offered the authorities the option of taking a child rights-based approach in their children’s services plans to “meet the needs of the Children’s Rights Reports.”⁸⁶ They were encouraged to align their Part 1 (children rights reporting), 3 (children’s services planning) and 9 (corporation parenting) duties to be more efficient, “avoid duplication of effort and maximize

⁸⁰ *ibid.*

⁸¹ Scottish Government (n 5) paras 74–78.

⁸² *ibid.* 74.

⁸³ *ibid.* 75.

⁸⁴ See section II.III.

⁸⁵ Tisdall (n 9) 807.

⁸⁶ Scottish Government (n 5) para 124.

use of available resources.”⁸⁷ Local authorities – including North Lanarkshire, Fife Council and Glasgow City Council – and health boards – namely NHS Fife and NHS Glasgow and Clyde – produced only children’s services plans and annual reports as per their Part 3 duties, with only brief mentions of the UNCRC to fulfil their Part 1 duty.⁸⁸ North Lanarkshire Council, for example, produced children’s services plans for 2017-2020 and 2021-2023, including 2018-2019 and 2021-2022 annual reports.⁸⁹ The reporting sections thus only cover information from two of the six years required. The only mention of children’s rights in the 2017-2020 plan is a short paragraph which explains, “Neglect harms children... Children who experience neglect are not having their rights respected,” with no reference of any UNCRC Articles.⁹⁰ This analysis of rights is superficial at best, and the report prioritizes such wellbeing outcomes and indicators as child poverty and GIRFEC over a meaningful examination of how their services contribute to the realisation of UNCRC rights.⁹¹

Other public authorities made a more obvious effort to amalgamate and fulfil their children's rights reporting and children’s services planning duties in a single document.⁹² These efforts, however, were minimal at best. East Ayrshire Council’s 2020-2023 children’s services plan, for example, dedicated a single page to “Respecting and Promoting Children and Young People’s Rights,” outlining general aspirations to fulfil children’s rights without providing any substantiated information about what the authority has done to realise them.⁹³ Similarly,

⁸⁷ *ibid* 70, 80.

⁸⁸ North Lanarkshire Children’s Services Partnership, ‘North Lanarkshire Children’s Services Plan 2017-2020: Annual Report 2018-19’ (2019); North Lanarkshire Children’s Services Partnership, ‘North Lanarkshire Children’s Services Plan 2021-23: Annual Report 2021-22’ (2022) <<https://www.northlanarkshire.gov.uk/sites/default/files/2022-11/NLCSPAnnual%20Report%2021-22%20%20%281%29.pdf>>; Fife Children’s Services Partnership, ‘Children’s Services Plan 2021-2023’ (2021) <https://www.fife.gov.uk/__data/assets/pdf_file/0023/243194/Fife-CS-Plan-2021-23-v2.pdf>; Glasgow City Council and others, ‘Glasgow City Integrated Children’s Services Plan 2020-2023’ (2020); Glasgow City Council and others, ‘Glasgow City Integrated Children and Young People’s Services Plan 2017-2020’ (2017).

⁸⁹ North Lanarkshire Children’s Services Partnership, ‘North Lanarkshire Children’s Services Plan 2017-2020: Annual Report 2018-19’ (n 88); North Lanarkshire Children’s Services Partnership, ‘North Lanarkshire Children’s Services Plan 2021-23: Annual Report 2021-22’ (n 88).

⁹⁰ North Lanarkshire Children’s Services Partnership, ‘North Lanarkshire Children’s Services Plan 2017-2020: Annual Report 2018-19’ (n 88) 15.

⁹¹ *ibid*.

⁹² East Ayrshire Council, ‘Children & Young People’s Services Plan 2020-2023’ (2020).

⁹³ *ibid* 20.

Aberdeenshire’s children’s services plan for 2020-2023 includes a report on the previous period of 2017-2020.⁹⁴ However, the focus is primarily on the services plan and children’s well-being, including a summary of high-level wellbeing indicators in Appendix 2.⁹⁵ These indicators are not linked to UNCRC Articles even though the CYPA guidance provided a table explicitly linking wellbeing indicators and UNCRC rights.⁹⁶ Moreover, The CYPA guidance clarified that although Part 1 and Part 3 duties could overlap, the authorities would still need to give attention to the scope and extent of children’s rights, “*with consideration given to the interaction between the UNCRC and the wellbeing indicators.*”⁹⁷ The plan fails to deal with children’s rights in any meaningful way, exemplifying the issue of allowing overlap between Part 1 and Part 3 duties.

Similarly, Glasgow City Council provided joint 2017-2020 and 2020-2023 children’s services plans with NHS Greater Glasgow and Clyde as their children rights reports.⁹⁸ The 2017-2020 plan included data from the previous period while their 2020-2023 included feedback from children and young people from 2019-2020 which was incorporated in their service planning.⁹⁹ As such, these two service plans only report on 2014-2017 and 2019-2020, and do not report on rights over the entirety of the required periods. The incorporation of children’s participation in their service planning follows good practice, as expounded in section III.IV. However, the feedback is not linked to rights, despite the topics covered – poverty,¹⁰⁰ mental health,¹⁰¹ family support,¹⁰² additional support needs¹⁰³ and children’s views on these matters that affect them – being closely tied to UNCRC rights, namely Articles 27, 24, 9, 23, and 12.¹⁰⁴ Though the authorities could merge their reporting and service planning duties, they were still meant to “reflect on what

⁹⁴ GIRFEC Aberdeenshire, ‘Children’s Services Plan 2020-2023’ (2020) <<https://www.girfec-aberdeenshire.org/wp-content/uploads/2020/10/Aberdeenshires-Childrens-Services-Plan-2020-2023.pdf>>.

⁹⁵ *ibid* 90–94.

⁹⁶ *ibid* 90–94; Scottish Government (n 5) app 3.

⁹⁷ Scottish Government (n 5) para 76. (emphasis added)

⁹⁸ Glasgow City Council and others, ‘Glasgow City Integrated Children and Young People’s Services Plan 2017-2020’ (n 88); Glasgow City Council and others, ‘Glasgow City Integrated Children’s Services Plan 2020-2023’ (n 88).

⁹⁹ Glasgow City Council and others, ‘Glasgow City Integrated Children and Young People’s Services Plan 2017-2020’ (n 88) 6–10; Glasgow City Council and others, ‘Glasgow City Integrated Children’s Services Plan 2020-2023’ (n 88).

¹⁰⁰ Glasgow City Council and others, ‘Glasgow City Integrated Children’s Services Plan 2020-2023’ (n 88) 6–7.

¹⁰¹ *ibid* 7–9.

¹⁰² *ibid* 12–13.

¹⁰³ *ibid* 15.

¹⁰⁴ Convention on the Rights of the Child (n 10) arts 27, 24, 9, 23, 12.

steps have been taken to further children’s rights” that fall out of the scope of the children’s services plans.¹⁰⁵

Although it is impossible to make broad claims on all of the public authorities’ reports due to their significant variation, the majority of those who produced only children’s services plans did not adequately report on children’s rights in the relevant period. The CYPA guidance expressed a perhaps unrealistic hope that local authorities and health boards would take the opportunity to fulfil their duties by setting aims within their children’s services plan to “secure better or further effect of children’s rights” and document their progress in both service provision and rights realisation in annual reports.¹⁰⁶ However, this “valuable opportunity”¹⁰⁷ was not maximised by these public authorities, nor were they legally required to. Like children’s wellbeing and rights, children’s services plans and rights reports are not the same.¹⁰⁸ The coalescence of the Part 1 and Part 3 duties in the name of efficiency came at the cost of meaningful children’s rights reporting, or, in some cases, any rights reporting at all. The combination of the Act’s unenforceable, cursory children’s rights reporting duty and the flexibility offered by the guidance resulted in a disarray of reports and plans that do not reliably examine rights and incorporate UNCRC articles.

