



GIVING VOICE TO ALL OF **SCOTLAND'S CHILDREN**

**RESPECTING, PROTECTING AND FULFILLING THE
LANGUAGE AND COMMUNICATION RIGHTS OF CHILDREN**

ANNEMARIE MACRAE

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EXECUTIVE SUMMARY

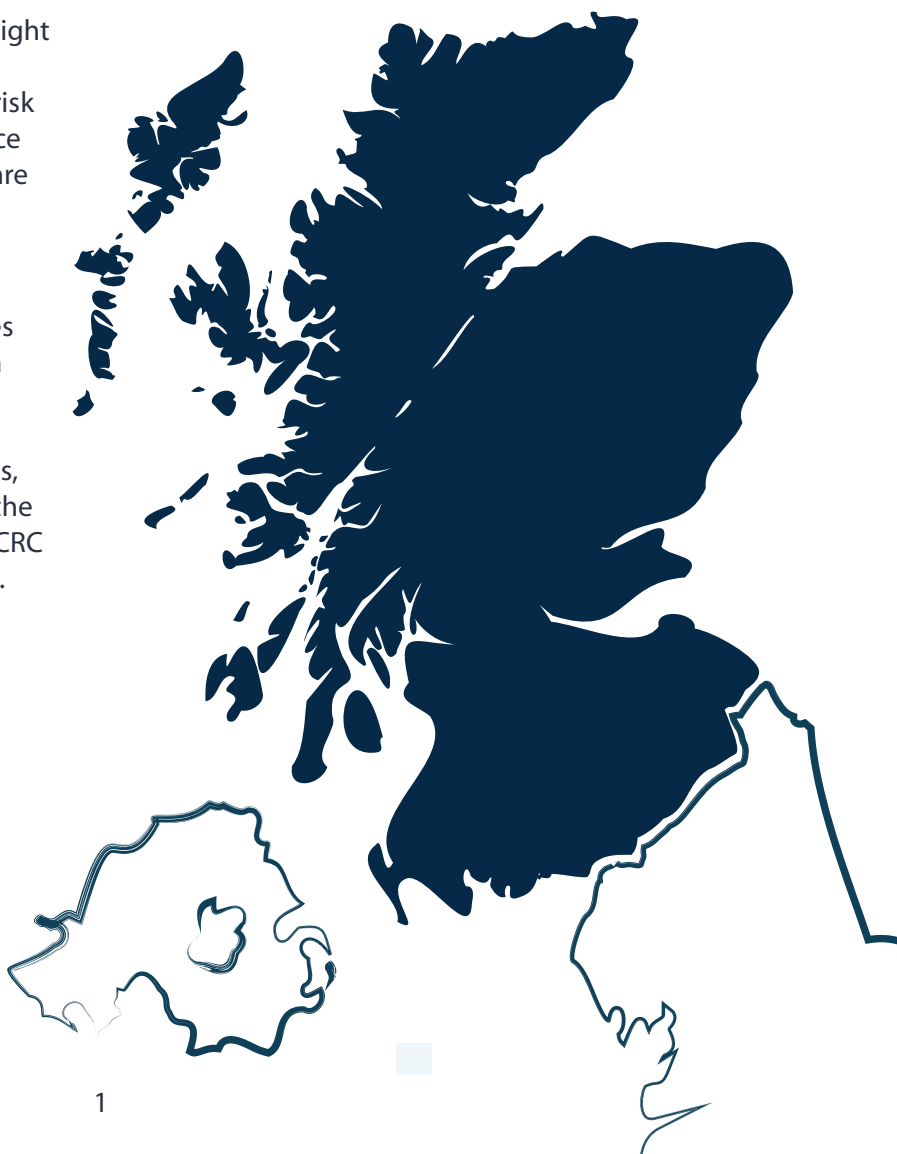
With the United Nations Convention on the Rights of the Child (UNCRC) (Incorporation) (Scotland) Act becoming law in January 2024, this report describes communication as a fundamental children's right essential to their ability to thrive. The report links speech, language and communication needs to the potentially detrimental impact on children's rights being respected, protected and fulfilled. It also details how speech and language therapists (SLTs) are uniquely placed to support children realise their rights.

Chapter 1 sets out the recent history of children's rights, the UNCRC, the role of the CRC, children's rights in Scotland and the Scottish Government's incorporation of the UNCRC into domestic legislation.

Chapter 2 argues that communication is a fundamental children's right. It details the impact on children that speech, language and communication need has on realising their communications rights. The chapter presents the role of communication throughout the UNCRC, where examples of communication as a child's right are depicted. It also examines contexts in which children's communication rights are at highest risk of not being realised, such as in education, justice systems and for those living in poverty or who are care experienced.

Chapter 3 considers ongoing work to incorporate the UNCRC into practice. It describes the role of SLTs and considers the ways in which SLTs contribute to the realisation of children's rights in their work. The chapter champions the impactful skills and knowledge that SLTs possess, making them uniquely placed to contribute to the incorporation and operationalisation of the UNCRC in Scotland across many settings for all children.

The recommendations determine ways in which the government can achieve successful incorporation and operationalisation of the UNCRC, focusing on communication as a predication to all rights and a right in itself. They highlight how governing bodies may resource and utilise the unique practice of SLTs to contribute to the realisation of children's rights; ensuring that all of Scotland's children are given a voice and opportunities to participate in matters which affect them.



Recommendations

THIS REPORT RECOMMENDS THAT:

1. The Scottish Government explicitly recognises communication as a fundamental children’s right in policy and practice.

RIGHTS

2. Speech, language, and communication needs are considered when legislating for disability. They should also be expected and appropriately resourced for in education, health and justice settings.

LEGISLATION

3. The Scottish Government establish a lived experience group of children and young people with speech, language and communication needs, supported by SLTs, as part of their work to operationalise the UNCRC.

EXPERIENCE

4. The Scottish Government appoints speech and language therapy advisory roles to the working groups within Scottish Government tasked with operationalising the UNCRC.

ADVISORY

5. The Scottish Government, when budgeting for the provision of children’s speech and language therapy services in Scotland, considers such service resourcing as a public health children’s rights issue.

BUDGETING

6. Services should be resourced in line with child’s rights budgeting processes, to include participation from children who have speech, language and communication needs.

NEEDS

7. Speech and language therapists should be embedded in all services that children come into contact with, within health, education and justice, to provide consistent training, coaching and support to professionals in these areas.

CONSISTENCY

8. The Scottish Government should seek to understand children with speech, language and communication needs’ understanding of their rights, and whether there are gaps in their knowledge about children’s rights.

