

Child Rights and Wellbeing Impact Assessment (CRWIA)

The Early Release of Prisoners and Prescribed Victim Supporters Services (Scotland) Regulations 2024

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Introduction

As set out in Part 1 of the Children and Young People (Scotland) Act 2014, Scottish Ministers must keep under consideration whether there are any steps they could take that would, or might, secure better or further effect in Scotland of the UNCRC requirements. Undertaking a CRWIA helps Ministers to fulfil this duty.

There are two key considerations when undertaking a CRWIA: participation and evidence.

Participation: The United Nations Convention on the Right of the Child (UNCRC) sets out that children have the right to participate in decisions that affect them. When assessing the impacts of the policy/measure, you are recommended to consult with children and young people. You can do this directly, through organisations that represent children and young people or through using existing evidence on the views and experiences of children where relevant. Participation of children and young people should be meaningful and accessible.

Evidence: You are recommended to gather evidence when assessing the impact of the policy/measure on children's rights and also for measuring and evaluating the policy/measure. If you identify any gaps in the evidence base, you can discuss how you will address these with analytical colleagues.

Background

The Bail and Release from Custody (Scotland) Act 2023 (the 2023 Act) introduced a number of provisions to ensure that greater focus is given to the rehabilitation and reintegration of individuals leaving custody. Section 11 of the 2023 Act comprises the enabling power for the regulations.

The purpose of the regulations is two-fold: emergency release and the prescription of victim support organisations (VSOs).

Emergency Release

The first purpose is to make provision for the early release of certain prisoners, in response to an emergency situation, brought on by a recent sharp and unanticipated rise in the prison population. This power is provided for by Section 3C of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (as introduced by Section 11 of the Bail & Release from Custody (Scotland) Act 2023 (the 2023 Act)).

The use of this power is considered necessary and proportionate, in order to ensure that the Scottish Prison Service (SPS) is able to maintain the safe operation of the prison system, in particular to protect (a) the security and good order of any prison to which the regulations relate, and (b) the health, safety or welfare of prisoners, or those working, in any such prison.

Victim Support Organisations

The second purpose is to prescribe VSOs for the purposes of the provisions introduced by section 14 of the 2023 Act. Section 14 makes provision so that victims can nominate a VSO to receive information at the same time as they do, or on their behalf. This relates to two statutory schemes for the provision of information for victims.

Section 14 is intended to give victims greater choice in how an information scheme can work for them, as well as ensuring the schemes operate in a more trauma-informed and person-centred way that facilitates access to support. In recognition of the concerns victims and VSOs may have about use of the emergency power of release, VSOs are being prescribed in order to ensure that, if victims wish to receive information about an offender's release, they can nominate a VSO to support them in receiving that information.

The VSOs prescribed in the regulations are:

- Victim Support Scotland (VSS)
- Children 1st
- ASSIST, Glasgow City Council
- Rape Crisis Scotland

The Scottish Government recognises the particular importance of Children 1st being prescribed for the purposes of section 16ZA of the 2003 Act and 27B of the 2014 Act, given its particular role in providing support to child victims. A child under 12 years old may not receive information under either of the two statutory schemes for the provision of information for victims in their own right; rather, a parent or carer may exercise the rights to information under that scheme on behalf of a child. A child aged 12 or over would be able to nominate a VSO to receive information on their behalf, or as well as themselves, if they wished to do so.

The Victim Notification Scheme (VNS) does not enable information about the release of an offender who is under 16 years old when released to be provided to a victim. Offenders aged under 16 are not held in prison and so this exception will not apply to prisoners being released under the regulations.

Eligibility for Emergency Release

The regulations will enable the early release of a certain number of prisoners (current modelling indicates approx. 550). Only prisoners with 180 days or less left to serve (from the date that the regulations come into force until 25 July 2024) will be eligible. The regulations also provide that only short-term prisoners (those serving sentences of less than four years) will be eligible.

Section 3C of the 1993 Act provides a number of statutory exclusions which specifically exclude from consideration any prisoner serving a life sentence or serving a sentence for domestic abuse or sexual offences. The full range of statutory exclusions are contained in section 3C(6) – (see section 11(2) of the [Bail and Release from Custody \(Scotland\) Act 2023 \(legislation.gov.uk\)](#)).