III.II. UNCRC articles and clusters

The CYP Act 2014 does not specify a format or structure for public authorities to follow in their triennial children’s rights reports – only that they must be published “in such manner as the authority considers appropriate.”¹⁰⁹ Instead, the CYPA guidance points to State reports to the Committee as models of best practice, particularly their structure and rights-focused approach.¹¹⁰ State reports are required to utilise a cluster framework which groups different UNCRC Articles together.¹¹¹ The guidance recommends that public authorities make use of this

¹⁰⁵ Scottish Government (n 5) para 124.

¹⁰⁶ Tisdall (n 9) 814.

¹⁰⁷ Scottish Government (n 5) para 75.

¹⁰⁸ Tisdall (n 9) 814.

¹⁰⁹ CYP Act 2014 (n 1) s 2(1); Scottish Government (n 5) para 122.

¹¹⁰ Scottish Government (n 5) paras 71–88, app 3.

¹¹¹ *ibid* 71–72, 82–86.

framework to facilitate reporting, as it is “an internationally recognized approach to the implementation, monitoring and reporting of children’s rights.”¹¹² The nine clusters are as follows: (1) definition of the child; (2) general measures of implementation; (3) general principles of the UNCRC; (4) civil rights and freedoms; (5) violence against children; (6) family environment and alternative care; (7) basic health and welfare; (8) education, leisure and culture and; (9) special protection measures.¹¹³

The cluster framework is another recommendation in the CYPA guidance that public authorities applied to varying degrees, nor were they required to. As pointed out in the guidance, it is reasonable to expect that certain clusters may be more relevant to specific public authorities’ role and responsibilities, and as such, their reports need not equally focus on each cluster.¹¹⁴ However, general measures of implementation – the protection and promotion knowledge of children’s rights – and general principles – the fundamental principles of non-discrimination, best interests, survival and development and the right to be heard – apply to all public authorities.¹¹⁵ In addition, the guidance provides a list of questions for authorities to use to reflect on their progress in the cluster areas, such as what they have provided related to a cluster, where there are areas to improve, what evidence on outcomes do they have, is this evidence informed by children and young people and what their next steps should be.¹¹⁶

Most of the public authorities who provided children’s rights reports, not children’s services plans, made use of the cluster framework, including Children’s Hearings Scotland, Scottish Borders, East Renfrewshire Council and City of Edinburgh Council.¹¹⁷ East Renfrewshire’s report followed the guidance closely. It engaged with the UNCRC articles in each cluster, used

¹¹² *ibid* 72, 82.

¹¹³ *ibid* 72.

¹¹⁴ *ibid* 83.

¹¹⁵ *ibid*.

¹¹⁶ *ibid* 88.

¹¹⁷ Children’s Hearings Scotland, ‘Progressing Rights at Children’s Hearings Scotland 2017-2020’ (2021) <<https://www.chscotland.gov.uk/resources/reports-and-planning/progressing-rights-at-children-s-hearings-scotland-2017-2020/>>; Scottish Borders Council, ‘Children’s Rights Report 2017-2020/2021-2023’ (2021); East Renfrewshire Council and East Renfrewshire Health and Social Care Partnership, ‘Children’s Rights in East Renfrewshire’ (2021); The Edinburgh Partnership, ‘Edinburgh Children’s Partnership Children’s Rights Report 2017-20’ (2020) <<https://www.edinburgh.gov.uk/downloads/file/29387/edinburgh-children-s-partnership-children-s-rights-report-2017-20>>.

the recommended reflective statements, applied the provided list of questions, and outlined steps taken in the area “to promote, support and uphold children’s rights.”¹¹⁸ As opposed to providing only a cursory overview of UNCRC Articles, the report included case studies for each cluster as examples of steps taken to realise children’s rights in East Renfrewshire. The Woodfarm High School case study, for example, demonstrated a commitment to adopting rights-based approach as a Rights Respecting Gold School which educated pupils on their rights and offers such opportunities as the Pupil Parliament.¹¹⁹ The case studies are also explicitly linked to UNCRC Articles. For example, “Article 12 forms the basis of the Pupil Parliament vision, and rights are displayed prominently across the school.”¹²⁰ East Renfrewshire’s example demonstrates that the application of the cluster framework and meaningful incorporation of the UNCRC articles contribute to effective children’s rights reporting.

Several authorities did not utilise the UNCRC clusters, including NHS 24, Glasgow City Council, NHS Western Isles and East Ayrshire.¹²¹ This may be in part due to some of them producing only children’s services plans and following instead the guidance and structure recommended for their Part 3 duties.¹²² However, even the reports exclusively focused on children’s rights varied in their use of the cluster framework and incorporation of UNCRC articles. For example, Falkirk Council’s “Children’s Rights Report (2017-2020)” did not make use of the cluster framework,¹²³ instead highlighting areas most relevant to their duties – GIRFEC,¹²⁴ Family

¹¹⁸ East Renfrewshire Council and East Renfrewshire Health and Social Care Partnership (n 117) 3.

¹¹⁹ *ibid* 8.

¹²⁰ *ibid*.

¹²¹ Theresa Lyttle and Dave Morrison, ‘United Nations Convention on the Rights of Children (UNCRC)’ (NHS 24 2020) <<https://www.nhs24.scot/data/uploads/PDF/corporate/nhs-24-united-nations-convention-on-the-rights-of-children-2020.pdf>>; Glasgow City Council and others, ‘Glasgow City Integrated Children and Young People’s Services Plan 2017-2020’ (n 88); Glasgow City Council and others, ‘Glasgow City Integrated Children’s Services Plan 2020-2023’ (n 88); NHS Eileanan Siar Western Isles, ‘Children’s Rights Report 2019-2022’ (2022); East Ayrshire Council (n 92); South Lanarkshire Council, ‘Children’s Services Plan 2021-2023’ (South Lanarkshire Council 2023) <<http://www.southlanarkshire.gov.uk/>> accessed 7 August 2023.

¹²² CYP Act 2014 (n 1) pt 3.

¹²³ Falkirk Children’s Services Partnership, ‘Children’s Rights Report (2017-2020)’ (Falkirk Council 2023) <<https://www.falkirk.gov.uk/services/children-families/policies-strategies/docs/childrens-rights/Childrens%20Rights%20Report%202017-2020.pdf?v=202304171341>>.

¹²⁴ *ibid* 5.

Decision Making,¹²⁵ Rights Respecting School Award,¹²⁶ and Children’s Rights & Advocacy Support¹²⁷ – and linked each to the relevant Articles (i.e., 3, 9, 29, and 12). For each topic, the report outlines efforts taken to realise the relevant right, such as the family Group Decision Making model which prioritizes the voices of children and families in decision-making.¹²⁸

Despite evidence of a children’s rights angle throughout Falkirk’s report, there are also several sections which focused more on children’s wellbeing. For example, the report discusses efforts such as “Relationships First,” “Life Long Links” and “Closer to Home” which focus on relationships and supportive environments, permeated by wellbeing language.¹²⁹ These efforts may very well function in tandem with the implementation of the UNCRC and support the realisation of children’s rights. It is worth noting that the aims of the initiatives – putting “love and relationships at the heart of [their] service provision”¹³⁰ and establishing connections for children and young people to provide stability and support¹³¹ – may fall in the weak areas of children’s rights. A children’s rights framework may not easily capture these matters, as discussed in section II.III. Nevertheless, Falkirk Council’s report falls short by not providing a deeper exploration of how the initiatives contribute to the realisation of children’s rights. It only included a wheel that links all children’s wellbeing indicators and UNCRC articles.¹³² Better practice would have reinforced these links throughout the report in a more concrete way.

