

The Childhood Policy Landscape in Scotland

A case study

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1.0 Introduction

In recent decades, Scottish policymaking has increasingly focused on children. Devolution and the Scottish Parliament have provided more opportunities for scrutiny, debate and policy. This case study provides an overview of key developments, with a particular emphasis on recent decades, trends and future directions.

The case study begins with a section to set the context for childhood policy in Scotland. It continues with an overview of key initiatives, such as the overarching strategy for children's services 'Getting it Right for Every Child'. These initiatives are then analysed under four themes, which capture key trends: the move to early intervention and prevention; Scotland's commitment to social justice; on-going concerns about interagency coordination; and the increasing attention to children's human rights. The case study finishes by reflecting on future directions and opportunities, advocating for continued commitment to ensure children's human rights are realised in their lives.

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2.0 Major factors driving policymaking and outcomes relating to children in Scotland

The Scottish Government is ambitious for childhood policy:

We believe that delivering the rights of children and young people, as enshrined in the UNCRC [United Nations Convention on the Rights of the Child], is fundamental to making children's rights real and Scotland the best place in the world to grow up. One of the most fundamental tests of our success in respecting and protecting those rights is whether they are part of the day-to-day lived experience of every child and young person in Scotland. We want a Scotland where policy, law and decision-making takes account of children's rights and where all children have a voice and are empowered not just to know and understand their rights, but also to assert and defend those rights and the rights of others. (Ministerial foreword, Scottish Government 2019a, page 5)

As demonstrated by these words, there is an ever-growing national commitment to children's human rights, including a specific focus on children's participation. There is an ambition that Scotland should be the 'best place in the world to grow up'. There is an interest in improving implementation, to ensure children experience these rights in their daily lives. Recognising children's rights and improving children's outcomes are major components of the Scottish Government's policy agenda.

Scotland had a long tradition of separate legislation in areas such as education, family law and social services (Bryant 2006). The Scottish Parliament only furthered this, with much of law-making on children's services shifting from Westminster to Holyrood in 1999.¹ Scottish politics and civic society are proud of this tradition, celebrating Scotland's distinctiveness in such areas as education, criminal justice, Gaelic and Scots heritage and language, social justice and human right² Childhood policy has been a key arena for Scottish attention.

¹ Certain key policy areas like immigration remain reserved.

² For example, see <https://www2.gov.scot/About/Performance/scotPerforms/outcomes/natlIdentity>

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Scotland has a small population of 5,438,000, which is 8.2% of the UK population.³ Its population is aging, with an estimated 20% children aged 0 to 18 in 2018.⁴ Its ethnic diversity is increasing but it remains small, with 4% of the population from a minority ethnic group.⁵ Scotland has rural and remote areas, as well as urban conurbations, each of which cause complexities for service delivery. Scotland has made strides in some priorities, such as lowering the number of young people in prison⁶ and nearly eradicating permanent school exclusions according to official statistics (McCluskey et al 2019, although there are concerns about unofficial exclusions). In other areas, the statistics are worrying, such as widening inequalities in education attainment (Marcus 2016), high levels of childhood obesity (Royal College of Paediatrics and Child Health 2017) and nearly one-third of children reporting bullying at school over a school year (Donnelly et al 2014).

The Scottish Government is the executive⁷ for policy areas that are not reserved, with a National Performance Framework⁸ to measure progress towards national outcomes. While all national outcomes are relevant to children, the framework includes an outcome relating specifically to children that states ‘we grow up loved, safe and respected so that we realise our full potential’.⁹ Local government is responsible for many public services, including education, social work, housing, libraries and planning, with 32 elected local authorities.¹⁰ Most pupils are in state schools, which are owned and operated by local authorities. A number of key services for children are not the responsibility of local authorities, such as policing and health,¹¹ and an array of coordinating governance arrangements seek to co-ordinate services and organisations. Numerous other executive agencies and non-departmental public bodies influence children’s services, from the Care Inspectorate to Education Scotland. The private sector has a significant role in certain service areas, such as early years’ services and youth employment. Scotland has a large voluntary sector, which delivers a range of children’s services, as well as joining with other parts of civic society to influence policy (Scottish Council for Voluntary Organisations 2018). The Scottish Parliament legislated for an independent Commissioner for Children and Young People in 2003, whose general function is to promote and safeguard the rights of children and young people.¹² Thus, a substantial and complex system of governance and implementation for children’s services exists in Scotland, with accompanying policy at national, local and other levels.