In addition, exclusions will also be applied by the regulations to those who have served a sentence for an offence aggravated as described in section 1(1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016, or a sentence of imprisonment or detention for an offence under section 1(1) of the Domestic Abuse (Scotland) Act 2018. Those who are the subject of a non-harassment order imposed under section 234A of the Criminal Procedure (Scotland) Act 1995 or sections 8 or 8A of the Protection from Harassment Act 1997 are also excluded from eligibility by

the regulations. These additional exclusions will apply only where the associated conviction is not spent as per the Rehabilitation of Offenders Act 1974.

In addition to these exclusions, there is provision for a prison Governor to veto the release of a prisoner who is otherwise eligible for release under the regulations where they consider that the prisoner presents an immediate risk of harm to an identified individual or group, were they to be released.

Impact of Emergency Release

The reduction in the prison population as a result of emergency release will not be permanent, but it will relieve the immediate pressure and increase the available operational capacity within the prison system. This will increase the flexibility prisons have to support prisoners and ease pressure on prisoners and staff, allowing the SPS to focus on rehabilitation, and those who pose the greatest risk of harm.

The regulations have been prepared to alleviate these pressures. The effect of the regulations has the potential to impact children or young person (CYP¹) held in custody. The release may also impact on children in communities, either by way of the immediate family member being released back into the familial home or where they or an immediate family member are a victim.

A [separate CRWIA was published for the provisions in the whole Act](#) in 2022.

1. Which articles of the UNCRC does this policy/measure impact?

This impact assessment considers the overall position and impacts, structured around three specific sub-groups: (1) those being released from prison, (2) victims of crime, and (3) those whose parent/carer is being released from prison custody.

CYP being released from prison custody

- Article 3: In all actions concerning a child, the child's best interests must be a primary consideration of the court or administrative body.
- Article 12: In all matters affecting the child, the child has a right for their views to be heard and for such views to be given due weight in accordance with the age and maturity of the child.
- Article 37(c): Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person and in a manner which takes into account the needs of persons of his or her age.

CYP as victims of crime

- Article 3: In all actions concerning a child, the child's best interests must be a primary consideration of the court or administrative body.

¹ *N.B In keeping the definitions under the UNCRC within this document "child" refers to anyone under 18 yo. However, given the evidence provided as part of the Scottish Sentencing Council's recent guidelines this assessment also considers the impacts on young people up to the age of 25.*

- Article 12: States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
- Article 19: States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation.

CYP whose parent/carer is being released from prison custody

- Article 2: Non-discrimination: The State has a duty to protect a child from punishment or discrimination, which they suffer because of the status or activities of their parents.
- Article 3: In all actions concerning a child, the child's best interests must be a primary consideration of the court or administrative body.
- Article 5: Governments must respect the rights and responsibilities of parents and carers to provide guidance and direction to their child as they grow up, so that they fully enjoy their rights. This must be done in a way that recognises the child's increasing capacity to make their own choices.
- Article 7: Every child has the right to be registered at birth, to have a name and nationality, and, as far as possible, to know and be cared for by their parents.
- Article 9: Ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.
- Article 18: Both parents share responsibility for bringing up their child and should always consider what is best for the child. Governments must support parents by creating support services for children and giving parents the help they need to raise their children.
- Article 20: If a child cannot be looked after by their immediate family, the government must give them special protection and assistance. This includes making sure the child is provided with alternative care that is continuous and respects the child's culture, language and religion.

	CYP whose parent/carer is accused of an offence or being released from prison custody	CYP as victims of crime	CYP being released from prison custody
Article 2	✓		
Article 3	✓	✓	✓
Article 5	✓		
Article 7	✓		
Article 9	✓		
Article 11		✓	
Article 12			✓
Article 18	✓		
Article 19		✓	
Article 20	✓		

Article 37(b)			
Article 37(c)			✓
Article 40			

2. What impact will your policy/measure have on children’s rights?

The regulations will result in the release of individuals from across the Scottish prison estate who meet the eligibility criteria. While the release will not specifically affect any group of individuals, including CYP, there will be CYP who are potentially impacted. These are considered in relation to the three sub-groups identified above.

