



UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD



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SCOTTISH EXECUTIVE

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UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

A REPORT ON IMPLEMENTATION OF THE UN
CONVENTION ON THE RIGHTS OF THE CHILD
IN SCOTLAND 1999-2007

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Introduction

- 01 This Report was initially prepared by the Scottish Executive as its contribution to the third UK periodic report to the UN Committee on the Rights of the Child being prepared by the UK Government. The UK Report covers the whole of the UK and has limited information on Scotland. This Report sets out the position in Scotland in some detail. Like the UK Report it takes account of the “General Guidelines regarding the form and content of periodic reports to be submitted by States parties under Article 44” issued in November 2005.
- 02 Throughout this report we use the term “children” to refer to children and young people under the age of 18 years, except where otherwise indicated.

BACKGROUND

- 03 Scotland is one of the four constituent countries of the United Kingdom and has been part of Great Britain since the Acts of Union in 1707. The Scottish legal system is however separate from those of England, Wales and Northern Ireland. Along with the independence of the Scottish education system, this has contributed to the continuation of Scottish culture and national identity.
- 04 Following a referendum on devolution proposals in 1997, executive and legislative powers in certain areas were devolved to the Scottish Executive and the Scottish Parliament. The Scotland Act 1998 specifies that the UK Parliament retains active power over “reserved” issues, for example Scotland’s taxes, social security system, the military and immigration system. The Scottish Parliament has legislative authority for all other areas relating to Scotland, and has limited power to vary income tax, but has never exercised this power. The Scottish Parliament can refer devolved matters back to Westminster to be considered as part of United Kingdom-wide legislation by passing a Legislative Consent Motion if United Kingdom-wide legislation is considered to be more appropriate for certain issues.
- 05 Much of the work of the Scottish Parliament is done in committee. The role of committees is stronger in the Scottish Parliament than in other parliamentary systems as a means of strengthening the role of backbenchers in their scrutiny of the Executive. The principal role of committees in the Scottish Parliament is to scrutinise legislation. Additionally, committees may conduct inquiries into areas under their remit.
- 06 The programmes of legislation enacted by the Scottish Parliament have seen a divergence in the provision of public services compared to the rest of the United Kingdom. There have been major developments in policy and legislation since devolution and those changes are fully reflected in this report.



DEMOGRAPHICS

- 07 There were 1,059,027 children under the age of 18 in Scotland in 2005. This represents just over 20% of the population, a relatively low figure compared to the EU average of 24% (Eurostat 2002). As a result of immigration, Scotland's bigger cities have significant Asian and Scottish Asian populations. Since the recent EU enlargement there has been an increased number of people from Central and Eastern Europe moving to Scotland. There are, for example, estimated to be between 40,000 and 50,000 Poles living in Scotland.







01

GENERAL MEASURES OF
IMPLEMENTATION



general measures of implementation

- 08 The UK is a signatory to the UNCRC; the Convention came into force across the UK on 15 January 1992.

A) NATIONAL HUMAN RIGHTS INSTITUTIONS

- 09 In response to the second UK periodic report, the UN Committee published its *Concluding Observations* in October 2002. Paragraph 17 recommended the establishment of "independent human rights institutions with a broad mandate and appropriate powers and resources". The Committee also indicated that these institutions should be independent and easily accessible to children. One such institution – the Scottish Commissioner for Children and Young People has been established in recent years and another, the Scottish Commission for Human Rights, is in the course of being established.

Scotland's Commissioner for Children and Young People

- 10 The Commissioner for Children and Young People (Scotland) Act 2003 established the office of Children's Commissioner. Professor Kathleen Marshall, Scotland's first Commissioner for Children and Young People, was appointed in April 2004.
- 11 The Commissioner is independent of the Scottish Executive and the Scottish Parliament and is able to set her own agenda and to determine her own activities. She was appointed by HM The Queen on the nomination of the Scottish Parliament, following an appointment process which involved interviews with two groups of children. She is accountable through a duty to report, at least annually, on the exercise of her functions, to the Scottish Parliament.
- 12 The general function of the Commissioner is to promote and safeguard the rights of children with particular emphasis on the rights set out in the UNCRC, and to:
- > promote awareness and understanding of the rights of children;
 - > review the adequacy and effectiveness of any law, policy and practice as it relates to the rights of children;
 - > promote best practice by service providers; and
 - > commission and undertake research on matters relating to the rights of children.
- 13 In carrying out her work, the Commissioner must involve, and consult both children and organisations working with and for them. The Commissioner must pay particular attention to those children who do not have other adequate means by which they can make their views known.
- 14 The Commissioner has established a Participation team within her office which has responsibility for involving children in its work. Two participation worker posts within the team play a key role in engaging and interacting with children and informing them about their rights. The Commissioner's office has strategic links in place with a number of key organisations such as the NHS Education for Scotland, the Children's Parliament and key agencies working with and for children. Children from across Scotland were involved in helping the Commissioner establish her forward work programme through the largest ever consultation with children in Scotland. The Commissioner's office has also appointed, in consultation with children, a Reference Group of young people to support and advise on policy, communication and overall governance issues. The Commissioner has also appointed two young people's advisory groups, one of which focuses on health issues and the other on the care system.



- 15 The Commissioner has the power to carry out formal investigations into rights issues that affect all children in Scotland or issues that affect particular groups. She may require any person to give evidence or provide documents to inform that investigation. She cannot however investigate cases relating to the rights of and provision of services for individual children, for which there are established procedures, through existing statutory agencies and, ultimately, the Courts. In addition, the Commissioner cannot investigate matters which are reserved to the UK Parliament. The Children's Commissioner for England has a general duty to promote awareness of the views and interests of children in Scotland in relation to reserved matters, taking account of the views and any work undertaken by the Scottish Commissioner. The English Commissioner does have the power to undertake inquiries in Scotland, including in relation to individual cases, so long as the issues raised are reserved and the case in question raises issues of public policy of relevance to other children and for the purpose of investigating and making recommendations about those issues.
- 16 The Children's Commissioner agrees her annual budget with the Scottish Parliament – to which she is accountable for her expenditure. Resources are transferred from the Scottish Executive to the Scottish Parliament to enable it to provide this funding. The budget provides for all staffing and central costs and supports all the Commissioner's activities with the exception of any formal investigations. These are expected to be infrequent (none have been carried out by the Commissioner so far) and additional resources would be sought from the Parliament as and when required.

Scottish Commission for Human Rights

- 17 Legislation to create a Scottish Commission for Human Rights (SCHR) was passed by the Scottish Parliament in November 2006 and received Royal Assent in December of that year. The proposals are designed to comply with the Paris Principles, and so the SCHR will be independent of the Scottish Executive and accountable to the Scottish Parliament. £1m per annum has been allocated for running the SCHR once established. Establishment of the SCHR is the responsibility of the Scottish Parliament, which began the process of appointing a Chair of the Commission in June 2007.
- 18 The SCHR's overall objective will be to promote understanding and awareness of, and respect for, human rights. Although the SCHR will be expected to focus on the European Convention on Human Rights its remit will cover all international human rights instruments ratified by the UK, including the UNCRC and it is understood that its legal remit and powers will be sufficient to enable it to undertake a monitoring role under such instruments should that be desired. The SCHR will be able to advise the Parliament on legislation and be able to conduct inquiries with legal power to obtain evidence, including the power to enter places of detention. The SCHR will not, however, be able to investigate individual complaints.
- 19 Once established, the SCHR will be expected to work closely with the Scottish Children's Commissioner on issues of mutual interest. Arrangements for such co-operation are likely to be set out in a memorandum of understanding or similar document between SCHR and the Children's Commissioner to set out clearly where responsibilities lie and to avoid any duplication in efforts or activities. SCHR will also be expected to establish close links with the new GB Commission for Equality and Human Rights, which is being established following passage of the Equality Act 2006 passed through the UK Parliament and whose human rights remit and functions will be similar to those of the SCHR. The SCHR will deal with devolved human rights issues in Scotland, while the new GB Commission will deal with reserved issues in Scotland as in the rest of Great Britain.



- 20 Organisations working with and for children, including the Children's Commissioner, were consulted as part of the two public consultations leading to the SCHR proposals. Once established it will be for SCHR to consider whether and how to involve children in its activities.

B) MEASURES TAKEN TO HARMONISE NATIONAL LAW AND POLICY WITH THE PROVISIONS OF UNCRC

- 21 The UNCRC has not been incorporated into either UK or Scots law and is therefore not legally binding. The Convention is indicative of international standards and it is the policy of the Scottish Executive to reflect the provisions of the Convention wherever possible in the development of policy and legislation.
- 22 The European Convention on Human Rights (ECHR) was incorporated into Scots law through the Human Rights Act 1998 and the Scotland Act 1998. The Human Rights Act requires public authorities to comply with ECHR, while the Scotland Act provides that actions of Scottish Ministers and Acts of the Scottish Parliament that do not comply with ECHR are unlawful. Many of the provisions in ECHR are similar to those in the UNCRC and, while these rights are general rather than being solely for children, they are of benefit to children.

Scottish legal cases citing the Convention

- 23 The UNCRC while not directly part of Scots law has been cited in a number of cases in Scottish courts, both civil and criminal, since 1999. Articles of the Convention cited include 1, 2, 3, 5, 8, 9(3), 10, 12, 20 and 40 (2) (b) (iii).

Criminal cases citing UNCRC

- 24 In *HM Advocate v P* 2001 SLT 924, two co-accused were aged 13 when an alleged rape was committed. A period of 23 months elapsed from arrest to trial. The key issue was whether this prosecution was incompatible with right to fair and public hearing within reasonable time. Similarly, in the case of *Dyer v Watson* 2002 S.C. (P.C.) 89, a period of 20 months elapsed between date of charge and proposed date of trial. Again the key question was whether the Crown had failed to bring trial 'within a reasonable time' in terms of the European Convention on Human Rights, art 6(1). It was again accepted that regard should be paid to other international instruments affecting children, among them the UNCRC and the *UN Standard Minimum Rules for the Administration of Juvenile Justice ('the Beijing Rules')*. The court endorsed the recognition that the passage of time is likely to be particularly prejudicial where criminal charges are brought against children. In *Gibson v HM Advocate at p 129F-G*, para 15, Lord Prosser said: 'While prejudice is not an essential element in breach of article 6(1), it is in our opinion obvious that if the passage of time is likely to be prejudicial to the accused in a given case, that will weigh heavily in favour of giving that case priority over others where such prejudice is not regarded as likely'. The explanations offered by the prosecuting authorities were insufficient to avoid the conclusion that the delay was inordinate and excessive, and that the guarantee of a trial within a reasonable time had been breached.
- 25 However, the judge in *Cook v HM Advocate* 2000 emphasised that the UNCRC provisions were not part of Scots law. The accused young person had been charged on indictment along with co-accused with assault to severe injury and permanent disfigurement. The court did not consider the provisions of Article 40 of the Convention to be radically different from the provisions of Article 6(1) of the European Convention on Human Rights with which this application was concerned. The Children (Scotland) Act 1995 and its links to the UNCRC was, in this judge's opinion, of no relevance to a criminal prosecution.



Civil cases citing UNCRC

- 26 The case of *White v White 2001 S.C.L.R. 607*, concerned the considerations to be applied in arranging contact between parent and child. The court looked at the weight to be given to relationship between child and natural (biological) parent. The father of two girls wished to vary a decree of divorce which had made no order for contact. He wanted direct contact with the children of the marriage every alternate Saturday. The elder girl intimated a desire not to have contact. The court referred to both Article 9(3) and Article 12 of UNCRC.
- 27 The judicial opinion included the following: "It will be satisfying to the drafters who laboured so long and hard on the United Nations Convention on the Rights of the Child (1989), which, although not part of the domestic law of Scotland, has been ratified by the United Kingdom, that the Lord President gives this Convention its place in interpreting the Children (S) Act 1995."
- 28 *Dosoo v Dosoo 1999 S.L.T (Sh Ct) 86*, concerned an action of divorce, where both parties sought orders relating to residence. A report was prepared in which the views of the parties' two sons were contained in appendices. Due to the boys' request for confidentiality, the appendices were placed in sealed envelopes and were not made available to the parties. It was held that for a child to be able to express his views freely he had to be able to feel confident in privacy if he so wished and the court should respect that privacy except in very compelling circumstances. The overriding concern of the court must be the welfare of the children.
- 29 In the unreported case of *S v S 2002*, a child's mother, following a divorce, intended to pursue her career in Australia. The issue in the appeal case was whether the sheriff had erred in failing to give child an opportunity to express views at time of making the order in terms of the Children (Scotland) Act 1995 sec 11(7)(b), which implemented Article 12 of the UNCRC. The appeal held that there had been a material change of circumstances in view of the lapse of time between the dispensing of intimation and the final order.
- 30 The case of *C v McM 2005*, also referred to Article 12. It concerned an appeal against a sheriff's decision whereby he made a residence order in favour of the father of two children (aged 8 and 6 at the time of the proof) and refused a similar order sought by the mother instead making a residential contact order for her. The sole ground of appeal was that the sheriff had fallen into error by failing to obtain the up-to-date views of the elder child.
- 31 It was conceded that a material change of circumstances requiring the obtaining of the child's views could arise from the mere passage of time as the child matured. The court accepted "without hesitation" that it is appropriate to afford children aged 8 and 6 the opportunity to express their views and that there are practicable ways of eliciting them.

National legislative provisions specific to children or children's services

Articles 5,9,12 and 18

- 32 Notwithstanding the incorporation of ECHR, there have been a number of legislative changes in recent years that help further enshrine the principles of the UN Convention into Scots law and strengthen the rights of children. Important legislative milestones include:



- > **Standards in Scotland's Schools etc Act 2000** – provides that school education should develop the personality, talents and mental and physical abilities of children to their fullest potential (Article 29(1)(a)) – taking account of the views of children in decisions that significantly affect them. It also places a duty on Ministers and local authorities to improve the quality of school education.
- > **Regulation of Care (Scotland) Act 2001** – improves protection for children through independent regulation of care services provided to children. It also establishes regulation of, and education and training for, the workforce.
- > **The Community Care and Health (Scotland) Act 2002** – gives children caring for family members the right to an assessment of their support needs and requires local authorities and NHS Boards to advise young carers of this right. Guidance on the Act ensures that young carers are signposted to information and support and that they are protected from taking on inappropriate caring roles that would adversely affect their development.
- > **Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002** – places a duty on local authorities and schools to plan progressively to improve access to education for pupils with disabilities.
- > **Mental Health (Care and Treatment) (Scotland) Act 2003** – establishes new arrangements for the detention, care and treatment of persons who have a mental disorder. When these functions are carried out in respect of an under 18, it provides that they must be done in the manner which best secures the welfare of the child.
- > **Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003** – places a duty on local authorities to prepare young people who are looked after for leaving care (throughcare) and to provide advice, and assistance for those who have left care (aftercare).
- > **Protection of Children (Scotland) Act 2003** – aims to improve the safeguards for children by preventing unsuitable people from working with them. The Act allowed Scottish Ministers to set up the Disqualified from Working with Children List which came into operation in 2005. It is now an offence for an organisation to knowingly employ a person in a child care position if that person is disqualified from working in such a position.
- > **Commissioner for Children and Young People (Scotland) Act 2003** – establishes the office of Children's Commissioner.
- > **Education (Additional Support for Learning) (Scotland) Act 2004** – strengthens the rights of children with additional support needs and their parents to have their needs identified and addressed effectively and for children to have their views taken into account in that process and in discussing, monitoring and evaluating their learning.
- > **Vulnerable Witnesses (Scotland) Act 2004** – provides child witnesses under 16 with an entitlement to use standard special measures to help them give their evidence in court. It also allows child witnesses under 12 in certain circumstances to give evidence without the need to attend court.
- > **Gender Recognition Act 2004** – provides transsexual people with legal recognition in their acquired gender, but even though a person is recognised as being of the acquired gender, they will retain their status as the mother or father of a child. The continuation of parental rights and responsibilities for the child is thus ensured.
- > **Civil Partnership Act 2004** – extends the provisions of the Children (Scotland) Act 1995 to ensure that the interests of children are taken into account in court actions for dissolution or annulment of civil partnerships.
- > **Breastfeeding etc (Scotland) Act 2005** – makes it an offence to prevent a person from feeding a child under two milk in any public place where the child is normally permitted to be.
- > **Gaelic Language (Scotland) Act 2005** – secures the status of the Gaelic language in Scotland, safeguarding the Gaelic culture and identity for children in Gaelic speaking communities.



- > **Prohibition of Female Genital Mutilation (Scotland) Act 2005** – re-enacts and gives extra-territorial effect to the provisions of the Prohibition of Female Circumcision Act 1985. It also makes additional forms of FGM unlawful.
- > **Smoking, Health and Social Care (Scotland) Act 2005** – outlaws smoking in public places, protecting children from passive smoking. The Act also places a duty on Scottish Ministers to provide for the detection of vision problems in children.
- > **Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005** – introduces a new grooming offence and strengthens the law protecting children from those who would sexually abuse or exploit them.
- > **Family Law (Scotland) Act 2006** – ensures that the best interests of children are protected, whatever form their families take. Key provisions include: establishing parental rights and responsibilities for unmarried fathers who jointly register the birth and legal safeguards for cohabiting couples.
- > **Scottish Schools (Parental Involvement) Act 2006** – places a duty on Scottish Ministers and education authorities to promote parents' involvement in their child's school education and makes provision for new arrangements for parental representation in schools.
- > **Adoption and Children (Scotland) Act 2007** – provides that a court must decide that adoption is in the best interests of the child concerned and that the best interests of the child must be the paramount consideration in the adoption process.
- > **Schools (Health Promotion and Nutrition)(Scotland) Act 2007** – places a duty on Scottish Ministers and local authorities to endeavour to ensure that all schools are health promoting.

National policy initiatives

33 The Scottish Executive has taken forward a wide range of policy initiatives, across its areas of devolved responsibility, which impact positively on realising children's rights:

- > **A Breath of Fresh Air For Scotland:** action on tobacco control designed specifically for Scotland.
- > **Ambitious, Excellent Schools:** action to improve the quality of learning and teaching and quality of leadership, to raise ambition and improve the achievement of children.
- > **Changing Lives:** a five-year programme to transform social work services in Scotland to achieve better outcomes for all, including children.
- > **Child Protection Reform Programme:** the Executive's response to a wide-ranging audit and review of child protection services in Scotland.
- > **Community Health Partnerships:** designed to make measurable improvements in local population health and to provide higher quality, accessible joined up services for local communities. CHPs have a lead role in the delivery of services for children at a local level.
- > **Community Planning Partnerships:** aim to make sure that people and communities are genuinely engaged in the decisions made on public services which affect them and to ensure that organisations work together in providing better public services. Community Planning Partnerships have a duty to "consult and cooperate with a wide range of interests including:...young people and youth work bodies". The Executive has also published a more detailed advice note on Engaging Children and Young People in Community Planning.
- > **Delivering a Healthy Future** – Action Framework for Children and Young People's Health in Scotland: a structured programme of actions in the key areas of activity relating to children's health in Scotland.
- > **Eating for Health** – Meeting the Challenge: a strategic framework for Food and Health which sets objectives for action through the food chain – Food Production, Processing/Retailing, Distribution/Access, Preparation/Provision and the Consumer.



- > **Getting it right for every child:** a reform programme designed to ensure that every child in Scotland gets the help they need when they need it. Help should be proportionate, timely and appropriate – programme includes legislative proposals set out in the draft Children's Services (Scotland) Bill.
- > **Health for All Children (Hall 4):** a programme of child health surveillance, screening, immunisation and health promotion. Hall 4 recommends that delivery of services are linked more closely to identify need and implementation is designed to ensure that vulnerable families are identified and supported more effectively.
- > **Health Promoting Schools:** Ministers' expectation is that all schools will be health promoting by 2007.
- > **Hidden Harm – Next Steps:** a comprehensive workplan to tackle issues around children in substance misusing households.
- > **Hungry for Success – A Whole School Approach to School Meals in Scotland:** new standards for the provision of school meals, including nutritional standards, backed by Executive funding.
- > **Improving Health in Scotland – The Challenge:** a framework for action. The focus in the first phase is on five key risk factors – tobacco, alcohol, low fruit and vegetable intake, physical activity levels and obesity.
- > **Integrated Children's Services Planning Framework:** requires local agencies to plan collectively to produce a single plan of action to provide for and support children.
- > **Integrated Framework for Assessment and Information Sharing:** avoids duplication of time, effort and information when more than one agency is involved by having one assessment, one plan and one record for a child. The work on information sharing is complementary.
- > **Let's Make Scotland More Active – A Strategy for Physical Activity:** a strategy to raise the activity levels of the Scottish population.
- > **Looked after children and young people:** We Can and Must do Better: actions to facilitate a step-change in outcomes for looked after children.
- > **Mental Health of Children and Young people:** A Framework for Promotion Prevention and Care: developed to assist local health, education and social work in planning and delivering integrated approaches to children's mental health and wellbeing.
- > **More Choices, More Chances:** a strategy to reduce the proportion of young people not in education, employment or training in Scotland.
- > **National Strategy for Development of the Social Service Workforce in Scotland:** A Plan for Action 2005-2010: sets out a vision for a competent and confident work force.
- > **National Strategy to Address Domestic Abuse:** proposals for clear and coordinated policy and legislation to be developed for all agencies working in this area.
- > **Regeneration Outcome Agreements:** plans of local Community Planning Partnerships for using resources to support the most deprived communities.
- > **see me...:** is a national campaign to eliminate the stigma and discrimination which can be associated with mental illness.
- > **Starting Well:** the national health demonstration project for early years, based in Glasgow.
- > **Young Carers:** a commitment to improve support for young carers through mainstreaming issues for young carers into current policy and service priorities.
- > **Youth Work Strategy:** launched in March 2007 to support the youth work sector in Scotland, designed to ensure that young people are able to benefit from youth work opportunities which make a real difference to their lives, and that the youth work sector is equipped and empowered to achieve ongoing positive outcomes for young people now and in the future.



- 34 The substance and impact of these policies are dealt with as appropriate under the relevant sections of this report.

UK Government reservations to the UNCRC

Articles 22 and Article 37(c)

- 35 Only the UK Government is able to amend or withdraw the reservations to the Convention that it has entered, as recommended in paragraph 7 of the 2002 Concluding Observations. The reservations are to Article 22 (immigration) and Article 37(c) (detention of children with adults).
- 36 While the Executive is unable to withdraw the reservation to Article 37(c), the detention of children is a devolved matter. It is Executive policy to keep children out of detention wherever possible. Where this cannot be avoided because the level of the risk the child poses, either to themselves or others is so great, under 16s will ordinarily be held in local authority secure accommodation. In occasional circumstances where all other options have been exhausted it is however sometimes necessary to place under 16s within the prison estate. For boys, Polmont Young Offenders Institution houses male young offenders aged up to 21. In Polmont every effort is made to keep under-18s separate from adults where resources and facilities permit. Cornton Vale women's prison applies the same approach.
- 37 Immigration and asylum are reserved to the UK Parliament. The Executive has nonetheless raised concerns with the UK Government about the treatment of asylum seeker children. As a result of discussions a range of measures have been introduced to help ensure that the rights of children are paramount throughout the asylum process, in particular during enforcement activity. Paragraphs 545-549 set out the detail of those discussions and the agreement reached.

C) TRAINING ON CHILDREN'S RIGHTS AND THE UNCRC

Articles 3,12,42

- 38 The 2002 *Concluding Observations* highlighted the need to develop training programmes on human rights and children's rights for all those working with and for children. Professionals in Scotland receive a wide range of training on human rights and children's rights.

Teachers

- 39 Paragraph 48(f) of the *Concluding Observations* recommended the inclusion of the Convention and human rights education in the pre-service professional education of prospective teachers. Both the Standard for Initial Teacher Education and the Standard for Full Registration have been revised recently. The new Standards were published in March 2007. They emphasise the importance of the UNCRC and require prospective teachers to demonstrate respect for the rights of all children as set out in the Convention. Teachers will also be required to show: that they positively respect and value children as unique, whole individuals; a commitment to promoting fairness, justice and equality; and a willingness to promote, support and safeguard the individual development, well-being and social competence of the children in their care. The Executive provides £13.5m per annum to local authorities to facilitate continuing professional development for teachers which can be used to refresh knowledge and understanding of the UNCRC. Other CPD funds are targeted on specific issues such as additional support needs.



- 40 Some teachers have also taken the initiative to introduce a children's rights agenda within school. To do this successfully, they started with training for the teachers followed by training for the children to help make children's rights an integral part of the school's ethos and culture.

Social workers and social care staff

- 41 A new honours degree in social work was introduced in Scotland in 2004. To gain that degree social workers undergo a wide range of training and must be able to demonstrate a clear understanding of legal obligations such as human rights and children's rights (including the provisions of the UN Convention) and equality issues. Training also covers social processes such as racism, poverty, poor health, disability and lack of education and the promotion of choice, dignity and independence. Other qualifications such as Scottish Vocational Qualifications and Higher National Certificates gained by those working in social work/social care also include elements on children's rights and the UN Convention. Post qualification training and learning also includes a number of child specific elements, for example child protection.
- 42 Appropriate training on children's rights is also available to staff working in residential child care, many of whom will have a social work degree, SVQ or HNC. This includes, for example how a residential unit could implement a rights based approach to its work. The Executive, working with the Scottish Institute for Residential Childcare (SIRCC), has also published specific guidance for staff, *Holding Safely – A Guide for Residential Child Care Practitioners and Managers about Physically Restraining Children and Young People*, http://www.sircc.strath.ac.uk/publications/Holding_Safely.pdf, on the use of restraint in residential settings. *Holding Safely* takes account of the UNCRC (see page 18 section 1b). It recognises that there are occasions when restraint is required, recognises the rights of children in these circumstances and offers advice to staff on appropriate forms of restraint and the circumstances in which it might be appropriate to use them.
- 43 SIRCC offers two short courses free of charge to all residential child care staff throughout Scotland on the subject of children's rights. The first is an introduction, and aims to enable participants to understand the context and implementation of children's rights. The second is a more advanced course promoting and implementing rights in residential care setting. It aims to enable participants to understand the development, context and application of children's rights. The courses have direct input from children through the form of a video.
[http://www.sircc.strath.ac.uk/shortcourses/shortcourse_item.php?ID=14\(SIRCC\)](http://www.sircc.strath.ac.uk/shortcourses/shortcourse_item.php?ID=14(SIRCC)).

Health care professionals

- 44 All courses for health care professionals who work as specialists in the field of child health will cover key components of the UN Convention, in particular articles 12 and 24. For example, all Scottish nurses who specialise in working with children have sessions on the UN Convention and on Scottish legislation relating to children. A more generic example is a current NHS Education for Scotland initiative which deals with a core (3 day) course for all disciplines and grades of NHS staff who deal with acutely ill and injured children. This 3 day course has one day entirely focused on children's rights.
- 45 Since the appointment of Scotland's Commissioner for Children and Young People, a close relationship between SCCYP and NHS policy makers has developed. This has led to a strengthening of the profile of children as partners in NHS design and development and has prompted a plan for joint working over the next 2 years.



Scottish Children's Reporter Administration (SCRA)

- 46 Children's Reporters act as the gatekeepers to the Children's Hearings System. SCRA has provided training on ECHR issues affecting the Children's Hearings System to all Children's Reporters at the point of introduction of the Human Rights Act to Scottish law in 2000. Guidance Notes are made available to all Reporters, who also receive on-going training in all Practice issues including human rights.

Police officers

- 47 Training for police officers in Scotland pays particular attention to meeting the needs and protecting the rights of children. During probationer training, all trainees receive 32 periods of child protection training covering a range of aspects including, protecting children, child offenders, domestic disputes, sex offences, prisoner rights, vulnerable witnesses and missing persons. Training for crime management and leadership includes general training in respect of relevant children's issues. There is also detailed, specific training for officers working on child protection issues.
- 48 National training is provided at the Scottish Police College in relation to the UN Convention and children's rights in general. In the Crime Management Division, the '*Child Protection Course*' is designed for officers who will perform the role of Child Protection Officers and provides these specialist officers with the appropriate training, in order that they can carry out their duties effectively and professionally. The Children (Scotland) Act 1995 is embedded in the legislative part of this course and the rights of the child fully covered in a number of different inputs throughout the course. Some 72 specialist officers are trained each year.
- 49 The '*Initial Detective Training Course*' is a generic course designed for Detective Officers who are relatively new to this department. There is a child protection input on this course during which the rights of the child are covered through discussion centred on the 1995 Act, and around 156 officers undertook this training in 2006. The 1995 Act is also taught within the Probationer Training division during the '*Compulsory Measures of Supervision*' module and lesson on the initial Training Course. There is direct reference to the links between the UN Convention and the 1995 Act - approximately 750 students undertook this training in 2006.
- 50 In the Learning Management Division, the course for newly promoted Sergeants includes an input on child protection. One of the learning outcomes is to identify key pieces of current policy and legislation relevant to protecting children in Scotland. The Children (Scotland) Act, and children's rights form part of this lesson. Around 440 Sergeants received this training in 2006.





- 51 All of the inputs are created to reflect the requirements of the roles which the students will perform on return to force. They are presented by experienced practitioners from the Police, Social work and the Law. The probationer training course is compulsory for all newly appointed police officers. There are no specific evaluations available as yet on the effectiveness of the rights of the child element of the training.

Crown Office and Procurator Fiscal Service (COPFS)

- 52 Scottish prosecution staff have a regular programme of courses designed to equip them to deal appropriately with children who are referred to COPFS as alleged victims or witnesses, and also where allegations of offences committed by children are reported by the police. The programme includes, for example, specialist courses on the forensic interviewing of children and on joint working with SCRA where children are reported to both agencies. COPFS also provided training on ECHR issues when the Human Rights Act was introduced to Scottish law in 2000.
- 53 There is internal guidance available to all COPFS staff which makes reference to the provisions of the UN Convention, in particular to Article 3. The guidance states that the UN Convention is relevant in all cases involving child witnesses or children accused of crime. The internal guidance available to Procurators Fiscal on bail in cases involving child offenders makes reference to Article 37(b) of the UN Convention and states that a child offender should be released on bail or ordained to appear at court unless there are compelling reasons for having him or her detained pending trial.

The legal system

- 54 The UN Convention is included in training sessions for the Scottish judiciary on both family and child law. Relevant training is also provided to Scottish Court Service staff – both clerks of court and general office staff on all aspects of children in both the criminal and civil court systems. Training includes topics such as adoption applications and procedures, family law applications, referrals to court from Children's Hearings, dealing with child offenders in the criminal court and the provisions of the Children (Scotland) Act 1995 which focus on meeting the needs and protecting the rights of children.

Scottish Prison Service (SPS)

- 55 Staff working in Scotland's young offender institutions receive particular training for working with those aged under 21. All professionals such as doctors, nurses and social workers hold appropriate qualifications and are required to attend ongoing training to maintain their qualifications. Specific links on mental health and programmes to address offending behaviour have been established between SPS and secure provision for under-16s to ensure suitability, continuity and consistency of approach for children who move from secure to an SPS establishment. A training and e-learning course for all SPS staff focused specifically on human rights has been developed and is currently being delivered. Training around child protection and awareness for prison staff is being developed by the SPS Training College and a review and update of SPS child protection procedures is also being undertaken.

Civil Service

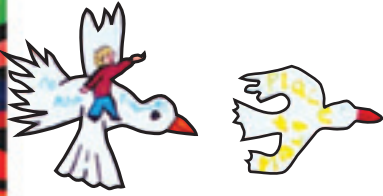
- 56 Following the establishment of the Scottish Executive, Scottish Ministers updated and re-issued the former Scottish Office's Child Strategy Statement. The Statement was distributed to all Executive officials to encourage them to take account of children's issues – including children's rights and the UN Convention – when developing and implementing policy and legislation. It was also sent to local authorities and NGOs. At operational level within the Executive, internal advice to officials emphasises that they must address the potential impact on children of policy proposals.



D) MEASURES TAKEN OR FORESEEN TO MAKE THE PRINCIPLES AND PROVISIONS OF THE UNCRC WIDELY KNOWN TO ADULTS AND CHILDREN

Articles 42 and 44

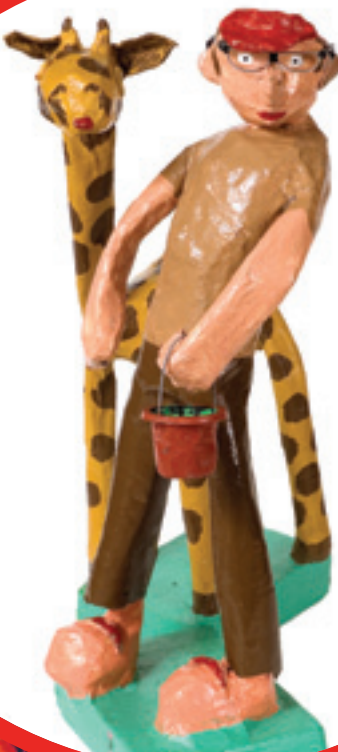
- 57 To help them learn about and understand the rights they have, the Executive, working with the Scottish Child Law Centre, produced a leaflet for children setting out and explaining the rights in the Convention. The leaflet was distributed very widely on production, for example to schools, and has remained popular.
- 58 The Executive produced a Charter for children, subtitled *Protecting Children and Young People* as part of the Child Protection Reform Programme. An explanatory booklet for adults – both parents and professionals – was produced alongside *the Charter*. The importance of the UN Convention is highlighted in both *the Charter* and the explanatory booklet.
- 59 *The Charter* was developed in consultation with children during which the principles and provisions of the UN Convention were explained and discussed. *The Charter* comprises 13 statements derived from that consultation and 11 pledges and an outline of work to be done to deliver them from the Executive and those working with and for children. The 13 statements include many that directly reflect the provisions of the UN Convention, for example: “listen to us”, “take us seriously”, “involve us”, “respect our privacy”, “be responsible to us”, and “help us be safe”. More than 500,000 copies of *the Charter* have been distributed to, for example, schools, GP surgeries, local libraries and voluntary organisations.
- 60 As on previous occasions Article 12 in Scotland will be presenting an “alternative” Report to the UN Committee in response to the UK report with the aim of ensuring that the views and opinions of young people are heard. *Clued Up!* is a peer education training course designed specifically to equip young people with the skills and knowledge necessary to contribute to that report. The training is based on the Article 12 resource pack *UNCRC for beginners* – which is another example of the resources available to inform children and young people about the UNCRC.
- 61 Paragraph 48(f) of the 2002 *Concluding Observations* recommended the inclusion of the UNCRC in the primary and secondary school curricula. Citizenship, including the rights and responsibilities of individuals and communities, is a key part of the early years and school curriculum and of community education programmes. Scotland does not have a national curriculum, but Learning and Teaching Scotland, which is funded by the Executive to support curriculum development, published in 2002 a framework document on education for citizenship for children aged 3-18, *Education for Citizenship – A paper for discussion and development*. Schools can use this framework document in planning a programme of citizenship education. The perspectives and principles it sets out make clear references to the UN Convention and broader rights and to the importance to children of understanding these rights and this has led to schools teaching about the Convention and children’s rights as a matter of course.
- 62 As highlighted in paragraph 12 above, the Scottish Children’s Commissioner has a general function to promote and safeguard the rights set out in the UNCRC and to generate widespread awareness and understanding of the rights of children.



E) IMPLEMENTATION AND MONITORING OF THE UNCRC

Articles 3, 4 and 42

- 63 During the first two Parliamentary sessions following the establishment of the Scottish Parliament (1999-2003 and 2003-2007) the Scottish Executive has included a Minister and Deputy Minister charged with looking after the interests of children and young people and ensuring their rights are supported and protected. To ensure that these matters were considered in the development of policy and legislation across Government and to coordinate delivery of the Executive's strategies and commitments for children, a Children and Young People Delivery Group was established. This Group was chaired by the former Minister for Education and Young People and included the then First Minister and Ministers with responsibility for health, communities, justice and finance. The Group was advised by an Expert Reference Group of external specialists from local government, schools, the police and children's organisations.
- 64 The Executive has, in consultation with key stakeholders, set out its vision for the children of Scotland which takes the UN Convention as its starting point. The vision is for all children in Scotland to be confident individuals, effective contributors, successful learners and responsible citizens. In order to achieve this they need to be safe, nurtured, healthy, achieving, active, respected and responsible and included (see opposite). The vision provides an overarching statement of Ministers' expectations for children applying across portfolio, agency and professional boundaries – it is not just about processes but about achieving better outcomes for children.





Vision for children

The Executive's vision for all Scotland's children is that they should be:

Confident individuals

Effective contributors

Successful learners

Responsible citizens

To achieve our vision, children need to be:

Safe: Children and young people should be protected from abuse, neglect and harm by others at home, at school and in the community.

Nurtured: Children and young people should live within a supportive family setting, with additional assistance if required, or, where this is not possible, within another caring setting, ensuring a positive and rewarding childhood experience.

Healthy: Children and young people should enjoy the highest attainable standards of physical and mental health, with access to suitable healthcare and support for safe and healthy lifestyle choices.

Achieving: Children and young people should have access to positive learning environments and opportunities to develop their skills, confidence and self esteem to the fullest potential.

Active: Children and young people should be active with opportunities and encouragement to participate in play and recreation, including sport.

Respected & Responsible: Children, young people and their carers should be involved in decisions that affect them, should have their voices heard and should be encouraged to play an active and responsible role in their communities.

Included: Children, young people and their carers should have access to high quality services, when required, and should be assisted to overcome the social, educational, physical, environmental and economic barriers that create inequality.

- 65 As a practical demonstration of the Executive's commitment to supporting children's rights, a Children's Rights team has been established. As well as preparing this report, the team has responsibility for ensuring that the rights of children in Scotland are properly protected. This includes making sure that marginalized and disadvantaged groups, such as the children of asylum seekers get appropriate help and support.
- 66 A Children's Rights Impact Assessment tool has recently been developed by the Children's Commissioner's office and has been tested by the Children's Rights team on a small number of existing children's policies. The team is currently considering how the assessment tool could be adapted to fit the needs and requirements of the Executive and made available to all staff, alongside training and advice from the Children's Rights team on the UNCRC and children's rights in general. The Children's Rights team is also exploring the possibility of including a statement on the impact on the rights of children in all policy memoranda accompanying Executive Bills.



67 At a local level, around two-thirds of Scottish local authorities have Children's Rights Officers – some of the larger authorities have Children's Rights Teams. The majority of these services are provided in house, others are commissioned from voluntary sector partners. The precise focus of these Officers varies between authorities, for example while all will provide a service to children who are looked after and accommodated, some authorities are able to offer a service to a wider population of children and some teams have Officers with an education or disability focus. They all, however, provide information and support for children on rights issues and act as a representation and advocacy service. They provide information and advice on rights issues to care staff and others working with children at an individual level and also input to formal training. As well as this operational role, some Officers and Teams also have a strategic role, developing tools to measure compliance with the UNCRC, report on key issues raised by children with reference to UNCRC compliance and ensure that the Convention informs policy and practice.

F) SYSTEMATIC GATHERING OF DATA

68 Paragraph 19 of the 2002 *Concluding Observations* recommended the collection of disaggregated data on children in all areas covered by the Convention and the publication of regular reports on that data in Scotland. The collection of data linked directly to the Convention is not currently in place, but arrangements are in place for the regular gathering and publication of a wide-range of data about children in Scotland including much that relates to the UNCRC. Most of the data which is collected is published on an annual basis – some is published quarterly. This data is a useful tool for policy makers – both within the Executive and more widely – wishing to evaluate the effectiveness of existing policies and in the development of new policies. They are also a good source of information for those working with and for children and for the general public. Tables throughout this report carry the data that relates to the rights in the UN Convention.

69 The data that the Executive collects evolves to reflect changes in society, policy priorities etc. For example plans are in place to collect for the first time data on children present at incidents of domestic abuse and on offences which involve a child victim; changes are also proposed to the data collected on looked after children which should provide better information about their characteristics and the outcomes achieved. The purpose of this is to gain a better understanding of the experiences encountered by looked after children, for example by obtaining information at an individual level – subject to gaining the permissions required. This data will also be linked to other existing sources of data about children.

70 There are also a number of major longitudinal studies underway, such as *Growing up in Scotland* and *The Edinburgh Study of Youth Transitions and Crime* which will generate a wealth of information about the circumstances and perceptions of children in Scotland.

71 The Executive will consider how best to collect and publish in future more data directly linked to the rights in the UN Convention.

Children as researchers

72 There has been a growing focus on children's rights in recent years. In particular, consideration has rightly been given to involving children more directly in decisions that affect their lives. In research terms, this has been reflected in a linguistic shift from talking about 'research on' to 'research with' and now, increasingly, to 'research by' children. However, to date, research by children has not formed a major part of government funded research in Scotland.



- 73 An Executive funded research project “*Children as Researchers*” (2006) explored the problems and possibilities of incorporating a ‘children as researchers’ perspective into the agenda of government social research in Scotland. The research project concluded that in taking forward thinking about children as researchers, the Executive could make explicit at the procurement stage that, appropriate consultation with children in the design of studies and their involvement in carrying out the research is desirable. It was also recommended that the Executive consider whether there may be opportunities for children to apply for monies through its existing sponsored research programme or in the context of its volunteering strategy. Further, the Executive should examine what opportunities exist for children to inform its research agendas and consider whether these could be expanded or improved.
- 74 The Executive will consider these findings in the development and commissioning of future projects, and has already involved children in research projects in an advisory capacity. In addition, there are other organisations set up to build capacity among children to conduct their own research, who may express interest in tendering for Executive research projects, and who may apply to the sponsored research programme for funding.

Budgeting for Children and Young People

- 75 The 2002 *Concluding Observations* (paragraph 11) recommended an analysis of all sectoral and total budgets across the UK and in the devolved administrations in order to show the proportion spent on children, identify priorities and allocate resources to the “maximum extent of ... available resources”. The UN Committee recommended that this analysis should include external financing, for example from donors, international financial institutions and private banking.
- 76 By their nature, contributions to support services for children from private, voluntary or commercial sources are not controlled or monitored by central government and we are unable to provide costings for these investments. It is also difficult to provide full and robust aggregate figures for expenditure by central and local government, the National Health Service, police and other statutory bodies in Scotland. There are many separate funding streams allocated and managed by such bodies and while budgets for children can be identified in several policy areas (see below), some key areas (eg health) do not separate spending on children from their generic budgets. At local government level, we are aware from independent studies that many councils are allocating resources from other budgets to help meet local needs and priorities in respect of services for children so, again, accurate estimates of aggregate expenditure are difficult to provide.
- 77 The Executive does however publish Budget documents which set out budget plans at several levels. For example, central government budgets (not including Grant-Aided Expenditure (GAE) allocations to local authorities) totalled £404.6m in 2002-03 and this figure is planned to rise to £862.3m in 2007-08. GAE allocations to support education and other services for children have risen from £3,381m in 2002-03 to £4,428m in 2007-08 budget plans. These resources support a wide range of services including the provision of school education, school building and refurbishment, social care, pre-school education, nursery and childcare, services for looked after and vulnerable children, youthwork, youth justice and the costs of inspectorates which ensure the quality of these services.
- 78 The Executive is currently taking forward work to rationalise the number of funding streams linked to the development of a single approach to performance improvement incorporating joint inspection and outcome based flexibility which will allow local priorities to be agreed. The overarching aim is to reduce bureaucracy and to focus more on delivering successful outcomes for children from services which put the needs of the child firmly at the centre of their activities.



G) REMEDIES FOR INFRINGEMENT OF RIGHTS

- 79 For rights enshrined in law there are the usual legal options including raising proceedings against the party infringing the right. In relation to certain rights there are specific tribunals in place, such as mental health or additional support needs. Some rights create a specific right of appeal to a court, such as the right to appeal the refusal of a placing request to the Sheriff Court. Where rights are infringed by the State, leading to loss, proceedings such as actions for damages against the State or those acting on its behalf may be available. Petitions for judicial review can be brought against the state and public bodies where it is alleged that they have acted beyond their powers.
- 80 For other rights, complaints can be made to public bodies in Scotland such as the Executive, the Care Commission, local authorities and the National Health Service which have complaints mechanisms in place as part of their customer service. The Executive for example encourages children and those working with or for them to bring matters to the attention of Ministers and the Children's Rights team if they have concerns that a child's rights have been infringed.
- 81 If concerns about rights remain following these complaints, recourse can be had to the Scottish Public Services Ombudsman (SPSO) who investigates complaints of maladministration or service failure on the part of Scottish public authorities. Data from SPSO indicates that in 2005-06 a small number of complaints were made by, or on behalf of children. The Ombudsman is however keen to raise awareness of her work amongst children and to make it easier for all – including children – to make full use of complaints procedures.
- 82 In addition to these measures which are available to everyone including children, the Scottish Commissioner for Children and Young People has a specific role to promote and safeguard the rights of children with particular emphasis on the rights set out in the UNCRC. She also has the power to carry out formal investigations into rights issues that affect all children in Scotland or issues that affect particular groups.
- 83 The Executive is committed to the principle that children have the right to participate fully in decisions which affect them. Advocacy services are crucial to making this a reality. The Executive funds *Who Cares? Scotland* to provide independent, rights-based advocacy services to children in public care (including those involved in the Children's Hearings System) to ensure that their rights are being properly protected and to help them speak out when that is not the case. In 2006, the Executive commissioned *Big Words and Big Tables - Children and young people's experiences of advocacy support and participation in the Children's Hearings System*. This research was undertaken as part of *Getting it right for every child* (see below). It found that the provisions in the Children's Hearings System for children's participation are as good as and sometimes better than proceedings in other countries. However, it was also shown that there are limitations in the Children's Hearings System and barriers to children's participation.
- 84 The research went on to explore this further through interviews with children and the adults who work with them. The main findings were: while there is an *implicit* commitment to providing advocacy for children in the Hearings System, the extent to which this commitment is made *explicit* varies considerably. Children may have had varied experiences, both positive and negative, over time which impact on the extent to which they are able to participate in their Hearings. Children's needs and wishes change both at different stages of the Hearings process and over time. Providing advocacy support should be seen as a process involving a combination of people who assume different roles and perform a range of tasks rather than a role which can be invested in one dedicated professional.



H) MEASURES TAKEN OR FORESEEN TO MAKE REPORTS WIDELY AVAILABLE TO THE PUBLIC AT LARGE

Article 42

- 85** The Executive acknowledges that little was done in Scotland to meet the recommendation in the 2002 *Concluding Observations* that there should be a substantial expansion of dissemination of information about the UNCRC. The Executive is committed to taking effective action to publicise the UK Report, this report and the other outputs from the 2007-08 reporting process.
- 86** The UK Report will provide an overview of children's rights and the UNCRC across the UK and will reflect in broad terms the differences in implementation of these rights in England, Scotland, Wales and Northern Ireland. It will not, however, provide a detailed account of the situation in individual countries. There have been significant changes in Scotland since the preparation of the previous report – not least devolution and the establishment of the Scottish Parliament and the Children's Commissioner. The Executive will therefore publish this report both as a printed report and on the Executive's website to allow local stakeholders to see the full update on the position in Scotland. A young person's version of the report will also be produced, along with a child-friendly version to ensure that the report is accessible to all. Minority language versions of all these reports will be available on request. The Executive will also make available via its website the full text of the UK Report, the NGO and Children's Commissioner's reports and (subsequently) the UN's *Concluding Observations* and the Executive's response to them.

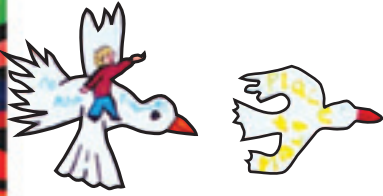
I) COOPERATION WITH CIVIL SOCIETY ORGANISATIONS AND PREPARATION OF THE PRESENT REPORT

Cooperation with civil society

- 87** The Executive is committed to working closely with all external organisations working with or for children. Fundamental to this is the Scottish Compact which facilitates closer and more effective working relationships by setting out a framework and principles for how the Executive and the voluntary sector will work together and encourages the establishment of multi-agency local compacts to promote good practice throughout Scotland. First published in 1998, it was substantially revised in February 2004.
- 88** Alongside publication of the revised version, the Executive appointed external consultants to establish a baseline for the extent of knowledge about the Scottish Compact and to look at relationships between the Executive and the voluntary sector. Their initial report was published in April 2005. It found that knowledge of the compact was low in the voluntary sector but far higher within the Executive. There was a general sense that cooperation between the Executive and the sector had improved in the intervening 18 months.

Preparation of the current report

- 89** One of the UN Committee's concerns outlined in the 2002 *Concluding Observations* was inadequate consultation during the preparation of the UK report – both the frequency of and time for consultation and the failure to engage effectively with children and young people.



90 The Executive has sought to address this concern during the preparation of this report. It recognises the important role that the voluntary sector plays in matters concerning children and the Children's Rights team have worked throughout the preparation process with key partners who will be submitting their own reports to the UN Committee in response to the UK Report. A number of meetings have been held with the Scottish Alliance for Children's Rights (SACR) (which is an umbrella organisation representing all the major children's charities in Scotland), Article 12 in Scotland and the Children's Commissioner's office to discuss and share information about planning for the reporting process. Confidential drafts of the report were shared with these organisations during preparation of the initial draft.

91 A key element of the process was around the most effective means of eliciting the views of children. Specific workshops to elicit the views of children were held as part of a one-day conference in June 2006. The children and young people involved came from a wide range of backgrounds including asylum seekers and children looked after by local authorities. As well as these children, policy makers, local authorities and other statutory and voluntary sector organisations were also invited. The conference sought the views of attendees on key children's rights issues in Scotland and provided an opportunity to identify and discuss key areas of progress and areas where further work is required. To help understand the views of younger children the Executive commissioned the Children's Parliament (which works with children aged 8-13) to carry out a further consultation exercise.

