

**East Lothian Council**

# **Children's Rights and Well-being Impact Assessment**

**Completion Guidance and template**

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## Overview

This guidance has been developed to enable and support the completion of a Child's Rights and Wellbeing Impact Assessment to meet our legal responsibilities in relation to children's rights legislation. It also helps us to meet our commitment to do the best for children and young people living, studying, visiting or working in East Lothian.

## Who is a child?

The United Nations Convention on the Rights of the Child (UNCRC) affords specific human rights protections to everyone under 18. Children and young people have been identified as a more vulnerable group in society and so are given additional protections in order to safeguard and promote their rights.

Please view the Together Scotland animation 'What are Children's Rights?' to learn more: [Children's rights journey animation | Together Scotland](#)

## Legal requirements

To support, embed and extend children's rights in Scotland, the Scottish Government introduced the [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act](#) ("the Act"), which received Royal assent in January 2024.

The Act sets out an expectation of a Scotland where children's human rights are embedded in all aspects of society, with children and young people empowered to give their views and be included in conversations on matters that affect them.

Additionally, policy, law and decision-making must take account of their rights. In doing so, it makes it unlawful for a public authority '*to act, or fail to act, in connection with a relevant function in a way which is incompatible with the United Nations Convention on the Rights of the Child (UNCRC) requirements*'.<sup>i</sup>

In bringing in the Act, listed public bodies are required to recognise, respect and promote children's rights in what they do. To work towards facilitating these rights within East Lothian, and to 'not act incompatibly' with the Act, East Lothian Council has committed to completing Children's Rights and Wellbeing Impact Assessments (CRIWA).

A CRWIA should be used on all new legislation and policy that impact children, not just children's services.

## **What is a Child's Rights and Wellbeing Impact Assessment (CRWIA)**

A CRWIA is a tool which enables us to understand how what we do, be it a proposed law, policy, decision or action, might affect a child's human rights. It helps us to test that what we do, or propose to do, is not incompatible with those rights.

### **Must do's**

All new and revised policy and practice **must** complete:

1. an [Equality Impact Assessment](#) as part of our Public Sector Equality Duties (PSED: Equality Act 2010). The Integrated Impact Assessment (IIA) template includes screening for relevance questions and guidance to help complete the Equality Impact Assessment.
- **A Children's Rights and Well-being Impact Assessment:** In completing the IIA template you will be asked about how your proposals impact children and/or young people. If children and young people are impacted, no matter in how minor a way you **must** additionally complete a CRWIA.

The considerations within the IIA template and those within the CRWIA explore different duties and responsibilities of the council and only by completing both exercises can we ensure that we have captured and addressed all duties we owe.

**Both assessments are required to be signed off by Head of Service and published online.**

The following guidance and template set out how to complete the CRWIA assessment.

**Please contact your service lead for further support and information.**

## Children's Rights: an introduction

Human Rights provide fundamental protections for everyone, with children and young people specifically protected through the United Nations Convention on the Rights of the Child (UNCRC). These rights cover civil and political rights, and economic, social and cultural rights.

The UNCRC Articles are underpinned by four general principles:

- non-discrimination of children and young people;
- the best interests of the child as a primary consideration in decisions;
- the right to life, survival and development; and
- the child's right to have their views given due weight.

All children's rights and protocols can be viewed on the Children and Young People's Commissioner Scotland website: [UNCRC | The UN Convention on the Rights of the Child - The Children and Young People's Commissioner Scotland \(cypcs.org.uk\)](https://www.cypcs.org.uk/uncrc)

UNCRC Scotland animation: I am me Scotland [Bing Videos](#)

The following is a simplified version of those rights.

