



Response to the call for submissions on the draft of General Comment No. 27

About Together (Scottish Alliance for Children's Rights)

Together (Scottish Alliance for Children's Rights) is an alliance that works to improve the awareness, understanding and implementation of the UN Convention on the Rights of the Child (UNCRC) and other international human rights treaties across Scotland. We have over 600 members ranging from large international and national non-governmental organisations (NGOs) through to small volunteer-led after school clubs and interested professionals. The views expressed in this submission are based on wide consultation with our members but may not necessarily reflect the specific views of every one of our member organisations. Views expressed separately should also be taken into account.

Introduction

Together welcomes this opportunity to provide feedback on General Comment 27, emphasising that access to justice must be practical and meaningful for all children – including babies, children in care, disabled children, and others whose rights are most at risk.

Our previous submission emphasised the need for independent advocacy to be recognised as a distinct right; for specific action to ensure the inclusion of babies and very young children in justice processes; and for complaints and redress mechanisms to be co-designed with children themselves.¹ We welcomed the opportunity to help shape a General Comment that is ambitious in scope and grounded in children's lived experiences.

With support from our membership, this submission builds on that earlier input. Our submission has also been informed by a research report produced by students from the University of Edinburgh's LLM Human Rights Clinic, supported by Together.² As the

¹ Together (Scottish Alliance for Children's Rights) (2024). Response to the Committee on the Rights of the Child's call for submissions on General Comment No. 27.

https://www.togetherscotland.org.uk/media/3758/gc27_response_final.pdf [Date accessed: 30.06.25].

² University of Edinburgh Human Rights Clinic (2025). *Lessons learned: Access to justice for babies and young children across 12 jurisdictions – what can Scotland learn as it works to improve access to justice at home*. Forthcoming publication. To be shared in advance with the UN Committee on the Rights of the Child.

report is not due to be published until July 2025, we will share a copy separately with the Committee.

Our comments are structured around the three priority themes previously highlighted:

- Independent advocacy as a legal right
- The inclusion of babies and early years children in accessing justice
- The co-design of complaints processes and mechanisms with children

The members who contributed include Who Cares? Scotland (WCS), a national membership organisation for people with experience of care; the Scottish Independent Advocacy Alliance (SIAA) a national intermediary organisation who support promote and advocate for independent advocacy; Scottish Women's Aid, working towards the prevention of domestic abuse; Mindroom; a national charity supporting parents and carers of neurodivergent children and Committed to Ending Abuse (CEA); a charity operating in one 'local authority' supporting children, young people and adults impacted by domestic abuse and trauma.

Each section below outlines where relevant paragraphs could be enhanced to support a more inclusive and rights-respecting approach to justice for all children.

Theme 1: Independent advocacy as a legal right

The draft General Comment 27 acknowledges the need for supportive adults and legal assistance but does not explicitly endorse a child's statutory right to independent advocacy.

Our members unanimously reiterate their call for independent advocacy to be a legal right, available from the earliest stage of any legal or administrative process.

Drawing on our 2024 submission and recent member consultation, we propose the following specific amendments:

Paragraph 15(d):

- **Note that independent advocates can play a key role in enabling children's right to be heard, especially where children may not be able to express their views clearly without support.**

Independent advocacy plays a vital role in enabling children's right to be heard, especially where children need support to express their views. The General Comment should urge States to recognise this role, acknowledging that children engage with adult-led systems and may need help to understand, navigate, and communicate within them. WCS emphasises the need for both instructed and non-instructed advocacy, particularly for children with communication barriers. As SIAA note, *"the independence of advocacy is what enables advocates to be true human rights defenders – genuinely on a young person's side..."*

Paragraph 39:

- **Recognise the importance of independent advocacy for victims and witnesses**

Independent advocacy is essential for child victims and witnesses, helping ensure they are heard and supported. Scottish Women's Aid note that young survivors identified one key change that would help them realise their rights: a trusted adult who could talk to them – and speak with or for them when needed.

Paragraph 48:

- **Call on State Parties to implement a statutory duty to provide independent advocacy for all children in alternative care.**

Our members highlight the acute need for independent advocacy for this group. WCS reference the following Scottish Independent Advocacy Alliance's (SIAA) guidance:

*“Independent advocacy is especially important when individuals or groups are not heard, are vulnerable or are discriminated against. This can happen where support networks are limited or if there are barriers to communication”.*³

WCS note the ample evidence that Care Experienced young people consistently face these challenges. This is further supported by Scotland's care reform [recommending lifelong advocacy](#)⁴ and [proposed Scottish legislative reform](#) including a statutory right to advocacy for children in care.⁵

Paragraph 80:

- **Add ‘independent advocacy services’ to the list of multidisciplinary services (‘legal, social, psychological, medical’) who provide the ‘enabling context to gain access to justice and to support children in the process’.**

SIAA highlight the critical role of independent advocates in enabling access to justice, noting that, unlike family members or professionals, they are free from conflicts of interest and not bound by “best interests” frameworks that may override the child's voice.