Main concerns raised by children, young people and other stakeholders

92 The consultation by the Children's Parliament showed that among the 8-13 age group there was little knowledge about the UNCRC or the concept of rights in general. They were however able to reflect on issues which affect them and their friends and express concerns about their health, wellbeing and place in the community. The following key issues emerged:

- > School – making it enjoyable and safe, giving children more of a say in school life, giving children more respect, and teachers and other adults working in the school setting should stop shouting at children;
- > Protection – protect children from adults who might hurt them. Children should never be scared at home, at school or in the community;
- > Bullying – stop bullying, by children or adults wherever it happens;
- > Home – help parents to provide children with a happy home and where families split up make sure children keep contact with parents equally (where they want to).

93 The young people who attended the June workshop were well aware of the UNCRC and the rights of children and young people. The following issues and concerns were raised:

- > Asylum seekers – asylum seeker children should be have the same rights to education and to work as all other children and they should not be locked up or treated like criminals;
- > Voice of the child (Article 12) – the voices of individual children are not being heard because adults don't listen to them. Voices are only heard as part of an organisation, but not all children want to join an organisation – many in rural areas are unable to. Funding is needed to increase awareness of Article 12 among both children and adults;
- > Looked after children – often not respected or listened to, especially on big issues like placements. There should be regular meetings with social workers and others at which children are given the chance to have their say;
- > Education – there is too much pressure to achieve and too much competition. Life skills and citizenship (including rights) should be taught to all children as part of a standard curriculum.



- 94 There was a wide-ranging discussion at the June seminar on the issues affecting the rights of children. The Executive's Children's Rights team has also attended other conferences and discussions where issues and concerns have been raised. In summary, the following key points were raised:
- > Minority groups – concern that there have been violations of the human rights of minority groups such as travellers and asylum seekers. Education and healthcare provision for these groups needed to improve;
 - > Child poverty – lack of opportunity for children living in poverty;
 - > Looked after children – educational and other outcomes for these children still much poorer than for other children;
 - > Mental health – need to improve awareness and understanding of the issues to ensure the rights and opportunities for this group are protected;
 - > Drug and alcohol misuse – an escalating problem, both the impact of parental substance misuse on the care and welfare of children and misuse by children themselves;
 - > Physical punishment – concern that this had not been outlawed;
 - > Justice system – concerns about the relatively low minimum age of criminal responsibility and children (under-18s) being dealt with in the adult court;
 - > Antisocial behaviour – the philosophy of the ASB legislation is at odds with the principle of acting in the child's best interests which underpins the Children's Hearings System;
 - > Detention – too many children were being held in custody, including many with mental health issues, and concerns about the use of restraint on children.

Consultation on the draft Scottish contribution/report

- 95 A draft of this report was issued for public consultation in December 2006, prior to its submission to DfES as the Scottish contribution to *the UK Report*. This consultation invited comments on the content of the report – whether it was a fair and accurate reflection of the position – rather than another opportunity to comment on policy. A further 1-day stakeholder conference was held in January 2007 as part of this consultation process. Again, this involved children and young people. The Executive received many helpful comments both at the conference and in writing that have made a number of important improvements to the report.

J) INTERNATIONAL AND DEVELOPMENT AID FOR CHILDREN

Article 4

- 96 The Executive has a policy on international development committed to helping developing countries, for example through supporting NGOs that are active in international programmes – in particular those working in the development of education, health, and civil society.
- 97 To support the policy, the Executive has made available an international development fund of £3m per year from 2005/06. The fund supports a number of projects run by NGOs, some of which are aimed at supporting children and protecting their rights. Projects which, for example, work: with children with HIV/AIDS; to reduce infant and maternal mortality; and to ensure children have the right to education.





02

DEFINITION OF THE CHILD

definition of the child

Articles: 1

- 98 A child is defined in several ways in Scottish legislation.
- 99 In certain circumstances, a child is defined, as in the UN Convention, as being under the age of 18. For example, the Protection of Children (Scotland) Act 2003, which provides for the list of people unsuitable to work with children, defines children as under the age of 18. Part II of the Children (Scotland) Act 1995 places duties on local authorities to promote and safeguard the welfare of children, defined as under 18, by providing services appropriate to their needs, to look after children including provision of accommodation and to provide services for disabled children. Parental responsibilities for providing guidance extend to those aged under 18.
- 100 There are, however, particular circumstances where a young person aged between 16 and 18 would not be regarded as a child. For example, the 1995 Act provides that parental rights and responsibilities for safeguarding and promoting a child's health, development and welfare, for providing direction and guidance about personal relations and acting as legal representative apply to children under 16 only. Similarly, the Children's Hearings System applies ordinarily to children who are not yet 16 (although it can extend to those aged 16 and 17 years who are subject to Supervision Requirements on their 16th birthday).
- 101 There are also age variations in terms of legal capacity to enter into transactions and make decisions. As a general rule (under the Age of Legal Capacity (Scotland) Act 1991) children under 16 have no capacity to enter into transactions but there are exceptions which allow children under 16 to enter into transactions which are commonly entered into by people of this age and which are not unreasonable. Children over the age of 12 have testamentary capacity and can consent to the making of an adoption order. Children under 16 are regarded as having capacity to agree to surgical, medical and dental procedures if a practitioner considers that the child is capable of understanding.

Population data

- 102 The tables opposite set out data in relation to children in Scotland. Please note the difference in the under 18 population figures for 2001 in Table 1 and Table 5. Table 1 is based on mid-year estimates (30 June 2001), Table 5 on census data collected on 1 April 2001. Only the census data provides the detailed information illustrated in Tables 3-5.





TABLE 1
Population aged under 18

	2000	2001	2002	2003	2004	2005
Under 18	1,108,000	1,097,605	1,085,798	1,073,672	1,066,646	1,059,027
male	566,980	562,065	556,126	549,817	546,216	542,589
female	541,020	535,540	529,672	523,855	520,430	516,438
0-4	283,213	276,261	268,468	263,828	263,122	265,200
male	145,456	141,772	137,399	134,880	134,505	135,541
female	137,757	134,489	131,069	128,948	128,617	129,659
5-9	313,342	305,813	299,159	293,923	289,916	284,772
male	160,183	156,355	153,336	150,645	148,674	146,258
female	153,159	149,458	145,823	143,278	141,242	138,514
10-14	322,884	322,923	322,615	319,934	318,869	315,119
male	165,676	165,739	165,377	163,651	162,887	160,962
female	157,208	157,184	157,238	156,283	155,982	154,157
15-17	188,561	192,608	195,556	195,987	194,739	193,936
male	95,665	98,199	100,014	100,641	100,150	99,828
female	92,896	94,409	95,542	95,346	94,589	94,108

Source: General Register Office Scotland, mid-year population estimates

TABLE 2
Population aged under 18 as a proportion of the overall person/male/female Population

	2000	2001	2002	2003	2004	2005
Under 18	21.9%	21.7%	21.5%	21.2%	21.0%	20.8%
male	23.3%	23.1%	22.9%	22.6%	22.3%	22.1%
female	20.6%	20.4%	20.0%	20.0%	19.8%	19.6%
0-4	5.6%	5.5%	5.3%	5.2%	5.2%	5.2%
male	6.0%	5.8%	5.7%	5.5%	5.5%	5.5%
female	5.2%	5.1%	5.0%	4.9%	4.9%	4.9%
5-9	6.2%	6.0%	5.9%	5.8%	5.7%	5.6%
male	6.6%	6.4%	6.3%	6.2%	6.1%	6.0%
female	5.8%	5.7%	5.6%	5.5%	5.4%	5.2%
10-14	6.4%	6.4%	6.4%	6.3%	6.3%	6.2%
male	6.8%	6.8%	6.8%	6.7%	6.7%	6.6%
female	6.0%	6.0%	6.0%	6.0%	5.9%	5.8%
15-17	3.7%	3.8%	3.9%	3.9%	3.8%	3.8%
male	3.9%	4.0%	4.1%	4.1%	4.1%	4.1%
female	3.5%	3.6%	3.6%	3.6%	3.6%	3.6%
Population	5,062,940	5,064,200	5,054,800	5,057,400	5,078,400	5,094,800
male	2,431,926	2,433,733	2,431,805	2,434,566	2,446,248	2,456,109
female	2,631,014	2,630,467	2,622,995	2,622,834	2,632,152	2,638,691

Source: General Register Office Scotland

TABLE 3

Religion of population aged under 18 – by urban/rural location, 2001

Religion	Total %	Large Urban Areas	Other Urban Areas	Accessible Small Towns	Remote Small Towns	Accessible Rural	Remote Rural
None	34.68	31.58	36.64	37.05	37.62	35.87	35.52
Church of Scotland	33.20	26.83	33.34	37.52	40.39	41.61	42.02
Roman Catholic	15.83	22.62	15.15	11.52	6.71	8.34	5.96
Other Christian	4.93	3.8	4.64	5.24	6.47	6.4	9.07
Buddhist	0.07	0.09	0.06	0.04	0.06	0.06	0.07
Hindu	0.10	0.19	0.05	0.04	0.01	0.03	0.01
Jewish	0.09	0.2	0.02	0.03	0.02	0.04	0.03
Muslim	1.36	2.93	0.59	0.45	0.25	0.33	0.09
Sikh	0.18	0.39	0.08	0.05	0.03	0.06	0.01
Another religion	0.29	0.28	0.24	0.25	0.42	0.37	0.51
Not answered	9.26	11.11	9.19	7.82	8.02	6.89	6.69

Source: General Register Office Scotland, 2001 Census

TABLE 4

Ethnic group of population aged under 18 – by urban/rural location, 2001

	Total %	Large Urban Areas	Other Urban Areas	Accessible Small Towns	Remote Small Towns	Accessible Rural	Remote Rural
White Scottish	91.53	90.22	94.25	92.53	92.26	89.91	87.05
Other White British	4.00	2.25	2.97	4.84	5.54	7.29	10.68
White Irish	0.30	0.44	0.24	0.21	0.11	0.22	0.22
Other White	1.15	1.47	0.78	0.97	0.9	1.32	1.19
Indian	0.36	0.71	0.18	0.14	0.11	0.15	0.06
Pakistani	1.08	2.35	0.47	0.31	0.12	0.22	0.04
Bangladeshi	0.06	0.13	0.02	0.03	0.05	0.01	0.01
Other South Asian	0.17	0.35	0.08	0.07	0.1	0.06	0.04
Chinese	0.38	0.62	0.3	0.2	0.2	0.16	0.09
Caribbean	0.03	0.04	0.02	0.04	0.03	0.03	0.04
African	0.12	0.24	0.07	0.06	0.03	0.04	0.02
Black Scottish or other Black	0.03	0.05	0.03	0.02	0.04	0.01	0.02
Other Ethnic Group	0.21	0.36	0.12	0.11	0.09	0.13	0.09
Any mixed background	0.57	0.77	0.45	0.45	0.43	0.46	0.43

Source: General Register Office Scotland, 2001 Census



TABLE 5

Age and long-term illness of population aged under 18 – by urban/rural location, 2001

	Total	Large Urban Areas	Other Urban Areas	Accessible Small Towns	Remote Small Towns	Accessible Rural	Remote Rural
TOTAL under 18	1098864	404350	332607	121740	29834	149360	60973
Age 0-4							
Total	276874	104691	84356	30070	7054	36347	14356
With a Limiting long-term illness	8503	3657	2506	836	197	928	379
Without a Limiting long-term illness	268371	101034	81850	29234	6857	35419	13977
5-9							
Total	307138	111429	93243	34146	8447	42433	17440
With a Limiting long-term illness	15877	6483	4851	1612	414	1786	731
Without a Limiting long-term illness	291261	104946	88392	32534	8033	40647	16709
10-14							
Total	322870	117212	97259	36185	8957	44535	18722
With a Limiting long-term illness	17570	6986	5310	1751	471	2161	891
Without a Limiting long-term illness	305300	110226	91949	34434	8486	42374	17831
15-17							
Total	191982	71018	57749	21339	5376	26045	10455
With a Limiting long-term illness	9934	3981	2960	1012	279	1220	482
Without a Limiting long-term illness	182048	67037	54789	20327	5097	24825	9973

Source: General Register Office Scotland, 2001 Census







03

GENERAL PRINCIPLES

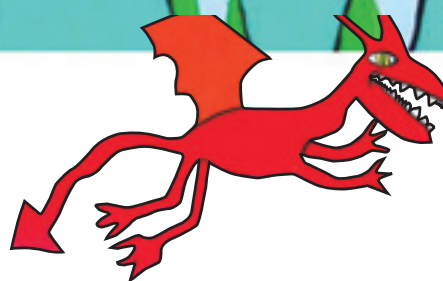
general principles

Articles: 2, 3, 6, 12

A) NON-DISCRIMINATION

Introduction

- 103** The 2002 *Concluding Observations* recommended monitoring the situation of children exposed to discrimination and the comparative enjoyment of their rights in England, Scotland, Wales and Northern Ireland. *The UK Report* reflects the way that these rights have been implemented and the circumstances of children in the four countries. Paragraphs 104-120 below describe the position in Scotland.
- 104** The Executive is committed to working towards a just and inclusive Scotland. Tackling discrimination and prejudice and promoting equal opportunities are key principles of the Scottish Parliament and key priorities for the Executive. Equal opportunities legislation is reserved to Westminster, but the Scotland Act 1998 gives the Scottish Parliament the power to encourage equal opportunities and to place duties on public authorities in Scotland to observe the equal opportunities requirements in their work in devolved areas.
- 105** The legal framework which supports Scottish Ministers' determination to eliminate discrimination and promote equality in Scotland continues to take shape. The Executive is subject to statutory duties to promote race equality, disability equality and gender equality in all its work. The Executive must also assess and consult on the likely impact of its proposed policies on racial equality, on gender equality and on equality for disabled people. The same duties apply to local authorities and many other public bodies. Decisions on further legislation, extending the duties to cover age, faith/religious belief and sexual orientation, will be made by the UK Parliament.
- 106** The Scottish Parliament requires all legislative proposals presented by the Executive to be accompanied by a statement of its impact on equal opportunities. This will be considered by Parliamentary Committees, including the Equal Opportunities Committee.
- 107** The Executive established an Equality Unit in 1999 to take forward its work to promote equality and eliminate discrimination. The Unit serves as a point of reference and advice on equality within the Executive, assists the mainstreaming of equality throughout the Executive and promotes equal opportunities within and outwith the Executive. Other agencies have also adopted similar measures to ensure that commitments in relation to equality and diversity are met.
- 108** Good policy making means taking account of equality and diversity issues right from the start and the Executive is working towards mainstreaming equality into policy making, legislation, spending plans and service delivery. There is still much to be done but considerable progress has been made since 1999. To support this approach and in response to the requirements to undertake impact assessments under the 3 public sector equality duties, an Equality Impact Assessment toolkit has been developed. This will enable the Executive to assess the impact of its policies and ensure they do not inadvertently create a negative impact for equality groups. It is the Executive's policy that the equality groups to be considered extend beyond those 3 areas covered by the public sector duty and includes the 6 equality strands of age, disability, gender, race, sexual orientation and religion/belief.



Identification and monitoring of discrimination

- 109 Identification and monitoring of discrimination normally occurs through inspection of the various areas of relevant activity such as school education, social work and care services. School education for example is inspected by Her Majesty's Inspectorate of Education (HMIE) which assesses the quality of education and positive outcomes for all children. HMIE are currently evaluating the consistency, effectiveness and efficiency of education authorities in implementing the new requirements of the Education (Additional Support for Learning) (Scotland) Act 2004, including the duty to meet the learning needs of all children and will report to Scottish Ministers in late 2007.
- 110 The Executive also collects a wide range of data on various aspects relating to children from vulnerable groups to help monitor any trends that may require action, and get an indication of how well policies are working in practice. For example, the September 2006 Pupil Census collected information on pupils with co-ordinated support plans only, including the numbers of plans prepared and the nature of the additional support required.
- 111 The statutory duties to promote racial equality, disability equality and gender equality also mean that the Executive must carry out monitoring of the impact of its policies on minority ethnic communities, disabled people and women and men. An important aspect of this is the gathering and use of equality data and information. To develop the evidence base, the Executive's analytical services divisions have designed and developed a number of resources and publications to make existing information on equalities issues more accessible. These include:
- > a portal to resources and information on Mainstreaming Equalities – this website provides links to a wide range of research and statistical evidence across the full range of equality groups and policy areas;
 - > a high level summary of equality statistics, 2006;
 - > a social focus on disability, 2004; and
 - > a gender audit of statistics comparing the position of women and men in Scotland, 2007.

Race equality

- 112 The 2002 *Concluding Observations* requested specific information on action to follow-up the Durban Declaration and *Programme of Action*. A review of race equality was undertaken by the Executive between June 2004 and February 2005 to ensure its approach to race equality was delivering tangible improvements to the lives of Scotland's minority ethnic communities, that it was focusing on the right priorities, and that it was making the best use of its resources. An extensive consultation exercise gathered evidence from a wide range of sources and through a variety of means, such as seminars with communities around Scotland. The review findings and the way forward were published in November 2005. Among other things, four strategic groups were established to consider issues which emerged as requiring further attention: ethnic minorities and the labour market; rural areas; Gypsies/Travellers; and refugees and asylum seekers. The groups were short life working groups, each charged with developing an action plan which will take forward the agenda in each area.
- 113 These action plans will inform the Executive's *National Strategy and Action Plan on Race Equality*, a draft of which will be published in 2007. This *National Strategy and Action Plan* will outline further activity in Scotland to meet the Executive's commitment to action under the Durban Declaration.

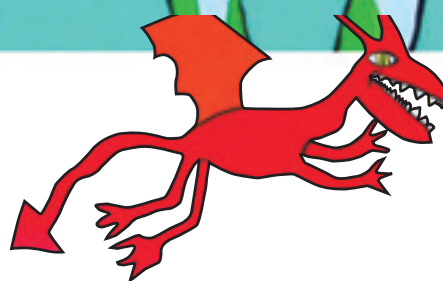
- 114 In addition, the new £2m Race Equality, Integration and Community Support Fund is funding over 30 projects all over Scotland, including 11 in rural areas. Funding has also been provided to continue with the Executive's work to implement the Scottish Refugee Integration Forum's existing Action Plan, as well as to support community engagement in health, to drive up performance on race equality in regeneration and to support the development of the minority ethnic voluntary sector.

Gypsies/Travellers

- 115 The Executive recognises that all Gypsy/Traveller communities have specific needs and require the same level of protection from discrimination and abuse as all of Scotland's minority ethnic communities. To support them the Executive has provided £3m of additional resources for Gypsy/Traveller sites, published national guidance on inclusive educational approaches for Gypsies/Travellers, introduced hand-held health records for Gypsies/Travellers and included Gypsies/Travellers in the One Scotland Many Cultures publicity campaign. The forthcoming *National Strategy and Action Plan on Race Equality* will contain a number of actions specifically aimed at improving the position of Scotland's Gypsy/Traveller communities, developed in consultation with those communities.

Support to lesbian, gay, bisexual and transgender young people

- 116 Through its Equality Strategy (*Working Together for Equality, November 2000*) the Executive is committed to equality of opportunity for people who are lesbian, gay, bisexual or transgender. The Executive works closely with LGBT Youth Scotland and provides funding for the development of consultation and engagement between the Executive and LGBT young people, promotion of the LGBT Youth Charter and promotion of the LGBT History Month. These projects are intended to ensure that the Executive is aware of and responsive to the specific needs of LGBT young people, promote their rights and participation and raises awareness generally of LGBT equality issues. The Executive's commitment to LGBT equality is widely supported across the public sector and by the Scottish Parliament.
- 117 Legislation to end discrimination on grounds of sexual orientation or gender identity is reserved to Westminster. The Employment Equality (Sexual Orientation) Regulations 2003 outlawed discrimination on grounds of sexual orientation in employment and vocational training and the Sex Discrimination (Gender Reassignment) Regulations 1999 outlawed discrimination in employment against a person because they intend to undergo, are undergoing or have undergone, gender reassignment. Further regulations outlawing discrimination on grounds of sexual orientation in access to goods and services, education and the exercise of public functions came into force at the end of April 2007. In Scotland, section 2A of the Local Government Act 1986 was repealed through the Ethical Standards in Public Life etc (Scotland) Act 2000. This brought Scots law into line with the recommendation in paragraph 44(d) of the *Concluding Observations* – repeal of section 28.
- 118 The Civil Partnership Act 2004 (Westminster legislation) enables same-sex couples to obtain legal recognition of their relationship by forming a civil partnership and sets out the legal consequences of forming a civil partnership, including the rights and responsibilities of civil partners. In common with marriage in Scotland, civil partnerships can be entered into by persons over the age of 16 subject to the following provisos: they are of the same sex; they are not already in a civil partnership or lawfully married; and they are not within the prohibited degrees of relationship. The Executive provided funding to raise awareness of the Civil Partnership Act within Scotland's LGBT communities.



Education for citizenship

- 119 Education for citizenship is a key part of the school curriculum and of community education programmes. It aims to develop capacity for thoughtful and responsible participation in political, economic, social and cultural life, respect and care for people and a sense of social and environmental responsibility. As a result of their learning about citizenship, children should develop an understanding of cultural and community diversity and the need for mutual respect and tolerance both nationally and globally.

Nationality

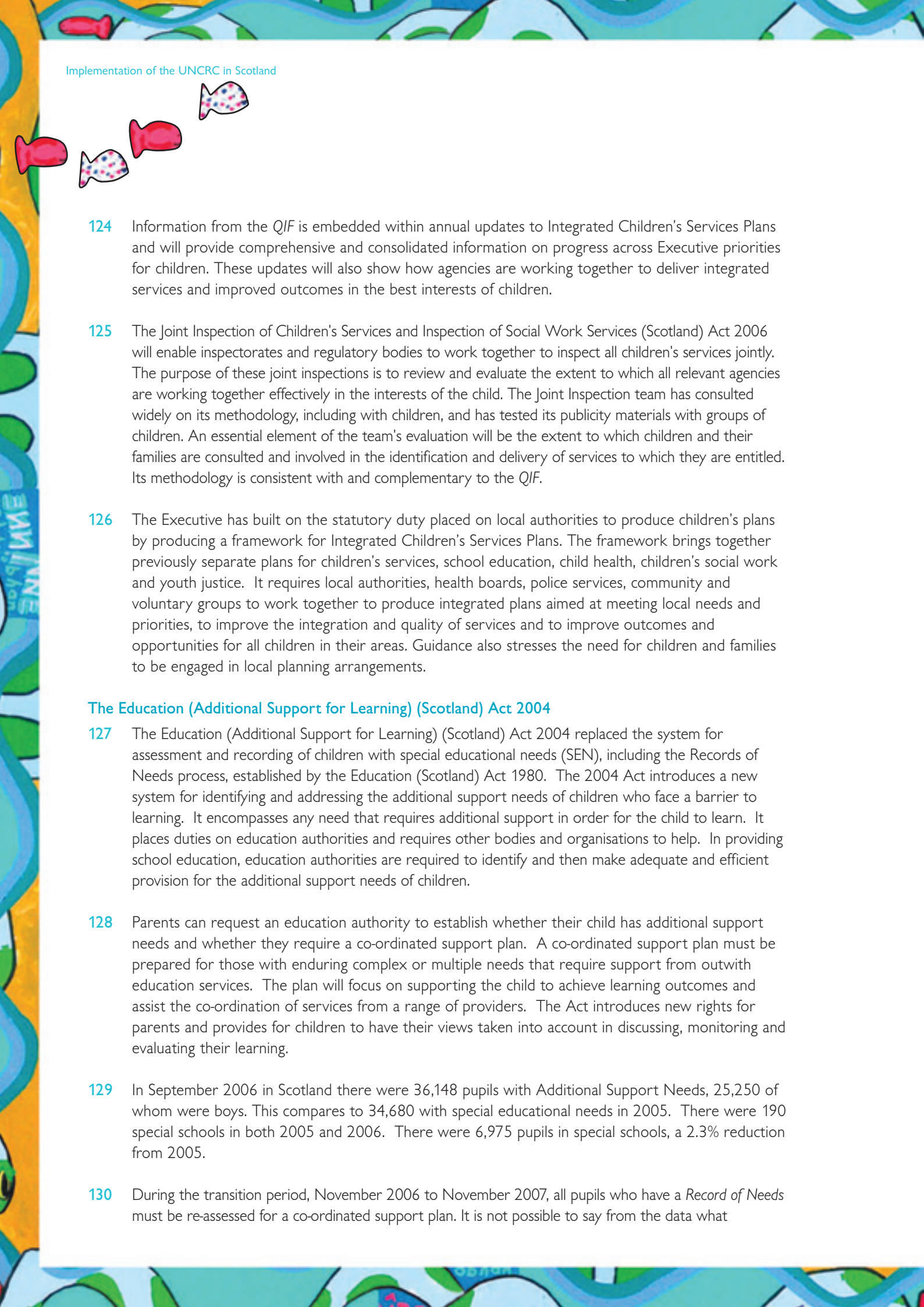
- 120 The 2002 *Concluding Observations* recommended amendments to nationality law to allow transmission of nationality through unmarried as well as married fathers. The Scottish Parliament is not competent to legislate in this area as issues of nationality are reserved to Westminster. However, since the last *UNCRC report*, the Scottish Parliament has introduced legislation through the Family Law (Scotland) Act 2006 designed to address areas of discrimination against children. The Act abolished the status of illegitimacy (save for specific reserved matters related to title and arms) and set out new rules governing the domicile of children. The domicile of a child under 16 is now determined as the country with which the child for the time being is most closely connected. There is therefore no longer a link between a child's domicile and that of his or her parent's marital status in relation to both the domicile of origin and dependent domicile.

B) BEST INTERESTS OF THE CHILD IN POLICY AND LEGISLATION AFFECTING CHILDREN

Article 3

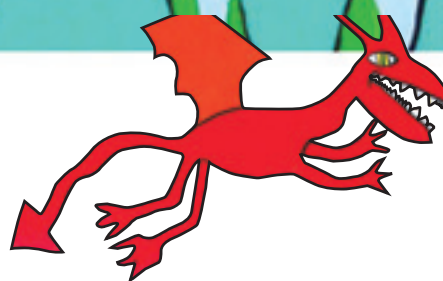
Service provision

- 121 Paragraph 26 of the 2002 *Concluding Observations* recommended that the best interests of children should be paramount in all policy and legislation affecting children. As detailed in the previous UK Report, the Children (Scotland) Act 1995 places the best interests of the child at the centre of services and support for children. For example, it requires that Children's Hearings act in the best interests of the child when considering what should be done to meet their welfare needs or tackle their offending behaviour or both. The Education (Additional Support for Learning) (Scotland) Act 2004 builds on this by making the best interests of the child the paramount consideration in determining the support children need to help with their education.
- 122 Achieving the Executive's vision for children is at the heart of the Executive's work. It is crucial that wherever possible, the Executive puts in place key support mechanisms to assist agencies to work together. Effective partnership working is crucial to ensure we have greater confidence in our child protection systems and to ensure that more children secure the educational and wider developmental opportunities that they deserve.
- 123 Planning and delivery of high quality and integrated services for children by children's services partnerships will help secure this vision. Success will be measured through the *Quality Improvement Framework (QIF)* for Integrated Children's Services which will support self-evaluation and performance improvement within and across children's services. The range of indicators included in the Framework covers both mainstream services, for example, school attainment and child health as well as more specialist areas including child protection, additional support for learning, family support, adoption, fostering and substance misuse.

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- 124 Information from the *QIF* is embedded within annual updates to Integrated Children's Services Plans and will provide comprehensive and consolidated information on progress across Executive priorities for children. These updates will also show how agencies are working together to deliver integrated services and improved outcomes in the best interests of children.
- 125 The Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Act 2006 will enable inspectorates and regulatory bodies to work together to inspect all children's services jointly. The purpose of these joint inspections is to review and evaluate the extent to which all relevant agencies are working together effectively in the interests of the child. The Joint Inspection team has consulted widely on its methodology, including with children, and has tested its publicity materials with groups of children. An essential element of the team's evaluation will be the extent to which children and their families are consulted and involved in the identification and delivery of services to which they are entitled. Its methodology is consistent with and complementary to the *QIF*.
- 126 The Executive has built on the statutory duty placed on local authorities to produce children's plans by producing a framework for Integrated Children's Services Plans. The framework brings together previously separate plans for children's services, school education, child health, children's social work and youth justice. It requires local authorities, health boards, police services, community and voluntary groups to work together to produce integrated plans aimed at meeting local needs and priorities, to improve the integration and quality of services and to improve outcomes and opportunities for all children in their areas. Guidance also stresses the need for children and families to be engaged in local planning arrangements.

The Education (Additional Support for Learning) (Scotland) Act 2004

- 127 The Education (Additional Support for Learning) (Scotland) Act 2004 replaced the system for assessment and recording of children with special educational needs (SEN), including the Records of Needs process, established by the Education (Scotland) Act 1980. The 2004 Act introduces a new system for identifying and addressing the additional support needs of children who face a barrier to learning. It encompasses any need that requires additional support in order for the child to learn. It places duties on education authorities and requires other bodies and organisations to help. In providing school education, education authorities are required to identify and then make adequate and efficient provision for the additional support needs of children.
- 128 Parents can request an education authority to establish whether their child has additional support needs and whether they require a co-ordinated support plan. A co-ordinated support plan must be prepared for those with enduring complex or multiple needs that require support from outwith education services. The plan will focus on supporting the child to achieve learning outcomes and assist the co-ordination of services from a range of providers. The Act introduces new rights for parents and provides for children to have their views taken into account in discussing, monitoring and evaluating their learning.
- 129 In September 2006 in Scotland there were 36,148 pupils with Additional Support Needs, 25,250 of whom were boys. This compares to 34,680 with special educational needs in 2005. There were 190 special schools in both 2005 and 2006. There were 6,975 pupils in special schools, a 2.3% reduction from 2005.
- 130 During the transition period, November 2006 to November 2007, all pupils who have a *Record of Needs* must be re-assessed for a co-ordinated support plan. It is not possible to say from the data what

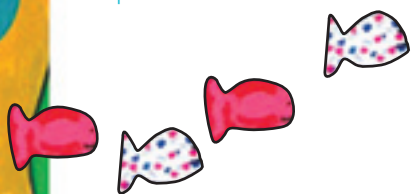


proportion of pupils had been re-assessed by September 2006. However, while there were 13,157 pupils with a Record of Needs in 2005, there were 11,708 pupils with ongoing provision from a Record of Needs by the census date, and there were 326 pupils with a co-ordinated support plan.

- 131 While the two recording systems are not strictly comparable or additive (since reason for support is given for all difficulties, not just the main difficulty) the most prevalent categories are moderate to profound learning difficulties (12.4 pupils per 1,000), specific learning difficulties in language and or mathematics – including dyslexia (10.5 pupils per 1,000) and social emotional and behavioural difficulties (9.0 pupils per 1,000).

The Children's Hearings System

- 132 The Children's Hearings System is designed to protect and support children under 16, and in some cases under 18, who are in need of care and protection and/or who commit offences. It puts the child at the centre and involves local people in deciding what is the right thing to do in the best interests of children.
- 133 All children who may need compulsory measures of supervision must be referred to the Children's Reporter. The grounds for referral (offence and non-offence) are set out in the Children (Scotland) Act 1995 and include that the child or young person is:
- > beyond parental control;
 - > at risk of moral danger;
 - > has been the victim of an offence, including physical injury or sexual abuse;
 - > likely to suffer serious harm through lack of parental care;
 - > not attending school regularly without a reasonable excuse; and
 - > misusing drugs, alcohol or solvents.
- 134 Upon referral, the Reporter makes an initial investigation before deciding what action, if any, is necessary in the child's interests. The Reporter can decide that no further action is required; that there is insufficient evidence to proceed; to refer the child to the local authority to provide advice, guidance and assistance on a voluntary basis; or to arrange a Children's Hearing.
- 135 Each Hearing is made up of 3 people drawn from the local authority Children's Panel which comprises people from the community from a wide range of backgrounds and experiences. Panel members are unpaid and give their time voluntarily but are carefully selected and highly trained.
- 136 A Hearing considers and makes decisions on the welfare of the child taking into account all the circumstances, including any offending behaviour. Decisions available to a Children's Hearing include imposing a supervision requirement on a child which sets out what the child's needs are and the action that agencies and the child should take in order to best address those needs.
- 137 A Hearing can only consider cases where the child and relevant persons (a person who has parental rights or responsibilities for the child, or any person who normally has charge of, or control over, the child) accept the grounds for referral as stated by the Reporter, or where they accept them in part and the Hearing decides it is proper to proceed. Where the grounds for referral are not accepted, or the child does not understand due to age or ability, the case is referred to the Sheriff to decide whether the grounds are established. If the Sheriff is satisfied that the grounds are correct, the Reporter will arrange another Hearing.



- 138** Normally, the child must attend the Hearing and always has the right to attend all stages of it. The Hearing may, however, decide that the child does not have to attend certain parts of the Hearing – or even the whole Hearing – if, for example, matters might come up that would cause significant distress. In addition, the Hearing, or the Sheriff in certain court proceedings, may appoint an independent person known as a Safeguarder whose role is to prepare a report to assist the hearing in reaching a decision in the child's best interests.
- 139** Tables 6-8 provide some information on the number and types of referrals. More information can be found on the Scottish Children's Reporter Administration website at www.scra.gov.uk.

TABLE 6
Number of children referred to the Reporter

Year	Number of children referred to the Reporter		
	Total	Non-offence	Offence
1999/00	33,837	22,436	14,489
2000/01	32,938	22,166	13,727
2001/02	36,820	25,303	15,132
2002/03	37,727	27,096	14,404
2003/04	45,793*	33,379*	16,470
2004/05	50,529*	37,460*	17,494
2005/06	53,883*	40,931*	17,624*

* Receipt based. All other data are disposal based. Source: Scottish Children's Reporter Administration

TABLE 7
Number of children referred to the Reporter, by gender

Year	Number of children referred to the Reporter		
	Boys	Girls	Total
2000/01	20,153	12,785	32,938
2001/02	22,606	14,214	36,820
2002/03	22,591	15,136	37,727
2003/04	27,347	18,446	45,793
2004/05	29,581	20,948	50,529
2005/06	31,229	22,533	53,883

Source: Scottish Children's Reporter Administration

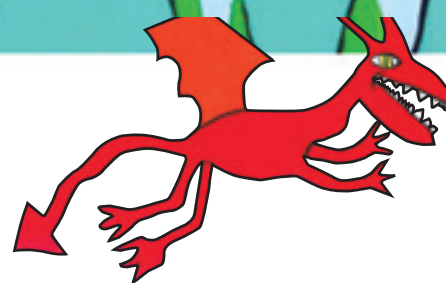


TABLE 8
Types of supervision requirements in place.

Types of Supervision Requirement	Number as at 30 June 2004	Number as at 30 June 2005
With parent/relevant person	5,659	6,155
With other approved foster parent	2,277	2,394
With relative/friend – approved foster parent	573	559
With relative/friend – other	880	950
Residential school	516	466
Local authority home	416	413
Special school	19	13
Voluntary home	Less than 5	Less than 5
In hospital	Less than 5	Less than 5
Other residential placement	49	84
Establishment acting as an assessment centre in whole or part	8	13
Other non-residential placement	12	6
Other	31	33
None	151	176
Total	10,601	11,272

Source: Scottish Children's Reporter Administration (2005). Annual Report 2005-06.

140 At 53,883 children in 2005-06, the number of children referred to the Children's Reporter has never been higher. The majority of children referred to the Reporter do not go on to a Children's Hearing because the criteria for compulsory measures have not been met. In response to concerns that children were being referred inappropriately to the Children's Reporter, when they did not require compulsory measures of supervision, the Executive set up in 2006 a multi-agency Ministerial Task Group on non-offence referrals. The Group has been considering how best to ensure children get the help they need without referral to the Children's Reporter, to minimise delay in children receiving services. The Group developed a model for action in dealing with concerns about children, published in March 2007. It will enable agencies to better identify those children who may require compulsion and therefore a referral to the Reporter. The reforms will be introduced through the *Getting it right for every child* programme.

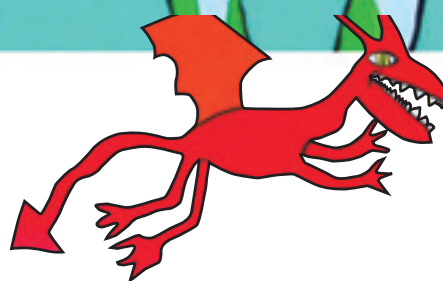
141 In line with the 2002 *Concluding Observations*, the Executive is committed to providing the resources that the Hearings System needs to ensure it does the best possible job to protect and support children. Since it was formed in 1996, the budget of the Scottish Children's Reporter Administration has more than doubled from £10m to £24m, although it should be noted that in the same period, the number of referrals to the Reporter has also more than doubled from 46,497 referrals in 1996/97 to 97,607 in 2005/06. Over the same period, Executive spending on support and training for panel members has gone from £300,000 to £2m per annum. From a zero base in 2000, around £63m

was made available for youth justice in 2006-07, the majority of which was spent on services and programmes for children who are causing concern because of their offending behaviour and associated social education needs.

- 142 The Audit Scotland report on youth justice *Dealing with offending by young people* and Home Supervision research by the University of Stirling, both published in 2002 found that a significant number of children subject to a supervision requirement – because of welfare and/or offending concerns – did not receive the service that the Hearing had intended they should. Local authorities were not always meeting their duty under the Children (Scotland) Act 1995 to “give effect” to all supervision requirements. In order to ensure that all children subject to a supervision requirement get the service they need and deserve, the Executive introduced measures through the Antisocial Behaviour etc (Scotland) Act 2004 to place further obligations on local authorities. Section 136 of that Act requires local authorities to carry out the action allocated to it in a supervision requirement and where this does not occur, gives the Children's Hearing the power to initiate proceedings against the local authority in the Sheriff Court. No cases have yet been brought before the court since the new duty was commenced in January 2005.

Legal advice for children in the Children's Hearings System

- 143 Under certain specific circumstances, children may get legal advice and assistance in advance of attending a Hearing. For example, if aged 12 years or over, they get direct access to the reports prepared for the Hearing which may contain information about their behaviour, development, family circumstances etc. At the Hearing they are entitled to have a representative who can be a relative, friend, advocate, social worker, teacher or other interested party. Once the Hearing has taken a decision the child has the right of appeal to a court and the child may receive free legal advice and representation at court.
- 144 If a child is old enough to understand the proceedings and give instructions to a solicitor it is open to that child to directly instruct and seek “advice and assistance” from a solicitor about the Children's Hearings process. Advice and assistance is a form of Legal Aid that can be made available to such children and will allow the solicitor to be paid for his work from the Legal Aid Fund. Advice and assistance is available on all matters of Scots law and is subject to a financial eligibility test. Assuming that the child in question has no income and/or capital they will qualify for advice and assistance without having to pay any contribution and can obtain this from a solicitor both before and after a Children's Hearing has taken place. As set out above, the child can be accompanied to a Hearing by a representative, but there is no form of payment from the Legal Aid Fund (advice and assistance or children's legal aid) to a solicitor for attending the Hearing. If, however, the solicitor is appointed by the Hearing (i.e. not directly instructed by the child) to be the child's Legal Representative under the 2002 Rules (see paragraph 146 below) that solicitor can receive payment from the local authority for his services, including attendance at the Hearing itself.
- 145 There are certain circumstances where the child's case results in proceedings before the sheriff court. The two most common examples would be where the child does not accept the grounds for referral to a Children's Hearing or where the child wishes to appeal the decision of the Children's Hearing. Children's Legal Aid is available for these associated court proceedings assuming that the statutory criteria are met (a financial test and a merits test laid down in Section 29 of the Legal Aid (Scotland) Act 1986). If the child is granted legal aid by the Sheriff then that child will not require to pay a solicitor for advice and representation in the court proceedings and the solicitor will obtain payment

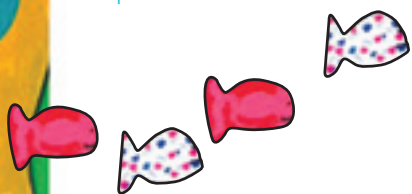


from the Legal Aid Fund. Children's legal aid fees of approximately £3.8m for approximately 3,400 cases were paid out of the Legal Aid Fund in 2005-06.

- 146 In 2001, Scotland's highest court found that in certain circumstances a child should receive free legal representation at the Hearing and in the absence of such provision Children's Hearings did not comply with the requirements of ECHR. The circumstances were when (i) a Hearing decides to place a child in secure accommodation (this was equated to deprivation of liberty), and (ii) the case involved complex legal issues. In response the Scottish Parliament agreed to the coming into force of the Children's Hearings (Legal Representation) (Scotland) Rules 2002. These rules enable Children's Hearings to appoint a legal representative for children where the criteria set out above are met or are likely to be met.
- 147 Of the 5000-6000 children who come to Hearings each year around 500-600 receive legal representation under the terms of the scheme set out above. The cost of this in 2006-07 was £0.3m and was met in full by the Executive. Further consultation may be required on the operation and effectiveness of the scheme pending the outcome of the consultation on the draft Children's Services (Scotland) Bill.
- 148 The draft Children's Services (Scotland) Bill which was consulted upon in early 2007 proposes new duties on the Principal Reporter to:
- > consider the need to appoint a person as the child's legal representative to enable the child to participate effectively at the Hearing and, where necessary, to make such appointment; and
 - > appoint a legal representative where a Hearing decision which includes secure accommodation or a movement restriction condition is likely.

Getting it right for every child

- 149 In setting out its programme for action following the 2003 Scottish Parliamentary Elections, the Executive undertook to review the operation of the Children's Hearings System. The fundamental principles of the System were not being called into doubt, but Ministers wanted to review the System to ensure it had the right set up and adequate resources to meet the challenges facing children in the 21st century.
- 150 The Executive undertook a wide-ranging consultation in 2004. The review raised fundamental questions about the services and systems around Children's Hearings. It became apparent that the review needed to address not just services for children within the Hearings System or children in need, but all services for children.
- 151 *Getting it right for every child Proposals for Action*, set out 23 proposals covering the reform of children's services and a national consultation was undertaken in 2005. *Getting it right for every child* places the child at the heart of children's services. It proposes new duties on agencies to identify children in need and to act to improve a child's situation. Agencies will also be required to co-operate with each other to meet the needs of all children, improve outcomes and to put in place multi-agency assessments and action plans where these are required. A lead person will be appointed to co-ordinate action plans where this is required. Agencies, children and families will decide together what is in the best interests of the child and work together to deliver agreed outcomes. Children and families will experience a co-ordinated and unified approach to having their needs met. By December 2007 agencies will be expected to complete a plan in line with *Getting it right for every child* for all children going to a Hearing.



152 Consultation on a draft Bill to provide the legislative framework for the implementation of *Getting it right for every child* concluded on 31 March 2007. *Getting it right for every child* means that no matter where they live or whatever their needs, children and families know where they can seek help, what help is available, that the help is appropriate to their needs and will be delivered to the highest possible standard. *Getting it right for every child* will enable everyone involved in children's services to deliver on this and improve outcomes whilst involving children and families in finding solutions.

153 *Getting it right for every child* should mean:

- > children get the help they need when they need it and are central to the process of finding solutions;
- > everyone working with children uses a consistent and equitable approach and works more effectively together to improve outcomes for children;
- > everyone is clear about their personal responsibility to do the right thing for each child and how they contribute to the collective responsibility to do the right thing for each child;
- > parents and children benefit from a collaborative approach which results in fewer meetings, requires them to give their information only once, and jointly develop with professionals one plan that will meet all of their needs; and
- > agencies and professionals are freed up to get on and respond to children and take appropriate, proportionate and timely action with the minimum of paperwork, bureaucracy and duplication.

Offending behaviour

154 The Children's Hearings System acts in the best interests of the child when considering what should be done to meet the needs of individual children whilst tackling their offending behaviour. All elements affecting behaviour are taken into account and a welfare driven approach is taken to addressing offending and antisocial behaviour and its impact.

155 The review of the Children's Hearings System and *Getting it right for every child* have reaffirmed the principles and values that underpin this approach. Guidance which supports the implementation of the Antisocial Behaviour (Scotland) Act 2004, restates these principles and gives careful consideration to the rights and needs of each child and the risk they may present to themselves or their communities.

C) THE RIGHT TO LIFE, SURVIVAL AND DEVELOPMENT

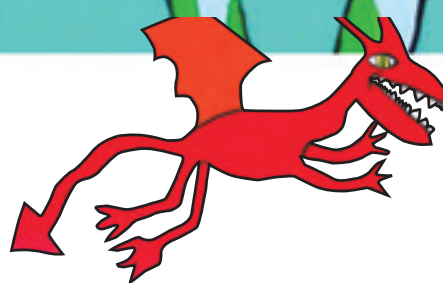
Article 6

156 The Scottish Executive recognises the right to life of every citizen in Scotland and the need to protect this right. The death penalty was abolished in the UK more than 40 years ago.

Maternity and infant care schemes

157 Pregnancy screening aims to enable women and their partners to make an informed choice about continuing the pregnancy, or to accept treatment at an early stage when it is more likely to be effective. Programmes include screening for HIV, Down's Syndrome, neural tube defects, hepatitis B, Syphilis and Rubella. The newborn programme includes screening for Phenylketonuria, Congenital Hypothyroidism and Cystic Fibrosis. By December 2005, universal newborn hearing screening was in place across Scotland.

158 All pregnant women receive comprehensive information in preparation for parenthood in a free NHS Health Scotland publication, *Ready Steady Baby*, which includes advice on health and development from conception to infancy. New mothers receive written information on breastfeeding and on prevention of



cot death, to support the advice that they receive from their midwife. NHS Health Scotland is reviewing the format and content of *Ready Steady Baby* to extend coverage of information beyond infancy to the pre-school period. Patient information leaflets for use with the newborn screening programmes (hearing, cystic fibrosis, and congenital hypothyroidism) are also published by NHS Health Scotland along with extensive public information about child health and development.

- 159 Information and professional advice about specific aspects of child development is also available to parents. Health visitors, school nurses and other members of the primary care team provide advice on a range of issues in the course of their regular contact with individual parents and children at clinics, GP practices, family centres and at home. Leaflets and posters are used to highlight key issues about diet, exercise, and effective management of behaviour, and signpost children and their families to different sources and types of information and support.
- 160 Parenting education and support programmes are also provided in a wide range of health service and local authority settings, and many voluntary organisations such as the National Childbirth Trust offer direct access to support through helplines or self-referral. Community support is available, for example, through breastfeeding peer support, smoking cessation services and other addiction services and networks.
- 161 To help with the development of services in disadvantaged areas, Sure Start Scotland provides programmes of activity to promote children's healthy development through intensive home-based support for families and ensuring access to enhanced community-based resources. This is complemented by financial help for parents to afford childcare. In 2003-04, Sure Start Scotland supported 9600 of the most vulnerable parents in Scotland, usually through an integrated package of support.
- 162 Scotland has led the way in many maternity services developments, including the promotion of the UNICEF/UK Baby Friendly Initiative by the majority of maternity services across the country and passing the Breastfeeding etc (Scotland) Act 2005 to support women who want to breastfeed in public places. The law recognises the importance of re-establishing breastfeeding as the norm for infant feeding.

Child death statistics

- 163 The tables below set out the number of child deaths in Scotland between 2000 and 2005 and the causes of death broken down as set out in the UN Guidelines for submission of periodic reports. All tables relate to those aged under 18.

