

Meeting	SPA Policing Performance
Date	8 June 2021
Location	Video Conference
Title of Paper	Police Scotland UNCRC Considerations
Presented By	ACC Gary Ritchie, Partnership, Prevention and Community Wellbeing
Recommendation to Members	For Discussion
Appendix Attached	Yes Appendix A - Terms of Reference Strategic Oversight Board Appendix B - Terms of Reference Internal Working Groups

PURPOSE

The purpose of this paper is to provide SPA with an update on the current position regards The United Nations Convention on Rights of Child (Incorporation) (Scotland) Bill; the legislative position; the preparations within Police Scotland for implementation; provide assurance that the impact is being assessed and that plans are in developing to comply.

Members are invited to discuss the contents of this paper.

1. BACKGROUND

The United Nations Convention on Rights of Child (Incorporation) (Scotland) Bill, hereafter referred to as “the Bill” was introduced by the Deputy First Minister and Cabinet Secretary for Education and Skills, John Swinney MSP, on 1 September 2020.

The main purpose of the Bill is to “incorporate” the UNCRC, making it part of Scottish law, ensuring children’s rights are legally protected.

The Bill states that:

- Public authorities must not act in a way that’s incompatible with the UNCRC requirements
- Courts will have powers to decide if legislation is compatible with the UNCRC requirements
- The Scottish Government can change laws to make sure they are compatible with the UNCRC requirements
- The Children and Young People’s Commissioner in Scotland would have power to take legal action if children’s rights under the UNCRC are breached
- Other public authorities mentioned in the Bill (including Police) must report every three years on what they have done to meet the UNCRC requirements

2. FURTHER DETAIL ON THE REPORT TOPIC

LEGISLATIVE POSITION

2.1 The Bill has made its way through the legislative process as follows:

9 September 2020- Scottish Parliaments Equalities and Human Rights Committee (EqHRC) was appointed the lead Committee for stage 1 scrutiny

19 January 2021- The general principles of the Bill were unanimously agreed by Parliament

11 February 2021 the Bill passed stage 2, with a series of amendments.

16 March 2021 - The Bill passed stage 3 with some minor amendments, expecting Royal Assent by mid-April and implementation from no later than mid October 2021.

12 April 2021- the UK Government provided formal notification of legal action at The Supreme Court, proposing that The Bill exceeds the devolved powers of the Scottish Parliament. The Scottish Government's position is that the Bill is within legislative competence and will be defended by the Lord Advocate. Preparatory work will continue despite this delay. The matter is scheduled to be heard in Supreme Court on 28 and 29 June 2021.

POLICE SCOTLAND PREPARATION FOR IMPLEMENTATION

- 2.2 Police Scotland's governance structure is now in place. The UNCRC Strategic Oversight Board, chaired by DCC Kerr, will support and provide direction for the effective implementation of the legislation. The UNCRC Internal Working Group, chaired by Chief Superintendent Linda Jones, will provide tactical direction to ensure effective implementation of the legislation, and report to the Strategic Oversight Board. The Internal Working Group will initially take a thematic approach, with leads for each area. Terms of reference for the Strategic Oversight Board and Working Groups are reproduced in Appendices A and B.

The Strategic Oversight Board and Working Group will be supported by an external Professional Reference Group. Membership of this group is still to be finalised, however it will include representatives from children's rights groups, and academics. A plan is being developed to include children and young people in this governance structure in a way that is meaningful and supports their wellbeing.

A dedicated UNCRC Implementation Team has been put in place resourced from the Children and Young People team, Partnerships, Prevention and Community Wellbeing (PPCW).

A communications strategy is being developed and will include internal and external messaging, with a focus on engaging children and young people.

POLICE SCOTLAND'S STATEMENT OF INTENT

- 2.3 Police Scotland's statement of intent sets out the focus for implementation, as follows:

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“Police Scotland is a rights-based organisation that puts our values of integrity, fairness, respect and a commitment to upholding human rights at the heart of everything we do.

We will uphold the rights of children and young people as set out in the UNCRC by embedding it within all policies and procedures.

We aim to become a global leader in rights-based service provision and we will work with partners to ensure the safety and wellbeing of children so that Scotland is the best place in the world to grow up”.

SCOTTISH GOVERNMENT GOVERNANCE

- 2.4 The Scottish Government will establish the UNCRC Strategic Implementation Board to provide strategic leadership for the programme and invitations have now been issued. DCC Kerr has been invited to Board. This will be supported by themed working groups, including one focused on Guidance for Assessing Compatibility.

NEXT STEPS

- 2.5 The next steps are;

1. Capacity building and development of assessment tools;
2. Assessment of policies and practices for compliance;
3. Identification of risk, prioritisation and recognition of interdependencies;
4. Implementation of a Change Programme to ensure compliance; and
5. Development/Delivery of scrutiny, governance and reporting mechanisms.

3. FINANCIAL IMPLICATIONS

- 3.1 There will be financial implications for all public authorities in Scotland. A more detailed assessment of this is required and will be undertaken over the coming 6 month period led by Financial Services. A full understanding will then be possible about meeting the financial implications.