UNDERSTANDING

9. The Scottish Government should collaborate with the Royal College of Speech and Language Therapists in developing child-friendly, language-appropriate resources for communicating the UNCRC and the options if their rights have not been upheld.

COLLABORATION

10. The role of the speech and language therapist is considered vital and embedded in future developments to children’s advocacy services and developments under part 2 of the UNCRC Act.

ADVOCACY

CHAPTER 1

CHILDREN'S RIGHTS IN SCOTLAND

In 2022, the Scottish Government made an ambitious commitment to children's rights being respected, protected and fulfilled nationally. Now Scotland, with the incorporation of the UNCRC, is at a pivotal stage in making this vision a reality.

Children are rights-holders of the human rights afforded to every individual. Such rights are universal, inalienable, indivisible, interdependent and interrelated. Human rights are a subject devolved to Scotland by the Scotland Act 1998; with the rights within the European Convention on Human Rights (ECHR) protected by the Human Rights Act 1998; and provisions within the Scotland Act 1998. However, the Scottish Parliament has the power to implement and observe other international human rights treaties, respecting the 'living' nature of all human rights instruments. Human rights have been championed nationally; evidenced, in part, by the ongoing development towards a Human Rights Bill for Scotland and the establishment of the National Taskforce for Human Rights.

The UNCRC

The United Nations' seminal treaty, the 'Convention on the Rights of the Child' ("UNCRC") (United Nations, 1989) purposefully details children's rights. The UN General Assembly adopted the UNCRC in November 1989 and 54 articles articulate what every child should experience to survive, grow, thrive and reach their full potential. The UNCRC cohesively amalgamates all of the human rights of children into one comprehensive document, which follows the accepted classification that rights are either civil and political, or social and economic. It focuses on supporting children and families and ensuring that those who require additional support receive this at the earliest possible opportunity. It also provides the substance to the proclamation of the earlier Universal Declaration of Human Rights (1948) that childhood is entitled to special care and assistance.

The freedoms and standards that all children are entitled to fall into three categories:

- **Protection** – the rights protecting children against behaviours (for example, the right to freedom from exploitation)
- **Provision** – the rights for children to access additional benefits, services or activities (for example, the right to education, the right to the highest attainable standard of health)
- **Participation** – the right for children to engage in activities (for example, the right to be heard and freedom of expression).

Four articles provide the skeleton to children's rights overall and are considered the General Principles of the UNCRC. They are used as the lens through which to interpret all other articles and are designed to guide state parties in their duties towards children.

The General Principles are fundamental to rights being realised:

- Non-discrimination (Article 2)
- The best interests of the child (Article 3)
- The right to life, survival and development (Article 6)
- The right to be heard and be listened to (Article 12)

The Committee on the Rights of the Child

The UNCRC established the Committee on the Rights of the Child ("the CRC"), an international body of experts, to provide guidance on states' interpretation and implementation of the UNCRC. State parties have reporting duties to the CRC, which is ultimately responsible for monitoring implementation. The CRC is responsible for publishing general comments, which are non-legally binding interpretive aids for rights within the UNCRC. This provides state parties (countries that have formally agreed to be bound by the UNCRC) with assistance regarding the interpretation of an article or issue relating to children, and what actions they should take to ensure its realisation.

The UNCRC in Scotland

The ratification of the UNCRC didn't necessarily equate to children's rights being protected under Scots law and until 2024, neither did it have a simple domestic remedy for the infringement of children's rights. Nevertheless, the UNCRC proved influential within Scotland. Public bodies across all areas have used the UNCRC as a guiding force for their work for and with children. One clear example of this commitment is the Scottish Government's Getting it Right for Every Child (2013) and Ready to Act (2016) policies, as well as the Children and Young People (Scotland) Act 2014.

As part of the Scottish Government's approach to children's rights, a commitment was established to incorporate the UNCRC into domestic legislation. On 16 March 2021, after a significant period of consultation with children across Scotland, the Scottish Parliament passed the UNCRC Bill unanimously.

Following proceedings at the supreme court, an amended bill received royal assent on 16 January 2024. On 16 July, the UNCRC (Incorporation) (Scotland) Act legally came into force. The Act means children in Scotland are afforded the highest level of legal protection of their rights. In addition to incorporating the UNCRC, the Act places duties on local authorities to act compatibly with the UNCRC and the Act and, if a breach occurs, children and young people will be able to use domestic courts to enforce these rights. It contains measures that remove barriers for children realising their rights and access to justice. It also places obligations on the Scottish Government to scrutinise all new policy and legislation to ensure it is in keeping with children's rights.

Aside from incorporation and now operationalisation of the Act, the Scottish Government details three other areas of ongoing action to implement children's rights in Scotland:

A national action plan

- Progressing the Human Rights of Children in Scotland: An Action Plan 2021-2024
The strands of this three-year implementation programme are:
 - Scottish Government leadership in children's rights
 - Empowered children and young people
 - Embedding children's rights in public services
 - Children's rights resolution.

Child Rights and Wellbeing Impact Assessments (CRWIA)

- A formal process aiming to identify, research, analyse and record the anticipated impact of a law, policy or measure on children's rights and wellbeing.
- CRWIA processes are a general measure of implementation of the UNCRC (Article 4) and are a means to satisfying ministerial duties under part one of the Children and Young People (Scotland) Act 2014.
- This applies to national, regional as well as local work of public services. It is an improvement approach intended to help protect and champion the rights of children from the earliest stages of policy and service planning.

Reporting progress to the Scottish Parliament and United Nations

- Reporting procedures allows the CRC an understanding of the situation of children's rights in the state party.
- The UK reported to and was examined by the CRC in May 2023.
- Together (Scottish Alliance for Children's Rights) published their 2023 report (Doyle and Sutton, 2023) as an update for the CRC about the state of children's rights in Scotland. This contributed to the overall UK review in May 2023.
- The CRC shared its concluding observations issuing almost 200 recommendations for the state to action.

The concluding observations of the CRC

The CRC published its concluding observations in June 2023 and welcomed the unanimous passing of the UNCRC (Incorporation) (Scotland) Bill. The committee recommend developing comprehensive policy and action plans for implementation of the UNCRC and noted that they should be appropriately resourced by sufficient human, technical and financial resources' (p.3) and that action plans place specific focus on children in disadvantaged situations, including (but not limited to) children with disabilities, children in care and children who are socioeconomically disadvantaged.

In terms of allocation of resources, the committee recommended that State Parties (in this case the United Kingdom) utilise a child's rights-based approach to state budgeting process in all jurisdictions, as well as a tracking system for the allocation, use and monitoring of such resources with opportunities for children to participate in budgeting (Part III.A.11); and encouraged strengthened data-collection systems (qualitative and quantitative) on all areas of the CRC, ensuring that all children are given an opportunity to participate.

