

APPENDIX 10: Methodology for alternative Children’s Rights Impact Assessment

Children’s Rights Impact Assessment (CRIA) is a process that supports a systematic assessment of the impact on the rights of children and young people affected by decisions and actions of governments, institutions and others in the areas of law, policy and practice. Impact assessments provide an evidence-based method for governments to ensure that they are respecting, protecting and fulfilling their human rights obligations (MacNaughton, 2015). In particular, CRIAs contribute to meeting the requirement expressed in the UN Committee on the Rights of the Child General Comment No. 5 (2003):

Ensuring that [...] all the provisions of the Convention [on the Rights of the Child] are respected in legislation and policy development and delivery at all levels of government demands a continuous process of child impact assessment (predicting the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights) and child impact evaluation (evaluating the actual impact of implementation). (UN Committee, 2003, para 45)

The Observatory of Children’s Human Rights Scotland (the Observatory) was commissioned by the Children and Young People’s Commissioner Scotland to undertake an alternative CRIA to meet the following aims:

1. Observe and document children and young people’s human rights issues in relation to legislation and policy during the pandemic response, as they apply to children and young people in Scotland.
2. Anticipate issues and identify opportunities to embed children and young people’s human rights in ongoing developments in regard to developing law and policy.
3. Learn from the above, in terms of negative and positive implications for children and young people’s human rights during crisis situations.

This alternative CRIA therefore aims to predict the consequences of the legislative and policy measures introduced by Scottish and UK Governments related to the COVID-19 pandemic on children and young people’s human rights, and to further inform decision-making. Through this, potential negative effects of measures can be mitigated, and positive effects promoted.

This appendix outlines the methods and approach used to develop the alternative CRIA.

Screening

The alternative CRIA assesses the potential impacts of multiple legislative and policy measures across a range of sectors or “subject” areas on children and young people’s human rights. It differs from most other CRIAs in that it assesses a number

of policies rather than just one policy. A screening process selected the legislative and policy measures relevant to include.

The sole criteria for inclusion were that the legislation or policy was introduced by the UK or Scottish Government in response to the COVID-19 pandemic, and that it applied to children in Scotland. An initial screening was conducted by the office of the Children and Young People’s Commissioner Scotland to identify the core group of measures.

The COVID-19 policy landscape is rapidly changing, with new measures being introduced as the pandemic continues. Consequently, the alternative CRIA report represents an assessment of the impact of measures over a particular period. The evolving nature means that new measures will be introduced, subsequent to publication of the report, and that some measures, current at the time of the assessment, will no longer apply. However, the intention is that the alternative CRIA will continue to serve as a tool, with additional measures being added and analysed.

Scoping the alternative CRIA

In order to undertake the alternative CRIA across the range of measures and human rights areas, the Observatory core group identified nine experts in key subject areas closely aligned with the 11 recommendations made by the UN Committee (see Table 1: UN Committee recommendations to States Parties to respect and protect the rights of children, in Section 2 of the report). Each of these experts agreed to lead the CRIA in their particular subject area. The subject areas correspond with the CRIAs attached as appendices to the report (see Table 2).

Table 2: Alternative CRIA subject areas by appendix

Appendix 1	Physical health
Appendix 2	Mental health
Appendix 3	Education (general)
Appendix 4	Poverty, food (free school meals) and digital access
Appendix 5	Rest, leisure, recreation and cultural and artistic activities
Appendix 6	Children and young people who may at risk of neglect and abuse, subject to compulsory intervention in family life by the State and living in alternative care separated from their parents
Appendix 7	Domestic abuse
Appendix 8	Children with additional support needs and disabilities
Appendix 9	Children in conflict with the law and children in secure care

There is considerable overlap between these areas, which was one of the challenges in developing the alternative CRIA. Alongside this, a key consideration is recognising the interdependence and indivisibility of children’s rights. Thus, measures enacted in one subject area will likely have consequences beyond that, such that subject areas cannot be looked at in isolation. Further, some issues would not be captured by the subject templates. Thus, an overview was undertaken that

addresses some of these gaps and overlaps, as well as highlighting key issues and learnings.

