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Children's Rights Impact Assessment: The SCCYP Model

Scotland's Commissioner for Children and Young People

Laura Paton and Gillian Munro



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Further copies are available from:

SCCYP

85 Holyrood Road

Edinburgh EH8 8AU

Scotland, UK

Tel: 0131 558 3733

Email: info@sccyp.org.uk

www.sccyp.org.uk

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At a conference to mark my first day in post, delegates were asked to identify the greatest challenge I would face in my task of promoting and safeguarding the rights of children and young people. The answer was clear – changing culture. The concept of “children’s rights” is something that some people find difficult, and many people fail to understand. It is easily trivialised, and yet it addresses issues central to the safety, well-being and development of our youngest citizens, and indeed our society as a whole; a matter of critical concern to the members of the Scottish Parliament who shaped and established my role.

I am a firm believer in “learning by doing”. One of the best ways of raising awareness of the rights of children and young people and getting people to take them seriously is to show the contribution they can make to effective decision making. *Children’s Rights Impact Assessment: The SCCYP Model* is a toolkit created by staff in my office to guide our own work. But we believe it has a wider application. We offer it to policy and decision makers as something that will help them fulfil their responsibilities to respect the rights of children and young people set out in national and international law. I hope they will find the process illuminating and that it will encourage them to move towards a situation in which the relevance of children’s rights, and the impact of decisions on them, are identified and taken into account as a matter of routine, even when the issue is not unique to children. I would like to thank Laura Paton and Gillian Munro, who have worked so hard on this project.

The toolkit contains information on the purpose of children’s rights impact assessments and guidelines on how they should be carried out. It includes forms which are essentially a step-by-step guide to carrying out an assessment. Two types of assessment are catered for; a short, initial screening and an eight-stage full impact assessment. The initial assessment will help identify whether a full assessment is required. The SCCYP model contained in this report is not the end of the process. We will be learning and developing the model as we go along and as we receive feedback from others who use it. For those keen to carry out children’s rights impact assessments, we will offer support and assistance where possible.

I seek the support of the Scottish Parliament in commending this model and promoting the assessment of proposals for their impact on children and young people’s rights to the Scottish Executive, local authorities and decision and policy makers at all levels.

Kathleen Marshall
Scotland’s Commissioner for Children and Young People

- A children's rights impact assessment is a tool for looking at a policy, law or decision and assessing its impact on children and young people and their rights. It allows the impact to be predicted, monitored and, if necessary, avoided or mitigated.
- Scotland's Commissioner for Children and Young People (SCCYP) has a statutory duty to promote and safeguard the rights of children and young people, and to review law, policy and practice for their effectiveness and adequacy.
- SCCYP has developed a model for carrying out children's rights impact assessments as one means of fulfilling these duties.
- As well as using the model ourselves, SCCYP will promote the use of children's rights impact assessments to policy and decisions makers to ensure that children's rights are taken into account in policy and decision making processes. The model developed by SCCYP is flexible, allowing others to use or adapt it to suit their own needs.
- The full benefits of impact assessments can be realised when done by those making the decision or formulating the policy. Children's rights can then be considered at as early a stage as possible, ensuring they are embedded in policy development and decision making.
- A key feature of SCCYP's assessment model is the involvement of stakeholders in the assessment, most obviously children and young people themselves, but also those who work with and for them.
- The SCCYP model includes two types of assessment – an initial 'screening' assessment and a full impact assessment.
- The initial screening assessment can be completed quickly, based on information readily available. It is a preliminary analysis of the impact of a proposal on children and can be used to gauge whether a fuller impact assessment is required. Screening may also, however, be sufficient in itself to establish what impact a proposal may have on the rights of children.
- The full impact assessment comprises eight stages: identify; map; gather; consult; analyse; recommend; publicise; and monitor.
- The UN Convention on the Rights of the Child should always be taken as the starting point for any assessment of a law, policy or decision for its impact on children's rights.
- Children's rights impact assessments are not an end in themselves – to be worthwhile and effective, their findings should be taken account of and acted upon in decision and policy making processes.

The office of Scotland's Commissioner for Children and Young People was established by the Commissioner for Children and Young People (Scotland) Act 2003. The general function of the Commissioner is to "promote and safeguard the rights of children and young people". In particular, the Commissioner must review law, policy and practice relating to the rights of children and young people with a view to assessing their adequacy and effectiveness. Specific regard must be had to any relevant provisions of the United Nations Convention on the Rights of the Child, especially those requiring that the best interests of the child be a primary consideration in decision making, and that due account be taken of the views of affected children and young people.

The Commissioner must exercise this responsibility towards all children and young people in Scotland who are under 18 years of age, or under 21 if they have at any time been in the care of, or looked after by, a local authority.

1.1 What are child impact assessments?

Child impact assessments are a tool for looking at decisions, practice, policy or legislation and identifying and measuring their effect on children and young people. They permit impacts to be predicted, monitored and, if necessary, avoided or mitigated. When undertaken by the decision or policy maker, child impact assessments serve to raise awareness of children's interests and ensure they are factored into policy development at the earliest possible stage. When undertaken by a monitoring body – for example, a non-governmental organisation – they may prompt policy makers to review and revise decisions or proposals, taking children and young people's rights and interests into account.

Child impact assessments, in one form or another, have been introduced in several jurisdictions in recent years. In Sweden, a national strategy for the implementation of the United Nations Convention on the Rights of the Child requires that all government decisions affecting children be subject to child impact assessments¹. In England, the National Children's Bureau and the Children's Legal Centre are currently undertaking assessments of selected Bills at Westminster to gauge their effects on children and young people.

More generally, impact assessments have been used in other areas, such as assessing the effect of proposed projects on the environment². In Northern Ireland, meanwhile, equality impact assessments are being carried out on all public policies to analyse their impact against nine equality categories (religious belief, political opinion, racial group, age, marital status, sexual orientation, gender, disability and dependency)³.

1.2 Why are child impact assessments necessary?

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While impact assessments have been carried out for other minority groups or on other issues, we believe child impact assessments in particular are necessary for several reasons. Children's rights and interests are often forgotten and the very rationale for the Convention on the Rights of the Child was that children require special protection: while children possess human rights just as any other human being does, they require additional measures to guarantee enjoyment of those rights. As the preamble to the Convention states, *"the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection"*. This statement has been endorsed by almost every nation in the world – the Convention remains the most widely ratified human rights treaty.

And yet, despite comprising a substantial proportion of the global population (and around 21% of the population in Scotland), children and young people have traditionally been largely invisible in government decision making. While the profile of children's issues has improved in recent years (evidenced, for example, by the creation of children's commissioners or ombudsmen in many jurisdictions), children remain disenfranchised and often powerless in decision and policy making processes.

With no right to vote in the United Kingdom⁴, no officially recognised role to play in government structures or in the democratic process⁵ and a limited ability to influence government agendas or the media, children are effectively

1 Sylwander, L., *Child Impact Assessments: Swedish Experience of Child Impact Analyses as a tool for implementing the UN Convention on the Rights of the Child*. Ministry of Health and Social Affairs & Ministry of Foreign Affairs, 2001.

2 In Scotland, for example, environmental impact assessments have been a statutory requirement since 1988 (and are now governed by the Environmental Impact Assessment (Scotland) Regulations 1999). More recently, the Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 have required that Strategic Environmental Assessments be carried out. For an overview of these processes, see Scottish Parliament Information Centre Briefings, *Environmental Impact Assessment* (12 August 2004) and *Strategic Environmental Assessment* (18 June 2004), both available at <http://www.scottish.parliament.uk>.

3 Under section 75, Northern Ireland Act 1998.

4 Section 1, Representation of the People Act 1983.

5 Children and young people under the age of 21 are prohibited from becoming a Member of the Scottish (Scotland Act 1998) and the UK (section 7, Parliamentary Elections Act 1695) Parliaments (although note that the minimum candidacy age for the House of Commons will be lowered to 18 when s.17 of the Electoral Administration Act 2006 comes into force). Young people under 21 in Scotland are also prohibited from becoming a local councillor (section 29, Local Government (Scotland) Act 1973). To represent a constituency in the UK in the European Parliament, a candidate must be over 21. Although young people generally have no role to play in government structures, there are instances where this is not the case. For example, a young mayor is elected each year in the London Borough of Lewisham.

powerless. Other mechanisms, therefore, must exist to ensure their rights, interests and views are taken into account in decision making and in the development of law and policy.

That such mechanisms are necessary is evidenced by the fact that children are especially vulnerable and dependent on government and adults. As some of the biggest recipients of public services, children will benefit enormously from government action and investment but, equally, are especially susceptible to government failures.

Sadly, such failures are not rare. The development and delivery of the very services on which children rely most – health, education, early years provision, youth work – are liable to fragmentation and are often compartmentalised across government departments. While considerable efforts to address these issues have been made recently in Scotland and the rest of the UK, they are a long way from being resolved.

The cost of failures is high, not only for the children themselves or in the short-term, but also in the future, to communities and to society as a whole.

Whereas adults have comparatively ready access to legal redress, complaints mechanisms or other procedures or fora in which to air their grievances should their rights be infringed, such procedures often explicitly exclude children, or at least are rendered inaccessible or inappropriate.

Finally, child impact assessments are a key mechanism for implementing the United Nations Convention on the Rights of the Child (CRC). Article 3 of the CRC, to which the UK is a Party, requires that in all actions concerning children, their best interests shall be a primary consideration. This basic principle applies whether the actions are taken by “public or private social welfare institutions, courts of law, administrative authorities or legislative bodies”.

Article 4 of the CRC goes on to say that, “States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention”.

The jurisprudence of the Committee on the Rights of the Child, the monitoring body for the CRC, suggests that State Parties can use child impact assessments as a means of going some way towards fulfilling their obligations under Articles 3 and 4. In 2003, the Committee published comments on ‘general measures of implementation’ of the CRC, stating that:

“Ensuring that the best interests of the child are a primary consideration in all actions concerning children (art. 3(1)), and that all the provisions of the Convention are respected in legislation and policy development and delivery at all levels of government demands a continuous process of child impact assessment (predicting the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights) and child impact evaluation (evaluating the actual impact of implementation). This process needs to be built into government at all levels and as early as possible in the development of policy.”⁶

The Committee has also observed the need for child impact assessments while examining individual State Parties to the Convention. In commenting on the implementation of the CRC in Hong Kong, the Committee recommended that:

“in the formulation of policy options and proposals there should be an accompanying assessment of its impact on children so that decision makers can be better advised when formulating policy as to its effect on the rights of the child.”⁷

Where governments – such as New Zealand – have taken steps to analyse policies and legislation for their impact on children, the Committee has been appreciative:

“The Committee notes with interest the increasing emphasis on monitoring and evaluation of the impact on children of proposed legislation and policies affecting children. In particular, it welcomes the inclusion of specific monitoring and evaluation procedures for new policy proposals submitted to Cabinet.”⁸

6 General Comment No. 5, *General measures of implementation of the Convention on the Rights of the Child* (arts. 4, 42 and 44, para. 6) CRC/GC/2003/5 at para 45.

7 Concluding Observations of the Committee on the Rights of the Child: United Kingdom of Great Britain and Northern Ireland (Hong Kong), CRC/C/15/Add.63, 30 October 1996 at para 20.

8 Concluding Observations of the Committee on the Rights of the Child: New Zealand, CRC/C/15/Add.71, 24 January 1997 at para 4.