A child's rights-based approach



Our vision is a Scotland where children's human rights are embedded in all aspects of society. A Scotland where policy, law and decision making take account of children's rights and where all children have a voice and are empowered to be human rights defenders.

Scottish Government, 2023



A child rights-based approach is described to 'bridge the gap' between the ideals of the UNCRC and the lived experience of children (UNICEF, 2022). The approach translates theory into practice by outlining seven principles of a genuine child rights-based approach (see figure 1 and table 1).

For successful embodiment of a children's rights-based approach, duty bearers at all levels – politicians, parents, public services and the public – will all have an important role to play (Aldgate, J. 2013 for Scottish Government).

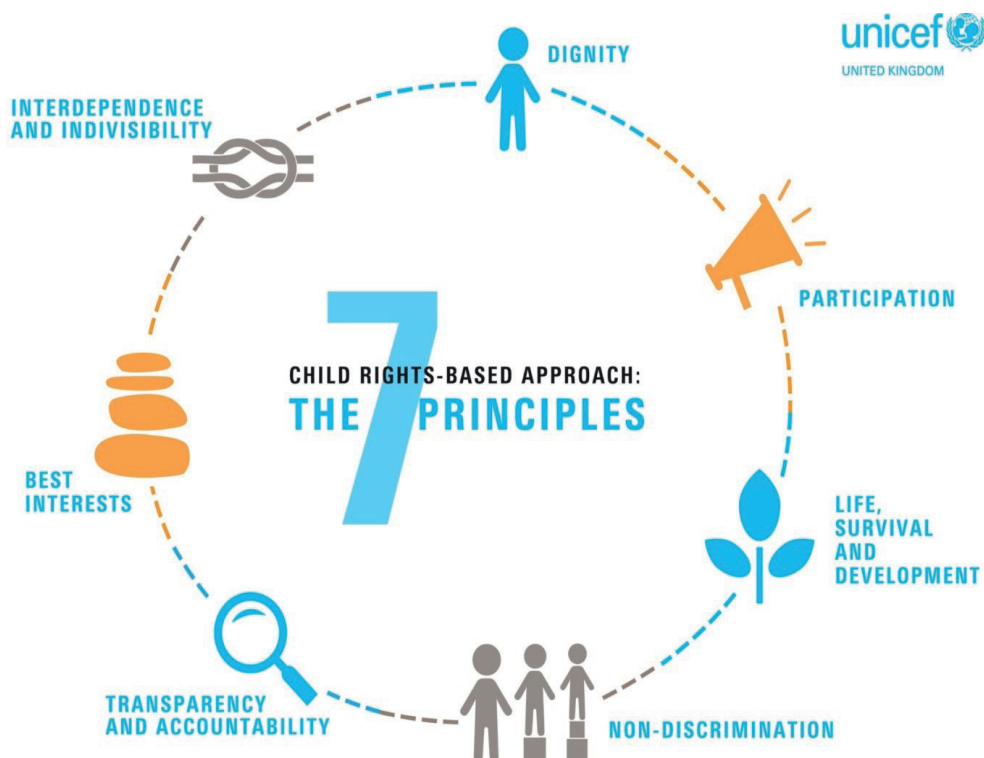


Figure 1: The principles of child's rights-based approaches (UNICEF)

Table 1: The principles of child’s rights-based approaches

Principle	Details
Dignity	Respecting children’s dignity means all children should be treated with care and respect in all circumstances – for example in schools, hospitals, police stations, public spaces or children’s homes.
Interdependence and indivisibility	All children and young people should enjoy all of their rights all of the time because all rights are equally important.
Best interests	The best interests of the child must be a top priority in all decisions and actions that affect children and young people. In all cases, children and young people should be involved in deciding what is best for them.
Participation	All children and young people have the right to have a say in matters that affect them and to have their views taken seriously. In order to participate meaningfully in the lives of their family, community and the wider society, children and young people need support and opportunities for involvement. They need information, a space to express their views and feelings, and opportunities to ask questions.
Non-discrimination	Every child and young person should be treated fairly and protected from discrimination, whatever their age, gender, ethnicity, religion, language, family background or any other status. Having access to equal opportunities and best possible outcomes doesn’t mean being treated identically; some children and young people need more support than others to overcome barriers and difficulties.
Transparency and accountability	Open dialogue and strong relationships between children and young people, professionals and local politicians are key to making rights a reality. For this to happen, everyone needs to be supported to learn about and understand rights. Knowledge of rights also allows children and young people to hold to account the people responsible for ensuring their rights are protected and realised.
Life, survival and development	Every child has a right to life and each child and young person should enjoy the same opportunities to be safe and healthy, and to grow and develop. From birth to adulthood, children and young people develop in many different ways – physically, emotionally, socially, spiritually and educationally – and different professionals should work together to help make this happen.

Speech and language therapists will be eager to see the Scottish Government’s progress on the CRC’s recommendations, as they continue to practice a child’s rights-based approach in their daily work.

The speech and language therapy profession looks forward to seeing the Scottish Government take notice of observations of the CRC and implement a proactive child’s rights approach. The current initiatives that the Scottish Government has undertaken are a good start, but they are just the start of an important process.

Regardless of the policies and action plans that pave the route forward, it will be important for the Scottish Government to draw on the expertise of the speech and language therapy profession and recognise the rights-based work it already practises.

CHAPTER 2

COMMUNICATION AND CHILDREN'S RIGHTS

Communication – A fundamental human right

Communication is a fundamental human right - (McLeod and Marshall, 2023).

We interact with and make sense of the world around us through communication in its many modalities, including speech, writing, sign, gesture, body language and other non-verbal actions.

The right to communicate includes the right to 'freedom of opinion and expression' and rights and freedoms 'without distinction of... language' (McLeod, 2018).

Communication as a human right is centrally embedded within Article 19 of the Universal Declaration of Human Rights. Authors, internationally, have developed the literature to support this (Mulcair and Williams, 2018).



Everyone has the right to freedom of opinion and expression; this right includes freedoms to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

United Nations, 1948



Through these rights, all people (regardless of their communicative capacity) have the right to receive and convey messages.

McLeod (2018) helpfully structures communication human rights instruments into categories of the communication rights of all people; the communication rights of people with communication disabilities; and the communication rights relating to the languages people use.

The author draws together the number of international instruments that articulate such communication rights (McLeod, 2018). She goes on to note the importance of communication in realising almost every other right within the Universal Declaration for Human Rights; for example, the right to work, marry, found a family and own property. These human rights, of course, apply to all children.