<b>Article 1:</b> Everyone under 18 has rights			
<b>Article 2:</b> All children have these rights no matter what their differences			
<b>Article 3</b> – the best interests of the child shall be a primary consideration	<b>Article 4</b> - measures to implement UNCRC rights	<b>Article 5</b> – the responsibilities, rights and duties of parents or where applicable others, shall be respected in a manner consistent with the evolving capacities of the child, with the appropriate direction and guidance by the child	
<b>Article 7</b> – to a name, nationality, and as far as possible to know	<b>Article 8</b> – to preserve their identity	<b>Article 9</b> – not to be separated from their parents against their will, except when	<b>Article 10</b> – immigration decisions about family reunification to be dealt with in

and be cared for by their parents		competent authorities subject to judicial review determine, in accordance with the law and procedures, that separation is necessary for the best interests of the child	a positive, humane and expeditious manner
<b>Article 11</b> – combat the illicit transfer and non-return of children abroad	<b>Article 12</b> – the child who is capable of forming their own views shall have the right to express those views freely in all matters affecting the child	<b>Article 13</b> – freedom of expression	<b>Article 14</b> – freedom of thought, conscience, and religion
<b>Article 15</b> – freedom of association and freedom of peaceful assembly	<b>Article 16</b> – no child shall be subject to arbitrary or unlawful interference with his or her privacy, family, home or correspondence	<b>Article 17</b> – access to mass media information from a diverse range of sources	<b>Article 18</b> – both parents have common responsibilities for the upbringing and development of the child
<b>Article 19</b> – protection from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation	<b>Article 20</b> – a child temporarily or permanently deprived of their family environment, or because it is in their own best interests not to be allowed to remain in that environment, shall be entitled to special protection and assistance	<b>Article 21</b> – system of adoption ensures best interests of child is paramount	<b>Article 22</b> – take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights

<b>Article 23</b> – a mentally or physically disabled child should enjoy a full and decent life, in conditions that ensure dignity, promote self-reliance, and facilitate the child's active participation in the community	<b>Article 24</b> – enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. To strive to ensure that no child is deprived of their right to access such health care services	<b>Article 25</b> – a child placed by competent authorities for the purposes of care, protection or treatment of their physical or mental health has right to a periodic review of treatment	<b>Article 26</b> – to social security
<b>Article 27</b> – to standard of living adequate for their development	<b>Article 28</b> – right to education	<b>Article 29</b> – direction of education	<b>Article 30</b> – a child belonging to an ethnic, religious or linguistic minority group will not be denied the right... to enjoy their own culture, to profess or practice their own religion or to use their own language
<b>Article 31</b> – to rest and leisure, to engage in play and recreational activities appropriate to their age and to participate freely in cultural life and the arts	<b>Article 32</b> – protection from economic exploitation	<b>Article 33</b> – protection from illicit use of narcotic drugs and psychotropic substances	<b>Article 34</b> – protection from all forms of sexual exploitation and sexual abuse
<b>Article 35</b> – prevention of addiction, sale or trafficking	<b>Article 36</b> – protection against all forms of exploitation prejudicial to any	<b>Article 37</b> – no child shall be subjected to torture or other cruel, inhuman or degrading	<b>Article 38</b> – respect for rules of international humanitarian law in armed conflict

	aspect of their welfare	treatment or punishment. No child shall be deprived of their liberty unlawfully or arbitrarily	
<b>Article 39</b> – to take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment, or armed conflicts.			

### What is a children's human rights approach?

A children's human rights based approach which is about placing the UNCRC at the core of planning and service delivery and integrating children's human rights into every aspect of decision-making, policy and practice. For example, the Welsh model is made up of five principles:

- **Embedding:** Putting children's human rights at the core of planning and the delivery of services that affect children and young people
- **Equality and non-discrimination:** Ensuring that every child or young person has an equal opportunity to make the most of their lives and talents
- **Empowerment:** Giving children the knowledge and confidence to use their rights and hold organisations and individuals that affect their lives to account
- **Participation:** Listening to children and taking their views seriously
- **Accountability:** Organisations and individuals should be accountable to children for the decisions and actions which affect their lives

**Action:** Before starting your CRIWA please learn about or refresh your knowledge of children's rights with this Scottish Government course. Get started [here](#)



## Completing a Child's Rights and Wellbeing Impact Assessment

This section sets out how to approach the Impact Assessment process with more detailed information for consideration under each question. The following chart sets out the process. Please complete the screening sheet and complete the full CRIWA if necessary, refer to the Scottish Government guidance to inform content or raise actions where required.