Direct impacts for CYP in custody

Article 3 of the UNCRC states “*In all actions concerning a child, the child’s best interests must be a primary consideration of the court or administrative body*”.

Our approach to emergency release takes account of the best interests of CYP in custody. The objectives of the regulations align with those interests, i.e. alleviating the pressure on the prison estate and allowing the Scottish Prison Service (SPS) to provide a safe environment for those in their care.

This will benefit both those in custody and those who are released. Any individual who is released under the regulations will have the same right to voluntary throughcare support as they would if released at their original date, and the Scottish Government are engaging with local authorities, housing partners, third sector stakeholders and justice social work to ensure support is available for those who wish to receive it.

The [SPS prison population](#) statistics show that under 21s have accounted for approximately 2% of the prison population since February 2022. Therefore, while the early release of individuals under the regulations could include some CYP, this will be proportionally fewer than other groups.

It is anticipated that the regulations will have an overall **neutral/positive impact** on the rights of CYP in custody.

Direct impacts for CYP as victims of crime

CYP can be direct and indirect victims of crime. Ensuring victims have access to information is a core objective of our approach.

Victims, including child victims over 12 years old, can nominate a VSO to receive information at the same time as them, or on their behalf, regarding the release of the linked individual in their case. This is via the VNS or the short-term information scheme. The regulations name VSOs with whom the SPS can share certain information about individuals in their care. This includes Children 1st, Scotland’s national children’s charity, whose work includes helping survivors of abuse, trauma and other adversity to recover.

The Scottish Government is working closely with VSOs and delivery bodies to explore efficiencies to the delivery of information entitlements, and to ensure clear

public understanding about the use of the emergency release power and its implications for victims, and how victims can access information and support.

The Scottish Government recognises that children who are victims of crime are a vulnerable group and that support services and access to information is crucial.

Article 3 of the UNCRC states *“In all actions concerning a child, the child’s best interests must be a primary consideration of the court or administrative body”* and article 19 states *“Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation.”*

There are a number of exclusions applicable to this emergency release process, as set out above, including prisoners serving a sentence for domestic abuse or sexual offences, those who have served a sentence for domestic abuse and sexual offences, as defined and where the conviction is not spent. Individuals subject to non-harassment orders will also be prevented from release under this power.

In addition to these exclusions, there is provision for a Prison Governor to veto the release of a prisoner who is otherwise eligible for release under the regulations where they consider that the prisoner presents an immediate risk of harm to an identified individual or group. This will include the review of information from available sources at the time of the emergency release, including any relevant information, which will be provided by social work services.

These mechanisms are in place to protect public and victim safety, as far as possible.

The underpinning objective of emergency release is to respond to the emergency situation that has developed in the prison estate, allowing SPS to better support individuals in custody, including CYP, providing a better chance of individuals reintegrating into the community, and thus helping to minimise the chance of reoffending.

It is anticipated the early release of individuals from custody will, overall, have a **neutral impact** on the rights on CYP that are victims of crime.

However, there is the potential for any negative impact associated with release – for example where CYP do not wish to have contact with their incarcerated parent or caregiver – to be exacerbated by emergency release. Whilst such circumstances could be present, local support networks may be available, for example, where the CYP is in contact with Children and Families Social Work, or any other relevant third sector provider. This type of support provision would be available depending on the circumstances involved in each case.

Impacts for CYP whose parent/carer is being released from prison custody

The impact of having a parent in custody can be significant for CYP, affecting their education, income, stability and mental health^{2,3,4}. Research has estimated as many as 27,000 children a year in Scotland may be affected by parental imprisonment⁵. Additionally, it is estimated that approximately 65% of women in prison in Scotland are parents and that only 5% of children whose mother is in prison stay in their own homes⁶.

Having a parent in prison is recognised as an Adverse Childhood Experience (ACE)⁷. The Independent Care Review report found evidence that the imprisonment of a parent can lead to an exacerbation of poverty, increased likelihood of care and serious mental health implications^{8,9}. In addition, the impacts of parental imprisonment can include home and school moves, leading to poor academic performance, and an increased likelihood of involvement with the criminal justice system for the child¹⁰.