TABLE 9
Number of deaths - all causes

	2000			2001			2002			2003			2004			2005		
	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females
Under 18	512	310	202	509	292	217	501	294	207	503	284	219	469	282	187	511	299	212
0-4	358	206	152	332	177	155	336	201	135	324	181	143	314	189	125	344	192	152
5-9	34	24	10	43	27	16	32	17	15	33	15	18	36	21	15	30	19	11
10-14	49	28	21	56	35	21	47	27	20	51	31	20	45	23	22	48	30	18
15-17	71	52	19	78	53	25	86	49	37	95	57	38	74	49	25	89	58	31

Source: General Register Office for Scotland

TABLE 10

Number of deaths excluding those from external causes

	2000			2001			2002			2003			2004			2005		
	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females
Under 18	414	244	170	416	231	185	402	236	166	407	230	177	398	230	168	428	244	184
0-4	332	192	140	314	167	147	310	189	121	315	177	138	304	182	122	332	185	147
5-9	24	16	8	32	19	13	22	10	12	24	10	14	24	12	12	24	15	9
10-14	33	20	13	37	22	15	28	14	14	32	19	13	33	14	19	36	23	13
15-17	25	16	9	33	23	10	42	23	19	36	24	12	37	22	15	36	21	15

Source: General Register Office for Scotland

TABLE 11

Number of deaths due to HIV

	2000			2001			2002			2003			2004			2005		
	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females
Under 18	-	-	-	-	-	-	-	-	-	1	-	1	-	-	-	-	-	-
0-4	-	-	-	-	-	-	-	-	-	1	-	1	-	-	-	-	-	-
5-9	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
10-14	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
15-17	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Source: General Register Office for Scotland

TABLE 12

Number of deaths due to tuberculosis

	2000			2001			2002			2003			2004			2005		
	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females
Under 18	-	-	-	-	-	-	-	-	-	-	-	-	1	-	1	-	-	-
0-4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
5-9	-	-	-	-	-	-	-	-	-	-	-	-	1	-	1	-	-	-
10-14	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
15-17	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Source: General Register Office for Scotland

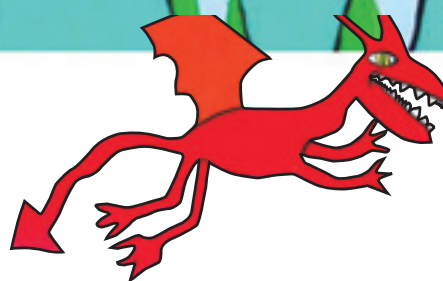


TABLE 13
Number of deaths due to diseases of the respiratory system

	2000			2001			2002			2003			2004			2005		
	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females
Under 18	13	8	5	9	5	4	20	6	14	15	7	8	7	4	3	11	4	7
0-4	6	4	2	6	4	2	10	5	5	9	4	5	5	3	2	7	4	3
5-9	4	3	1	-	-	-	3	-	3	1	1	-	1	-	1	1	-	1
10-14	2	1	1	1	-	1	3	-	3	2	1	1	-	-	-	1	-	1
15-17	1	-	1	2	1	1	4	1	3	3	1	2	1	1	-	2	-	2

Source: General Register Office for Scotland

TABLE 14
Number of deaths due to land transport accidents

	2000			2001			2002			2003			2004			2005		
	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females
Under 18	30	21	9	42	27	15	29	19	10	39	17	22	21	15	6	39	28	11
0-4	6	4	2	2	1	1	4	4	-	1	-	1	2	1	1	1	-	1
5-9	5	5	-	5	4	1	2	-	2	3	1	2	7	5	2	4	3	1
10-14	8	4	4	12	8	4	7	4	3	11	6	5	4	3	1	5	3	2
15-17	11	8	3	23	14	9	16	11	5	24	10	14	8	6	2	29	22	7

Source: General Register Office for Scotland

TABLE 15
Number of deaths due to other accidental injury

	2000			2001			2002			2003			2004			2005		
	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females
Under 18	19	12	7	25	15	10	31	17	14	25	22	3	19	13	6	13	8	5
0-4	10	6	4	12	5	7	14	4	10	5	4	1	5	3	2	7	4	3
5-9	5	3	2	6	4	2	5	5	-	5	4	1	4	3	1	2	1	1
10-14	2	1	1	4	4	-	9	7	2	6	5	1	6	4	2	1	1	-
15-17	2	2	-	4	3	1	3	1	2	9	9	-	5	3	2	3	2	1

Source: General Register Office for Scotland

TABLE 16**Number of deaths due to assault**

	2000			2001			2002			2003			2004			2005		
	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females
Under 18	12	8	4	6	5	1	12	7	5	12	7	5	7	6	1	10	6	4
0-4	7	3	4	3	3	-	5	2	3	3	-	3	2	2	-	3	2	1
5-9	-	-	-	-	-	-	3	2	1	1	-	1	1	1	-	-	-	-
10-14	-	-	-	1	-	1	-	-	-	1	-	1	-	-	-	2	1	1
15-17	5	5	-	2	2	-	4	3	1	7	7	-	4	3	1	5	3	2

Source: General Register Office for Scotland

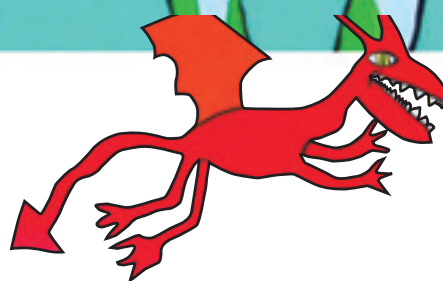
- 164** There were no deaths of under 18s between 2000 and 2005 as a result of extrajudicial, summary or arbitrary executions or as a result of capital punishment.

Statutory child death inquiries

- 165** The 2002 *Concluding Observations* recommended the introduction of a system of statutory child death inquiries. As part of the child protection reform programme, an inter-agency working group produced guidance on the handling of significant incidents, including child deaths and interim guidance was published in April 2007. It will provide a consistent approach to the handling of such incidents across all agencies in Scotland, and will also contribute to the learning cycle for practitioners and agencies in introducing shared reporting and follow up mechanisms across Scotland to ensure information is appropriately shared and lessons learned. This approach has been developed in full public consultation and in discussions with the statutory agencies and the voluntary sector. Child Protection Committees will play a pivotal role in the implementation of the guidance.

Strategy for reduction in child deaths**Article 6**

- 166** In keeping with the 2002 *Concluding Observations*, the Executive has undertaken a range of activities to help reduce child deaths. *Protecting Children and Young People: The Charter* published in 2004 reminds adults of the importance of listening to children and acting on their behalf. The leaflet *What you can do to help if you are worried about a child or young person*, published in 2005 also encourages wider community engagement in helping keep children safe.
- 167** ChildProtectionLine, now provides a single contact point into local child protection services. The Executive also funds confidential helplines run by voluntary organisations. ParentLine, which is a service for parents and carers seeking advice and support in caring for children or young people, receives annual funding of £119,000. ChildLine offers a confidential service where children can talk about issues, eg bullying or violence at home, and receive counselling and support. £500,000 was provided to ChildLine through the child protection reform programme to extend its capacity in Scotland and open a second call centre in 2004 at Aberdeen. The Executive has recently awarded a grant of more than £536,000 to ChildLine to expand existing services at the call centres in Aberdeen and Glasgow and to establish a third Scottish centre in Edinburgh.



- 168 This activity is supported by *Protecting Children and Young people: Framework for Standards* for all practitioners which requires that children get the help they need when they need it and which forms the basis of the joint inspection of child protection services. The joint inspection programme will help ensure the quality of child protection services across Scotland.
- 169 *Getting it right for every child* will introduce new duties on all agencies working with children to be alert to their needs, to listen to them and record their views, to identify children in need and to act to improve a child's situation. The interests of the child are paramount. Underpinning this is the need for decisions by Sheriffs and Children's Hearings to be taken in the best interests of the child as set out in s16 of the Children (Scotland) Act 1995.

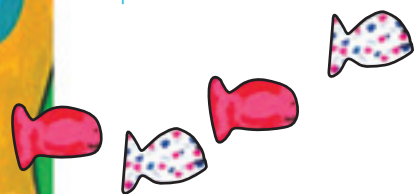
Public education campaigns on reducing child death

- 170 The Executive has issued a number of publications to help raise public awareness as part of the child protection reform programme, such as *Protecting Children and Young People: the Charter and Framework for Standards*. These publications have been widely distributed through schools, social work services, health services and the police. High level annual summits on child protection involving the former First Minister and relevant portfolio Ministers have helped raise awareness further.
- 171 The Executive has also developed quality indicators in the joint inspection programme for child protection, *How well are children and young people protected and their needs met?* published in November 2005. These indicators help demonstrate how services will be evaluated by the joint inspection team and how practitioners and agencies may wish to assess their services and evaluate their success.
- 172 A more recent Executive priority is the development of a public information strategy on child sexual abuse. The Executive's Child Protection Team will lead on this cross cutting work which will include provision of materials to inform and advise parents, children and communities of the dangers of child sexual abuse and of strategies to reduce risk. Good use will be made of existing child protection public information materials and platforms. This work will be linked with concurrent work on a public information strategy on disclosure of third party notification of sex offenders.

Use of plastic baton rounds in riot control

- 173 The 2002 *Concluding Observations* urged the UK to abolish the use of plastic baton rounds as a means of riot control. In June 2001 a number of forces across England, Wales and Northern Ireland announced their intention to obtain baton rounds for use during major public disorder. Scottish forces had earlier concluded that there was no need for these rounds in Scotland for this purpose and that remains their view. However, they do believe that baton guns may provide an alternative and less lethal option for officers involved in firearms incidents.





D) RESPECT FOR THE VIEWS OF THE CHILD

Article 12

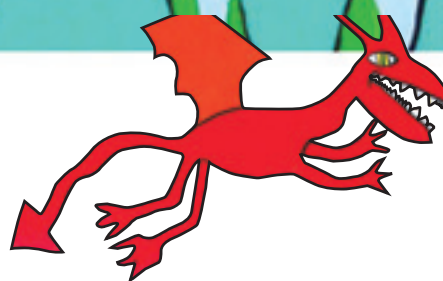
- 174 In line with the 2002 *Concluding Observations*, one element of the Executive's vision for children is that they are respected and responsible – that they should be involved in decisions that affect them, should have their voices heard and should be encouraged to play an active and responsible role in their schools, communities and society at large. There is a strong commitment through legislation and policy change to make this a reality. Paragraphs 175-205 below set out the progress that has been made, but it is acknowledged that legislative intentions are not always carried out in practice and that there is still much to do.

Opportunities for the child to be heard in legal procedures affecting parental responsibilities, etc.

- 175 The principles underpinning the Children (Scotland) Act 1995 were fully described in the last UK report. In brief, the 1995 Act provides that, in family court actions (including divorce and separation proceedings) the welfare of the child is the paramount consideration. It also provides that a court should give a child the opportunity to express views on the matter the court is being asked to determine and to have regard to the views expressed. It gives age 12 as an age at which a child is presumed to be of sufficient age and maturity to form a view, but the court can and does take into account the views of children younger than this (see Civil cases citing UNCRC – paragraph 30). Children can also instruct a solicitor under the Age of Legal Capacity (Scotland) Act 1991 which gives the same presumption about children aged 12 and above.
- 176 The Executive has also introduced a package of non-legislative measures. Two key elements of the package are: *Parenting Agreements for Scotland* a pack aimed at helping separating parents to set aside their own differences and focus on their children's needs; and the *Charter for Grandchildren* which reminds everyone involved in children's lives, whether on a personal or professional basis, of the important role grandparents and the wider family can play in a child's life, and how the wider family can be a source of support and stability in difficult times. It also reminds everyone that the focus should always be on the welfare of the children in a family. Both of these documents emphasise to all involved including children that a child's views should be sought and be taken into account where major decisions are to be made about his or her future.
- 177 In 1998 the Executive produced *You Matter* (for children 11-16) and *Your Children Matter* (for adults) to explain the family law provisions in the 1995 Act with a key focus on the voice of the child. These documents were routinely used by maternity units, social work departments and other agencies. Following the changes introduced by the Family Law (Scotland) Act 2006, a new information booklet, *Family Matters: Family Law and Young People in Scotland* is being made widely available.

The voice of the child in the Children's Hearings System

- 178 One of the overarching principles that apply to decision making in Children's Hearings is that the child has a voice. In determining what action is in the child's best interests, panel members are required to seek and actively consider the views of children, taking account of the age and maturity of the child concerned. A child may also ask a representative (e.g. a family friend) or a legal representative (usually in cases where deprivation of the child's liberty is being considered), or both to speak on his or her behalf at the Hearing. The child's views may also be conveyed to the Children's Hearing by the child in writing, on audio or video tape or through an interpreter, or by any safeguarder appointed by the Children's Hearing. As well as the current procedure to appoint a legal



representative where this is necessary, *Getting it right for every child* proposes a duty on the Children's Reporter to ensure children have legal representation where necessary, under the current criteria which protect their rights. In addition, 2 projects are being developed to look at how children can be involved in the selection and training of panel members.

- 179 The Executive commissioned research *Big Words and Big Tables – Children and Young People's Experience of Advocacy Support and Participation in the Children's Hearings System* to determine the extent of children's participation in Children's Hearings and how their views are taken into account in decisions made about them. The results of this research will be fed into implementation of *Getting it right for every child* and will inform the development of the Children's Hearings System of the future. More generally, *Getting it right for every child* will ensure that the views of the child will be taken into account in a number of ways. There will be duties on agencies to seek and record the views of children as part of the agencies' local co-ordination and monitoring framework. This will be delivered through a single assessment, record and plan which will highlight the need to record the child's views at every stage.

Looked after children

Articles 18 and 20

- 180 Under Section 17 of the Children (Scotland) Act 1995, local authorities have a duty to find out and have regard to the views of the child, their parents and any other relevant person, so far as is practicable when making decisions about a child whom they look after. The Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003 include a duty to carry out an assessment of the needs of these children. Materials were produced to help local authorities carry out this duty effectively and were published under the title *Pathways*. The involvement of the young person is one of the central principles of the Regulations. In addition, when inspecting care services, the Care Commission takes into account the national care standards some of which deal with how children can express their views (Standard 4 for Foster care and family placement services, and Standards 18 and 19 for Care homes for children and young people).
- 181 The Scottish Throughcare and Aftercare Forum produced best practice indicators for those running throughcare and aftercare services in October 2006. These highlight the need for children to be meaningfully involved at all levels and for service providers and decision makers to actively ensure that children have a voice. The document highlights existing good practice, for example children are involved in staff recruitment and training and discussions about service delivery for the Barnardo's 16+ service in Aberdeenshire.

Giving evidence in court

- 182 The Vulnerable Witnesses (Scotland) Act 2004 requires courts to ascertain the views of children about the way in which they wish to give evidence as witnesses in court proceedings. Where the views of the child witness are inconsistent with any views expressed by the witness's parent the views of the child witness must be given greater weight.

Mental health

- 183 The Executive is supporting Penumbra (a leading Scottish mental health charity) to establish and run a Participation Partnership Group to improve input from children on mental health issues. Key functions include: promoting the involvement of children in issues which affect their mental

health and well-being at a local and national level; supporting children's involvement in the Executive's mental health agenda; exploring how they can influence and become involved in local Community Planning; developing links with existing participation networks and projects and carrying out consultation with harder to reach groups and promoting their involvement in staff recruitment and training in the field of children's mental health.

- 184** Executive funding for Penumbra facilitates the employment of a participation worker whose duties include working with key partners to promote the adoption (by agencies) of the principles of participation and involvement of children to ensure a consistent standard across all services in Scotland.

Health services

- 185** In hospitals, as part of the work of the National Steering Group for Specialist Children's Services Review, the Executive are consulting with children and families about the services they receive (including workforce, accessibility, models of care, age appropriate care and future trends) and how they can be improved.

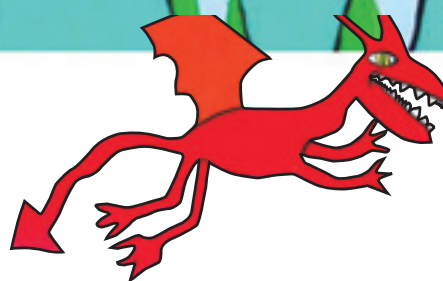
Who Cares? Scotland

- 186** In addition to its core advocacy service, Who Cares? Scotland routinely involves children and young people currently or previously accommodated in the work of the organisation, creating platforms for them to speak for themselves.
- 187** Six places are reserved for young people on Who Cares? Scotland's board of directors including chair and vice-chair, and postholders are elected by children and young people at the AGM. Other examples of participation include:
- > a national focus group which meets regularly to work on policy, service and practice issues. At present this includes the development of a model for a national befriending scheme;
 - > involvement in staff recruitment processes;
 - > young people designing a campaign to increase independent advocacy support for children and young people in foster care;
 - > young people producing (content and design) Who Cares? Scotland's Speak Out magazine, a regular publication by young people in care for young people in care (12 years and over); and
 - > young people involved in the design of training materials and the delivery of training to professionals.

Participation

Article 12

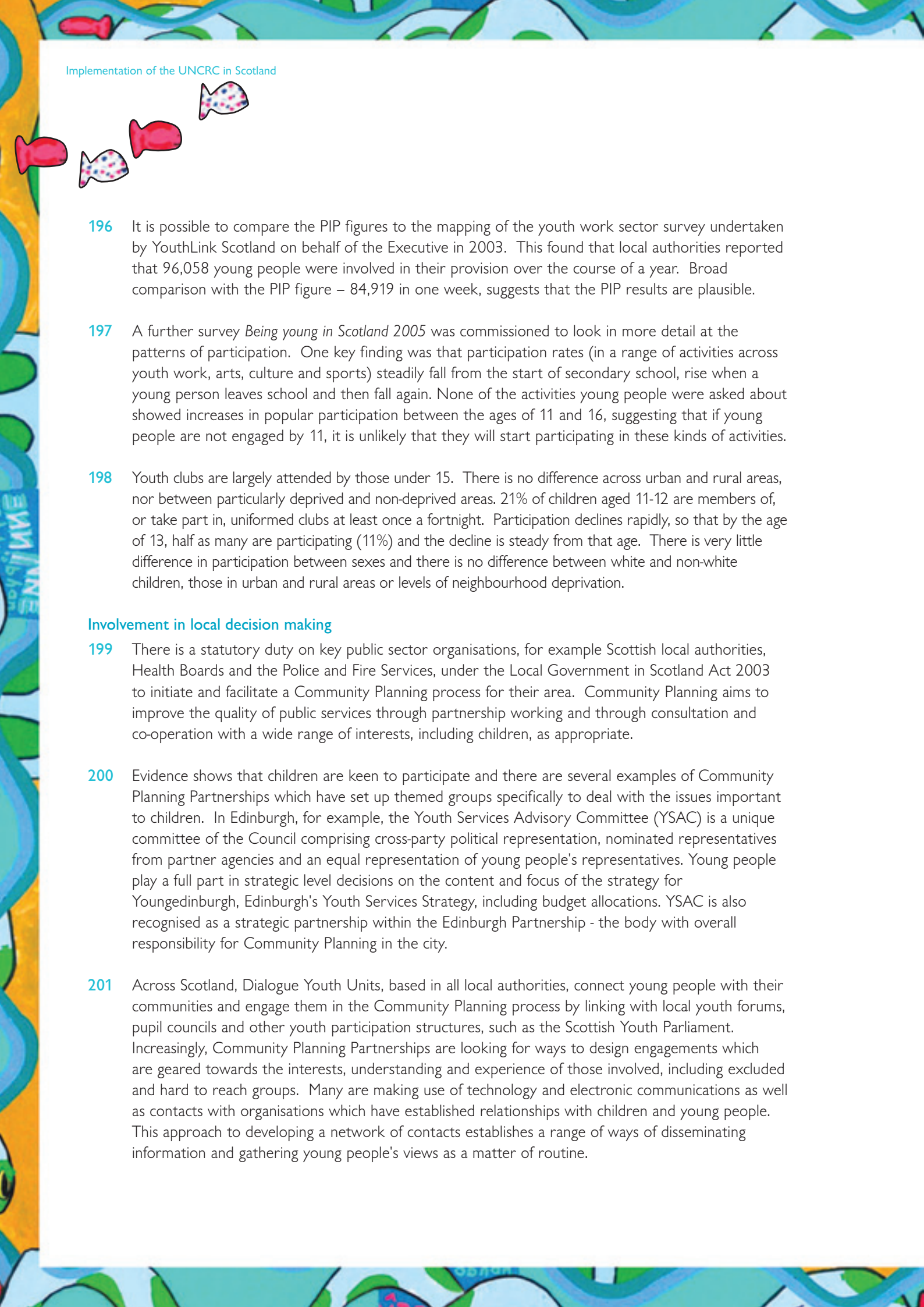
- 188** The Executive acknowledges children as citizens with a contribution to make to social and political life and is committed to improving the prospects and opportunities for children to participate in issues that affect their lives. The Executive's ambition is for all children and young people to become successful learners, responsible citizens, confident individuals and effective contributors, and this drives a programme of educational reform in Scotland.
- 189** One mechanism for engaging young people is the Scottish Youth Parliament, which is a national body that represents and engages with young people aged 14-25 in Scotland. Funded by the Executive, it plays a major role in stimulating debate amongst young people and presenting their views. Looking forward, a key priority for the Parliament is to become more representative of and engage more effectively with all young people in Scotland.



- 190 The Executive also supports the Children's Parliament which provides sustainable and meaningful opportunities for children aged 9-14 to engage in local, national and international democratic processes. Three pilot groups have been established drawing children from a wide range of backgrounds. The groups discuss a range of issues of importance to them and share their conclusions with other children and voice any opinions to parents, teachers, local and national politicians and the Children's Commissioner.
- 191 Children and young people have the opportunity to participate in youth councils/forums in their local community. However, the *Being Young in Scotland 2005* survey showed that participation in representative youth forums remains the preserve of a very small minority across all age groups (under 10%). Groups more likely to participate are school children with disabilities and those living in rural rather than urban areas. School children who also undertake some form of volunteering or fund raising are also more likely to attend youth councils or forums; although it is unclear to what extent the two activities are directly related.
- 192 Participation in pupil or student councils is also uncommon. While 87% of schools have pupil councils (90% of primary, 95% of secondary and 36% of special schools), only around 6% of school pupils say that they attend councils at least once every couple of months. This doubles to 12% of 17-25 year olds.
- 193 In December 2006, the Executive published an introduction to good practice exploring what teachers, school communities and education authorities are doing to promote children's participation in decision-making and school life. This will include pupil councils, peer support models and the involvement of children in personal decision-making meetings such as a Children's Hearing, a meeting following a school exclusion or to co-ordinate support for a pupil with additional support needs. Since 2001, the Executive has recommended the use of buddying and mentoring schemes in Scottish schools, and formal mechanisms to enable pupils to share their views regularly on matters affecting them. This includes setting priorities for the school development plan.
- 194 The Executive has encouraged voluntary organisations to increase participation of young people from certain communities of interest. For example, LGBT Youth Scotland is working towards the inclusion of lesbian, gay, bisexual and transgender young people in the civic life of Scotland. The LGBT Youth Charter of Rights has been created and developed into a toolkit which will provide organisations with a mechanism by which they can ensure that they are meaningfully engaging with and including LGBT young people, by changing the culture of their service and mainstreaming LGBT issues. Scottish Ministers have also hosted a number of seminars for LGBT communities and individuals. These allowed LGBT people, including LGBT young people, to meet Ministers and raise their concerns directly. The most recent seminar in February 2006 led directly to the establishment of a programme of work to tackle negative attitudes towards LGBT people.

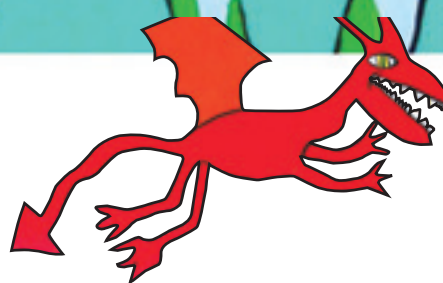
Rates of participation in youth activities

- 195 Communities Scotland carried out the *Performance Information Project* (PIP) in 2005. The aim of this project was to collect information on the activity of the community learning and development sector. The provisional findings, which should be treated as being broadly indicative rather than definitive, were:
- > 84,919 youth work opportunities provided directly by local authorities were accessed in the week in November when the data was collected;
 - > local authorities provided support to other organisations to deliver 34,323 youth work opportunities; and
 - > local authorities provided £6,718,666 to other organisations to deliver youth work.

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- 196 It is possible to compare the PIP figures to the mapping of the youth work sector survey undertaken by YouthLink Scotland on behalf of the Executive in 2003. This found that local authorities reported that 96,058 young people were involved in their provision over the course of a year. Broad comparison with the PIP figure – 84,919 in one week, suggests that the PIP results are plausible.
- 197 A further survey *Being young in Scotland 2005* was commissioned to look in more detail at the patterns of participation. One key finding was that participation rates (in a range of activities across youth work, arts, culture and sports) steadily fall from the start of secondary school, rise when a young person leaves school and then fall again. None of the activities young people were asked about showed increases in popular participation between the ages of 11 and 16, suggesting that if young people are not engaged by 11, it is unlikely that they will start participating in these kinds of activities.
- 198 Youth clubs are largely attended by those under 15. There is no difference across urban and rural areas, nor between particularly deprived and non-deprived areas. 21% of children aged 11-12 are members of, or take part in, uniformed clubs at least once a fortnight. Participation declines rapidly, so that by the age of 13, half as many are participating (11%) and the decline is steady from that age. There is very little difference in participation between sexes and there is no difference between white and non-white children, those in urban and rural areas or levels of neighbourhood deprivation.

Involvement in local decision making

- 199 There is a statutory duty on key public sector organisations, for example Scottish local authorities, Health Boards and the Police and Fire Services, under the Local Government in Scotland Act 2003 to initiate and facilitate a Community Planning process for their area. Community Planning aims to improve the quality of public services through partnership working and through consultation and co-operation with a wide range of interests, including children, as appropriate.
- 200 Evidence shows that children are keen to participate and there are several examples of Community Planning Partnerships which have set up themed groups specifically to deal with the issues important to children. In Edinburgh, for example, the Youth Services Advisory Committee (YSAC) is a unique committee of the Council comprising cross-party political representation, nominated representatives from partner agencies and an equal representation of young people's representatives. Young people play a full part in strategic level decisions on the content and focus of the strategy for Youngedinburgh, Edinburgh's Youth Services Strategy, including budget allocations. YSAC is also recognised as a strategic partnership within the Edinburgh Partnership - the body with overall responsibility for Community Planning in the city.
- 201 Across Scotland, Dialogue Youth Units, based in all local authorities, connect young people with their communities and engage them in the Community Planning process by linking with local youth forums, pupil councils and other youth participation structures, such as the Scottish Youth Parliament. Increasingly, Community Planning Partnerships are looking for ways to design engagements which are geared towards the interests, understanding and experience of those involved, including excluded and hard to reach groups. Many are making use of technology and electronic communications as well as contacts with organisations which have established relationships with children and young people. This approach to developing a network of contacts establishes a range of ways of disseminating information and gathering young people's views as a matter of routine.



- 202 The involvement of children and young people in Community Planning should result in services more closely tailored to their needs but can also contribute to their growth and help them feel valued as citizens. For example, in Clackmannanshire, the Sauchie Community Green Map is a community mapping initiative that promotes sustainable development at a grassroots level, linking the common ground that people share to produce a map of the natural and cultural environment through the eyes of all members of its community. With a focus on 'What works?' rather than 'What's the problem?', a series of workshops, one-to-one interviews and questionnaires sought to find out the positives about living in Sauchie, producing a living map of the area. Young people were paired with retired residents as they discussed the area's existing assets, limitations and future possibilities across the generations. The Community Green Map is a tangible outcome for children which can be used to validate their community and help them express their hopes for future development.
- 203 The involvement of children in Community Planning should result in services more closely tailored to their needs but can also contribute to their growth and help them feel valued as citizens. In some cases, participation can provide a mechanism for re-engaging those who have become disengaged by creating a better sense of belonging. The Executive has recently published advice on engaging children in the Community Planning process, which includes more detail on the examples outlined above, and can be found at: www.scotland.gov.uk/Publications/2006/11/09140609/0.
- 204 Planning guidance on the preparation of Integrated Children's Services Plans makes clear that engaging effectively with children is a vital component in the planning and delivery of services for children. Local authorities are expected to highlight in their Plans how the views of children have been sought, what those views were and how they have been taken into account in planning integrated service delivery. For example, many local authorities have established networks to seek input from children to inform the planning process.
- 205 Much has been achieved, but the Executive recognises that the participation of children in decision making is just beginning and there is much to learn – especially from children themselves.







04

CIVIL RIGHTS AND FREEDOMS

civil rights and freedoms

Articles: 7, 8, 13-17, 37(a)

A) NAME AND NATIONALITY

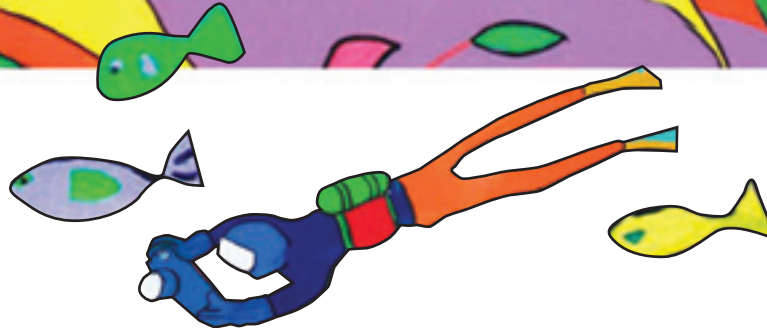
- 206** All children are born with the right to know and be cared for by their parents. All children who are born in Scotland have their birth registered, normally within 21 days.

TABLE 17
Birth registrations in Scotland

	2000	2001	2002	2003	2004	2005
Number of birth registrations	53076	52527	51270	52432	53957	54386
Percentage registered in 21 days	96%	97%	97%	97%	96%	92%

Source: General Register Office for Scotland

- 207** Following changes made in the Family Law (Scotland) Act 2006, a child's mother and father are both given parental responsibilities and rights even if they are un-married if they register the child's birth together. This affects around 40% of children born each year in Scotland.
- 208** Children may be removed from their parents in child protection cases to a place of safety under a Child Protection Order granted by the Sheriff. In some cases a child's parents may agree to the local authority providing alternative accommodation until concerns about the child can be clarified. Parents may also give up the right to parent the child and consent to making the child available for adoption. When adoption is being considered, the interests of children, birth parents and substitute parents should, where possible, be held in balance, albeit the welfare of the children throughout life is the paramount consideration. Where appropriate, children's views should be taken into account.
- 209** Only adopted persons who are aged 16 or over have automatic rights to information about their own adoption. They can obtain a copy of their original birth certificate which will provide details of their birth parents (section 45(5) of the Adoption (Scotland) Act 1978). Adopted persons under 16 have no automatic rights to information about their adoption, although adoption agencies have discretion to provide them with information including access to appropriate information from their adoption agency records.



B) CORPORAL PUNISHMENT, INHUMAN OR DEGRADING TREATMENT

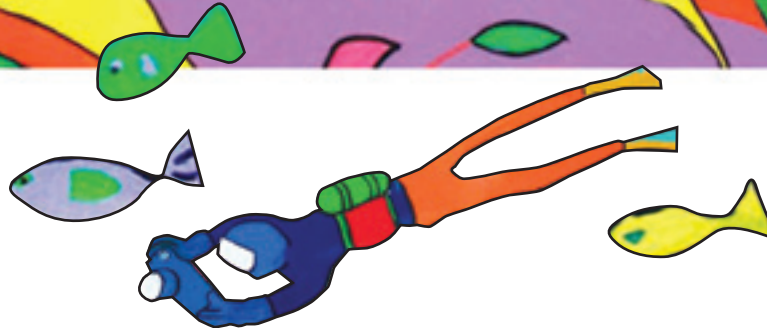
Parents and corporal punishment

- 210** The 2002 *Concluding Observations* recommended changes to legislation to remove the “reasonable chastisement” defence and prohibit all corporal punishment in the family.
- 211** The Executive believes in giving every child the best possible start in life. This extends to all areas of policy – not least that relating to child protection and support for families.
- 212** Those with parental responsibilities and rights in respect of a child under the Children (Scotland) Act 1995 have a responsibility to provide direction and guidance to the child. Both they and any other person who has care and control of a child must safeguard and promote the child’s health, development and welfare. Scottish Ministers consider that it is vital that children grow up with a strong sense of right and wrong, and a clear disciplinary framework. Where necessary, parents are entitled to punish children for doing wrong, and this can include the use of physical punishment within clearly defined limits.
- 213** However, in 2003 changes to the law relating to the physical punishment of children were brought about following detailed public consultation and thorough parliamentary scrutiny. The changes provide improved protection for children against physical assault and by giving greater clarity to the law, aim to help parents, foster parents and paid carers avoid the use of unnecessary and excessive physical punishment. For those cases which come to court, it provides clearer guidance on the factors which courts must consider, and bring these into line with factors laid down by the European Court of Human Rights and re-affirmed in the case of *A v UK*. Although this case was directly concerned with the law in England, the law of Scotland was substantially the same.
- 214** When proposing changes to the law, Scottish Ministers considered a complete ban on the physical punishment of children which would, in theory, provide complete protection for children. However, following consultation and research, they concluded that there was only minority public support for such a ban in Scotland.
- 215** Following the case of *A-v-UK* in the European Court of Human Rights, the Scottish Executive issued a consultation paper *The Physical Punishment of Children in Scotland* (February 2000). 220 responses were received:
- > 77% agreed there should be some clarification of the law and/or further restrictions introduced;
 - > 47% supported the Scottish Executive’s proposals for clarification;
 - > 34% wanted a complete ban on smacking;
 - > 17% opposed any change to the law; and
 - > 6% gave other answers.
- 216** Children’s views were sought by asking bodies such as local authorities to seek their views, commissioning Children in Scotland to canvass children’s views and research was conducted in small groups across Scotland. Children were against smacking, which was seen as frequently unfair and counterproductive.

- 217 In early 2002 the Scottish Executive commissioned research from NFO System Three Social Research and Stirling University to provide information about attitudes and behaviours amongst parents in Scotland. Key findings included that although there was some evidence of change over time in the unacceptability of many forms of physical chastisement, smacking remained deeply embedded in parenting culture within Scotland. However there was strong support for the aspects of the legislation related to making shaking, hitting around the face or head or use of an implement illegal. These findings were actively used by the Scottish Parliament's Justice 2 Committee, and were drawn upon in debates during the passage of the Criminal Justice Bill through Parliament.
- 218 Through section 51 of the Criminal Justice (Scotland) Act 2003, the Scottish Parliament set the limits clearly and for the benefit of children, without encroaching on the private life of the family. It is now illegal to punish children by:
- > shaking;
 - > giving blows to the head; and
 - > using implements, such as canes or belts.
- 219 In addition, when a court considers whether the physical punishment which a child had received constituted a justifiable assault, it must also consider things such as:
- > the child's age;
 - > what was done to the child, for what reason and what the circumstances were;
 - > the duration of the punishment and the frequency;
 - > how it affected the child (physically and mentally); and
 - > other issues personal to the child, such as gender and state of health.
- 220 The fact that certain forms of punishment are banned as never being justifiable assault does not mean that the Executive considers anything else as justifiable or condones violence towards children. Ministers have specifically said certain forms of punishment are never justifiable and have imposed a test as to whether other forms are justifiable in the circumstances.
- 221 It is worth noting that on introducing the Criminal Justice Bill to Parliament, Scottish Ministers did propose to prohibit the use of physical punishment on a child under the age of three. Parliament rejected this proposal. Parliament was also invited to re-consider the question of physical punishment of children during consideration of the Family Law (Scotland) Act 2006. It concluded that it would be inappropriate to introduce a further change to the law little more than 2 years after the most recent legislation in this area.

Promoting positive discipline

- 222 Paragraph 38(b) of the 2002 *Concluding Observations* recommended that the UK promote positive and non-violent forms of discipline and carry out public education programmes on the negative consequences of corporal punishment. The Executive has produced a booklet *children, physical punishment and the law* which both explains the law to parents and encourages positive discipline. This is designed both as an information tool and as a deterrent to the use of physical punishment. Voluntary organisations working with parents and children and focus groups of parents were consulted on the design and content of this booklet which was sent to the parents of every child in Scotland through nurseries and schools. There is still regular demand for this booklet (since 2004 over 700,000 copies have been distributed to GP surgeries, social work departments and other agencies).



- 223 It was hoped that the changes brought in by s51 of the Criminal Justice Act would change parent's behaviour and not result in increases in prosecution. It is encouraging that as yet there is no reported case law attaching to section 51. The Executive is looking at commissioning a further attitudinal survey in 2007 to examine whether public attitudes to the physical punishment of children have changed in the intervening years.

Services for children and corporal punishment

- 224 Physical punishment by childminders and in non-publicly-funded pre-school centres was banned by separate regulations under the Regulation of Care (Scotland) Act 2001 to bring them into line with publicly funded pre-school centres where physical punishment is already banned. However, babysitters and nannies working in the child's home are not banned from using physical punishment. They are subject to the ground rules set by parents, so that discipline within the home can be consistent.

Children in detention

Article 37

- 225 The 2002 *Concluding Observations* urged a review of the use of restraints and solitary confinement for children. The Executive's policy is to avoid, wherever possible, depriving under 16s of their liberty under *any* circumstances and if it is necessary, it must be for the shortest appropriate period of time. The Executive is committed to ensuring that all children who are detained, either in secure accommodation or in a young offenders' institution (YOI) are properly protected and their rights protected. Children should not be restrained or held in solitary confinement unless absolutely necessary for their own safety, or the safety of others. Staff are appropriately trained in restraint techniques and these would only be applied as a last resort. Similarly being held in solitary confinement would be a last resort and under supervision guidelines.
- 226 To help facilitate this, the Executive supported the publication of *Holding Safely*. The Executive has also funded a training programme to instruct secure unit staff on safe restraint policies, risk assessment and recording of occasions when children are restrained by staff. The Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002 reflect this policy, as does the inspection practice of the Care Commission. Scottish Prison Service staff are trained in the use of restraints as per the SPS Control & Restraints Manual. The Prison & Young Offenders Institutions (Scotland) Rules 2006 sanction the use of restraints, and include conditions governing the use of restraints; the use of solitary confinement; temporary confinement in a special cell, and temporary confinement to cell. These Rules provide that no prisoners including those under 18 can be placed under restraint as a punishment. They can only be restrained when considered necessary during the management of particular incidents within the YOI or during escort outwith secure prison boundaries. They can only be held in solitary confinement where there has been a serious breach of prison rules. The use of restraints and solitary confinement is frequently subject to review.
- 227 Detailed Care Standards published by the Care Commission require that children held in a secure setting have suitable care, accommodation, access to education, health care and other services as well as a right to privacy. In some cases however, where there is a risk of self harm, the right to privacy must be carefully balanced with the right to life when considering issues such as suicide. Family visits are actively encouraged where appropriate to maintain a right to family life. Policies and procedures in Scottish secure units are inspected against these care standards. All prisoners in Scottish prisons, including under 18s, have suitable care, accommodation, access to education (this is compulsory for

those under 16 and voluntary for those aged 16 to 18), health care and other services as well as a right to privacy. SPS has a suicide prevention strategy, *Act 2 Care*, that allows prisoners to be held in such conditions to prevent self-harm. Visits are essential to the prison regime and prisoners have a right to family visits. Prison regimes and the application of the Prison & Young Offenders Institutions (Scotland) Rules 2006 are independently inspected by the HM Chief Inspector of Prisons. There is also an independent Visiting Committee appointed by Scottish Ministers which reviews the application of the 2006 Rules in YOIs.

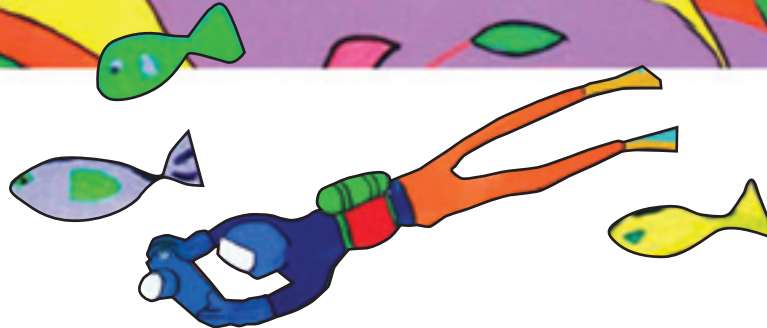
- 228** The current redevelopment of the Scottish secure estate will ensure that there is adequate accommodation provision to allow young people to be held safely, but without subjecting them to periods of solitary confinement away from the main accommodation. The Executive has also established the Intensive Support Fund which has made provision for Who Cares? Scotland to provide a service to all young people in secure to allow them to raise any issues regarding restraint or inappropriate confinement. All those in prison, including under 18s, have access to the Prisoners Complaints procedure, which allows them to raise any concerns about treatment whilst in prison. This process endeavours to resolve issues locally but can be escalated to an independent Complaints Commissioner. Prison Officers also have an advocacy element to their Personal Officer role.
- 229** Under 18s in custody in young offender institutions cannot be subjected to physical punishment or any form of torture, inhumane or degrading treatment. Article 3 of ECHR, protection from torture and inhuman or degrading treatment or punishment was enshrined in UK law by the Human Rights Act. Young offenders' circumstances are regularly reviewed to ensure that child protection is equal to that of other children. While in custody children will be provided with health, education and welfare services that are subject to constant review.

C) FREEDOM OF EXPRESSION

Articles 12 and 13

- 230** The Human Rights Act 1998 enshrined the European Convention on Human Rights into UK law, including Article 10 the right of free expression. In addition, the terms of section 29 of the Scotland Act 1998 make it outwith the competence of the Scottish Parliament to enact legislation which is incompatible with ECHR; while section 57 prohibits the Scottish Executive from acting in a way that contravenes the Convention rights.





D) FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

Articles 14 and 30

General provisions

- 231** Article 9 of ECHR, the right to freedom of thought, conscience and religion was enshrined in UK law by the Human Rights Act. This guarantees that people in Scotland can think what they want and can hold, practice and observe any religious belief. People cannot be forced to follow a particular religion and cannot be stopped from changing their religion.
- 232** Freedom of religious expression allows any member of a church or faith to practise their religion. None of the world faiths or the use of any language are prohibited in Scotland. The *One Scotland Many Cultures* campaign promotes the value of a diverse Scotland. Teaching in schools is primarily in English, but language support is provided for pupils who speak other languages until their English is of a sufficient level to enable them to participate in class. Some cultures and faiths provide language training in their mother tongue to enable children to keep their language skills.

Religious education in schools

- 233** The Education (Scotland) Act 1980 imposes a statutory duty on local authorities to provide religious education and religious observance in Scottish schools. Scottish Ministers believe that religious and moral education, complemented by religious observance, makes an important contribution to the personal and social development of our children as informed and responsible citizens. The aim of religious and moral education in Scotland is to help pupils develop a knowledge and understanding of Christianity and other world religions and to recognise religion as an important expression of human experience; appreciate moral values such as honesty, liberty, justice, fairness and concern for others.
- 234** Parents have a legal right to withdraw their children from religious and moral education and religious observance. Parents should be informed of this right and have their wishes respected. Where a child is withdrawn, schools should make suitable arrangements for the child to participate in a worthwhile alternative activity. In no circumstances should a child be disadvantaged as a result of withdrawing.

Looked after children

- 235** Guidance under the Children (Scotland) Act 1995 states that when considering the type of placement to be chosen for a child, regard should be paid to their racial, religious, cultural and linguistic background. As far as possible this background should be catered for within the placement, with carers, or one or more staff members, sharing the child's religion and heritage. Where a child is placed away from home, the social worker and the child's carers should discover whether the child practised any aspect of his or her religion when he or she was at home and provide opportunities and encouragement for this to continue. Where a child is placed in residential care, the local authority must consult with the establishment and ensure that the child is brought up in his or her religious persuasion.

- 236** In addition, when inspecting care services, the Care Commission takes into account Care Standard 9(5) which provides that children “can make an informed choice about whether or not to follow a faith. Depending on your age, the views of your family will be taken in to account. You will receive support and practical help if you choose to follow a faith”. Standard 14 also provides that “Staff will respect your wishes about the private aspects of your life and your religious, cultural, political, social and sexual preferences. They give you privacy and respect confidentiality”.

E) FREEDOM OF ASSOCIATION AND PEACEFUL ASSEMBLY

- 237** Article 11 of ECHR, the right to freedom of association and assembly was enshrined in UK law by the Human Rights Act. This protects the right to protest peacefully by holding meetings and demonstrations. These rights apply equally to adults and to children.
- 238** There has been some concern expressed that the dispersal powers in Part 3 of the Antisocial Behaviour etc. (Scotland) Act 2004 conflict with Article 11 of ECHR and Articles 15 and 31 of the UNCRC. All of the measures in the 2004 Act, including the dispersal powers, comply with ECHR. Furthermore, as indicated in the relevant statutory guidance, the dispersal provisions in the Act are not appropriate for industrial disputes, demonstrations or other public processions which either require permission or are exempt from requiring permission under the Civic Government (Scotland) Act 1982. Police powers in these situations will be governed by the common law and the Public Order Act 1986 as appropriate.

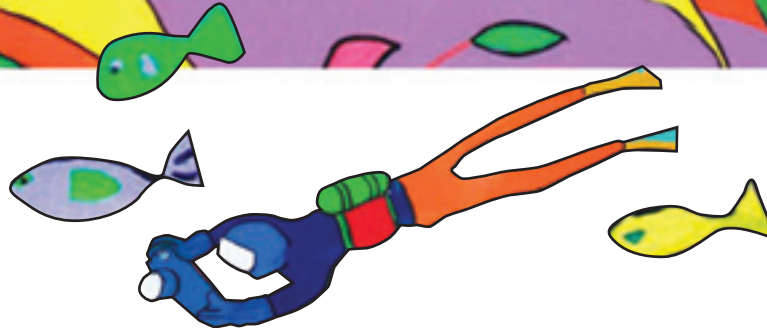
F) PROTECTION OF PRIVACY

Article 16

- 239** Article 8 of ECHR, the right to respect for private and family life was enshrined in UK law by the Human Rights Act.
- 240** When inspecting care services, the Care Commission takes into account Care Standard 14 which provides that “Staff will respect your wishes about the private aspects of your life and your religious, cultural, political, social and sexual preferences. They give you privacy and respect confidentiality”. The same standards apply within residential and secure care.

G) ACCESS TO APPROPRIATE INFORMATION

- 241** The Executive is committed to making appropriate information available to children and their families. Parenting Across Scotland (PAS) are funded to provide a focus for issues affecting parents and families in Scotland today. PAS is a partnership of voluntary organisations which use their experience of working parents to find ways of better supporting parents and families as well as incorporating the parental voice in the policy-making process.
- 242** As part of the eCare children's services pilots, the Executive funded work by Glasgow City Council (Stuff About Me (SAM)) on how children might access electronically information held about them by education, health and social work.



- 243 Figures recorded in 2004-05 found there were 545 public libraries and 82 mobile libraries in Scotland which were accessible to children. There are also more than 400 libraries located within secondary schools and more than 2000 primary schools with some level of library provision.

Freedom of information

- 244 The Freedom of Information (Scotland) Act 2002 came into force in January 2005 and applies to all public authorities that are listed in that act. It provides for the right of wide general access to information held by those authorities subject to clearly defined exemptions and conditions.

Protection of children from inappropriate material

- 245 In 2004 the Executive launched an internet safety campaign and a new website aimed at parents called www.chatsafer.co.uk which provides information and advice to parents and children on how to stay safe when using the internet and mobile phones. For example, it offers advice on how to set up filtering systems on a PC and block unsuitable material, what to do if a child is sent unsuitable material by e-mail or text and a guide to commonly used web-jargon which parents may not understand but could be important in protecting their child. This campaign is linked to the UK-wide Think U Know campaign run by the Child Exploitation and Online Protection Centre.
- 246 The Executive also published advice in March 2003 on the safe use of the internet at www.scotland.gov.uk/clickthinking to support local authorities in their role of managing the risk associated with internet access. A paper copy was sent to all local authorities.
- 247 The internet is a reserved matter and the Executive has close links with the UK Home Office on internet safety and developments.







05

FAMILY ENVIRONMENT
AND ALTERNATIVE CARE



family environment and alternative care

Articles: 5, 9-11, 18, 19-21, 25, 27, 39

A) SUPPORT FOR CHILDREN AND FAMILIES

248 The Executive has funded a considerable range of support for families and children aimed at improving life opportunities for children. This is holistic support which comes from local authority children's services, adult community care services, health services and other partners.

Young Carers

249 The 2001 Census indicated there were 16,701 children aged 5-17 with caring responsibilities – 2.1% of all Scottish children. Other studies indicate that 10% may be a more accurate figure given that the Census is completed by adults and is generally thought to under-report the real incidence of young caring.

TABLE 18

Number and age of young carers aged 0-17 in Scotland by hours of caring per week

Age	1 - 19 hours	20 - 49 hours	50+ hours	Total
0-4	0	0	0	0 (0%)
5-7	626	77	103	806 (5%)
8-9	963	108	134	1,205 (7%)
10-11	1,702	176	166	2,044 (12%)
12-14	4,191	405	349	4,945 (30%)
15	1,800	271	148	2,219 (13%)
16-17	4,229	789	464	5,482 (33%)
All	13,511 (81%)	1,826 (11%)	1,364 (8%)	16,701 (100%) (100%)

Source: 2001 Census

250 Taking on caring responsibilities can affect a child's physical and emotional health which can result in both immediate and long-term implications for their personal development. There is therefore a clear need to support the young carer through children's services but also to support parents through appropriate adult community care services so that, wherever possible, a child does not have to take on a caring role whether it be for a disabled parent or for other siblings because the parent is unable to cope.

251 In recognising that in some circumstances children want to undertake a degree of caring for a family member, the Executive is committed to supporting young carers whilst also protecting them from inappropriate caring responsibilities. Improved support for young carers has been realised under the Executive's Strategy for Carers in Scotland (1999) with the number of young carer support projects in Scotland rising from 23 in 1999 to 57 in 2006. The Executive's starting point is that young carers are children first and foremost. Support for this group will therefore be mainstreamed into existing policies aimed at improving children's services (*Getting it right for every child*) and improving the support available to children at school (the Education (Additional Support for Learning) (Scotland) Act).



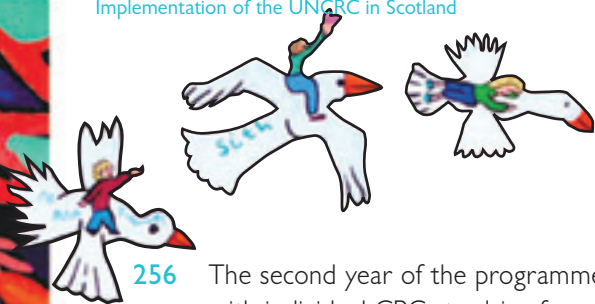
- 252 A self-evaluation tool is being developed so that agencies and partnerships involved in supporting young carers and their families can assess the outcomes being achieved for young carers and where necessary improve their services. Policies to improve the support available to young carers are also being linked to the Executive's wider work to support children and families affected by drug and alcohol misuse.

