

Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill

Briefing to the Equalities, Human Rights and Civil Justice Committee.

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.

What are your views on the proposed changes in the Bill to require that a child is informed if their parent asks for them to be withdrawn from either or both RME/RE and religious observance in school?

Together (Scottish Alliance for Children's Rights) welcomes the Scottish Government's recognition of this child rights issue. In our response, we make frequent reference to articles of the UN Convention on the Rights of the Child (UNCRC). The most relevant are:

- Article 5 – recognises the role of parents and carers in guiding children as they exercise their rights, but makes clear this guidance must adapt as children's capacities grow. This is central to the debate about whether older children can make their own decisions about withdrawing from religious observance.
- Article 12 – gives children the right to express their views freely in all matters affecting them, with those views given due weight according to age and maturity. This underlines why children must be able to influence decisions about participation in religious observance.
- Article 14 – protects children's freedom of thought, conscience and religion, while allowing parents and carers to provide guidance in line with children's evolving capacities. This means children should never be compelled to take part in religious observance against their will.
- Article 29 – requires that education develops children's talents and abilities and fosters respect for human rights, diversity and different beliefs. This highlights the importance of Religious and Moral Education (RME) as part of the curriculum, while distinguishing it clearly from religious observance.

When it comes to participation in religious observance, the UN Committee elaborated in General Comment No. 20, emphasising the importance of the child's agency in deciding whether they participate:

"It is the child who exercises the right to freedom of religion, not the parent, and the parental role necessarily diminishes as the child acquires an increasingly active role in exercising choice throughout adolescence. Freedom of religion should be respected in schools and other institutions, including with regard to choice over attendance in religious instruction classes, and discrimination on the grounds of religious beliefs should be prohibited".¹

In its latest Concluding Observations (2023), the UN Committee made a clear recommendation around the right of children to withdraw from religious observance by calling on the UK and devolved governments to:

"Guarantee the right of all children to freedom of expression and to practise freely their religion or belief, including by...Repealing legal provisions for compulsory attendance in collective worship and establishing statutory guidance to ensure the right of all children, including children under 16 years of age, to withdraw from religious classes without parental consent".²

Taken together, the UNCRC articles, the Committee's General Comments and latest Concluding Observations provide the framework for our analysis of the Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill. Given the Scottish Parliament's cross-party support for children's rights through the unanimous passing of the UNCRC (Incorporation) (Scotland) Act 2024, it is vital that the Bill upholds these international standards.

Incompatible with UNCRC and out of scope of UNCRC (Incorporation) (Scotland) Act 2024

The Bill as it is currently drafted does not comply with the UNCRC or with the UN Committee on the Rights of the Child's Concluding Observations. Whilst the Bill requires that a child be informed when a parent seeks to withdraw them from religious observance (RO)³, it falls significantly short of granting them the independent right to withdraw. This denies children's agency under Articles 5 and 12. It is also drafted in a way that sits outside the scope of the UNCRC (Incorporation) (Scotland) Act 2024, leaving children with no recourse under the Act to challenge or seek remedy - undermining the very purpose of incorporation.

¹ Para 43 - Committee on the Rights of the Child (2016). General comment No. 20 (2016) on the implementation of the rights of the child during adolescence (CRC/C/GC/20: Para: 43)

² Para 26(d) Committee on the Rights of the Child (2023). Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland, UN Doc. (CRC/C/GBR/CO/6-7: Para 6(d)).

³ s9(a) Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill 2025 <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/children-withdrawal-from-religious-education-and-amendment-of-uncrc-compatibility-duty-scotland-bill/introduced/spbill66ens062025accessible.pdf>

Conflating Religious Observance with Religious and Moral/Philosophical Studies

The Bill continues to conflate Religious Observance (RO) with Religious and Moral/Philosophical Studies (RME/RMPS). This concern was highlighted during Scottish Government's earlier consultation⁴ and continues to complicate analysis of the consultation responses⁵.

Religious observance

The guidance for schools defines Religious Observation (sometimes referred to as Time for Reflection or Collective Worship) as "*Community acts which aim to promote the spiritual development of all members of the school's community and express and celebrate the shared values of the school community*". It further stresses that RO should consider the diverse spiritual needs and beliefs of individuals, whether faith-based or non-faith-based. Above all, it emphasises that pupils and staff must be able to take part with integrity, without being compelled to act in ways that conflict with their personal beliefs⁶. The Child Rights and Wellbeing Impact Assessment (CRWIA) notes CYPCS feedback that children still report RO being delivered in exclusively Christian ways in non-denominational schools, suggesting the current guidance is not being fully implemented⁷.