Instigating an early release process under the regulations is likely to result in some parents/carers being released up to 180 days prior to their original earliest date of liberation, if they meet the criteria set out within the regulations. Therefore, release under this process may provide a benefit to some households, in terms of capacity for assistance with childcare and caring responsibilities within the household, work and earning potential, security, and emotional support.

It is anticipated that the emergency release process may have an overall **positive/neutral impact** on the rights of CYP associated with each case. Though not the primary intention of the regulations, the process will likely reduce the extent to which some CYP are removed from their parents unduly. However, as noted above, there is the potential for any negative impact associated with release – for example where CYP do not wish to have contact with their incarcerated parent or caregiver – to be exacerbated by emergency release. Whilst such circumstances could be present, local support networks may be available, for example, where the CYP is in contact with Children and Families Social Work, or any other relevant third sector provider. This type of support provision would be available depending on the circumstances involved in each case.

Voluntary throughcare support remains available for those released from custody, which aims to reintegrate an individual back into the community and provide whole family support where needed. In addition, it will improve the support SPS are able to provide for those who remain in custody to the end of their sentence due to easing the prison population.

² [Constructive-Connections-Final-Report-2020-FOR-PRINT.pdf \(familiesoutside.org.uk\)](#)

³ [SCCJR-Impact-of-crime-prisoners-families.pdf](#)

⁴ [FO-In-Brief-No11-Single-Pages.pdf \(familiesoutside.org.uk\)](#)

⁵ [Constructive-Connections-Final-Report-2020-FOR-PRINT.pdf \(familiesoutside.org.uk\)](#)

⁶ [Whyfocus_Scotland \(prisonreformtrust.org.uk\)](#)

⁷ [Adverse Childhood Experiences \(ACEs\) and Trauma - gov.scot \(www.gov.scot\)](#)

⁸ [The Role of Schools in Supporting Families Affected by Imprisonment \(familiesoutside.org.uk\)](#) – p. 2

⁹ [The-Promise independent care review](#)

¹⁰ [Children affected by the imprisonment of a family member - A handbook for schools](#) (Barnados Northern Ireland, 2015)

3. Will there be different impacts on different groups of children and young people?

Care Experienced CYP

While the effect of the regulations does not have a direct impact on groups of CYP, care experienced individuals are overrepresented in the Scottish prison population, as are people who have had ACEs¹¹. Therefore, early release across the prison estate will likely include individuals who are care experienced or who have had an ACE.

Research has demonstrated that individuals with more ACEs have a higher probability of becoming victims or perpetrators of violence and being placed into custody in the criminal justice system¹². This can be seen in the Scottish prison population, whereby the 2019 Scottish prison survey shows a large proportion of those in custody have had ACEs¹³.

Local authorities have a responsibility to provide support for certain CYP, known as 'looked after children'. There are a variety of reasons a child may become looked after, including abuse, complex disabilities requiring specialist care, or involvement in the criminal justice system (either as an accused person or with parental/carer imprisonment). While a parent is held in custody, children may go into formal care, or into the care of another family member. They may also have to move house to house or be separated from siblings¹⁴.

The SPS' Corporate Parenting Strategy: 2024-2026 outlines that they, as a corporate parent, have responsibilities in ensuring children and young people in their care are safe, healthy, achieve, nurtured, active, respected, responsible, included and their rights under UNCRC (United Nations Convention Rights of the Child) are upheld.

In comparison to the rest of the UK, Scotland has the highest rate of looked after children (in 2020) at 139 children per 10,000 under 18 population¹⁵. At the end of July 2020, there were nearly 15,000 looked after children in Scotland. SPS estimate around 40% of CYP in custody have been in care, and that high proportions of CYP in custody have experienced trauma. In addition, the SPS report that over 40% of CYP in custody have low levels of literacy, numeracy and speech, language and communication needs¹⁶.