B) CHILD PROTECTION

Articles 34 – 37

The child protection reform programme

- 253 Protecting the vulnerable in our society, especially children, is a priority for Scottish Ministers. Following an audit and review of child protection and the publication of the report, *It's everyone's job to make sure I'm alright*, in November 2002, Ministers published the child protection reform programme. This set out a 5 point action plan, including:
- > developing a 3 year programme of sustained activity to reform child protection services and bringing in a team of professionals with extensive experience of child protection to work with the Executive in carrying this forward;
 - > developing a tough new multi-disciplinary inspection system;
 - > developing a children's charter setting out the protection that every child has the right to expect; and
 - > providing additional resources to ChildLine and Parentline.
- 254 In 2003 a reform team was recruited, which included secondees from health, police, education and social work, to take forward the 3 year programme. In the first year of the programme, working closely with practitioners and agencies, the programme produced:
- > *Protecting Children and Young People: the Charter* which was developed with the input of children and was widely distributed to practitioners in child protection across all agencies, schools, and for display in local offices, etc.;
 - > *Protecting Children and Young People: Framework for Standards* which translated the Charter into 8 overarching standards for professionals working in child protection. The key objective is that children get the help they need when they need it;
 - > *Safe and Well* which provides guidance to staff in schools and local authorities on the care, protection and welfare of children in schools;
 - > a structure for the development and delivery of multidisciplinary inspection; and
 - > a strengthened model for Child Protection Committees (CPCs) in all 32 local authority areas.
- 255 CPCs are non-statutory bodies that operate throughout Scotland and their membership comprises representatives of those agencies with responsibility for child protection – social work, the police, health, education and local authorities. CPCs are directly accountable to Chief Officers of these agencies. As part of the strengthened model, each CPC is required to prepare and submit an annual report and business plan to the Executive, as part of the integrated children services planning requirements. CPC annual reports and business plans must include an account of work against the previous plan, information on the level and quality of inter agency work and an outline business plan, including a budget for the coming year. CPC annual reports and business plans enable some comparisons across CPCs and, more importantly, year on year trends for individual CPCs. They also provide public information, both to staff in partner organisations and the wider public about the activity of the CPC; and inform policy development at local and national level.



- 256 The second year of the programme involved members of the reform team working on a paired basis with individual CPCs to drive forward the reform agenda, developing guidance for the new CPC arrangements and piloting of the approach to be used in joint inspection.
- 257 Work was also done on raising awareness of what people can do if they are concerned about a child through the publication of *Protecting Children and Young People: What you can do to help if you are worried about a child or a young person* – which was distributed nationally and contained generic information and localised telephone contacts. In February 2007 a 24 hour single gateway freephone number, ChildProtectionLine, was launched, funded by the Executive. It offers straightforward access to local child protection services across Scotland for anyone who has a concern about a child. Trained call handlers provide information about child protection and route calls to local child protection services. It is expected that ChildProtectionLine will produce gradual and sustained improvements in reducing the public's confusion about who to contact, when they are concerned about a child. The Executive is working with local agencies to develop and refine local monitoring arrangements for tracking the impact of the service and will formally evaluate the service in Autumn 2008.
- 258 The Executive is working with stakeholders from the statutory and voluntary sectors to develop a Code of Practice on *Sharing Information When A Child Is In Need Of Protection*. The draft Code is currently being considered by stakeholders to ensure its information-sharing principles can help strengthen how children at risk are identified and their needs assessed and supported.
- 259 To strengthen social workers' understanding and knowledge of child care and protection as part of the new social work degree, key capabilities in Child Care and Protection have been developed in conjunction with Scottish Universities and others involved in delivering the degree. These build from the Standards in Social Work Education that were developed for the degree and which set out what it is social workers should know and be able to do on qualifying. The key capabilities will provide a strong foundation for those entering the profession and help ensure they understand their responsibilities towards children. The key capabilities are in the process of being embedded in the teaching and learning of the degree. Progress will be monitored by the Scottish Social Services Council (SSSC) which was established in 2001 to regulate the social service workforce and its education and training.
- 260 As part of driving up standards and improving public protection, the SSSC has also set Post Registration Training and Learning (PRTL) requirements for social workers. In order to maintain their registration social workers must complete a minimum of 15 days (90 hours) PRTL over 3 years. At least 5 days (30 hours) of the PRTL activity must focus on working effectively with colleagues and other professionals to identify, assess and manage risk to vulnerable groups. This is in order to ensure that newly qualified social workers are assisted to meet their primary responsibility of protecting children and adults from harm. The number of social workers registered in Scotland in June 2007 was 9,920.



- 261 The child protection reform programme has been independently evaluated by the Centre for Child Care and Protection at the University of Dundee and Barnardo's Scotland. Their remit was to examine whether setting up this programme was an effective approach to reforming child protection. The full findings of the evaluation were published in March 2007 and are available at <http://www.scotland.gov.uk/Publications/2007/03/13100337/0>. The key findings were:
- > there was an overwhelming consensus that the reform programme had been successful in meeting its aims and objectives and has led to improvements at a national and local level;
 - > respondents noted increased public and professional awareness of children's needs for care and protection;
 - > all sub-projects of the reform programme were influential; the *Framework for Standards* and guidance for CPCs tended to be singled out as particularly important;
 - > much of the success so far was attributed to the extensive work and commitment put in by staff at all levels in all key agencies in taking the national policy agenda forward locally;
 - > child protection professionals described significant improvements in the amount of awareness, information sharing and joint working. They also considered that there had been a rise in a sense of shared responsibility for identifying and meeting specific needs of children which might previously have slipped through the net; and
 - > in the surveys and the focus groups there was a strongly expressed view that increased awareness of child protection issues had led to an increased workload for all professions and that this had impacted on resource.

Ongoing work from the child protection reform programme

- 262 The Executive has recently asked Aberlour Child Care Trust in partnership with the Scottish Coalition for Young Runaways (a partnership of statutory and voluntary bodies with wide experience of working with runaways and other vulnerable young people) and the Centre for Crime and Justice Research at the University of Stirling to conduct a scoping study of services across Scotland for young runaways.

eCare

- 263 The Executive is currently developing the eCare Framework to enable electronic multi-agency information exchange for a number of client groups, including vulnerable children and adults. It is working with 14 local data sharing partnerships, each one covering one of Scotland's health board areas, and is inclusive of health, education, social care, police and other agencies. These partnerships have responsibility for implementing local data sharing using the eCare Framework.
- 264 One of the initial priorities for the partnerships is the roll-out of the eCare child protection messages. Pre-determined messages are automatically generated whenever a formal child protection activity is recorded on the Social Work IT application. The messages are viewed and acknowledged on the Social Work application, sent to the local eCare Multi-Agency Store, then viewed and acknowledged by partner agency practitioners with agreed permissions. National implementation of this system is planned, with nationally agreed minimum data and technical standards.
- 265 This is being taken forward by the Executive's Transformational Technologies team which manages the eCare Framework. The Executive is also currently considering options for an architectural framework for Scotland-wide information sharing. The next phase of work is to support the information-sharing requirements for *Getting it right for every child*. The Executive is working with local partners to determine the data and technical requirements that will underpin this.



Disqualification from working with children

266 Up to 1 million people in Scotland work with children (or vulnerable adults) either through their paid employment or as volunteers. The Police Act 1997 put in place a statutory framework to allow for criminal record checks for employment for these and other workers and these checks have been available since April 2002 from Disclosure Scotland. Individuals seeking employment in care/childcare positions are normally eligible for an enhanced criminal record check under current arrangements. In these cases, as well as information about convictions, the police have discretion to provide non-conviction information they consider to be relevant to the position being considered.

267 The Protection of Children (Scotland) Act 2003 established a list of individuals who are unsuitable to work with children under 18 (the Disqualified from Working with Children List) and was commenced on 10 January 2005. It is an offence for an *organisation* to offer work in a child care position to an individual who is on the DWCL. In instances where an individual is applying for a job to work with children, the enhanced criminal record check reveals whether the individual is on the DWCL. It is also an offence for an *individual* on the DWCL to work in a child care position.

268 Individuals are only placed on the DWCL following a referral by an organisation or court. An organisation must refer an individual who has harmed or is considered to be a risk of harm to a child and whom the organisation has dismissed or transferred (or would have done so) for this reason. Organisational referrals are considered by senior officials with relevant expertise on behalf of Scottish Ministers. Courts must refer individuals convicted of certain serious offences and may make referrals in other cases. Court referrals lead to automatic listing (i.e. without further consideration). By 24 April 2007, after 27 months of operation, there were 154 individuals listed on the DWCL, 119 through court referrals and 35 following organisational referrals.

269 The current legislation on vetting (Police Act 1997) and barring (Protection of Children (Scotland) Act 2003) and their operation has been shaped by the lessons learnt from the Dunblane Tragedy in 1996. More recently, Sir Michael Bichard reported in June 2004 following his inquiry into the murder of two schoolgirls in Soham, England in 2002. Sir Michael Bichard's report was directed at England and Wales but the significance of the underlying issues prompted the Executive to legislate for Scotland, mirroring similar legislation for England and Wales.

270 Thus the Protection of Vulnerable Groups (Scotland) Act 2007 provides the framework for an improved vetting and barring scheme for those working with vulnerable groups in Scotland. The objectives of the new scheme are to prevent unsuitable individuals from gaining access to vulnerable groups through their work and to ensure that people who become unsuitable are detected early and prevented from continuing to work with these groups. The 2007 Act replaces and brings together the relevant provision in the 1997 Act and 2003 Act so that the vetting and barring are integrated into a coherent process. (It also provides for a list of individuals disqualified from working with vulnerable adults for the first time in Scotland.) This means that relevant information on the new version of an enhanced criminal record certificate will be assessed by a new barring unit and, if it indicates that the individual is unsuitable to work with children or vulnerable adults, that individual will be listed and prevented from joining the relevant workforce. Furthermore, new relevant information which comes to light once the individual is in the workforce will be considered as it arises and, if the aggregate information merits it, the individual will be listed and removed from the relevant workforce.



Draft Code of Practice on sharing child protection information

- 271 The Protection of Vulnerable Groups Act, as introduced to the Scottish Parliament, contained provisions around statutory duties in relation to the sharing of child protection information. Poor information sharing has been identified as a contributory factor in a number of catastrophic child protection failure cases. However, the timescale had precluded any formal consultation on these specific provisions and Parliament did not support this part of the Act. Ministers agreed to withdraw the provisions.
- 272 Following that decision, the Executive has taken forward the development, in association with stakeholders, of a generic draft Code of Practice on sharing child protection information. The draft Code was circulated to a wide range of stakeholders over the spring and summer 2007 to gauge views across agencies and groups who will work with the Code once it is established to ensure that it is fit for purpose.

Abuse and neglect, including physical and psychological recovery and social integration

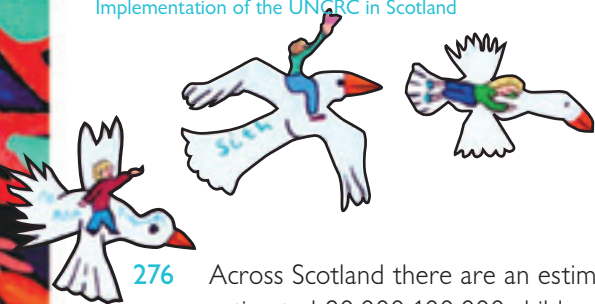
Articles 34-37, 39

- 273 Local agencies have in place their own protocols and procedures for handling instances of abuse and neglect with specific underpinning by the Children (Scotland) Act 1995, including seeking compulsory measures through the Children's Hearings System. *Protecting Children – A Shared Responsibility: Guidance on Inter-Agency Cooperation*, published in 1998 provides the criteria for inclusion of children on local child protection registers to provide additional support. Statistics are published annually by locally authority area which indicate how many children (by age and gender) have been put on/come off the child protection registers and record the main reason for their inclusion. Since April 2002 the Care Commission has inspected all residential care homes for children to ensure the quality of services and that children are being properly protected.

Substance Misusing Households

Article 33

- 274 In 2003 the UK's Advisory Council on the Misuse of Drugs published *Hidden Harm* which highlighted the plight of children affected by parental drug use. The key messages of the report were that:
- > parental problem drug use can and does cause serious harm to children of every age;
 - > reducing the harm to children should become a main objective of drug policy and practice;
 - > effective treatment of the parent can have major benefits for the child;
 - > by working together, services can take practical steps to protect and improve the health and well-being of affected children; and
 - > the number of affected children is only likely to decrease when the number of problem drug users decreases.
- 275 When *Hidden Harm* was published, the Executive established a Steering group to take forward this work. The Group benefited from membership from a number of interests from across the Executive as well as key external stakeholders. The Executive responded to the Report and following a wide ranging consultation which involved key stakeholders, families and young people published *Hidden Harm – Next Steps; Supporting Children – Working with Parents* in May 2006.



276

Across Scotland there are an estimated 40,000-60,000 children affected by parental drug use. An estimated 80,000-100,000 children are affected by parental alcohol misuse. The vision for all children in Scotland is that they should be safe, nurtured and healthy and have the opportunity to reach their full potential in education and grow to become active responsible citizens. This is not always achievable for children affected by substance misusing parents.

277 *Hidden Harm – Next Steps* identifies a range of actions and initiatives to improve the way in which children living in substance misusing households are supported and protected. It describes action already underway as well as setting out priority areas for future action:

- > more effective identification of children at risk;
- > more effective communications between agencies, particularly those dealing with adults and children, including the sharing of information;
- > re-training of social workers and other frontline staff in child protection;
- > ensuring that drug users with children undergo a multi agency assessment so that decisions can be taken on capability and care plans with a timetable for action;
- > a more interventionist approach by social work and related services in working with parental drug users to ensure adherence to care plans;
- > developing a new fostering strategy; and
- > improving connections between sexual health and addiction services.

278 While the key focus of this work puts children at the centre it is recognised that parents with substance misuse problems need help. If that help is available then their life circumstances can improve. This work set against a number of other initiatives. *Getting Our Priorities Right* was published in 2003 and set out guidance for working with children and families affected by substance misuse. This was followed by *Getting it right for every child* which aims to put the child at the heart of children's services.





- 279 *Looking Beyond Risk* was published in 2006. This is a scoping study on parental substance misuse, commissioned from the University of Bath, with support from the University of Birmingham. The research included an in depth and detailed literature review, and identified a number of key gaps in the literature available.
- 280 Following the launch of *Hidden Harm – Next Steps* in May 2006, Scottish Ministers launched a comprehensive work plan to tackle issues around children in substance misusing households. This suite of robust actions is founded on the principle that chaotic substance misuse is incompatible with parenting, and that the safety and welfare of children is paramount, even above keeping families together.
- 281 The following case study illustrates the type of situation where some of the actions being proposed to help parents who have substance misuse problems might improve their situation and that of their children considerably. These include developing contracts with substance misusing parents which will place children at the core of a plan signed up to by all parties to ensure that children's needs are prioritised.

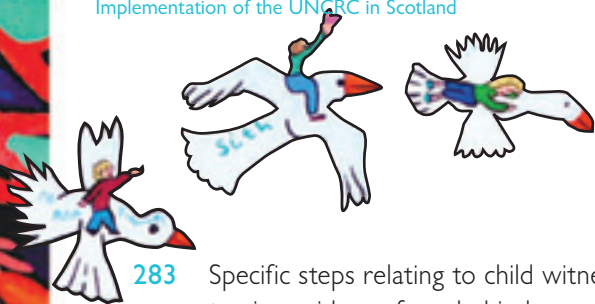
Tracey was 19. She started using cannabis when she was 13, became pregnant at 15 and now had 2 children, one only 2 years old. Her current partner was in prison, but before he went away, he introduced her to injecting heroin by first injecting her himself, and then showing her how to do it. One day Tracey forgot to pick her children up from nursery. The Social Work Department were called, and when they visited Tracey at home, they found her intoxicated on heroin and her house in a terrible mess.

After this, Tracey and the children had a full assessment, and it was decided Tracey should sign up to her children's single record and plan, which detailed expectations of what the children needed to be safe and nurtured, as well as what Tracey had to do to seek treatment herself and protect and safeguard the children. This also detailed a number of support services which would be offered to Tracey and the children. It was made clear to Tracy, that a significant deterioration in hers' and the children's circumstances could result in a referral to a Children's Hearing and that this could result in compulsory measures of care for the children. At worst, this could mean Tracy no longer being considered able to care for them.

All of this was in the children's interests, and the information within the plan and contract would help everyone establish what they needed to achieve for the children's sake, and how they would know if improvement's had been achieved.

Support for children ensuring there is no victimisation in legal proceedings and that privacy is protected Articles 12, 39 and 40

- 282 The Executive has acted, through the Vulnerable Witnesses (Scotland) Act 2004, to improve conditions for witnesses to enable the most vulnerable, including children, to give the best evidence they can. Implementation of the Act, associated practitioner guidance and public information material will help ensure that a vulnerable child is not victimised in legal proceedings by providing support for the witness when giving evidence, while taking account of the child's views on how that should be done. It also promotes a child's sense of dignity and worth by seeking to ensure that a child's evidence will be taken seriously whether the child is a witness or an accused person.



283

Specific steps relating to child witnesses include an entitlement for child witnesses under the age of 16 to give evidence from behind a screen (not available to an accused person in criminal proceedings) or via a TV link and the presence of a supporter for the child. Other special measures provided for in the Act may also be available to help child witnesses give their evidence. They are available to child witnesses in High Court and Sheriff Court criminal proceedings, children's hearings court proceedings and all civil proceedings in the Court of Session and Sheriff Courts. In addition the following provisions of the Vulnerable Witnesses Act are directly relevant to child witnesses:

- > an expectation that child witnesses under 12 in certain cases of a sexual or violent nature are not required to attend court to give their evidence provided that this will not give rise to significant risk of prejudice to the trial. Evidence would instead be given via a commissioner or from a remote live TV site;
- > where a witness in a criminal trial has previously identified an accused person through a recognised identification procedure, dock identification may not be necessary;
- > in sexual offence cases certain expert evidence can be admitted for the purpose of explaining the behaviour of the victim to rebut any inference adverse to the credibility of the complainer which might otherwise be drawn from their behaviour;
- > in certain types of criminal cases involving a witness who is under 12 years old a prohibition may be placed on the accused person to the effect that they cannot personally conduct their defence. Such a prohibition may also apply where older child witnesses are involved;
- > there is a prohibition on an accused person personally conducting a precognition of a child witness under 12 in certain cases involving violent or sexual offences;
- > in Children's Hearings court proceedings a new rule is created which restricts evidence or questioning with reference to the character or sexual behaviour of the child who is the subject of the referral, subject to certain exceptions; and
- > the competence test for witnesses in all criminal and civil proceedings is abolished.

These new court measures and dealings with child witnesses throughout all stages of legal proceedings are supported by the Child Witness Support Guidance Pack for practitioners on *Special Measures for Vulnerable Adult and Child Witnesses* as well as extensive public information material for child witnesses and their parents and guardians which explains what it means to be a witness.

- 284 Independent monitoring and evaluation of the impact of the 2004 Act has begun, and adjustments will be made in the light of emerging evidence.

Reporting system and training for those working with children in the identification, reporting and management of case of ill treatment

- 285 Section 53 of the Children (Scotland) Act 1995 allows a local authority, a police constable or any other person to refer a child to the Children's Reporter where compulsory measures of supervision may be necessary. The Reporter is then obliged to investigate appropriately and make a decision on any future action to assist or protect the child. Induction training for Reporters and the Reporter Accreditation Scheme address the identification and management of ill-treatment of children.



- 286 As part of the child protection reform programme the Executive undertook to develop a training framework and a national suite of training materials. A national set of arrangements to support those working with complex child protection issues and cases has been developed by a working group set up for this purpose. This included guidance which has strengthened the role of Child Protection Committees across Scotland. CPCs have a key role in the training and development of staff working with children and families. They are responsible for promoting, commissioning and assuring the quality of inter-agency training and ensuring that this training raises awareness of child protection issues and multi-agency working to make sure children get the help they need when they need it.

Data and research on crimes committed against children

Article 19

- 287 There is no specific information on the number and percentage of children reported as victims of abuse and/or neglect by parents or other relatives/carers. However, the number of children referred to the Children's Reporter under the Children (Scotland) Act 1995 as being likely to suffer unnecessarily; or be impaired seriously in his health or development due to a lack of parental care' was 17,801 in 2005-06. 17,331 children were victims of offences in 2005-06, a 308% increase over the past 10 years. There was almost exactly a 50/50 gender split, but girls more likely to be victims of sexual offences and boys more likely to be victims of bodily injury.
- 288 SCRA data and Victims Support Scotland research commissioned by the Executive in 2005 also indicated that many victims of child and youth crime in Scotland are other children and young people.
- 289 Nor is there any specific data on the number and percentage of cases reported that resulted in sanctions or other forms of follow up for perpetrators. There is, however, information from SCRA on decisions made by Reporters on children referred to them. Some categories of crime in Scottish Executive statistics by definition involve a child victim (though not their age), for example 'cruelty and unnatural treatment of children'. The detailed statistics collected on homicide also pick up information on the age of the victim. However, for all other crime categories information on age and other victim characteristics is not collected.
- 290 Scottish statistics on court proceedings are now starting to pick up offence aggravator codes which identify offences involving a child victim. However, this data – which doesn't specify the age of the child victim – is still building up and we have yet to evaluate the coverage and reliability of any statistics that could be derived from it.

**TABLE 19**

Children in Scotland registered following a case conference by category of abuse/risk identified

	2005			2006		
Category of abuse/risk	Number ⁽¹⁾	% of total	% of Scottish population ⁽²⁾	Number ⁽¹⁾	% of total	% of Scottish population ⁽²⁾
Physical injury	628	27.4	0.1	779	27.9	0.1
Sexual abuse	226	9.9	0.0	301	10.8	0.0
Emotional abuse	376	16.4	0.0	442	15.8	0.0
Physical neglect	1,035	45.1	0.1	1,243	44.5	0.1
Failure to thrive	11	0.5	0.0	6	0.2	0.0
Unknown/Data not provided	18	0.8	0.0	20	0.7	0.0
Total	2,294	100.0	0.2	2,791	100.0	0.3

Note: Children referred for child protection inquiries in Scotland in the years ended 31 March 2005 and 2006 who were subject to a case conference and were registered as a result of that conference. In 2004/05, failure to thrive also included child known/suspected perpetrator.

Source (1): Child protection 2004/05 and 2005/06 surveys, Scottish Executive.

Source (2) % of population based on 2004 and 2005 mid-year estimates from General Register Office (Scotland) using population of 0-17 year olds.

TABLE 20

Reporter decisions on children referred to the Children's Reporter, 2005-06

Reporter decisions	Number of Children		
Arrange a Hearing	Non-offence cases	Offence cases	Total*
Arrange a hearing	4,674	2,296	6,255
Custody referral to the Procurator Fiscal	0	230	230
Custody referral to the Reporter	0	6	6
Family action already underway	3,021	947	3,873
Measures already in place	4,022	2,921	5,881
Diversion to other measures	191	4,345	4,457
Insufficient evidence to proceed	7,918	1,582	9,392
No indication of a need for compulsory measures‡	20,930	8,573	28,318
Refer to local authority	5,150	1,445	6,035
Joint referral to Procurator Fiscal	Less than 5	890	891
Total decisions made	40,287	17,755	53,223

* This figure counts every child referred to the Reporter once for the year. A child may be referred to the Reporter more than once in the year on different grounds, so the total does not equal the sum. This is reflected in the breakdown of children for each ground, which does not aggregate to the total when counting each child once.

‡ The number of cases where "No indication of a need for compulsory measures" was the outcome reflects the fact that the Reporter may only act where it is believed that compulsory measures of supervision are necessary. Where these are considered unnecessary no further action may be taken by the reporter although the referring agency may put in place voluntary measures.

Source - SCRA Annual Report 2005-06.



- 291 Paragraph 40(f) of the 2002 *Concluding Observations* recommended that all crimes committed against children should be included in the *British Crime Survey*. The *British Crime Survey* has not covered Scotland since 1988 although there is a Scottish equivalent, now called the *Scottish Crime and Justice Survey* (SCJS). This survey has not covered crimes committed against children, but rather personal and household crime committed against adults. The Executive will consider whether the SCJS could be used to gather information on crimes committed against children in future.
- 292 As part of the Executive's National Strategy for Adult Survivors of Childhood Sexual Abuse a £2m Survivors' Fund has been set up. Part of this funding will be used for a new Sexual Abuse Service Development Fund which will allow organisations to apply for funding to extend existing services to new areas or to develop more innovative approaches to studying causes and prevention. Good progress is being made on the strategy more generally and other work to date includes initial development of 2 pilot projects on data collection with the intent of helping map services currently available while concurrently providing training programmes, awareness raising and "training for trainers".

C) PARENTAL GUIDANCE

- 293 Information about the principles underpinning the Children (Scotland) Act 1995 including the definition of parental responsibilities and rights (PRRs) were fully described in the last UK report. In summary, Section 1 of the Act places a duty on parents to safeguard and promote a child's health, development and welfare; provide direction and guidance to the child; maintain personal relations and direct contact with the child and act as the child's legal representative. Much of the language used in section 1 can be traced to the UN Convention as the Act was designed to give effect to it.

D) PARENTAL RESPONSIBILITIES

Articles 5, 12, 14, 18, 19 and 20

Legislative position

- 294 Changes to the law on parental responsibilities and rights (PRRs) were introduced by the Family Law (Scotland) Act 2006. The core principles which underpinned these reforms were: the best interests of children; the need to promote and support stability in families; and the need to update the law to reflect the reality of family life in Scotland today. The changes made which directly connect with the rights of the child were:
- > the extension of PRRs to unmarried fathers who jointly register the birth of their child with the child's mother (affects approx 40% of children born each year). It also ensures that where registration as a father in England, Wales or Northern Ireland confers PRRs, it also does so in relation to a child subject to the law of Scotland; and
 - > the strengthening of legislation to address issues of domestic abuse where child contact and residence are concerned. Section 11 of the 1995 Act was amended to provide that courts must take a number of factors into account in determining the child's welfare when making orders about future contact or residence arrangements for children. For example, the need to protect the child from abuse or risk of abuse and the effect such abuse or risk of abuse might have on the child.
- 295 Following these changes, two new information booklets, *Family Matters: Marriage in Scotland* and *Family Matters: Living Together in Scotland* have been produced and widely distributed. Both of these booklets explain parental responsibilities and rights and emphasise the need to hear and consider children's views when important decisions are being made.



Support for parents

- 296 The Executive wants every child, including children from vulnerable families, to have the best possible start in life. Helping children realise their potential is key to giving them a sense of fulfilment and equipping them for the future. Parents do an invaluable job in enabling children to reach their potential and it is likely that, in order to help them, all parents will need information and support at some point in the lives of their children.
- 297 The Executive has not developed an overarching strategy to support parents, but there is a wide range of cross-cutting action underway offering support to parents and families. This includes the development of positive parenting skills through Sure Start Scotland, funded parenting classes and peer support groups. The Executive also provides funding to a range of organisations to support parents such as ParentLine Scotland, Parenting Across Scotland, Homestart, Parent Network Scotland and One Parent Families Scotland. These organisations provide a range of training and classes for parents to help them deal with difficult behaviour, general parenting skills, etc.
- 298 In addition, the Executive established *Starting Well*, a national health demonstration project for early years based in Glasgow flowing from the White Paper *Towards a Healthier Scotland*. It aims to demonstrate that child health in Glasgow could be improved by a programme of activities that both supported families and provided them with access to enhanced community-based resources. It has been independently evaluated and the learning is being shared across Scotland. In Glasgow, following Phase Two of *Starting Well* (2005-2006) there has been a commitment by the NHS Board and its local partners to mainstream the work as part of local implementation of *Health for All Children* (Hall 4).
- 299 The Executive is determined that parents should take responsibility for parenting their children well and has introduced parenting orders through the Antisocial Behaviour (Scotland) Act 2004 to help achieve this. A three-year pilot was introduced in April 2005 for which there was funding to improve parenting services and provision. Where a parent has refused to take advantage of help and support made available to them on a voluntary basis and where their behaviour is having a negative impact on their child, parenting orders make it compulsory for a parent to access the support they need. They are an additional tool to be used as a last resort for those working with families in difficulty. To date no parenting orders have been applied for in Scotland.
- 300 The Executive's pre-school education and childcare census 2006 found there were 4306 childcare and pre-school education centres in Scotland. These centres provide a wide range of services including nursery education, out of school and breakfast clubs, parent and family support groups and health services. In addition there were 5460 registered childminders.

Domestic abuse

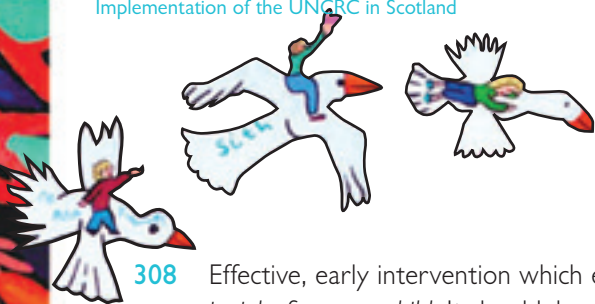
- 301 *The National Strategy to Address Domestic Abuse in Scotland* launched by the Executive in 2000 includes recommendations for action locally and nationally. The main activities outlined were:
- > enforcing current and identifying the need for new legislation;
 - > improvement and expansion of services;
 - > education of the public and professionals to improve understanding of domestic abuse; and
 - > improvement of data collection to enable an accurate picture of abuse to be drawn.



- 302 The *Strategy* estimated that between 25% and 33% of women in Scotland will experience domestic abuse at some point in their lives. While no precise figures exist about the number of children experiencing domestic abuse in Scotland, extrapolating from what is known about women, it can be assumed that it is extensive. It was estimated in 2001 to be in the region of 100,000 children.
- 303 Building on the *Strategy* the Executive is working to develop a strategic approach to violence against women, including its impact on children. The Executive has allocated £6m between 2006 and 2008 to ensure a minimum standard of direct support is provided to children experiencing domestic abuse in Scotland. This input is being augmented by approximately £2m contributed by local authorities and will ensure a key worker service in Women's Aid refuges and beyond, whilst also allowing Women's Aid and local authorities to establish an outreach service to children experiencing domestic abuse in the wider community.
- 304 The National Domestic Abuse Delivery Group for children and young people was established in December 2006. This is a cross Executive and cross-agency group which reports to Ministers. Its aims are to develop and implement a National Strategic Delivery Plan (2007-2010) to deliver better outcomes for children experiencing domestic abuse which will be presented to Ministers in 2007, and to ensure that the aims and objectives of the *Getting it right for every child* Domestic Abuse Pathfinder Pilot are met. A key element of this work will be the participation of children in informing policy and practice.
- 305 *Getting it right for every child* means that, no matter where they live or whatever their needs, children and families know what help is available, where to get it from and that it will be appropriate to their needs and delivered to the highest possible standard. The two-year Domestic Abuse Pathfinder Pilot will look to ensure that the response from all relevant agencies to children affected by domestic abuse is in accordance with the *Getting it right for every child* approach, i.e. appropriate, proportionate, and timely - that children get the help they need when they need it. The pilot will work in four local areas in Edinburgh, Dumfries and Galloway, Falkirk and West Dunbartonshire. Local Pathfinder Co-ordinators have now been recruited in each of these areas and development work in the Pathfinder areas is underway.

E) SEPARATION FROM PARENTS

- 306 The Executive fully supports the principle that children should be separated from their parents only where absolutely necessary and where it is determined to be in the best interests of the child.
- 307 Section 1 of the Children (Scotland) Act 1995 gives parents responsibilities and rights, underpinned by the best interests of the child, to safeguard and support their children. Where it appears that a parent is having difficulty in meeting their responsibilities, the local authority may provide additional support to the family. If early intervention does not prove successful in addressing those difficulties then a child may become formally "looked after" by the local authority. The 1995 Act sets out how local authorities should go about assisting and supporting children who are formally looked after by them, many of whom will remain in the family home cared for by their parent(s) with support provided by the local authority. Only when it becomes apparent that remaining with their parents is not in the best interests of the child would a child be provided with accommodation and support away from their home. Work being undertaken by the Executive on improving outcomes for looked after children is described in more detail at paragraphs 475-483 below.



- 308** Effective, early intervention which enables children to remain with their families is a key aim of *Getting it right for every child*. It should, however, be borne in mind that for a very small proportion of older children, residential care can provide a good alternative to the family home or foster care. Two important goals are to ensure that the child has a care plan during their time in residential care and that appropriate aftercare arrangements are in place, together with continuous improvement in the standard and quality of care provided in residential care.
- 309** The Executive also recognises the need to create better stability for looked after children – many face frequent changes in placements which can have a detrimental effect on their development. This issue will be a key theme of the National Fostering and Kinship Care Strategy to be published later this year. The Strategy will build on current activity and ensure that fostering is supported even more effectively in the future. The Fostering Regulations are also being updated, with consequential amendments to the Looked After Children Regulations. Private fostering, including any necessary updates to the legislation, will be considered as part of the National Fostering and Kinship Care Strategy.
- 310** In addition, the Executive provides funding to the Scottish Throughcare and Aftercare Forum, an organisation which aims to improve support for young people leaving care by influencing the development of national policies and local support services. Funding has also been made available to assist in the operation of the Scottish Healthy Care Network which will look to influence improvements and developments in the health and well-being services provided for looked after children.
- 311** The Scottish Prison Service (SPS) Mother and Child Strategy at Cornton Vale provides the opportunity to enable the mother and child relationship to develop whilst safeguarding and promoting the child's welfare. The strategy is a key part of the SPS families' agenda and is being developed using a multi-agency approach, expert advice and present and previous experiences to articulate best practice and to ensure fairness and consistency in relation to the assessment, decision-making and management processes which support the supervision and care of mothers who have their children with them in prison.

Opportunity to participate in proceedings and make their views known

Article 12

- 312** There is provision at sections 6, 11(7) and 16(2) of the 1995 Act which provide that, taking account of the child's age and maturity, the views of the child must be taken into account, where practicable, in decisions which affect their lives.

Safeguards for children in alternative care

Article 20

- 313** The Regulation of Care (Scotland) Act 2001 set up the Scottish Commission for the Regulation of Care ('the Care Commission'). The Care Commission inspects care services including care homes for children and providers of foster care services against National Care Standards. The standards are designed to ensure a high quality service for children and that appropriate safeguards are in place by setting out what each individual child in residential care or foster care can expect from the service provider.
- 314** The Executive has also undertaken considerable activity to ensure the protection of children in foster care. Funding has been provided to the Fostering Network to produce a Code of Practice for Foster



Care Recruitment and £12m has been provided to local authorities to improve recruitment and retention of foster carers, and to increase placement choice. With regard to private fostering, the Executive has issued information to local authorities and those who provide private fostering reminding them of their responsibilities. The Executive is monitoring the use of this information and its impact.

Data on looked after children

- 315** The Executive currently collects aggregate information with regard to looked after children from every local authority in Scotland. The Executive does however recognise that more effective data gathering is required and commissioned LogicaCMG to carry out an audit of the readiness of systems which support the exchange of data for looked after children. This audit covered the effectiveness of Management Information Systems and the business processes which underlie them, in local authority social work and education departments, JobCentre Plus and Careers Scotland.
- 316** That audit is now complete and the Executive will consider its findings through the *We Can and Must Do Better* – Data Working Group before agreeing an appropriate course of action for improving the gathering of information for looked after children from Scottish local authorities.

TABLE 21

Number of children looked after away from home in Scotland – by type of accommodation

Type of accommodation looked after	2005	2006
In the community:		
With friends/relatives	1,671	1,726
With foster carers	3,493	3,731
With prospective adopters	167	184
In other community	136	181
Total	5,467	5,822
In residential accommodation:		
In local authority home	716	737
In voluntary sector home	57	84
In residential school	618	663
In secure accommodation	82	78
Other residential accommodation	66	76
Total	1,539	1,638
Total number of children looked after away from home^(1,2)	7,006	7,460

Note 1: Excludes children looked after at home with parents

Note 2: Table excludes children who are on a planned series of short term placements

Note 3: In 2006 - where local authorities were unable to provide data then their 2005 data has been incorporated into this table. In 2006, age information was expanded to collect information on 18-21 year olds. Therefore, in local authorities where previous year's data was used, this means that young people aged 18-21 will not be included. Consequently totals may be an undercount.

Source: Children looked after survey (CLAS) 2004/05 and 2005/06 surveys, Scottish Executive

**TABLE 22**

Number of children looked after in Scotland – by statutory reason for being looked after

Statute group	2005			2006		
	Number ⁽¹⁾	% of children looked after total ⁽¹⁾	% of Scottish population ⁽²⁾	Number ⁽¹⁾	% of children looked after total ⁽¹⁾	% of Scottish population ⁽²⁾
Accommodated under Section 25 of the 1995 Act	1,283	10.5	0.1	1,238	9.5	0.1
Parental Responsibilities Order	298	2.4	0	327	2.5	0
Supervision Requirement at Home	4,814	39.5	0.5	4,939	38.1	0.4
Supervision Requirement away from Home (excluding Residential Establishment)	3,833	31.5	0.4	3,800	29.3	0.3
Supervision Requirement away from Home (in a Residential Establishment but excluding Secure)	824	6.8	0.1	823	6.3	0.1
Supervision Requirement away from Home with a Secure Condition	48	0.4	0	67	0.5	0
Warrant	257	2.1	0	324	2.5	0
Child Protection Measure	61	0.5	0	95	0.7	0
Criminal Court Provision	15	0.1	0	15	0.1	0
Freed for Adoption	83	0.7	0	70	0.5	0
Other	152	1.2	0	162	1.2	0
Unknown	517	4.2	0	1106	8.5	0.1
Total	12,185	100	1.1	12,966	100	1.2

Notes

Table excludes children who are on a planned series of short term placements

In 2006 - where local authorities were unable to provide data then their 2005 data has been incorporated into this table. In 2006, age information was expanded to collect information on 18-21 year olds. Therefore, in local authorities where previous year's data was used, this means that young people aged 18-21 will not be included. Consequently totals may be an undercount

Source (1): Children looked after survey CLAS 2004-05 and 2005/06 surveys, Scottish Executive

Source (2): % of population for 2005 and 2006 based on 2004 and 2005 mid-year estimates from General Register Office (Scotland) using populations of 0-17 year olds and 0-18 year olds respectively.





TABLE 23

Number of children ceasing to be looked after by length of time looked after in Scotland

Length of time looked after	2005			2006		
	Number ⁽¹⁾	% of total	% of Scottish population ⁽²⁾	Number ⁽¹⁾	% of total	% of Scottish population ⁽²⁾
Under 6 weeks	578	16.2	0.1	390	10.0	0.0
6 weeks to under 6 months	390	10.9	0	401	10.3	0.0
6 months to under 1 year	617	17.3	0.1	654	16.8	0.1
1 year to under 3 years	1,308	36.7	0.1	1,527	39.3	0.1
3 years to under 5 years	395	11.1	0	530	13.7	0.0
5 years and over	278	7.8	0	380	9.8	0.0
Total	3,566	100	0.3	3,882	100.0	0.3

Notes

Table excludes children who are on a planned series of short term placements

A child may cease to be looked after more than once during the year and will be counted once for each episode of care ending

In 2006 - where local authorities were unable to provide data then their 2005 data has been incorporated into this table. In 2006, age information was expanded to collect information on 18-21 year olds. Therefore, in local authorities where previous year's data was used, this means that young people aged 18-21 will not be included. Consequently totals may be an undercount

Source (1): Children looked after survey CLAS 2004/05 and 2005/06 surveys, Scottish Executive

Source (2): % of population for 2005 and 2006 based on 2004 and 2005 mid-year estimates from General Register Office (Scotland) using populations of 0-17 year olds and 0-18 year olds respectively.

TABLE 24

Number of children ceasing to be looked after by destination in Scotland

Destination after leaving care	2005			2006		
	Number ⁽¹⁾	% of total	% of Scottish population ⁽²⁾	Number ⁽¹⁾	% of total	% of Scottish population ⁽²⁾
Home with parents	1,984	55.6	0.2	2,189	56.4	0.2
Friends/relatives	256	7.2	0	325	8.4	0
Adoption	117	3.3	0	120	3.1	0
Supported accommodation/own tenancy	183	5.1	0	203	5.2	0
Other	200	5.6	0	539	13.9	0
Unknown	826	23.2	0.1	506	13	0
Total	3,566	100	0.3	3,882	100	0.3

Notes

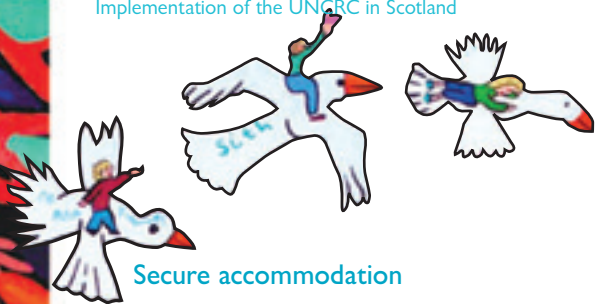
Table excludes children who are on a planned series of short term placements

A child may cease to be looked after more than once during the year and will be counted once for each episode of care ending

In 2006 - where local authorities were unable to provide data then their 2005 data has been incorporated into this table. In 2006, age information was expanded to collect information on 18-21 year olds. Therefore, in local authorities where previous year's data was used, this means that young people aged 18-21 will not be included. Consequently totals may be an undercount

Source (1): Children looked after survey CLAS 2004/05 and 2005/06 surveys, Scottish Executive

Source (2): % of population for 2005 and 2006 based on 2004 and 2005 mid-year estimates from General Register Office (Scotland) using populations of 0-17 year olds and 0-18 year olds respectively.



Secure accommodation

Articles 36 and 37

- 317** Children are only detained in secure care if they meet the requirements of Section 70(10) of the Children (Scotland) Act 1995, ie if they are likely to injure themselves or another person or if they are likely to abscond. If they meet these criteria, a Children's Hearing may decide that it is in the best interests of a child – either because of concerns about their welfare or their offending behaviour – for them to be placed in secure accommodation, but this must be used as a last resort and should be for the shortest time possible.
- 318** At 31 May 2007, there were 114 secure places in Scotland in 5 secure units. The Executive has however made available £20.5m to assist with a programme of redevelopment of the secure estate. This will lead to a total of 125 places being in place by autumn 2008 and improvements in the standard of accommodation. The reconfigured estate has ensured there is female only accommodation for the first time. It will also avoid, as far as possible, under 16s being remanded to young offenders' institutions and help keep children closer to home where that is appropriate.
- 319** There were 251 admissions to secure accommodation in 2005-06 and 252 discharges. There was an average of 81 residents in secure units throughout 2005-06 with a range from 73 to 90. The following table gives the percentages of children discharged from secure accommodation, covering the period 2004-2006.

TABLE 25

The percentage of young people discharged from secure accommodation at any point between 1 April 2004 and 31 March 2005 and 1 April 2005 and 31 March 2006 – by length of stay.

Length of stay on discharge	2004 - 2005	2005 - 2006
	% of total	% of total
Less than 1 month	31	29
1 month to under 2 months	7	7
2 months to under 3 months	9	11
3 months to under 6 months	30	33
6 months to under 1 year	19	17
1 year or more	4	4

Notes

Children can be discharged more than once within a year.

Source: Secure accommodation census, Scottish Executive.

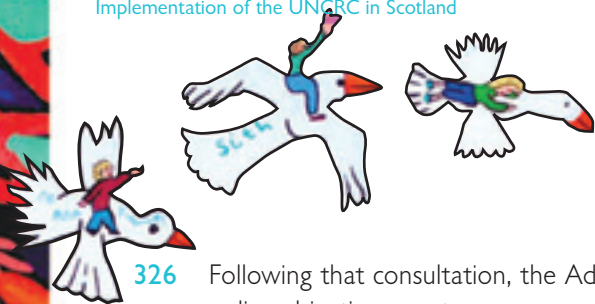


- 320 The *National Standards for Scotland's Youth Justice Services 2002* set out clear principles for targeting the use of secure care accommodation appropriately and to ensure it is effective in reducing offending behaviour and providing good outcomes. These standards were to be met by March 2006 and progress towards them was published in July 2006. 29% of all children leaving secure in 2005-06 returned to the same type of placement as they were in before being admitted. In most cases, children were living with parents/friends/relatives prior to admission and returned to them on discharge.
- 321 The Executive secure census collects annual data on children and young people in secure accommodation which is published on the Scottish Executive website.
<http://www.scotland.gov.uk/Topics/Statistics/Browse/Children/PubChildrenResidential>. In 2006, returns showed that on 31 March, 76% of young people in secure were male, 13% were 13 years old or younger, 23% were 14, 40% were 15 and 23% were 16 years old or older.
- 322 The Executive has funded a programme of specialised training for those working in the secure estate in Scotland. This training was delivered by Young Minds, the national charity committed to improving the mental health of all children and young people, and was developed in conjunction with Heads Up Scotland who have recently developed the National Project for Children and Young People's mental health. To address the need for staff training on mental health issues, YoungMinds delivered a multi-level training programme for staff in six Secure Units across Scotland.

F) ADOPTION

Articles 18-21

- 323 The UK ratified the 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption in February 2003. Scotland therefore operates within the Hague Convention and is contributing to the UK input to the Council of Europe's current efforts to draw up a revised treaty on adoption.
- 324 A two-phase review of adoption policy in Scotland was commissioned by the Executive in April 2001 and was conducted by an independent Adoption Policy Review Group. The review was required because: existing legislation was almost 25 years old; the number of adoptions was falling and there was unmet need for families to adopt; and the profile of children needing permanent families had changed – more were older and had strong bonds with birth parents or other carers and complex needs that required support.
- 325 The Phase I report was published in June 2002. It made 33 recommendations on improving adoption services, within the existing legislative framework, that were accepted by Scottish Ministers. The Phase II report, published in June 2005, made 107 recommendations almost all of which were supported by Scottish Ministers in their response to the Report which was published as a consultation paper. Key themes which emerged during consultation were that the welfare of the child should be the most important factor when considering who should be able to adopt, that the process for deciding whether to grant an adoption order should be as swift as possible and consistent with proper scrutiny, and that adoption support services should be extended to all parties involved in adoption.



- 326 Following that consultation, the Adoption and Children (Scotland) Act 2007 was passed. Its main policy objectives are to:
- > modernise and improve the legal framework for adoption and permanence planning;
 - > create greater long-term stability and permanence (the sense of belonging to a family) for children who cannot live with their original families;
 - > improve procedures, services and support for adoptive and foster parents and everyone involved in adoption and permanence;
 - > ensure the most vulnerable children have the protection and security they need; and
 - > create a modern, child-centred adoption and permanence service that responds to the changing needs of individual children.

327 Key provisions in the Act are:

- > replacing existing freeing orders and parental responsibilities orders with a single order called a permanence order, which will increase stability for children who cannot live with their original families but which will be flexible enough to cater for the needs of individual children;
- > allowing joint adoption by unmarried couples (including same-sex couples);
- > better adoption support services for people affected by adoption; and
- > widening existing requirements in relation to views of birth parents and guardians, to add a requirement to take account of the wishes of other relatives.

328 The 2007 Act will be implemented in due course, following the preparation of accompanying regulations and guidance. Many of the Act's provisions extend and improve existing adoption services, particularly those already provided by local authorities and other adoption agencies. It is expected that the Act, once implemented, will encourage more people to adopt. The Financial Memorandum for the Act identified a need for some increased resources and this will be pursued in detail in the context of the 2007 Spending Review: work is in hand with local authorities to survey costs.

329 The law on adoption, including intercountry adoption, has recently been updated for England and Wales by the Adoption and Children Act 2002. Although this Act contains provisions updating Scots law on intercountry adoption, these were not commenced but have instead been replicated in the 2007 Act. This means that there are differences in the regimes north and south of the border at the moment (e.g. in the treatment of adoption by relatives) of which Home Office Entry Clearance Officers are aware. Concerns that improper financial gain might influence adoption from some countries is the key reason for new restrictions on bringing children into the UK in certain circumstances.

Adoption data

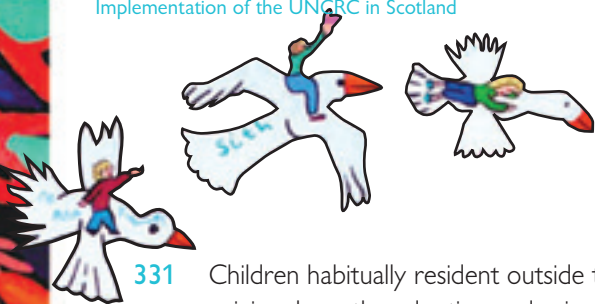
330 Adoption applications are made to the Sheriff Courts in Scotland. Applications are also considered by the Court of Session. The figures supplied relate to the year in which the adoption was registered, rather than the year that the outcome occurred.