Children’s communication rights

Children learn to communicate from infancy and continue to hone and polish their skills into adulthood. Communication development is a crucial process occurring in tandem with other intertwined physical, cognitive and emotional advances. Communication allows children to interact, build nurturing relationships and to understand themselves. Speech, language and communication skills allow a child to learn in education. Effective communication allows children to thrive and protects their wellbeing.

Children with speech, language and communication needs

- Children with speech, language and communication needs (SLCN) are at a high risk of not having their communication rights protected and fulfilled. Children’s rights are indivisible and interrelated; this means that one set of rights cannot be fully enjoyed without the other. As such children’s communication rights not being realised risk of many of their other rights not being experienced, for example communication predicates children’s right to access education and their right to the highest attainable standard of health (and access to health care services).



Humans cannot live or thrive in isolation. We are inherently social. As such, communication is essential to our humanity. It is important to our expression and self-determination as individuals, our sense of belonging within a community, our inclusion and participation within society, and in acknowledging the meaning and value of ourselves and others.

The right to freedom of expression and opinion is like air, food or water: we take it for granted until it is denied to us

(p1, McEwen and Santow, 2018)



What are speech, language and communication needs?

Speech, language and communication needs is the collective term used to describe difficulties with one or more aspects of communication.

These may include problems with speech or voice affecting the way a child sounds or hears the sounds of others. A child may have difficulties understanding the language that others use or using language to express themselves. This might be from the single word level (vocabulary), to joining words together to make complex sentences, as well as the higher-level language skills of inference, narrative and understanding abstract language. These difficulties may lead to challenges to a child’s ability to have meaningful interactions and relationships.

There are around 1.1 million children in Scotland. Of these children, one in four (around 275,000) have predicted SLCN

(Gascoigne, 2022).

Speech, language and communication needs are some of the most prevalent childhood conditions yet are often unidentified by others or are expertly masked by children experiencing the difficulty. They often co-occur with another developmental or acquired condition, for example autism spectrum disorder, intellectual impairment, attention deficit hyperactivity disorder and traumatic brain injuries.

However, SLCN can, and often do, exist in childhood as the primary condition in isolation. These needs are not always recognised as an additional support need or disability, especially when they appear to exist in isolation. They can also fall prey to diagnostic overshadowing. For example, language disorders are less understood than autism (although potentially more prevalent); dysfluency/stammering is more easily identified than word-finding difficulties.

The impact of speech, language, and communication needs

Speech, language and communication needs have a significant and detrimental impact on the activity, functioning and participation of children.

Although SLCN may be transient and temporary, many individuals will experience SLCN throughout their lifetime. Numerous studies report a link between SLCN and the potential for poor outcomes in education, employment and mental health (Johnson et al., 2010).

Speech, language and communication needs can impact a young person's ability to develop, access education, and access the highest attainable standard of health. They can also affect their ability to participate in matters that are important to them (including in welfare and justice systems) as well as to understand information and form views which shape their personality and freedom of expression.

Therefore, SLCN are an undeniable threat to children's rights not being realised if they are not identified and supported.

Children with SLCN are disadvantaged by their needs alone and are often doubly disadvantaged – a high number of marginalised and vulnerable children report significantly higher rates of SLCN compared to the general population.

Speech, language and communication needs

A disability

Children that have considerable or long-lasting SLCN should be classified as having a disability, so they are recognised under further legislative frameworks, specific to those with disabilities. The UN defines disability as below:

Convention on the Rights of Persons with Disabilities (United Nations, 2007)

Article 1 – Purpose and definition of disabilities

“Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”

Communication rights for children in education, youth justice, living in poverty and care experienced children

A higher proportion of SLCN are found amongst children in justice settings, those living in poverty or those who are care experienced. Higher complexity and risk also exist in these settings, where the risk of children's rights being violated is higher if their communication need is not identified and adequately supported. Children in education are also at a high risk, because of the significant demands within educational settings, including social, academic and emotional pressures and expectations.

Children in conflict with the law

A significant amount of national and international studies evidence an over-representation of children with SLCN in youth justice settings. Around 60% of young people in justice settings have SLCN (Anderson et al. 2017). This suggests that we should be screening-out communication needs rather than screening for SLCN. Youth justice systems and settings are highly dependent on language to narrate experiences, make inference and justify behaviour. Unidentified, unsupported SLCN have the potential to impact rehabilitation, access to psychological talking therapies, restorative justice and life-chances for children in conflict with the law.

Education

Access to education, a child's right, is completely dependent on language and communication. If a child with SLCN is not adequately supported in an educational setting, they will not be able to participate. This in turn will lead to poor social experiences, poor educational outcomes and will reduce the child's opportunity to develop their personality, talents and abilities to the full. The risks of violation of children's rights in education is high, given the complex, interlinking nature of participation, attainment, quality of life outcomes, and social and emotional wellbeing and behaviour.

Care experienced children and young people

Speech, language and communication needs are more prevalent in children who grow up in neglected environments and disadvantaged homes. This includes many looked-after children. These needs can often be overlooked or unsupported, due to the prioritisation of other issues or frequent geographical relocation. Children who become formally care experienced through the children's hearing system are expected to participate in decision making with significant impact on their childhood, wellbeing and future outcomes. This understanding and participation requires a high level of complex communication skills.

Children living in poverty

Research demonstrates SLCN become more prevalent in communities with lower socio-economic status, where between 40-56% of children are predicted to start school with a language delay (Locke et al., 2002; Law et al., 2011).

There is often an intergenerational cycle of need, where parents and caregivers of children with SLCN have significant communication needs of their own. Across the lifespan, people with SLCN have difficulties accessing information they need to use services and are more likely to experience negative communication in education, health and criminal justice services (Law et al., 2007). Barriers to accessing healthcare services for those living in poverty are high, so children and families may not receive the support they need.

Communication rights in the UNCRC

Children's communication rights are overtly enshrined within the UNCRC Articles 12 and 13 in terms of the right to be heard and to freedom of opinion and expression.

All the articles that relate to children's language and communication, more broadly, are detailed in table two. For example, Article 40, relating to youth justice, pertains that children should have the assistance of an interpreter if they cannot speak or understand the language. Article 42 places an obligation on state parties to make children aware of their rights, which will include writing for children with varying communication and literacy skills. Article 28, the right to education, is predicated on the ability of a child to communicate and be communicated with.

Children's communication and the support for their communication development, should therefore be viewed as an indivisible and interdependent human rights issue.