¹¹ [Vision For Young People In Custody](#) (SPS, 2021)

¹² [Bellis *et al.* 2013. Adverse Childhood Experiences: retrospective study to determine their impact on adult behaviours and health outcomes in a UK population](#)

¹³ [Prison Survey](#) (SPS, 2019)

¹⁴ [Children with parents in prison | Info for practitioners | Parenting across Scotland](#)

¹⁵ [Children's Social Work Statistics Scotland, 2019-20](#)

¹⁶ [Vision For Young People In Custody](#) (SPS, 2021)

4. If a negative impact is assessed for any area of rights or any group of children and young people, can you explain why this is necessary and proportionate? What options have you considered to modify the proposal, or mitigate the impact?

Emergency release will apply to various cohorts of prisoners, including CYP. The direct and indirect impacts of the provision have been assessed, and no fundamentally negative impact has been identified.

Regarding victims, our approach will help to ensure that those who are not currently registered with the VNS can receive information and access support prior to the release taking place. Stakeholder engagement has taken place in an expedited manner, but has been positive overall and adjustments to operational mechanisms are being made to ensure that the needs of victims of crime are a key consideration in this release process.

5. How will the policy/measure give better or further effect to the implementation of the UNCRC in Scotland?

Reducing the prison population through early release under the regulations will ensure that the prison system operates safely, and that the health and safety of prison staff, and those held in custody, is maintained. This will ensure that individuals are supported and cared for in an effective manner across the estate, including any CYP who remain in custody.

The ability for victims to nominate a VSO prescribed by the regulations increases a victim's options for how they receive information under the VNS or short-term information scheme about the release of their linked individual from custody during the emergency release process.

6. How have you consulted with relevant stakeholders, including involving children and young people in the development of the policy/measure?

The Scottish Government has consulted with the SPS, Local Authorities, Social Work Scotland, Third Sector partners and other public and third sector stakeholders, and specifically with VSOs, including Victim support Scotland, Rape Crisis Scotland, Scottish Women's Aid, Children 1st and ASSIST.

In addition, the Scottish Government is having regular, ongoing engagement with these organisations, and other key partners, in preparing for the release process under the regulations.

7. What evidence have you used to inform your assessment?

The table below summarises the key evidence gathered from a variety of data sources.

Source / Link	Date published / Date accessed	Summary
The Convention on the Rights of the Child (unicef-irc.org)	Published: September 1990. Accessed: May 2024	The United Nations Convention on the Right of the Child (UNCRC) defines a child as a person who is under the age of 18. The UNCRC sets out a series of articles which support children having a right to participate in the decisions which affect them. We have used the UNCRC to identify which of these articles the regulations will impact on.
Scottish prison population: statistics 2021-22	Published: 16th November 2022	The Scottish Prison Population statistics publication explores the characteristics of imprisoned people in Scotland and was used to provide information on the number of under 18s in custody in Scotland.
Scottish prison population: Scottish Prison Service statistics	Accessed: May 2024	The Scottish Prison Service publishes a weekly time series of prison population numbers broken down by custody type, gender and age. This was accessed to see the number of under 21s in custody in Scotland.
The Role of Schools in Supporting Families Affected by Imprisonment (familiesoutside.org.uk)	Published: October 2022 Accessed: 28 May 2024	This report reflects on research published in 2010s and reconsiders the impacts of prison on families within the wider context of austerity, the pandemic and the cost-of-living crisis. The Financial Fairness Trust funded Families Outside.
Use and impact of bail and remand in Scotland with children - Children's and Young People's Centre for Justice (cycj.org.uk)	Published: 15th December 2020	This report shares findings from a nationwide study of the use of bail and remand with children in Scotland. It aims to develop the understanding surrounding the use of remand and the decision making about how bail and remand is enacted, and how this is experienced by children, their families and practitioners.
An Inquiry into the Use of Remand in Scotland 	Published: 24th June 2018	The purpose of this report is to "consider and report on matters falling within the responsibility of the Cabinet Secretary for Justice". After an inquiry exploring the