In recent years, the UK's Joint Committee on Human Rights endorsed the Convention and the Committee's recommendation that policies be assessed for their impact on children when it said that the *"presence [of child impact assessments] in the explanatory notes to a Bill would be a sign of the Government's genuine commitment to place the best interests of the child at the heart of policy."*⁹ The Joint Committee believes that child impact assessments are crucial to realising the government's stated objective of organising services around the needs of children¹⁰ and cites another report which recommended that consideration be given to *"subjecting all policy initiatives and legislation to a child impact assessment"*.

1.3 Child impact assessments versus children's rights impact assessments

Previous work and literature has focused on child impact assessments and examining the effect of policies or legislation on the welfare of children, their needs and interests. While children's rights often form part of this, SCCYP has chosen to explicitly sharpen its approach to child impact assessments and the assessment model we have developed is for a *children's rights impact assessment*. This is in keeping with the Commissioner's statutory remit to promote and safeguard the rights of children and young people.

1.4 SCCYP'S role in children's rights impact assessments

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For the reasons outlined above, SCCYP believes that children's rights impact assessments are needed to promote and protect the rights of children and young people in Scotland. We believe the development of our rights-based assessment model has been necessary despite the existence in Scotland for a number of years of the Scottish Executive's 'child strategy statement'¹¹. When drafted, this strategy statement was aimed at ensuring that the Scottish Executive, the devolved government for Scotland, *"identified and took proper account of the interests of children when developing policy"*¹². While the statement can effectively be seen as a type of impact assessment, SCCYP and others have been unable to find evidence of its widespread or routine use by departments of the Scottish Executive. Moreover, use of the strategy statement by any department has never been evidenced in the sense that individual assessments have been published or disseminated. Nor does it appear that implementation of the statement has been monitored.

The creation of SCCYP, therefore, and our duty to review law, policy and practice affords a timely opportunity to develop and build on the intentions contained in the strategy statement. We aim to encourage a more robust, transparent and evidence-based approach to policy development and law making in Scotland.

In developing and using our own children's rights impact assessment model, SCCYP's goals have been to:

- use the model internally as one means of fulfilling our statutory duty to review law, policy and practice relating to the rights of children and young people with a view to assessing their adequacy and effectiveness; and
- encourage others, particularly the Scottish Executive, the Scottish Parliament, local authorities and other public bodies, to assess the impact of decisions, policies and legislation on children's rights.

With this second goal in mind, SCCYP will make the impact assessment model itself and the rationale behind it, as well as

9 Joint Committee on Human Rights, *The UN Convention on the Rights of the Child: Tenth Report of Session 2002-03* at para 27.

10 Joint Committee on Human Rights, *The Government's Response to the Committee's Tenth Report of Session 2002-03 on the UN Convention on the Rights of the Child: Eighteenth Report of Session 2002-03* at para 12.

11 Scottish Executive, <http://www.scotland.gov.uk/library3/social/css-00.asp> (last accessed 17/08/06).

12 Scottish Executive, <http://www.scotland.gov.uk/library3/social/css-00.asp> at paragraph 1 (last accessed 17/08/06).

the individual assessments carried out, publicly available as an example of a tool that can be used to gauge the extent to which children's rights are considered in policy making. The assessment model can be used by others or adapted to suit their own needs.

By conducting children's rights impact assessments at SCCYP, and by promoting their use by others, we hope to:

- promote and raise awareness of children's rights;
- ensure children's rights and interests are taken into account at the earliest possible stage in policy development;
- embed children's rights and issues in the minds of decision and policy makers;
- involve children and young people in the development of policies that affect them;
- hold policy makers accountable for the decisions they take that affect children and young people;
- promote more reasoned decision making and avoid or mitigate any negative impacts which policies may have on children;
- in the case of government, to break through departmental barriers and encourage the co-ordination of agendas in, for example, health, social care and justice;
- raise awareness of the UN Convention on the Rights of the Child and other relevant international instruments, reminding authorities of their CRC obligations and encouraging policy makers to ensure policies are CRC compliant; and
- monitor the implementation of children's rights in Scotland bearing in mind the UK's obligation to report to the UN Committee on the Rights of the Child.

Once an assessment is completed by SCCYP, it will be made public and can be used as a tool for change. By making an assessment public, we can highlight policy or legislative proposals or decisions which have, or have not, taken account of children's rights. Where children's rights have been fully considered in the development of the proposal, this can be highlighted as an example of good practice. Where a decision has been taken or a proposal developed without due regard to children's rights, the assessment can identify potential negative impacts on children and areas for change and improvement.

Where an assessment identifies a negative impact on children's rights so severe as to be a serious cause for concern, SCCYP may wish to pursue the matter. Ultimately, SCCYP could conduct a formal investigation into whether, by what means and to what extent the rights, interests and views of children and young people have been considered in decision making¹³.

In addition, the completion and publication of children's rights impact assessments can act as a public commentary on the implementation of children's rights and the CRC in Scotland, and can inform the UK's report to the UN Committee on the Rights of the Child¹⁴.

1.5 Developing the SCCYP model

The children's rights impact assessment model developed by SCCYP is particular to our own needs and is intended to fit the legal context within which we work. For example, compared to other models, we will approach assessments from a children's rights perspective, rather than a needs or welfare-based approach. However, we also believe that the SCCYP

¹³ Section 7, Commissioner for Children and Young People (Scotland) Act 2003.

¹⁴ Under Article 44 of the CRC, State Parties to the Convention must make periodic reports to the UN Committee on the Rights of the Child on their compliance with the Convention's provisions. The UK's next report is due by 15th July 2007.

model can be used by others, either as it stands or with some adaptations to suit the user's needs. As well as developing impact assessment forms for our own use, therefore, we have also created 'generic' forms for others to use. These generic assessment forms omit, for example, references to SCCYP and our policy priorities and are available at Appendix 1 or on the SCCYP website at www.sccyp.org.uk.

In developing our model, SCCYP mapped work already undertaken around the world on child impact assessments, including those that had been used in the past, were still in use, or which were still at the 'theory' stage. Focusing on several child impact assessments in particular, we asked the following questions:

- what is the framework?
- what areas are being assessed?
- when should the assessment be conducted?
- what is included in the assessment?¹⁵

We also looked at other relevant issues, such as whether consultation, either with young people or with others, was carried out or what use was made of the assessment once completed.

Comparing these other assessment models allowed us to see not only the common themes, but also the areas where the various models differed.

Knowing that impact assessments were further developed in other fields, we went on to map non-child specific impact assessments, including environmental, regulatory and equalities assessments¹⁶. We found common themes amongst the assessments carried out, and found aspects of certain models to be particularly well-developed.

Using all the information gathered as a starting point, we mapped each stage of our proposed child impact assessment model, covering:

- the framework;
- what should be assessed;
- when it should be assessed;
- the questions to be asked during the assessment;
- consultation with children and young people, stakeholders and 'experts'; and
- monitoring and evaluation

We then tested the model¹⁷ on several policy proposals with the aim of identifying aspects of the model which did, or did not, work. We also consulted with interested parties for their views on the model and the guidelines. This resulted in a number of minor adjustments and changes of emphasis being made in some areas.

It is important to note that the model developed is not definitive and the questions to be asked during the assessment are not exhaustive. The model remains flexible. Flexibility will be important as the model may have to be adapted or expanded depending on what is being assessed. The model we have developed sets out the minimum of what should be asked during the children's rights impact assessment process.

1.6 What should be assessed?

Our review of impact assessments found that they are used in relation to:

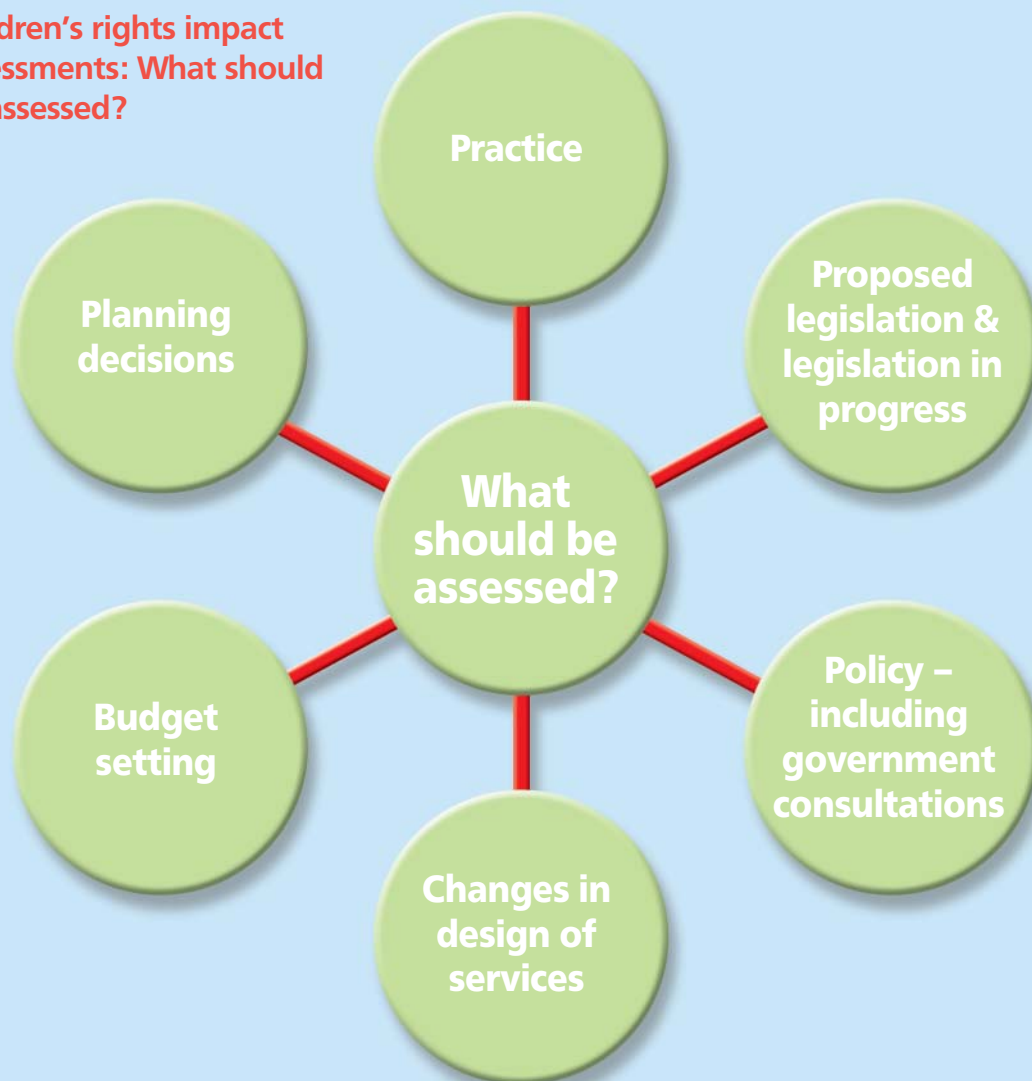
¹⁵ Paton, L. & Munro, G., *Child impact assessments: Comparative table* (SCCYP, 2005), available on request from the office of Scotland's Commissioner for Children and Young People.

¹⁶ Paton, L. & Munro, G., *Impact assessments: Comparative table* (SCCYP, 2005), available on request from the office of Scotland's Commissioner for Children and Young People.

¹⁷ Examples of these tests can be found at Appendix 1 below and at www.sccyp.org.uk

- legislation;
- policy decisions – whether it be making new or amending current policy;
- budgetary decision making;
- organisational and administrative changes;
- current practice (such as the implementation of policy) or changes in practice;
- planning decisions.