3 Mid-2018 estimate, based on <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalesscotlandandnorthernireland>

4 Mid-2018 estimate, based on <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalesscotlandandnorthernireland>

5 <https://scotland.shinyapps.io/sg-equality-evidence-finder/> To note this statistic is from the 2011 Census.

6 <https://www.sps.gov.uk/Corporate/Information/SPSPopulation.aspx>

7 In 2007, there was a name change from the Scottish Executive to the Scottish Government. For readability, the Scottish Government is largely used throughout this paper.

8 <https://nationalperformance.gov.scot/what-it>

9 <https://nationalperformance.gov.scot/national-outcomes/children-and-young-people>

10 <http://www.scis.org.uk/facts-and-figures/>

11 There are 13 local policing divisions and the national Police Scotland. There are 14 regional health boards, 8 specialist health boards and one public health body.

12 S. 4(1), Commissioner for Children and Young People (Scotland) Act 2003

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3.0 Overview of the policy initiatives relating to children in Scotland

Below a selection of key policy initiatives are identified, which reflect noticeable trends in childhood policy.¹³

In Scotland, ‘Getting it Right for Every Child’ (GIRFEC) is the overarching strategy for children’s services. It shifts away from single professional, sequential and crisis-driven referrals, towards local partnerships, integrated assessments and earlier solutions (Stradling and Alexander 2012). Local Authorities and Health Boards should plan for services which best safeguard, support and promote the wellbeing of children in their area.¹⁴ The GIRFEC approach has existed in Scotland since 2006 and legislated for through the Children and Young People (Scotland) Act 2014. A Supreme Court decision, however, determined that elements of the information-sharing provisions were unlawful¹⁵ and, in September 2019, the Scottish Government announced it will repeal related parts of the Act. GIRFEC still continues as national policy, to ensure children, young people and their families receive ‘the right help, at the right time, from the right people’.¹⁶

Such an appreciation of earlier solutions has helped extend State involvement in early years learning and childcare from the 1990s onwards. Currently, the Scottish Government has pledged to expand free early learning and childcare hours to 1,140 per year by 2020, which is proving testing for the sector to provide in both numbers and quality (e.g. Cramb 2018). Workforce training has been emphasised (Skills Development Scotland and Scottish Government 2017), with increased regulation and inspection of the sector. This attention to the early years goes further, into initiatives to support very young children – such as Baby Box (every baby receives a box of essential items) and the targeted intensive support of Family Nursing Partnership.¹⁷ State support for young children and their families has extended greatly over recent years.

13 The Scottish Government’s reports on progressing children’s human rights, and future plans, are a fulsome source of current policies and planned initiatives. <https://www.gov.scot/policies/human-rights/childrens-rights/>

14 S.9(2)(a), Children and Young People (Scotland) Act 2014

15 The Christian Institute and others (Appellants) v The Lord Advocate (Respondent) (Scotland), [2016] UKSC 51

16 <https://www.gov.scot/policies/girfec/>

17 <https://www.gov.scot/policies/maternal-and-child-health/family-nurse-partnership/>

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Policy emphasis on children's early years is further exemplified by the national curriculum, the Curriculum for Excellence (CfE), extending down to the age of three. The CfE was implemented in 2010, seeking to 'free up' teachers and schools from top-down approaches, to facilitate teachers' own professional judgements and to focus classroom practice on children (Kidner 2013). Following concerns about the narrowing of subject choices, the Scottish Government has announced an independent review of the senior phase of CFE.¹⁸ Scotland's falling educational performance, compared with OECD countries, has increased standardised pupil assessments at earlier stages of schooling (albeit with some criticism, see Education and Skills Committee 2019). Thus, the balancing between local empowerment and national prescription continues to be recalibrated in schooling and education (see Priestley 2014).