Table two: UNCRC rights relating to language and communication

Article 2	<p>Non-discrimination The Convention applies to every child without discrimination, whatever their ethnicity, gender, religion, language, abilities or any other status; whatever they think or say, whatever their family background.</p>
Article 6	<p>Life, survival and development Every child has the right to life. Governments must do all they can to ensure that children survive and develop to their full potential.</p>
Article 12	<p>Respect for the views of the child Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. This right applies at all times, for example during immigration proceedings, housing decisions or the child's day-to-day home life.</p>
Article 13	<p>Freedom of expression Every child must be free to express their thoughts and opinions and to access all kinds of information, as long as it is within the law.</p>
Article 17	<p>Access to information from the media Every child has the right to reliable information from a variety of sources, and governments should encourage the media to provide information that children can understand. Governments must help protect children from materials that could harm them.</p>
Article 23	<p>Children with a disability A child with a disability has the right to live a full and decent life with dignity and, as far as possible, independence and to play an active part in the community. Governments must do all they can to support disabled children and their families.</p>
Article 24	<p>Health and health services Every child has the right to the best possible health. Governments must provide good quality healthcare, clean water, nutritious food and a clean environment, and education on health and wellbeing so that children can stay healthy. Richer countries must help poorer countries achieve this.</p>
Article 28	<p>Right to education Every child has the right to an education. Primary education must be free and different forms of secondary education must be available to every child. Discipline in schools must respect children's dignity and their rights. Richer countries must help poorer countries achieve this.</p>
Article 29	<p>Goals of education Education must develop every child's personality, talents and abilities to the full. It must encourage the child's respect for human rights, as well as respect for their parents, their own and other cultures, and the environment.</p>
Article 30	<p>Children from minority or indigenous groups Every child has the right to learn and use the language, customs and religion of their family, whether or not these are shared by the majority of the people in the country where they live.</p>
Article 42	<p>Knowledge of rights Governments must actively work to make sure children and adults know about the Convention.</p>

Article 12 – The voice of the child

Article 12 of the UNCRC is a unique provision which addresses the legal and social status of children who, on the one hand, lack the full autonomy of adults but, on the other, are subject to rights (CRC, 2009). It clearly stipulates that children have the right to be heard in all matters that affect them.

Paragraph two (Article 12) separates and makes clear that the right to be heard and taken seriously is of particular importance in judicial and administrative proceedings. This means that Article 12 is intrinsic to realisation of rights, in particular, in areas of practice such as health, education, justice and welfare.

The right to be heard is one of the fundamental values of the Convention. It is one of the four General Principles. This means that not only does the article establish a right in itself but 'should also be considered in the interpretation and implementation of all other rights' (p.5, CRC, 2009).

The CRC (2009) published a general comment to aid interpretation and implementation of the right to be heard for state parties and to detail to rights holders and duty bearers a better understanding of the breadth of this right.

“1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.”

Article 12, UNCRC

Efforts in practice which seek to uphold Article 12 are often described in lay terms as 'participation' or engagement strategies. General comment (Number 12, 2009) is a CRC response to concerns about what participation practices exist and gives a better understanding of how to implement the right to be heard for every child. The committee draws attention to recognising that certain groups of children particularly younger children, as well as those in marginalised and disadvantaged groups, face 'particular barriers in the realisation of this right' (p.6, CRC, 2009). Children with SLCN may also be at particular risk of not being heard in participation practices because:

- Not all children have the capacity to fully realise their right to communicate and therefore participate
- Some children with SLCN will need support to participate.

The Committee references a UNICEF report on the evolving capacities of the child (Lansdown, 2005). The research states that children are able to form their views and opinions before they have the sounds and language to verbally express them.

It goes on to make the following statements:

“Consequently, full implementation of Article 12 requires recognition of, and respect for, non-verbal forms of communication including play, body language, facial expressions, and drawing and painting, through which very young children demonstrate understanding, choices and preferences.”

“Third, States parties are also under the obligation to ensure the implementation of this right for children experiencing difficulties in making their views heard. For instance, children with disabilities should be equipped with, and enabled to use, any mode of communication necessary to facilitate the expression of their views. Efforts must also be made to recognize the right to expression of views for minority, indigenous and migrant children and other children who do not speak the majority language.”

(p.5, CRC, 2009)

The CRC goes on to lay out the basic requirements for implementation of the right to be heard, to avoid state parties taking tokenistic approaches, limiting expression, or not giving due weight to the child. These are as follows:

“All processes in which a child or children are heard and participate must be...”	
Transparent and Informative	Full, accessible, dignity-sensitive and age-appropriate information on their right to be heard, for this to be given due weight and how this will happen.
Voluntary	Should never be coerced and can stop involvement or participation at any stage.
Respectful	Views treated with respect with opportunities to initiate ideas and activities.
Relevant	Must be of relevance to the child, with a space created for their voice to be heard on matters they have deemed relevant and important.
Child-friendly environments	Environments and working methods should be adapted to children’s capacities. Adequate time and resources to give children confidence to contribute. Recognition of the different levels and forms of support that children will need.
Inclusive	Participation should avoid patterns of discrimination and encourage opportunities for marginalised children to be involved. “... provide for equality of opportunity for all, without discrimination on any grounds”
Supported by training	“... adults need preparation, skills and support to facilitate children’s participation effectively, to provide them, for example, with skills in listening, working jointly with children and engaging children effectively in accordance with their evolving capacities” (p.30)
Safe and sensitive to risk	Recognition that expression of views may involve risks – adults to minimise risk of negative consequence of their participation. Child Protection strategies should ensure children are aware of their right to protection from harm.
Accountable	A commitment to follow-up and evaluation.

Article 13 – Freedom of expression

- “ 1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child’s choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; or (b) For the protection of national security or of public order (ordre public), or of public health or morals.”

Article 13, UNCRC

Article 13 states that children have the right to share their views and ideas ‘of all kinds’, in any way which is meaningful to the child. This stipulation of their rights to free expression places emphasis on all forms of communication from speech and writing to media and art.

The right to freedom of expression also pertains to forming and sharing views and opinions. For this process to happen the article details that children should have access to information in appropriate formats. What child-friendly communication looks like differs between individual children and across developmental stages. Information may not also be accessible, in typical developmentally appropriate form, to children with speech, language and communication needs.

Some children may need additional support to communicate. For example, some children rely on Augmentative and Alternative communication devices (AAC). The right to the provision of these strategies is stipulated under the Health (Tobacco, Nicotine etc and Care) (Scotland) Act 2016, however, there are challenges to fulfilling this requirement where resources are limited.