Children's rights impact assessments: What should be assessed?



Impact assessments are used at all levels – national, regional and local. While they are most often carried out in relation to the decisions of public authorities, the policies and proposals of others can also be assessed for their impact. For example, a company proposing to build a chemical plant must carry out an environmental impact assessment and submit this along with its planning application to the authorities.

With regard to environmental impact assessments, the plans or projects that are to be assessed are clearly set out in statute. This is obviously not the case for children and young people. Clearly, it would be resource intensive and quite simply impossible to effectively assess every single decision or policy for its impact on children and young people. So, how do we decide what to assess?

While a piece of legislation, such as the recent Family Law (Scotland) Bill, may have obvious consequences for children which should be assessed for their effect, one of the primary goals of children's rights impact assessments is to embed children's rights and interests in decision and policy making. Thus, where a policy has an obvious impact on children, it is likely that their interests will already have been taken into account. However, where a Bill has a more indirect impact on children, it is less likely that they will have been considered in the policy and drafting process. It is here, then, that children's rights impact assessments could be especially valuable.

That is not to say, however, that where a Bill directly affects children, a children's rights impact assessment need not be carried out. It may be that an impact assessment reveals consequences not previously foreseen, or children's rights may simply not have been fully considered by those drafting the Bill.

It is apparent, therefore, that there needs to be some kind of mechanism to decide what to assess. Those carrying out children's rights impact assessments will each develop their own criteria for deciding which proposal or decision to assess. For information about how SCCYP will determine which proposals require assessment, see Stage 1 of the assessment process at 2.3 below.

1.7 At what stage in the process should assessment take place?

From our review of other attempts at impact assessments, it is clear that assessments should be carried out at as early a stage as possible in the decision or policy making process. Indeed, some impact assessments have this built into the model: in the UK, regulatory impact assessments feature an 'initial assessment' stage allowing for the identification of areas where more information is needed so that a full assessment can be carried out. It is clear that leaving the assessment until late in the policy development process is not ideal and, in any case, undermines the aim of carrying out the assessment, which is to ensure reasoned and evidence-influenced policy making that takes into account the rights of children and young people.

This does, of course, assume that the person carrying out the assessment is aware of the policy at an early stage. This is not likely when the assessor is monitoring the policy from the outside, thereby strengthening the case for those developing the policy to be the ones doing the impact assessment, as happens with environmental impact assessments. These assessments are carried out in parallel with the project design, giving a useful framework within which environmental considerations and design development can interact¹⁸.

This approach to impact assessment was endorsed by the UN Committee on the Rights of the Child when it said, *"This [impact assessment] process needs to be built into government at all levels and as early as possible in the development of policy. Self-monitoring and evaluation is an obligation for Governments."*¹⁹ It is for this reason, therefore, that SCCYP's role in children's rights impact assessments will be two-fold, as described above at paragraph 1.4. While SCCYP will be monitoring decision and policy making by others, it is crucial that we also encourage and support decision and policy makers to carry out assessments themselves.

¹⁸ Office of the Deputy Prime Minister, *Environmental impact assessment: A guide to procedures* (ODPM, 2000) at Chapter 1, available at <http://www.communities.gov.uk/index.asp?id=1143250> (last accessed 17/08/06).

¹⁹ General Comment No. 5, *General measures of implementation of the Convention on the Rights of the Child* (arts. 4, 42 and 44, para. 6) CRC/GC/2003/5 at paras 45-46.

2 THE SCCYP MODEL

The assessment model developed by SCCYP involves two levels of assessment: initial screening and full assessment, both of which are described in more detail below. The full assessment follows an eight-stage process, although the initial screening follows a similar, but less in-depth, process:

Stage 1: Identify (deciding what to assess);

Stage 2: Map (describing what is proposed, its consequences and goals);

Stage 3: Gather (pulling together relevant information and evidence);

Stage 4: Consult (asking children and young people and stakeholders for their views);

Stage 5: Analyse (assessing the proposal for its impact on children and young people's rights);

Stage 6: Recommend (drawing together conclusions and making recommendations);

Stage 7: Publicise (making the results of the impact assessment known); and

Stage 8: Monitor (monitoring and evaluating the impact of the proposal).

Each stage of the process is described below and is followed by a summary of the key questions that should be asked during the assessment. Where possible, we have included examples to illustrate the assessment process. Examples of completed assessments can be found on the SCCYP website and in Appendix 1 of this report.

2.1 'Children and young people' defined

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Child impact assessments commonly cover children and young people up to the age of 18, in line with the definition of 'child' in Article 1 of the CRC. However, SCCYP's remit covers all children under the age of 18, as well as young people up to the age of 21 if they have, at any time, been in the care of, or looked after by, a local authority. Therefore, assessments conducted by SCCYP will analyse the effects of policies on under 18s, as well as under 21s where SCCYP believes young people who have been in care or looked after may be affected.

2.2 Framework

In any children's rights impact assessment, it will be essential to take the CRC as the starting point or as the overarching framework for the assessment. Within this children's rights framework however, it is important to look at other relevant laws, standards and policies, whether they originate at domestic, European or international level.

The following sets out the approach SCCYP will take to children's rights impact assessments and is therefore peculiar to both our organisation and the Scottish context. Many aspects of our approach will, however, be relevant to children's rights impact assessments (or child impact assessments) undertaken in other jurisdictions as well as assessments undertaken by other organisations or agencies within Scotland.

2.2.1 United Nations Convention on the Rights of the Child

The Convention on the Rights of the Child

The CRC sets out the fundamental human rights that all children around the world, without discrimination, are entitled to. It sets out minimum benchmarks in rights for children rather than 'best practice'; countries are thus encouraged to exceed the standards laid out in the Convention, but should not fall short of its basic requirements.

For a summary of the main articles of the Convention, see Appendix 3.

Two Optional Protocols to the CRC, one on the involvement of children in armed conflict and the other on the sale of children, child prostitution and child pornography, have been adopted to strengthen the Convention's provisions in specific areas.

The Convention in the UK

The CRC was passed by the UN General Assembly in 1989 and ratified by the UK in 1991. In addition, the UK ratified the Optional Protocol on the involvement of children in armed conflict in 2003, and has signed, but not yet ratified, the Optional Protocol on the sale of children, child prostitution and child pornography.

Ratification commits the UK to bringing its law, policy and practice into line with the Convention. Whilst not directly enforceable in UK courts in the way that the European Convention on Human Rights now is, it should be noted that the European Court of Human Rights increasingly makes reference to the CRC in its judgments as a common standard amongst member states²⁰ and section 2 of the Human Rights Act 1998 obliges UK courts to take account of European jurisprudence in making their own decisions. Furthermore, domestic courts in the UK are also beginning to make reference to the CRC in its own right in their judgments.²¹

The Committee on the Rights of the Child

Article 43 of the CRC established a Committee to monitor the extent to which State Parties comply with their obligations under the Convention. Two years after ratifying the CRC, State Parties are required to submit an initial report to the Committee on the Rights of the Child, detailing the measures they have taken to give effect to the Convention rights and the progress made on the enjoyment of those rights. Thereafter, State Parties make a periodic report to the Committee every five years. Following an examination of the report and questioning of a delegation representing the State Party, the Committee, currently comprised of 18 experts on children's rights drawn from all over the world, issues its concluding observations. These observations include criticism – or praise – of the State Party's performance in complying with the Convention, and recommendations for improvement. The State Party is then obliged to detail the steps taken to comply with these recommendations in its next report to the Committee.²²

The UK's initial report was submitted to the Committee in 1994 and its second report in 1999.²³ In relation to each report, the Committee issued concluding observations²⁴ which made numerous criticisms of the UK's implementation of the CRC. Most of the Committee's comments relate to the UK's performance as a whole, although some comments are specific to Scotland.

As stated above, the CRC will be taken as the starting point for any children's rights impact assessment undertaken by SCCYP. The CRC is crucial to the work of SCCYP: indeed, the Act establishing a Commissioner for Children and Young People in Scotland states that the Commissioner must, in exercising her functions, have regard to the CRC.

²⁰ For example, in *A v United Kingdom*, 23 September 1998, No. 100/1997/884/1096, para 22.

²¹ For example, in *R v Secretary of State for the Home Department. ex parte Howard League for Penal Reform* (2003) 1 FLR 484.

²² It should be noted, however, that the Committee is unable to enforce the Convention rights or to impose sanctions on States who do not comply with either the CRC or its own concluding observations. The Committee's power is effectively limited to publicly shaming a State Party.

²³ The UK's next report, a combined third and fourth periodic report, is due on 15th July 2007.

²⁴ Concluding Observations of the Committee on the Rights of the Child: United Kingdom of Great Britain and Northern Ireland, CRC/C/Add.34, 15 February 1995; and Concluding Observations of the Committee on the Rights of the Child: United Kingdom of Great Britain and Northern Ireland, CRC/C/15/Add.188, 9 October 2002.

The articles of the CRC cover everything from a child's right to life to a child's right to play. Depending on what is being assessed for its impact on children's rights, various articles of the CRC will be relevant. However, special regard must be had, regardless of the issues relevant to an individual impact assessment, to the CRC's four general principles:

- non-discrimination, that is, the rights in the CRC must be respected, regardless of the child's race, colour, sex, ethnic origin, or status, or that of the child's legal guardians (Article 2);
- the best interests of the child must be at least a primary consideration in decisions made by legislative bodies or administrative authorities (Article 3(1));
- the state must ensure, to the maximum extent possible, the survival and development of the child (Article 6); and
- the views of the child concerned must be given due weight in all matters affecting the child (Article 12).

In carrying out a children's rights impact assessment, regard should also be had, where relevant, to the two Optional Protocols to the CRC and the concluding observations of the Committee on the Rights of the Child. While the observations made by the Committee in relation to the UK will be most relevant, it may be appropriate to consider the observations regarding implementation of the CRC in other State Parties.

In addition, the Committee periodically issues general comments on thematic issues. These comments represent the Committee's interpretation of the Convention rights and are a useful contribution to their understanding. Recent general comments covered corporal punishment, the treatment of unaccompanied and separated children outside their country of origin, and adolescent health. Such general comments by the Committee should also be taken into account when conducting children's rights impact assessments.

Further information on the way in which each article of the Convention has been interpreted by the Committee is available in the *Implementation Handbook for the Convention on the Rights of the Child*²⁵.

2.2.2 The broader context

While the CRC will be used as the starting point and the overall framework for SCCYP's children's rights impact assessments, it will also be important to look to other relevant laws, standards or policies to assist in the assessment. These guidelines on the SCCYP assessment model do not attempt to list all of the laws or policies which may be relevant – that would be cumbersome and, indeed, impossible as the broader context of an assessment will be entirely dependent on the nature of the proposal and its content. Instead, these guidelines merely set out where such laws and policies may be found, whether it be at the domestic, European or international level.

Where decision and policy makers choose to carry out a children's rights impact assessment themselves, but fear that they lack awareness of the relevant laws and policies, we recommend that they contact SCCYP and we will act as a source of information where possible.

Domestic law and policy

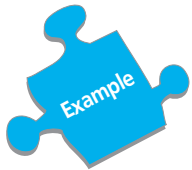
Within Scotland, there is a plethora of legislation, case law and policies relating to children that may be relevant to any children's rights impact assessment. Such laws or policies will originate from either the Scottish Executive, the Scottish Parliament itself²⁶ or the UK government. It may even be the case that local byelaws²⁷ or guidelines exist which will be relevant to the assessment. A consistent point of reference for any impact assessment in terms of the Scottish context, however, will be the Children (Scotland) Act 1995, the main piece of legislation covering children in Scotland, and whether any proposed law or policy is in keeping with the provisions of the 1995 Act, or how it fits in with that Act. Thereafter, reference should be made to other legislation or policies relating to the proposal being assessed.