1. **Complete the screening sheet**
2. **Continue to a full CRIWA if required**
3. **Sign off by Head of Service completed**
4. **Attached to relevant policy for decision**
5. **Send to [equalities@eastlothian.gov.uk](mailto:equalities@eastlothian.gov.uk) for publication.**

Getting started: [Scottish Government's CRWIA guidance](#)

### The four general principles

The four general principles of the UNCRC (non-discrimination; the best interests of the child; the right to life, survival and development; and the child's right to have their views given due weight) underpin all Articles in the Convention and should always be considered during your assessment.

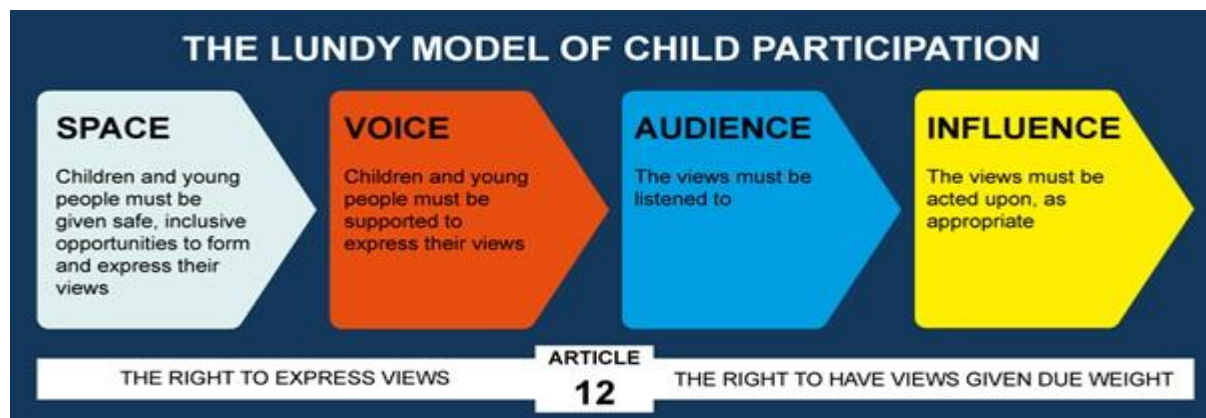
## Engaging children and young people and monitoring inclusion

It is important to ensure best practice principles are adhered to when engaging and consulting children. The ELC CYP engagement strategy, the Equality monitoring guidance and the Data Protection guidance can inform approaches.

However we choose to engage, it is essential the method, language, format and terminology adheres to best practice appropriate for each child's age, stage and ability. Accessibility and reasonable adjustments (Equality Act 2010) are relevant here.

The Lundy model sets out four key principles:

<https://youtu.be/UCI6aWJxaZY?feature=shared>



## Process flow chart with example questions

<p><b>a) Screening</b></p> <p>Provide a general description of the policy and its aims, supplemented by an initial assessment of the applicability of the policy/measure to children and young people. <b>Ask:</b></p> <ul style="list-style-type: none"> <li>• what aspects of the proposal affect children and young people up to 18 yrs?</li> <li>• What is the likely impact?</li> <li>• are there any groups of children or young people who will be disproportionately impacted?</li> <li>• Have you received <a href="#">CashBack for Communities funding?</a> If yes, a CRIWA must be completed</li> </ul> <p>Based on this screening decide whether to proceed.</p>	<p>Decision <u>not to</u> complete a CRIWA</p> <ul style="list-style-type: none"> <li>• Set out your reason</li> <li>• Sign the CRIWA declaration form</li> <li>• Publish the Screening sheet</li> </ul> <p>→</p> <p>Proceeding to CRIWA</p> <ul style="list-style-type: none"> <li>• Sign the Screening sheet</li> <li>• Publish</li> <li>• Continue to CRIWA</li> <li>• Publish</li> </ul> <p>→</p>
<p><b>b) Completing a Childrens Rights and Well-being Impact Assessment</b></p> <p>Consider your proposal, policy, or decision against the questions and complete the template. The following is an example</p> <ul style="list-style-type: none"> <li>• Which UNCRC principles are engaged by this policy / measure?</li> <li>• Which specific articles of the UNCRC does the policy/measure impact?</li> <li>• What impact will your policy/measure have on children's rights?</li> <li>• Do you anticipate different impacts on different groups of children and young people? Are they positive or negative?</li> <li>• If a negative impact is assessed, can you set out why this is necessary and proportionate? Please set out how you will remove the negative impact or reduce its extent.</li> <li>• Have you considered any modifications to the proposal to mitigate a negative impact? Please set out.</li> <li>• Explain how the policy/measure will give 'better or further effect to' the implementation of the UNCRC in Scotland.</li> <li>• How have you consulted with relevant stakeholders, including involving children and young people in the development of the policy/measure? What evidence/data have you considered to inform your assessment. (Please refer to the ELC Children's Engagement strategy).</li> <li>• How will the impact of the policy/measure be monitored?</li> <li>• How will you communicate to children and young people the impact of the policy/measure on their rights?</li> </ul>	
<p>Head of service sign off:</p> <p>Date:</p>	<p><b>Publish:</b> A child friendly version using 'you said we did' should also be communicated. Please follow communication guidelines and formats.</p>