Scottish Borders Council made use of the cluster approach differently in their children’s rights report for 2017-2020. It provided a table with each cluster, its meaning and an example of an initiative or policy that ensures the relevant Article.¹³³ For example, for cluster 9, Scottish Borders developed a resettlement scheme in 2015 to help 10 Syrian families resettle in the region over 4 years.¹³⁴ This application of the cluster framework, while only providing one example per

¹²⁵ *ibid* 8.

¹²⁶ *ibid* 14.

¹²⁷ *ibid* 16–17.

¹²⁸ *ibid* 8.

¹²⁹ *ibid* 9, 12.

¹³⁰ *ibid* 9.

¹³¹ *ibid* 12.

¹³² *ibid* 6.

¹³³ Scottish Borders Council (n 117) 8–9.

¹³⁴ *ibid* 9.

cluster, effectively linked steps taken in the region to specific articles. However, the report then lists 24 other steps Scottish Borders Council and its partners have taken to further children’s rights in the 2017-2020 period in Appendix 1B, which, while positive, do not specify which rights or refer to any UNCRC articles.¹³⁵ It would have been more effective to incorporate the articles within Appendix 1B instead of providing a separate overview of the UNCRC articles in Appendix 1A.¹³⁶ There is a tendency among the children’s rights reports to include nearly identical sections summarizing the UNCRC, providing background of the UNCRC in Scotland, introducing the CYP Act 2014 and the Incorporation Bill, and listing the UNCRC articles.¹³⁷ These summaries do little to clarify what the authority has done to fulfil UNCRC obligation and further children’s rights in their region when unaccompanied by specific examples or case studies, although they may provide important context for those not well-versed in children’s rights. Moreover, in some cases, this background information constitutes the majority of the report.¹³⁸

Surprisingly few health boards made use of the cluster framework or referred to the cluster pertaining to disability, basic health and welfare. This cluster provides an opportunity for State parties and public authorities alike to detail efforts to address prevalent challenges to the health and wellbeing of children, reproductive health rights of young people, and actions taken to protect children from substance abuse.¹³⁹ For example, NHS Western Isles’ reports for 2019-2022 mentioned the cluster approach, identifying it as the structure recommend from reports to the Committee and promising to “use this cluster approach to report on Child Right’s and to inform our future plans and activity.”¹⁴⁰ However, the clusters were missing from the rest of report itself. It made no mention of specific clusters, providing only two separate, unconnected tables, the first listing the UNCRC articles, and the second including 13 examples of initiatives

¹³⁵ *ibid* 16–17.

¹³⁶ *ibid* 14–15.

¹³⁷ *ibid* 3–7; Lyttle and Morrison (n 121) 5–6; Bòrd na Gàidhlig, ‘Bòrd Na Gàidhlig Children’s Rights Report’ (2023) 1–2 <<https://www.gaidhlig.scot/wp-content/uploads/2023/02/2023-Childrens-Rights-Report-English.pdf>>; Tayside Regional Improvement Collaborative, ‘Children’s Rights in Tayside 2017-2020 Summary Report’ (2020) 1–6 <https://www.taycollab.org.uk/wp-content/uploads/2021/07/Child_Rights_TaysideFinal.pdf>; Scottish Borders Council (n 117); NHS Eileanan Siar Western Isles (n 121).

¹³⁸ Bòrd na Gàidhlig (n 137); NHS Eileanan Siar Western Isles (n 121).

¹³⁹ Sloth-Nielsen (n 23) 7.

¹⁴⁰ NHS Eileanan Siar Western Isles (n 121) 6–7.

taken to improve children’s rights in the 3-year period.¹⁴¹ Without referencing the specific articles within the initiatives, it is unclear which rights are being fulfilled. There are countless other ways in which the authorities included UNCRC clusters and articles, but the examples provided are meant elucidate the consequence of a vague reporting duty. Because the only duty public authorities were legally required to fulfil is produce a report on children’s rights, the incorporation of clusters and UNCRC articles in the reports range from exemplary practice to none at all. Consequently, the reports and plans do not consistently link the public authorities’ actions to children’s rights or, when they do, substantiate their claims.

III.III. Substantiation

There is a tendency among impact assessments to presume that the impact of initiatives and policies implemented in the pursuance of realising rights will automatically have the intended, positive effect.¹⁴² Payne’s analysis revealed this tendency among CRIAs produced by the UK Government between 2013 and 2016, whereby the impact of the assessed measure was concluded to be positive for children, “often *without evidence*.”¹⁴³ Several public authorities’ reports followed this trend. Like CRIAs, evidence in rights reporting is crucial, as emphasized by both the Committee in their guidance for State reports and the Scottish Government in the CYPA guidance.¹⁴⁴ The guidance reiterates the Committee’s recommendations for children’s rights reports to include a collection of “sufficient and reliable” data on children, disaggregated in order to identify discrimination and disparities in the realisation of rights.¹⁴⁵ This data collection is essential both to the implementation of the Convention and monitoring its progress in through reporting.¹⁴⁶ The guidance also highlights the importance of public authorities establishing “appropriate and measurable baseline data on meaningful outcomes” that will then inform their

¹⁴¹ *ibid* 1A, 1B.

¹⁴² Lisa Payne, ‘Child Rights Impact Assessment as a Policy Improvement Tool’ (2019) 23 *The International Journal of Human Rights* 408; Lisa Payne, ‘Child Rights Impact Assessment (CRIA): A Review of Comparative Practice Across the UK’ (UNICEF 2017) <https://www.unicef.org.uk/wp-content/uploads/2017/09/Unicef-UK-CRIA-comparative-review_FOR-PUBLICATION.pdf> accessed 10 August 2023.

¹⁴³ Payne, ‘Child Rights Impact Assessment as a Policy Improvement Tool’ (n 142) 418 (emphasis added); Payne, ‘Child Rights Impact Assessment (CRIA): A Review of Comparative Practice Across the UK’ (n 142) 48–50.

¹⁴⁴ CRC (n 15); Scottish Government (n 5).

¹⁴⁵ CRC (n 15) 48; Scottish Government (n 5) para 100.

¹⁴⁶ CRC (n 15) 5; Sloth-Nielsen (n 23) 22.

children’s rights reports.¹⁴⁷ The public authorities were encouraged to take into account the number of children and young people impacted by the area of rights within the authority’s responsibility by age, gender, ethnicity, disability, and deprivation levels, whether there is evidence for all groups, their views and experiences, and whether there are gaps in need of additional evidence gathering.¹⁴⁸

Despite the Committee and the guidance’s emphasis on data, a shocking number of the public authorities’ reports did not include data beyond general statistics on children in Scotland. Given the variation in the reports, I will provide several examples situated along the spectrum of minimal to effective incorporation of substantiated information. First, such reports as East Lothian Council’s followed a rights-based approach by making use of the UNCRC clusters, meaningfully incorporating relevant articles with their “good practice example[s],”¹⁴⁹ and drawing from consultations with young people through surveys and Youth Council meetings.¹⁵⁰ However, the report provided no baseline data or information to substantiate their “good practice” and realisation of rights in the region. Without contextualizing such claims as, “We use a range of measures to seek children and young people’s views about matters that affect them,”¹⁵¹ the report falls short by a lack of quantitative evidentiary basis. East Ayrshire Council similarly incorporated little data in the provided children’s services plan, only including a brief overview of national statistics on children, such as poverty and primary literacy rates as well as the percentage of babies being breast fed.¹⁵² These statistics were also not addressed in the context of children’s rights.¹⁵³

Midlothian Council’s 2017-2022 children’s report is an example of a report that effectively incorporated UNCRC articles, followed the cluster framework, and linked each cluster to steps

¹⁴⁷ Scottish Government (n 5) paras 99–100.

¹⁴⁸ *ibid* 103.

¹⁴⁹ East Lothian Council and NHS Lothian, ‘East Lothian Duties of Public Authorities in Relation to the UNCRC of the Children and Young People (Scotland) Act 2014: Children’s Rights Reporting 2017-20’ (2022) 5–6, 8–9, 13–14.