²⁵ Hodgkin, R. and Newell, P., *Implementation Handbook for the Convention on the Rights of the Child*. UNICEF, 2002.

²⁶ In the form of a Committee Bill or a Member's Bill.

²⁷ In the UK, a byelaw is a local law which is made by a statutory body, such as a local authority, under an enabling power established by an Act of Parliament.

As well as existing legislation or policies, the proposal should be assessed against any published targets, outcomes or goals for children and young people. For example, a proposal relating to child poverty should be assessed against the extent to which it contributes towards the UK government's target of eliminating child poverty by 2020.



In Scotland, a proposal to amend child protection policy should be assessed in light of the Scottish Executive's wider child protection review and reform programme, having particular regard to the Children's Charter and the Framework for Standards in child protection. Developed by the Scottish Executive in consultation with children and young people, the Charter reflects what children have a right to expect and consists of key messages for those who deliver services to children. The Framework for Standards in child protection translates the commitments made to children in the Charter into practice, setting out what children, parents and others can expect from professionals and agencies to ensure children are protected and their needs met.

European Convention for the Protection of Human Rights and Fundamental Freedoms

The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) is a Council of Europe instrument setting out civil and political rights and freedoms. Ratified by the UK in 1951, the ECHR was only incorporated into domestic law in the UK via the Human Rights Act 1998. While children's rights are not explicitly referred to in the ECHR, the rights that are set out apply just as much to children as to adults. As a result, public authorities in the UK must comply with the ECHR when acting in respect to children.

In carrying out an impact assessment, it will, therefore, be essential to consider whether the proposal being assessed complies with or promotes ECHR rights. In doing so, regard should also be had to any relevant case law of the European Court of Human Rights.

Other instruments or statements emanating from the Council of Europe may also be relevant to an impact assessment, including, for example, the European Social Charter or the comments and recommendations of the Council of Europe's Commissioner for Human Rights.

European Union law and policy

To a lesser extent, laws and policies originating from the European Union may be relevant to a children's rights impact assessment. While some EU legislation will be directly effective in the UK, most is only given effect through the passing of new domestic legislation, or through amendments to existing law. Thus, it may often be sufficient to refer to domestic law, despite the fact that it originated at EU-level.

Additionally, while EU policy does not generally cover children's rights, many policies will have an impact on children, even if it is only indirectly. Therefore, an assessment of proposals to, for example, amend paternity leave should be looked at in light of EU Directives on paternity and maternity. European Union law and policy may, however, become more relevant to impact assessments on children's rights in the future as, according to a report published by the European Children's Network in 2005, *"the commitment of Member States and EU institutions to implementing children's policy has undoubtedly strengthened in recent years."*²⁸ This statement has been borne out by the recent publication of an EU strategy for children's rights.²⁹

Other international laws and standards

In addition to the CRC, there are numerous other international treaties and standards which may be relevant to an impact assessment depending on what it is that is being assessed. The other UN human rights treaties to which the UK is a State Party³⁰, as well as non-binding UN standards and guidelines, may be relevant, although it is not only instruments originating directly from the UN that may inform an impact assessment. Regard should also be had to the UN's agencies, such as the International Labour Organisation and its convention to eliminate child labour³¹, as well as

²⁸ Ruxton, S., *What about us? Children's rights in the European Union: next steps*. Euronet, 2005, available at http://www.europeanchildrensnetwork.org/WhatAboutUs_gf27967.pdf (last accessed 17/08/06).

²⁹ European Commission, *Towards an EU strategy on the Rights of the Child* (2006).

³⁰ For a useful discussion of how the CRC interfaces with the other UN human rights treaties, see Boyce, S., *International UN Human Rights Standards: their relevance for the development of a Children's Strategy for Northern Ireland*. Children's Law Centre/Save the Children, 2003.

³¹ ILO Convention No. 182: Worst Forms of Child Labour Convention, 1999.

other international organisations.

There are countless examples of conventions, standards and guidelines which may be relevant and anyone conducting a children's rights impact assessment should be aware of this possibility.



In assessing a proposal that will have an impact on young offenders in custody, as well as having regard to Articles 3, 37 and 40 of the CRC, consideration may also be given, for example, to the United Nations Rules for the Protection of Juveniles Deprived of their Liberty³², the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)³³ and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines)³⁴.

2.3 Children's rights impact assessment process

Stage 1: Identify

Deciding what to assess

As stated above, it would be near impossible to fully assess every policy decision or legislative proposal for its impact on children. Thus, before the assessment process itself can take place, a decision must be taken as to what to assess. Depending on the role of the person or organisation carrying out the assessment, they may choose to limit assessments to particular types of proposal, such as draft legislation, or budget decisions. Alternatively, what is assessed may not be based on the nature of the proposal, but rather on its content or subject matter. This is the approach to be taken by SCCYP³⁵. The proposals we will assess for their impact on children and young people will be influenced by SCCYP's statutory remit and our focus on promoting and protecting the rights of children and young people. In particular, SCCYP's decision on whether or not to carry out an impact assessment will be guided by considerations such as:

- our policy priorities³⁶ – if a policy or proposed law falls within a priority area, then it should be assessed for its impact;
- if we foresee a negative impact on children and young people and their rights, especially if this has not been envisaged by the decision makers or the originators of the policy or law;
- if we identify clear gaps in otherwise good proposals;
- in consultation with children and young people and other stakeholders; and
- the scope for effecting change as a result of the impact assessment being done.

Obviously, the availability of resources (time, staff, etc) will also be a factor in deciding whether to carry out an impact assessment.

Initial screening assessments

To assist in determining which proposals or decisions should be assessed, and to help focus our resources on proposals which require thorough analysis, SCCYP will carry out 'initial screening assessments'. Such initial assessments will determine which proposals merit a further, full impact analysis. Information on how an initial assessment varies from a full assessment can be found below.

³² General Assembly Resolution 45/113, 14 December 1990.

³³ General Assembly Resolution 40/33, 29 November 1985.

³⁴ General Assembly Resolution 45/112, 14 December 1990.

³⁵ This is our initial approach although we would not rule out changing this depending on the outcomes of our impact assessments. If, for example, we discover that impact assessments are most effective in relation to draft legislation, then we may focus our attention in that area.

³⁶ SCCYP's policy priorities are determined following consultation with children and young people and those who work with and for them. For more information about the current priorities of the office and how they were identified, visit our website at www.sccyp.org.uk

INITIAL SCREENING ASSESSMENTS

Initial screening assessments are far more limited than a full children's rights impact assessment and can be based on the information already available and the existing knowledge of those conducting the assessment. Screening may not produce as precise a result as a full children's rights impact assessment, but is a useful way to quickly evaluate a proposal. SCCYP will use screening to determine whether a fuller, more thorough children's rights impact assessment of a proposal will be necessary. It is important to note, however, that initial screening can also be an end in itself: screening may be sufficient to establish what impact a proposal may have on the rights of children and young people without the need for a full impact assessment involving further research or consultation.

Screening may be of particular use where it is used internally, by those who are developing the proposal, drafting the bill or making the decision being assessed. It will allow them to quickly consider children's rights and interests at an early stage and the results of the screening can be fed back into the drafting or policy or decision making process.

For SCCYP's purposes, once a decision has been taken to screen a proposal, the following key questions should be asked:

- Describe the proposal and its aims
- Are children, or particular groups of children, likely to be adversely affected by the proposal?
- Has there been any consultation in the development of the proposal, for example, of children and young people or stakeholders?
- Does the proposal contravene the CRC or any other laws?
- Is the proposal the best means of achieving its aims, taking into account children's rights?
- What conclusions have been reached?
- What recommendations should be made and who should be informed of them?
- Is a full children's rights impact assessment required?

Templates of both SCCYP-specific and generic initial screening assessment forms, and an example of a completed initial assessment, are available at Appendix 1. Further examples are available on our website at www.sccyp.org.uk.

Others who wish to carry out impact assessments will, however, have their own considerations and should develop their own criteria for deciding what to assess. Thought could be given to using defined criteria or to applying general principles to the selection process. This latter approach is suggested by the Higher Education Funding Council for England (HEFCE) in its good practice guide to equality impact assessments. Noting the challenges involved in conducting impact assessments, HEFCE recommends that the principles of relevance and proportionality be adopted when deciding which policies require full impact assessments:

"resources for impact assessment [should be] directed to the policies, functions and practices which have the greatest relevance and impact . . ."

Key Questions

- What should be assessed?
- What criteria are to be used for deciding what to assess?
- Is an initial screening assessment required?
- Following an initial screening assessment, is a full children's rights impact assessment required?

Stage 2: Map

Describing what is proposed, its consequences and goals

Before any assessment can be properly carried out, a thorough understanding of the proposal or decision being assessed is essential. With this in mind, the impact assessment should begin with a description of the proposal, its consequences and its goals. It will also be useful to set out the legal, policy and practice context of the proposal, and how it will link with existing or other proposed policies. Is the proposal linked to published targets or outcomes for children and young people?

Consideration should be given to:

- who initiated the proposal;
- who has responsibility for implementation of the proposal;
- which agencies or service providers will be affected by the proposal;
- which children, or groups of children, will be affected by the proposal; and
- who are the relevant stakeholders.

It will be useful to note whether, in formulating the proposal, the views of children and young people or other stakeholders were taken into account, and the extent to which their views are reflected in the final proposal.

Key Questions

- What is being proposed?
- What is the aim of the proposal?
- What is the legal, policy and practice context of the proposal? How does it relate to other initiatives?
- Does it seek to fulfil any targets set, for example, by government?
- Which articles of the Convention are relevant?
- Who initiated the proposal?
- Who will be responsible for implementing the proposal?
- Will any other agencies or service providers be affected by the policy?
- Which children, or groups of children, will be affected by the proposal?

- Who are the relevant stakeholders?
- Have children and young people or any stakeholders participated or been consulted in the development of the proposal?
- Has a CRC analysis been done in the development of the proposal? If yes, is it adequate and should it be progressed? If not, is one required?
- What are the resource implications of the proposal?

Stage 3: Gather

Pulling together relevant information and evidence

At this stage in the assessment process, it will be important to gather additional information relevant to the proposal and its aims. Without information about the nature of the proposal and those it will affect, it would be difficult to effectively assess its impact. For example, assessing a proposal to introduce universal free school meals will require information relating to, amongst other things, the total number of children who may require school meals as well as expected take-up; the cost of providing the meals; any nutritional standards or guidelines that must be met; and whether, and with what effect, universal provision of free school meals has been introduced elsewhere.

Relevant and reliable information can be gathered from a variety of sources and may take several forms, including quantitative data, qualitative research, surveys and results of consultations with children and young people. It may also be useful to draw on academic or professional expertise, particularly where existing published research is limited.

Those carrying out the impact assessment may hold information internally that will be instructive. In the case of SCCYP, information gleaned from our participation work with children and young people, or from our enquiries service may be relevant.



In assessing a proposal to amend procedures for excluding pupils from school, it would be useful to draw upon the large number of enquiries received by SCCYP regarding this issue and consider how the proposal might have affected the young people in those cases.