The potential impacts of the legislation and policies are measured against human rights standards delineated in particular international human rights instruments. The key instrument is the UN Convention on the Rights of the Child (UNCRC). In addition, the UN General Comments and other human rights legislation are applied as relevant (including the European Convention on Human Rights; the UN Convention on Rights of Persons with Disabilities; the Council of Europe Convention on preventing and combating violence against women and domestic violence [the Istanbul Convention]; the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights).

The alternative CRIA was conducted between 11 May and 19 June 2020.

Evidence gathering

Subject leads were primarily responsible for identifying and accessing evidence relevant to the subject area they were covering. A challenge with conducting a CRIA soon after or as measures are being introduced is that there is very little evidence concerning implementation or impact to draw on. In order to facilitate the collection of up-to-date and relevant evidence, the Observatory developed a shared database of evidence for subject leads, which included online surveys, journal articles, official Government statistics, Parliamentary inquiry responses, Government briefings, secondary analyses of service usage and third sector reports. Each subject lead was asked to weigh up the quality of the evidence, recognising the value of different types of knowledge but that some were more robust than others and presenting it as such.

Scottish Government's responses to the 11 recommendations made by the UN Committee formed an important cornerstone. The Government recognises the need to embed children and young people's human rights in measures during the current pandemic (Scottish Government, 2020v, 2020w) and has provided additional funding, set up new support schemes and issued guidance.

Several key sources of evidence, including online surveys collecting the views of children, young people and parents in Scotland, are referred to frequently throughout this report and appendices:

- The *Lockdown Lowdown* was conducted by the Scottish Youth Parliament, YouthLink Scotland and Young Scot between 3 and 17 April 2020, with 2,421 completed responses (Scottish Youth Parliament et al, 2020).
- The *How are you doing?* survey by the Children's Parliament, for children aged between 8 and 14 years old, had 3,968 children take part in April 2020 and 3,698 children in May 2020 (Children's Parliament, 2020a).

Other UK-wide online surveys have useful evidence:

- The Child Poverty Action Group launched two surveys on 1 May 2020 aiming to understand how families across the UK are experiencing school closures, particularly when living on low incomes (Child Poverty Action Group, 2020). As of 19 May, over 2,500 parents and carers and over 1,200 children and young people had taken part.
- Co-SPACE is tracking the mental health of school-aged children and young people aged 4–16 years, by survey with parents/carers and young people aged 11–16 years (Co-SPACE, 2020). Three reports have presented preliminary findings from data collected from 1,500 parents/carers between 30 March and 4 April; 5,028 parents/carers by 29 April; and cross-sectional data from approximately 611 parents/carers who completed additional questions about schools reopening between 12 and 19 May 2020.
- Family Fund conducted two surveys, and in-depth interviews, with families raising disabled or seriously ill children (Family Fund, 2020). The first survey took place with 1,986 families raising 2,700 disabled or seriously ill children, between 27 March and 3 April, the second with 2,531 families raising 3,279 children, between 30 April and 4 May 2020.
- The Young Minds survey provides a snapshot of the views of young people with mental health needs at the start of the lockdown (Young Minds, 2020). The survey was carried out with 2,111 young people between Friday 20 March (the day that schools closed) and Wednesday 25 March 2020 (when restrictions were further tightened).

The surveys cited were all conducted online, with participants self-selecting, and therefore are not statistically representative. However, these and other surveys cited in Appendices 1–9 provide important insights into the experiences of thousands of children, young people and parents.

Analysis

Initial analysis was conducted by each subject lead in the areas outlined above. To facilitate the analytic process, the Observatory adapted the Scottish Government CRWIA template to fit the CRIA purpose, taking account of recommendations in two reports on the Scottish Government CRWIA (Backbier et al, 2019; Chitashvili et al, 2019). The template was then adapted following consultation with the office of the Children and Young People’s Commissioner Scotland. Two meetings held with subject leads further refined the template and helped develop guidance for the CRIA approach. Table 3 outlines the questions on the final version of the alternative CRIA template.