¹⁵⁰ *ibid* 9–10.

¹⁵¹ *ibid* 4.

¹⁵² East Ayrshire Council (n 92) 11.

¹⁵³ *ibid*.

taken to further rights in the region, but included little to no data.¹⁵⁴ No evidence or details were provided to substantiate such claims as, “we ensure that, when appropriate, parents and carers contribute to the care planning and daily care of their child,” or “the majority of young people have their own bank accounts which their pocket money is paid into.”¹⁵⁵ There are many positive examples of how Midlothian is implementing the UNCRC detailed in their report. However, without data to substantiate these examples or baseline information to contextualize the steps taken to further rights, the effectiveness of the children’s rights report suffers. It is difficult to monitor the implementation of the UNCRC and realisation of children’s rights based on narration alone; region-specific data and statistics over time are necessary to properly examine progress and identify areas of improvement.

East Renfrewshire’s 2021 report aligns more closely with best practice when it comes to the inclusion of data.¹⁵⁶ It included such statistics as 5.9% of the East Renfrewshire population consists of minority ethnic residence, in comparison to 4.0% across Scotland.¹⁵⁷ By contextualizing the baseline information, the report enabled interested stakeholders to better understand East Renfrewshire’s situation relative to the rest of the country. This practice also followed the guidance’s recommendations to include disaggregated data by factors like ethnicity to facilitate the identification of discrimination. However, some of the statistics included in the two pages of region-specific facts are relevant to children, such as life expectancy and the rising population of young people, but other facts seem to have been included to fill up space, namely the year’s top baby names.¹⁵⁸ Nevertheless, data was incorporated throughout the report to substantiate steps taken to further rights, suggesting the inclusion of statistics went beyond a tick-box response to the CYPA guidance.

Substantiation and the participation of children and young people in reports are closely tied. Many reports draw from survey results which simultaneously functions to incorporate the

¹⁵⁴ Midlothian Council, ‘Midlothian Children’s Rights Report’ (2022)

<https://www.midlothian.gov.uk/download/downloads/id/4522/midlothian_childrens_rights_report.pdf>.

¹⁵⁵ *ibid* 12.

¹⁵⁶ East Renfrewshire Council and East Renfrewshire Health and Social Care Partnership (n 117) 4–5.

¹⁵⁷ *ibid*.

¹⁵⁸ *ibid* 5.

views of children and young people into the reports as well as substantiate its claims. Falkirk Council's 2017-2020 report included results from a February 2020 national survey in which young people were asked what mattered most to them – 64% mental health and wellbeing, 58% their future, 44% exams and coursework and 35% physical health and wellbeing.¹⁵⁹ This data provides valuable insight into young people's priorities which the report linked to wellbeing indicators.¹⁶⁰ However, this insight was not about Falkirk's young people and children specifically; there was no information provided on the data set nor were these results linked to children's rights.¹⁶¹ The report did include information on how many Rights Respecting schools there are in the region, contextualizing the 22 primary schools and 2 secondary schools out of the 5000 total.¹⁶² Better practice would have been gathering region-specific information from children and young people, as North Lanarkshire Council's "Children's Services Plan 2017-2020: Annual Report 2018-19" did.

North Lanarkshire's plan included information from a 2017-18 survey of school age children and young people and incorporated these results directly in their service planning.¹⁶³ This data set was disaggregated by demographic – parents of young children and pupils of different age ranges.¹⁶⁴ The report also drew from Achievement of Curriculum for Excellence Levels statistics to highlight gaps in literacy and numeracy rates among P4 pupils which require further investigation and action.¹⁶⁵ North Lanarkshire thus followed best practice by drawing from the views of children and young people and utilising relevant data to identify areas of improvement. However, their data was only disaggregated by age and did not consider other factors, such as ethnicity or gender. Furthermore, they produced only a children's services plan and a single annual report as per their Part 3 duties, not covering the entire three-year period, and failed to incorporate a children's rights lens.¹⁶⁶ In sum, the reports that did include

¹⁵⁹ Falkirk Children's Services Partnership (n 123) 18.

¹⁶⁰ *ibid.*

¹⁶¹ *ibid.*

¹⁶² *ibid* 14.

¹⁶³ North Lanarkshire Children's Services Partnership, 'North Lanarkshire Children's Services Plan 2017-2020: Annual Report 2018-19' (n 88) 7.

¹⁶⁴ *ibid.*

¹⁶⁵ *ibid* 9.

¹⁶⁶ North Lanarkshire Children's Services Partnership, 'North Lanarkshire Children's Services Plan 2017-2020: Annual Report 2018-19' (n 88).

appropriate data tended to not link the evidence to rights. Those that meaningfully dealt with UNCRC rights often failed to substantiate their reports with data. The variation in the use of data throughout the reports speak to the weakness of the reporting duty and incentive to follow the non-statutory guidance. Consequently, many reports failed to go beyond narrations of children's views and unsubstantiated examples of services and initiatives that may or may not realise rights.

III.IV. Participation of children and young people

One of the fundamental values of the UNCRC is the right of every child “to be heard and taken seriously,” without exception.¹⁶⁷ These participation rights are embodied by articles 12, 14, 15 and 17.¹⁶⁸ The Committee published a document in 2013 detailing the “Working Methods for the Participation of Children” in its reporting process.¹⁶⁹ Although the document focuses on the ways children can be involved in the Committee's own reporting process through submissions, NGOs, the lists of issues and reviews of State party reports,¹⁷⁰ it elucidates the absolute importance of children's participation in not only the decisions that impact them, but also in the processes and services that they access.¹⁷¹ The Committee stresses that the involvement of children is equally vital at the national and international levels, especially in the reporting process monitoring states' implementation of the UNCRC.¹⁷² For participation to be effective and meaningful, the Committee asserts it must be a consistent and ongoing process, not a single event.¹⁷³ It is relatively easy to appear to “listen” to children, but actually “giving due weight to their views requires real change.”¹⁷⁴ The act of listening to children should not be seen as the end goal of children's participation.¹⁷⁵ Instead, it is a way for the State's interactions with, and actions on behalf of, children to become more sensitive to the implementation of children's rights.¹⁷⁶ Children's rights reporting is one of such processes that must implement the underpinning

¹⁶⁷ CRC, ‘Working Methods for the Participation of Children in the Reporting Process of the Committee on the Rights of the Child’ (UN, 2014) UN Doc CRC/C/66/2 para 1.

¹⁶⁸ Convention on the Rights of the Child (n 10) arts 12–15, 17.

¹⁶⁹ CRC (n 167); Sloth-Nielsen (n 23) 10.

¹⁷⁰ Sloth-Nielsen (n 23) 10; CRC (n 167).

¹⁷¹ Scottish Government (n 5) para 107.

¹⁷² CRC (n 167) para 1.

¹⁷³ CRC (n 15) para 12; CRC (n 167) para 4.

¹⁷⁴ CRC (n 15) para 12.

¹⁷⁵ *ibid.*

¹⁷⁶ *ibid.*

principle of participation by meaningfully engaging with children and young people,¹⁷⁷ in both the UK's reports to the Committee and the public authorities' reports required by the CYP Act 2014.