Rights respecting legislation for the freedom of expression

The Health (Tobacco, Nicotine etc and Care) (Scotland) Act 2016 established the right for individuals who have lost their voice, or have difficulty speaking, to the provision of communication equipment and the support to use it. This means children with communication needs have the right to augmentative and alternative communication and support to use it. The duty to fulfil the legislation lies with NHS health boards across Scotland. Although there are differences between health boards and local authorities in how children might access this it is a very welcome legal recognition of the right to communicate beyond aspirational policies.

General Principles of the UNCRC and speech and language therapy in practice

The four General Principles of the UNCRC underpin each and all of the specific rights outlined in the Convention:

Article 2: **Non-discrimination**

Article 3: **Best interests of the child**

Article 6: **Right to life, survival and development**

Article 12: **Respect for the views of the child**

There is a clear appreciation at this macro level of the convention for respect to the child's development without discrimination; and that each child has the right to develop to their full potential.

Given the importance of speech, language and communication development throughout childhood, in terms of its wider impact on social, academic and health outcomes, it should be a primary consideration to identify and support every child to achieve their communication potential.

Furthermore, communicative competence is essential to the child being able to understand their experience and express their views – in turn ensuring that decisions made which affect them are in their best interests.

Children with SLCN may also be at particular risk of not being heard in participation practices because:

- Not all children have the capacity to fully realise their right to communicate and therefore participate
- Some children with SLCN will need support to participate.

Children with SLCN, or children at different stages of their communication development, may require support to participate in this meaningful way.

The speech and language therapy workforce is uniquely skilled to respond to this by working with health and social care partners, education, as well as children and their caregivers.



CHAPTER 3

THE INCORPORATION OF UNCRC AND SPEECH AND LANGUAGE THERAPISTS' UNIQUE PLACEMENT TO REALISE RIGHTS IN PRACTICE

Speech and language therapists

Speech and language therapists (SLTs) provide life-improving treatment, support and care for children (and adults) who have difficulties with communication or with eating, drinking and swallowing.

They work in many spaces where the incorporation of the UNCRC is relevant, for example in education, youth justice and health services. The practice of speech and language therapy is highly impactful and crucial in settings where children are at risk of their communication rights not being realised.

Regardless of the SLCN an individual may experience, SLTs will use a strengths-based approach, developing a clear understanding of communication strengths and supporting children and communication partners to utilise them. This approach respects the differences and individualities of communication styles and encourages communication partners to create communication-friendly environments and practices. Speech and language therapy services can also empower professionals in the wider workforce supporting children and young people to be inclusive communication partners and to create communication-friendly environments.

Incorporation of the UNCRC: existing policies

Many of the policy and legislative frameworks within which children and young people's services are rights-respecting and already underpinned by the principles of the UNCRC, namely through Ready to Act and Getting it Right for Every Child.

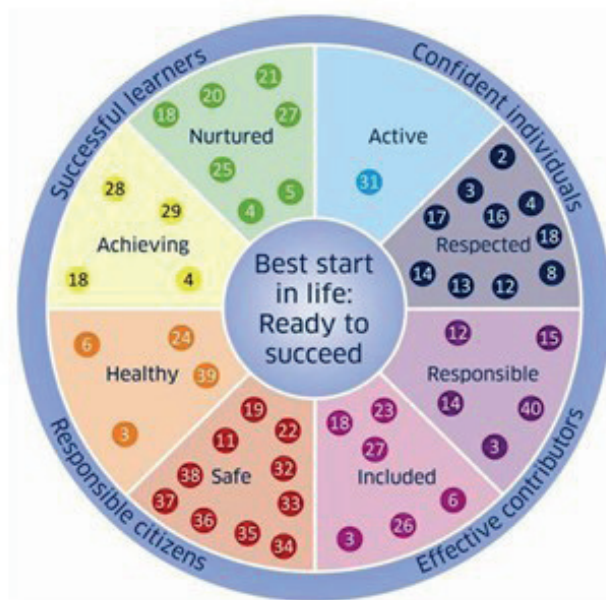
Getting it Right for Every Child (GIRFEC) (Scottish Government, 2013)

This is the national approach to promoting, supporting and safeguarding the wellbeing of children in Scotland. It is underpinned by the UNCRC and applies to every child in Scotland.

Getting it Right for Every Child recognises that children's wellbeing and their rights are intrinsically linked. The understanding is that when a child's rights have been respected, protected and fulfilled their wellbeing will improve.

It introduced the eight indicators we use to think about a child's wellbeing. Figure 2 details the indicators and the links to the relevant UNCRC articles.

Figure 2 : Getting it Right for Every Child wellbeing indicators and related UN articles.



Ready to Act (The Scottish Government, 2016)

This is the first service plan in Scotland created to focus on the vital support that AHPs provide to children and their caregivers.

Ready to Act developed from the principles contained within the UNCRC, GIRFEC and the Children and Young People (Scotland) Act (2014) to bring the ethos of children's rights and the way we view and deliver care to children in Scotland into practice.

It details the language to be used by allied health professional (AHP) services to work across universal, targeted and specialist levels of intervention and support (see table 3 for examples of children's rights-based SLT practices at different levels of intervention). It outlines five core ambitions for the delivery of AHPs care to children and their families in Scotland, well aligned with the UNCRC General Principles. Table 4 maps these core ambitions.

Table 3: Examples of children's rights-based SLT practices, supporting children at different levels of intervention.

<p>Universal For all children (and their caregivers), recognising a preventative approach, promoting wellbeing</p>	<ul style="list-style-type: none"> • Development and provision of accessible information • Communication-friendly environments • Signposting to resources • Partnership working to raise awareness
<p>Targeted For children and young people (and their caregivers) identified to be more likely to have SLCN or difficulties with eating, drinking, and swallowing</p>	<ul style="list-style-type: none"> • Training for others • Targeted support for children at risk of SLCN – for example justice, welfare system to enable them to participate • Advice programmes • Workshops
<p>Specialist For children whose wellbeing needs are not met by universal or targeted support</p>	<ul style="list-style-type: none"> • Direct individualised interventions to support children's communication development in areas of speech, language, and social communication • Direct interventions supporting the eating, drinking, and swallowing difficulties of children

Table 4: The core ambitions of Ready to Act

Topic	Ambition	Links to UNCRC Articles
Participation and engagement	Children and young people’s views will be asked for, listened to and acted upon to improve individual and environmental wellbeing outcomes and AHP services.	12, 3, 4, 17, 23
Early intervention and prevention	Every child will have the best possible start in life, with AHP services using an asset-based approach to aid prevention through universal services and supportive nurturing environments at home, nursery and school.	3, 5, 6, 16, 18, 31
Partnership and Integration	Children and young people, their parents, carers and families will have their wellbeing outcomes met at the most appropriate level through the creation of mutually beneficial, collaborative and supportive partnerships among and within organisations and communities.	3, 5, 12, 13, 15, 24
Access	All children and young people in Scotland will access AHP services as and when they need them at the appropriate level to meet their wellbeing needs, with services supporting self-resilience through consistent decision making.	2, 3, 17, 23, 12, 24
Leadership for quality improvement	Children and young people, their parents, carers and families will experience services that are led by AHPs who are committed to a leadership and quality improvement approach that drives innovation and the delivery of high-quality, responsive, child-centred care.	1, 2, 3, 6, 31

As children’s speech and language therapy services are already working within these frameworks, they are upholding child’s right-based approaches and championing participation and children’s rights.