## Assessing Impact

The CRIWA asks us to identify the impact of our proposals on different groups of children. The Scottish Government guidance sets out what is meant by the terms.

### 1. Negative impact

- The policy/measure may impede or reverse the enjoyment of existing rights, requiring mitigating measures be put in place;
- The policy/measure fails to comply with UNCRC and other human rights obligations, requiring modification of the proposal;
- The policy/measure may have a detrimental impact on children, so should be withdrawn and alternatives presented.

### 2. Positive impact

- The policy/measure complies with UNCRC requirements;
- The policy/measure makes changes recommended by the UN Committee;
- The policy/measure has the potential to advance the realisation of children's rights in Scotland.

### 3. Neutral impact

The policy/measure brings no discernible lessening of, or progress in, children's rights or their wellbeing.

If you detect potential issues about compliance, you should also assess the policy/measure in the wider context of Scotland's human rights obligations under the Human Rights Act 1998 and relevant international instruments. You can find further information on these in the Scottish Government's [Children's rights legislation in Scotland: a quick reference guide](#).

### 4. Different impacts on different groups of children and young people.

The CRWIA may reveal disparities in impact between different groups, or in relation to different measures outlined in the CRWIA. When competing interests are involved, the CRWIA should recognise and record these differential impacts to ensure transparency in the decision-making process. If any of the potential impacts are unavoidable and negative, that must be recorded.

- Different levels or types of impact on different groups of children and young people should be recorded in the CRWIA;

- The Articles of the UNCRC are applicable to all children and young people, no matter what their circumstances. The State also has a duty to provide special protection and assistance to those children and young people who require it;
- Competing interests between different groups affected by the policy/measure;
- What is good for one group of children and young people may adversely affect another, or there may be tensions between what promotes children's rights and wellbeing and the interests of parents/carers, service providers and/or professionals. Under the UNCRC, the best interests of the child must be a primary consideration;
- Conflicting conclusions from different impact assessments;
- Sometimes, the findings in CRWIAs may conflict with those in EQIA and other impact assessments. Impact assessments undertaken in isolation risk missing or underestimating the cumulative impacts of major change on different groups. Identifying these should lead to consultation between the different policy leads to ensure that the assessments are based on the best evidence possible, and that the decision-making process is transparent.

Considering the protected characteristic groups set out in the Equality Act 2010 is a good starting point, however some may not be as visible such as the children of Armed Forces families [Looking at forces life through a children's rights lens - Forces Children Scotland](#)

## Completing the CRIWA

**The impact assessment process should be proportionate** - not every proposed policy that affects children and young people will automatically require a CRWIA that goes beyond the Screening stage. All policy/measures need to be screened for relevance.

It is worth considering how significant the policy/measure is as well as the anticipated level of impact on children and young people. Though there is no absolute threshold or test for what is 'significant' enough to trigger a CRWIA, you should consider:

- The vulnerability of the groups affected by the policy/measure;
- The numbers of children and young people affected by the policy/measure;
- The consequences of the policy/measure for those who work with these children;
- Whether a high level of resources will be committed to the policy/measure;
- How high profile the policy/measure is;
- Whether this is a major new direction for policy;
- Whether the policy/measure will be subject to consultation
- Whether the policy/measure is in legislation;
- Whether there is a lack of evidence on the way in which the policy/measure affects or could affect children and young people, including evidence from children themselves;
- Whether it is difficult to anticipate what the impact will be on children and young people.