Scottish Government funding has been made available for UNCRC incorporation, but it is still unclear how this will be accessed and by whom.

Given the scale of the implications of UNCRC incorporation it is entirely realistic to expect implications for ICT networks and services. This will include data retention, storage and information sharing protocols which will require to reflect the requirements of the legislative change.

There is likely to be a training requirement, the extent of which cannot be assessed at this time. This will be assessed by the thematic lead once more detail is known.

4. PERSONNEL IMPLICATIONS

- 4.1 A thorough assessment of all policies, procedures and working practices will require to be undertaken, comparing all against children's rights as described in the UNCRC. This will be a considerable exercise and should not be underestimated. There are clear resource implications for Police Scotland to consider when delivering this legislation. PPCW division will retain overview, co-ordination and resourcing of Police Scotland's response.

The resourcing of the response will require to be reviewed once Police Scotland's compliance has been formally assessed, and the relevant risks identified with a plan developed to address them, and effect the necessary changes.

5. LEGAL IMPLICATIONS

- 5.1 There are a number of routes for individuals and organisations to challenge Police Scotland's compliance with UNCRC in civil courts. There is a significant risk to the organisation. Legal Services is supporting the Strategic Oversight Board and the Internal Working Group.

6. REPUTATIONAL IMPLICATIONS

- 6.1 There are very clear opportunities for Police Scotland to further enhance our reputation as a rights respecting organisation. UNCRC incorporation will affect everything we do as an organisation and we have a moral obligation to work together, and with our partners to uphold children's rights. We should aspire to be an exemplar for Scotland and beyond.

- 6.2 There will be significant external scrutiny from all organisations protecting the rights of children. This will include scrutiny under criminal proceedings and the potential for civil action being taken where breaches become apparent. However, recent legislative changes already take account of the rights of a child as detailed in the UNCRC, for example, Equal Protection, Vulnerable Witnesses and the Age of Criminal Responsibility Act.

7. SOCIAL IMPLICATIONS

- 7.1 Full consideration will require to be given to maximising the engagement with all communities, including those who might be referred to as seldom heard. This is essential for compliance with UNCRC.

8. COMMUNITY IMPACT

- 8.1 UNCRC will affect all aspects of policing and will have a wide ranging impact on all other public authorities. A thorough assessment of all policies, procedures and working practices will be undertaken and the impact will need to be continually reassessed. This forms part of the overall compatibility assessment as referred to in paragraph 2.5 above.

9. EQUALITIES IMPLICATIONS

- 9.1 The nature of the legislation presents opportunities to enhance and protect the rights of our children and young people. An EQHRIA will be completed as we develop our understanding and the implications, taking into consideration the Bill's Child Rights and Wellbeing Impact Assessment (CRWIA). This will be supported by the Equality & Diversity team, PPCW

10. ENVIRONMENT IMPLICATIONS

- 10.1 There are no environmental implications.

RECOMMENDATIONS

Members are invited to discuss the contents of this report.

Appendix A



TERMS OF REFERENCE

TITLE: UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (UNCRC) INCORPORATION STRATEGIC OVERSIGHT BOARD

CHAIR: Deputy Chief Constable Will Kerr

VICE CHAIR: Assistant Chief Constable Gary Ritchie

MEMBERS: ACC Public Protection
ACC CJSD
ACC PSD
Director Corporate Services
Director People & Development
Head of Corporate Communications
Head of Legal Services
Chief Superintendent Local Policing
Divisional Commander, PPCW (Representing Working Group)

Should any member be unable to attend the meeting, he or she may delegate their responsibility (but not accountability) to the nominated person to fulfil his or her duties for that session. Permanent delegation of responsibility is not permitted.

ATTENDING: As above. Others at discretion of the Chair

PROCESS OWNER: PPCW

STATEMENT OF INTENT

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Police Scotland is a rights-based organisation that puts our values of integrity, fairness, respect and a commitment to upholding human rights at the heart of everything we do.

We will uphold the rights of children and young people as set out in the UNCRC by embedding it within all policies and procedures.

We aim to become a global leader in rights-based service provision and we will work with partners to ensure the safety and wellbeing of children so that Scotland is the best place in the world to grow up.

PURPOSE:

The purpose of the UNCRC Incorporation Strategic Oversight Board is to support the effective implementation of the legislation within Police Scotland.

The board will be devoted to aligning all relevant areas of Police Scotland to ensure we achieve the strategic objectives.

It will provide direction in relation to the implementation of the UNCRC in Scotland. It will also contribute to the development of an implementation plan, whilst providing direction for the management of change including people, processes and technology aspects, creating a clear vehicle for discussion, ownership of key tasks and authorise the design and implementation.

The change will be delivered by the UNCRC Incorporation Working Group which will report to the board.

The board will support decision making in relation to the management and tasking of resources across the respective delivery areas whilst assisting with the management of risks and on-going issues, as and when required.