CRIA best practice similarly involves consultation with right-holders to have their views heard.¹⁷⁸ Consultation also provides an opportunity to gather evidence through the lived experiences of children and young people.¹⁷⁹ When stakeholders are empowered to voice their concerns through consultation, accountability is improved.¹⁸⁰ To ensure meaningful consultation and participation in the creation of CRIAs, special methods are likely required, as children need to be given age-appropriate information and “enabling environments” in which they can participate.¹⁸¹ On a similar vein, the Committee recommends taking special measures to ensure that children in marginalized and vulnerable situations are encouraged and able to participate alongside other children.¹⁸² The CYPA guidance clarifies that engagement with children and young people should ensure informed consent of children and young people, support their right to privacy, foster their participation across age ranges, and cater to various communication needs, such as young children, those who have a different first language, and non-verbal communication needs.¹⁸³ For participation of and consultation with children to move beyond a tokenistic tick box response to the Committee's recommendations and CYPA guidance, reports and CRIAs alike must seek to attain representative views for meaningful and effective participation.¹⁸⁴

Despite the abundance of literature and evidence on the necessity of children's participation, the public authorities did not consistently incorporate the views of children and

¹⁷⁷ Scottish Government (n 5) para 109.

¹⁷⁸ McCall-Smith (n 24) 9.

¹⁷⁹ *ibid.*

¹⁸⁰ *ibid.*

¹⁸¹ Committee on the Rights of the Child, 'General Comment No. 19 (2016) on Public Budgeting for the Realization of Children's Rights (Art. 4)' (2016) UN Doc CRC/C/GC/19 para 16; Hoffman (n 1) 1346; See also Bronagh Byrne and Laura Lundy, 'Children's Rights-Based Childhood Policy: A Six-P Framework' (2019) 23 *The International Journal of Human Rights* 357.

¹⁸² CRC (n 167) para 10; Sloth-Nielsen (n 23) 10.

¹⁸³ Scottish Government (n 5) para 165.

¹⁸⁴ CRC (n 15) para 12.

young people in the reporting process.¹⁸⁵ Several reports contained no evidence of children’s reports of any kind.¹⁸⁶ Reports did consult with children and young often failed to include information on age, number and backgrounds of those who participated. For example, Falkirk Council’s 2017-2020 report included a great deal of evidence on children’s participation through such initiatives as “Relationships First” which collaborated with a “Design Crew” of young people and service staff to address barriers to supporting young people in care.¹⁸⁷ The report asserts that Falkirk Council listened and learned from young people’s recommendations for workforce changes and ways to deepen connections between the care system and children and young people.¹⁸⁸ Although there was little detail provided on what this participation looked like, there is evidence of meaningful participation through the inclusion of individual lived experiences and design prototypes that young people had contributed to influence practice, system and culture change.¹⁸⁹

Falkirk Council’s report notes that the participation of young people in the Design Crew were “care experienced,”¹⁹⁰ demonstrating good practice by ascertaining views from those impacted by the care system.¹⁹¹ However, there is no information provided on the number or the demographic of those who gave feedback on the care system and rights respecting schools.¹⁹² As such, there is no way of knowing from this report alone whether the participation involved representative views from children and young people of different ages and backgrounds. Furthermore, there is no mention of their involvement in the council’s reporting process itself, only how their input helped shaped initiatives like Relationships First and rights-based approaches in schools.¹⁹³ While the practice of gathering evidence and incorporating children

¹⁸⁵ CRC, ‘General Comment No. 12 (2009) on the Right of the Child to Be Heard’ (2009) UN Doc CRC/C/GC/12; CRC (n 167); Sloth-Nielsen (n 23); Laura Lundy, “‘Voice’ Is Not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child’ (2007) 33 British Educational Research Journal 927; Gerison Lansdown, ‘Can You Hear Me? The Right of Young Children to Participate in Decisions Affecting Them. Working Papers in Early Childhood Development, No. 36’ (Bernard van Leer Foundation 2005); McCall-Smith (n 24).

¹⁸⁶ E.g., Bòrd na Gàidhlig (n 137).

¹⁸⁷ Falkirk Children’s Services Partnership (n 123) 9.

¹⁸⁸ *ibid.*

¹⁸⁹ *ibid* 10.

¹⁹⁰ *ibid* 9.

¹⁹¹ Scottish Government (n 5) para 109.

¹⁹² Falkirk Children’s Services Partnership (n 123) 10, 14.

¹⁹³ *ibid* 9–10, 14.

and young people's views into matters that affect them is good practice, to fully realise children's participation rights they must also be directly involved in the reporting process itself. There is no evidence of opportunities created for children "to be engaged in scrutinising the findings of Children's Rights reports" and provide evaluative feedback that will contribute to the next report for the 2020-2023 period, as recommended by the CYPA guidance.¹⁹⁴

Another example of children's participation in the children's rights reports can be found in Scottish Borders Council's 2017-2020 report. It includes quotes from a survey circulated to young people to obtain their views about children's right as evidence that some young people know they have rights about issues that matter to them. The quotes include such statements as, "Mostly teachers listen but when I looked into recycling bins at my school, I was told nothing could happen," and "Often found problems brought up are forgotten about."¹⁹⁵ The inclusion of young people's views is good practice, but these quotes point to issues with the right of the child to be heard that the report do not address any further. The report also includes responses from children and young people about what they would like to see in the Scottish Borders, including recycling and climate change, digital connectivity and mental health,¹⁹⁶ thus demonstrating good practice in ascertaining stakeholders' views and incorporating them in their proposed next steps. The report ensures "relevant rights-holders are part of the process" and empowering and encouraging individuals to "engage their rights," evidencing effective participation.¹⁹⁷ However, like Falkirk, there is no background information provided on those who participated.¹⁹⁸

Although Falkirk and Scottish Borders's reports followed the guidance and included evidence of children's participation, they fall short by not including background information on those who participated to ensure marginalized children's voices were included and to facilitate the identification of discrimination based on such factors as gender, race, ethnicity or age. They may have included marginalized children of different ages in their reporting process, but without

¹⁹⁴ Scottish Government (n 5) para 169.

¹⁹⁵ Scottish Borders Council (n 117) 10.

¹⁹⁶ *ibid* 12.

¹⁹⁷ McCall-Smith (n 24) 10.

¹⁹⁸ Scottish Borders Council (n 117) 12.

including these details, there is no way of knowing based on the reports. Including quotes from children, or “listening” to them, only provides so much evidence of meaningful participation. Children’s participation in reports and CRIAs offers an “opportunity for deep reflection on the relationship between a state’s human rights obligations and the lived experience of individuals based on the evidence gathered and the relevant treaties.”¹⁹⁹ Falkirk and Scottish Borders councils technically fulfilled their legal duty by producing and publishing children’s rights reports. However, without an enforceable and more comprehensive reporting duty, public authorities cannot be expected to apply as extensive of a children’s participation process as that of states in their reports for the Committee. There is a tendency among the reports to either summarize children’s participation in initiatives or involve them directly in the reporting process itself. These two dimensions of children’s participation need not be mutually exclusive. Both should be explicitly required by the new statutory guidance, as well as a participatory process that allows for feedback from children on the reports.

III.V. Accessibility

III.V.I. Publication

Accessibility and participation are closely tied when it comes to reporting. A “participatory process that opens space for deliberation is a baseline good practice,”²⁰⁰ and this deliberation is made possible by accessible reports. When the information is not accessible, “rights-holders are deprived of their voices in the process.”²⁰¹ Not only do published reports provide evidence of the public authorities’ compliance with their CYPAs legal obligations,²⁰² they also enable rights-holders to understand what their rights are and how they are being realised in their region, as well as evaluate their own access to rights based on available evidence. In the same way publishing CRIAs facilitates an “institutional memory” of the data and insight into the decision-making

¹⁹⁹ McCall-Smith (n 24) 10.

²⁰⁰ *ibid*; Ana Maria Esteves, Daniel Franks and Frank Vanclay, ‘Social Impact Assessment: The State of the Art’ (2012) 30 *Impact Assessment and Project Appraisal* 34, 34, 35.

²⁰¹ McCall-Smith (n 24) 11; Maren Backbier and others, ‘A Children’s Rights Approach: Recommendations to the Scottish Government on Refining Children’s Rights and Wellbeing Impact Assessments in Scotland,’ (2019) <<http://bit.ly/2teQYI6>>; Ivane Chitashvili and others, ‘Recommendations and Notes on Scottish Children’s Rights and Wellbeing Impact Assessments’ (2019) <<http://bit.ly/36LOIFQ>>.