Table 3: Alternative CRIA template questions

Stage 1: SCOPING (Background and Rights Framework)	
Question 1	Name each measure (including relevant sections of legislation and guidance) being assessed and describe the overall aim.

Question 2	Which human rights instruments and articles are particularly relevant to the measure(s)?
Stage 2: EVIDENCE	
Question 3a	What quantitative evidence have you used to inform your assessment? What does it tell you?
Question 3b	What key missing information/evidence would have been beneficial to your analysis?
Question 4a	What qualitative evidence have you used to inform your assessment? What does it tell you?
Question 4b	What key missing information/evidence would have been beneficial to your analysis?
Question 5	Has a broad range of relevant stakeholders, specifically groups of children and young people, been consulted <u>directly</u> by the body who initiated the measure (e.g. Scottish Government)?
Question 6	Has evidence from third party consultations with children and young people been considered in the development of the measure(s)?
Stage 3: ASSESSING THE IMPACT	
Question 7	What impact will (or does) the measure(s) have on children and young people's rights?
Question 8	Will there be (or are there) different impacts on different groups of children and young people?
Question 9	If a negative impact is identified for any area of rights or any group of children and young people, what are the options to modify the measure(s), or mitigate the impact?
Question 10	To what extent does the measure(s) address the Scottish Government's obligation to respect, protect and fulfil the rights enshrined in the UNCRC in Scotland?
Question 11	In what way(s) will (or does) the measure promote or impede efforts to meet the National Outcomes for Scotland for children? (see https://nationalperformance.gov.scot/national-outcomes) If there are GIRFEC indicators of wellbeing that are directly relevant to your response, please note these here (https://www.gov.scot/policies/girfec/wellbeing-indicators-shanarri/).
Stage 4: CONCLUSIONS AND RECOMMENDATIONS	
Question 12	Please provide a summarised overview of your key findings on the impact of the measure(s) on children and young people's rights, addressing two aims of the alternative CRIA: <ul style="list-style-type: none"> • to observe and document children's human rights issues; • to learn from this both in positive and negative developments.
Question 13	Based on your key findings what recommendations should be made and to whom should they be addressed?
Question 14	The COVID-19 response is likely to have several phases, with varying degrees of restrictions, and uncertainty about their removal and possible re-impositions. What (if any) additional concerns about children and young people's rights do you anticipate in the coming phases?

While the template's development took place methodically, there was no time to pilot the template fully and to provide an exemplar for the subject leads. As a result, the

subject-specific CRIAs look different from each other. This provides productive learning points, not only for improving the template and instructions, but also in the advantages and disadvantages of different approaches. The templates represent the work of the subject leads and their teams, under their authorship.

Consultation and participation

During the analysis and writing of the individual CRIAs, subject leads consulted with key stakeholders, as noted above. This was further supported by a comprehensive spreadsheet of resources developed and shared by Together (Scottish Alliance for Children's Rights), following a call to their members for evidence. The members' responses were subsequently integrated into a spreadsheet incorporating research, briefings and other resources, which were shared with the Observatory and the subject leads as a core resource. An open call was also put forward by the Observatory, to those already affiliated with the Observatory.

Following the analysis by subject leads, the individual CRIAs underwent a tiered consultative review process. Initially the CRIAs were reviewed by members of the Observatory core team and associates, who edited the documents and provided feedback to subject leads. Each CRIA was also reviewed by experts who had been identified and approached to provide additional guidance and feedback in each of the nine subject areas. A total of 24 experts were consulted and provided feedback on the individual CRIAs.

Human rights impact assessments generally involve participation of the people likely to be affected by the measures being assessed (MacNaughton, 2015). As noted above, the alternative CRIA draws on evidence which includes the perspectives of children, young people and parents during COVID-19. The Children's Parliament and Scottish Youth Parliament are part of the Observatory of Children's Human Rights Scotland core group. However, the time constraints did not allow for direct involvement of children and young people in the CRIA process. Young Advisors will work with the Children and Young People's Commissioner to produce child-friendly and young-people-friendly versions of the report and the recommendations following from the CRIA.