In looking at young people's participation in sport, SCCYP could make use of the information posted by children and young people on our online message board in response to our questions about the quality of sports facilities in Scotland.

At this stage, it may also be possible to identify gaps in information and the need for more data, for in-depth research, or for consultation with children and young people.

Key Questions

- What relevant information or evidence is available?
- Is this information accessible?
- How robust is the information or evidence?
- Is further information or evidence required?

Stage 4: Consult

Asking children and young people and stakeholders for their views

Surprisingly, some of the child impact assessment models analysed by SCCYP in the process of developing our own model were characterised by a lack of participation by, or consultation with, children. This may have been due to the nature of the proposal being assessed: often, policies originating from central government are consulted on only briefly, or are pushed through the legislative process quickly, without sufficient time for effective and worthwhile consultation with children and young people to take place.

Wherever possible, and where appropriate, SCCYP will consult with and involve children and young people during the children's rights impact assessment process. Where a proposal affects one group of children and young people in particular, SCCYP will attempt to involve that group, rather than – or in addition to – children generally.

Where appropriate, it will be important to consult not only with children but also with other stakeholders. Relevant stakeholders should already have been identified at Stage 2 of the impact assessment process.

In addition to consulting with stakeholders, it may be appropriate – depending on the proposal being assessed – to consult experts in that particular field. This might include academics who might not be affected by the proposal, but who have a thorough knowledge of and expertise in the subject matter of the proposal, or children's rights generally.

Consulting with children, stakeholders and experts and listening to their views should feed into the next stage (analysis) of the assessment process. It may also be the case, however, that the need for consultation, for example, with a particular group, is only identified during the analysis of the proposal.

When consulting with children and young people or with other stakeholders, it will be useful to ask:

- what they think of the current situation;
- what they think of the proposal and its aims;
- what they think will be the effect of the proposal;
- if necessary, how they think the proposal could be improved; and
- whether they are aware of other means of achieving the aims of the proposal that will reduce adverse impact or will lead to the greater promotion of children's rights.

Of course, many of the questions to be discussed during the consultation process will depend on the nature of the proposal being assessed and the results of the assessment so far.

There are various means by which to consult both children and stakeholders, and careful thought should be given to which method would be most appropriate given the proposal being assessed, the information sought and those being consulted. Possible methods include:

- focus groups;
- one-to-one interviews;
- surveys;
- peer research by children and young people; or
- creative/participatory methods.

For consultation with children and young people in particular, there is a range of literature available on how to go about it and the principles to be followed³⁷.


Ideally, results of the consultation should be published, either separately or as part of the final impact assessment report.

³⁷ For a small selection of resources on participation and consultation with children and young people, see 'Participation Resources' below at page 48.

Impact assessments by children and young people

Asking children and young people to carry out their own assessments of proposals could be used as a tool in consulting them. With this in mind, SCCYP will develop a children's rights impact assessment model to be used by children and young people themselves. However, as well as being used as a consultation tool to feed into SCCYP's assessments of proposals, the children's assessment model can be used by them to carry out their own, stand-alone assessments.

Key Questions

- 
- Is consultation necessary or appropriate?
 - Who should be consulted?
 - Is it necessary to ask a particular group of children, such as those directly affected by the proposal, for their views?
 - What format should the consultation take?
 - What questions should be asked?
 - Should children be asked to carry out their own impact assessment of the proposal?

Stage 5: Analyse

Assessing the proposal for its impact on children and young people's rights

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Once the proposal has been defined and the appropriate information gathered, the proposal can be assessed for its impact on children and young people. To assist in the assessment, a number of questions that should be asked are outlined below. It is important to note, however, that these questions are not exhaustive: they form a starting point for conducting an assessment and all of them may, or may not, be relevant to each proposal being examined.

It is also important to note that not every conceivable impact can be assessed. This would be unrealistic and unfeasible as almost all legislation or policy will have, at the least, some kind of indirect impact on all children and young people or a particular group of children. Children's rights impact assessments should be a meaningful exercise with definite aims and concrete results.

Using the framework

The analysis of the proposal should be done using the framework outlined above at 2.2. The first step, therefore, will be to assess the proposal for its compliance with the CRC. Regard should be had not only to the CRC itself, but also the jurisprudence of the Committee on the Rights of the Child and, in particular, the Committee's Concluding Observations on the UK's implementation of the Convention.

The assessment of the proposal should ask how it relates to the CRC, whether it contributes to the observance and implementation of the CRC, and whether the proposal fulfils any of the recommendations made by the Committee in its Concluding Observations.

Once the proposal is assessed against the CRC, it should be assessed in the wider context of relevant national, European and international law and policies.

Groups of children

In assessing the proposal's impact on children and young people, it will be important to examine the impact on those under 18 as a whole, but it will also be essential to examine whether a particular group of children is differentially affected by the proposal. Children are not, after all, a homogenous group. Regard should therefore be had to whether a proposal exclusively or predominantly affects, for example:

- children of different ages;
- male or female children;
- children of different racial, ethnic or cultural backgrounds;
- children of different socio-economic backgrounds;
- children living away from home, for example, in foster or residential care; or
- children with disabilities.

It may even be the case that particular groups of children, such as looked after children or children with disabilities, are routinely differentially or disproportionately affected by proposed policies or legislation. If this is the case, it may be worthwhile asking, as a matter of course, whether they are particularly affected during the assessment of individual proposals.

It is here where particular awareness of and expertise in issues affecting children and their rights on the part of those carrying out the assessment will be especially valuable. While such expertise can almost be assumed when it is a body such as SCCYP or a children's voluntary organisation that is doing the assessment, the same will not be true where an assessment is being conducted, for example, during the development of the policy by a government department whose primary focus is not children or families.

Competing interests

In the course of the assessment, it may be discovered that there are competing interests: the conflict may be between children and another group, such as parents, service providers or professionals, or may be between particular groups of children, possibly in terms of resources. Where this is the case, it will be important to carry out a full impact assessment and to carefully examine whether the best interests of some children are being promoted over those of others and, if so, whether this is being done proportionately and for legitimate reasons.

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A local authority proposes to house together some of the unaccompanied asylum seeking young people in its area in a particular residential care home, staffed by professionals with relevant skills and experience, and where the local school is practiced at educating pupils whose first language is not English. The authority has based its proposal on the best interests of the asylum seeking children. However, the young people currently living in the residential care home will have to be moved to other placements.

A local authority consults on a plan to turn a dual-language (Gaelic and English) primary school into a Gaelic Medium only school, citing the falling English Medium school roll and the local community's interest in preserving the Gaelic language. In future, any English-speaking children in the school's catchment area would either be taught at the school in the Gaelic Medium, or face journeys of up to one hour to the nearest English language primary school. The interests of the children educated in the Gaelic Medium and of the community as a whole may be seen as contrary to those of English-speaking children in the area.

Financial implications

The children's rights impact assessment model developed by SCCYP includes the possibility of a financial analysis of the proposal, setting out its costs and benefits. Ideally, this would be done in the course of each full impact assessment. However, a thorough financial analysis would require a degree of expertise and, therefore, where such an analysis is deemed necessary to the completion of the assessment, it may be possible to buy in the expertise required.

Disagreement as to impact

In the course of conducting an assessment, it is quite possible that there may be disagreement among stakeholders as to the impact a proposal will have on children and young people. Where this is the case, these differing views should be recorded and taken into consideration.

Negative/adverse impacts

Where a proposal is found to have a negative impact on children, or on a particular group of children, consideration should be had to its extent. The proposal may, for example, have such an adverse impact on children that it is potentially unlawful. If this is the case, SCCYP will make this risk known to those responsible for the proposal and recommend that it be reviewed. Where we believe that the aim of the proposal is justified, but the means are unlawful, we may suggest alternative methods of achieving the aims which take into account children's rights.


Where the proposal is not unlawful, but nevertheless has an adverse impact on the rights of children and young people, regard should be had to whether this impact is justified given the aims of the proposal. It may be possible to suggest compensatory measures that could be taken to avoid or mitigate any of the negative impacts. Consideration should also be had to whether alternative measures could be taken to secure the aim of the proposal, but which do not have a negative impact on children, or which do more to promote children's rights. It may even be the case that the 'do-nothing' option would better protect the rights of children and so regard should be had to whether this approach would be feasible.

Where an assessment is being undertaken not by an organisation such as SCCYP but by the policy maker, steps should be taken to eliminate negative impacts and, where this is not possible, the policy maker should set out why it is necessary to proceed with the policy. The policy maker should outline why the policy is justified, despite its adverse impact on children – it may be that the policy maker feels the policy is in the wider public interest. If this is the case, the policy maker should set out what remedial action, if any, is being taken to address the impact on children.

Promotion of children's rights

It is important to remember that children's rights impact assessments are not always about identifying adverse or negative impacts on children – they should also be conducted with a view to promoting children's rights and interests. Impact assessments are a means of actively seeking out opportunities to advocate for children's rights with the long-term goal being to mainstream their rights in decision and policy making.

Key Questions

- 
- What direct or indirect, positive or negative, impact will or might the proposal have on the rights of children and young people?
 - Will the rights of one group of children and young people be more affected than those of another group of children?
 - Are there any competing interests between groups of children, or between children and other groups?
 - How does the proposal relate to, promote, inhibit or contravene the provisions of the CRC or any other relevant international treaty or standard?
 - How does the proposal relate to the UN Committee on the Rights of the Child's Concluding Observations on the UK's implementation of the CRC?
 - How does the proposal contribute to the achievement of any goals identified by the government in relation to children and young people, such as the Scottish Executive's seven outcomes for children³⁸ or the child poverty targets?
 - Is there disagreement as to the likely impact of the proposal on the rights of children and young people?

³⁸ The Scottish Executive has identified the following seven outcomes for all children and young people – safe, healthy, nurtured, achieving, active, included, and respected and responsible.

- Is the proposal the best means of achieving its aims, taking into account children's rights?
- Has the 'do-nothing' option been considered?
- Can any alternatives be suggested to the proposal or extension of the existing plan?
- What compensatory measures may be needed to avoid/mitigate a negative impact on children and young people's rights?
- Does the proposal affect any other policy areas or agendas, or other professionals or groups in their work with children and young people?
- What costs and benefits will the proposal entail from the viewpoint of society, individual persons or particular groups?

Stage 6: Recommend

Drawing together conclusions and making recommendations

In light of the whole assessment process, conclusions should be reached and, if necessary, recommendations made. Possible recommendations may include, for example:

- that the proposal should not go ahead;
- that the proposal should be reviewed so that it better takes into account the rights of children and young people;
- that the proposal should go ahead, but should be amended;
- that compensatory measures should be taken to mitigate adverse impact on children; or
- that further research or consultation is required.

Thought should be given to those who should be informed of the assessment and the resulting recommendations. In some cases, it will be clear: if the assessment has been conducted in response to a government consultation, then the assessment and its results can form part of SCCYP's submission.

Key Questions

- What conclusions have been reached?
- What recommendations should be made?
- Who should be informed of the recommendations?
- Does the assessment have any gaps in information, data collection or expertise?
- Is further research required?
- Is further research required or consultation needed to investigate impacts on the rights of diverse/vulnerable children and young people?
- Is follow-up evaluation/monitoring of the proposal and its implementation required and are there guidelines for this process in place?
- Are there any other issues of relevance?

Stage 7: Publicise

Making the results of the impact assessment known

Once the assessment has been completed, the assessment – or at very least the conclusions and recommendations – should be made public. Ideally, a copy of the assessment should be sent to those responsible for initiating the proposal. The assessment should be disseminated to relevant stakeholders and to anyone who assisted in the assessment, such as those taking part in any consultation. Those consulted during the assessment process, particularly children and young people, should also be provided with any relevant feedback in an appropriate format.