²⁰² McCall-Smith (n 24) 11.

processes,²⁰³ publishing children’s rights reports contributes to a database of information on children’s rights and a means to track progress in the implementation of the UNCRC across Scotland.

The only legal requirement public authorities must fulfil under than Part 1 duty of the Act is to publish a children’s rights report for every three-year period.²⁰⁴ Although this is a minimum expectation, even this obligation did not hold weight for all the public authorities. Of the 101 authorities listed in Schedule 1 of the Act,²⁰⁵ only 51 stated in their responses to the Observatory’s FOI requests that they had produced a children’s rights report for the 2017-20 period. 40 provided a weblink, 10 provided an attachment, and 1 confirmed they had published a report but provided neither weblink nor attachment. The fact that only half of the public authorities produced a children’s rights report (or a children’s services plan in its place) for 2017-20 speaks to how little weight the Act’s reporting duty holds with the authorities or a gap in understanding between the government and the public authorities.

Not only is the Part 1 reporting duty vague, but the list of authorities it applies to is somewhat murky. 11 of the 78 public authorities that responded to the Observatory’s FOI requests explained that they did not hold information that fell within the scope of the request.²⁰⁶ NHS Golden Jubilee National Hospital, for example, indicated that they did not offer paediatric services or have the requested information.²⁰⁷ As such, it seems as though there is a lack of clarity on whether the reporting duty applies to them. NHS National Services Scotland (NSS) indicated they had not published any children’s rights reports and do not intend to because they are not one of the six special health boards “constituted under section(1)(b) of the National Health Service (Scotland) Act 1978.”²⁰⁸ However, Schedule 1 of the CYP Act 2014 also includes “a health

²⁰³ *ibid* 12.

²⁰⁴ CYP Act 2014 (n 1) s 2(1).

²⁰⁵ *ibid* sch 1.

²⁰⁶ E.g., Email from Sarah Mack to Gillian Munro (9 February 2023); Email from PHS FOI to Gillian Munro (13 February 2023).

²⁰⁷ Email from Mack (n 206).

²⁰⁸ Email from NSS FOI to Gillian Munro (10 February 2023); CYP Act 2014 (n 1) sch 1.

board,” which NSS is.²⁰⁹ Clarification is clearly needed on which authorities the reporting duty applies to.

It should be noted that the Coronavirus (Scotland) Act 2020 allowed public authorities to postpone publishing reports if they are of the view that complying with their duty would “impede their ability to take effective action to prevent, protect, against, delay or otherwise control the incidence or transmission of coronavirus.”²¹⁰ Consequently, some of the 50 missing reports for the 2017-2020 period will be published after the time of writing. Furthermore, several local authorities and health boards produced joint reports, like East Ayrshire Council, South Ayrshire Council, North Ayrshire Council, and NHS Ayrshire and Arran, or the Tayside Regional Report.²¹¹ Because of the inconsistency of the reports or plans – few of which qualify as children’s rights reports – and the different authorities providing duplicate joint reports, there is not an exact number of distinct children’s rights reports that have been produced and published.

The reports provided in the FOI responses were riddled with accessibility issues, including missing reports for certain periods, broken links on the authorities’ websites, and unpublished reports.²¹² Some authorities failed to produce children’s rights reports for certain periods, despite their legal responsibility to do so. Argyll and Bute Council, the Scottish Fire and Rescue Service, and the Highland Council all indicated in their responses to the FOI request that they did not produce a report for 2017-2020, nor do they intend to publish one retrospectively, but intend to publish reports for the next period.²¹³ The Scottish Fire and Rescue Service indicated their 2020-2023 report would be published March 2023, but it is not yet available online as of August 2023. Other authorities provided their reports to the Observatory, but they are not otherwise accessible online to the public, such as East Lothian Council’s 2017-2020 report and NHS Western Isles’ 2019-2022 report.²¹⁴ Although some of the inaccessibility issues may be due to pandemic delays and technical issues, the lack of published and accessible reports is a major issue and

²⁰⁹ CYP Act 2014 (n 1) s 2(1).

²¹⁰ Coronavirus (Scotland) Act 2020 sch 6, pt 3(8)(1-2).

²¹¹ East Ayrshire Council (n 92); Tayside Regional Improvement Collaborative (n 137).

²¹² E.g., Bòrd na Gàidhlig and East Renfrewshire Council.

²¹³ Email from HSCP FOI Argyll and Bute (n 44); Email from Reid (n 44); Email from The Highland Council (n 44).

²¹⁴ East Lothian Council and NHS Lothian (n 149); NHS Eileanan Siar Western Isles (n 121).

impedes monitoring the implementation of the UNCRC and realisation of children’s rights in Scotland.

As discussed in section III.I, 24 of the public authorities provided children’s services plans, corporate parenting plans, or annual reports as their children’s rights reports. The public authorities that provided annual reports tended to not have reports that cover the entirety of each three-year period, nor were they necessarily produced with a rights lens. For example, South Lanarkshire provided a children’s services plan with a 2018-2019 annual report as their children’s rights report for the 2017-20 period.²¹⁵ NHS Shetland provided only 2020-21 and 2021-22 reports in response to the FOI request, and there were no other reports available from the prior years.²¹⁶ In these cases, reports on children’s rights covering the entire 2017-2020 and 2020-2023 period have not been published and the information is inaccessible. There should not be this many barriers to accessing reports for each period. The accessibility issues speak to the necessity of the Incorporation Bill enforcing a more comprehensive children’s rights reporting duty and holding the public authorities accountable to publish their reports. Publication is essential to not only ensure a level of transparency and accountability from the public authorities, but also to facilitate children’s participation by catering reports to their accessibility needs.²¹⁷

III.V.II. Child-friendly reports

Publication of reports empowers and enables rights-holders to fulfil their participation rights.²¹⁸ In the case of children’s rights reports, they must not only be published, but also produced in a way that is accessible to children of different ages. “Follow-up and evaluation is essential” to enable children to understand their role in the reporting process and to be informed on how their views will be interpreted and used.²¹⁹ A means to fulfilling this dimension of child participation is through the production and publication of child-friendly reports. The CYPA

²¹⁵ South Lanarkshire Council (n 121).

²¹⁶ Shetland Children’s Partnership, ‘Annual Report 2020-21’ (2021)

<<https://www.shetland.gov.uk/downloads/file/4824/shetlands-integrated-children-s-plan-annual-report-2020-21>>;

Shetland Children’s Partnership, ‘Shetland’s Children’s Plan 2021-2024: Year One 2021-22’ (2022)

<<https://www.nhsshotland.scot/downloads/file/1125/children-s-plan-annual-report-2021-22>>.

²¹⁷ McCall-Smith (n 24) 11–12.

²¹⁸ *ibid* 11–12.

²¹⁹ CRC (n 167) para 7; CRC (n 185).

guidance similarly recommends that public authorities offer opportunities for children and young people to participate in evaluating the findings of and provide feedback for children’s rights reports which will then inform the report for the following period.²²⁰ It also recommends that public authorities work with children and young people to decide on suitable child- and young person-friendly formats for their reports, including traditional formats such as paper reports and verbal feedback, and non-traditional formats using social media and arts.²²¹

Unfortunately, very few authorities produced child-friendly versions of their reports. Without access to reports that are produced for the eyes of children and young people, their participation rights and ability to provide feedback are severely hindered. For their 2020-2023 reports, 33 public authorities indicated that they intend to produce child-friendly versions in their responses to the FOI requests. Some authorities, like Highland Council, provided additional information on how they are approaching this. Highland Council is codesigning the report with children and young people as part of their participation strategy.²²² The FOI requests did not include a question on whether the authorities produced a child-friendly version of their 2017-2020, only whether they intended to produce one for 2020-2023. As such, public authorities may have created child-friendly versions of their 2017-2020 reports that were not provided to the Observatory. However, of the authorities contacted, Scottish Children’s Reporter Administration (SCRA) is one of few who provided additional versions “for young people” of their annual reports.²²³ Although they are not compiled into three-year period reports, which would be useful

²²⁰ Scottish Government (n 5) para 169.