If any of these are relevant, then you should do a CRWIA.

**It is up to policy leads to decide when it is advisable to complete a CRIWA. The Screening form is there to enable you to provide evidence of the thinking behind your decision.**

- Please err on the side of caution if you are unsure. A significant indirect impact on a specific group of children and young people would justify a CRWIA.

Following the Screening exercise, if you can demonstrate that your policy/measure will not have a significant impact on children and young people, then you do not need to carry out a CRWIA that goes beyond the Screening stage. However, that decision must be authorised, by Head of Service on record, and the Screening form published on the ELC website.

**Please use the [Scottish Government's screening guidance](#) to complete the screening questions.**

## Screening template

Please complete all sections.

0.	Insert policy/measure name.
1.	Brief Summary to include the policy name and overall aims.
2.	What aspects of the policy/measure will affect children and young people Remember, the UNCRC articles include non-citizen and undocumented children and young people.
3.	<p>What likely impact will the policy/measure have on children and young people? Please consider both direct and indirect impacts.</p> <p><b>‘Direct’</b> impact refers to policies/measures where children and young people are directly affected by the proposed changes, e.g., in early years, education, child protection or looked after children (children in care).</p> <p><b>‘Indirect’</b> impact refers to policies/measures that are not directly aimed at children but will have an impact on them. Examples include welfare reforms, parental leave, housing supply, or local transport schemes.</p> <p>Impact can be positive or negative, specific or disproportionate.</p>
4.	Which groups of children and young people will be impacted? This can refer to any grouping of children or young people by a shared characteristic – not just age or setting but the circumstances in which they are living.
5.	Is a Children’s Rights and Wellbeing Impact Assessment required? Please state if a CRWIA will be carried out or not. Please explain your reasons.
6	<p>If you are not proceeding to a full CRWIA, please sign off.</p> <p>Head of Service signature:</p> <p>Date of Sign off:</p>

## Children's Rights and Wellbeing Impact Assessment Template

If your screening exercise indicates a full CRIWA is required, please complete the following questions. Please use the [Scottish Government's CRWIA guidance](#) when completing this section. Please complete all sections.

0.	Insert policy/measure name
1.	Which articles of the UNCRC does this policy/measure impact on? E.g. The Right to education.
2.	What impact will your policy/measure have on children's rights?
3.	Will there be different impacts on different groups of children and young people? Impact can be positive or negative.
4.	If a negative impact is assessed for any area of rights or any group of children and young people, can you explain why this is necessary and proportionate? What options have you considered to modify the proposal, or mitigate the impact?
5.	How will the policy/measure give better or further effect to the implementation of the UNCRC in Scotland?
6.	How have you consulted with relevant stakeholders, including involving children and young people in the development of the policy/measure?
7.	What evidence have you used to inform your assessment?
8.	How will the impact of the policy/measure be monitored?
9.	How will you communicate to children and young people the impact of the policy/measure on their rights?
10	Head of Service signature: Date of Sign off:



## **Publishing**

Please forward your completed CRIWA to [equalities@eastlothian.gov.uk](mailto:equalities@eastlothian.gov.uk) to be uploaded to the website. Please provide a child friendly summary version too.

**Note:** Please send any updates, suggestions, errors, or points of clarification to improve this guidance to Linda Alexander at [laalexander@eastlothian.gov.uk](mailto:laalexander@eastlothian.gov.uk).