SCCYP will place information regarding children's rights impact assessments carried out on our website at www.sccyp.org.uk

Where carried out by a decision or policy maker, it may be more difficult or even inappropriate to publicise the full assessment. Nonetheless, it should be noted that being able to demonstrate that an assessment has been done and children's rights taken into account in the making of a decision or in the development of policy adds credibility to the final outcome.³⁹

Key Questions

- Should the children's rights impact assessment be made available publicly?
- If so, in what format(s)?
- Who should be made aware of the assessment?
- Has feedback been provided to those who were consulted during the assessment process?

Stage 8: Monitor

Monitoring and evaluating the impact of the proposal

Even once the assessment is published, the assessment process is not yet complete. It will be useful to evaluate the extent to which the recommendations made as a result of the children's rights impact assessment process have been taken into account or acted upon. Where this has not been done and a negative impact was identified during the assessment process, further action may be required. Further recommendations could be made, or research or consultation carried out.

It is important to note that the impact assessment process is on-going. Even where a policy is decided upon or a Bill passed, the implementation of the policy or the legislation can be monitored or assessed. This may require further research and evaluation, or consultation with children and young people or other stakeholders.

Where children and young people were involved in the assessment process, or where they themselves carried out impact assessments of the proposal, SCCYP will attempt to involve them in the monitoring and evaluation process where possible.

Further action

In situations where recommendations made by SCCYP have not been acted upon or negative impacts not avoided or sufficiently mitigated, SCCYP may take the view that the adverse impact of the policy or practice on children is such that further action is required. Such action may take various forms, including the submission of a report to the Scottish Parliament. Ultimately, however, Scotland's Commissioner for Children and Young People has the authority to conduct a formal investigation into whether, by what means and to what extent, a service provider has regard to the rights,

39 For those carrying out assessments of their own policies, there is useful advice regarding publication of assessments in Higher Education Funding Council for England, *Conducting impact assessments for equal opportunities in higher education: a guide for good practice* (HEFCE, 2004) at paras 100-108.

interests and views of children and young people in making decisions or taking actions that affect them⁴⁰. To support this power, the Commissioner may require witnesses to give evidence and compel the production of documents.

Key Questions

- Have the recommendations made as a result of the children's rights impact assessment process been considered or acted upon?
- Should the progress of the proposal be monitored (for example, if it is a Bill passing through Parliament)?
- Should the implementation of the proposal be monitored?
- Is research needed to assess the proposal's impact on children, once implemented?
- Is there a differential impact on particular groups of children and young people? If so, is this impact negative and why is one particular group of children more affected than others?
- Are further recommendations required?
- Is it necessary to set a review date?

2.4 Monitoring and evaluation of the model

As SCCYP begins to carry out children's rights impact assessments, it may become clear that the model requires adjustment or improvement. Our model is therefore flexible to allow for such changes where necessary. There may be particular aspects of the model that work well, or not so well, or we may discover that children's rights impact assessments are most effective when done in relation to local rather than national proposals or to draft legislation.

It will be important to consider the aims of impact assessments, outlined at 1.4 above, to see whether progress is being made towards them.

Monitoring and evaluation of the proposals assessed will facilitate evaluation of the assessment model itself: we will be able to see whether the predicted impact of the proposal did indeed materialise, or whether the suggested alternatives or compensatory measures did indeed mitigate negative effects on children. In some cases, however, this may be difficult as the effect of a proposal may only be known in the very long term.

As well as monitoring whether assessments resulted in change on individual proposals, SCCYP is keen to gauge whether the assessments will effect a more deep-rooted change among policy makers. It is our hope that the assessment process will result in raising awareness of children's rights generally and their entrenchment in policy making.

In developing this assessment model, SCCYP has benefited from the suggestions of 'critical friends'. Their comments on the model's use and the results achieved will also assist in an evaluation of its effectiveness.

Key Questions

- Have children's rights impact assessments resulted in changes to proposals?
- Have the recommendations of the assessments been taken into consideration and/or acted upon?

⁴⁰ Section 7, Commissioner for Children and Young People (Scotland) Act 2003.

- Are children's rights impact assessments useful, taking into account the resources (time, personnel, budget) used to complete them?
- Is the initial screening element of the assessment process useful?
- Are assessments most effective when used in relation to particular types of proposals, for example, draft Bills?
- Are assessments most effective when used in relation to proposals at the local or national level?
- Are children and young people able to participate effectively in the assessment process?
- Has the use of children's rights impact assessments resulted in raising awareness or the greater promotion of children's rights?
- Has the assessment model been used by others?
- Is the model sufficiently flexible to allow for the assessment of various proposals?

3 NEXT STEPS

The development of the model for children's rights impact assessment described above is only the start of SCCYP's work in this area – we will continue to use the initial screening and full assessment forms in our every day work, reviewing and modifying the model as necessary. Already, we are looking at developing a child-friendly version of our assessment model that can be used by children and young people themselves when looking at how decisions taken by policy makers affect their lives. We hope to undertake this work in collaboration with SCCYP's Reference Group, made up of 14 to 21-year-olds, and others, such as the Children's Parliament in Scotland.

Furthermore, by sharing our children's rights impact assessment model and the individual assessments carried out, we hope to encourage policy and decision makers – as well as those, like SCCYP, who monitor them – to assess for themselves the impact of their actions on children's rights. We will welcome feedback from them on how they have adapted the assessment model to suit their own needs, as well as comments and suggestions on any improvements that can be made.

In developing and carrying out children's rights impact assessments and encouraging others to do likewise, our goal has been to embed children's rights in policy and decision making. We hope that SCCYP's assessment model will be a valuable tool in both our own work and that of others towards promoting and safeguarding the rights of children and young people.



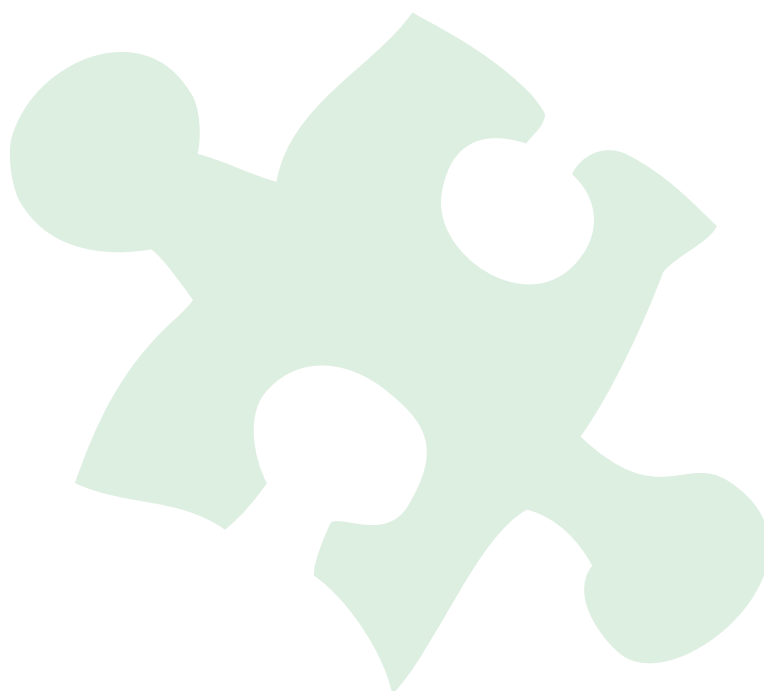
APPENDIX 1: Initial Screening Templates

Two initial screening form templates and one completed screening form are set out below. The first template is the initial screening form currently used by the office of Scotland's Commissioner for Children and Young People (SCCYP) and features references to our own policy priorities. The second template is generic and omits references to SCCYP's priorities. We have created this form for the use of other organisations conducting children's rights impact assessments. The form can be used as it stands, or can be adapted to suit the user's needs.

These forms are also available to download from the SCCYP website at www.sccyp.org.uk

The completed form is an example of a screening assessment carried out by SCCYP. The proposal assessed formed a consultation document issued by the Scottish Executive regarding the protection of children. Other examples of completed assessments are available on our website.

We encourage others to use the forms but would ask that SCCYP be acknowledged as the source. We would also be keen to receive any feedback from organisations who have used or adapted the form. Such feedback will inform the future development of our work on children's rights impact assessments.



Children's Rights Impact Assessment

Initial Screening Form



1. What is being proposed? <i>(Name/description of the policy, legislation)</i>		Policy	<input type="checkbox"/>
		Legislation	<input type="checkbox"/>
		Other	<input type="checkbox"/>
		Existing	<input type="checkbox"/>
		New	<input type="checkbox"/>
2. What is the aim, objective or purpose of the proposal? <i>(How does it relate to other initiatives? Does it seek to fulfil national targets . . .)</i>			
3. Who initiated the proposal? <i>(e.g. Scottish Executive, Scottish Parliament . . .)</i>		4. Who is to implement the proposal? <i>(e.g. Local Authorities, Police, Health Boards . . .)</i>	
5. Does the policy fall within a SCCYP priority area? <i>(Please provide further details)</i>		Proportionate Protection	<input type="checkbox"/>
		Things to Do	<input type="checkbox"/>
		UN Con.Obs ¹	<input type="checkbox"/>
		Other	<input type="checkbox"/>
6. Which articles of the UNCRC are relevant?²			
7. Does the proposal contravene the UNCRC or any other laws? <i>(e.g. European Convention on Human Rights, Children (Scotland) Act 1995 . . .)</i>			
8. Which groups of children will be affected by the proposal?			

Children's Rights Impact Assessment

Initial Screening Form



9. Positive Impact <i>(Note the groups affected)</i>	10. Negative Impact <i>(Note the groups affected, gaps or inconsistencies in the proposal)</i>	
11. Has there been any consultation in the development of the proposal? <i>(Note the groups affected)</i>	Children and Young People (CYP) Stakeholders	<input type="checkbox"/> <input type="checkbox"/>
12. Have CYP and other stakeholders highlighted this as an area for SCCYP to work on?		
13. What conclusions have been reached by SCCYP? <i>(Is the proposal the best way of achieving its aims, taking into account children's rights? Please note any gaps in information)</i>		
14. What recommendations should be made and who should be informed of them? <i>(e.g. Should relevant groups be consulted?)</i>		
15. Is a full impact assessment required? <i>(Please elaborate)</i>	Yes No	<input type="checkbox"/> <input type="checkbox"/>
Preliminary Screening by:		Date:

1 Concluding Observations of the UN Committee on the Rights of the Child.

2 Regard should always be had to the four general principles of the UN Convention on the Rights of the Child (UNCRC): articles 2, 3, 6 and 12.

Children's Rights Impact Assessment

Generic Initial Screening Form

1. What is being proposed? <i>(Name/description of the policy, legislation)</i>		Policy	<input type="checkbox"/>
		Legislation	<input type="checkbox"/>
		Other	<input type="checkbox"/>
		Existing	<input type="checkbox"/>
		New	<input type="checkbox"/>
2. What is the aim, objective or purpose of the proposal? <i>(How does it relate to other initiatives? Does it seek to fulfil national targets...)</i>			
3. Who initiated the proposal? <i>(e.g. Scottish Executive, Scottish Parliament...)</i>		4. Who is to implement the proposal? <i>(e.g. Local Authorities, Police, Health Boards...)</i>	
5. Does the policy fall within a priority area for your organisation? <i>(Please provide further details)</i>		UN Con.Obs ¹	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
6. Which articles of the UNCRC are relevant?²			
7. Does the proposal contravene the UNCRC or any other laws? <i>(e.g. European Convention on Human Rights, Children (Scotland) Act 1995...)</i>			
8. Which groups of children will be affected by the proposal?			