²²¹ *ibid* 166.

²²² Email from The Highland Council (n 44).

²²³ Email from Stephen Eadonable to Gillian Munro (10 February 2023); SCRA, ‘Annual Report for Young People’ (2019) <<https://www.scra.gov.uk/wp-content/uploads/2019/01/Annual-Report-for-Young-People-2019.pdf>>; SCRA, ‘Annual Report for Young People’ (2020) <<https://www.scra.gov.uk/wp-content/uploads/2020/02/Annual-Report-for-Young-People-2020.pdf>>; SCRA, ‘SCRA Annual Report for Young People 2020-2021’ (2021) <<https://www.scra.gov.uk/wp-content/uploads/2021/03/Annual-Report-for-young-People-2020-21.pdf>>; SCRA, ‘SCRA Annual Report for Children and Young People’ (2022) <<https://www.scra.gov.uk/wp-content/uploads/2022/10/Annual-Report-Children-and-Young-People-2021-2022.pdf>>.

to monitor progress over time, SCRA's reports cover nearly the entirety of the 2017-2020 and 2020-2023 periods, apart from 2022-2023, and they are all accessible on their website.²²⁴

Although the public authorities' reports varied greatly in structure and scope, most were written in a traditional format that did not cater to the "age-related and communication needs" of children and young people, as recommended by the guidance.²²⁵ SCRA's reports for young people were one of few exceptions.²²⁶ Stirling Council's 2017-2020 report, although not specifically called a child and young person-friendly report, is one of the others. The report demonstrates a consideration of a non-traditional format that is more easily understood by children and young people.²²⁷ It was written in an informal and engaging way as though the report was a conversation with children about their rights. For example, it begins with addressing children directly: "If you are under 18 and live in Stirling, this report is for you."²²⁸ This unique style of reporting facilitates children's understanding of their rights by relating UNCRC articles to their individual experiences and explaining that every child and young person in Scotland was born with rights.²²⁹ For children's participation in the reporting process to be meaningful, public authorities' should follow Stirling Council's lead and "take into account the range of stakeholders that should have access to, and will have an interest in, the Children's Rights Report."²³⁰ This includes the wider public, children, young people, parents and carers.²³¹ Unlike the CYP Act 2014, the Incorporation Bill will legally require public authorities' to publish child-friendly versions of

²²⁴ Email from Eadonable (n 223); SCRA, 'Annual Report for Young People' (n 223); SCRA, 'Annual Report for Young People' (n 223); SCRA, 'SCRA Annual Report for Young People 2020-2021' (n 223); SCRA, 'SCRA Annual Report for Children and Young People' (n 223).

²²⁵ Scottish Government (n 5) para 128.

²²⁶ SCRA, 'Annual Report for Young People' (n 223); SCRA, 'Annual Report for Young People' (n 223); SCRA, 'SCRA Annual Report for Young People 2020-2021' (n 223); SCRA, 'SCRA Annual Report for Children and Young People' (n 223).

²²⁷ Stirling Community Planning Partnership, 'Children's Rights Report 2017-2020' (2020) <<https://www.stirling.gov.uk/media/c0tjj0j0/childrensrightsreport-stirling-20172020.pdf>>; Scottish Government (n 5) para 128.

²²⁸ Stirling Community Planning Partnership (n 227) 2.

²²⁹ *ibid* 5.

²³⁰ Scottish Government (n 5) para 128.

²³¹ *ibid*.

their children's rights reports,²³² and the new statutory guidance will hopefully include further instruction on how to produce them in a way that fulfils children's participation rights.

IV. Conclusion and recommendations

In this report, I sought to highlight various inconsistencies in the public authorities' children's rights reports produced under the CYP Act 2014, which had not yet been examined elsewhere. My goal was not to place any blame with the authorities themselves, rather to elucidate the consequences of the Act's weak, vague and unenforceable reporting duty. The preference shown to children's wellbeing and the related children's services planning in the Act resulted in several authorities prioritizing their Part 3 duties and not producing children's rights reports. The relationship between children's wellbeing and children's relationship has not yet been satisfactorily established to allow for aligned children's services plans and children's rights reports that give equal weight to both wellbeing and rights. The incorporation of UNCRC articles and clusters, proper use of evidence, and children's participation in the reports vary widely and tended to be mutually exclusive in several of the examined reports. Although these three elements are all necessary for effective reporting, they were not legally required of the authorities. Without demanding the same calibre of reporting from the public authorities as the Committee demands of State parties, the reports produced will not be consistently meaningful and effective. Finally, inaccessibility plagued the reports in diverse ways, creating barriers to accountability, monitoring the implementation of the UNCRC, and fulfilling children's participation rights.

The Incorporation Bill expands upon the public authorities' duty to report on children's rights and will legally require the publication child-friendly versions, which will help mitigate the reports' inaccessibility.²³³ However, the Bill's expanded duty does not explicitly address the other issues raised in this report.²³⁴ As such, I offer the following recommendations for the Scottish Ministers' consideration in the making of the section 15 guidance for the listed authorities:

²³² UNCRC (Incorporation) (Scotland) Bill (n 6) s 15(3A).

²³³ *ibid.*

²³⁴ *ibid* 15.

1. Further consideration and research are required on aligning wellbeing-centric children's services planning with children's rights reporting. Unless this relationship is adequately addressed, the public authorities' children's rights reports and wellbeing-centric children's services plans should be separate.
2. Prescribe a consistent template for all public authorities' children's rights reports, such as the UNCRC cluster framework, with accompanying guidance to increase meaningful examination of children's rights.
3. Mandate the inclusion of appropriate and region-specific disaggregated data, statistics and baseline information to substantiate the children's rights reports.
4. Require children's participation in both the creation of and feedback for the authorities' children's rights reports to fulfil their participation rights.

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APPENDIX 1: Local Authorities²³⁵

Local Authority	Reports
Aberdeen City Council	"Public Authority Reporting Duty on Children's Rights" (April 2020)
Aberdeenshire Council	"Children's Services Plan 2020-2023" (2020) "Aberdeenshire Children and Young People's Rights Report and Action Plan 2023-2026" (2023)
Angus Council	"Children's Rights in Tayside: 2017-2020 Summary Report" (2020)
Argyll & Bute Council	"Argyll and Bute Children's Rights Report 2020-23" (November 2020)
City of Edinburgh Council	x
Clackmannanshire Council	x
Comhairle nan Eilean Siar	"Children's Rights Report 2019-2022" (2022)
Dumfries and Galloway Council	x
Dundee City Council	"Children's Rights in Tayside: 2017-2020 Summary Report" (2020)
East Ayrshire Council	"Children & Young People's Services Plan 2020-2023" (2020)
East Dunbartonshire Council	
East Lothian Council	"Duties of Public Authorities in relation to the UNCRC of the Children and Young People (Scotland) Act 2014: Children's Rights reporting 2017-2020" (2020)
East Renfrewshire Council	"Children's Rights in East Renfrewshire" (April 2021)
Falkirk Council	x
Fife Council	"Children's Services Annual Report 2020-2021" (2021) "Children's Services Annual Report 2021-22" (2022) "Children's Services Plan 2021-2022" (2021)
Glasgow City Council	"Glasgow Integrated Children and Young People's Service Plan 2017-2020" (2017)

²³⁵ The 'x' indicates no reports received and/or no response to the FOI requests at the time of writing. In the cases of the Integration Joint Boards, their reports may have been provided by individual local authorities or health boards.