TABLE 26
Number of adoptions registered

Age and sex of child		2000	2001	2002	2003	2004	2005
All ages	Total	391	468	385	468	393	439
	Male	210	241	193	228	200	217
	Female	181	227	192	240	193	222
Months:							
less than 6	M	1	-	1	2	2	1
	F	-	1	0	1	2	-
6 - 8	M	3	4	1	5	4	3
	F	4	1	2	2	1	4
9 - 11	M	9	7	6	4	7	5
	F	7	5	3	11	5	5
12 - 17	M	8	12	10	9	15	17
	F	8	12	9	11	18	8
18 - 23	M	13	8	2	7	6	12
	F	10	12	8	12	9	14
Years:							
2	M	14	29	26	17	14	18
	F	12	21	23	22	19	19
3 - 4	M	40	44	37	45	32	33
	F	35	38	28	30	31	41
5 - 9	M	71	83	60	85	77	79
	F	52	78	70	85	66	76
10 - 14	M	43	40	37	43	34	36
	F	42	52	36	45	33	45
15 - 17	M	8	14	13	11	9	13
	F	11	7	13	21	9	10
Number of adopted children born overseas included in figures above Total – all ages		0	1	3	16	11	36

Source : General Register Office Scotland



331 Children habitually resident outside the UK may be adopted by British residents in the child's state of origin where the adoption order is recognised under UK law or brought to the UK by British residents for the purposes of adoption in the UK courts. British citizens living outside the UK may also adopt children habitually resident outside the UK through procedures agreed with the child's state of origin. Figures are only held for the number of applications involving a home study assessment in Scotland and sent to the Scottish Executive for processing. Not all of these applications are by British citizens.

TABLE 27
Number of Overseas adoption applications

Country	1999	2000	2001	2002	2003	2004	2005	Total 1999 - 2005
Bangladesh	1	0	0	0	0	0	0	1
Bulgaria	0	0	1	0	0	0	0	1
Cambodia	0	0	0	0	3	0	0	3
Canada	0	0	0	0	1	0	0	1
China	8	15	9	5	7	8	15	67
Colombia	0	0	0	0	0	1	1	2
Guatemala	1	1	0	0	2	1	2	7
India	1	0	0	0	0	1	0	2
Kenya	0	0	0	0	1	0	1	2
Kosovo	0	0	0	1	0	0	0	1
Pakistan	1	0	0	0	0	1	0	2
Philippines	0	0	1	0	0	0	0	1
Portugal	0	0	1	0	0	0	0	1
Romania	0	1	0	0	0	1	0	2
Russia	2	0	0	4	2	0	1	9
Thailand	2	3	5	2	0	0	0	12
Vietnam	0	0	1	1	0	0	0	2
Total	16	20	18	13	16	13	20	116

Source: Scottish Executive, 2006



G) PERIODIC REVIEW OF PLACEMENT

- 332 Central to the Supporting Young People Leaving Care Regulations, which were introduced in April 2004, is the duty of local authorities to carry out an assessment of the needs of young people in care prior to them leaving care. Supporting information, *Pathways*, has been produced to help local authorities carry out this duty effectively.
- 333 The new permanence orders in the Adoption and Children (Scotland) Act 2007 also offer considerable flexibility to review placements and to reflect fully the situation of individual children. Only a local authority will be able to apply for a permanence order. They can be sought with or without a measure granting authority for the child to be adopted, dependant on the needs of a particular child. Where such authority is granted, the permanence order will ensure that the child remains properly looked after between the granting of the permanence order and the granting of an adoption order. This will be similar to the current process of “freeing” a child for adoption, but the child will have greater security between the making of a permanence order and the making of an adoption order.
- 334 Should the child not be adopted, it will be possible to apply for a variation of the permanence order to allow parental responsibilities and rights to be reallocated which is not currently possible. Where a local authority does not consider adoption to be an appropriate option for a child, a permanence order can be made without authorising adoption of the child. In this case, parental responsibilities and rights will be granted to appropriate persons. In practice this situation may be similar to long-term fostering: a child will live with a family, with the intention that the placement is permanent. If, however, a local authority later decides that adoption is appropriate, it will be able to apply at a later date for that authority. The intention is that the permanence order will be flexible enough to meet the changing needs of every individual child.







06

BASIC HEALTH AND WELFARE

basic health and welfare

Articles: 6, 18, 23-26, 26, 27

A) HEALTH AND HEALTH SERVICES

Article 24

- 335** The Executive is committed to improving the health and well-being of children and this is demonstrated in the policy document, *Delivering for Health*, which sets out the actions required to improve health services in Scotland. It has three major work-streams on tertiary paediatrics, child health and maternal health.
- 336** First and foremost, the rights and responsibilities to provide for their children's health and welfare rest with parents. But a range of services provided by the NHS, local authorities and voluntary and independent organisations, in health centres, nurseries, pre-schools and schools, family centres and in the community have a vital role in helping parents to ensure their child's healthy development and maximise their potential.

Access to health services

- 337** All health and mental health services are free at the point of access for all children in Scotland regardless of their age, gender, ethnic origin, religion or sexual orientation. Individually assessed needs will always determine the services provided, the location of provision and the attention to prevention and recovery. Children in rural areas are given the same priority as others though in all cases rural or urban there may be differences in provision and access determined by the local organisation of services. NHS Boards and partners have local flexibility to implement health policies and structure health services in order to meet local needs and circumstances provided the main objectives of national policy and direction are recognised.

Action Framework for Children and Young People's Health in Scotland

- 338** The Action Framework (www.scotland.gov.uk/Publications/2007/02/14154246/12) was commissioned by Ministers in June 2004 and developed by the Children and Young People's Health Support Group. It is primarily designed to capture in one document the key areas of activity relating to children's health in Scotland for the next 3-10 years and to provide a basis for taking forward work on key child health issues. The Action Framework was published in February 2007. It provides guidance on delivering measurable improvements in health outcomes and health services for children in Scotland and makes clear that the national health care policy context for children in Scotland is firmly rooted in the UNCRC.
- 339** The Action Framework distils this activity into actions and progress measures designed to support and inform the planning and prioritisation undertaken by providers and commissioners of healthcare, for example Health Boards, Regional Planning Groups and local authorities. It will provide a mechanism by which progress can be monitored over time and act as a major source of information for clinicians, the public and other stakeholders interested in the progressive improvement and development of children's health and health services in Scotland.



Health for All Children (Hall 4)

- 340** In 2003, the Royal College of Paediatrics and Child Health published the report of its most recent UK-wide review of child health screening and surveillance activity – the fourth edition of *Health for All Children*, commonly referred to as *Hall 4*. The *Hall 4* review examined existing child health surveillance and screening activity, including the purpose, content and timing of interventions. The report sets out an evidence-based framework for intervention to assess, monitor and support children's health and development throughout childhood and adolescence, based on staged intervention and underpinned by strong health promotion activities.
- 341** *Hall 4* marks a shift away from a solely medical model of checking young children for abnormalities, towards a holistic approach, with an emphasis on health promotion, prevention and intervention for children at risk, whether for medical or social reasons. It recommends a reduced programme of universal child surveillance and screening to enable professionals to concentrate their efforts on activities for which there is good evidence of health benefit and to achieve more effective targeting of support for those most in need. The universal core programme of contact with families will form the basis of a holistic assessment and there will be an agreed plan with each family, to identify the nature of any additional support required.
- 342** The framework set out in *Hall 4* is firmly rooted in the need for an integrated approach to the delivery of services and support for children and families, co-ordinated in the early years through health. The proposals highlight the need to work across professional boundaries, drawing more effectively on the range of regular contacts that children and families have with other professionals in childcare and education, supported by clear routes for liaison, consultation and referral to health professionals when there are concerns. Implementation of *Hall 4* links with a range of other Scottish Executive policy developments, most notably *Getting it right for every child*.
- 343** The full impact of *Hall 4* will not be seen for some years. A robust evaluation of the impact of the policy change on the health of pre-school age children in Scotland, and specifically on the level of inequalities in key health outcomes, will be conducted between 2007 and 2011.

Waiting times

- 344** One of NHSScotland's priorities is to reduce waiting times for all patients, including children. There are no waiting time targets specifically for children – waiting times targets apply to all patients. Significant progress has been made. In 2003, the national maximum waiting time for hospital inpatient and day case treatment was 12 months. This was reduced to 9 months on 31 December 2003 and to 6 months in 2005. A further target was set to reduce the maximum waiting time to 18 weeks by the end of 2007. NHSScotland delivered this new target on 31 December 2006 and are working to sustain this. Consequently, no child should now wait more than 18 weeks for routine inpatient and day case treatment.
- 345** A national maximum waiting time target has also been set for a first outpatient appointment. This is that from 31 December 2005, no patient will wait more than 26 weeks. This target will be reduced to 18 weeks from the end of 2007.
- 346** The tables below show the progress made in reducing waiting times since 2003 for hospital inpatient and day case treatment and since 2005 for first outpatients.

TABLE 28

Number of patients including children on the Inpatient and Day Case Waiting List with a Guarantee¹ by length of wait

Census Date	WAITING TIMES			
	Over 12 months	Over 9 months	Over 6 months	Over 18 weeks
31 March 03	1	3,837	12,381	22,851
31 March 04	0	897	10,538	21,871
31 March 05	0	1	7,512	18,947
31 March 06	0	0	1,249	9,672
31 March 07	0	0	29	3,365

Source: ISD Scotland: SMR3

¹ Patients with an Availability Status Code (ASCs) are excluded from the national maximum waiting time guarantee. ASCs are applied when patients for example ask for their admission to be deferred for personal or social reasons or are medically unfit.

TABLE 29

Number of patients including children on the Outpatient Waiting List¹ without an Availability Status Code² by length of waiting

Census Date	WAITING TIMES	
	Over 6 months	Over 18 weeks
31 December 05	2	15,347
31 March 06	0	13,278
30 June 06	0	11,319
30 September 06	0	14,665
31 December 06	0	14,244
31 March 07	0	12,393

Source ISD Scotland: Outpatient Waiting List

¹ Information on the number of patients waiting for a first outpatient appointment following referral by a General Medical/Dental Practitioner has only been collected since 30 September 2004.

² Patients with an Availability Status Code are excluded from the national maximum waiting time standard. ASCs are applied when patients for example ask for their appointment to be deferred for personal or social reasons and where a patient did not attend their appointment.



Immunisation programmes

- 347** The UK, Scotland included, has one of the most successful Childhood Immunisation Programmes in the world. Vital protection has been provided for children in Scotland from serious infectious diseases. The Executive continues to encourage parents to immunise their children. It is the safest and most effective way of protecting all children, and the wider community, against the risks of serious infectious diseases.
- 348** Important changes to the Childhood Immunisation Programme were introduced in 2006, recommended by the Joint Committee on Vaccination and Immunisation:
- > the introduction of a new vaccine to protect against pneumococcal infection;
 - > a pneumococcal vaccination catch-up programme;
 - > amending the MenC vaccination schedule to give two doses of vaccine in the first year of life, and a booster dose in the second year; and
 - > the addition of a booster dose of Hib vaccine in the second year of life.
- 349** To support the new changes to the childhood immunisation schedule, NHS Health Scotland has produced a range of information resources. New leaflets, and factsheets for parents and healthcare professionals were sent to GP practices, community pharmacists, health promotion units and NHS 24 call centres. These resources are for all those involved in advising about immunisation, including health visitors and practice nurses. There has also been a television and radio publicity campaign.
- 350** The Executive is aware of parental concerns about the combined measles, mumps and rubella (MMR) vaccine, and is committed to continue working with health professionals to give parents the factual information they need to make an informed decision in favour of MMR. Expert advice from around the world clearly shows that the MMR vaccine remains the safest and most effective way to protect children from these very serious, and potentially fatal, diseases. Expert scientific committees, the Committee on Safety of Medicines and the joint Committee on Vaccination and Immunisation, keep research developments under review, and advise the Executive. The evidence is that MMR vaccine does not cause autism. There are no plans to change current immunisation policy on MMR.

TABLE 30

Annual primary immunisation uptake rates at 24 months, Scotland – year ending March

	1999	2000	2001	2002	2003	2004	2005	2006
Diphtheria	97.3	97.7	97.7	97.5	97.5	97.5	97.6	97.7
Tetanus	97.4	97.8	97.8	97.5	97.5	97.5	97.6	97.7
Pertussis	96.2	96.9	97	97.5	97.1	97.2	97.3	97.5
Polio	97.3	97.8	97.7	96.8	97.5	97.5	97.6	97.7
Hib	97.1	97.5	97.6	96.9	97	97.1	96.9	97.3
MMR	92.4	92.9	92.8	87.7	87.5	87.3	88.4	90.6
MenC	-	-	-	93.6	96	96.2	96.4	96.8

Source:

1.SIRS/GIRS from March 2002 to September 2002. From December 2002 the SIRS and GIRS systems amalgamated into a Scottish system.

2.Form ISD(S)13 from March 1995 to December 2001. This form was an aggregated return and collected information on the immunisation status of resident children reaching their first and second birthdays in a given quarter.

3.Immunisation uptake rates are only updated for the most recent evaluation period based on the latest data extracts available.

Information presented for previous evaluation cohorts is based on the data extracts available at that particular point in time.

Health services for minority groups

Article 2

- 351** NHSScotland aims to ensure that whatever the individual circumstances of people's lives, they have the right type of care to suit their individual needs. To support NHS Scotland achieve this, *Fair for All* initiatives have been established to consider the health needs and service experiences of communities across the 6 equality strands - age, disability, gender, race and ethnicity, religion/belief and sexual orientation. Support for Health Boards has included facilitating learning networks, production of guidance, providing research and information and developing targeted approaches to addressing the specific health concerns of their constituent communities.
- 352** NHS Scotland's National Resource Centre for Ethnic Minority Health developed the initial *Fair for All* framework for the delivery of culturally competent services, which has since been developed across the other equality strands. In addition, the Scottish Refugee Integration Forum established a Health Subgroup which met during 2006 to develop a set of actions for the Executive to carry out to help ensure refugees and asylum seekers, including children can fully access health services.
- 353** The Subgroup agreed that much work was already being done, by the NHS, voluntary organisations and community workers, to help refugees and asylum seekers ensure their health needs are met. Current developments such as Community Health Partnerships and other national initiatives designed to meet the requirements of the Race Relations Amendment Act 2000 were also evolving and the full benefits of such schemes are yet to be felt. The Subgroup recognised that any actions should fit within the frameworks of existing work and refugee and asylum seekers needs should be embedded in any monitoring and reporting structures. These principles are also relevant for other equality groups.

Breastfeeding and maternal support

- 354** Paragraph 42 of the 2002 *Concluding Observations* recommended the promotion of breastfeeding. The Executive recognises the substantial contribution that breastfeeding makes to infant nutrition, growth and development and has supported breastfeeding over the last decade. There are some encouraging signs that breastfeeding initiation rates are increasing. A key step has been the introduction of the Breastfeeding etc. (Scotland) Act in 2005. The Act makes it an offence to prevent or stop anyone feeding a child in a public place – any person should be able to feed a child when required and in the most appropriate place for them, without the fear of interruption or criticism. To help publicise and support the Act, the Executive has produced Advice for Employers. It makes clear that the Act applies to all employers and employees in premises where the public have general access.
- 355** Support and encouragement for breastfeeding can be provided at many levels. For example: health promotion adverts at a national level; policies in maternity hospitals at NHS board level and primary care teams working with individual women and groups within the community. While these can support and encourage mothers to initiate and continue breastfeeding, there are a wide range of other factors that influence mothers. Maternal age and deprivation are known to be strongly associated with the likelihood of breastfeeding.



356 Provisional data for 2006 show that 44.2% of mothers were recorded as breastfeeding their babies at the health visitor's first visit (around 10 days) and 36.3% of mothers were recorded as breastfeeding their babies at 6-8 weeks. This compares with 45.1% and 37.2% respectively in 2005. However, breastfeeding rates have risen overall since 2001, when this information was first published for all ten participating NHS Boards. Babies in Lothian and Borders NHS Board areas are most likely to be breastfed; breastfeeding rates are lowest in Lanarkshire NHS Board area. Young mothers who smoke and live in the most deprived areas are the least likely to breastfeed their babies.

TABLE 31
Number and percentage recorded as breastfed at the 6-8 week review

Year of Birth	All Health Boards on system	
	Number	Percentage
1999	13,787	34.6
2000	13,862	35.4
2001	14,129	35.1
2002	14,502	36.4
2003	14,833	36.1
2004	15,149	35.7
2005	16,001	37.2
2006	14,374	36.3

Source: The Child Health Surveillance Programme – Pre-school (CHSP-PS)

Notes: the 10 NHS Boards that now participate in the programme account for approximately 84% of the pre-school population. The Boards now involved are: Argyll & Clyde, Ayrshire & Arran, Borders, Dumfries & Galloway, Fife, Forth Valley, Greater Glasgow, Lanarkshire, Lothian and Tayside

"Breastfed" means exclusively breast fed or fed mixed breast and bottle

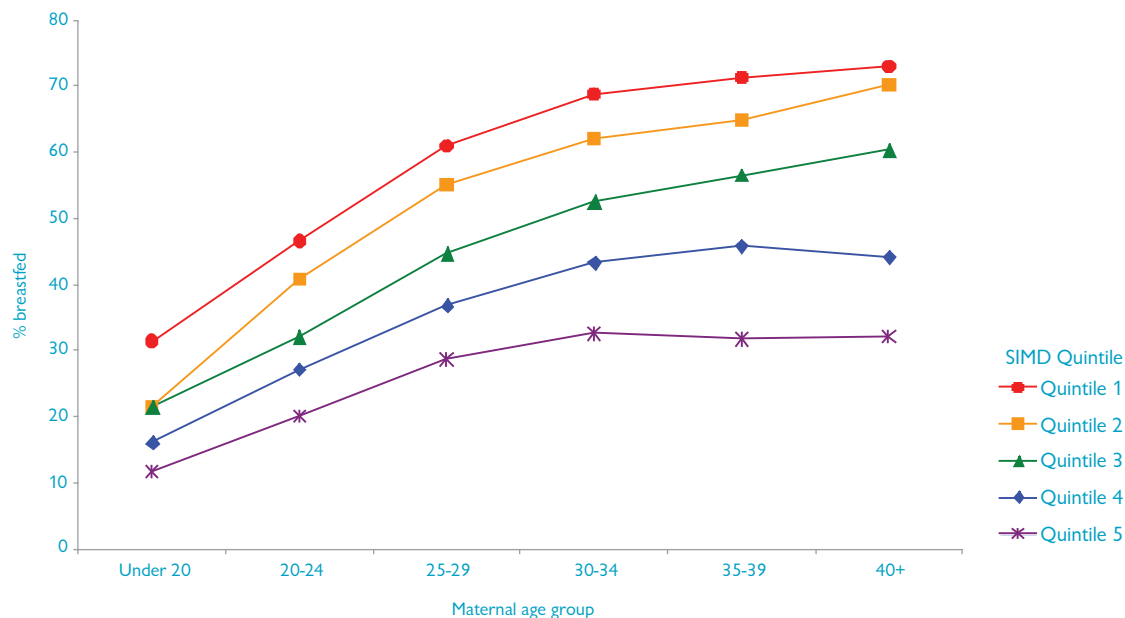
Missing or unknown data has been excluded

P – provisional

357 There are a number of personal, social and cultural issues including deprivation and maternal age which may influence a new mother's decision as to whether or not she breastfeeds. The charts on the following page demonstrate the effects of these factors. They show breastfeeding rates calculated by maternal age group and deprivation for children who had received a first visit and a 6-8 week review and demonstrate that both maternal age and deprivation have an independent effect on breastfeeding. Breastfeeding rates are higher in the less deprived areas and within each deprivation quintile breastfeeding rates improve as maternal age increases. Older mothers are more likely to breastfeed than younger mothers, however the differences in breastfeeding rates above the 30-34 age group is less apparent.

CHART 1

Breastfeeding recorded at the first visit by maternal age and SIMD deprivation quartile



Source: CHSP-PS ISD Scotland February 2007

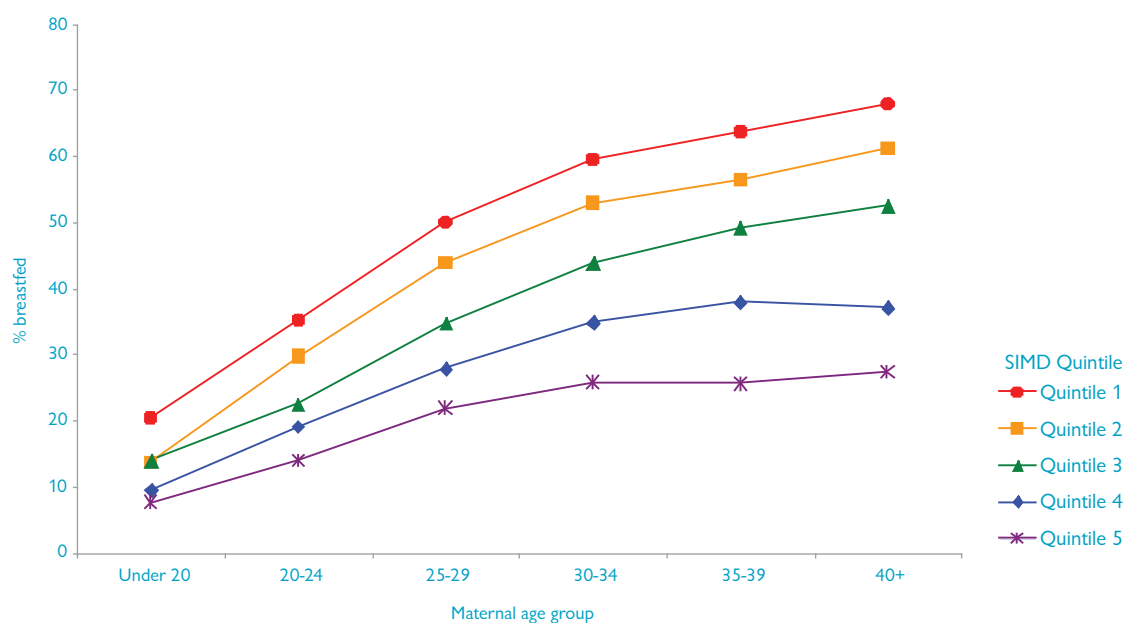
1. Exclusively breast fed or fed mixed breast and bottle.

2. Figures relate to children born between 2001 and 2006.

p Data for 2006 are provisional.

CHART 2

Breastfeeding recorded at the 6-8 week review by maternal age and SIMD deprivation quartile



Source: CHSP-PS ISD Scotland February 2007

1. Exclusively breast fed or fed mixed breast and bottle.

2. Figures relate to children born between 2001 and 2006.

p Data for 2006 are provisional.



- 358** The Executive is committed to supporting those interventions which evidence has shown have a positive effect on increasing breastfeeding rates among low-income groups. These include peer support programmes, ante and post-natal support groups and the targeted education of health professionals.

Low birthweight and malnutrition

Articles 24 and 26

- 359** Low birthweight is a strong predictor of neonatal and infant mortality and of poor outcomes in child health and, in particular, the development of cognitive skills. It is also related to illness in adult life, such as diabetes, stroke and lung disease. Health care professionals in Scotland provide a range of supports to parents and children to help address concerns about low birthweight, for example: good antenatal care; clear infant feeding guidelines and good advice for parents on feeding methods; supervision of babies, assessed and maintained by the midwife and then the health visitor; and a patient-centred method of care.
- 360** The table below demonstrates that despite this activity the proportion of low birthweight babies has remained fairly static in recent years. Much of this is explained by the increased survival rates of lighter babies due to improved technical advances.

TABLE 32

Number and proportion of low singleton births under 2500g: 1999-2005

Year	Number	Proportion - %
1999	3098	5.9
2000	2906	5.7
2001	2848	5.7
2002	2910	5.9
2003	3029	6.0
2004	2815	5.8
2005	2589	5.8

Source: ISD Scotland SMR02

Confidential counselling and advice

Article 16

- 361** As a matter of course, health professionals provide confidential support, advice and treatment to children. Issues of confidentiality are included as part of the undergraduate training and ongoing Continuing Professional Development around sexual health services. Demonstrating knowledge of confidentiality has been included in professional standards such as those for nursing staff working in specialist or generic sexual health services. This is also addressed in inter-agency training on child protection issues. As part of ongoing implementation of the Executive's strategy *Respect & Responsibility – Strategy and Action Plan for Improving Sexual Health in Scotland*, we have asked that Sexual Health Lead Clinicians ensure that confidentiality is addressed. The results of the work commissioned by the Executive on Confidentiality for Disclosure of Underage Sexual health activity will reinforce this.

Healthcare data

TABLE 33

Infant and child mortality rates - Scotland

	2000	2001	2002	2003	2004	2005
Infant mortality rate (per thousand live births)	5.7	5.5	5.3	5.1	4.9	5.2
Under 5-years mortality (per thousand population)	1.2	1.2	1.3	1.2	1.2	1.3

Source: General Register Office Scotland

TABLE 34

Rates of maternal mortality, including its main cause

	Rates per 100,000 births					
	2000	2001	2002	2003	2004	2005
All	15.1	11.4	9.8	13.4	11.1	7.4
Abortion	1.9	0	0	1.9	1.9	1.8
Haemorrhage	0	0	2	0	0	1.8
Toxaemia	1.9	1.9	0	0	0	0
Puerperium	1.9	0	0	1.9	1.9	0

Source: General Register Office Scotland

TABLE 35

Proportion of births occurring in hospitals - Scotland

	2000	2001	2002	2003	2004	2005
Hospital	52572	52059	50754	51887	53356	53687
Other	504	486	516	545	601	699
Total	53076	52527	51270	52432	53957	54386
% in hospital	99.10%	99.10%	99.00%	99.00%	98.90%	98.70%

Source: NHS: Information Services Division

TABLE 36

HIV-1 infected children: cumulative to 31 March 2006 - Scotland

	Number infected
Aged 0-14	93

Source: Health Protection Scotland



B) MENTAL HEALTH AND WELL-BEING

Mental health services

- 362 The 2002 *Concluding Observations* recommended that the UK take all necessary measures to strengthen its mental health and counselling services for children. Improving population mental health and well-being is a key part of the Executive's health improvement strategy. The *Mental Health of Children and Young People's Framework for Promotion, Prevention and Care* (2005) (www.scotland.gov.uk/Publications/2005/10/2191333/13337); *Delivering for Mental Health* (2006) (www.scotland.gov.uk/Publications/2006/11/30164829/0); and the *Action Framework for Children and Young People's Health in Scotland* provide a combined and current focus for improving child and adolescent mental health services (CAMHS) in Scotland.
- 363 The *Framework* emphasises the need to provide more consistent support for children and to ensure high quality care and support for those children who are experiencing mental health problems. *Delivering for Mental Health*, sets the agenda to 2010 for further improvement to mental health services in Scotland overall, and specifically includes commitments for delivery by 2009, which support the aims and ambitions of the *Framework*.
- 364 The Executive is committed to implementing the *Framework* by 2015 and *Delivering for Mental Health* is intended to support the implementation process with milestones that track progress to 2010. The milestones relate to the planning and development process and the need to increase the CAMHS workforce as detailed in the 2007 *Action Framework*.
- 365 *Delivering for Mental Health* identifies two key delivery milestones on named mental health link persons being available in every school; and training for those working with or caring for looked after and accommodated children - both by end 2008. A third commitment to reduce the number of admissions of children to adult beds by 50% by 2009 is also included.
- 366 The Mental Health (Care and Treatment) (Scotland) Act 2003, which came into force from October 2005 placed new duties on NHS Boards to provide services and accommodation appropriate to the needs of children who require psychiatric inpatient treatment. This followed detailed advice on the future of psychiatric inpatient services for children and young people in Scotland was published in *Psychiatric Inpatient Services for Children and Young People: A Way Forward* (2004).
- 367 Progress against all commitments and milestones will be monitored through existing performance management processes and the *Delivering for Mental Health* implementation and performance arrangements.
- 368 According to a pilot study commissioned by the Edinburgh Young Carers Project in 2004, *Young Carers Health and Well Being*, young carers are twice as likely as their peers to suffer emotional stress or mental health issues source. The Executive is undertaking a wide-range of work to provide appropriate help and support for young carers and their families.
- 369 Progress against all commitments and milestones will be monitored through existing performance management processes and the *Delivering for Mental Health* implementation and performance arrangements.

- 370 To help address workforce issues relating to children and young people's mental health, the Executive commissioned a report: *Getting the Right Workforce, Getting the Workforce Right: A Strategic Review of the Child and Adolescent Mental Health Workforce*, published in December 2005. It identified 3 key areas for workforce development activity: building the mental health capacity of the network of children's services; addressing the workforce requirements of community based CAMHS; and building the workforce associated with in-patient and intensive CAMHS. The report recommended that a plan for phased investment in the workforce should be developed in conjunction with plans for implementation of the *CAMHS Framework*, with the aim of doubling the size of the NHS based CAMHS workforce by 2010. It considered the workforce implications of the *Framework* and produced a range of proposals about how these might be met; with the aim of developing workforce activity and doubling the size of the NHS based CAMHS workforce within 10 years. Recognising the importance of reliable and informative data to inform workforce planning and service developments, the *Characteristics of the Specialist CAMHS Workforce* report was published in 2006. This provides specific data about the CAMHS workforce in Scotland across a range of portfolios.

Counselling services

- 371 *Delivering for Mental Health* contains a commitment to increase by 2010 the availability of evidence-based psychological therapies for all age groups in a range of settings and through a range of providers. Work continues in partnership with NHS Education Scotland to take this forward.

Prevention of suicide and self harm

Article 6

- 372 The Executive regards preventing suicide and reducing the rate of suicide in Scotland as an urgent public health issue. There are around 800 deaths by suicide or undetermined intent in Scotland every year.
- 373 *The Choose Life Strategy* was launched in 2002. Its target is to reduce suicides across the population by 20% by 2013. Funding for Choose Life totals £8.6m total across 2006-08. Among the priority groups for suicide prevention action are children (especially looked after children) and young people (especially young men). Every local authority area in Scotland now has an identified local Choose Life coordinator to lead locally tailored action on suicide prevention.
- 374 The Choose Life National Implementation Support team in partnership with many other statutory and voluntary organisations have worked to support and strengthen accessibility to mental health and counselling services for children who self harm. This has largely occurred in two settings – schools and communities.
- 375 In schools a variety of initiatives across Scotland aim to engage pupils and staff in understanding and responding to self harm. For example, the Highland stigma and self harm play encourages pupil participation in terms of debating and responding to scenes which review the impact of stigma and self harm. It shows how to seek help if a child is worried about themselves or a friend. Prior to it being delivered in the school setting, staff are given information on self harm and sources of support available nationally or in their local area. It is aimed at S4, 5 and 6 pupils (15-18 years).
- 376 In East Renfrewshire, following a survey by a school's educational psychology team a service to support pupils who self harm was established. This provides support and structured linkage to services outwith the school. East Renfrewshire have since introduced a policy on preventing suicide and self harm in schools which ensures all staff are aware of the procedures to support pupils who may be self harming or at risk of suicide.



- 377** In communities, Choose Life have worked with a variety of national and local partners to increase their ability to recognise, respond to and support children who self harm or at risk of suicide. For example, funding support has been provided on a national basis to ChildLine and Samaritans to: increase the number of trained telephone, text and e-mail volunteers; train volunteers in suicide intervention skills; and expand their delivery of schools programmes aimed at developing emotional resilience of children, this includes, mental health and well-being, anti-bullying and suicide prevention.
- 378** An independent evaluation of the first phase of implementation of Choose Life was published in September 2006. Amongst its recommendations the evaluation said that there should be a strategic integration of prevention of self-harm into the work of Choose Life in phase 2 and that the Choose Life implementation team should provide guidance about how to identify and reach the subgroup of people whose self-harming behaviour puts them at high risk of future suicide – including consideration of how people who are admitted to hospital following an episode of self-harm are managed. Many of those treated in hospital will not represent a high suicide risk - and a small, but significant, minority of those who do not attend hospital will be high risk (and will go on to commit suicide). The Executive is broadly considering the practicalities of taking these recommendations forward.

Research on the causes and backgrounds of suicides

- 379** In 2004, the Executive launched a three stage process to ensure that suicide prevention policy is supported by a reliable, relevant and up-to-date evidence base. The first phase of this was a scoping study to establish the territory and focus for a series of research reviews to collate and co-ordinate the existing evidence base in suicide and suicide-related behaviour. The second phase comprised two major reviews: one focusing on the effectiveness of interventions to prevent suicide (report to be published in autumn 2007) and the second exploring the risk and protective factors for suicide and suicidal behaviour which is due for publication in spring 2008. In the third phase, research will be commissioned to fill gaps identified in the two reviews.
- 380** The Executive commissioned secondary analysis of General Register Office for Scotland statistics about suicide among those aged 15 and over in Scotland between 1989 and 2004, in order to examine temporal trends and risk factors at national and local levels. Over the period, male suicide rates increased by 22% and female suicide rates by 6%. Male rates were 4 times higher than female rates in the 15-34 age group. Male rates tended to decline with age (having peaked in the 25-34 age group), while female rates were lowest in the youngest and oldest age groups. The higher the level of socio-economic deprivation, the higher was the standardised Suicide Mortality Ratio. The suicide rate was significantly higher in the lowest social class than in any other social classes in all local areas of Scotland, irrespective of the degree of socio-economic deprivation in the area where people lived. (Platt, Setal (2007)) *The Epidemiology of Suicide in Scotland 1989-2004: an Examination of Temporal Trends and Risk Factors at National and Local Levels*, Scottish Executive.)
- 381** The population suicide figures for Scotland since 2000 suggest there may be an emerging downward trend. It is however too early to tell if there is a significant longer term trend. In the period 1998-2000, the suicide rate among 10-24 year olds in the most deprived quintile was 14.45 per 100,000 – in 2003-05 it had reduced to 8.42 per 100,000. In the most affluent quintile the figure was 4.18 per 100,000 in 1998-2000, but this figure rose to 4.49 per 100,000 in 2003-05. The figures are small however and they fluctuate, therefore any trends derived from this data should be treated with caution.

382 To support innovative research work able to contribute to advancing the agenda of the National Programme for Improving Mental Health and Well-being, the Executive launched the Small Research Projects Initiative in 2004. Several of the projects funded to date focus on, or are relevant to children, including:

- > a qualitative exploration of links between self-harm and suicide in children;
- > an investigation of the role of school nurses in supporting mental health and well-being; and
- > understanding stigma: children's experiences of mental health stigma.

TABLE 37

Number of deaths due to intentional self-harm and events of undetermined intent

	2000			2001			2002			2003			2004			2005		
	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females
Under 18	36	24	12	19	13	6	26	14	12	20	8	12	22	17	5	21	13	8
0-4	2	0	2	1	1	0	2	1	1	0	0	0	0	0	0	1	1	0
5-9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10-14	6	3	3	2	1	1	3	2	1	1	1	0	2	2	0	4	2	2
15-17	28	21	7	16	11	5	21	11	10	19	7	12	20	15	5	16	10	6

Source: General Register Office Scotland

TABLE 37A

Number of deaths due to intentional self-harm

	2000			2001			2002			2003			2004			2005		
	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females
Under 18	22	15	7	16	10	6	16	5	11	16	7	9	16	11	5	13	6	7
0-4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
5-9	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
10-14	6	3	3	2	1	1	1	-	1	1	1	-	2	2	-	3	1	2
15-17	16	12	4	14	9	5	15	5	10	15	6	9	14	9	5	10	5	5

Source: General Register Office Scotland

TABLE 37B

Number of deaths due to events of undetermined intent

	2000			2001			2002			2003			2004			2005		
	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females	Total	Males	Females
Under 18	14	9	5	3	3	-	10	9	1	4	1	3	6	6	-	8	7	1
0-4	2	-	2	1	1	-	2	1	1	-	-	-	-	-	-	1	1	-
5-9	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
10-14	-	-	-	-	-	-	2	2	-	-	-	-	-	-	-	1	1	-
15-17	12	9	3	2	2	-	6	6	-	4	1	3	6	6	-	6	5	1

Source: General Register Office Scotland



HeadsUpScotland: National Project for Children and Young People's Mental Health

- 383** The philosophy for *HeadsUpScotland* is that good mental health underpins all activities that children engage in: learning, playing, interacting socially, communicating, and forming relationships. It works on mental health promotion for all; prevention of mental health difficulties for vulnerable groups such as children who are looked after and children of homeless families; and ensuring that children who are mentally ill not only have adequate services but also have their mental health improvement needs attended to. A key part of *HeadsUpScotland's* activity is to support the implementation of the 2005 *Framework*. As part of this, *HeadsUpScotland* has a participation project (led by Penumbra) to give a voice to children about mental health.

Scottish Health Promoting Schools Unit

- 384** The Scottish Health Promoting Schools Unit (SHPSU) is a national joint project between health and education, which supports the Executive's commitment that every school in Scotland will become a health promoting school by 2007. This commitment has now been superseded by the Schools (Health Promotion and Nutrition) (Scotland) Act 2007. SHPSU which has a dedicated development officer for mental and emotional well-being supports a whole-school approach to promoting the physical, social, spiritual, mental and emotional well-being of all pupils and staff. The education sector has a vital role to play in promoting mental health awareness, emotional health and emotional resilience. SHPSU is providing information and guidance to schools on how to promote the mental health and well-being of pupils and staff; it also provides similar advice to parents and community groups.

see me...

- 385** The *see me...* campaign is Scotland's national campaign to eliminate the stigma and discrimination which can be associated with mental illness. The Executive funded campaign, launched in 2002, has undertaken a range of activities including general and targeted advertising. Targeted advertising has included two high-profile phases of campaign activity (in 2005 and 2006) specifically aimed at eliminating stigma and discrimination in children. *see me...*'s work is being evaluated independently, to report in early 2008.

Eating disorders

- 386** The Executive continues to work with NHS Boards, and their partners to ensure the best possible care, services, support and treatment for eating disorders. The Executive has published guidance on the best organisation of joint services for better supported and coordinated patient care and family involvement. NHS Quality Improvement Scotland has also published recommendations for healthcare professionals for the management and treatment of eating disorders in adults, adolescents and children.

Prevalence of mental health disorders

- 387** *Mental Health of Children and Young People in Great Britain 2004* presents the findings of a survey of the mental health of children aged 5-16 in Great Britain. The survey was jointly commissioned by the UK Department of Health and the Executive and contains considerable data on the prevalence of mental disorders in Scotland and describes the characteristics of children with emotional and conduct disorders living in Scotland. The Executive has funded a 12-month, a 24-month and a 3-year follow up to the study.

TABLE 38

Percentage of children with mental disorders in Scotland 1999 and 2004

	Children aged 5-10		Children aged 11-16		Boys		Girls		All children	
	1999	2004	1999	2004	1999	2004	1999	2004	1999	2004
Emotional disorders	4.3	2.9	4.8	2.0	3.4	2.2	5.8	2.9	4.6	2.5
Conduct disorders	3.6	4.8	5.8	6.4	6.7	6.6	2.5	4.4	4.6	5.5
Hyperkinetic disorder	1.0	1.0	1.3	2.3	2.0	2.1	0.2	1.0	1.1	1.6
Any emotional, conduct or hyperkinetic disorder	7.4	6.6	9.2	9.6	8.8	8.8	7.6	7.1	8.2	8.0
Any disorder	7.7	6.6	9.4	10.3	9.0	9.2	8.0	7.4	8.5	8.3

Source: Office for National Statistics, The Mental Health of Children and Young People, Great Britain, 2004

TABLE 39

Age, sex and ethnicity of children with emotional or conduct disorder, 1999 and 2004 combined

	Emotional disorder %	Conduct disorder %
Sex		
Boys	42	69
Girls	58	31
Age		
5 - 10	51	43
11 - 16	49	57
Ethnicity		
White	100	100
Black*	0	0
Indian	0	0
Pakistani/Bangladeshi	0	0
Other	0	0

Source: Office for National Statistics, The Mental Health of Children and Young People, Great Britain, 2004

*includes people of mixed black and white origin



TABLE 40

Family characteristics of children with emotional or conduct disorder, 1999 and 2004 combined

	Emotional disorder %	Conduct disorder %
Family type		
Married	57	46
Cohabiting	5	13
Lone parent – single	14	10
Lone parent – widowed, divorced or separated	24	31
Number of children in household		
1	24	27
2	39	32
3	26	28
4	6	8
5 or more	5	4
Parent's employment status		
Both working/lone parent working	45	38
One parent working	19	18
Neither working/lone parent not working	37	44
Parent's highest educational qualification		
Degree level	4	4
Teaching/HND/Nursing	17	12
A/AS level or equivalent	5	11
GCSE Grades A-C or equivalent	13	21
GCSE Grades D-F or equivalent	5	4
Other qualification	4	6
No qualification	52	42

Source: Office for National Statistics, The Mental Health of Children and Young People, Great Britain, 2004

TABLE 41

Housing and income of families where children have emotional or conduct disorder, 1999 and 2004 combined

	Emotional disorder %	Conduct disorder %
Type of accommodation		
Detached	11	10
Semi-detached	30	27
Terraced house	20	38
Flat/maisonette	39	25
Tenure		
Owners	28	28
Social sector tenants	64	69
Private renters	8	3
Gross weekly household income		
Under £100	7	5
£100-199	30	32
£200-£299	20	27
£300-£399	13	17
£400-£499	12	6
£500-£599	7	5
£600-£770	5	3
Over £770	5	5

Source: Office for National Statistics, The Mental Health of Children and Young People, Great Britain, 2004





C) HEALTHY LIFESTYLES

Article 24

- 388 In Scottish schools the *5-14 National Guidelines on health education* (published in 2000) encourage all local authorities to address all aspects of health education within a comprehensive programme of personal and social education. The guidelines provide a clear framework within which individual schools and teachers can develop programmes responding to the health education needs of children. The guidelines also provide schools with attainment targets for strands on physical, social and emotional health. The guidance is age graded and includes self care, personal hygiene and oral health. These guidelines will be reviewed as part of the *Curriculum for Excellence* programme of work, which includes Health & Well-Being as a cross-cutting curricular theme.
- 389 As discussed above, the Executive is committed to ensuring that all schools are health promoting by 2007. The Scottish Health Promoting School's Unit (SHPSU) works to ensure that health education is integral to the curriculum and that school ethos, policies, services and extra-curricular activities foster mental, physical and social well-being and healthy development. SHPSU also works to provide strategic and practical support to partner organisations, councils, NHS health boards, Community Planning partnerships integration managers and other stakeholders as they work together to achieve the *National Priorities in Education*.

Nutrition and obesity

- 390 Tackling obesity requires action by government and its partners, but also requires individuals and families to take personal responsibility for their actions. Changing to a healthier lifestyle will not happen overnight, but the Executive has made a commitment to continuing action in the short and longer term, targeting specific groups where appropriate. The Executive is taking forward an integrated multi-sectoral implementation of a national physical activity strategy, *Let's Make Scotland More Active*, and the Scottish Diet Action Plan. The World Health Organization has strongly commended Scotland in adopting this preventive approach.
- 391 Increasing the uptake of physical activity is one of the major challenges in the Executive's drive to improve the health of the people of Scotland. *Let's Make Scotland More Active* was launched in February 2003. The Executive is tackling the problem of inactivity by supporting a range of initiatives addressing a wide variety of lifestyle changes that will enable children to get more active by doing everyday activities at home and at school as well as in the local environment. The Active Schools programme, introduced to encourage more participation in physical activity in primary and secondary schools, is one of the key initiatives designed to achieve the aims of the strategy. Other projects address activities ranging from play and dance, to walking and cycling to school.
- 392 The Executive has set a target for 80% of children to meet the minimum recommended levels of physical activity by 2022. The Scottish Health Survey 2003 reported that 74% of boys and 63% of girls achieved the minimum recommended level of activity. This is an increase from the 1998 survey which showed 72% of boys and 59% of girls were meeting the recommended levels. It is encouraging that things were moving in the right direction even before full implementation of initiatives to increase physical activity. If the trend from these two data points is continued, the target of 80% by 2022 will be met.

393 Changing children's dietary habits is also a challenge. Good nutrition in the early years is vital as children's early experiences of food plays an important part in shaping later eating habits. Nutritional guidance addressing food choices for children aged 1–5 in early education and childcare settings has been developed and made available to all providers. For school age children, a school meals programme, *Hungry for Success*, was launched in 2002. It set tough new standards for the provision of school meals including:

- > new nutrient-defined standards for school meals and detailed mechanisms for monitoring them;
- > larger portions of more nutritious food (as a consequence of the nutrient standards);
- > fresh, chilled drinking water available free in school dining halls;
- > introduction of measures to anonymise recipients of free school meals and raising awareness of the entitlement to free school meals to drive up take-up of free school meals by eligible families;
- > active promotion and marketing of healthier options along with improved atmosphere and ambient facilities in dining halls to drive up take-up;
- > connecting school meals with the curriculum as a key aspect of health education and health promotion within the development of health promoting schools; and
- > product specifications developed by the Food Standards Agency Scotland to set levels for fat, salt and sugar in processed food to be used in Scottish schools.

394 Habits beyond the dining hall are also being tackled with schools being expected to change their vending and tuck shop policies to healthier choices, for example removing carbonated, full sugar drinks. In addition the Executive is also funding the provision of free fruit in schools for P1 and P2 children.

395 The Schools (Health Promotion and Nutrition) (Scotland) Act 2007 builds on the success of existing work in schools. The Act makes health promotion a central purpose of schooling and will ensure that schools have a central role in helping children make healthy choices through a range of actions and activities. It will also ensure that all food and drinks provided by schools comply with nutritional requirements, specified by regulations. The regulations will include school meals, tuck shops, vending and food or snacks served at other times of the day.





Data on children's weight

TABLE 42

Percentage of pre-school aged children in Scotland receiving a review who are overweight, obese or severely obese

	Year of birth						
	1995	1996	1997	1998	1999	2000	2001 ^p
Denominator	37024	36332	35492	35592	34653	32378	29617
% Severely Obese ¹	3.6	3.4	3.4	3.8	3.6	3.9	4.1
% Obese ²	7.9	7.7	7.7	8.2	8	8.1	8.6
% Overweight ³	20.3	20.1	19.9	20.9	20.8	20.2	20.7

Source: NHS: Information Services Division – Child Health Surveillance Programme

Pre-school children are approximately 3_ years old

1. Includes severely obese children only (ie all children \geq 98th centile)

2. Includes obese and severely obese children (ie all children \geq 95th centile)

3. Includes overweight, obese and severely obese children (ie all children \geq 85th centile)

p provisional

TABLE 43

Percentage of pre-school aged children in Scotland receiving a review who are underweight or very underweight

	Year of birth						
	1995	1996	1997	1998	1999	2000	2001 ^p
Denominator	37024	36332	35492	35592	34653	32378	29617
% Very Low BMI4	2.6	2.7	2.6	2.5	2.4	2.8	2.7
% Low BMI5	5.5	5.7	5.7	5.4	5.4	5.9	5.9

Source: NHS: Information Services Division – Child Health Surveillance Programme

Pre-school children are approximately 3_ years old

1. Includes severely obese children only (ie all children \geq 98th centile)

2. Includes obese and severely obese children (ie all children \geq 95th centile)

3. Includes overweight, obese and severely obese children (ie all children \geq 85th centile)

p provisional

TABLE 44

High BMI distribution in pre-school children by Scottish Index of Multiple Deprivation – year of birth 2001

SIMD* Quintile	Denominator	% Severely Obese ¹	% Obese ²	% Overweight ³
Quintile 1 (most affluent)	6303	3.2	7.2	19.5
Quintile 2	5736	4.4	8.8	20.7
Quintile 3	5379	3.9	8.1	20.8
Quintile 4	5666	4.4	9.3	21.4
Quintile 5 (most deprived)	6499	4.7	9.5	21.2

Source: NHS: Information Services Division – Child Health Surveillance Programme

Pre-school children are approximately 3_ years old

1. Includes severely obese children only (ie all children \geq 98th centile)

2. Includes obese and severely obese children (ie all children \geq 95th centile)

3. Includes overweight, obese and severely obese children (ie all children \geq 85th centile)

*Scottish Index of Multiple Deprivation

TABLE 45**High BMI distribution in school children in Scotland**

School Year	Year Group	Denominator	% Severely Obese ¹	% Obese ²	% Overweight ³
00/01	P1	12753	3.9	8	19.7
01/02	P1	12850	4	8.5	21
02/03	P1	16273	4.6	8.8	21.8
03/04	P1	16761	4.6	9	21.8
04/05	P1	21609	4.4	9	21.5
00/01	P7	13480	9.3	16.6	30.4
01/02	P7	14085	10	17.5	32.5
02/03	P7	15020	9.9	17.5	32.5
03/04	P7	13979	10	18.2	32.5
04/05	P7	13874	11.2	19.4	34.1
00/01	S3	10342	8.2	14.8	28.4
01/02	S3	9952	8.7	16.1	30.2
02/03	S3	9155	9.4	16.4	31
03/04	S3	9624	9.7	16.7	30.9
04/05	S3	9270	9.6	16.5	31.3

Source: NHS: Information Services Division – Child Health Surveillance Programme

1. Includes severely obese children only (ie all children ≥ 98 th centile)

2. Includes obese and severely obese children (ie all children ≥ 95 th centile)

3. Includes overweight, obese and severely obese children (ie all children ≥ 85 th centile)

P1 children are aged approximately 4-5 years old, P7 children 11-12 years old, S3 children 14-15 years old.