AIM:

The board will provide definitive and comprehensive support with regards to the implementation of the legislation within Police Scotland. This will ensure that Police Scotland is ready to implement all parts of the legislation to support:

1. Scotland's Children & Young People
2. All operational Police Scotland officers and relevant police staff
3. Scottish Government with regard to delivering the values expressed by the legislation
4. Partner agencies as required by the legislation, including Crown Office Procurator Fiscal Service (COPFS), Local Authorities and the Scottish Children's Reporter Administration

The Board will:

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- Provide direction in relation to the implementation of the proposed legislation
- Contribute to the development of an optimal operating model and an associated implementation plan
- Provide direction for the management of change including people, processes and technology aspects, creating a clear vehicle for discussion, ownership of key tasks and authorise the design and implementation
- Support decision making in relation to the management and tasking of resources across the respective delivery areas
- Assist with the management of risks and on-going issues, as required
- Support securing appropriate expertise from key partners
- Support optimising dependencies with partners to maximise potential benefit to communities

OBJECTIVES:

- Ensure Police Scotland is in a state of readiness to be compliant with the requirements of the intended legislation through robust assessment of policies and procedures in relation to UNCRC and the intended Bill, and by supporting business change
- Engage, consult and work with key partners and Police Scotland business leads to maximise service delivery to the communities we serve, especially children and young people
- Communicate with our officers and staff to ensure they fully understand the implications of the UNCRC for Police Scotland
- Prepare a communications plan in consultation with the Scottish Government and other key stakeholders to ensure our communities understand their rights
- Deliver a reporting mechanism to our key stakeholders and communities which demonstrates Police Scotland's delivery of the UNCRC
- Provide feedback to key stakeholders, including the Scottish Government on the proposed legislation
- Identify co-dependencies and engage relevant partners to secure sustainable solutions

LEVELS OF APPROVAL: Delegated approval rights for implementation of policy, strategic direction, investment and resource allocation within DCC Local Policing business area

SECRETARIAT: Children and Young People Department, Safer Communities, PPCW

FREQUENCY: Monthly

REPORTS TO: Force Executive

DELEGATES TO: UNCRC Incorporation Working Group

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On	TBC
Review	TBC

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Appendix B



TERMS OF REFERENCE

TITLE: UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (UNCRC) INCORPORATION WORKING GROUP

CHAIR: Chief Superintendent Linda Jones

VICE CHAIR: Superintendent Ann Bell

MEMBERS: Safer Communities CI (Children and Young People)
Safer Communities CI (Equality and Diversity)
Public Protection (Child Protection Policy)
Public Protection (Rights and Justice Legislative Programme)
Criminal Justice Services Division (Partnership and Policy)
People and Development
Training
Professional Standards,
National System Support,
Strategy and Innovation,
Portfolio Management Office,
Policy Support,
Legal Services,
Financial Services/Procurement
ICT
Corporate Communications (Executive Lead)
Contact, Command and Control (C3)
Local Policing - Superintendent
Association of Scottish Police Superintendents (ASPS)
Scottish Police Federation

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ATTENDING: As above. Others at discretion of the Chair

PROCESS OWNER: Safer Communities, PPCW

STATEMENT OF INTENT

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We will uphold the rights of children and young people as set out in the UNCRC by embedding it within all policies and procedures.

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PURPOSE

The purpose of the UNCRC Incorporation Working Group is to provide tactical assessment and direction to support the effective implementation of the legislation within Police Scotland. It will provide oversight and direction on risk management activities and monitor and/or provide decisions on new or emerging issues. The working group will ensure the 'project' delivers within its agreed boundaries (e.g. cost, organisational impact and timescales, expected/actual benefits realisation etc).

The working group will report to the UNCRC Incorporation Strategic Oversight Board. The focus will be on aligning all relevant areas of Police Scotland to ensure we achieve the strategic objectives.

It will provide direction in relation to the implementation of the UNCRC in Scotland. It will deliver an implementation plan as set out by the Strategic Oversight Board and this will incorporate an assessment of the implications of the legislation on Police Scotland's policies & procedures, recommending measures to overcome or mitigate risks identified

The working group will incorporate strategic partners in particular where there are dependencies identified and where collaboration will be required to achieve required change. It will resolve dependencies with other pieces of work, projects, or change activities.

The working group will develop an implementation plan which will be based on identified themes.

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AIM:

- Provide leadership and direction for Police Scotland and provide an assessment of current compliance to satisfy legislative reporting requirements
- Identify risks to the UNCRC Incorporation Strategic Oversight Board recommending measures to mitigate/address
- Provide responses to Government consultations for incorporation of the UNCRC into Scots Law
- Develop policy and strategy and discuss matters of importance in relation to the UNCRC
- Ensure we respect and protect children's rights in all the work that we do
- Optimise consultation and engagement with other partners, especially in Criminal Justice
- Engage and involve Children & Young People in project plan
- Promote an understanding and awareness of UNCRC across Police Scotland's officers and staff

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SECRETARIAT: Children and Young People Department, PPCW

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FREQUENCY: Monthly

REPORTS TO: UNCRC Strategic Oversight Board

DELEGATES TO: TBC

Approved by	TBC
On	TBC
Review	TBC