Incorporation of the UNCRC: What’s next?

Speech and language therapists are able to contribute greatly to the work to action the recommendations made by the CRC. Speech and language therapy services should be supported to advocate the ways in which their unique support amounts to all children realising their communication rights, particularly for those with SLCN.

Article 12 – The voice of the child, the right to be heard

Speech and language therapists are uniquely skilled in and trained to understand an individual's communication strengths and needs, which can provide critical insight to challenge assumptions about children's capacities.

The role of speech and language therapy is often to make changes that amount to communication-friendly environments, including adapting materials and providing accessible information and support to the team around, and the family of, the child.

Speech and language therapy services routinely work with children to promote effective communication and develop children's speech, language, and communication competencies. Speech and language therapists can provide leadership to effect change and make improvement, which is environment or task centred to ensure activities are in communication inclusive spaces and with good communication partners. Embedding SLTs in services, out with NHS teams, where children are likely to have communication needs to support participation, will ensure the rights within Article 12 are realised.

Co-producing communication supports, by working collaboratively and iteratively with all participants to ensure that children with SLCN can have a voice in matters that relate to them would significantly bolster participation practices and add to the realisation of children's right to be heard.

Article 13 – Freedom of expression

Speech and language therapy can support children to understand information, meaningfully, in different forms; as well as to develop their skills to express what they think. Speech and language development is part of a wider cognitive process of development and is intrinsic to a child forming thoughts and ideas and making sense of the world around them. Children might require early intervention to understand language sufficiently be able to make sense of their experiences or, for example to understand that other people can think different to them. These language and communication skills, are crucial for a child to form and then share opinions.

Children may also benefit from support to be able to express their opinions, orally or in any other communication modality, which is meaningful to them. This would include using augmentative and alternative communication. It is also worth linking here dependency on oral language skills for later literacy development and competence.

If children who need support to develop their communication skills are not having their needs identified and supported, then their right to freedom of expression may be impacted.

Speech and language therapists are uniquely trained to support individuals and their families whilst contributing support and training to the wider children and young people workforce. They can develop child-friendly information and media and can bring a special awareness of the typical development of communication for children, as well as knowledge and skills about communication disabilities.

Youth justice

In England and Wales around 80% of intermediaries, who courts approve to assist witnesses to communicate, are SLTs (RCSLT, 2023). However, unlike in Northern Ireland, Intermediaries are not routinely available to young defendants (only victims and witnesses). Scotland does not have an intermediary system and access to speech and language therapy services in youth justice is not standard practice. Children in Scotland have access to advocacy services. Advocates will have varying experience and understanding of communication development, as well as potentially limited training in identifying and supporting SLCN.

A significant majority of Scottish police officers, as gatekeepers to the youth justice system, report experience of young people with SLCN and have an interest in training to understand how to support their needs (MacRae and Clark, 2020).

Speech and Language Therapist should be adequately resourced across youth justice settings and teams to ensure that children's communication rights are realised, contributing to just outcomes and rehabilitation.

Care experienced children and young people

Speech and language therapists working with this population are aware of issues relating to consent, parental responsibility, custodial settings and the particular needs of looked-after children. These include an increased likelihood of attachment disorders and social communication difficulties (McCool and Stevens, 2011).

Speech and language therapists are expertly placed to work routinely across the universal, targeted and specialist levels of intervention with care experienced children and young people, carers and the professional team around them. A lack of support for SLCN in this vulnerable population could amount to their rights not being respected, protected and realised.

Education

Speech and language therapists also work with children and young people within the full range of educational settings, from early years through to higher education. The activities of SLTs working in children's services can be directly linked to the achievement of positive educational outcomes for children and young people.

The core role of an SLT working in education settings is to support and enable children and young people to reach their full communicative and educational potential and remove or reduce the barriers that any SLCN present to their learning.

Children have an absolute right to education. Speech and language therapists play an important role in making education settings and the curriculum accessible to children with SLCN. Without such identification and support to meet the environmental and individual needs the child's right to education, their right to be heard and freedom of expression are at risk of being breached.

Children living in poverty

For children living in poverty, communication difficulties can compound the challenges they already face in terms of mental health, attainment and access health services. Having SLTs work within educational settings reduces barriers for children to receive the support they need and allows therapists to target areas of highest need. This should extend to having SLTs embedded within local authority teams and third sector agencies to ensure their specialism reaches the workforce supporting children and families in poverty in the most meaningful way.



Scotland's national action plan

The Scottish Government's Progressing the Human Rights of Children in Scotland: An Action Plan (2021) details the vision for a nation where children's rights are respected, protected and fulfilled. It aims to incorporate the UNCRC, ensure that children understand their rights, and ensure that public services consistently uphold these rights in order to come to the desired culture change and a national respect for children as rights holders. The plan sets out the following aims:

“ To enable all children in Scotland to be aware of and understand their rights.

- Co-creation of a national awareness raising programme
- Information and guidance resources.

To ensure all children in Scotland experience public services consistently upholding their rights.

- Guidance for public authorities on how to implement the UNCRC
- Children's rights skills and knowledge framework
- National improvement programme. ”

One strand of the action plan sets out to empower children and young people to claim their rights by taking part in the creation of national information and resources to raise children's awareness and understanding of their rights. Then, to develop organisations and systems for children's meaningful participation in decision making.

Speech and language therapists are well positioned as experts in communication and children's development to be part of this work. If SLTs were routinely involved in the co-production of resources, which are appropriate in language structure for children of different ages, it could amount to a greater protection and realisation of rights for children. Inclusion of SLTs within participation practices could ensure children with SLCN are given information to understand their rights and have the same opportunities to participate in decision making as their peers.

The UNCRC Strategic Implementation Board is responsible for monitoring progress of this action plan and provide annual updates. The children's rights resolution strand is responsible for identifying any situation where child's rights are (or are at a significant risk of) not being fulfilled. It would be encouraging to see inclusion of a speech and language therapy professional advisor or representative within this board and in turn would aid in raising the profile of SLCN and the potential impact on the realisation of children's rights.