Compelling children to take part in RO against their beliefs breaches Article 14⁸. We therefore welcome the Bill's recognition that children should be informed if their parent asks for them to be withdrawn, but reiterate that they must also have the independent right to withdraw without requiring parental consent.

Religious and moral education

RME (also called religious education in denominational schools or RERC in Catholic schools) refers to lessons about religions, beliefs and cultures, which is a key part of children's right to education⁹. Unlike RO, RME provides opportunities for children and young people to explore questions about life's meaning, purpose and values, while also encouraging them to develop and reflect on their own beliefs¹⁰. This involves examining a wide range of religious and moral traditions, as well as perspectives that are not based on religious belief.

Article 29 requires education to support children's full development and foster respect for human rights, diversity and different beliefs.¹¹ When RME is taught inclusively - aligned with the

⁴ Pg 15, Scottish Government (2025). Proposals to amend the legislation on religious observance and religious education in schools to support alignment with the United Nations Convention on the Rights of the Child (UNCRC): Analysis of consultation responses. <https://www.gov.scot/publications/proposals-amend-legislation-religious-observance-religious-education-schools-support-alignment-united-nations-convention-rights-child-analysis-consultation-responses/>

⁵ Pg 14, Scottish Government (2025). Analysis of consultation responses.

⁶ Scottish Government (2017). Curriculum for excellence: religious observance. <https://www.gov.scot/publications/curriculum-for-excellence-religious-observance/>

⁷ Scottish Government (2025). Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill 2025: Child Rights and Wellbeing Impact Assessment (CRWIA). <https://www.gov.scot/publications/children-withdrawal-religious-education-amendment-uncrc-compatibility-duty-scotland-bill-2025-child-rights-wellbeing-impact-assessment/>

⁸ Convention on the Rights of the Child (UNCRC): Article: 14

⁹ Convention on the Rights of the Child (UNCRC): Article: 29

¹⁰ Scottish Government (2017). Curriculum for excellence: religious observance.

¹¹ Convention on the Rights of the Child (UNCRC): Article: 29

national curriculum and without giving preference to any single faith - it plays a crucial role in fulfilling this right. It helps children understand the wide range of beliefs, faiths and perspectives in society¹². For this reason, Together continues to support the provision of RME as part of the core curriculum and do not believe that parents/carers or children themselves should be able to withdraw as this would deprive them of vital learning opportunities¹³.

Together recommends that the Committee:

- **Amends the Bill to provide an independent right for children to withdraw from RO while protecting RME/RE as core curricular learning.**
- **Ensures that children and young people are meaningfully engaged in the scrutiny of the Bill through rights-respecting processes.**
- **Requires the Scottish Government to provide clear guidance, alongside child-friendly information, that clearly distinguishes between RO and RME/RMPS.**

What are your views on the proposed changes in the Bill to require that a child is given the chance to express their views; and where the child's views are different from the parent's views, the school would have to follow the child's wishes? Please note, this only applies where the parent wishes to withdraw their child, but the child wishes not to be withdrawn.

Together welcomes the Scottish Government's recognition of children's right to be heard in support of Article 12 of the UNCRC¹⁴. Following incorporation of the UNCRC (Incorporation) (Scotland) Act 2024, the Scottish Government has a duty to act compatibly with the UNCRC requirements¹⁵.

However, the proposed amendment to "*require that a pupil's views are considered*"¹⁶ would only apply where a parent has requested their child's withdrawal from RO. This falls short of the 2023 Concluding Observations, which calls on the government to "*ensure the right of all children, including children under 16 years of age, to withdraw from religious classes without parental consent*".¹⁷ It is also inconsistent with General Comment No. 20 as set out in our response to question 1.