Scottish Parliament		<p>issues relating to remand and the number of people remanded in custody in Scotland, as well as investigating the impact a period of remand can have on an individual.</p>
Judged on progress: The need for urgent delivery on Scottish justice sector reforms Scottish Parliament	<p>Published: 10th January 2022</p>	<p>The purpose of this report was to "consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Veterans, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland." This report covers a number of key issues in the justice sector including a chapter on "Reducing youth offending, offering community justice solutions and alternatives to custody".</p>
Final Evidence Framework The Care Review	<p>Accessed: May 2024</p>	<p>The Independent Care Review compiled a report based on over 5000 CYP, adult and members of the care system experiences heard between 2017 and 2020. The 'evidence framework' "provides a detailed outline of participation and engagement undertaken, a full summary of the outputs of the Care Review's commissioning processes and a bibliography of sources consulted". The Evidence framework is designed to assist in navigating the extensive research and evidence collation that was undertaken by the Care Review. It was used here to provide information relating to the support required for the children of imprisoned parents and the effect parental imprisonment can have on the children.</p>
The Promise The Care Review	<p>Accessed: May 2024</p>	<p>The Promise Scotland was established to, and is responsible for, taking forward the work of the Independent Care Review. This report outlines The Promise, and provides details under each of 5 foundations of how Scotland can embed the Foundations into culture, policy and practice. The Foundation relating to People reports the effects parental imprisonment can have on children.</p>

Recommendation of the Committee of Ministers to member States concerning children with imprisoned parents Committee of Ministers Council of Europe	Published: 4th April 2022	The Council of Europe's Recommendation of the Committee of Ministers to member States concerning children with imprisoned parents.
Why focus on reducing women's imprisonment in Scotland? Prison Reform Trust	Published: October 2017	This document is a briefing from the Prison Reform Trust detailing the imprisonment of women in the Scottish criminal justice system, providing the Scottish context, and associated statistics relating to women prisoners in Scotland.
Children affected by the imprisonment of a family member - A handbook for schools developing good practice 2015.pdf (barnardos.org.uk)	Published: May 2015	This handbook produced by Barnardo's is a resource for schools in Northern Ireland, enabling them to better support children affected by parental imprisonment. This provides information on the effect parental imprisonment can have on the academic achievements of children.
Consultation Responses KSO Research	Published: March 2022	This report contains the consultation responses from the Bail and Release Bill consultation.
Evaluation of Bail Supervision Scheme for Children. Naughton C., Redmond S. & Coonan B.	Published: 2019	This report presents the findings of a pilot study of young people receiving bail supervision support in Ireland.
Constructive Connections: building resilience of families affected by the criminal justice system Families Outside	Published: March 2019	A research project for NHS Greater Glasgow and Clyde with the aim to explore the impact of parental involvement in the justice system on CYP and their families or caregivers.

Impact of punishment: families of people in prison SCCJR	Published: October 2015	An overview of the effects of imprisonment of a family member can have on children and families.
Rendering them Visible: a review of progress towards increasing awareness and support of prisoners' families Families Outside	Published: April 2016	A briefing highlighting the main findings of a review of the current literature in the field of the support needs of prisoners' families in Scotland, and in particular, children. This review was commissioned by Families Outside.
Children's Social Work Statistics Scotland, 2019-20 Scottish Government	Published: March 2021	Information collected from local authorities and secure units on CYP who were formally looked after; under child protection measures; or in secure care at some point between 1 August 2019 and 31 July 2020.
Prosecution of young people report Scottish Government	Published: November 2018	The Inspectorate for Prosecution in Scotland's thematic report on the prosecution of young people in the Sheriff and Justice of Peace courts.
Children with parents in prison Parenting Across Scotland	Accessed: May 2024	An organisation supporting children, parents and families across Scotland. This article pulls together statistics relating to children with parents in prison.
17th Prisoner Survey 2019 Scottish Prison Service 2019	Published: October 2020	A report showing the key findings from the SPS biennial prison survey, undertaken in each of the 15 Scottish prisons, and involved all those held in custody (response rate of 30%).
Vision For Young People In Custody Scottish Prison Service	Published: March 2021	This paper describes the long-term vision for all young people who are in custody in Scotland. It explains how SPS, with partners, is working to use the time a CYP is in custody to prepare them for a positive future.
Bellis et al. 2013 Adverse childhood experiences:	Published: 2013	Retrospective cross-sectional survey showing the relationship between ACEs

retrospective study to determine their impact on adult health behaviours and health outcomes in a UK population Journal of Public Health		and adverse behavioural, health and social outcomes.
Keeping children in care out of trouble: an independent review chaired by Lord Laming Youth Justice Board for England and Wales.	Published: August 2015	A response by the Youth Justice Board for England and Wales to the call for views and evidence.