Paragraph 83:

³ Scottish Independent Advocacy Alliance (2021). *Principles, Standards & Code of Best Practice for Independent Advocacy*. <https://www.siaa.org.uk/wp-content/uploads/2021/02/SIAA-Principles-Final-2nd-print-run-with-ISBN.pdf> [Date accessed: 30.06.25].

⁴ The Promise Scotland. National Lifelong Advocacy Service. <https://thepromise.scot/the-promise-scotland/what-the-promise-scotland-does/change-projects/national-lifelong-advocacy-service/> [Date accessed: 30.06.25].

⁵ Scottish Parliament (2022). *Children, Care, Care Experience and Services Planning (Scotland) Bill* (Stage 1). <https://www.parliament.scot/bills-and-laws/bills/S6/children-care-care-experience-and-services-planning-scotland-bill> [Date accessed: 30.06.25].

- **Include training for professionals on the distinct role of independent advocates and how to work with them.**

SIAA note that *“a lack of understanding about independent advocacy [from commissioners and funders], can hinder an organisation’s ability to maintain independence and directly impacts the quality of provision”*.

Theme 2: Inclusion of babies and early years children

The draft makes general references to young children but lacks specific guidance on ensuring access to justice for babies as well as support for caregivers.

Access to justice for babies must not be overlooked, as their dependency on adults places their rights at particular risk. Our member Mindroom highlights that: *“This is a complex area and may lead to babies and toddlers being overlooked. It is essential to promote and protect the rights of babies and toddlers and the lack of guidance in this area risks other family members’ rights being prioritised due to a lack of knowledge and understanding.”*

This is evidenced through the Human Rights Clinic report (the Clinic report)⁶, which found that babies and very young children are largely invisible within access to justice mechanisms. Justice systems frequently prioritise verbal communication and age-based thresholds, systematically excluding babies from participation on the assumption that they lack cognitive capacity. This means babies rely entirely on adults to access justice, increasing the risk their rights will be overlooked. The report emphasises that ensuring babies can access justice requires well-designed, integrated legal, policy and practice measures. Without this, babies remain at heightened risk of being denied recognition, protection and remedies when their rights are breached. As such, it is essential that the draft General Comment is enhanced to ensure the visibility of babies and very young children in access to justice mechanisms.

Paragraph 15(a):

- **Clarify that that “all children” includes babies and pre-verbal children.**

A child’s age or developmental stage must not be a barrier to recognising them as rights-holders or to ensuring their access to justice. The General Comment must identify age and developmental stage as characteristics that require states to take positive measures to ensure children’s inclusion in access to justice.

⁶ University of Edinburgh Human Rights Clinic (2025). *Lessons learned: Access to justice for babies and young children across 12 jurisdictions – what can Scotland learn as it works to improve access to justice at home*. Forthcoming publication. To be shared in advance with the UN Committee on the Rights of the Child.

The Clinic report finds that babies *are “largely invisible within access to justice mechanisms,”* with justice systems often excluding them due to assumptions about their cognitive capacity. This leads to systemic discrimination based on age and developmental stage. (Executive Summary; Common Gaps).

Paragraph 15(d):

- **Acknowledge that this right applies from birth, and must be realised through observation, specialist assessment, and trusted adult interpretation.**

WCS has demonstrated through practice, that children under the age of five can benefit from independent advocacy, noting *“Whilst being very young, most children of this age have clear likes and dislikes and opinions about things.”*

The Clinic report highlights that babies' participation is typically passive and mediated by adults. Best practices include Argentina's use of symbolic representation in early years services and Belgium's ZiKo checklist, which relies on professional observation to assess pre-verbal children's engagement and wellbeing. (Findings; Case Studies – Argentina, Belgium)

Paragraph 15(e):

- **Clarify that lack of capacity must not exclude babies from accessing justice.**

States should introduce duties to actively refer babies and very young children to advocacy and support services, recognising their limited ability to self-refer or articulate rights breaches. WCS emphasise that infants and very young children are rights holders in their own rights who require specialist support for their rights to be upheld.

The Clinic report highlights South Africa as providing a strong example of rejecting age-based thresholds in favour of capacity-based assessments, explicitly allowing babies to be represented separately from parents if in their best interests. (Case Study – South Africa).