Children's Rights Impact Assessment

Generic Initial Screening Form

9. Positive Impact <i>(Note the groups affected)</i>		10. Negative Impact <i>(Note the groups affected, gaps or inconsistencies in the proposal)</i>	
11. Has there been any consultation in the development of the proposal? <i>(Note the groups affected)</i>		Children and Young People (CYP)	<input type="checkbox"/>
		Stakeholders	<input type="checkbox"/>
12. Have CYP and other stakeholders highlighted this as an area for you to work on?			
13. What conclusions have been reached by you? <i>(Is the proposal the best way of achieving its aims, taking into account children's rights? Please note any gaps in information)</i>			
14. What recommendations should be made and who should be informed of them? <i>(e.g. Should relevant groups be consulted?)</i>			
15. Is a full impact assessment required? <i>(Please elaborate)</i>		Yes	<input type="checkbox"/>
		No	<input type="checkbox"/>
Preliminary Screening by:		Date:	

1 Concluding Observations of the UN Committee on the Rights of the Child.

2 Regard should always be had to the four general principles of the UN Convention on the Rights of the Child (UNCRC): articles 2, 3, 6 and 12.

Children's Rights Impact Assessment

Initial Screening Form



1. What is being proposed? <i>(Name/description of the policy, legislation)</i> Scottish Vetting and Barring Scheme – consultation on proposals that will result in legislation. The legislation will set the framework for a new Vetting and Barring Scheme for people seeking work with children or vulnerable adults.		Policy <input type="checkbox"/> Legislation <input checked="" type="checkbox"/> Other <input type="checkbox"/> Existing <input type="checkbox"/> New <input checked="" type="checkbox"/>
2. What is the aim, objective or purpose of the proposal? <i>(How does it relate to other initiatives? Does it seek to fulfil national targets...)</i> The proposed legislation will take forward recommendations made during the Bichard Inquiry but will build on existing arrangements in Scotland, such as the Disqualified from Working with Children List introduced by the Protection of Children (Scotland) Act 2003. The new system will "provide a comprehensive, centralised, integrated and updated system to prevent unsuitable people from gaining access to vulnerable groups through their work and to ensure that those who become unsuitable are not able to remain in the workforce."		
3. Who initiated the proposal? <i>(e.g. Scottish Executive, Scottish Parliament...)</i> Scottish Executive, based on recommendations arising from the Bichard Inquiry.	4. Who is to implement the proposal? <i>(e.g. Local Authorities, Police, Health Boards...)</i> The new Vetting and Barring Unit, employers, police and others depending on outcome of consultation and specific proposals taken forward (e.g. health, local authorities, parents who employ tutors etc).	
5. Does the policy fall within a SCCYP priority area? <i>(Please provide further details)</i> Yes. While the vetting of adults to work with children is clearly a child protection measure, if the vetting process becomes too intrusive or cumbersome, adults may be unwilling to go through it. Children and young people's opportunities for things to do will be limited without adults prepared to work with them and provide services to them.		Proportionate Protection <input checked="" type="checkbox"/> Things to Do <input checked="" type="checkbox"/> UN Con.Obs ¹ <input type="checkbox"/> Other <input type="checkbox"/>
6. Which articles of the UNCRC are relevant?² Art 1 – definition of child (given cross over between children and vulnerable adults (16-18) in the proposals); Art 3(2) – State must take legislative and administrative measures to protect children; Art 3(3) – institutions, services and facilities for care or protection of children should conform to established standards; Art 19 – protection of children from abuse or neglect by parents or other carers; Art 31 – right to play and recreational activities; Art 39 – provision of services to help child recover from abuse		
7. Does the proposal contravene the UNCRC or any other laws? <i>(e.g. European Convention on Human Rights, Children (Scotland) Act 1995...)</i> Given that its main purpose is the protection of children, the proposal is in keeping with the UNCRC. However, there may be some question as to whether some aspects of the measures interfere with human rights, e.g. right to privacy, and there is a question over whether they are a proportionate response, thereby risking a breach of ECHR.		
8. Which groups of children will be affected by the proposal? All children will be affected as the proposal seeks to ensure that every adult who works with a child has been deemed suitable to do so. Larger organisations and statutory bodies may be able to absorb the impact of the legislation relatively easily, but small, community-based organisations may struggle to comply with the regulatory framework. Thus, children receiving services from such organisations (e.g. local football clubs, Scouts etc) may be impacted if the service is withdrawn or compromised by the service provider's ability to comply with the legislation or willingness to try to do so. Children may also be indirectly affected if organisations have to use additional resources to meet any new obligations, resulting in less resources being available for service delivery.		

Children's Rights Impact Assessment

Initial Screening Form

SCCYP!

<p>9. Positive Impact (Note the groups affected)</p> <p>Given that the purpose of the measures is child protection, all children will benefit. In particular, children who are inadequately protected at the moment will benefit – for example, children who receive private tuition from tutors employed by their parents. Currently, there is no clear route for parents to require criminal records checks for privately hired tutors or to ensure that the tutors are not on the Disqualified from Working with Children List (parents would have to persuade a registered body to counter-sign their application and this is likely to be difficult).</p>	<p>10. Negative Impact (Note the groups affected, gaps or inconsistencies in the proposal)</p> <p>As well as the general issues outlined at Section 8 above, specific proposals within the Executive's consultation have a potentially negative impact in that they may not necessarily be the best means of achieving the aim. E.g. the proposal for retrospective vetting would be resource intensive. It is questionable whether the benefits would be outweighed by the upheaval involved, particularly for small organisations. Also, the information sought during retrospective checking may simply no longer be available, giving employers a false sense of security about the conviction history of their employees. This emphasis on records checks, even of those already employed, may also detract from other measures to ensure safe recruitment, such as obtaining references and appropriate supervision of staff.</p>	
<p>11. Has there been any consultation in the development of the proposal? (Note the groups affected)</p> <p>The consultation has been disseminated widely and publicised, giving stakeholders opportunity to input. Large and national organisations appear to be well aware of the proposals, although whether small, local organisations, particularly in the voluntary sector, or whether private companies are aware of consultation is unknown. The Executive has held a number of stakeholder seminars to gather views. SCCYP has also been invited to be part of focus groups held by a research company on behalf of the Executive. It is not known whether the Executive has sought the views of children and young people.</p>	<p>Children and Young People (CYP)</p> <p>Stakeholders</p>	<p><input type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>
<p>12. Have CYP and other stakeholders highlighted this as an area for SCCYP to work on?</p> <p>Yes. Issues around vetting of adults to work with children were commonly raised by organisations during SCCYP's policy priority consultation in 2005/06. This led to the priority 'Promoting Proportionate Protection' being chosen. Children and young people have also raised vetting issues with SCCYP through the enquiries service, although this is something raised less often by them than by adults.</p>		
<p>13. What conclusions have been reached by SCCYP? (Is the proposal the best way of achieving its aims, taking into account children's rights? Please note any gaps in information)</p> <p>While these child protection measures are welcome and we agree with their aims, there are questions to be answered over whether the proposals are the best means of achieving the desired outcomes. The relevant issues are numerous, complex and nuanced, and further information and detail about the proposals is needed (some of this detail may not be available until the Bill is introduced to Parliament or, indeed, until the implementation stage). Therefore, it would be appropriate to carry out a full impact assessment as the initial screening process is not sufficient to draw out the necessary detail.</p>		
<p>14. What recommendations should be made and who should be informed of them? (e.g. Should relevant groups be consulted?)</p> <p>SCCYP should respond to the Scottish Executive's consultation and should make our response available online and to interested parties. As part of the full assessment process and to assist in the drafting of our response to the Executive, SCCYP should consult with relevant stakeholders including those involved in the vetting process, such as the police. SCCYP should also consult with the voluntary sector given the potentially negative impact on it and given that the sector delivers so many services to children and young people.</p>		
<p>15. Is a full impact assessment required? (Please elaborate)</p> <p>Given that this consultation involves such complex issues and work on it will continue for some time (once the Bill is introduced to Parliament and continuing to the implementation stage), and the fact that it falls within SCCYP's policy priorities, a full impact assessment examining the issues in more detail is advised.</p>	<p>Yes</p> <p>No</p>	<p><input checked="" type="checkbox"/></p> <p><input type="checkbox"/></p>
<p>Preliminary Screening by: Laura Paton</p>		<p>Date: April 2006</p>

1 Concluding Observations of the UN Committee on the Rights of the Child.

2 Regard should always be had to the four general principles of the UN Convention on the Rights of the Child (UNCRC): articles 2, 3, 6 and 12.

APPENDIX 2: Full Impact Assessment Template

The full impact assessment template used by SCCYP is set out below. It features references to our own policy priorities and internal working systems. A generic full impact assessment form is available on our website at www.sccyp.org.uk. It can be used by others as it stands or with adaptations to suit the user's needs.

We encourage others to use the forms but would ask that SCCYP be acknowledged as the source. We would also be keen to receive any feedback from organisations which have used or adapted the form. Such feedback will inform the future development of our work on children's rights impact assessments.

Children’s Rights Impact Assessment

When completing an assessment, please refer to Children’s Rights Impact Assessment: The SCCYP Model paragraph 2.3

1. IDENTIFY Name of proposal	
2. MAP Describing what is proposed, its consequences and goals	
2.1) What is being proposed? (Please refer to section 1 of the initial screening and elaborate)	<input type="checkbox"/> Policy
	<input type="checkbox"/> Legislation
	<input type="checkbox"/> Other
	<input type="checkbox"/> New
<input type="checkbox"/> Existing	
2.2) What is the aim or purpose of the proposal? (Who is intended to benefit, what outcomes are intended – please refer to section 2 of the initial screening and elaborate)	
2.3) Who initiated the proposal? (Please refer to section 3 of the initial screening)	
2.4) Who will be responsible for implementing the proposal? (Please refer to section 4 of the initial screening and elaborate)	
2.5) What is the legal, policy and practice context of the proposal?	
2.6) Which articles of the UN Convention on the Rights of the Child (UNCRC) are relevant? (Please refer to section 6 of the initial screening)	

Children’s Rights Impact Assessment

When completing an assessment, please refer to Children’s Rights Impact Assessment: The SCCYP Model paragraph 2.3

2.7) Has a UNCRC analysis been undertaken when developing the proposal?	
2.8) What are the resource implications of the proposal?	
3. GATHER Pulling together relevant information and evidence	
3.1) What relevant information or evidence is available internally? (Please include quantitative and qualitative material and, where appropriate, summarise and include full details as an appendix)	Checklist
	<input type="checkbox"/> Enquiries <input type="checkbox"/> SCCYP User Group <input type="checkbox"/> Consultation <input type="checkbox"/> Focus Groups <input type="checkbox"/> SCCYP Research <input type="checkbox"/> SCCYP Expert <input type="checkbox"/> Other
3.2) What relevant information or evidence is available externally? (Please include quantitative and qualitative material and, where appropriate, summarise and include full details as an appendix)	Checklist
	<input type="checkbox"/> Scotland <input type="checkbox"/> UK <input type="checkbox"/> International <input type="checkbox"/> Statistical data <input type="checkbox"/> Consultations <input type="checkbox"/> Research report <input type="checkbox"/> Case law <input type="checkbox"/> Legislation
3.3) Is further information or evidence required?	