TABLE 46**Percentage of school children in Scotland receiving a review who are overweight, obese or severely obese, by gender 2004-05**

		Denominator	% Severely Obese ¹	% Obese ²	% Overweight ³
P1	Male	10947	4.4	9.3	22.3
	Female	10662	4.3	8.8	20.6
	Total	21609	4.4	9	21.5
P7	Male	6927	11.8	20	34.8
	Female	6947	10.5	18.8	33.5
	Total	13874	11.2	19.4	34.1
S3	Male	4724	9.6	16.1	29.8
	Female	4546	9.5	16.9	32.9
	Total	9270	9.6	16.5	31.3

Source: NHS: Information Services Division – Child Health Surveillance Programme

1. Includes severely obese children only (ie all children ≥ 98 th centile)

2. Includes obese and severely obese children (ie all children ≥ 95 th centile)

3. Includes overweight, obese and severely obese children (ie all children ≥ 85 th centile)

P1 children are aged approximately 4-5 years old, P7 children 11-12 years old, S3 children 14-15 years old.



TABLE 47
Low BMI distribution in school children in Scotland

School Year	Year Group	Denominator	% Very Low BMI ¹	% Low BMI ²
00/01	P1	12753	1.5	3.5
01/02	P1	12850	1.5	3.3
02/03	P1	16273	1.4	3.5
03/04	P1	16761	1.3	3.1
04/05	P1	21609	1.4	3.1

School Year	Year Group	Denominator	% Very Low BMI ¹	% Low BMI ²
00/01	P7	13480	1.4	3.6
01/02	P7	14085	1.3	3.2
02/03	P7	15020	1.4	3.4
03/04	P7	13979	1.5	3.4
04/05	P7	13874	1.3	3.1

School Year	Year Group	Denominator	% Very Low BMI ¹	% Low BMI ²
00/01	S3	10342	1.3	3.1
01/02	S3	9952	1.4	3
02/03	S3	9155	1.5	3
03/04	S3	9624	1.6	3.5
04/05	S3	9270	1.3	3.1

Source: NHS: Information Services Division – Child Health Surveillance Programme

1. Includes very low BMI children only (ie all children \leq 2nd centile)

2. Includes low BMI and very low BMI children (ie all children, \geq 5th centile)

P1 children are aged approximately 4-5 years old, P7 children 11-12 years old, S3 children 14-15 years old.



TABLE 48

High BMI distribution in school children by Scottish Index of Multiple Deprivation – year of birth 2004/05

SIMD* Quintile	Year Group	Denominator	% Severely Obese ¹	% Obese ²	% Overweight ³
Quintile 1 (most affluent)	P1	4500	3.6	7.6	18.8
Quintile 2	P1	4349	3.9	8.5	21.5
Quintile 3	P1	4033	4.4	8.9	21.4
Quintile 4	P1	4352	4.7	10	23.3
Quintile 5 (most deprived)	P1	4114	5.2	10.3	22.7

SIMD* Quintile	Year Group	Denominator	% Severely Obese ¹	% Obese ²	% Overweight ³
Quintile 1 (most affluent)	P7	2027	8.4	15.8	30
Quintile 2	P7	2435	9.9	18.1	33.1
Quintile 3	P7	3091	10.9	19.2	34.2
Quintile 4	P7	3345	12.5	20.9	35.6
Quintile 5 (most deprived)	P7	2845	13.3	21.8	36.4

SIMD* Quintile	Year Group	Denominator	% Severely Obese ¹	% Obese ²	% Overweight ³
Quintile 1 (most affluent)	S3	1298	7.9	14.3	28.4
Quintile 2	S3	1800	8.3	15.3	29.6
Quintile 3	S3	1984	10	16.9	32.7
Quintile 4	S3	2263	10.9	17.8	32.3
Quintile 5 (most deprived)	S3	1840	10.1	17.2	32.5

Source: NHS: Information Services Division – Child Health Surveillance Programme

1. Includes severely obese children only (ie all children ≥ 98 th centile)

2. Includes obese and severely obese children (ie all children ≥ 95 th centile)

3. Includes overweight, obese and severely obese children (ie all children ≥ 85 th centile)

P1 children are aged approximately 4-5 years old, P7 children 11-12 years old, S3 children 14-15 years old.

*Scottish Index of Multiple Deprivation

Sexual health

Articles 14,16,19 and 34

396 Scottish Ministers launched *Respect and Responsibility: Strategy and Action Plan for Improving Sexual Health* in January 2005. Scotland fares badly in comparison with other countries in terms of good sexual health, for example, sexually transmitted infections are on the increase, and prior to the launch of the *Strategy* there had been no agreed strategic framework to tackle sexual health issues.

397 *Respect and Responsibility* sets out clear challenges for Government, NHS Boards, local authorities and other agencies to deliver better sexual health services across the country. It sets out an action plan to deliver:

- > a balance between what government should do to help people avoid contracting or spreading sexually transmitted disease or an unintended pregnancy and the individual's responsibility for their own health and the safety of others;
- > a strong focus on respect and responsibility as the cornerstones of mature and loving relationships and the guiding principle for action;



- > national leadership through the creation of a National Sexual Health Advisory Committee chaired by the Minister for Public Health;
- > local leadership. NHS Boards and local authorities must identify strategic leaders for sexual health so that there is better planning for the future; and
- > continued education to raise awareness of the issues relating to good sexual health and improvement in access to services.

- 398 The school curriculum in Scotland is not in statute. Current health education policy is to give schools and local authorities guidelines from which they develop programmes to suit the health education needs of children.
- 399 In nursery and the early years of primary school the emphasis is on family relationships and friendships and developing an understanding of how we care for one another. For older children, the focus is on the understanding of rights and responsibilities and a knowledge and understanding of the impact health choices can have on the quality of life. The Executive is seeking to promote a culture of respect, for oneself and for others; that children should not feel they have to have a sexual relationship until they are ready and that when they do they are safe.
- 400 The Executive is committed to striking a balance between a child's right to sex and relationship education and the right to freedom of thought and religion. For example, the Executive is currently funding a pilot project between Healthy Respect and the Scottish Catholic Education Service to develop appropriate sex and relationships education programmes in Catholic secondary schools. Healthy Respect is the Lothian based National Health Demonstration Project which provides a test bed for implementing evidence-based practice and innovative actions to improve children's sexual health.
- 401 *Respect and Responsibility* also reiterates the need to involve parents, carers and the wider community in the development and revision of sex and relationships education programmes. This builds on the existing involvement of children in the development of sexual health education within schools.
- 402 In November 2006 the Executive launched the first annual report on *Respect and Responsibility*. The annual report provides an overview of progress since the *Strategy* was launched and contains examples of good practice from across Scotland. The report also outlines examples of joint working with NHS Boards, local authorities, the voluntary sector and faith groups taking a true partnership approach to implementing the strategy and action plan.
- 403 Sexual Health is a controversial subject, where deeply held views on moral issues meet cultural and lifestyle diversity and a tradition of tolerance. *Respect and Responsibility* sets out the Scottish Executive's proposals in a way which is respectful to both children's rights and parental and personal responsibility, and which recognises religious, cultural and gender diversity.

Sexually-transmitted infections

- 404 *Respect and Responsibility* seeks to ensure that children are fully informed about the dangers of sexually-transmitted infections, including HIV. The Executive funds a number of voluntary organisations such as Caledonia Youth, Waverly Care, Healthy Gay Scotland and HIV Scotland to undertake promotional campaigns, provide services including access to condoms to at risk groups, including to children.

- 405** The tables below set out data on the prevalence of sexually transmitted infections amongst children and young people in Scotland. There has been a rise in chlamydia infection statistics, however this is likely to be in part a result of more comprehensive and flexible testing arrangements, plus a greater awareness of the dangers of STIs, leading to greater numbers of young people coming forward for tests. At present more females present for testing than males, the figures in the table therefore reflect this. One of the key aims of *Respect and Responsibility* is to address Scotland's poor sexual health statistics.

TABLE 49

Sexually-transmitted infections in under 20 year olds diagnosed at Scottish GUM clinics by diagnostic group - males

	1999	2000	2001	2002	2003	2004	2005
ACUTE STIs							
Infectious syphilis	2	1	-	-	4	4	6
Gonorrhoea	32	56	66	55	60	50	72
Chlamydia	170	227	312	366	480	595	748
Genital herpes, first episode	17	14	23	28	41	44	38
Genital warts, first episode	305	265	282	289	328	367	441
NSGI (non-chlamydial)	109	109	130	156	182	155	206
Trichomoniasis	-	2	-	2	1	-	2
HIV infection, newly diagnosed	2	2	1	-	1	1	1
Other acute STIs	62	62	51	55	77	83	87
OTHER STIs							
Other acquired syphilis	-	-	-	-	-	-	1
Congenital syphilis	-	-	-	-	-	-	-
Genital herpes, recurrence	2	2	2	4	4	5	4
Genital warts, recurrence/reregistered	87	64	63	50	63	80	89
Other STIs	-	-	-	1	-	-	-

Source: NHS: Information Services Division – STISS



TABLE 50

Sexually-transmitted infections in under 20 year olds diagnosed at Scottish GUM clinics by diagnostic group - females

	1999	2000	2001	2002	2003	2004	2005
ACUTE STIs							
Infectious syphilis	2	2	3	-	-	1	2
Gonorrhoea	56	57	73	63	45	57	53
Chlamydia	622	689	869	984	1 142	1 267	1669
Genital herpes, first episode	112	118	152	118	146	156	200
Genital warts, first episode	719	685	697	706	755	857	925
NSGI (non-chlamydial)	83	76	69	118	89	92	77
Trichomoniasis	10	16	23	16	19	13	15
HIV infection, newly diagnosed	2	1	2	-	-	2	-
Other acute STIs	33	27	32	27	40	43	65
OTHER STIs							
Other acquired syphilis	-	-	-	-	-	1	-
Congenital syphilis	-	-	-	-	-	-	-
Genital herpes, recurrence	21	20	28	21	19	30	35
Genital warts, recurrence/reregistered	229	191	158	141	150	148	173
Other STIs	3	1	-	2	1	-	-

Source: NHS: Information Services Division – STISS



Teenage pregnancy

- 406** Paragraph 44(a) of the 2002 *Concluding Observations* recommended that the UK take the necessary measures to reduce the rate of teenage pregnancies. A wide range of measures are in place in Scotland to help provide children and families with education and information about the implications of teenage pregnancy and to discourage teenagers from becoming parents. Schools have a crucial part to play and are expected to provide high-quality sex and relationships education in an objective, balanced and sensitive manner. The Executive is developing policies to ensure better access to sexual health services, including addressing problems of access in rural areas and address underage drinking and drug abuse, which can lead to risk taking behaviours including underage and unprotected sex which in turn can lead to unintended pregnancies.
- 407** *Respect and Responsibility* also seeks to ensure that local inter-agency strategies are developed which reflect the key components of the national strategy. Access to free contraception is available from Family Planning Clinics, Pharmacies, GP practices and voluntary organisations. Confidential support for children is available from the statutory and voluntary sectors across Scotland.

TABLE 51

Teenage pregnancies in Scotland by age of mother at conception

Age	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04
13-15						
Number	841	715	784	692	703	706
Rate*	9	7.6	8.2	7.3	7.5	7.5
16-19						
Number	9191	9162	8925	8787	8521	8616
Rate*	72.6	72.3	71.4	70.6	68.3	68.2
13-19						
Number	10,032	9877	9709	9479	9224	9322
Rate*	45.7	44.7	44	43.1	42.1	42.4

Source: NHS: Information Services Division

*Pregnancy rate is per 1000 population

TABLE 52

Teenage pregnancies in Scotland by age group and deprivation, as at 31 March 2004

	Number		Rate per 1000†	
	13-15	16-19	13-15	16-19
Total	706	8616*	7.5	68.2
Quintile 1 (most affluent)	54	724	2.8	29.6
Quintile 2	75	1001	4.2	41.1
Quintile 3	129	1416	7.3	58.4
Quintile 4	178	2120	9.7	84.1
Quintile 5 (most deprived)	270	3354	13.5	119.5

Source: NHS: Information Services Division

*Includes one case where SIMD was not recorded

†Rate per 1000 women in each age group, 2003 population estimates.



Drug misuse

Article 33

- 408** All schools in Scotland are required to provide health education, of which drug education is an integral part. The Executive supports the Scottish Crime and Drug Enforcement Agency's *Choices for Life* events, which deliver positive lifestyle messages to children aged 10-12 throughout Scotland. Issues about drugs, alcohol, tobacco, exercise and healthy eating are included in the activities and messages in the programme, which encourages children to make informed lifestyle choices and to resist peer pressure.
- 409** *Know the Score*, launched in March 2002, was a response to comprehensive public research which revealed widespread concern about drugs, and a desire for factual and non-judgemental information about the various drugs circulating in Scottish communities. A key finding from the research is that authoritarian messages tend to alienate people, particularly young people, and do not convince them to stay away from drugs. The campaign aims to raise awareness, tell people where help is available and provide a range of factual information about drugs. Media advertising campaigns, a website, a 24-hour information line and drug information materials are available – the core message is that all drugs are potentially dangerous.
- 410** There has been a significant change in reported drug use since information was first collected in 1998. Between 2004 and 2006, prevalence of drug use in the last month among 15-year-old boys dropped from 21% to 14%. Although this has continued to drop, it is too early to tell whether this is a short-term change or the start of a trend. There was a small decline among 13-year-olds from 7% to 4%. There was no significant difference between boys' and girls' reported drug use.
- 411** The Scottish Drug Misuse Database offers a profile of drug misuse in Scotland. In 2004-05 it found that 214 under 16s and 1016 16-19 year-olds were reported by drug treatment services for the first time for their drug misuse. Cannabis was reportedly the most commonly used drug. Hospital records for the same year showed there were 20 discharges of under 16s reporting drug misuse and 349 discharges of 16-19 year-olds. Again, use of cannabis was most commonly recorded. The Scottish Schools Adolescent Lifestyle and Substance Use Survey, a national survey of smoking, drinking and drug use among secondary school pupils, found that in 2006, 21% of 15-year-olds and 7% of 13-year-olds reported using drugs in the last year.
- 412** 1,426 children were referred to the Children's Reporter in 2005-06 for alcohol and/or drug misuse. Also in 2005-06, 2% of the 59,600 offences referred to the Reporter were for possession of drugs. Problematic substance misuse is prevalent in over half (56%) of children who persistently offend, according to research conducted during the fast-track children's hearings pilots (*SCRA (2006) On the Right Track. A study of children and young people in the Fast Track pilot*).

Alcohol

- 413** The Executive is committed to tackling alcohol-related problems amongst children. Parents, schools, retailers and many others have a role as well. The health consequences of alcohol misuse are significant and there is justified concern over associated anti-social behaviour. An estimated 80-100,000 children in Scotland are living in houses affected by parental alcohol misuse.
- 414** Reducing harmful drinking by children is one of the key priorities in the Executive's updated *Plan for Action on Alcohol Problems* – aiming for a Scotland in which alcohol is treated responsibly. There are two strands to this: reducing binge drinking and harmful drinking by children; and recognising the need to instil a culture

of sensible drinking in children that serves them well in later life. The Executive is also looking to improve school and community based education, improve support for parents and ensure children affected by alcohol problems have access to appropriate prevention, education and treatment services.

- 415 The Executive is working with the media, the alcohol industry and the licensed trade to tackle the irresponsible promotions which can foster binge drinking; and are also ensuring that people have access to information, support and advice to help them make and sustain healthy choices. The long term aim is to create a culture in which the safe and sensible consumption of alcohol is recognised as being compatible with a healthy lifestyle.
- 416 Measures have been introduced in the Licensing (Scotland) Act 2005 which will tackle under-age drinking. It will be a condition of holding a licence for all licensed premises that they operate a no-proof no-sale system. This means requesting proof where age is in doubt and displaying nationally approved signage. In addition, since June 2006 a trial test-purchasing scheme has been in operation in one Scottish police area. This has been a great success and as a result test purchasing has been rolled out and will be available to all police forces in Scotland later in 2007.
- 417 Examples of the range of initiatives the Executive has supported include helping to reduce harmful drinking by children and young adults by providing alternative activities through the support of Youth CAFEs, helping to reduce potential availability through the piloting of test purchasing of alcohol by young people and helping to ensure they have access to appropriate services through local activities run by Alcohol and Drug Action Teams. In addition, there are school based education initiatives, such as *Choices for Life*.
- 418 Hospital records indicate that in 2005-06 there were 381 alcohol related discharges of under 15s and 1462 discharges of those aged 15-19. The Scottish Schools Adolescent Lifestyle and Substance Use Survey found that, in 2004, 84% of 15 year olds and 57% of 13 year olds had had an alcoholic drink. 43% of those 15 year olds and 15% of those 13 year olds reported drinking in the last week. Both 13 year olds and 15 year olds who are regular drinkers are more likely to smoke or use drugs than those who don't drink.

Smoking

- 419 Smoking remains the most important preventable cause of premature death and ill health in Scotland. Although smoking rates have been falling, around 13,000 Scots are still dying each year of smoking related diseases. In January 2004, the Executive published *A Breath of Fresh Air for Scotland*, which set out a comprehensive programme of action covering prevention and education; protection and controls to reduce the availability and attractiveness of cigarettes, particularly to children; and the expansion of high quality cessation services. It also addressed the issue of second hand smoke, proposing a widespread public consultation exercise which led to the Scottish Parliament passing the Smoking, Health and Social Care (Scotland) Act 2005. Under these new laws, which came into effect on 26 March 2006, Scotland became the first part of the UK to introduce comprehensive restrictions on smoking in substantially enclosed public places.
- 420 The new law is widely regarded as the most important piece of public health legislation for a generation and is expected to reduce the cultural acceptability of smoking and reducing the occasions on which children will be exposed to second hand smoke. Moreover, there is clear evidence to suggest smoking bans enable substantial numbers of people to quit smoking. As many of these quitters will be parents, and children of non-smokers are less likely to become smokers themselves, this new legislation may also well prove to have a powerful preventative effect.



- 421 Smoking rates in the UK are higher among 15 year old girls than in most European countries but, among boys of the same age, are among the lowest in Europe. Scotland and Wales are 2 of the 4 European Countries where smoking among boys has declined since 1998. On the other hand, in only Greenland and Scotland is the average onset of both weekly and daily smoking among girls earlier than boys. Latest Scottish surveys results for 2006 suggest smoking prevalence among 15 year olds has declined since its peak in 1996 from 30% for both boys and girls to 12% and 18% respectively.
- 422 While the decline in smoking prevalence is welcome, the Scottish government is determined to reduce these figures even further by preventing children and young people becoming smokers in the first place. In November 2006, the Executive published a report by a short-life expert group, the Smoking Prevention Working Group, which has made a series of recommendations aimed at preventing children from becoming smokers, including through more effective schools educational programmes and measures to reduce the availability, affordability and attractiveness of cigarettes. A multi-faceted tobacco control programme is essential and the Scottish government will put in place a new 5-year Smoking Prevention Action Plan based upon the Working Group's recommendations. As a first step, legislation has been laid before the Scottish Parliament to raise the age of purchase for tobacco products from 16 to 18 with effect from 1 October 2007. It is considered that raising the age of purchase, as part of a range of measures, will reinforce to the population in general and young people in particular that tobacco is a highly dangerous substance which should be avoided.

D) SURVIVAL AND DEVELOPMENT

Article 6

Child road safety

- 423 The Executive is committed to cutting the number of children killed and injured in road accidents. The child pedestrian fatal and serious casualty rate in Scotland is considerably higher than in England. Research has shown that the relatively high number of pedestrian casualties is mainly explained by exposure to traffic. Lower levels of car ownership in Scotland than in England mean that people walk more and are, therefore, exposed to greater risk. Research has also shown that child pedestrians in the lowest socio-economic group are 4 times more likely to be killed on the roads than children in the highest socio-economic group. In addition, young drivers are over-represented in road accidents, with 1 in 5 involved in an accident within one year of passing the driving test.
- 424 The Executive has set a target for a reduction of 50% in child fatal and serious injuries by 2010, compared with the average for 1994-98 and a number of initiatives are underway to help achieve this target, for example Road Safety Scotland (RSS) which has developed key road safety education initiatives and publicity messages. RSS is implementing a strategy for road safety education in the Scottish curriculum, the aim of which is to ensure that a core of road safety is taught at all stages of a child's formal education. The Executive funds free membership of the Children's Traffic Club in Scotland, which offers road safety training to all 3-year-old children in Scotland. The Executive is providing funding for the introduction of 20 mph speed limits around schools and safer routes to school projects. As at the end of 2006, 20 mph limits were in place at three-quarters of schools. Efforts have also been made to give new drivers a better understanding of road safety. The Executive is funding a pilot scheme to reduce the cost of the Pass Plus driver training course for newly qualified drivers aged between 17 and 25 years, with the aim of improving young driver safety by increasing uptake of the course.

- 425 Considerable progress towards the 50% reduction target has been made. In 2006, child fatal and serious casualties were 56% below the baseline and child pedestrian fatal and serious casualties were also 56% below. The Executive has committed to further casualty reductions in the period to 2010 and was associated with a child road safety strategy published by the UK Government in February 2007. The Executive also plans to set up an expert panel to consider what more can be done to improve road safety and is to develop a 10 year road safety strategy for Scotland.
- 426 A Child Safety Action Plan for Scotland covering all forms of accidental injury is also being taken forward by RoSPA and the Child Accident Prevention Council as part of a European Child Safety Alliance initiative.

Measures to combat harmful traditional practices

- 427 Female Genital Mutilation (FGM) has been a specific criminal offence in the UK since the passage of the Prohibition of Female Circumcision Act 1985. The Prohibition of Female Genital Mutilation (Scotland) Act 2005 repeals and re-enacts for Scotland the provisions of the 1985 Act, gives extra-territorial effect to those provisions and increases the maximum penalty for FGM in Scotland from 5 to 14 years' imprisonment and makes additional forms of FGM unlawful.
- 428 The Executive was aware during the development of the 2005 Act that high levels of engagement with community groups would be vital. The Scottish Refugee Council and the Somali Women's Action Group were closely involved, enabling them to plan and run awareness raising seminars and workshops in local communities. In addition to this, fact sheets outlining the proposed changes in the law and the rationale behind them were prepared and translated in to a number of different languages. Since the Act was passed, a successful conference has been held and guidance has been developed and circulated to police forces, social work, education and health professionals and those like the Scottish Refugee Council who work with representatives of the communities where FGM is most likely to be practiced. This has provided an opportunity to communicate the changes in the law as well as highlighting issues around the practice of FGM, such as child protection and health.

E) CHILDREN WITH DISABILITIES

Article 23

- 429 The Disability Discrimination Act was amended in 2005 to include a duty on the public sector to promote equality of opportunity for disabled people. Regulations under the Act require specified public authorities – including all health boards – to publish a disability equality scheme by December 2006, to implement the action set out in the scheme, and to report annually. The regulations include a requirement that public authorities must gather information on the effect of their policies and practices on disabled people and state how they will use that information to assist the promotion of equality. The disability equality duty has been warmly welcomed by disabled people and disability organisations as well as by public authorities and by the Scottish Parliament.
- 430 The Executive supports the Scottish portion of the Family Fund (just under £3m in 2007-08), an independent UK-wide charitable organisation, wholly funded by government, which makes small grants to families on low incomes with severely disabled children. Grants are provided to enable families to pay for items that are not generally provided by the health service or local authorities. Grants were awarded for holidays or breaks within the UK, white goods, driving lessons, clothing, footwear and bedding, support for attending hospital appointments and so on. The Executive also supports a range of voluntary



organisations delivering information and services to families with children with disabilities. These include Capability Scotland, Contact a Family, CCNUK, SENSE and The Butterfly Trust.

- 431 In addition, the Executive has established a cross-departmental Direct Payments Working Group, engaging extensively with the voluntary sector, whose purpose is to further promote the uptake of Direct Payments by local authorities to families with disabled children. This will empower parents of disabled children to improve outcomes for their children through a greater degree of financial control and personal autonomy.

F) HIV/AIDS PROGRAMMES AND STRATEGIES

- 432 In relative terms the number of people in Scotland with HIV is small. However, recent figures show that HIV in certain communities within Scotland is increasing. HIV disproportionately affects some communities, and in the case of the community most affected – gay/bisexual men – the Executive provides support for both the statutory health and voluntary sector services to engage in preventative and reactive health promotion work with young men in this community.
- 433 In 2003, Universal Antenatal Testing was implemented in Scotland which has reduced considerably the number of babies born to HIV infected mothers who did not know their HIV status during pregnancy. Inevitably, there will be an extremely small number of children who are born with HIV or contract it in childhood and anti-retroviral therapy is available for those who require it including children originally from countries outside the UK.
- 434 However, children whose parents/carers are HIV positive are also affected. In addition to gay/bisexual men who are parents, other parents/carers disproportionately affected by HIV in Scotland are men and women from some African communities, men and women who are intravenous drug users and women working in the sex industry. The Scottish Executive provides funding to voluntary organisations who work specifically with these groups/communities.
- 435 School based sex and relationships education – through programmes such as Sex and Relationships Education (SHARE) provides learning opportunities for young people in the school sector, including learning about HIV and sexually transmitted infections (STI). The Executive's Health Demonstration Project *Healthy Respect* works to promote learning and development of accessible services in response to concerns about rising STIs amongst young people.



G) STANDARD OF LIVING

Articles 26 and 27

Closing the Opportunity Gap

- 436 Closing the Opportunity Gap has been one of the Executive's key priorities. Its central aims are to: prevent individuals or families from falling into poverty; provide routes out of poverty and sustain individuals or families in a lifestyle free from poverty. In relation to children, the Executive is committed to improving the confidence and skills of the most disadvantaged children – to give them every chance of avoiding poverty when they leave school.
- 437 Four of the 10 specific Closing the Opportunity Gap targets are aimed towards helping children challenge and overcome some of the barriers to opportunities that they face as a result of being disadvantaged or living in a deprived area. The four targets are:
- > to reduce the proportion of 16-19 year olds who are not in education training or employment (NEET) by 2008;
 - > by 2008, to ensure that children and young people who need it have an integrated package of appropriate health, care and education support;
 - > to increase the average tariff score of the lowest attaining 20 per cent of S4 pupils by 5% by 2008; and
 - > by 2007, to ensure that at least 50% of all looked after young people leaving care have entered education, employment or training.

Tackling child poverty

- 438 Paragraph 46(a) of the 2002 *Concluding Observations* urged the UK to take all measures to the "maximum extent of available resources" to accelerate the elimination of child poverty. The new Scottish Government has committed to sharing the UK Government's long term target to eradicate child poverty by 2020. In Scotland, the 2005 target has been achieved ahead of the rest of the UK, but with 1 in 4 children still living in poverty there is still much more to do. Since 1998-99, 80,000 children have moved out of relative low income – a reduction of 26%. In terms of children in absolute low income, for the same period the number has more than halved.
- 439 Efforts are continuing to tackle poverty by investing in and supporting deprived and vulnerable children and their families. For example, Sure Start Scotland aims to ensure every child has the best possible start in life by targeting support for families with very young children in areas of greatest need. By 2008, every child who needs it should have an integrated package of appropriate health, care and support.
- 440 The health improvement policy aims to improve health for all but has a special focus on reducing the gap between the most affluent and most deprived communities. Challenging targets have been set for reducing health inequalities, eg a 15% rate of improvement in health for deprived populations. The Children and Young People's Health Support Group recently reviewed the range of policy initiatives relating to child health in Scotland against an assessment tool designed for this purpose by WHO Europe and a series of recommendations will emerge from this process. There is a particular focus on children that are vulnerable through poverty and other life circumstances.
- 441 Working for Families funding of £50m for 2004-08 has been allocated to a selection of local authorities with the highest concentration of children in workless households. Ten authorities received funding for



2004-08 with a further ten receiving funding for 2006-08. The funding aims to support parents to break down childcare and other barriers in order for them to access education, training or employment opportunities. Up to December 2006 nearly 12,000 parents had engaged with the fund with the majority drawn from groups far from the labour market or requiring sustained support to progress.

- 442 In further education, each college has a Childcare Fund which is used to pay for registered childcare. In higher education, a £1,240 lone parents grant and a £1,155 lone parents childcare grant (LPCG) for childcare costs are available for students in academic year 2007-08. Over 6,100 LPCGs have been awarded over the period from 2002-03, when the LPCG was introduced, to 2005-06. There is also a higher education hardship fund that students can apply to in addition to any grant they receive.

Youth homelessness

- 443 Paragraph 46(b) of the 2002 *Concluding Observations* urged the UK to better coordinate and reinforce its efforts to address the causes of youth homelessness and its consequences. Scotland has a relatively progressive approach to homelessness – households eligible for assistance need not be roofless and rights under homelessness legislation are more comprehensive than in other parts of the UK. A child under 16 who is seeking assistance apart from their parents/carers would be assisted under the Children (Scotland) Act 1995 rather than under homelessness legislation in most cases.
- 444 Part I of the Housing (Scotland) Act 2001 and the Homelessness etc (Scotland) Act 2003 have introduced a number of relevant changes to the way homelessness is tackled:
- > all local authorities have to develop and publish a homelessness strategy, based on an assessment of homelessness within their area. Guidance issued by the Executive in March 2002 emphasises that local authorities should work with local partners to develop their strategy and highlights that children often have particular difficulty in accessing housing. Strategies are now being implemented across Scotland;
 - > all households with dependent children who present as homeless are deemed to have a priority need for accommodation;
 - > all 16-17 year olds who present as homeless are deemed to have a priority need for accommodation;
 - > all persons aged 18-20 who were in care at the time that they left school are deemed to have a priority need for accommodation;
 - > all people with a priority need for accommodation have the right to permanent accommodation if they are found to be unintentionally homeless (true for the vast majority of cases); and
 - > local authorities are required to take the best interests of children into account in discharging their homelessness duties to homeless households with children.
- 445 The Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2004 prevents the routine use of unsuitable temporary accommodation, such as bed and breakfast establishments, for households with children or pregnant women. The effect of this legislation has been tracked using official statistics, which has showed that the number of local authorities complying with it has increased since it was brought into force, and that about one third did not comply as of the latest date that the statistics were collected. Difficulties on compliance are largely due to local authorities not having temporary accommodation of a good enough standard in the places where people want to stay. These difficulties are being overcome by local authorities continuing to develop temporary accommodation and putting more resources into managing it effectively. The Executive will issue guidance in the near future on the strategic use of temporary accommodation.

- 446 A number of local authorities and voluntary organisations have taken action focussed on youth homelessness within the context of their local strategy – e.g. family mediation schemes and social networks. There has also been a particular focus on preventing homelessness amongst young people leaving care. Recent research on prevention of homelessness by Pawson et al (<http://www.scotland.gov.uk/publications/2007/03/26095144/17>) shows that the majority of local authorities have put in place actions to ensure that young people leaving care do not become homeless. These actions range from ensuring that protocols exist between homelessness and social work departments to developing routine procedures for planning for future accommodation needs with young people about to leave care. New regulations and guidance came into force on 1 April 2004 which state that children's assessments and plans must set out what kind of accommodation best meets their needs and how this is to be obtained.
- 447 A number of local authorities, and particularly voluntary organisations, have involved children in the development of local policies and tools to prevent youth homelessness for example by acting as peer educators or being involved in producing training materials and information packs. Prevention of youth homelessness was also reported on in the research by Pawson et al referred to above and service user input was used to help evaluate different approaches to this. This research will be used to develop statutory guidance on prevention of homelessness for local authorities by the Executive over the coming year.
- 448 Over the next year, the Executive will issue guidance for local authorities on their duties to take account of the best interests of children in discharging their homelessness duties. This guidance has been based on research amongst local authorities and their partners and will emphasise the requirement to work together across different departments to meet children's needs as defined in the Executive's guidance on Integrated Children's Service Plans. Discussions with key stakeholders on this are ongoing.





07

EDUCATION, LEISURE
AND CULTURAL ACTIVITIES

education, leisure and cultural activities

Articles: 3, 4, 12, 13, 23, 28, 29, 37

A) EDUCATION, INCLUDING VOCATIONAL TRAINING AND GUIDANCE

449 Education is compulsory and available free to all children aged 5-16. The aims and objectives of Articles 28 and 29 of the UNCRC are given full effect in Scotland. Recent legislation – the Standards in Scotland's Schools Act 2000 and the Education (Additional Support for Learning) (Scotland) Act 2004 are designed to ensure the quality and breadth of education provided and that all children receive the help and support they need in order to learn effectively.

Pre-school education

450 Ministers are committed to giving every child the best possible start in life and the provision of free pre-school education contributes to that aim. Research demonstrates that good quality pre-school education enhances all-round development in children. Disadvantaged children benefit significantly from good quality pre-school experiences.

451 Since 2002 the Executive has funded local authorities to meet a statutory duty to provide 12½ hours a week of pre-school education to all 3 and 4 year olds whose parents wish it. Places can be delivered through local authorities' own settings (e.g. nursery classes and schools), through the private sector (e.g. private nurseries) and the voluntary sector (e.g. playgroups). The Executive has also funded a pilot of targeted nursery provision for 2 year olds from July 2006 in Glasgow, Dundee and North Ayrshire.

452 The table below shows the take-up of pre-school education.

TABLE 53

Percentage of children who attend pre-school education

	2000	2001	2002	2003	2004	2005	2006
	%	%	%	%	%	%	%
3 year olds	48.62	81.27	88.06	99.97	101.58	95.76	96.01
4 year olds	97.05	96.47	94.13	99.28	100.69	96.43	98.79

Notes

From 2006, the published percentages of those eligible for pre-school education were calculated differently to the previous percentages which were calculated on the number of children aged 3 or 4 as at January in the given year. These new calculations were then applied back to 2001 because new commitments were introduced with previous years.

Revisions were made to population estimates back to 1999.

Children are counted once for each centre they are registered with.

Some percentages are over 100% due to children attending multiple centres and being counted once for each centre they are registered with.

Census dates differ over the years: 2000 was September 1999 and from 2001 this was in January of that year.

Source: Pre-school and daycare census, Scottish Executive.

Source: population figures based on GRO Scotland mid year estimates.



School education

- 453 Section 1 of the Standards in Scotland's Schools Act 2000 makes explicit the right of all children aged 5-16 to be provided with school education. Section 2 of the Act directly incorporates the UNCRC into Scots law by placing a duty on local authorities to ensure that that this education is "directed to the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential" (Article 29(1)(a)). It also requires local authorities to have regard to the views of the child when carrying out this duty.
- 454 The Education (Additional Support for Learning) (Scotland) Act 2004 places additional duties on local authorities and schools in Scotland to secure an appropriate education for all children. The 2004 Act provides for children to have their views taken into account in that process and in discussing, monitoring and evaluating their learning. It also makes the best interests of the child the paramount consideration in determining the support they need to help with their education.
- 455 The 2000 Act introduced the school improvement framework, including a duty on Ministers and local authorities to 'secure improvement in the quality of school education'. Fundamental to this are the 5 *National Priorities in Education*: Achievement and Attainment, Framework for Learning, Inclusion and Equality, Values and Citizenship and Learning for Life. The *National Priorities* set out the long term strategic direction for improvement in education – that improvement is not recognised merely through academic attainment, but encompasses the whole needs of the child and the whole life of the school.
- 456 In 2002 the Executive undertook an extensive consultation with people in Scotland, including children, on the state of school education through the National Debate on Education. In the debate, many people - pupils, parents, teachers, employers and others - said that they valued and wanted to keep many aspects of the current curriculum. Some also made compelling arguments for changes to ensure all children achieve successful outcomes and are equipped to contribute effectively to the Scottish economy and society, now and in the future. Responding to the debate the Executive established a Review Group to identify the purposes of education 3 to 18 and principles for the design of the curriculum. The Group was asked to take account of the National Debate, current research and international comparisons. A *Curriculum for Excellence (ACfE)* was published in November 2004 as a starting point for a full review of the curriculum. It is fully in harmony with the *National Priorities*.
- 457 The aims of *ACfE* are to provide the opportunities for children to become successful learners, confident individuals, responsible citizens and effective contributors. It identifies: the values upon which the curriculum should be based; its purpose; the outcomes which children are expected to achieve; and the design principles which schools, teachers and other educators will use to implement the curriculum. Specifically, *ACfE* is designed to:
- > remove over-crowding in the curriculum and make learning more enjoyable;
 - > better connect the various stages of the curriculum from ages 3 through to 18;
 - > achieve a better balance between 'academic' and 'vocational' subjects and include a wider range of experiences;
 - > equip children with the skills they will need in tomorrow's workforce;
 - > make sure that assessment and certification support learning; and
 - > allow more choice and personalisation to meet the needs of individual children.

- 458** The Executive is committed to increasing teacher numbers and to reducing class sizes and improving pupil:teacher ratios (PTRs) in schools. PTRs act as an indicator of the total teaching resource per pupil. Though related to class-size, PTRs cannot be equated with this because teachers have non-contact time during the pupil day. The varying rates set out below reflect the additional resources that are required in remoter areas due to the number and size of schools. The table below sets out pupil teacher ratios by urban and rural areas.

TABLE 54

Pupil teacher ratios by location of school, as at September 2005

	Primary	Secondary
Large urban areas	16.9	11.8
Other urban	17.9	12.5
Accessible towns	17.7	12.2
Remote towns	17.0	12.4
Accessible rural	16.1	11.9
Remote rural	13.0	9.3

Source: Scottish Executive Education Department - ASU(schools)

Integrated Community Schools

- 459** The launch of the Integrated (then New) Community School (ICS) initiative in 1998 recognised the need for an integrated approach by a range of services to meet the needs of children and promoted the development of multi-agency working in and around schools. Alongside this initiative and following the publication of *For Scotland's Children* in 2001, much has been done at both national and local level to improve planning and delivery of integrated children's services to improve the lives of children. In this context, it is no longer appropriate to think of ICS as a separate school-based initiative and the Executive's aim is to learn from the experience to mainstream approaches to integrated service provision.

Literacy and numeracy

- 460** The first of the 5 *National Priorities in Education* is to raise standards of educational attainment for all schools, especially in core skills of literacy and numeracy, and to achieve better levels in national measures of achievement including examination results. Fundamental to achieving this is the *National Statement for Improving Attainment in Literacy and Numeracy* published in 2002. This provided for the first time an overview of national guidance, resources and initiatives for improving literacy and numeracy skills across pre-school, primary and secondary education. The *National Statement* also set out future action including the appointment of national development officers for literacy and numeracy based in Learning and Teaching Scotland.
- 461** Since 2005, the Executive has used the results from the annual Scottish Survey of Achievement (SSA), a sample-based survey of pupils' attainment in the Scottish 5-14 curriculum at P3, P5, P7 and S2, as part of the range of evidence used to find out how pupils in Scotland are getting on at school. The 2005 SSA found that around three-quarters of the pupils involved had very good or well established reading and numeracy skills or had at least made a good start at the level expected of them. The OECD PISA 2003 international comparison study of 41 countries to assess the performance of 15 year olds in reading, mathematics and science literacy shows that only 3 countries (Finland, Korea and Canada) have significantly higher scores in reading than Scotland.



- 462 In 2002, the Executive launched the Home Reading Initiative to encourage parents and carers to read with children for enjoyment at home. This was extended in 2003 to include a small grants scheme to encourage reading amongst particular groups for example boys from socially deprived areas. Grants have also been provided to provide reading materials for: blind and partially sighted children; traveller children and homeless families.
- 463 Young adults are one of the target priority groups for improving adult literacy and numeracy. *Youth Literacies* is specifically targeted at young people aged 16-25. There are important links here between this work and the youth work sector and the NEET group (not in education, employment or training) covering the 16–19 age group. *Youth Literacies* is a relatively new area of development and currently there is little evidence on its impact – research is planned to map existing provision and identify examples of current practice.

Spiritual, moral, social and cultural development and citizenship in Scotland

Articles 12, 13 and 40

- 464 Values and Citizenship is one of the 5 *National Priorities*. The development of all children as responsible citizens is also one of the four purposes of the curriculum identified in *A Curriculum for Excellence*. In addition, National Guidelines for pupils aged 5-14 offer a number of opportunities for pupils to learn about spiritual, moral, social and cultural development and citizenship particularly under Personal and Social Development for children of primary age and Personal and Social Education for secondary age.
- 465 *The National Guidelines on Religious and Moral Education (RME)* outline the aims of RME as to help pupils to develop a knowledge and understanding of Christianity and other world religions and to recognise religion as an important expression of human experience; appreciate moral values such as honesty, liberty, justice, fairness and concern for others; investigate and understand the questions and answers that religions can offer about the nature and meaning of life and develop their own beliefs, attitudes, moral values and practices through a process of personal search, discovery and critical evaluation.

Protection of children in schools

- 466 As part of the child protection reform programme, the Executive published *Safe and Well*, a handbook on child protection and wellbeing in school which acts as a benchmark for local policies and procedures. It covers appropriate structures and steps to take to ensure that action is taken to protect children where necessary and a wide range of special issues relating to the welfare of children. 6000 copies of *Safe and Well* have been distributed to schools and authorities, along with 66,000 copies of a pocket guide for staff which encourages them to consult *Safe and Well* when they are concerned about a pupil.
- 467 The Executive has established a Children Missing from Education service which supports authorities to track and trace children who have disappeared from the view of education authorities and schools to ensure that they are safe and well. Children “missing from education” are children of compulsory school age who are not on a school roll and are not being educated otherwise (at home, privately or in alternative provision). They may belong to highly mobile families, affected by issues such as domestic violence or family breakdown. The service also addresses capacity issues by providing training and guides on good practice in tracking and tracing children who disappear from view, promoting systematic procedures in transfer of records and supporting schools and education authorities to exchange information across Scotland and with other parts of the UK.

Involvement of parents

- 468 The Scottish Schools (Parental Involvement) Act 2006 modernises and strengthens the framework for supporting parental involvement in school education. The Act will place a new duty on education authorities to prepare a strategy for parental involvement and is intended to improve and increase the involvement of parents in their own child's learning and in schools more generally. The definition of parent used in the Act is very wide and includes carers and others acting in place of parent.
- 469 Executive support for authorities and parents also includes the Parentzone website, support leaflets for parents, sharing good practice and funding for Parent Partnership projects, many of which have focussed on diversity and inclusion issues in involving parents.

Data on educational attainment

- 470 The Executive collects annual data on educational attainment and a range of information about pupils, for example gender, ethnicity, free school meal registration and attendance records. Attainment levels of different groups of pupils are closely monitored to ensure that any emerging trend or pattern is identified – the Executive also has a Closing the Opportunity Gap target of improving the performance of the lowest attaining 20% of S4 pupils by 2008. There has been no positive trend in this measure in recent years despite a slight rise in the latest performance data (see table 55).
- 471 The lack of movement in the target in part relates to issues with the measure itself and, in policy terms, that far reaching reforms have not yet had a chance to impact. The target group includes a broad spectrum of children from those who leave school with no qualifications to those with just over 100 tariff points – roughly equivalent to 5 Standard Grades at general level. This could represent a significant achievement given the difficulties of some of the group, particularly those with additional support needs. In addition, while the tariff score data enables consistent measurement of attainment and comparison for different subgroups it does not currently recognise achievements in individual National Qualifications units that are not part of full courses, qualifications achieved through FE colleges or the wider achievements of pupils, which may disadvantage the lowest attaining 20% in comparison. The tariff system will continue to be developed to ensure that it takes full account of the existing range of attainment with college data due to be linked in 2007. In addition options for consultation on how best to recognise a broader range of achievements are being developed as part of *A Curriculum for Excellence*.
- 472 The radical overhaul of education through *A Curriculum for Excellence* is committed to delivering for the lowest 20%, providing more engaging, personalised approaches, more vocational opportunities, credit for wider achievement, ensuring that teachers and other professionals can successfully meet the needs of this group, and providing appropriate drivers in the system through outcome agreements and inspection.
- 473 Independent schools in Scotland must be registered by Scottish Ministers and are inspected by Her Majesty's Inspectorate of Education. If they offer residential provision, they are also subject to inspection and regulation by the Care Commission. Alongside a more flexible curriculum, the Education (Additional Support for Learning) Scotland Act 2004 and *Getting it right for every child* proposals are strengthening the package of support, ensuring that every young person who needs it has the multi-agency support they need to benefit from education.

TABLE 55

Average tariff score of S4 pupils in Scotland: lowest 20% compared to the rest

	Lowest attaining 20%	Remaining 80%	All S4 pupils	Difference between lowest 20% compared to remaining 80%	Difference between lowest attaining 20% compared to all S4 pupils
1998/99	54	190	162	136	108
1999/00	54	194	166	140	112
2000/01	53	196	167	143	114
2001/02	54	197	168	144	115
2002/03	53	197	168	144	115
2003/04	53	199	170	146	117
2004/05	51	199	170	148	119
2005/06	53	202	172	149	119

Source: Closing the Opportunity Gap website <http://www.scotland.gov.uk/Topics/People/Social-Inclusion/17415/CtOG-targets/ctog-target-f>

S4 pupils are those in stage S4 at September of the school year

Lowest attaining 20% - identified by calculating the attainment of these pupils in the following May/June using information from the Scottish Qualifications Authority. This is transformed into a total points tariff using a points score scale.

Tariff score - this scale is an extended version of the UCAS Scottish tariff points system. The pupils are then ranked in order of points gained. The average tariff is calculated from the individual tariff scores of those pupils who fall into the lowest 20%.

- 474 The Executive also uses the other information that is collected about school pupils to undertake a more detailed analysis of different groups within the S4 cohort. Further analysis is presented in the tables below.

TABLE 56

Three-year average tariff score of S4 pupils by looked after status combined with record of needs/individualised educational programme status and registration for free school meals 2003/04 to 2005/06

Looked after and RoN/ IEP status	Not registered for free school meals		Registered for free school meals		Total	
	Number of pupils	Average tariff score	Number of pupils	Average tariff score	Number of pupils	Average tariff score
All	153,784	181	26,652	111	180,436	170
Not looked after without RoN/IEP	147,797	185	24,471	116	172,268	175
Not looked after with RoN/IEP	4,685	92	1,578	58	6,263	83
Looked after without RoN/IEP	1,018	69	481	50	1,499	63
Looked after with RoN/IEP	284	39	122	26	406	35

Source: <http://www.scotland.gov.uk/Publications/2006/03/09080409/0>

Notes

Tariff score - this scale is an extended version of the UCAS Scottish tariff points system. The pupils are then ranked in order of points gained. The average tariff is calculated from the individual tariff scores of those pupils who fall into the lowest 20%.

In this table, number of pupils refers to the total number of S4 pupils from the last three years, average tariff score refers to the average score of all of these pupils.

Averages calculated from small numbers may be misleading

TABLE 57

Three year average tariff score of S4 pupils by ethnic background and registration for free school meals 2003/04 to 2005/06

Ethnic Background	Not registered for free school meals		Registered for free school meals		Total	
	Number of pupils	Average tariff score	Number of pupils	Average tariff score	Number of pupils	Average tariff score
All Pupils	153,784	181	26,652	111	180,436	170
White - UK	141,033	182	23,807	111	164,840	172
White - Other	1,904	181	364	114	2,268	170
Mixed	716	203	118	137	834	193
Asian - Indian	493	207	73	151	566	200
Asian - Pakistani	1,340	179	428	150	1,768	172
Asian - Bangladeshi	85	180	13	131	98	173
Asian - Chinese	522	217	31	192	553	216
Asian - Other	209	180	77	162	286	175
Black - Caribbean	24	136	8	144	32	138
Black - African	201	184	95	141	296	170
Black - Other	61	169	48	134	109	153
All Other Categories	418	176	218	111	636	154
Not Known/Not Disclosed	6,778	145	1,372	88	8,150	135

Source: <http://www.scotland.gov.uk/Publications/2006/03/09080409/0>

Notes

"All Other Categories" includes: Occupational Traveller, Gypsy/Traveller, Other Traveller and 'Other' Categories

In this table, number of pupils refers to the total number of S4 pupils from the last three years, average tariff score refers to the average score of all of these pupils
Averages calculated from small numbers may be misleading

TABLE 58

Average tariff score of S4 pupils in Scotland, by urban/rural location of school and registration for free school meals 2003/04 to 2005/06

Urban/rural location of school	Not registered for free school meals		Registered for free school meals		Total	
	Number of pupils	Average tariff score	Number of pupils	Average tariff score	Number of pupils	Average tariff score
All pupils	153,784	181	26,652	111	180,436	170
Large urban areas	50,510	177	13,146	111	63,656	163
Other urban areas	54,222	178	8,367	108	62,589	168
Accessible small towns	19,067	189	1,942	113	21,009	182
Small remote towns	10,059	186	957	115	11,016	180
Accessible rural areas	13,652	185	1,717	112	15,369	177
Remote rural areas	6,274	193	523	141	6,797	189

Source: <http://www.scotland.gov.uk/Publications/2006/03/09080409/0>

Notes

In this table, number of pupils refers to the total number of S4 pupils from the last three years, average tariff score refers to the average score of all of these pupils
Averages calculated from small numbers may be misleading



Educational attainment of looked after children

Articles 20 and 21

- 475 Although the educational attainment of Scotland's looked after children has improved slightly over recent years, it remains very poor compared to their peers and improvements are needed to ensure opportunities for looked after children to achieve and attain are maximised.
- 476 On 31 March 2006, there were 12,966 looked after children in Scotland:
- > 4.1% of children **not** looked after left school with no qualifications at SCQF level 3 or above;
 - > this figure increased to 24% where the child was looked after and accommodated; and
 - > 41.9% when looked after at home.
- 477 Of the young people who left care during 2005-06 beyond minimum school leaving age, 50% had at least one qualification at SCQF level 3 or above and 34% had both English and maths at SCQF level 3 or above. This is an increase of 8% and 6% respectively since 2004. Looked after children are six times more likely to be excluded from school than children who are not looked after.
- 478 In January 2007, the Executive launched *Looked After Children and Young People We Can and Must Do Better*. It sets out Ministers' desire to see a step change in outcomes for looked after children and sets out the actions that need to be taken to ensure that this happens. Ministers are clear that the status quo for these children is not acceptable. Table 59 sets out the educational qualifications of those leaving care.