This history of State responsibility extends to children with disabilities and other additional support needs, with the State early on recognising its duties to educate them.¹⁹ Special educational needs provision was revised in 2004,²⁰ resulting in the more expansive category of 'additional support needs' and a more limited number of children eligible for the legally-binding plans (Carmichael and Riddell 2017). With less children in specialist schools, and more fully or partially in 'mainstream' schools, additional support needs provision remains a policy area of continued contestation (e.g. see Scottish Government 2018a).

Numerous strategies frame health and related services, including the Mental Health Strategy 2017-2027²¹ and the proposed Child and Adolescent Health and Wellbeing Action Plan.²² Health visitors, who provide support and advice to families until a child goes to school, have received increased investment (Scottish Government 2018b), after recognition that a targeted approach was failing too many children and their families and an increase would help meet GIRFEC aspirations. A range of other public health measures seek to improve children's health, such as strategies to improve children's dental health²³ and to address childhood obesity (Scottish Government 2018c).

18 <https://news.gov.scot/news/review-of-senior-phase>

19 See historical overview in the Committee of Enquiry into the Education of Children and Young People (1978).

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

21 <https://www.gov.scot/publications/mental-health-strategy-2017-2027/>

22 <https://www.gov.scot/policies/maternal-and-child-health/child-and-adolescent-health-and-wellbeing-action-plan/> (26.9.19)

23 <https://www2.gov.scot/Topics/Health/Services/Dentistry/Oral-Health-Improvement>

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Beyond universal services, Scotland has a complex system of more targeted services, built up over decades. It has a child protection system, where the State intervenes under a framework of legal duties. While social work services have a central and legal role in this, policy has stressed that child protection is ‘everyone’s job’ (Dyer 2017). Policy has sought to address global issues, such as female genital mutilation,²⁴ human trafficking²⁵ and internet safety.²⁶ The child protection system interfaces with the children’s hearing system, which deals with children both in need of care and protection and who offend. When a hearing is deciding whether or not to make a compulsory supervision order, the child’s welfare is the paramount consideration. Referrals to the children’s hearing system have changed since its implementation in 1971, from initially a greater proportion of offending referrals, to the 1990s seeing a rising proportion of child protection referrals, to the current diminishing of both (Hill et al 1998; Scottish Children’s Reporter Administration 2019). Both GIRFEC, and the Whole Systems Approach²⁷ in criminal justice, are seeking to divert children and young people from statutory systems. The more penalising efforts tried out in Scotland in the 1990s and 2000s, such as youth courts, have been side-lined or abandoned as unhelpful policies by the children’s sector (e.g. see Dyer 2016).

Scottish policy has long recognised the role of poverty and socio-economic inequalities underlying many of the difficulties facing children and their families (Paterson 2000), which are only increasing under recent policy and economic developments UK-wide.²⁸ As is further detailed in the British Academy’s case study on Child Poverty, Scotland has sought to address these directly, through such policies as the ambitious targets of the Child Poverty (Scotland) Act 2018 to end child poverty by 2030, the ed attainment challenge to address socio-economic inequalities in educational attainment,²⁹ and reducing youth unemployment levels.³⁰

Now underlying these developments is an increasing discourse of children’s human rights. While an earlier history in some policy areas recognised children as individuals with rights, the UK’s ratification of the UNCRC in 1991 was a catalyst for civic society in Scotland. Children’s rights have slowly permeated Scottish childhood policy, with convention rights incrementally being inserted into legislation and policy. In the Independence Referendum of 2014, 16- and 17-year olds were given the right to vote and this has continued since for all Holyrood and local government elections. More holistic progress on children’s rights was made in Part 1 of the Children and Young People (Scotland) Act 2014, with new duties on Scottish Ministers and public bodies.³¹ With the First Minister’s commitment to legislate for UNCRC incorporation by the end of the current Parliamentary session in 2021,³² Scotland is looking to a stronger framing of children’s human rights, with legal obligations in domestic law and a strong accountability structure.