Conclusions and recommendations

The alternative CRIA report provides an overview of the impact of the measures on children and young people's rights in Scotland. Findings, recommendations and conclusions of each subject CRIA were synthesised to produce an overall assessment of Scottish and UK Government policy response to COVID-19, for children and young people in Scotland. Each individual CRIA is included as an appendix to the report.

Further consultation was undertaken with regard to the report. Given time and funding constraints, the CRIA approach focused on particular subject areas, guided by the 11 recommendations from the UN Committee. Therefore, it was likely that the

impact of measures in relation to other specific areas would be inadvertently omitted. Further, a key consideration, frequently identified in the analysis and consultation, was the differential impact of measures on particular groups of children. Consequently, people with specialist knowledge were approached to review the report, provide feedback and identify areas which required further development. Three experts reviewed the report and provided such advice.

The Observatory sees the alternative CRIA as a starting point to our discussions, as policy continues to develop. We look forward to working with others over the next months to identify further issues and to explore how the policies differentially impact on groups of children and young people, so that together we can move forward to ensure children and young people's human rights are respected, promoted and fulfilled in Scotland.

APPENDIX 11: List of acronyms

ADHD – Attention Deficit Hyperactivity Disorder

ASN - Additional Support Needs

BAME - Black, Asian and Minority Ethnic

CAMHS - Child and Adolescent Mental Health Services

CEDAR - Children Experiencing Domestic Abuse Recovery

CEDAW - Convention on the Elimination of All Forms of Discrimination Against Women

CELCIS - Centre for Excellence for Children’s Care and Protection

Child/children - for the purpose of brevity and in line with the UNCRC refers to persons under the age of 18, however we acknowledge that many older children prefer the category ‘young people’ to ‘children’

Children’s organisations - refers to non-governmental organisations in Scotland unless otherwise stated

CHS - Children's Hearings Scotland

CIH - Chartered Institute of Housing

COPFS - Crown Office and Procurator Fiscal Service

COSLA - Convention of Scottish Local Authorities

CPC - Child Protection Committee

CPO - Child Protection Order or Community Payback Order

CRIA - Children’s Rights Impact Assessment

CRPD - Committee on the Rights of Persons with Disabilities

CRWIA – Children’s Rights and Wellbeing Impact Assessment

CSP - Coordinated Support Plan

CYCJ - Centre for Youth and Criminal Justice

CYPCS - Children and Young People’s Commissioner for Scotland

CYPEDA – Children and Young People Experiencing Domestic Abuse

DA - Domestic Abuse

DAFMH – Domestic Abuse and Forced Marriage Helpline

DASA - Dignity for All Students Act

ECHR - European Convention on Human Rights

EHRC - Equality and Human Rights Commission

ELC - Early Learning and Childcare

EQIA - Equality Impact Assessment

FSM – Free School Meals

GBV – Gender Based Violence

GIRFEC - Getting It Right for Every Child

HMP & YOI - Her Majesty’s Prison and Young Offender Institution

HMYOI - Her Majesty’s Young Offender Institution

ICCPR - International Covenant on Civil and Political Rights

ICESCR - International Covenant on Economic, Social and Cultural Rights

ICT - Information and Communications Technology

ISD - Information Services Division

LA – Local Authorities

LGBTQ - Lesbian, Gay, Bisexual, Transgender and Queer or Questioning

LGBTQI - Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, Intersex

NGO - refers to non-governmental organisations in Scotland unless otherwise stated

NHS - National Health Service

NSPCC - National Society for the Prevention of Cruelty to Children

RCPCH - Royal College of Paediatrics and Child Health

RCS - Royal Conservatoire of Scotland

RLO - Restriction of Liberty Order

SCRA - Scottish Children’s Reporter Administration

SPS - Scottish Prison Service

STAF - Scottish Throughcare and Aftercare Forum

SWA - Scottish Women’s Aid

UN Committee - United Nations Committee on the Rights of the Child

UN - United Nations

UNCRC - United Nations Convention on the Rights of the Child

UNCRPD - United Nations Convention on the Rights of Persons with Disabilities

UNICEF - United Nations Children’s Fund

VAWG - Violence against Women and Girls

YOI - Young Offender Institution