Paragraph 18(v):

- **Recognise that violations in early childhood may only be identified later in life, and access to justice must remain open.**

The Clinic report notes that babies' rights violations often go unrecognised due to their age and communication barriers. Legal remedies must remain accessible as children grow older. (Reason for Research; Findings)

Paragraph 19:

- **Promote early years-specific mechanisms, including within childcare and early years services.**

The report finds that Argentina's Child Development Centres and Belgium's ZiKo checklist offer examples of accessible, age-appropriate complaints mechanisms embedded in early years services. (Case Studies – Argentina, Belgium)

Paragraph 27:

- **Explicitly address the invisibility of babies and very young children and ensure they are recognised as rights-holders.**

The Clinic report repeatedly emphasises that babies are overlooked in law, policy, and practice, with their needs often deprioritised in favour of older children. This marginalisation increases risk of rights breaches. (Executive Summary; Common Gaps)

Paragraph 29:

- **Encourage States to recognise the vulnerability of babies and ensure they can be represented in legal processes.**

Our member CEA highlights the risk of younger children being “*lost in the process*” as they note: “*Very young children such as babies and toddlers are even more vulnerable in a sense that they may not be accessing nursery or care facilities where professionals may be able to compile reports which capture their development, any concerns and their natural responses.*”

The Clinic report found that Argentina's Abogado del Niño and South Africa's constitutional provisions allow babies to be legally represented independently of parents, helping ensure legal standing and protection from rights violations. (Case Studies – Argentina, South Africa)

Paragraph 38:

- **Expand to recognise the role of professionals skilled in non-verbal communication (e.g. early years workers, health visitors).**

Professionals working with very young children must be able to recognise and respond to non-verbal communication to support access to justice for babies. The Clinic report found that Belgium's ZiKo tool and Argentina's use of caregiver input and symbolic communication illustrate the importance of trained professionals in interpreting the needs and views of pre-verbal children. (Case Studies – Belgium, Argentina)

Paragraph 56:

- **Ensure mechanisms exist to preserve compensation for babies until they can access it (e.g. via trust funds).**

The Clinic report found that babies' rights breaches often go unrecognised until later in life, underscoring the importance of future-oriented remedies. (Findings)

Paragraph 71:

- **Recognise extra steps needed to ensure enabling environment for babies and early years children and the vulnerability that their dependence can bring.**

The Clinic report highlights Argentina's integrated "one-stop shops" and Kenya's cross-sectoral approaches which demonstrate how enabling environments must be tailored to the unique needs of babies and their caregivers. (Case Studies – Argentina, Kenya)

Paragraph 82:

- **Emphasise the importance of educating parents and caregivers on children's rights from birth.**

The Clinic report highlights Australia's Connected Beginnings and Belgium's training for early years professionals as successful ways of embedding rights awareness in parenting and early childhood settings. (Case Studies – Australia, Belgium)

Theme 3: Co-design of complaints processes and mechanisms

While the draft encourages children's participation, it does not explicitly call for the co-design of complaints mechanisms with children. WCS has shared powerful experiences from Care Experienced young people who had attempted to use complaints processes. These included reports of being ignored, punished, or retraumatised for raising concerns. Others reported that complaints mechanisms appeared designed for adults and failed to offer safe, trusted ways to raise concerns. For feedback and complaints mechanisms to be accessible, empowering and support children's access to justice, they must be co-designed with children and young people, particularly those whose rights are most at risk.

Paragraph 19:

- **Set out that complaints mechanisms should be co-designed and regularly reviewed with children, particularly those whose rights are most at risk including Care Experienced children.**

Our member organisation, Mindroom also recognises the importance of a balanced approach, noting, *“While it is essential that children’s views are directly sought in the design of complaints mechanisms, children and young people have expressed concerns about being over-consulted or involved in processes that follow an adult-led agenda (as may be the case if co-design becomes a statutory requirement). As such, we believe that the mechanisms should be in place to encourage and support children’s participation in the design of complaints mechanisms.”*

This is supported by CEA who note: *“Complaints mechanisms can be very complex and this should be reviewed with children’s input so they are fully aware of what this part of the process might entail and outlined in a child friendly and streamlined way where they can either initiate such processes themselves and with confidence or can be guided through it with a trusted adult/advocacy worker”.*

Thus, mechanisms should be in place to actively encourage and enable children’s engagement in the design and review of complaints systems, without making participation feel burdensome or performative.

June 2025

For further information, please contact: Shilla Shomai, Policy and Public Affairs
Assistant

Together (Scottish Alliance for Children's Rights)

Email: shilla@togetherscotland.org.uk

Web: www.togetherscotland.org.uk Bluesky: [@together-sacr.bsky.social](https://bsky.app/profile/@together-sacr.bsky.social)

The Melting Pot, 15 Calton Road, Edinburgh, EH8 8DL