24 Prohibition of Female Genital Mutilation (Scotland) Act 2005

25 Human Trafficking and Exploitation (Scotland) Act 2015

26 <https://www.gov.scot/publications/national-action-plan-internet-safety-children-young-people/>

27 <https://www.gov.scot/policies/youth-justice/whole-system-approach/>

28 <https://cpag.org.uk/scotland/child-poverty/facts>

29 <https://www.gov.scot/policies/schools/pupil-attainment/>

30 <https://www.dyw.scot/>

31 For information, see <https://www.togetherscotland.org.uk/about-childrens-rights/monitoring-the-uncrc/children-and-young-people-scotland-act-2014/>

32 <https://www.gov.scot/publications/fm-programme-government/>

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Key themes and trends in policymaking concerning children in Scotland

Four trends emerge out of the policy overview, some with considerable continuity and others more recent.

First, moving to prevention and early intervention was a key recommendation of the national commission on the future delivery of public services (Christie Commission 2011) and it has become core to children's services. This is further enforced by widespread encouragement for services to be 'trauma-informed' and to address the negative long-term impacts of Adverse Childhood Experiences.³³ The National Youth Work Strategy recognises youthwork's contribution to prevention and early intervention for older children and young people.³⁴ Tensions remain, however, in services also meeting the acute needs of children, young people and their families (Audit Scotland 2018; Carmichael and Riddell 2017). At times of increasing constraints on public finances, alongside a move to fund prevention and early intervention, some children and young people continue to struggle to have their needs met.

Second, Scotland retains a commitment to 'social justice': a recognition of the unfairness of inequalities and discrimination, and attention to the ongoing problems experienced by children and their families due to poverty. This can be seen through the initiative for New Community Schools³⁵ in the early 2000s, to the more recent attention to child poverty, youth employment, and educational attainment. It has been extended further to such groups as refugees (Scottish Government 2019b) and gypsy and traveller children and their families.³⁶ Despite this attention, Scotland continues to have high rates of poverty and social-economic inequalities,³⁷ homelessness remains an issue,³⁸ and care experienced children continue to have poor outcomes.³⁹ The commitment to social justice may exist in principle but its delivery in practice has not yet been realised.

33 <https://www.nes.scot.nhs.uk/education-and-training/by-discipline/psychology/multiprofessional-psychology/national-trauma-training-framework.aspx>

34 <https://www.youthlinkscotland.org/policy/national-youth-work-strategy/>

35 See <https://www.jrf.org.uk/report/provision-integrated-services-family-centres-and-new-community-schools>

36 <https://www.gov.scot/groups/ministerial-working-group-on-gypsy-travellers/>

37 <https://cpag.org.uk/scotland/child-poverty/facts>

38 https://scotland.shelter.org.uk/housing_policy/key_statistics/homelessness_facts_and_research

39 An Independent Care Review has been established to change this. See Policy Case Study on 'Young People Leaving Care: A Four Nations Perspective'.

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Third, as State responsibilities grow for childhood policy, so does the need to coordinate them. The call for improved interagency coordination is long standing, with concerted attempts to improve from the 1995 Act onwards (e.g. Scottish Executive 2001) and the latest represented by GIRFEC and the integration of health and social care.⁴⁰ Public bodies have numerous planning and reporting obligations. A common core of skills has been published, seeking to establish commonalities for the children's workforce (Scottish Government 2012a). The Children and Young People Improvement Collaborative⁴¹ seeks to inspire organisations to work together. Improving interagency and cross-professional working, though, remains a perennial issue and one essential to meet the Government's ambition.

Fourth, children's human rights have recently become more central to policy and services. The rhetoric has long been there, but children's rights frequently did not permeate policy documents (Tisdall and Plows 2007) nor were always realised in practice (Meekison and Wan 2019). Human rights generally have gained increased policy recognition and commitment in Scotland,⁴² and the children's rights sector has benefitted from this and also realised the value of intersecting with the broader human rights agenda (Gadda et al 2019). Children's rights arguments have been persuasive recently in addressing a number of problematic policy areas: for example, raising the minimum age of criminal responsibility and ensuring children have equal protection, as adults do, from assault. In 2018 Scotland became the first country in the world to commit to embedding LGBTi education within the curriculum. New provisions are being put in place for children as 'vulnerable witnesses' and considerable policy attention is being drawn to children affected by domestic abuse (e.g. Scottish Government 2019c). The Scottish public sector has largely embraced the need for better children's participation in collective decision-making, with numerous initiatives, and the Scottish Government is developing a Strategic Participation Framework. Never before has children's human rights had such a high profile in childhood policy in Scotland.