8. How will the impact of the policy/measure be monitored?

As part of the normal decision-making process, the implementation of the policy/measure should be monitored. Please set out plans for measuring the impact of your policy/measure, including how it will support public bodies in Scotland to meet their duties to safeguard, support and promote the wellbeing of children in their area. Wellbeing is defined by eight wellbeing indicators: Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, and Included.

In order to monitor the impact of the emergency measure, the Scottish Government is and will continue to liaise closely with the Scottish Prison Service, as well as other stakeholders, including the third sector.

The Victims and Witnesses (Scotland) Act 2014 makes provision at sections 2 and 3 for, respectively, the setting and publishing of standards of service for victims and witnesses, and annual reports on these standards, by criminal justice agencies. In practice, this includes the Scottish Prison Service and the information published covers the Victim Notification Scheme. We intend to consider, in collaboration with the SPS and other relevant criminal justice agencies, to whom these provisions apply and how the commencement and delivery of section 14 of the 2023 Act can be appropriately covered in future versions of the standards of service, and the annual reports on these standards.

9. How will you communicate to children and young people the impact of the policy/measure on their rights?

A trauma informed approach will be crucial for this work, with the Scottish Government committed to ensuring that any engagement with CYP on this provision does not have adverse effects. Accordingly, CYP will not be directly engaged around this power unless they are being supported by a relevant organisation.

As noted above, prescribing VSOs in the regulations who can be nominated to receive information with or on behalf of a victim will increase a victim's options for how they receive information under the VNS or short-term information scheme about the release of their linked individual from custody during the emergency release process. As part of this the Scottish Government is collaborating with VSOs to ensure that we understand the questions victims are asking. As necessary, we can ensure that this information reflects queries being raised by any children or young people, or the particular needs of this group.

10. Sign & Date

Policy Lead Signature & Date of Sign Off: Graeme MacMillan, Policy Manager, Release Team, Community Justice - 04/06/2024

Deputy Director Signature & Date of Sign Off: Alex Doig, Deputy Director, Prisons, Community Justice - 04/06/2024

Once signed off, please send to CRWIA@gov.scot and publish on gov.scot website.

Annex 1 – UNCRC Article Clusters

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

I General measures of implementation

[Article 4](#) implementation obligations

[Article 41](#) respect for existing standards

[Article 42](#) making Convention widely known

[Article 44\(6\)](#) making reports widely available

II Definition of a child

[Article 1](#)

III General principles

[Article 2](#) non-discrimination

[Article 3\(1\)](#) best interest to be a primary consideration

[Article 3\(2\)](#) State's obligations to ensure necessary care and protection

[Article 3\(3\)](#) standards for institutions services and facilities

[Article 6](#) the right to life, survival and development (see also: [VI Basic health and welfare](#))

[Article 12](#) respect for the views of the child

IV Civil rights and freedoms

[Article 7](#) right to name, nationality and to know and be cared for by parents

[Article 8](#) preservation of child's identity

[Article 13](#) freedom of expression

[Article 14](#) freedom of thought, conscience and religion

[Article 15](#) freedom of association and peaceful assembly

[Article 16](#) protection of privacy

[Article 17](#) child's access to information, and role of mass media

[Article 37\(a\)](#) [right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment](#)

V Family environment and alternative care

[Article 5](#) parental guidance and child's evolving capacities

[Article 18\(1\) and \(2\)](#) parental responsibilities and State's assistance

[Article 9](#) separation from parents

[Article 10](#) family reunification

[Article 11](#) illicit transfer and non-return

[Article 27\(4\)](#) recovery of maintenance for the child

[Article 20](#) [children deprived of their family environment](#)

[Article 21](#) [adoption](#)

[Article 25](#) periodic review of placement and treatment

[Article 19](#) protection from all forms of violence

[Article 39](#) rehabilitation and reintegration of victims of violence (see also: [VIII - Special protection measures](#))

VI Basic health and welfare

[Article 6](#) right to life, survival and development (see also: [III - General principles](#))