TABLE 59

Number and academic attainment of children aged 16 or over who ceased to be looked after during 2005-06

Qualifications gained	Leavers from care at home	Leavers from care away from home	Total
No qualifications at SCQF Level 3 or above	386	242	628
At least one subject at SCQF Level 3 or above	319	320	639
Both maths and English at SCQF level 3 or above	195	231	426
At least one subject at SCQF Level 6 or higher	17	45	62
Total number of care leavers	705	562	1267

Source: Scottish Executive, Children's Social Work Statistics 2005-06
Includes estimates for those local authorities unable to provide information



- 479 *We Can and Must Do Better* raises many important issues and contains 19 action points across its five themes. It highlights and addresses eight notable messages:
- > the importance of the corporate parent role;
 - > the need to raise awareness of the educational needs of looked after children and young people and improve training for all foster carers, residential workers, lead professionals, support workers and associated professionals;
 - > the need for clarity regarding the role and responsibilities of the designated person within schools and residential establishments;
 - > the importance of providing flexible and appropriate support before, during and post transitions;
 - > the importance of physical, mental and emotional health and wellbeing in facilitating positive educational outcomes;
 - > the need for good quality accommodation, which supports the education, training or employment of looked after children;
 - > the importance of clear advice and a range of emotional, practical and financial support for looked after children as they make the transition to adulthood/ independent living; and
 - > the vital importance of stability and continuity within education and care settings.
- 480 *We Can and Must Do Better* builds on both the positive work that has been previously undertaken and that which is ongoing. Considerable work remains to be done, for the Executive working with key partners to improve outcomes for Scotland's looked after children.
- 481 To broaden the research base in this area, Ministers announced new funding in October 2004 for local authorities to pilot and evaluate new models of educational support for looked after children. In December 2005 a short life working group of key stakeholders was established to look into the issues surrounding the educational attainment of looked after children. A national evaluation of these educational attainment pilots, in order to identify good practice principles, has also been commissioned by the Executive and is due to report in summer 2008.
- 482 The Children (Scotland) Act 1995 provides that children held in secure units have the same statutory right to education, as other children. The educational needs of these children should be addressed in care plans and individual curriculum packages should be planned. Children in secure should, where necessary, receive additional help, encouragement and support to address special needs or compensate for previous deprivation or disadvantage. Planning should have regard to continuity of education and the disruption that many children may have experienced in their schooling prior to being admitted to secure care and the resistance to education that this may foster. It should also take a long term view of education, provide educational and developmental opportunities and support, and promote potential and achievement. Effective planning of individual curriculum packages by educational staff is recognised as a means to challenge this resistance and convince children of the value and possibilities of education. Effective co-operation between education and care staff is necessary if positive educational attainment is to be achieved.
- 483 All under 18s in young offenders' institutions are provided with education by qualified staff. Those under 16 have a statutory entitlement to education mirroring arrangements in the community. There are approximately 145 teachers working in Scottish prisons.



Measures to eliminate inequalities and discrimination

Article 2

- 484 The 2002 *Concluding Observations* recommended that all necessary measures should be taken to eliminate inequalities in education. The Executive is committed to promoting equality within education, eliminating any form of inequality and raising attainment levels of all children. Schools have a key role to play in the drive for equality, and preparing children to live in a multi-cultural and inclusive society. Inclusion and Equality is one of the *National Priorities in Education*, aiming to promote equality and help every pupil benefit from education, with particular regard paid to pupils with disabilities and additional support needs and to Gaelic and other lesser used languages. Section 1(1) of the Education (Scotland) Act 1980 requires each local authority to ensure there is “adequate and efficient” provision of school, pre-school and further education in its area. As discussed above, the Standards in Scotland’s Schools Act 2000 also requires the education provided to each child to be directed towards the development of their personality, talents and mental and physical abilities to its fullest potential.
- 485 A number of initiatives are underway to actively promote equality within education and help enable every pupil to achieve their full potential, regardless of their gender, ethnicity, religion or social background. Initiatives include the commissioning of seven long-term inter-linked projects with the general aim of tackling inequalities within education. Outputs from some of these projects include developing materials to help support schools in dealing with racist and homophobic incidents; developing training resources for school staff on equality issues; and producing materials to support schools in mainstreaming anti-discrimination into the curriculum. The Executive also works with education authorities in meeting duties under the Race Relations (Amendment) Act 2000 and will continue to work with authorities in relation to the upcoming disability and gender duties.
- 486 The Executive commissioned research into the way that education authorities and schools deal with racist incidents in schools. The research also assessed the effectiveness of the anti-racist toolkit for teachers. The second stage of this project will commission work to support schools and teachers specifically to tackle racist incidents in a consistent manner. This research is part of a wider body of related work that the Executive is taking forward, for example, funding has been made available for:
- > the Centre for Education for Racial Equality in Scotland to produce materials to help education authorities take forward their duties under the Race Relations (Amendment) Act;
 - > Show Racism the Red Card to produce and distribute a Scottish video and education pack for schools to help deliver anti-racist education. The resource uses the medium of Scottish professional football; and
 - > production of a Holocaust Teaching Resource which uses lessons based on the Holocaust to help promote equality, citizenship and tolerance amongst pupils.

Religious intolerance

Articles 2,14

- 487 The Executive has produced a web-based anti-sectarian education resource, *Sectarianism: Don’t Give It, Don’t Take It*, which provides teachers and youth workers with material they can use to raise awareness of sectarianism and religious intolerance and encourage better mutual understanding. The roll-out of the resource was supported by a national conference and local seminars which provided practical suggestions for using the resource. The Executive has also launched a DVD for teachers, *Challenging Sectarianism: Anti-sectarian education in practice*. The DVD demonstrates how interactive

techniques can be used to effectively consider the issues surrounding sectarianism with children, in both school and youth work settings. A copy of the DVD has been issued to all local authority schools in Scotland.

- 488 The Executive has also commissioned work to ensure that the *Don't Give It, Don't Take It* resource remains up to date, well used and relevant. This will include quarterly updates to add more good practice and classroom material. An ongoing marketing plan has been put in place to ensure that schools continue to be aware of materials on anti-sectarian education.

Children with disabilities

Article 23

- 489 The following number and ratios of children are assessed or declared disabled in Scotland's schools. Primary - 4,000 pupils disabled, (1.0%). Secondary - 3,700 pupils disabled (1.2%); Special - 3,200 pupils disabled (46.6%). Some 71% of pupils assessed or declared disabled are in mainstream schools. The Executive does not gather or hold information on nature of each child's disability.

Asylum-Seeking and Refugee Pupils

Articles 10, 20 and 22

- 490 All children in Scotland have full rights to education. The Education (Scotland) Act 1980, as amended, states that *all* children, which by implication includes asylum-seeking and refugee children, are entitled to school education. Additionally, the Standards in Scotland's Schools Act and Additional Support for Learning Act place additional duties on local authorities and schools to secure an appropriate education for all children. For The provision of English as an additional language teaching is specifically covered by the ASL Act Code of Practice. Other key legislation includes the Children (Scotland) Act 1995, which requires local authorities to ensure that they have taken into account a child's racial, linguistic, cultural and religious identity within their service provision, including education. Additionally, there is a statutory duty to promote racial equality under the Race Relations (Amendment) Act.
- 491 As a universal service, the school is well placed to play a pivotal role in helping asylum seeking/refugee children adjust to their new lives in Scotland. For many refugee and asylum seeking children it may be the only statutory agency from which they derive support.
- 492 The Executive has funded research into policies used by local authorities that support the learning of asylum-seeking and refugee pupils – *Education And Schooling For Asylum-Seeking And Refugee Students In Scotland*. The report will be published later in 2007 and will highlight examples of good practice and provide recommendations for consideration. The Executive has also produced an education guide for asylum seekers and refugees. The guide provides new arrivals with information on how the Scottish education system works. It also provides details of where to receive more support and information.

Gypsy/Traveller Pupils

Article 30

- 493 The Executive has provided funding to the Scottish Traveller Education Programme (STEP) for a number of years. This has facilitated work including the production of guidance for education authorities and schools on inclusive practices for interrupted learners, and the publication and



distribution of a set of leaflets and accompanying DVD for Gypsy/Traveller parents and families, providing targeted information on the Scottish education system.

- 494 More recently, the Executive commissioned STEP to assess the effectiveness of their guidance on inclusive education approaches for Gypsies/Travellers. Following that research, STEP are currently taking forward work based on a number of related recommendations. This includes the facilitation of the development and maintenance of an e-learning community to assist in providing more continuity for interrupted learners, the production of rapid assessment guidance to assist schools receiving new Gypsy/Traveller pupils, and also the development of a national hand-held record to improve the quality of information on progress schools receive.

LGBT Issues

- 495 The Executive funded LGBT Youth Scotland to carry out research into how local authorities and schools deal with homophobic incidents in schools. The report was published in June 2006, and a seminar was held on the same day to disseminate the findings to the sector. The report recommended the production of a variety of supportive materials for teachers. Discussions with LGBT Youth on the type of resources to be produced are on-going – key stakeholders will also be consulted during the development of materials.
- 496 The Executive is also working with Learning and Teaching Scotland and LGBT Youth to consult on and develop online materials which will help improve teachers confidence in dealing with homophobic incidents.

Gaelic education

Article 30

- 497 The Gaelic Language (Scotland) Act 2005 requires Bòrd na Gàidhlig, the Gaelic Development Agency, to advise on matters relating to the Gaelic language, culture and education and to develop a National Gaelic Language Plan setting out strategies and priorities for the future development of the Gaelic language, culture and education.
- 498 The Executive makes available specific funding for Gaelic-medium education where there are sufficient numbers of children whose parents request it. In 2005-06, 2068 children attended Gaelic-medium units in 61 primary schools. There were 1296 secondary pupils learning Gaelic and 36 secondary schools offering Gaelic for fluent speakers. In partnership with Glasgow City Council, the Executive has invested £2.75m capital funding to enable the establishment of the first all-through Gaelic school in Scotland which opened in August 2006, teaching children aged 5-16.
- 499 The Executive is seeking to increase the number of Gaelic teachers in Scottish schools. Measures to improve this will include the recent appointment of a Gaelic teacher recruitment officer, new routes into Gaelic teaching and opportunities for teachers to transfer to Gaelic teaching. A working group has been established to focus on Gaelic IT delivery and subject development, particularly at the secondary level. This group is working to expand Gaelic secondary provision and is considering new methods for delivering Gaelic medium education where teachers may not be available or where demand may be limited.
- 500 Cultural activities related to the Gaelic language are organized by a number of organizations, some of which receive Executive funding, for instance, An Comunn Gaidhealach, who organize the annual Royal National Mod.

Independent schools

- 501** The 2002 *Concluding Observations* recommended an evaluation of the impact of school privatisation on the right of children to education. The proportion of pupils educated within the independent sector in Scotland has remained relatively constant for many years at around 4% of the total pupil population (a slight increase from 3.9% in 2000 to 4.2% in 2006 is caused by a fall in the overall school population against a stable number of independently educated pupils). The static number of pupils in the independent sector does not support the observation of school privatisation so there has been no need for an evaluation.

School attendance

- 502** The Executive has promoted the use of home-school link workers to reach out to children with poor attendance and their families. The attitude of parents towards learning is a determining factor in the attitudes of children and their attendance may be affected by difficulties experienced at home. Home-school link staff can develop relationships with children and families that enable them to identify issues affecting children and work towards home-school consistency in supporting the child's education. £29m per year of funding has been provided to local authorities which may be used for additional support staff in school, including home-school link workers.
- 503** The Executive has supported a pilot of automated call systems in a selection of Scottish schools to encourage attendance and to safeguard children's welfare and have recently provided £40m additional funding to schools for educational resources which may be used for automated call systems. Automated call systems enable schools to notify parents quickly when a child does not arrive in school as expected, by text, mobile phone or landline. The Executive has issued draft guidance to local authorities for consultation setting expectations of good practice in encouraging attendance and reducing truancy.
- 504** It is clear that the majority of children in Scotland are attending school regularly. The table below provides an indication of the pattern of attendance and absence for Scottish pupils from 2003/04 2005/06. Pupils may be recorded as absent from school for a number of reasons. These include sickness where no educational provision is made, arriving very late at school, holidays, exceptional domestic circumstances such as family crisis, other authorised absence, unauthorised holidays, truancy, exceptional domestic circumstances (unauthorised), and temporary exclusion.

TABLE 60
School attendance in Scotland

	% Primary schools			% Secondary schools			% Special schools		
	2003-04	2004-05	2005-06	2003-04	2004-05	2005-06	2003-04	2004-05	2005-06
Attendance	95.3	95	95	90.2	90.1	90.4	91.1	91	90.7
Absence	4.72	5.1	4.9	9.84	9.9	9.6	8.89	9.1	9.4

Note: figures in this table are rounded.

Source: Attendance and Absence in Scottish Schools 2005/06 (<http://www.scotland.gov.uk/Publications/2006/12/07132341/0>)



School exclusion

- 505 Statistics show that the vast majority of pupils (97%) were not excluded from Scotland's schools in 2005/06. However, there were 42,990 exclusions from school of which over 99% were temporary. 2005/06 figures show that 90% of all temporary exclusions are for less than one week and that only 2% of those temporarily excluded are out of school for more than two weeks. Removals from the school register are rare in Scotland, with a total of 264 in 2005/06 a decrease of 3% from 2004/05.

TABLE 61

Exclusion rates per 1000 pupils, by type of school

	2003-04	2004-05	2005-06
Primary	11	13	14.8
Secondary	105	112	114

Source: Exclusions from Schools 2005/06 (<http://www.scotland.gov.uk/Publications/2007/01/30100624/0>)

- 506 Executive guidance states that authorities and schools should follow procedures during exclusion that ensure that the needs of children and families are assessed and supported, such as children with additional support needs and looked after children.
- 507 The 2002 *Concluding Observations* recommended action to eliminate the inequalities in exclusion rates between children from different groups. The Executive is concerned that rates of exclusion for pupils with free school meals, looked after children and those with records of need or individual education plans are higher and has committed to reviewing exclusive guidance with a view to improving this. A number of policies reflect the Executive's focus on improving educational outcomes for children with these circumstances and experiences, for example policies on looked after children, closing the opportunity gap and young people not in education, employment or training.
- 508 Exclusion rates of minority ethnic pupils are generally lower than for the population as a whole. However, there are wide variations across different groups. While exclusion rates of Gypsy/Traveller pupils are also high they have continued to decrease in 2005-06 – the actual number of pupils excluded is small.



TABLE 62**Exclusions, by ethnic background of pupils**

Ethnic Background	All exclusions		Temporary exclusions		Removals from register		Total pupil numbers		Exclusion rate per 1,000 pupils	
	04 - 05	05 - 06	04 - 05	05 - 06	04 - 05	05 - 06	04 - 05	05 - 06	04 - 05	05 - 06
Total	41,974	42,990	41,703	42,726	271	264	723,175	711,883	56	56
White – UK	36,517	38,133	36,292	37,899	225	234	663,007	655,220	52	57
White – other	334	303	329	300	5	3	8,022	8,918	48	38
Mixed	156	179	155	177	1	2	4,814	5,189	30	33
Asian – Indian	38	32	38	32	-	-	2,163	2,195	15	16
Asian – Pakistani	317	352	316	348	1	4	8,683	8,730	38	38
Asian – Bangladeshi	5	2	5	2	-	-	473	498	12	7
Asian – Chinese	18	10	17	10	1	-	2,202	2,268	8	6
Asian – other	30	35	30	34	-	1	1,532	1,905	17	19
Black – Caribbean	17	17	17	17	-	-	105	105	130	162
Black – African	67	84	67	83	-	1	1,529	1,835	39	45
Black – other	55	37	55	36	-	1	490	506	91	92
Occupational Traveller	12	12	12	12	-	-	176	176	80	68
Gypsy/Traveller	32	17	32	16	-	1	349	418	120	64
Other Traveller	2	3	2	3	-	-	56	76	68	38
Other	146	129	145	128	1	1	2,500	2,250	57	58
Not known/not disclosed	2,326	1,631	2,308	1,624	18	7	27,074	21,594	83	81

Source: Exclusions from Schools 2005/06 (<http://www.scotland.gov.uk/Publications/2007/01/30100624/0>)

Measures to reduce temporary or permanent exclusion

509 The 2002 *Concluding Observations* recommended that the UK take action to reduce temporary or permanent exclusion, ensure that children have the right to be heard before exclusion and to appeal against exclusion and ensure that excluded children continue to have access to full-time education. In Scotland, school exclusion is a last resort and must be used in the context of a clear, consistently applied and comprehensive approach to behaviour management in school. This includes high standards in pastoral care and the promotion of positive behaviour and positive relationships in school, rather than intervening only when incidents of bad behaviour occur.

510 *Better Behaviour – Better Learning* (2001) sets out a package of recommendations to enhance whole school ethos and relationships, and these have been widely welcomed by the Scottish education community. In addition, the Executive has worked with authorities to develop and trial a range of approaches to promoting positive behaviour. The Executive takes the need to support school staff very seriously, and *Staged Intervention/Framework for Intervention* uses a peer support model, enabling teachers to support each other to enhance the learning and teaching environment and reduce problem behaviour in class.



- 511** The Executive issued guidance on school exclusion in 2003, which clarified that “informal exclusion”, “cooling off” and “sending a pupil home” are formal exclusions and should be recorded and that education authorities are required to put in place alternative education provision for excluded pupils as soon as possible, but within 10 days of an exclusion. Alternative provision for excluded pupils should be of an appropriate quality, quantity and range. The Executive emphasises quality of learning experience wherever learning takes place and has convened an expert working group to consider what type of provision is required to meet the needs of the most challenging children in schools, and to gather evidence of existing good practice. The group will produce a resource to encourage authorities to consider the range and quality of their provision, and to apply creativity towards meeting the needs of this group of children.
- 512** Figures from 2005-06 show increased activity by education authorities in making alternative provision for excluded pupils in the categories of college placement, home tuition, support bases and ‘other’ approaches such as work sent home.

TABLE 63
Education provision during exclusion⁽¹⁾

	Temporary provision during temporary exclusion		Interim provision following removal from register		Long-term provision following removal from register	
	2004 - 05	2005 - 06	2004 - 05	2005 - 06	2004 - 05	2005 - 06
Bridge course	4	3	-	-	-	-
College	1	4	1	-	7	2
Home tuition	161	352	7	4	-	-
Other schools outwith LA	-	1	-	-	13	7
Other schools within LA	6	16	5	2	162	72
Special unit	38	42	3	1	7	1
Support base	103	180	1	-	-	2
Other ⁽²⁾	4,243	4,762	175	193	24	5
No provision	37,151	37,364	81	60	58	170

Source: Exclusions from Schools 2005/06 (<http://www.scotland.gov.uk/Publications/2007/01/30100624/0>)

Notes

1. Data show the main type of provision recorded for each exclusion

2. Other also includes work sent home

TABLE 64
Number of days lost to exclusions, with no education provision

	Days		Days lost per 1,000 pupils	
	2004-05	2005-06	2004-05	2005-06
Temporary exclusions	128,619	126,447	178	178
Removal from register	1,488	2,272	2	3

Source: Exclusions from Schools 2005/06 (<http://www.scotland.gov.uk/Publications/2007/01/30100624/0>)

Note: Data related specifically to days where no alternative education was provided, and not to the total duration of exclusions.

The voice of the child

Article 12

- 513** The 2002 *Concluding Observations* recommended the introduction of legislation giving children the right to express their views on matters including school discipline. In Scotland, on the day when a decision to exclude a child is taken, the authority must inform the parent and offer a date and time for a meeting to discuss. This should also be communicated to the pupil, where he or she is of legal capacity, generally assumed to be at the age of 12, however the judgement is based on the child's maturity and understanding. The meeting to discuss the decision to exclude should be with the pupil, where the pupil has capacity or is over 16. The authority must write to the pupil or parent to explain the reasons behind the exclusion, their right of appeal and any other relevant information such as an action plan setting out the pupil's roles and responsibilities on return to school.
- 514** In the first instance, appeals can be directed to an Education Appeal Committee set up by the education authority. A further appeal against the decision of this committee can be made to the sheriff court. Section 28H of the Education (Scotland) Act 1980 gave parents and pupils the right to appeal. The Standards in Scotland's Schools Act 2000 has since extended this to pupils with legal capacity, as defined above. Section 2(2) of the 2000 Act states that due regard be given to the views of the child as far as reasonably possible, including when the parent is taking forward the appeal.

Bullying

- 515** Paragraph 48(e) of the 2002 *Concluding Observations* recommended action to prevent bullying and other forms of violence in schools. The Schools (Safety and Supervision of Pupils) (Scotland) Regulations 1990 place a duty on education authorities in Scotland to take reasonable care for the safety of its pupils. Building on this duty, the Executive has provided funding to support implementation of the recommendations in the *Better Behaviour – Better Learning* report on promoting positive behaviour in schools. The report sets the tone for positive relationships and school ethos and supports specific approaches to positive behaviour, for example restorative practices in school and a social, emotional and behaviour skills curriculum for children, to enable pupils to reflect on how they can show respect to one another and the impact of their behaviour on others.
- 516** *Better Behaviour – Better Learning* makes a number of recommendations for schools including:
- > agreement of systems for shared responsibility for conduct and behaviour of children in corridors, playgrounds and public areas within the school (for example in responding to incidents of bullying); and
 - > ensuring that opportunities are provided for senior pupils at both primary and secondary levels to take responsibility for 'buddying' and/or mentoring junior pupils (for example provide support to pupils related to bullying incidents).
- 517** The implementation of the recommendations of the report is supported by the dissemination of approaches which promote positive behaviour. The Positive Behaviour Team are a team of experienced officers seconded to the Executive with the remit to provide training advice and support to authorities on a range of approaches. The team of nine officers are spread geographically across Scotland and are each responsible for a cluster of authorities, ensuring that schools and authorities across Scotland are able to access these approaches.



- 518 The Executive has produced a wide range of information on tackling bullying for schools, parents and pupils for example, *Fresh and Fresher* which provide advice for children who are affected by bullying. Parents' role in supporting children is also acknowledged through *Confident, Happy Children and Good to Know* which provides advice for parents. For local authorities and schools the *Safe and Well* child protection guidelines (issued in 2005) provide advice on supporting victims of bullying. The Executive has held annual awareness raising exercises, for example an anti-bullying competition, which encourage schools to consider particular aspects of bullying.
- 519 The Executive has also provided funding for a number of other projects aimed at tackling bullying in schools. Scotland has had a national anti-bullying service for over 10 years which supports schools in developing and implementing anti-bullying policies, encourages the creation of a positive school ethos and provides support to schools when bullying incidents arise. The Executive has convened an Anti-Bullying Leadership Group, an expert group representing interested groups, to support a commissioning process to refresh anti-bullying services in Scotland. The commissioning process has reflected the findings of a needs assessment exercise, carried out in 2004, which recommended that the scope of the service be extended to tackle and prevent bullying in both school and community settings. The new *Respectme* service was launched in March 2007.
- 520 To support children and young people affected by bullying the Executive supports ChildLine Scotland to run a specific Bullying Line to listen to children and support them.

Youth Work Strategy

- 521 A consultation paper was issued in August 2006 including specific questions on accessibility for all young people including those in rural areas and on issues and barriers faced by young people from minority ethnic backgrounds, disabled young people and LGBT young people in accessing youth work opportunities. It also covered more strategic issues including whether youth work opportunities should be generally available to all young people or targeted at those who are particularly vulnerable or disadvantaged. As part of the consultation process the Executive supported a range of voluntary organisations to gather views from specific groups of young people including minority ethnic young people and young people who are looked after. Over 3000 responses were received, including 2500 from young people.
- 522 The national youth work strategy published in March 2007 seeks to take account of the needs of specific groups of young people including those who are disadvantaged or who might find it difficult to access opportunities for any reason. The strategy sets out the vision for youth work in Scotland, that: all young people in Scotland are able to benefit from youth work opportunities which make a real difference to their lives; and that the youth work sector is equipped and empowered to achieved ongoing positive outcomes for young people now and in the future.

Information and advice for learning and careers

- 523 A national, all-age careers guidance service, Careers Scotland, was created in 2002 in response to a review of careers services in Scotland. The Executive spends £59.5m a year on Careers Scotland – about 70% of which is dedicated to work with schools. Careers Scotland has three priorities: investing in the workforce of the future (work with schools including elements of continuing professional development for teachers); reducing economic inactivity among young people (work with the NEET group); and improving productivity through personal career planning.

- 524 As well as its work in schools, Careers Scotland has in recent years carried out a variety of pilot work with young offenders in a variety of settings. In particular it is dealing with transitional issues for young people leaving prison and will be starting through-care and after-care for young people leaving prison without statutory supervision orders to ensure that career planning and employability needs are picked up in the young person's home area.

Further Education

- 525 The Executive is committed to ensuring that all children have the opportunity to access further education, irrespective of their background or personal circumstances. There are 43 FE colleges across Scotland offering a wide range of academic and vocational qualifications. It is Executive policy to widen access to further education to help break down barriers to participation faced by all groups including those from disadvantaged areas. The Education Maintenance Allowance (EMA) programme, which gives a weekly allowance to students from low-income families, is specifically designed to remove the financial barriers those students face in continuing to learn. There is evidence that this policy and related funding activities are making an impact. In 2004-05 the students from the most deprived postcode areas in which one quarter of the population live, made up 27 per cent of all students and 30 per cent of all activity, (the same as in 2003-04).

Higher Education

- 526 Similarly, the Executive is committed to giving everyone with the potential to succeed in higher education the opportunity to do so. In 2005, the Executive set out a basket of measures to improve access from under-represented groups of the population, for example to increase participation from schools which traditionally have a lower proportion of pupils who go on to higher education. This activity was subsequently subsumed within the Scottish Further and Higher Education Funding Council's report *Learning for All* which reviewed widening access initiatives and set out a recommended action plan. It includes recommendations for all education sectors and the four Regional Widening Access Forums which have a strategic role to determine local priorities and funding of local collaborative initiatives to widen participation.

Vocational training

- 527 In May 2005, the Executive published a strategy and guide for school and college partnership, *Lifelong Partners*, setting out how the Executive will deliver its commitment to enable 14-16 year olds to develop vocational skills and improve their employment prospects by allowing them to undertake courses in further education colleges as part of the school-based curriculum. These include new Skills for Work Courses.
- 528 *Lifelong Partners* contains recommendations for best practice and outlines some legislative requirements on matters concerning partnership working, including planning and management and pupil welfare and support. The Executive has also issued specific guidance for local authorities, NHS Boards and the further education sector on school/college partnership for pupils with additional support needs.
- 529 By 2007 all state secondary and special schools in Scotland will have effective, meaningful and appropriate partnership with at least one college for S3 pupils and above. College options will be made available to pupils as they are with all other students in further and higher education - on the basis of available capacity. A standing stakeholder forum, which includes pupils and students, has been established to oversee the national development of these partnerships.



- 530 Modern Apprenticeships (MAs) offer people aged over 16 the opportunity of paid employment at the same time as training for jobs in craft, technician and management areas in order to achieve a vocational qualification at level 3 or above. They simultaneously give employers the opportunity to develop the skilled staff required for their business. The MA programme is managed and delivered by the Enterprise Network (Scottish Enterprise and Highlands and Islands Enterprise). There were 31,872 modern apprentices in training in Scotland at the end of 2006/07: 28,864 through Scottish Enterprise and 3,008 through Highlands and Islands Enterprise. The numbers in training have been increasing in recent years, by nearly 19 per cent overall between 2002/03 and 2005/06.
- 531 All MAs are employed from the start of their training and the rate of pay will usually be only a proportion. This reflects that they are in training and that in the early days of the programme, they are unlikely to be as productive as other members of the workforce. In addition it should also be borne in mind that subsidised training is also being provided for that individual. All apprentices who are under 19 are exempt from National Minimum Wage, as are those aged 19 and above during the first 12 months of their training.

Children not in education, employment or training

Articles 26, 27 and 32

- 532 In June 2006, the Scottish Executive launched *More Choices, More Chances* - a strategy to reduce the proportion of young people not in education, employment or training (NEET) in Scotland. It proposes a two fold approach: supporting young people to stop them from joining the NEET group in the first place; and helping those already in the NEET group to get back into learning and employment. Ministers have made clear that reducing NEET is a national priority which will take a national effort – by government, local authorities, the voluntary and private sector – to achieve. Whilst this demands action in all local authority areas, the strategy identifies 7 target areas where NEET presents the biggest challenge. Each of the target areas will receive £400,000 for two years; all other areas will receive £75,000 each for two years.
- 533 In the context of a strengthening labour market in the UK and expanding education and training opportunities, the proportion of young people who are in the NEET group in Scotland has remained relatively stable for the past decade. The proportion of 16-19 year olds who are in the NEET group in Scotland is high on an international comparison. It should however be noted that this comparison is influenced by some very different schooling systems, including different compulsory school attendance ages. The headline figures represent a wide variety of individuals, from those with multiple barriers to those who are simply on a gap-year. There is evidence to suggest that a truer figure for those who will need some additional support to access and sustain opportunities in the labour market is around 20,000. In 2004, the Executive set a target as part of its strategy *Closing the Opportunity Gap* strategy to reduce the proportion of 16-19 year olds for whom not being in education training or employment is a negative experience, by 2008.

TABLE 65

Percentage of 16-19 year olds not in education, employment or training

	Male	Female	All
1996	16.1	13.2	14.6
1997	13.4	12	12.7
1998	14.2	13.9	14.1
1999	16	13.7	14.9
2000	14.2	15.7	15
2001	16.6	14.2	15.4
2002	15	13	14
2003	15	12.3	13.7
2004	14.1	12.4	13.2

Source: Labour Force Survey (LFS): Quarters combined for 1998-2002

In 2003, the Scottish figure is taken from the Annual Scottish LFS (ASLFS).

In 2004 and 2005, the Scottish and UK figures are taken from the Annual Population Survey (APS).

The APS and ASLFS include boosts to the main LFS. This means there is a discontinuity in the series.

TABLE 66

Percentage of 16-19 year olds not in education, employment or training by deprivation and urban/rural classification

Geography (Residence Based)	2004	2005
	Proportion %	Proportion %
Deprivation		
15% Most Deprived Areas	27.9	29.9
Rest of Scotland	10.3	11.0
Urban/Rural Classification (6 fold)		
Large Urban Areas	14.7	17.5
Other Urban Areas	14.8	13.0
Accessible Small Towns	11.0	13.1
Remote Small Towns	-	-
Accessible Rural	9.7	11.9
Remote Rural	-	-

Source: Annual Population Survey, 2004 (Jan to Dec) and 2005 (Jan to Dec)

* Estimate is below reliability threshold (See Annex A of the publication for more details).

Notes: 1) Levels rounded to the nearest thousand. 2) Proportions are calculated on un-rounded figures. 3) Totals may not equal the sum of individual parts due to rounding. 4) See the definition section of the publication for more detail on estimates.

TABLE 67

Percentage of school leavers from publicly funded schools in Scotland by destination category and gender

Year	Number of leavers	Full time higher education	Full time further education	Training	Employment	Unemployed and seeking employment or training	Unemployed and not seeking employment or training	Destination unknown
2002/03								
male	29,380	27	18	6	27	15	4	4
female	27,886	35	23	4	19	10	4	4
2003/04								
male	29,221	26	18	5	29	16	3	4
female	27,316	33	23	4	21	10	3	4
2004/05								
male	28,170	27	18	6	31	12	3	3
female	27,782	35	24	4	22	8	3	3

Source: Destinations of Leaves from Scottish Schools 2004/05 (<http://www.scotland.gov.uk/Publications/2005/12/06133725/37257>)**TABLE 68**

Percentage of school leavers from independent schools in Scotland by destination category and gender

Year	Number of leavers	Full time higher education	Full time further education	Training	Employment	Unemployed and seeking employment or training	Unemployed and not seeking employment or training	Destination unknown
2002/03								
male	1,444	83	7	0	4	0	3	4
female	1,449	84	8	0	2	0	2	3
2003/04								
male	1,610	76	7	**	3	**	3	11
female	1,500	80	6	**	2	**	2	10
2004/05								
male	1,582	85	6	**	2	**	2	5
female	1,400	84	9	**	3	**	1	3

Source: Destinations of Leaves from Scottish Schools 2004/05 (<http://www.scotland.gov.uk/Publications/2005/12/06133725/37257>)

Notes for tables 65-68

Where two asterisks (**) have been inserted the number of leavers who have destinations in any category is less than 5 or where it would be possible to calculate the figures in the other categories based on the percentages and totals.

Percentages may not total 100% due to rounding.

B) REST, LEISURE, RECREATION AND CULTURAL AND ARTISTIC ACTIVITIES

Articles 13,15,29 30 and 31

Cultural policy

- 534** *Scotland's Culture – the Scottish Executive Response on the Cultural Review (2006)* <http://www.scotland.gov.uk/Publications/2006/01/18091052/12> sets out the Executive's cultural policy. It cites Articles 13, 29 and 31 of the UN Convention as the Executive's starting point – to be promoted further in action to implement the new cultural policy. *Scotland's Culture* was developed in consultation with children. It continues to recognise the value that arts, culture and heritage can bring to children and outlines the concept of 'local cultural entitlements', designed to impact on the lives of citizens and communities across Scotland, where the principle of free access to cultural activity for children should be the goal for every provider.
- 535** *Scotland's Culture* also proposes an 'escalator model' to help Scotland's talented children move from school through to further and higher education and/or into employment in the cultural sector. The prime principle of this 'escalator' philosophy requires children to have the maximum opportunity to try and experience the full range of cultural activity, being helped to discover their own creativity and to develop their gifts.
- 536** The Executive is taking forward plans for implementing this new policy and has issued a draft Culture Bill for consultation that includes a legal framework for delivering rights. The Executive is also publishing draft guidance for local authorities on local cultural entitlements and cultural planning.

Sports Policy

- 537** The Executive published its national sport strategy, *Reaching Higher*, in March 2007. One of its two key aims is to increase participation, particularly among children where there are many competing distractions. One of the key initiatives to increase participation is *Active Schools*, which is designed to increase the range and number of opportunities for children people to be more active in and around the school day. It is supported by all 32 local authorities in Scotland, in tackling the low levels of activity highlighted in the report of the National Physical Activity Task Force. A key element of the initiative is that the children should be consulted over the range of activities to be offered through *Active Schools*.

Child Protection in Sport

Articles 33-36

- 538** The Child Protection in Sport Service is a partnership between Children 1st and SportScotland. It was established in 2002 in response to a growing need for advice, training and resources to help sports organisations to keep children safe and secure in and through sport. Sports organisations have a duty to protect children from harm. This includes ensuring those who are involved with children are suitable and that adults know how to respond to a child who may turn to them for help. The Executive through SportScotland helps sports organisations by providing advice, consultancy and training on the development and implementation of child protection policies and procedures.



- 539 The work of the Child Protection in Sport Service is supported by a steering group made up of a number of organisations representing both sport and the welfare and protection of children which has established a National Strategy for Child Protection in Sport and oversees its implementation. The steering group includes SportScotland, the Association of Chief Police Officers (Scotland), Convention of Scottish Local Authorities, the Scottish Association of Local Sports Councils, Scottish Disability Sport and the Scottish Sports Association.

Recreation and leisure

Articles 15 and 31

- 540 In Scotland, play is recognised as being vital to children's emotional and physical development. A wide range of play opportunities are available, along with a number of Executive funding streams that can be used for play. The Executive also provides funding to a number of voluntary organisations to help promote and support play. Funding for play can also be accessed through the Big Lottery Fund in Scotland, where play has been named as a priority.
- 541 Play is encouraged in different ways: through the play@home scheme, which helps parents ensure that play forms part of children's development from the day they are born; the proposed use of more play based learning in the initial stages of primary school; the *Active Schools* project, part of which encourages active play; through traffic calming measures, which are making streets safer for play, and through planning guidance setting minimum standards for open space and play within certain new developments.
- 542 Within childcare settings, the use of play is also promoted. The National Care Standards for early education and childcare, regulated by the Care Commission, require that effective use is made of outdoor play areas, there is regular access to fresh air and energetic physical play, quality play and leisure activities, as well as both organised and free play.
- 543 The Executive recognises that play is just as important for children with additional support needs and has provided support to the Play Inclusive Action Research Project. This has resulted in information packs and a Handbook for supporting inclusive play.
- 544 Recent research has shown that throughout Scotland all 32 local authorities support a wide range of indoor/outdoor play opportunities. Play forms part of the Executive's Integrated Children's Services planning process.







08

SPECIAL PROTECTION MEASURES

special protection measures

Articles: 10, 22, 30, 32-36, 37, 38-40

A) CHILDREN IN SITUATIONS OF EMERGENCY

Asylum seeker and refugee children

Articles 10, 20 and 22

- 545** Although immigration and asylum matters are reserved, Scotland has a long history of welcoming refugees and asylum seekers and their children. The UK government's dispersal policy, introduced in 1999, led to large numbers of asylum seekers and refugees settling in Scotland, particularly Glasgow. The Scottish Refugee Council estimates there are currently approximately 10,000 refugees and asylum seekers living in Scotland, mainly in Glasgow. There is a higher percentage of families with children in Glasgow compared to other dispersal areas in the UK, which has an impact on, for example, the issues involved with family removals, and on the planning and provision of services.
- 546** The Executive is responsible for devolved issues which relate to asylum seekers who are living in Scottish communities while their immigration application is being processed. The Executive has the same responsibilities for refugee children as it has for all children. This includes integration initiatives, such as English language classes and interpreting/translation assistance, and services such as health care, education and legal advice. Any change to that access eg in the removal of entitlement to these services for appeal rights exhausted families, is a reserved matter.
- 547** The Executive is committed to supporting the effective integration of refugees and asylum seekers into Scottish society. The Scottish Refugee Integration Forum (SRIF) was established in January 2002 to allow Scotland's statutory and voluntary agencies to work in partnership to support refugees and asylum seekers more effectively. The Forum produced an Action Plan in 2003 which identified a number of key actions designed to make a real difference to the lives of asylum seekers and refugees in Scotland. These actions relate to improving access to services, translation and interpretation support and breaking down barriers to employment.
- 548** The Forum was reconvened in December 2005 to draw up a further set of actions to address any new and emerging issues affecting integration since the Action Plan was published. Six subgroups were set up to look specifically at housing, access to justice, employment and training, health and social care, community development and children's issues. The Children's Sub Group of the Scottish Refugee Integration Forum suggested a number of action points which will inform the development of an overarching national Strategy and Action Plan on Race Equality, to be published in draft later in 2007.

TABLE 69**Ethnicity of asylum seekers and refugees in schools, 2005-2006⁽¹⁾**

	2005		2006	
	Asylum Seekers	Refugees	Asylum Seekers	Refugees
White - UK	11	4	10	6
White - Other	190	85	197	85
Mixed	10	4	8	4
Asian - Indian	12	2	9	5
Asian - Pakistani	185	42	229	35
Asian - Bangladeshi	5	1	3	2
Asian - Chinese	6	2	11	4
Asian - Other	259	136	305	146
Black - Caribbean	4	1	2	2
Black - African	460	194	515	236
Black - Other	102	22	84	30
Occupational Traveller	5	-	4	-
Gypsy / Traveller	-	1	-	1
Other Traveller	2	2	2	2
Other	311	109	201	88
Not known / not disclosed	71	19	60	21
Total	1,633	624	1,640	667

⁽¹⁾ Does not include grant aided special schools.

Source: Pupil Census, 2006

Discussions with the Home Office on family removals

549 In autumn 2005, significant public, political and Ministerial concern emerged in Scotland about the processes used by the Immigration and Nationality Directorate of the Home Office (now the Border and Immigration Agency (BIA)) to remove failed asylum seekers – in particular the treatment of families with children. Concerns centred round the family removal process, for example early morning removals (so-called “dawn raids”) were seen by many as unnecessary. There was concern about children and families being uprooted from communities where they had lived for many years while waiting for their cases to be concluded.

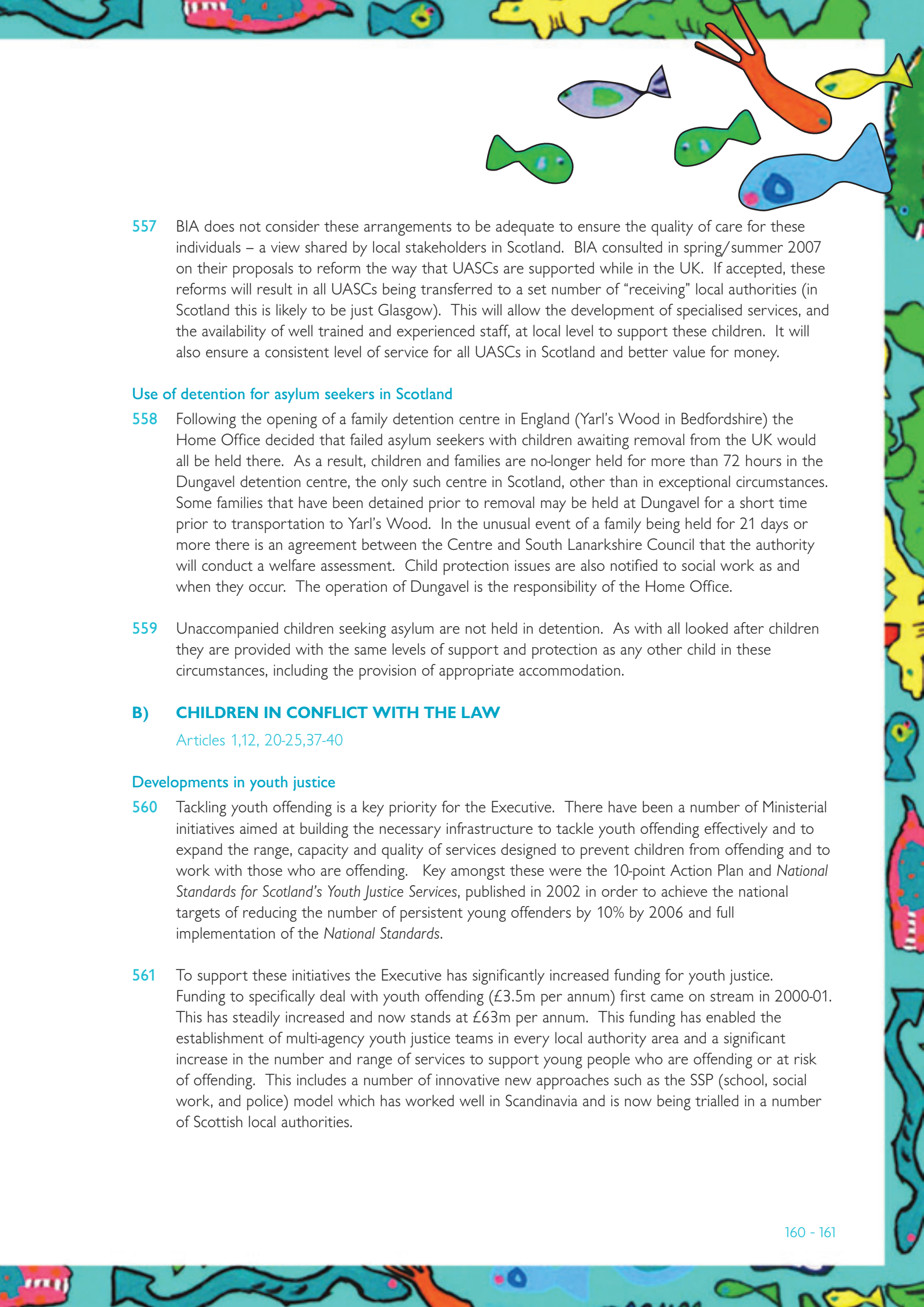
550 In the light of these concerns, Scottish Ministers undertook to explore with their Home Office counterparts what steps could be taken to ensure that the children of asylum seekers were properly supported while in Scotland and that when a removal was required it was carried out humanely. These discussions covered a wide-range of issues and led to the development of a significant package of measures, announced in March 2006. This package will help ensure that decisions about removals are made on the basis of all relevant information, that removals are carried out using proportionate and humane approaches which respect the interests of any children involved, and that the removals process is subject to independent scrutiny and review. Individual decisions about asylum, and about whether, when and how failed asylum seekers will be removed will continue to be made by BIA.

- 551** Agreement has been reached with BIA and Glasgow City Council for lead professional arrangements. The lead professional team will be based in Glasgow City Council. It will gather information (with the informed consent of families) about the health, welfare and education of the children of asylum seekers. This will be made available to BIA for consideration as part of its “case resolution” process – a review of all outstanding asylum cases (known as legacy cases) in Scotland. The case resolution process is expected to begin in September 2007 and take up to 4 years to complete.
- 552** The Executive asked HMIE to carry out an inspection of services provided (by local agencies) for the children of asylum seekers in Glasgow to help ensure the quality of the services provided. This Joint Inspection was carried out in autumn 2006 and the report was published in June 2007. Its findings were generally positive, of the ten quality indicators calculated in the inspection, six were good or very good with the remainder being adequate. In addition, there is legislation before the Westminster Parliament that if passed will establish an independent inspectorate for BIA. It is proposed that it will inspect BIA activity like the quality of asylum decision making and will inspect BIA enforcement work – including family removals. These inspection strands will address concerns that there has been no basis on which the removals process itself, or the support provided to families and children, was subject to independent scrutiny and public reporting, against clear standards.
- 553** Enhanced background checks on all BIA staff involved in family removals are being carried out to ensure it is appropriate for them to work with children. This will address concerns that staff involved in removals, who may have unsupervised access to children at times of considerable stress, have not been subjected to the same level of enhanced disclosure checking required for other staff working with children.
- 554** The appointment of a BIA Regional Director for Scotland has helped address concerns that communications between BIA and local agencies (for example schools) have been haphazard, and that there have not been good systems for ensuring good communications and routes to raise concerns with BIA.
- 555** There is widespread agreement that families opting to return of their own volition is preferable to forced removals. To that end, an enhanced package of financial and integration support is available for any asylum seekers opting for voluntary return. This provides a significant lump sum, and practical support. BIA is also committed to improving information for and communication with local communities to help them ensure asylum seeker families have the best possible advice and information needed to judge what is in their children’s best interests. The Executive has undertaken to help take this forward in Scotland.

Provision for unaccompanied minors

Articles 1,10,20 and 22

- 556** On arrival in Scotland, Unaccompanied Asylum Seeking Children (UASCs) are classed as “looked after” children and are supported by local authorities in keeping with their duty under the Children (Scotland) Act 1995 to provide for children in need. Currently, an individual UASC becomes the responsibility of a particular local authority for no other reason than it happens to cover the area where the person first arrived in Scotland or otherwise first came to attention as being in need of support. This is the case regardless of whether that authority is overstretched by the numbers it is already dealing with or lacks the necessary expertise and specialist infrastructure. The local authority in question then notifies the Home Office that it is supporting the individual and will receive additional funding to help provide that support. The child is looked after by the local authority until he or she turns 18 when their asylum case is heard.

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- 557 BIA does not consider these arrangements to be adequate to ensure the quality of care for these individuals – a view shared by local stakeholders in Scotland. BIA consulted in spring/summer 2007 on their proposals to reform the way that UASCs are supported while in the UK. If accepted, these reforms will result in all UASCs being transferred to a set number of “receiving” local authorities (in Scotland this is likely to be just Glasgow). This will allow the development of specialised services, and the availability of well trained and experienced staff, at local level to support these children. It will also ensure a consistent level of service for all UASCs in Scotland and better value for money.

Use of detention for asylum seekers in Scotland

- 558 Following the opening of a family detention centre in England (Yarl’s Wood in Bedfordshire) the Home Office decided that failed asylum seekers with children awaiting removal from the UK would all be held there. As a result, children and families are no-longer held for more than 72 hours in the Dungavel detention centre, the only such centre in Scotland, other than in exceptional circumstances. Some families that have been detained prior to removal may be held at Dungavel for a short time prior to transportation to Yarl’s Wood. In the unusual event of a family being held for 21 days or more there is an agreement between the Centre and South Lanarkshire Council that the authority will conduct a welfare assessment. Child protection issues are also notified to social work as and when they occur. The operation of Dungavel is the responsibility of the Home Office.
- 559 Unaccompanied children seeking asylum are not held in detention. As with all looked after children they are provided with the same levels of support and protection as any other child in these circumstances, including the provision of appropriate accommodation.

B) CHILDREN IN CONFLICT WITH THE LAW

Articles 1,12, 20-25,37-40

Developments in youth justice

- 560 Tackling youth offending is a key priority for the Executive. There have been a number of Ministerial initiatives aimed at building the necessary infrastructure to tackle youth offending effectively and to expand the range, capacity and quality of services designed to prevent children from offending and to work with those who are offending. Key amongst these were the 10-point Action Plan and *National Standards for Scotland’s Youth Justice Services*, published in 2002 in order to achieve the national targets of reducing the number of persistent young offenders by 10% by 2006 and full implementation of the *National Standards*.
- 561 To support these initiatives the Executive has significantly increased funding for youth justice. Funding to specifically deal with youth offending (£3.5m per annum) first came on stream in 2000-01. This has steadily increased and now stands at £63m per annum. This funding has enabled the establishment of multi-agency youth justice teams in every local authority area and a significant increase in the number and range of services to support young people who are offending or at risk of offending. This includes a number of innovative new approaches such as the SSP (school, social work, and police) model which has worked well in Scandinavia and is now being trialled in a number of Scottish local authorities.