40 <https://www2.gov.scot/Topics/Health/Policy/Health-Social-Care-Integration>

41 <https://www.gov.scot/policies/improving-public-services/children-and-young-people-improvement-collaborative/>

42 <https://humanrightsleadership.scot/>

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5.0 Reflections on Future Directions

As with all jurisdictions in the UK, broader contexts are creating elements of uncertainty. With the Scottish population overall voting to remain in the European Union and the pro-European Union outlook of the Scottish Government, the imminent withdrawal from the Union will have direct and indirect consequences. The Scottish Nationalist Party (SNP) has been in Government since 2007 and there will be a Scottish Parliament election in 2021. With concerns about the continued effects of austerity, financial settlements around devolution, and the economic fall-out from leaving the EU, pressures on the public sector as well as on households may have profound effects on the considerable public commitment to children's services built up over decades.

Scotland is not short on legislation, guidance, and services that attempt to improve childhood policy. However, continuities remain in terms on inequalities, inequities, and discrimination. While policies can always be improved, the Scottish Government and others' concern at the 'implementation gap' has been evident since the Scottish Parliament began its work and it continues. How Scotland decides to use its newly devolved tax raising and social security powers provide potential to address these systemic issues. Realising the ambitions to make Scotland 'the best country to grow up in' remains an ongoing task.

Over the decades, increasing recognition and status have been given to children as individuals and as a group. This has not always been a smooth path, as there have been concerns about undue intervention in families and taking away of parental rights, which have bubbled up at various points. They can be seen in the lobby against information sharing and the Named Person in GIRFEC for fear of undue State surveillance of parents (Shanks 2018),⁴³ to demands to recognise parental alienation and to create a joint parenting presumption in family law (Families Need Fathers 2019). Unlike experiences elsewhere, the commitment to children and their rights has largely held, complemented with the recognition of the vital roles parents and others play through such initiatives as the National Parenting Strategy (Scottish Government 2012b) and the Charter for Grandchildren (Scottish Government 2018d). It is a balance that politicians are attuned to and watch carefully.

The promise of UNCRC incorporation may finally 'tip' children's human rights from being welcome rhetoric to 'lived rights' in both their everyday lives and at critical moments. As children's rights advocates and academics would underline, children's rights fundamentally change the status of children, they challenge hierarchies of intergenerational power, and they highlight the ageism and age discrimination that children face (e.g. Daly 2018; Freeman 1997). Scottish childhood policy – and particularly its implementation – could look different in important ways in the years to come if this opportunity is seized.

43 The Named Person is a service which would ensure that every child and their family had a key contact, and associated information sharing. This is part of the 2014 Act that will be repealed.

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Childhood policy in Scotland demonstrates both longstanding trends and newer orientations. Scotland has a long history of separate legislation in key areas that affect children, concerns for social justice and children's welfare, and an intersecting array of public, private and voluntary sector arrangements to address such concerns. Devolution has only increased this attention to childhood policy and services. Certain of these trends have been reoriented: for example, State protection of a child's welfare has expanded to the more ambitious concept of children's wellbeing, now used in GIRFEC (Tisdall 2015a); and a concern for child and their families' poverty has renewed attention in the targets to end child poverty. The balances between local and national government, and different elements of the mixed economy of private, public and voluntary sectors, continue to adjust and readjust. For example, the Scottish Government largely moved away from short-term and ring-fenced funding as policy levers, to outcome performance frameworks (Tisdall and Hill 2011). However, both outcome and wellbeing approaches have risks in themselves: they can miss the advantages of a rights-based approach, which requires attention to both processes and outcomes, to supporting children's rights in their current lives as well as their future outcomes, and to ensuring every child's rights are met as well as maximising group outcomes (Tisdall 2015b). Thus, the developing commitment to children's human rights can provide a fresh emphasis that will both complement and sometimes challenge Scottish childhood policy and practice into the future.

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