	"Glasgow City Integrated Children and Young People's Services Plan 2020-2023" (2020)
Highland Council	x
Inverclyde Council	"Inverclyde Children's Rights Holding Report 2020" (2020)
Midlothian Council	x
Moray Council	x
North Ayrshire Council	x
North Lanarkshire Council	"North Lanarkshire Children's Services Plan 2017-2020: Annual Report 2018-19" (October 2019) "North Lanarkshire Children's Services Plan 2021-23: Annual Report 2021-22" (June 2022)
Orkney Islands Council	
Perth and Kinross Council	"Children's Rights in Tayside: 2017-2020 Summary Report" (2020)
Renfrewshire Council	Untitled Renfrewshire Council Report 2017-2020
Scottish Borders Council	"Scottish Borders Children's Rights Report 2017-2020/2021-2023" (2020)
Shetland Islands Council	"Building a Brighter Future Together for Shetland's Children and Young People: Annual Report 2020-21" (2021)
South Ayrshire Council	"Promoting Children's Rights" (2018)
South Lanarkshire Council	"Children's Services Plan: Annual Report 2018-2019" (2019) "Children's Services Plan: Annual Report 2019-2020" (2020) "Children's Services Plan: 2021-2023" (2021)
Stirling Council	"Children's Rights Report 2017-2020" (2020)
West Dunbartonshire Council	x
West Lothian Council	"West Lothian Children's Rights Report 2017-2020" (2020)

APPENDIX 2: Health Boards

Health Board	Reports
NHS Ayrshire and Arran	<p>“East Ayrshire Children & Young People’s Services Plan 2020:2023” (2020)</p> <p>“North Ayrshire Children’s Rights Report 2020/2023” (2020)</p> <p>“South Ayrshire Council Promoting Children’s Rights” (2020)</p>
NHS Borders	“Scottish Borders Children’s Rights Report 2017-2020/2021-2023” (2020)
NHS Dumfries and Galloway	“Dumfries and Galloway Children’s Rights Report 2017-2020” (2020)
NHS Fife	x
NHS Forth Valley	x
NHS Grampian	<p>Aberdeenshire, “Children’s Services Plan 2020-2023” (2020)</p> <p>Moray, “Children’s Services Plan 2020-2023” (2020)</p>
NHS Greater Glasgow and Clyde	x
NHS Highland	x
NHS Lanarkshire	<p>South Lanarkshire, “Children’s Services Plan: Annual Report 2018-2019” (2019)</p> <p>South Lanarkshire, “Children’s Services Plan: Annual Report 2019-2020” (2020)</p> <p>North Lanarkshire, “North Lanarkshire Children’s Services Plan 2017-2020” Annual Report 2018-19”(2019)</p>
NHS Lothian	<p>Edinburgh, “Edinburgh Children’s Partnership Children’s Rights Report 2017-20” (2020)</p> <p>Midlothian, “Midlothian Children’s Services Plan 2020-2023” (2020)</p> <p>West Lothian, “West Lothian Children’s Rights Report 2017-2020” (2020)</p>
NHS Orkney	x
NHS Shetland	“Building a Brighter Future Together for Shetland’s Children and Young People: Annual Report 2020-21” (2021)

	"Shetland Children's Plan 2021-2023 Year one, 2021-22" (2022)
NHS Tayside	"Children's Rights in Tayside: 2017-2020 Summary Report" (2020)
NHS Western Isles	"Children's Rights Report 2019-2022" (2022)
Healthcare Improvement Scotland	"Children's Rights Report 2017-2020" (April 2020) "Children's Rights and Corporate Parenting Joint Report 2020-2023" (April 2023)
NHS 24	"United Nations Convention on the Rights of Children (UNCRC)" (December 2020)
NHS Education for Scotland	"Public Sector Equality Duty: April 2021 - April 2023" (2023)
NHS Golden Jubilee National Hospital	x
NHS National Services Scotland	x
Public Health Scotland	x
Scottish Ambulance Service	x
State Hospitals Board for Scotland	"Children and Young People (Scotland) Act 2014 Part 1 Section 2 Duties on Public Authorities Reporting Period 1 April 2017 to 31 March 2020" (2020)

APPENDIX 3: Other Authorities

Other Authorities	Reports
Bòrd na Gàidhlig	Untitled and undated report
Chief Constable of the Police Service of Scotland (Police Scotland)	x
Children's Hearings Scotland	<p>"Progressing Rights at Children's Hearings Scotland 2017-2020" (2020)</p> <p>"Progressing Rights at Children's Hearings Scotland: A Summary of our Activities 2017-2020" (2020)</p>
Creative Scotland	x
Independent Living Fund Scotland	x
Mental Welfare Commission for Scotland	"Children's Rights Report 2017-2020: Corporate Document" (March 2021)
Scottish Children's Reporter Administration	<p>"Annual Report for Young People" (2019)</p> <p>"Annual Report for Young People" (2020)</p> <p>"SCRA Annual Report for Young People 2020-21" (2021)</p> <p>"SCRA Annual Report for Young People 2020-2021" (2021)</p> <p>"SCRA Rights, Inclusion and Corporate Parenting Strategy 2021-2023" (2021)</p> <p>"SCRA Keeping The Promise 2021-24 Route Plan" (2021)</p> <p>"Our Rights, Inclusion and Corporate Parenting Year Report Card: Reporting Year: 2021-2022" (2022)</p> <p>"SCRA Annual Report for Children and Young People" (2022)</p>
Scottish Fire and Rescue Service	x
Scottish Housing Regulator	"Corporate Parenting Plan and Children's Rights Report" (December 2020)
Scottish Legal Aid Board	"United Nations Convention on the Rights of the Child (UNCRC): Progress Report 2017-2020" (2020)
Scottish Police Authority	"Children's Rights Report 2017-20" (2020)

Scottish Qualifications Authority	x
Scottish Social Services Council	"Children's Rights Report 2020-2023: United Nations Convention on the Rights of the Child (UNCRC Report 2020-2023" (2020)
Sport Scotland	"United Nations Convention on the Rights of the Child: Report 2018-2021" (July 2021)
Skills Development Scotland	"United Nations Convention on the Rights of the Child" Report 2017-2022" (January 2023)
Care Inspectorate	x

APPENDIX 4: Integration Joint Boards

Integration Joint Boards	Reports
Aberdeen City Integration Joint Board	x
Aberdeenshire Integration Joint Board	x
Angus Integration Joint Board	x
Argyll and Bute Integration Joint Board	x
Clackmannanshire and Stirling Integration Joint Board	x
Comhairle nan Eilean Siar Integration Joint Board	x
Dumfries and Galloway Integration Joint Board	x
Dundee City Integration Joint Board	x
East Ayrshire Integration Joint Board	x
East Dunbartonshire Integration Joint Board	x
East Lothian Integration Joint Board	x
East Renfrewshire Integration Joint Board	x
Edinburgh Integration Joint Board	x
Falkirk Integration Joint Board	x
Fife Integration Joint Board	x
Glasgow City Integration Joint Board	x
Highland Partnership Joint Monitoring Committee	x
Inverclyde Integration Joint Board	x
Midlothian Integration Joint Board	x
Moray Integration Joint Board	x
North Ayrshire Integration Joint Board	x
North Lanarkshire Integration Joint Board	x
Orkney Islands Integration Joint Board	x
Perth and Kinross Integration Joint Board	“Children’s Rights in Tayside: 2017-2020 Summary Report” (2020)
Renfrewshire Integration Joint Board	x
Scottish Borders Integration Joint Board	x
Shetland Islands Integration Joint Board	x
South Ayrshire Integration Joint Board	x
South Lanarkshire Integration Joint Board	x

West Dunbartonshire Health & Social Care Partnership Board	x
West Lothian Integration Joint Board	x