Also within the action plan is a commitment to reviewing the existing advocacy arrangements available to children as well as developing a child-friendly complaints process. What is particularly encouraging is the commitment to promoting the use of inclusive communication:



... to ensure that children are able to receive information and express themselves in ways that best meet their needs (in relation to speech, language or otherwise).

(p.9 Scottish Government, 2000)



The report specifically promotes child-friendly, accessible information; information in more than one format; information being communicated by sources children trust; and, utilising existing relationships.

This provides an opportunity for national and local relationship-building between speech and language professionals and advocacy providers to highlight the unique expertise of SLTs in being able to develop information that both bolsters understanding and meaningful participation, and ensure that advocacy workers have access to that expertise, training and support. The goals may not be achieved without SLT support as communication experts. This partnership working would benefit all children's communication and interaction with advocacy services as well as, crucially, children with SLCN. As such, although workforces are stretched, nationally, it would be encouraging to see routine involvement of speech and language therapy within services planning for and providing advocacy. This would be complemented by adequately-resourced children and young people speech and language therapy services.

It will be important for the government to draw on the expertise of SLTs and recognise the rights-based work they already practice in terms of their operationalisation plans for the UNCRC Act.

Budgeting

For a child's rights-based approach to have meaningful impact child's rights budgeting has been cited as the way to the vision becoming reality (Helgesson, 2020).

Although the UNCRC is not prescriptive in terms of how budgets need to respond to children's rights, to make them a meaningful reality, it has two important guiding principles (Sarkar, 2015):

- Progressive realisation of rights
- State extension of maximum available resources to achieve this.

On incorporation of the UNCRC to Scots Law, the Scottish Government is bound to make children, directly and indirectly, visible throughout budget considerations and cycles. Ten recommendations have been made to the Scottish Government on how to achieve this (Pedersen et al., 2022), these consider how to include children in budgeting processes as well as assessment of the links between resource allocation and realisation of rights.

Speech and language therapists would be skilled in supporting development of practices to help children understand complex budgeting information as well as participate in the process.

Considering children's communication as a fundamental right and the importance of the early available support to ensure these rights— which can be provided by speech and language therapy services— child's rights budgeting should allow for proportionate allocation of resources to fund speech and language therapy services, advisory posts and research in Scotland.

CONCLUSION

Scotland can become an international leader in championing children's rights by operationalising and pushing to realise these rights in practice meaningfully.

A partnership project led by the Observatory of Children's Human Rights Scotland (2022) detailed the 'Theory of change for making rights real in Scotland'. It notes the challenges of the breadth and depth of change required to realise children's rights, truly. These include macro-level changes to policy, including budgetary considerations; capacity-building endeavours across the sector and working towards cultural change of attitudes, norms and behaviours. The result will be empowerment, which includes 'a system of information, advocacy, complaints, redress and effective remedy for children and young people' (OCHR, 2022).

It is important that as part of this cultural change, children's communication rights are prioritised and that children with SLCN are considered, understood and supported.

Communication predicates almost all of the rights in the UNCRC and is overtly enshrined in Articles 12 and 13. If there is not specific, targeted action taken to recognise and implement communication rights, children with SLCN will be at high risk of their rights being violated. Speech, language and communication needs are an undeniable threat to children's rights not being realised if they are not identified and supported. Individually, children with SLCN have a right to support and to have their voice heard. There is also a need to collectively give voice to the experiences, views and hopes of these children to achieve meaningful realisation of their rights.

Children need meaningful opportunities to participate and shape this change. They need specialist support to understand and participate in decision-making for the future. Speech and language therapists, unique in their training and expertise to understand the nuances of communication and interaction, are expertly positioned to ensure that the rights of children, and in particular children with SLCN, are respected, protected and fulfilled.

The Scottish Government should explicitly recognise communication as a fundamental children's right across the work streams tasked with meaningful realisation of the UNCRC. This would not only ensure that communication is recognised by all as a fundamental child's right, but would also contribute to progressive realisation of rights for children with SLCN.

All children have the right to support to develop and participate in all matters that relate to them including in health, education, and justice. All children have the right to be heard and listened to, using any modality meaningful to them.

Recognition of communication as a fundamental right and championing the same should be accelerated by appropriate investment to achieve well-resourced speech and language therapy services for children with SLCN, ensuring that they too can enjoy the rights afforded to live, grow, and thrive.



Recommendations

THIS REPORT RECOMMENDS THAT:

1. The Scottish Government explicitly recognises communication as a fundamental children’s right in policy and practice.

RIGHTS

2. Speech, language, and communication needs are considered when legislating for disability. They should also be expected and appropriately resourced for in education, health and justice settings.

LEGISLATION

3. The Scottish Government establish a lived experience group of children and young people with speech, language and communication needs, supported by SLTs, as part of their work to operationalise the UNCRC.

EXPERIENCE

4. The Scottish Government appoints speech and language therapy advisory roles to the working groups within Scottish Government tasked with operationalising the UNCRC.

ADVISORY

5. The Scottish Government, when budgeting for the provision of children’s speech and language therapy services in Scotland, considers such service resourcing as a public health children’s rights issue.

BUDGETING

6. Services should be resourced in line with child’s rights budgeting processes, to include participation from children who have speech, language and communication needs.

NEEDS

7. Speech and language therapists should be embedded in all services that children come into contact with, within health, education and justice, to provide consistent training, coaching and support to professionals in these areas.

CONSISTENCY

8. The Scottish Government should seek to understand children with speech, language and communication needs’ understanding of their rights, and whether there are gaps in their knowledge about children’s rights.

UNDERSTANDING

9. The Scottish Government should collaborate with the Royal College of Speech and Language Therapists in developing child-friendly, language-appropriate resources for communicating the UNCRC and the options if their rights have not been upheld.

COLLABORATION

10. The role of the speech and language therapist is considered vital and embedded in future developments to children’s advocacy services and developments under part 2 of the UNCRC Act.

ADVOCACY

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Other helpful resources

The incorporation and implementation: Incorporation infographics full (ed.ac.uk)

For further information on the Incorporation of the UN Convention on the Rights of the Child

visit: <https://www.togetherscotland.org.uk/about-childrens-rights/monitoring-the-uncrc/incorporation-of-the-un-convention-on-the-rights-of-the-child/>



GIVING VOICE TO ALL OF SCOTLAND'S CHILDREN

Respecting, protecting and fulfilling the language and communication rights of children

Annemarie MacRae

2025