

# **Introduction to making the UNCRC real - Incorporation**

## **Video transcript**

### **Legal Incorporation in Scotland**

Legal incorporation is an important step towards implementation. A new law - the UNCRC (Incorporation) (Scotland) Act 2024 - embeds the UNCRC requirements in the Act into Scots law.

Those elements of the UNCRC and the first and second optional protocols which relate to reserved matters are not incorporated, as this would be outwith the power of the Scottish Parliament.

For this reason, there are some words or parts of articles which the Act does not incorporate. Section 6 places a duty on public authorities not to act incompatibly with the UNCRC requirements in schedule 1 of the Act.

A version of the UNCRC and optional protocols showing all words that have been “carved out” is on the Scottish Government website.

The section 6 duty applies only when authorities are delivering relevant functions under an Act of the Scottish Parliament, a Scottish Statutory Instrument, or common law powers.

The legal duty therefore does not apply to functions derived from powers in UK Acts, but public authorities can still choose to act compatibly unless the UK Act prevents them from doing so.

### **How will the new UNCRC incorporation law work in Scotland?**

Rights in Law! Children’s rights are part of Scots law.

Rights in Law! Public authorities and those carrying out public functions need to make sure that their actions or failures to act are not incompatible with the requirements in the UNCRC Act whenever these actions are based on laws passed by the Scottish Parliament or common law powers.

If that doesn’t happen children and young people can enforce their rights through the courts.

Scottish Government must set out what it is doing to protect and respect children’s rights and how it will work towards children’s rights being more fully respected.

Listed public authorities must report publicly on what they are doing to comply with their duties under the Act and how they will work towards children’s rights being more fully respected.

## **Why do children and young people think incorporation is important?**

Children and their families have told us:

“We can enforce children’s rights instead of letting it be optional to people.”

“If it’s not the law then people might not give me my rights!”

“What’s the point [in having rights] if they don’t have to abide by them?”

Legal incorporation makes children’s rights more powerful, they will now be protected in Scots law.

It means that children’s rights should be considered when public authorities are making decisions that affect them.

We can all use the language of children’s rights, to solve problems and create better solutions.

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