[Article 18\(3\)](#) support for working parents

[Article 23](#) rights of disabled children

[Article 24](#) right to health and health services

[Article 26](#) right to social security

[Article 27\(1\)-\(3\)](#) right to adequate standard of living

VII Education, leisure and cultural activities

[Article 28](#) right to education

[Article 29](#) aims of education

[Article 31](#) right to leisure, play and participation in cultural and artistic activities

VIII Special protection measures

A - Children in situations of emergency

[Article 22](#) refugee children

[Article 38](#) children and armed conflict

[Article 39](#) rehabilitation of child victims (see also: [V Family environment and alternative care](#))

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

[Article 40](#) [administration of juvenile justice](#)

[Article 37\(a\)](#) [prohibition of capital punishment and life imprisonment](#)

[Article 37\(b\)-\(d\)](#) [restriction of liberty](#)

[Article 39](#) rehabilitation and reintegration of child victims (see also: [V Family environment and alternative care](#))

C - Children in situations of exploitation

[Article 32](#) child labour

[Article 33](#) drug abuse

[Article 34](#) sexual exploitation

[Article 35](#) sale, trafficking and abduction

[Article 36](#) other forms of exploitation

D - Children belonging to a minority or an indigenous group

[Article 30](#)

[Optional Protocol to the UNCRC on the Involvement of Children in Armed Conflict](#)

[Governments](#) should ensure that children under 18 who are members of the armed forces do not take a part in combat. Any recruitment of children under 18 must be voluntary and carried out with the full consent of the child's parents/carers. The UK Government has entered interpretive Declarations to this Optional Protocol. The UK would not exclude the deployment of under 18s who are members of the armed forces in direct combat if there is a genuine military need; it is not practicable to withdraw them before deployment; or doing so would undermine the operational

effectiveness of their unit. The minimum age at which children may join the UK armed forces is 16 years, with parental consent required.

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

Annex 2 – General Comments

General Comments are non-legally binding interpretive aids issued by the UN Committee on the Rights of the Child to provide State parties with assistance regarding the interpretation of an article or issue relating to the UNCRC, and what actions governments should take to ensure its implementation. New General Comments appear at irregular intervals.

[Treaty bodies Search \(ohchr.org\)](#)

1. [The aims of education \(2001\)](#)
2. [The role of independent National Human Rights Institutions in the protection and promotion of the rights of the child \(2002\)](#)
3. [HIV/AIDS and the rights of children \(2003\)](#)
4. [Adolescent health and development in the context of the Convention on the Rights of the Child \(2003\)](#)
5. [General measures of implementation on the Convention on the Rights of the Child \(2003\)](#)
6. [Treatment of unaccompanied and separated children outside their country of origin \(2005\)](#)
7. [Implementing child rights in early childhood \(2005\)](#)
8. [The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment \(2006\)](#)
9. [The rights of children with disabilities \(2006\)](#)
10. [Children's rights in juvenile justice \(2007\)](#)
11. [Indigenous children and their rights under the Convention \(2009\)](#)
12. [The right of the child to be heard \(2009\)](#)
13. [The right of the child to freedom from all forms of violence \(2011\)](#)
14. [On the right of the child to have his or her best interests taken as a primary consideration \(2013\)](#)
15. [On the right of the child to enjoyment of the highest attainable standard of health \(2013\)](#)

16. [State obligations regarding the impact of the business sector on children's rights \(2013\)](#)
17. [On the right of the child to rest, leisure, play, recreational activities, cultural life and the arts \(2013\)](#)
18. [On harmful practices \(Joint General Comment with the Committee on the Elimination of Discrimination against Women\) \(2019\)](#)
19. [Public budgeting for the realisation of children's rights \(2016\)](#)
20. [Implementation of the rights of the child during adolescence \(2016\)](#)
21. [Children in street situations \(2017\)](#)
22. General principles regarding the human rights of children in the context of international migration [\(Joint General Comment with the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families\) \(2017\)](#)
23. State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return [\(Joint General Comment with the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families\) \(2017\)](#)
24. [General comment No. 24 \(2019\)](#) on children's rights in the child justice system
25. [General comment 25 \(2021\)](#) Children's Rights in relation to the digital environment.