## Further Information

### Introductory learning:

- Scottish Governments Introduction to Children's Rights (Stakeholder Edition): [https://rise.articulate.com/share/K\\_exatmnhdj5lE07etQJaTO0ydwPI\\_F7#/](https://rise.articulate.com/share/K_exatmnhdj5lE07etQJaTO0ydwPI_F7#/)
- Quick reference guide: [Children's rights legislation in Scotland: quick reference guide - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/childrens-rights-legislation-in-scotland-quick-reference-guide-2022/documents/childrens-rights-legislation-in-scotland-quick-reference-guide-2022.pdf)

### United Nations (UNICEF):

- UN Convention on the Rights of the Child: [Convention on the Rights of the Child | UNICEF](https://www.unicef.org/uncrc/convention)
- Full Rights wording: parts I, II and III: <https://www.unicef.org.uk/wp-content/uploads/2016/08/unicef-convention-rights-child-uncrc.pdf>
- Summary of Rights: [https://www.unicef.org.uk/wp-content/uploads/2019/10/UNCRC\\_summary-1\\_1.pdf](https://www.unicef.org.uk/wp-content/uploads/2019/10/UNCRC_summary-1_1.pdf)
- Child Friendly spaces CRIWA template and guidance for reference [https://www.unicef.org.uk/child-friendly-cities/home/CRWIA/CRIA\\_June-2022.pdf \(unicef.org.uk\)](https://www.unicef.org.uk/child-friendly-cities/home/CRWIA/CRIA_June-2022.pdf)

### Scottish Government:

#### a) **Rights based approach:**

- Getting it Right for Every Child (GIRFEC): [Getting it right for every child \(GIRFEC\) - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/getting-it-right-for-every-child-girfec/documents/getting-it-right-for-every-child-girfec.pdf)
- A Children's Human Rights based approach [https://www.gov.scot/publications/guidance-taking-childrens-human-rights-approach/](https://www.gov.scot/publications/guidance-taking-childrens-human-rights-approach/documents/guidance-taking-childrens-human-rights-approach.pdf)

#### b) **CRIWA guidance and support:**

- CRIWA assessment introductory guidance: [CRIWA information](https://www.gov.scot/publications/criswa-assessment-introductory-guidance/documents/criswa-assessment-introductory-guidance.pdf)
- Children's Rights and Wellbeing Screening Sheet and Impact Assessment (CRWIA). [https://www.gov.scot/publications/childrens-rights-wellbeing-impact-assessment-guidance/documents/](https://www.gov.scot/publications/childrens-rights-wellbeing-impact-assessment-guidance/documents/childrens-rights-wellbeing-impact-assessment-guidance.pdf)
- S.Gov completed CRIWA's list: [\[ARCHIVED CONTENT\] Child rights and wellbeing impact assessments: list - gov.scot \(nrscotland.gov.uk\)](https://www.nrscotland.gov.uk/publications/childrens-rights-wellbeing-impact-assessments-list)

#### c) **Statutory Guidance:**

**Part 2:** guidance and its accompanying documents:

- [Statutory guidance on Part 2 of the UNCRC \(Incorporation\) \(Scotland\) Act 2024](https://www.gov.scot/publications/statutory-guidance-on-part-2-of-the-uncrc-incorporation-scotland-act-2024/documents/statutory-guidance-on-part-2-of-the-uncrc-incorporation-scotland-act-2024.pdf)

- [Clarification of inherent obligations of the United Nations Convention on the Rights of the Child \(UNCRC\)](#)
- [Sources to guide interpretation of the United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#)

### **Part 3**

- [Statutory guidance on Part 3 of the UNCRC \(Incorporation\) \(Scotland\) Act 2024](#)

If you have any guidance questions, please contact the Scottish Government team mailbox: [uncrcincorporation@gov.scot](mailto:uncrcincorporation@gov.scot)

### **Leading and supporting organisations:**

- [Commissioner for Children and Young people Scotland: Commissioner for Children and young people's Scotland \(CYPCS\)](#)  
Resources list: <https://www.cypcs.org.uk/resources/listen-engage-have-fun/>
- [Together Scotland: Together Scotland](#)  
[State of Children's Rights reports | Together Scotland](#)
- [Children's Parliament Inspiring a world of love, happiness and understanding. \(childrensparliament.org.uk\)](#)
- [Improvement service support and resources: About us | Improvement Service](#)

### **Listening to, and engaging with children:**

- [UNCRC Article 12 - I have the right to be listened to and taken seriously - CYPCS](#)
- [Starcatcher's Engagement Signals » Starcatchers Engagement Signals - Starcatchers](#)

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<sup>i</sup> [Explanatory Notes to United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024 \(legislation.gov.uk\)](#)