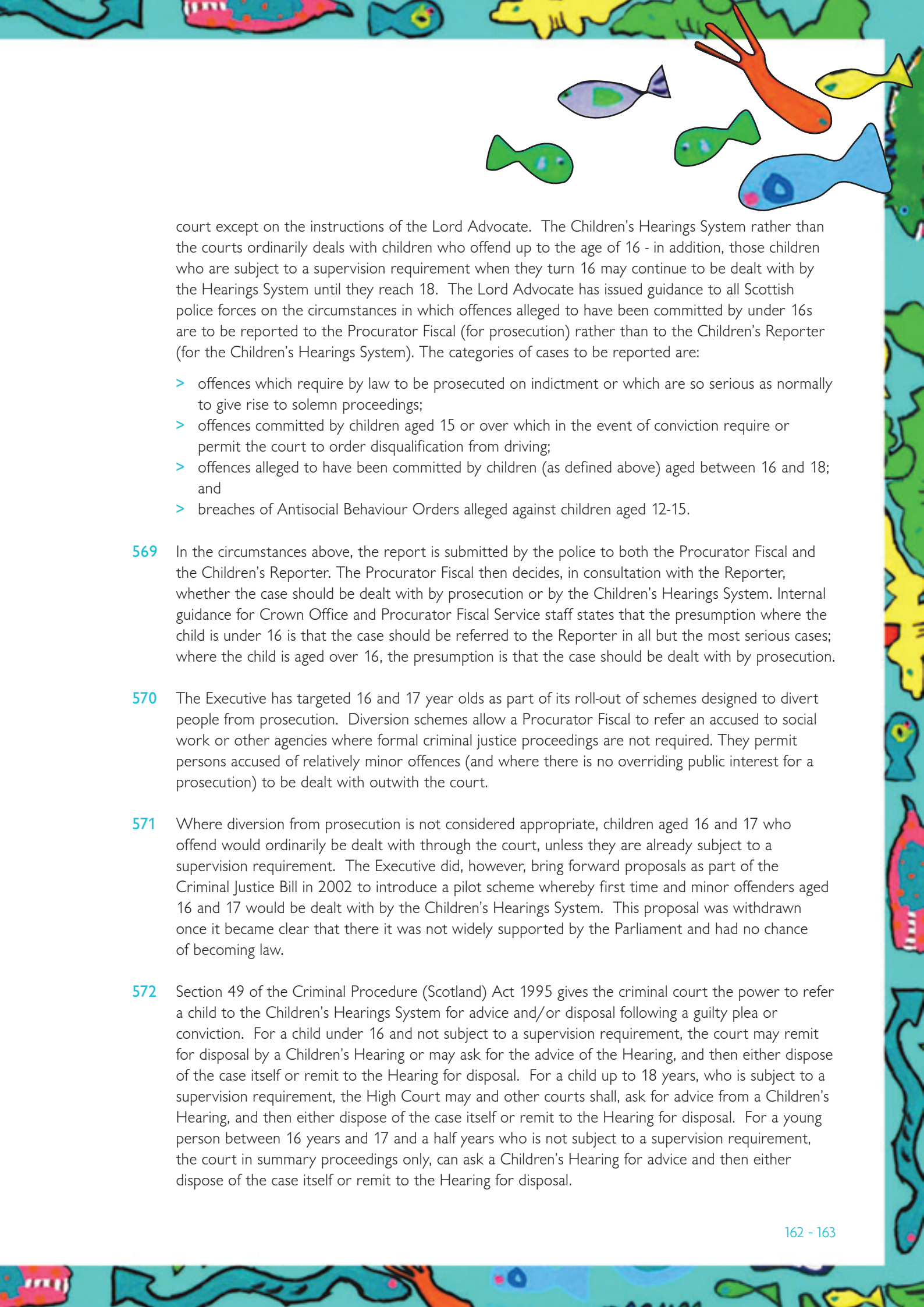
- 562 In July 2006 the Executive set out progress towards meeting the 10-point Action Plan and the *National Standards*. The report suggested that children's offending was being tackled more quickly and local agencies were getting a better grip on who the main offenders were – and that the new measures introduced by the Antisocial Behaviour etc (Scotland) Act 2004 have helped in concentrating and focusing local action. Some local authorities and agencies have achieved significant reductions in youth offending.
- 563 Since 2000, all local authorities in Scotland have developed restorative justice services as part of their youth justice provision. Restorative justice addresses the harm caused by the child responsible and provides an opportunity for those who have been harmed to have their needs met. The ethos behind restorative justice fits well with the principles of the UNCEC. Participation is voluntary and best practice guide lines ensure that children are treated with dignity and respect whether they have been harmed or have offended.
- 564 The Executive's target to reduce the number of persistent young offenders by 10% by 2006 was not met. This target has proved vital in identifying local successes, highlighting problem areas and improving outcomes for youngsters and communities across Scotland. The framework of *National Standards*, backed up by the major investment in local services has helped local agencies tackle youth offending, and the target has kept the focus firmly on results. A further target has been set – a further 10% reduction in persistent offender numbers by 2008.
- 565 The multi-agency Youth Justice Improvement Group, led by the then Minister for Justice was set up in 2005 to take forward development of the youth justice agenda. The group reaffirmed the principles of the Children's Hearings System and the welfare based approach to tackling offending in line with the Beijing rules and prevention of offending, in line with the Riyadh guidelines and as recommended by the 2002 *Concluding Observations*. There has been considerable focus on preventative approaches and working with families at an earlier stage to stop vulnerable children becoming involved in offending. The group also identified a need to work more effectively with those who are involved in offending, including more focus on evidence based approaches to work with young offenders and the quality and effectiveness of practice.

The Children's Hearings System

- 566 The Children's Hearings System, which has the best interests of children at its centre, is the primary forum for dealing with offending behaviour by children. Before referral to the Hearings System is made, consideration should be given to whether a voluntary or diversionary intervention would be an effective means of improving behaviour. When it is considered appropriate, a Children's Hearing may impose compulsory measures of supervision (a supervision requirement) setting out what a child should do or refrain from doing. This may include a requirement on the child to take up and co-operate with programmes and other support measures aimed at addressing their needs and behaviours.
- 567 If a child fails to comply with the terms of their supervision requirement they can be referred back to a Children's Hearing for further consideration of their circumstances and how to address them. A child cannot be referred to a court for not complying with their supervision requirement.

Children in Court

- 568 The 2002 *Concluding Observations* recommended that no child should be tried as an adult regardless of the circumstances of the offence. While this is not ruled out under Scots Law, the Criminal Procedure (Scotland) Act 1995 provides that no child under the age of 16 should be prosecuted in



court except on the instructions of the Lord Advocate. The Children's Hearings System rather than the courts ordinarily deals with children who offend up to the age of 16 - in addition, those children who are subject to a supervision requirement when they turn 16 may continue to be dealt with by the Hearings System until they reach 18. The Lord Advocate has issued guidance to all Scottish police forces on the circumstances in which offences alleged to have been committed by under 16s are to be reported to the Procurator Fiscal (for prosecution) rather than to the Children's Reporter (for the Children's Hearings System). The categories of cases to be reported are:

- > offences which require by law to be prosecuted on indictment or which are so serious as normally to give rise to solemn proceedings;
- > offences committed by children aged 15 or over which in the event of conviction require or permit the court to order disqualification from driving;
- > offences alleged to have been committed by children (as defined above) aged between 16 and 18; and
- > breaches of Antisocial Behaviour Orders alleged against children aged 12-15.

- 569 In the circumstances above, the report is submitted by the police to both the Procurator Fiscal and the Children's Reporter. The Procurator Fiscal then decides, in consultation with the Reporter, whether the case should be dealt with by prosecution or by the Children's Hearings System. Internal guidance for Crown Office and Procurator Fiscal Service staff states that the presumption where the child is under 16 is that the case should be referred to the Reporter in all but the most serious cases; where the child is aged over 16, the presumption is that the case should be dealt with by prosecution.
- 570 The Executive has targeted 16 and 17 year olds as part of its roll-out of schemes designed to divert people from prosecution. Diversion schemes allow a Procurator Fiscal to refer an accused to social work or other agencies where formal criminal justice proceedings are not required. They permit persons accused of relatively minor offences (and where there is no overriding public interest for a prosecution) to be dealt with outwith the court.
- 571 Where diversion from prosecution is not considered appropriate, children aged 16 and 17 who offend would ordinarily be dealt with through the court, unless they are already subject to a supervision requirement. The Executive did, however, bring forward proposals as part of the Criminal Justice Bill in 2002 to introduce a pilot scheme whereby first time and minor offenders aged 16 and 17 would be dealt with by the Children's Hearings System. This proposal was withdrawn once it became clear that there it was not widely supported by the Parliament and had no chance of becoming law.
- 572 Section 49 of the Criminal Procedure (Scotland) Act 1995 gives the criminal court the power to refer a child to the Children's Hearings System for advice and/or disposal following a guilty plea or conviction. For a child under 16 and not subject to a supervision requirement, the court may remit for disposal by a Children's Hearing or may ask for the advice of the Hearing, and then either dispose of the case itself or remit to the Hearing for disposal. For a child up to 18 years, who is subject to a supervision requirement, the High Court may and other courts shall, ask for advice from a Children's Hearing, and then either dispose of the case itself or remit to the Hearing for disposal. For a young person between 16 years and 17 and a half years who is not subject to a supervision requirement, the court in summary proceedings only, can ask a Children's Hearing for advice and then either dispose of the case itself or remit to the Hearing for disposal.

- 573** The previous Executive undertake a pilot of a youth court dealing specifically with 16-17 year olds, who would otherwise have been dealt with through the adult court. Youth courts have specially designed disposals geared to the specific needs of 16-17 year olds otherwise the rules of procedure followed are broadly the same as for the adult court. The youth court model is designed to encourage a multi-agency approach to tackle repeat offending and the swiftness of the process not only reduces the opportunity for further offending in the period between charge and court appearance but also allows victims of crime to see a more speedy outcome. The Scottish Government will be reviewing whether the Youth court model offers effective means of dealing with this age group.
- 574** In 2005-06 a total of 7955 persons aged under 18 (including 135 under 16s) were convicted in Scottish courts. Of these, 807 resulted in a custodial sentence, including 23 for persons aged under 16.

Publicly-funded legal assistance for children

Article 40

- 575** Legal aid and advice and assistance are available to children in criminal and civil court proceedings. The budget for legal aid is not cash-limited, but payments are made subject to statutory tests on the basis of fees allowed by regulations. Children's legal aid fees for those in the Children's Hearings System of approximately £3.8m for approximately 3,400 cases were paid out of the Legal Aid Fund in 2005-06. In addition, more than 27,000 legal aid grants were made for under 18s in the criminal justice system. Changes to the legislative procedures involving children are constantly monitored and amendments can be made to legal aid regulations to ensure that publicly funded legal assistance can be provided. No changes have been made recently.

Giving Evidence in Court

- 576** The Vulnerable Witnesses (Scotland) Act 2004 contains special measures and other provisions specifically designed to help children give evidence in court. These measures and provisions are available to both prosecution and defence witnesses including accused persons in criminal proceedings and to witnesses for either party in civil proceedings and Children's Hearings court proceedings.

Sentencing of under 18s

Articles 25 and 37

- 577** Children under 18 cannot be sentenced to capital punishment or life imprisonment in Scotland. Section 207 of the Criminal Procedure (Scotland) Act 1995 provides that it is not competent for a court to impose imprisonment on any person under 21 years of age. Offenders aged between 16 and 21 who, without this provision, could have been imprisoned, can be detained in a young offenders' institution (YOI). Section 207 also provides that a social enquiry report must be obtained before detention is imposed and that detention is only to be imposed where no other method of dealing with the offender is appropriate.
- 578** Section 205 of the Criminal Procedure Act provides an exception to the general rule of a mandatory life sentence for murder in respect of any under 18 who is convicted of murder. Instead, they can only be sentenced to detention without limit of time in such place and under such conditions as Scottish Ministers may direct.



Remand and under 18s

- 579 Internal guidance available to Procurators Fiscal on bail in cases involving child offenders makes reference to Article 37(b) of the UN Convention and accordingly states that a child offender should be released on bail or ordained to appear at court unless there are compelling reasons for having him detained pending trial. This section of the guidance was revised in February 2004. The Lord Advocate's guidance to Procurators Fiscal has the effect that prosecutors will only request that the court remands in custody a child offender if there are compelling reasons for doing so.
- 580 Where a child is remanded in custody pending trial, section 51 of the Criminal Procedure Act provides that children under 16 who are not certified as unruly or depraved should be committed to a local authority to be detained in secure accommodation or in a suitable place of safety. Children aged 16-18 and under local authority care may be dealt with in the same way as children under 16 or may be remanded in a YOI or a prison. Children aged between 14 and 16 and certified by the court as unruly and depraved are to be remanded in a YOI, a prison or in a remand centre.
- 581 Children certified as "unruly" are those whose behaviour is so challenging that the courts have decided that they are deemed to be a risk to everybody's safety including their own and special arrangements are required as it would be inappropriate to place them in local authority secure accommodation at that point in time.
- 582 Internal guidance for Procurators Fiscal provides that they should only seek to have a child detained as unruly or depraved in exceptional circumstances where, taking into account all available information from the police, the Children's Reporter and the local authority, it is considered that the child cannot be safely detained in local authority secure accommodation. The non-availability of secure accommodation does *not* lawfully justify unruly certification. Ultimately, the certification of a child as unruly or depraved is a matter for the court to decide.
- 583 Where a decision is made to remand these children to an adult prison they typically spend a very short time in a segregated area of the prison while arrangements are made to move them to a YOI. It is not Executive policy to hold children between the ages of 14 and 16 for any length of time in an adult prison. For those children aged 16-18 who are not under local authority care the situation is the same as for those who are in care. They can be detained in local authority secure accommodation or may be remanded in a prison or a YOI.

Age of criminal responsibility

Articles 1 and 3

- 584 The Executive has noted the recommendation of the UN Committee that the minimum age of criminal responsibility in Scotland should be raised considerably.

- 585** The position was last reviewed in 2001 and Ministers concluded that age 8 years continued to be an appropriate threshold, in the context that:
- > more than 99% of children who offend are dealt with through the Children's Hearings System;
 - > the System is welfare based, i.e. when a child offends this is addressed in their own best interests - there is no punitive outcome; and
 - > for the small number of children prosecuted in the courts, referral to the Hearings System for advice and/or disposal is the normal outcome for all but a tiny minority.
- 586** Although other countries have a higher age of criminal responsibility, this may often be shifted depending on the seriousness of the offence. Many other countries also respond to children who may have offended through a process and with measures designed to be punitive in nature. In short, Scotland responds differently.
- 587** The table below sets out the age of children referred to the Children's Reporter. In contrast (as set out above), only 135 under 16s were convicted in Scottish courts in 2005-06: just 7 were aged 13 and under; 18 were aged 14 year; and 110 were aged 15.

TABLE 70

Children referred to the Children's Reporter on offence and non-offence grounds by age, 2005-06

Age	Non-offence	Offence
0	2,893	0
1	2,648	0
2	2,523	0
3	2,381	0
4	2,376	0
5	2,394	0
6	2,371	0
7	2,434	0
8	2,392	193
9	2,301	380
10	2,329	559
11	2,369	879
12	2,778	1,786
13	3,557	3,144
14	4,333	5,256
15	4,054	6,905
16	354	1034
17	39	149
Total for Year:	37460	17494

Source: Scottish Children's Reporter Administration

Note: Age not recorded for 5 children



Privacy of children in conflict with the law

- 588 Paragraph 62(d) of the 2002 *Concluding Observations* recommended that the privacy of all children in conflict with the law is fully protected in line with Article 40(2)(b)(vii) of the Convention.

Children's Hearings

- 589 Section 43 of the Children (Scotland) Act 1995 provides that a Children's Hearing must be conducted in private and that members of the public are not allowed to attend. The only persons who would normally be present will be those who are necessary for a proper consideration of the child's case. Section 44 of the 1995 Act prohibits the publication of any matter anywhere in the UK that is either intended to or is likely to identify any child who is subject to proceedings at a Children's Hearing. This was extended by the Criminal Justice (Scotland) Act 2003 to protect the identity of child victims of youth crime, and any child connected in any way with the Hearing's proceedings.

Civil proceedings

- 590 The Children and Young Persons (Scotland) Act 1937, section 46 provides for the protection by the court of the identity of young persons. In any proceedings, the court may direct that no report may reveal the name, address, or school, or include any particulars calculated to lead to the identification, of any person under the age of 17 years concerned in the proceedings, either as being the person by or against or in respect of whom the proceedings are taken or as being a witness and no picture may be published as being or including a picture of any such person. The Children (Scotland) Act provides for the protection of the identity of children before a Sheriff in relation to certain orders or on referral from Children's Hearings.

- 591 Proceedings under the Adoption Act 1978 must take place in private unless the court otherwise directs.

Criminal proceedings

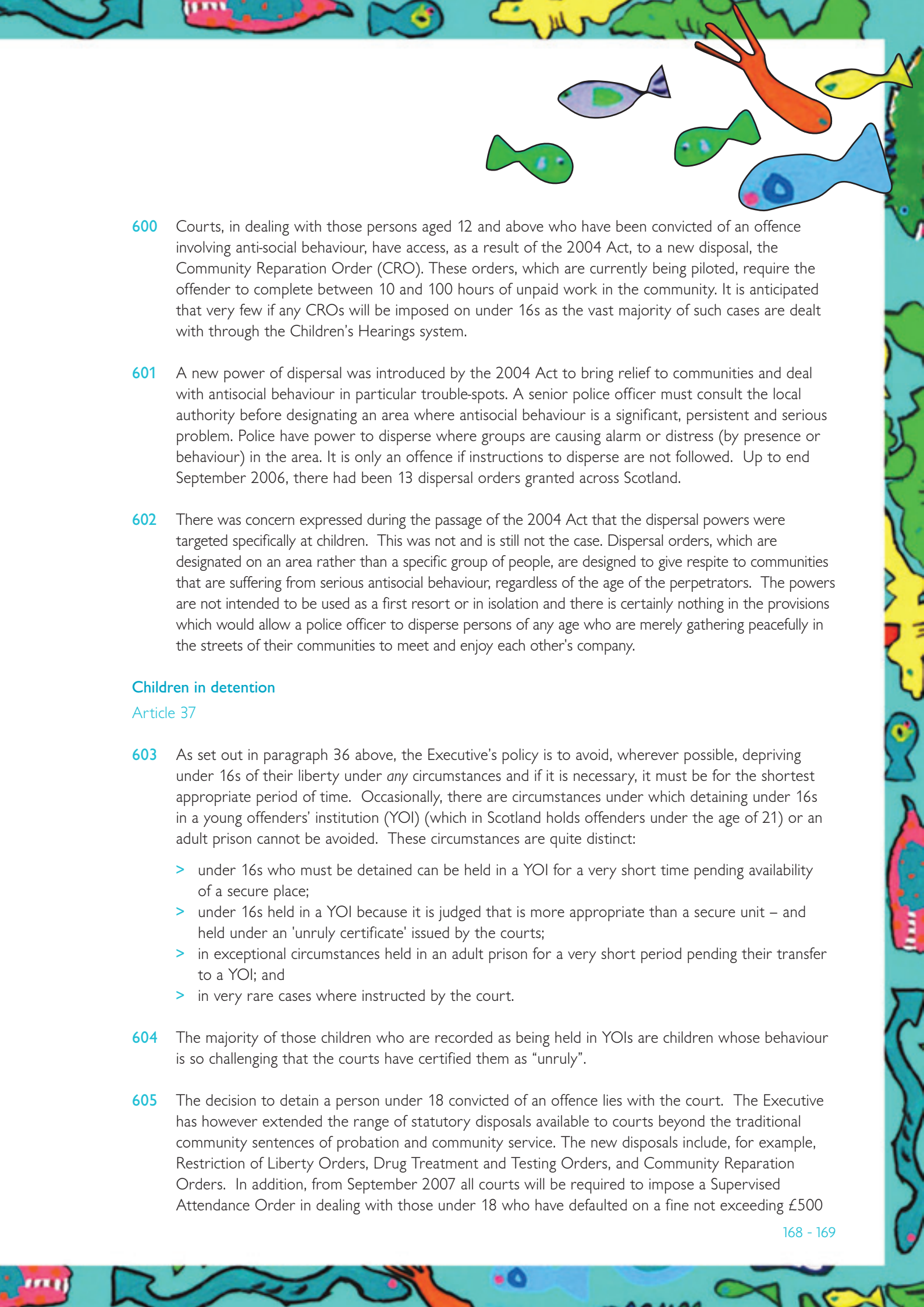
- 592 Section 142 of the Criminal Procedure (Scotland) Act 1995 provides that no person shall be present at Summary criminal proceedings brought against a child, except officers of court, parties to the case and their solicitors, witnesses, bona fide members of the press and such other persons specially authorised by the court. A child in this case will be under 16, or under 18 and currently under a supervision requirement. The provisions do not apply where the child is charged jointly with an adult.

New legislative provisions

- 593 The 2002 *Concluding Observations* recommended a review of the new orders introduced by the Crime and Disorder Act 1998. Building on the experience of the 1998 Act, the Executive introduced a number of similar measures to tackle antisocial and offending behaviour, including by children, through the Antisocial Behaviour etc (Scotland) Act 2004.
- 594 Antisocial Behaviour Orders (ASBOs) for 12-15 year olds are preventative orders intended to protect people in the community, including children, from further acts or conduct that would cause them alarm or distress. Like ASBOs for adults, they can be applied for by a local authority or a registered social landlord. Scottish Executive guidance on the use of ASBOs for under 16s makes clear that they should complement the Children's Hearings System which should continue to be the primary forum for dealing with offending behaviour by children. Indeed, breaches of ASBOs by 12-15 year olds will be jointly reported to the Procurator Fiscal and the Children's Reporter and the Fiscal has the discretion to pass such cases to the Reporter (for resolution within the Hearings System) where appropriate. ASBOs are only intended to

deal with a small number of persistently antisocial children for whom alternatives are not working – and that is the way they are being used. The provisions have been implemented for almost two years and, so far, only a handful of ASBOs for under 16s have been sought. There is a presumption that court proceedings involving Antisocial Behaviour Orders (ASBOs) for under 16s will be held in private.

- 595** While the ASBO provisions for under 16s are similar to those in England, there are important differences. ASBOs in Scotland can be applied to young people aged 12 and above, compared to 10 and above in England. The 2004 Act also specifically prohibits the use of imprisonment as a sanction for breach of an ASBO by an under 16.
- 596** The key role of the Children's Hearings System in relation to ASBOs makes the use of ASBOs very different in Scotland to the rest of the UK. Before granting an Interim ASBO the sheriff must take account of the views of the Children's Reporter. It is likely that the majority of children being considered for an ASBO will be well known to the Hearings System and the Reporter will be able to pass on a range of relevant information that will ensure the best interests of the child are taken into account, for example whether the child has any particular additional support needs or behavioural difficulties that might be contributing to their offending behaviour. Executive guidance is clear that ASBOs are not intended to address behaviour that is merely different or the result of a medical or developmental condition. Before granting a full ASBO, the sheriff must take account of advice from a Children's Hearing as to whether an ASBO is necessary to protect people from further antisocial behaviour. When an ASBO is granted against an under 16 the sheriff also has the power to refer the child to a Children's Hearing to consider whether they need help and support through a supervision requirement.
- 597** As well as the Hearings System, another means of early intervention is an Acceptable Behaviour Contract (ABC). These are written agreements between an individual involved in antisocial behaviour and a relevant agency working to prevent such behaviour. They will outline the behaviour to be stopped and the support the individual can expect to receive from the agencies concerned to help them change their behaviour. They can also be used with parents who are not taking action to prevent the antisocial behaviour of their children. Although ABCs are voluntary and non-statutory, they can act as a strong deterrent when the individual knows that if they break the contract legal action may follow. Breach of an ABC or refusal to enter into one without reasonable excuse can be considered relevant evidence for an application for an ASBO. In the case of 12-15 year olds, use of an ABC should be considered on an interagency basis to ensure that the contract is reasonable and complements interventions currently in place or being considered by other agencies.
- 598** The 2004 Act amended the Criminal Procedure (Scotland) Act 1995 to allow for Restriction of Liberty Orders (ie the use of electronic monitoring) to be imposed on offenders under 16 who are dealt with by the court system. The 2004 Act also provides that a court cannot grant an RLO for an under 16 unless it is satisfied that the relevant local authority will provide appropriate services to support and rehabilitate the child whilst they are subject to it.
- 599** Intensive Support and Monitoring Services (ISMS) (electronic tagging via the Children's Hearings system) were introduced by the 2004 Act in 7 local authorities. ISMS are a direct alternative to secure accommodation, and are made by Children's Hearings as conditions of supervision requirements. ISMS consists of a wrap around package of care and work with the child to change their behaviour, reduce risks and increase resilience, coupled with an electronic monitoring device which helps to provide structure and boundaries to a child's life.

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- 600 Courts, in dealing with those persons aged 12 and above who have been convicted of an offence involving anti-social behaviour, have access, as a result of the 2004 Act, to a new disposal, the Community Reparation Order (CRO). These orders, which are currently being piloted, require the offender to complete between 10 and 100 hours of unpaid work in the community. It is anticipated that very few if any CROs will be imposed on under 16s as the vast majority of such cases are dealt with through the Children's Hearings system.
- 601 A new power of dispersal was introduced by the 2004 Act to bring relief to communities and deal with antisocial behaviour in particular trouble-spots. A senior police officer must consult the local authority before designating an area where antisocial behaviour is a significant, persistent and serious problem. Police have power to disperse where groups are causing alarm or distress (by presence or behaviour) in the area. It is only an offence if instructions to disperse are not followed. Up to end September 2006, there had been 13 dispersal orders granted across Scotland.
- 602 There was concern expressed during the passage of the 2004 Act that the dispersal powers were targeted specifically at children. This was not and is still not the case. Dispersal orders, which are designated on an area rather than a specific group of people, are designed to give respite to communities that are suffering from serious antisocial behaviour, regardless of the age of the perpetrators. The powers are not intended to be used as a first resort or in isolation and there is certainly nothing in the provisions which would allow a police officer to disperse persons of any age who are merely gathering peacefully in the streets of their communities to meet and enjoy each other's company.

Children in detention

Article 37

- 603 As set out in paragraph 36 above, the Executive's policy is to avoid, wherever possible, depriving under 16s of their liberty under *any* circumstances and if it is necessary, it must be for the shortest appropriate period of time. Occasionally, there are circumstances under which detaining under 16s in a young offenders' institution (YOI) (which in Scotland holds offenders under the age of 21) or an adult prison cannot be avoided. These circumstances are quite distinct:
- > under 16s who must be detained can be held in a YOI for a very short time pending availability of a secure place;
 - > under 16s held in a YOI because it is judged that is more appropriate than a secure unit – and held under an 'unruly certificate' issued by the courts;
 - > in exceptional circumstances held in an adult prison for a very short period pending their transfer to a YOI; and
 - > in very rare cases where instructed by the court.
- 604 The majority of those children who are recorded as being held in YOIs are children whose behaviour is so challenging that the courts have certified them as "unruly".
- 605 The decision to detain a person under 18 convicted of an offence lies with the court. The Executive has however extended the range of statutory disposals available to courts beyond the traditional community sentences of probation and community service. The new disposals include, for example, Restriction of Liberty Orders, Drug Treatment and Testing Orders, and Community Reparation Orders. In addition, from September 2007 all courts will be required to impose a Supervised Attendance Order in dealing with those under 18 who have defaulted on a fine not exceeding £500

and who might otherwise have received a short custodial term. All under 18s held in a YOI are provided with health, education and welfare services provided by professionally qualified staff, for example social workers, teachers, doctors and nurses.

- 606** Retention in or transfer to a YOI from a secure unit will only be considered if a child's behaviour remains or becomes completely unmanageable within the current placement or where, for example, the child is convicted of further serious charges which suggest that the child would present an unacceptable risk to the safety of other residents or staff. Conversely, where a child makes suitable progress he or she will be considered for a move from a secure establishment to an open setting within the child care system. The policy is also to avoid wherever possible an under 16 being detained in police cells.

TABLE 71

Under 18s held in prison, by age

Age	2001 - 02			2002 - 03			2003 - 04			2004 - 05			2005 - 06		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
14	2	0	2	1	1	2	6	0	6	3	1	4	2	0	2*
15	19	1	20	21	0	21	15	2	17	14	0	14	21	0	21
16	220	17	237	283	20	303	255	7	262	287	19	306	331	16	347
17	495	34	529	518	31	549	538	35	573	516	41	557	607	40	647
All	736	52	788	823	52	875	814	44	858	820	61	881	961	56	1017

Source: Scottish Prison Service

Age is at time of first entry during the year or start of the year if already in custody

*There was a third person aged 14 but they are not counted here as they didn't spend a night in custody and were released the same day.

TABLE 72

Under 18s held in prison, 2005-06

	Spent some time in prison	Spent some time in prison on remand	Spent time in prison under sentence
Number of individuals	1017	775	513
Average time spent in custody/on remand	71	38	83

Source: Scottish Prison Service

Notes: The remand and sentence figures do not add to the total because some served time both as a remand and a sentenced prisoner. The remand figure includes those who are convicted but are still awaiting sentence.

TABLE 73

Under 18s held in prison, continuous periods in custody, 2005-06

	Spent some time in prison	Spent some time in prison on remand	Spent time in prison under sentence
Number of individuals	1017	775	513
Separate periods in custody/on remand*	1559	1245	601
Average time spent in custody/on remand	46	24	71

Source: Scottish Prison Service

Notes: The remand and sentence figures do not add to the total because some served time both as a remand and a sentenced prisoner and sometimes these periods would follow directly on from each other without the prisoner leaving custody. The remand figure includes those who are convicted but are still awaiting sentence.

*Some had more than one period of custody

607 The Executive has introduced a number of initiatives to help meet the policy aim of keeping children out of detention wherever possible:

- > increasing the number of secure accommodation places provision to 125 by 2007 to avoid as far as possible placement of under 16s in YOIs;
- > Intensive Support and Monitoring Services as a direct alternative to secure accommodation; and
- > the Intensive Support Fund designed to improve the quality of community based supervision of children involved in offending. Projects aim to provide intensive support and structured care programmes and residential intensive support units.

Advocacy for children in detention

608 In line with the 2002 *Concluding Observations*, the Executive strongly supports the use of advocacy services for children in secure care. Independent advocacy and a representation service is available to all such children. It is a needs led service and children are able to attend the regular visits by Who Cares? Scotland advocacy staff or request extra meetings. Evaluation of the service is routinely collected through worker recording sheets which allows feedback from both the children and secure care staff who use the service.

609 All prison establishments have in place local authority social workers who prioritise advice to vulnerable children. There are around 65 social workers working in Scottish prisons. All prisons also have "Links Centres" where a variety of advice services are available from independent agencies to all prisoners, including under 18s. They also have access to a number of complaints routes: internal, confidential complaints procedure which is overseen by an independent complaints commissioner; and access to members of the Visiting Committee who are appointed by Scottish Ministers and independent from prisons and can investigate any complaints.

Recovery and social re-integration

610 Given the ethos of the youth justice system in Scotland, all of the funding made available to partners - £63m per annum - can be described as contributing towards the rehabilitation and integration of children into society.



- 611 Children's Hearings make decisions which are in the best interests of each child, taking their welfare needs into account at the same time as addressing their offending behaviour. This is a fundamental principle which underpins Scotland's system of youth justice and facilitates the physical and psychological recovery of children while making sure their offending behaviour is addressed. Objective 2 of the *National Standards for Youth Justice* is specifically concerned with improving the range and availability of programmes which would assist in rehabilitating children and ensuring they are integrated into society.
- 612 An exercise to map the range and availability of services carried out in 2003/04 showed that each local youth justice team had identified the number of places needed for children with particular needs. Details were collected on all projects, under 4 types of response – prevention, diversionary, intensive and restorative justice/services for victims.

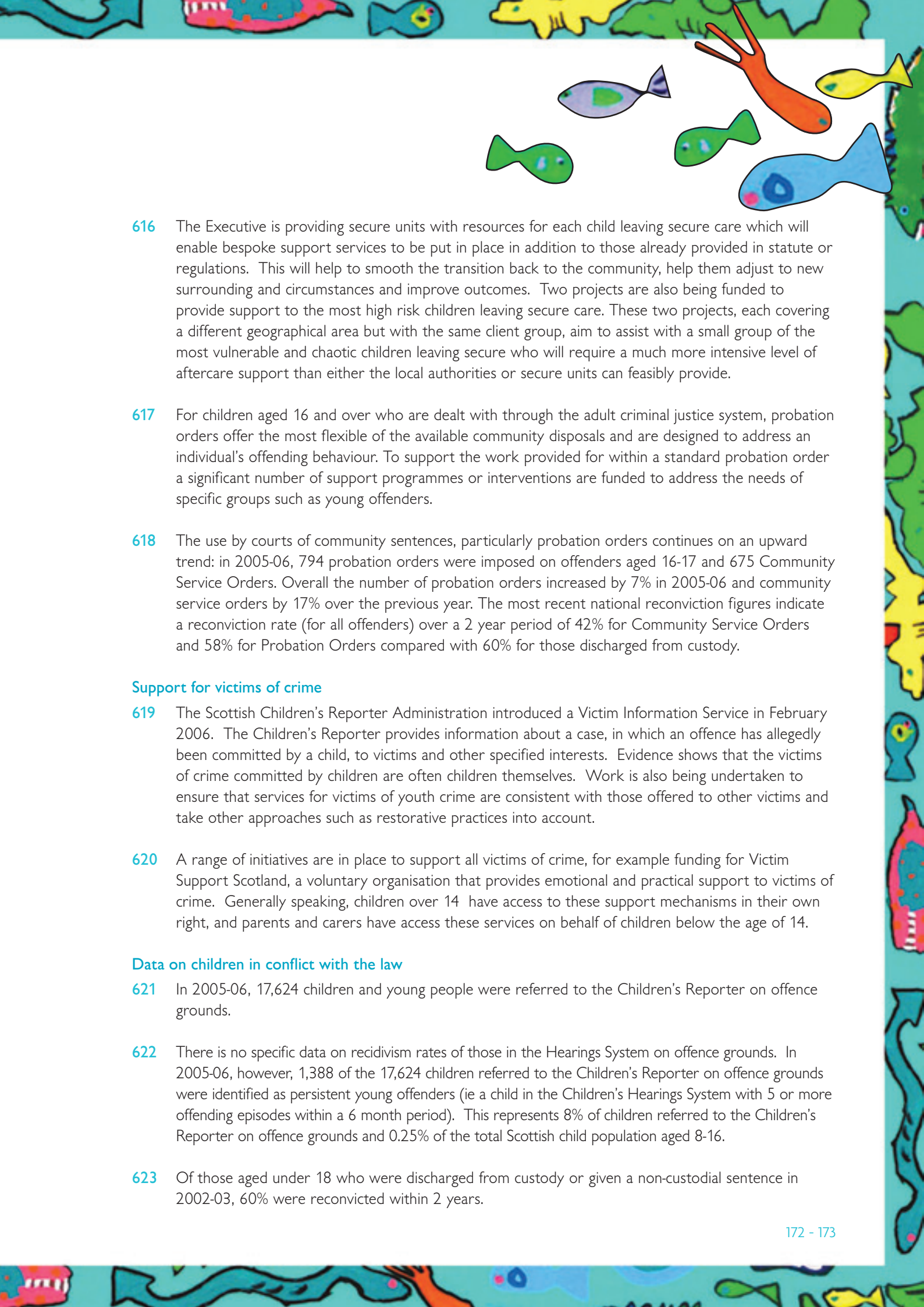
TABLE 74

Provision of youth justice services, by category of response, 2003-04

	Prevention	Diversionary	Intensive	Restorative justice/ services for victims
No. of projects	144	111	80	44
%	38	29	21	12
No. of children	51,677	6449	3022	3813
%	79	10	5	6

Source: Summary Report Of Scottish Executive Youth Justice Mapping Exercise 2003-04

- 613 Access to programmes and other services, and the full and timely implementation of action plan and supervision requirements will continue to be the subject of joint inspection.
- 614 To support this work, with specific regard to reintegration of those who have been detained in a secure setting, the Children (Scotland) Act 1995 outlines the powers and duties that local authorities have to provide throughcare and aftercare for those children who are looked after by local authorities. The Executive also supports a number of related initiatives and projects:
- > the provision of close support places for those leaving secure care;
 - > Intensive Support and Monitoring Services providing children with a supported method of reintegrating with their community;
 - > Scottish framework for throughcare and aftercare assessment and planning - Pathways produced in 2004; and
 - > the Intensive Support Fund - objective of improving the support available to those returning from secure care to their communities.
- 615 Specific projects to assist with rehabilitation and integration which are directly supported by the Executive, such as those funded by the Intensive Support Fund are independently evaluated. Services provided by local authorities and other partners are subject to their quality assurance procedures and will also be subject to the joint inspection of services for children in due course.

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- 616 The Executive is providing secure units with resources for each child leaving secure care which will enable bespoke support services to be put in place in addition to those already provided in statute or regulations. This will help to smooth the transition back to the community, help them adjust to new surrounding and circumstances and improve outcomes. Two projects are also being funded to provide support to the most high risk children leaving secure care. These two projects, each covering a different geographical area but with the same client group, aim to assist with a small group of the most vulnerable and chaotic children leaving secure who will require a much more intensive level of aftercare support than either the local authorities or secure units can feasibly provide.
- 617 For children aged 16 and over who are dealt with through the adult criminal justice system, probation orders offer the most flexible of the available community disposals and are designed to address an individual's offending behaviour. To support the work provided for within a standard probation order a significant number of support programmes or interventions are funded to address the needs of specific groups such as young offenders.
- 618 The use by courts of community sentences, particularly probation orders continues on an upward trend: in 2005-06, 794 probation orders were imposed on offenders aged 16-17 and 675 Community Service Orders. Overall the number of probation orders increased by 7% in 2005-06 and community service orders by 17% over the previous year. The most recent national reconviction figures indicate a reconviction rate (for all offenders) over a 2 year period of 42% for Community Service Orders and 58% for Probation Orders compared with 60% for those discharged from custody.

Support for victims of crime

- 619 The Scottish Children's Reporter Administration introduced a Victim Information Service in February 2006. The Children's Reporter provides information about a case, in which an offence has allegedly been committed by a child, to victims and other specified interests. Evidence shows that the victims of crime committed by children are often children themselves. Work is also being undertaken to ensure that services for victims of youth crime are consistent with those offered to other victims and take other approaches such as restorative practices into account.
- 620 A range of initiatives are in place to support all victims of crime, for example funding for Victim Support Scotland, a voluntary organisation that provides emotional and practical support to victims of crime. Generally speaking, children over 14 have access to these support mechanisms in their own right, and parents and carers have access these services on behalf of children below the age of 14.

Data on children in conflict with the law

- 621 In 2005-06, 17,624 children and young people were referred to the Children's Reporter on offence grounds.
- 622 There is no specific data on recidivism rates of those in the Hearings System on offence grounds. In 2005-06, however, 1,388 of the 17,624 children referred to the Children's Reporter on offence grounds were identified as persistent young offenders (ie a child in the Children's Hearings System with 5 or more offending episodes within a 6 month period). This represents 8% of children referred to the Children's Reporter on offence grounds and 0.25% of the total Scottish child population aged 8-16.
- 623 Of those aged under 18 who were discharged from custody or given a non-custodial sentence in 2002-03, 60% were reconvicted within 2 years.

C) CHILDREN IN SITUATIONS OF EXPLOITATION

Articles 31 and 32

Children in employment

- 624** The Children (Protection at Work) (Scotland) Regulations came into force in April 2006 bringing legislation in Scotland into line with EU Directive 94/33 on the protection of children at work. The regulations limit to 12 hours per week the number that any child below 16 can work during term time. This is a reduction from the previous maxima of 17 hours per week for those under 15 and 20 hours per week for those aged 15.
- 625** The regulations reinforce the Executive's commitment to safeguard the educational opportunities and the health and physical wellbeing of children in employment by limiting the hours they work, while allowing them to continue to enjoy the rewards and experience of work. It is however apparent that monitoring and enforcement of the restrictions on the employment of children is inconsistent. Better monitoring is required and the Scottish Executive is committed to consulting on what a proportionate and effective system of monitoring might entail.

Extent of employment among under 16s

- 626** The Executive commissioned research into the extent of child employment, which was published in November 2006: www.scotland.gov.uk/Publications/2006/11/10143236/0. The research found that for school pupils in Scotland, part-time work is a common experience. Well over half of pupils had experience of part-time employment: 59% were either currently in part-time work or had had a part-time job at some point in their secondary education. It is noticeable that older children were far more likely to have a part-time job than younger children.

TABLE 75

School pupils' part-time work status

	All %	Male %	Female %
Current job	38	34	42
Former job	21	22	20
Never worked	41	44	38

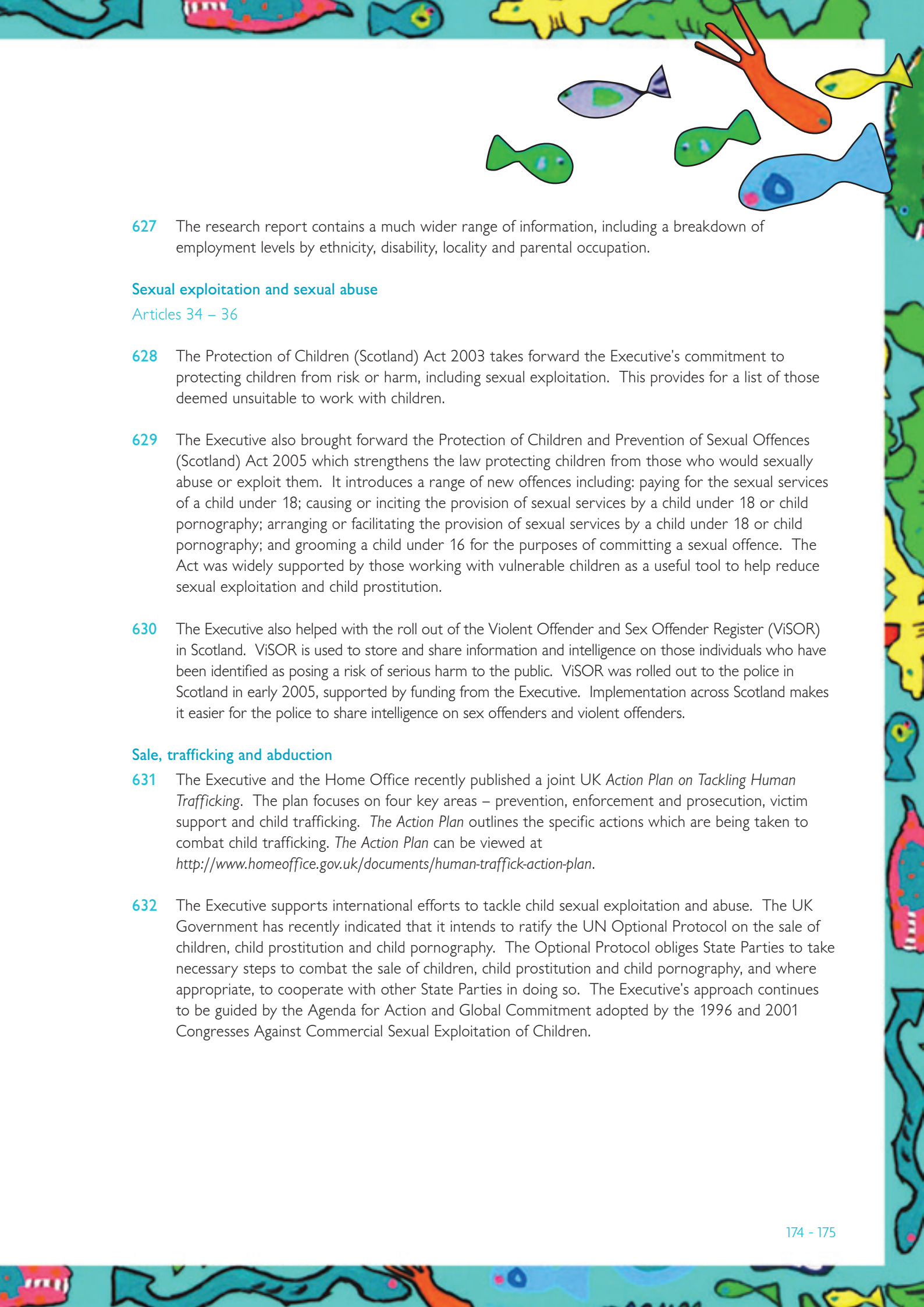
Source: www.scotland.gov.uk/publications/2006/11/10143236/0

TABLE 76

School pupils' part-time work status by school year

	School Year				All
	S3 %	S4 %	S5 %	S6 %	
Current job	29	34	43	63	38
Former job	19	23	21	20	21
Never worked	52	44	35	18	41

Source: www.scotland.gov.uk/publications/2006/11/10143236/0

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- 627 The research report contains a much wider range of information, including a breakdown of employment levels by ethnicity, disability, locality and parental occupation.

Sexual exploitation and sexual abuse

Articles 34 – 36

- 628 The Protection of Children (Scotland) Act 2003 takes forward the Executive's commitment to protecting children from risk or harm, including sexual exploitation. This provides for a list of those deemed unsuitable to work with children.
- 629 The Executive also brought forward the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 which strengthens the law protecting children from those who would sexually abuse or exploit them. It introduces a range of new offences including: paying for the sexual services of a child under 18; causing or inciting the provision of sexual services by a child under 18 or child pornography; arranging or facilitating the provision of sexual services by a child under 18 or child pornography; and grooming a child under 16 for the purposes of committing a sexual offence. The Act was widely supported by those working with vulnerable children as a useful tool to help reduce sexual exploitation and child prostitution.
- 630 The Executive also helped with the roll out of the Violent Offender and Sex Offender Register (ViSOR) in Scotland. ViSOR is used to store and share information and intelligence on those individuals who have been identified as posing a risk of serious harm to the public. ViSOR was rolled out to the police in Scotland in early 2005, supported by funding from the Executive. Implementation across Scotland makes it easier for the police to share intelligence on sex offenders and violent offenders.

Sale, trafficking and abduction

- 631 The Executive and the Home Office recently published a joint UK *Action Plan on Tackling Human Trafficking*. The plan focuses on four key areas – prevention, enforcement and prosecution, victim support and child trafficking. *The Action Plan* outlines the specific actions which are being taken to combat child trafficking. *The Action Plan* can be viewed at <http://www.homeoffice.gov.uk/documents/human-traffick-action-plan>.
- 632 The Executive supports international efforts to tackle child sexual exploitation and abuse. The UK Government has recently indicated that it intends to ratify the UN Optional Protocol on the sale of children, child prostitution and child pornography. The Optional Protocol obliges State Parties to take necessary steps to combat the sale of children, child prostitution and child pornography, and where appropriate, to cooperate with other State Parties in doing so. The Executive's approach continues to be guided by the Agenda for Action and Global Commitment adopted by the 1996 and 2001 Congresses Against Commercial Sexual Exploitation of Children.

D) CHILDREN LIVING OR WORKING ON THE STREET

Articles 26, 27 and 34-36

- 633** The Rough Sleepers Initiative has been in operation since 1999. Local authorities receive funding to assess and provide for the accommodation and support needs of people sleeping rough or at risk of having to sleep rough. The Executive is not aware that families with young children are living on the street in Scotland. Some teenagers may sleep rough. Where that is the case these children would be assisted by projects funded by the Rough Sleepers Initiative but local authorities will also have duties to provide for them under the Children (Scotland) Act 1995 and the Housing (Scotland) Act 1987, as amended.
- 634** The Rough Sleepers Initiative provides outreach services that respond to the needs of children sleeping rough and offer some protection from exploitation, for example violence or sexual exploitation. The Executive does of course encourage children sleeping rough to come forward for assistance. Given their circumstances, those that do will be deemed as having a priority need for accommodation under homelessness legislation.
- 635** The Executive has provided funding support for a refuge for young runaways based in Glasgow. The refuge accommodates around 60-70 children each year, mainly aged 12-15. While it is primarily for children from the Glasgow and central belt areas, runaways who arrive in the city from elsewhere can also access the refuge. The refuge provides a safe base where children can get support and help from workers who put their needs first and listen to their concerns and fears. When a child is admitted, the police and local authority are notified so that family or carers can be reassured about his or her safety.
- 636** In addition, the Executive has recently commissioned Aberlour Child Care Trust in partnership with the Scottish Coalition for Young Runaways (a partnership of statutory and voluntary bodies with wide experience of working with runaways and other vulnerable children) and the Centre for Crime and Justice Research at the University of Stirling to lead on the delivery of a scoping study of services across Scotland for young runaways. The study will:
- > explore the level of awareness of young runaways among local authorities and review the extent to which their needs are identified in Children's Services Plans;
 - > establish how many local authorities have adopted protocols for responding to runaways in line with the Executive's guidance and identify how any protocols are being utilised;
 - > consider the extent to which any protocols meet their objectives and the needs of young runaways;
 - > identify what action has been taken to provide services for young runaways either directly or in partnership with other agencies; and
 - > explore any existing plans to identify gaps and develop services.
- 637** It is expected that the study will inform development of an appropriate national response to the needs of young runaways.



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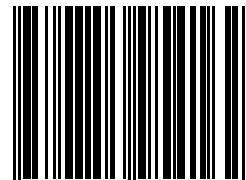
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