Children's Rights Impact Assessment

When completing an assessment, please refer to Children's Rights Impact Assessment: The SCCYP Model paragraph 2.3

4. CONSULT <i>Asking children and young people and other stakeholders and experts for their views</i>					
4.1) Have children and young people or any stakeholders been consulted in the development of the proposal? <i>(Please refer to section 11 of initial screening)</i>					
4.2) Is consultation by SCCYP necessary or appropriate? <i>(Please refer to section 14 of initial screening)</i>					
4.3) If yes to above, who should be consulted? <i>(e.g. children and young people, stakeholders and experts)</i>					
4.4) Should we consult particular groups of children and young people for their views? <i>(Please provide details of groups and ways to reach them)</i>					
4.5) What format should the consultation take?	4.6) What questions should be asked?				
4.7) Is a children and young people's impact assessment available or required? <i>(Please elaborate)</i>	<table border="1"> <tr> <td>Yes</td> <td><input type="checkbox"/></td> </tr> <tr> <td>No</td> <td><input type="checkbox"/></td> </tr> </table>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Yes	<input type="checkbox"/>				
No	<input type="checkbox"/>				
Consultation Action Officer:	Date consultation to be completed by:				

Children's Rights Impact Assessment

When completing an assessment, please refer to Children's Rights Impact Assessment: The SCCYP Model paragraph 2.3

5. ANALYSE <i>Assessing the proposal for its impact on children and young people's rights</i> <i>Please note this section cannot be fully completed until information is supplied from sections 3 and 4 above</i>									
5.1) What impact will or might the proposal have on the rights of children and young people? <i>(Please note the positive and negative impact and refer to sections 9 and 10 of the initial screening)</i>									
5.2) Will the rights of one group of children in particular be affected? <i>(Please refer to section 8 of the initial screening)</i>	5.3) Are there competing interests between groups of children, or between children and other groups?								
5.4) How does the proposal relate to, promote or inhibit the provisions of the UNCRC, other relevant international treaties and standards, or domestic law? <i>(Please refer to section 7 of the initial screening and section 2.6 of this assessment)</i>	<table border="1"> <tr> <td>UNCRC</td> <td><input type="checkbox"/></td> </tr> <tr> <td>ECHR</td> <td><input type="checkbox"/></td> </tr> <tr> <td>EU Law</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Domestic Law</td> <td><input type="checkbox"/></td> </tr> </table>	UNCRC	<input type="checkbox"/>	ECHR	<input type="checkbox"/>	EU Law	<input type="checkbox"/>	Domestic Law	<input type="checkbox"/>
UNCRC	<input type="checkbox"/>								
ECHR	<input type="checkbox"/>								
EU Law	<input type="checkbox"/>								
Domestic Law	<input type="checkbox"/>								
5.5) How does the proposal relate to the Concluding Observations of the UN Committee on the Rights of the Child on the UK's implementation of the UNCRC?									
5.6) How does the proposal contribute to the achievement of national goals for children and young people?									

Children's Rights Impact Assessment

When completing an assessment, please refer to *Children's Rights Impact Assessment: The SCCYP Model* paragraph 2.3

5.7) Is there disagreement as to the likely impact of the proposal on the rights of children and young people?
5.8) Is the proposal the best way of achieving its aims, taking into account children's rights?
5.9) Has the do-nothing option been considered?
5.10) Can alternatives to the proposal be suggested?
5.11) What compensatory measures may be needed to avoid/mitigate a negative impact?
5.12) What overall impact will the proposal entail for other policy areas or agendas, or other professionals or groups in their work with children?

Children's Rights Impact Assessment

When completing an assessment, please refer to *Children's Rights Impact Assessment: The SCCYP Model* paragraph 2.3

6. RECOMMEND <i>Drawing together conclusions and making recommendations</i>			
6.1) What overall conclusions have been reached?			
6.2) What recommendations should be made?	6.3) Who should be informed of the recommendations?		
6.4) Does the assessment have any gaps in information, data collection or expertise?			
6.5) Is further research or consultation required? <i>(e.g. to investigate impacts on the rights of diverse/vulnerable children and young people)</i>			
6.6) Are there any other relevant issues?			
7. PUBLICISE <i>Making the results of the impact assessment known</i>			
7.1) Should the assessment be made available publicly? <i>(If not, why not?)</i>			
<table border="1"> <tr> <td>Yes</td> <td>No</td> </tr> </table>		Yes	No
Yes	No		
7.2) If yes, in what formats? <i>(Please elaborate: number of copies, languages etc)</i>	<table border="1"> <tr> <td> Checklist Website Hard Copy CYP Version Large Print </td> <td> <input type="checkbox"/> Braille <input type="checkbox"/> Spoken <input type="checkbox"/> Other Languages </td> </tr> </table>	Checklist Website Hard Copy CYP Version Large Print	<input type="checkbox"/> Braille <input type="checkbox"/> Spoken <input type="checkbox"/> Other Languages
Checklist Website Hard Copy CYP Version Large Print	<input type="checkbox"/> Braille <input type="checkbox"/> Spoken <input type="checkbox"/> Other Languages		
7.3) Should particular individuals or groups be made aware of the assessment? <i>(Please elaborate)</i>	<table border="1"> <tr> <td> Checklist CYP Groups Scottish Executive Statutory Agencies Local Authorities </td> <td> <input type="checkbox"/> Health Boards <input type="checkbox"/> Voluntary Groups <input type="checkbox"/> MSPs <input type="checkbox"/> Media </td> </tr> </table>	Checklist CYP Groups Scottish Executive Statutory Agencies Local Authorities	<input type="checkbox"/> Health Boards <input type="checkbox"/> Voluntary Groups <input type="checkbox"/> MSPs <input type="checkbox"/> Media
Checklist CYP Groups Scottish Executive Statutory Agencies Local Authorities	<input type="checkbox"/> Health Boards <input type="checkbox"/> Voluntary Groups <input type="checkbox"/> MSPs <input type="checkbox"/> Media		
7.4) Has the assessment and additional feedback been provided to those consulted during the assessment process?			
<table border="1"> <tr> <td>Yes</td> <td>No</td> </tr> </table>		Yes	No
Yes	No		

Children’s Rights Impact Assessment

When completing an assessment, please refer to Children’s Rights Impact Assessment: The SCCYP Model/ paragraph 2.3

8. MONITOR <i>Monitoring and evaluating impact of the proposal</i>		<input type="checkbox"/>
8.1) Is follow-up evaluation/monitoring of the proposal and its implementation required?		Yes No
8.2) Have the recommendations made as a result of the impact assessment been considered or acted upon? <i>(Please provide details)</i>		
8.3) Should the progress of the proposal be monitored? <i>(e.g. if it is a Bill before the Scottish Parliament)</i>		
8.4) Should the implementation of the proposal be monitored? <i>(e.g. by the Scottish Executive, Local Authorities etc.)</i>		
8.5) Is research required to assess the proposal’s impact on children, once implemented?		
8.6) As a result of SCCYP monitoring of the proposal, are further recommendations required?		
8.7) Who should be informed of the recommendations?		
Impact Assessment by:		Date:
Reviewed by:	Date:	Date to be reviewed:

APPENDIX 3: United Nations Convention on the Rights of the Child

This summarised version of the Convention has been adapted from the Unicef leaflet “Your rights under the UNCRC”. For the purposes of completing an assessment we recommend you consult the full version of the Convention, available from the Committee on the Rights of the Child website, <http://www.ohchr.org/english/bodies/crc/index.htm>.

Article 1

Everyone under the age of 18 has all the rights in this Convention.

Article 2

The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say, no matter what type of family they come from.

Article 3

All organisations concerned with children should work towards what is best for them.

Article 4

Governments should make these rights available to all children.

Article 5

Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly.

Article 6

Children have the right to life. Governments should ensure that children survive and develop healthily.

Article 7

Children have the right to a legally registered name and nationality. Children also have the right to know and, as far as possible, to be cared for by their parents.

Article 8

Governments should respect a child's right to a name, a nationality and family ties.

Article 9

Children should not be separated from their parents unless it is for their own good – for example, if a parent is mistreating or neglecting their child. If parents have separated, children have the right to stay in contact with both parents, unless this might harm them.

Article 10

Families who live in different countries should be allowed to move between those countries so that parents and children can stay in contact or get back together as a family.

Article 11

Governments should take steps to stop children being taken out of their own country illegally.

Article 12

Children have the right to say what they think should happen when adults are making decisions that affect them, and to have their opinions taken into account.

Article 13

Children have the right to get, and to share, information as long as the information is not damaging to them or others.

Article 14

Children have the right to think and believe what they want and to practice their religion, as long as they are not stopping other people from enjoying their rights. Parents should guide their children on these matters.

Article 15

Children have the right to meet with other children and young people and to join groups and organisations, as long as this does not stop other people from enjoying their rights.

Article 16

Children have the right to privacy. The law should protect them from attacks against their way of life, good name, family and home.

Article 17

Children have the right to reliable information from the mass media. Television, radio, and newspapers should provide information that they can understand, and should not promote materials that could harm them.

Article 18

Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments should help parents by providing services to support them, especially if both parents work.

Article 19

Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.

Article 20

If a child cannot be looked after by their own family, they must be looked after properly, by people who respect their religion, culture and language.

Article 21

If a child is adopted, the first concern must be what is best for them. The same rules should apply whether the adoption takes place in the country where they were

born or if they move to another country.

Article 22

Children who have come into a country as refugees should have the same rights as children born in that country.

Article 23

Children who have a disability should receive special care and support so that they can live a full and independent life.

Article 24

Children have the right to good quality health care and to clean water, nutritious food and a clean environment so that they can stay healthy. Rich countries should help poorer countries achieve this.

Article 25

Children looked after by their local authority rather than their parents should have their situation reviewed regularly.

Article 26

The government should provide extra money for the children of families in need.

Article 27

Children have a right to a standard of living that is good enough to meet their physical and mental needs. The government should help families who cannot afford to provide this.

Article 28

Children have a right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.

Article 29

Education should develop a child's personality and talents to the full. It should encourage them to respect their parents, their own and other cultures.

Article 30

Children have a right to learn and use the language and customs of their family whether or not these are shared by the majority of the people in the country where they live.

Article 31

Children have a right to relax, play and join in a wide range of activities.

Article 32

The government should protect children from work that is dangerous or might harm their health or education.

Article 33

The government should provide ways of protecting children from dangerous drugs.

Article 34

The government should protect children from sexual abuse.

Article 35

The government should ensure that children are not abducted or sold.

Article 36

Children should be protected from any activities that could harm their development.

Article 37

If a child breaks the law, they should not be treated cruelly. They should not be put in a prison with adults and should be able to keep in contact with their family.

Article 38

Governments should not allow children under 16 to join the army. In war zones, children should receive special protection.

Article 39

Children who have been neglected or abused should receive special help to restore their self-respect.

Article 40

Children who are accused of breaking the law should receive legal help. Prison sentences for children should only be used for the most serious offences.

Article 41

If the laws of a particular country protect children better than the articles of the Convention, then those laws should stay.

Article 42

The government should make the Convention known to all parents and children.

Articles 43-54

These articles are about how adults and governments should work together to make sure all children get all their rights.

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85 Holyrood Road
Edinburgh EH8 8AU
Scotland, UK
Tel: 0131 558 3733
Email: info@sccyp.org.uk
www.sccyp.org.uk