While the Bill requires schools to respect a child's wishes if a parent requests withdrawal from RO but the child objects, it makes no equivalent provision where a child wishes to be withdrawn but the parent does not consent. As a result, children and young people are still

¹² Humanist Society Scotland (2025). Proposals to amend the legislation on religious observance and religious education in schools: Consultation response from Humanist Society Scotland. <https://www.humanism.scot/wp-content/uploads/2025/01/FINAL-RO-consultation-submission.pdf>

¹³ Together (2025). Proposals to amend the legislation on religious observance and religious education in schools: Consultation response from Together (Scottish Alliance for Children's Rights) https://www.togetherscotland.org.uk/media/3816/religious_observance_consultation_response.pdf

¹⁴ Convention on the Rights of the Child (UNCRC): Article: 12

¹⁵ UNCRC (Incorporation) (Scotland) Act 2024: Para: 6. <https://www.legislation.gov.uk/asp/2024/1/contents>

¹⁶ Scottish Government (2025). Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill 2025.

¹⁷ CRC/C/GBR/CO/6-7: Para: 26(d)

denied a genuine choice about participation in RO, despite this being a right enshrined in the UNCRC. To be fully compatible with the UNCRC, the Bill must uphold children's right to decide for themselves whether to take part, ensuring they can withdraw if they do not wish to participate.

The Bill also places responsibility on schools to *“have regard to any views expressed by the pupil about the request, taking into account the pupil's age and maturity”*¹⁸. This risks positioning schools in the role of decision-makers, rather than recognising the child's right directly. Children should not have to rely on the discretion of schools to exercise their freedom of religion and belief.

The lack of agency remains a significant concern for children, as reflected in the words of one young person involved in Together's 2024 “State of Children's Rights report” (SOCRR):

*“I think a lot of adults choose what they think's good for young people and not what young people actually need...” Willow, age 17*¹⁹

The Bill assumes parental authority up to the age of 18, which conflicts with Article 5 on evolving capacities.²⁰ There is a clear need for explicit recognition that children (particularly older children) should hold the right to withdraw from RO directly, with younger children supported to exercise this right. Particular attention is needed for groups whose rights are most at risk, including Care Experienced children, children from religious families, children in poverty and children in armed forces families.

For example, care-experienced children living in residential children's homes, where they are looked after by staff members rather than biological parents, may face challenges in finding an adult who can advocate for them at school. Children from single-parent families or lower-income families may find that their parents are unable to take time off work to attend school meetings. Similarly, children whose parents serve in the armed forces may not have a parent available to support them. These children may face additional barriers to having their views respected, yet the CRWIA does not consider their circumstances²¹. Stronger consideration should be given to the impact of the Bill on those whose rights are most at risk.

Finally, Article 2 requires that all children's rights should be respected equally without discrimination²². The Bill creates an imbalance by stating that children's wishes must be respected if they want to participate in RO against a parent's wishes, but not if they wish to withdraw. This risks discriminating against children who do not want to take part in RO and gives unequal recognition to their rights.

¹⁸ s 1(3), inserting new s 9A(2)(c), Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill 2025. Scottish Government (2025)

¹⁹ Pg.171. Together (2024). State of Children's Rights Report 2024 (SOCRR). https://www.togetherscotland.org.uk/media/3800/socrr2024_final.pdf

²⁰ Convention on the Rights of the Child (UNCRC): Article: 11

²¹ Scottish Government (2025). CRWIA.

²² Convention on the Rights of the Child (UNCRC): Article: 2

What do you anticipate being the implications of this Bill for schools, pupils and parents?

As set out above, the Bill is in breach of the UNCRC and undermines UNCRC (Incorporation) (Scotland) Act 2024. For schools, pupils and parents, this creates uncertainty in practice. If RO and RME continue to be conflated, children risk missing out on essential parts of education and schools may be placed in an adversarial role between parents and children. Implementation of children's withdrawal rights is likely to be inconsistent.

The CRWIA notes that 'withdrawal' can mean anything from being taken out of the classroom to simply not participating while remaining present²³. This ambiguity leaves decisions to staff discretion, creating inconsistency both within and between schools.

Children whose rights are most at risk may be particularly likely to be excluded or unheard. Power dynamics in schools can make it difficult for their views to be considered, even in cases where they have the support of an advocate. Children and young people have shared their experiences of not being listened to:

"I feel like these big systems are built on old-fashioned principles. School still seems stuck in a Victorian way of thinking, where the goal was to train children to be obedient factory workers. I feel like questioning the status quo is discouraged or even punished. I've been told more than once by adults that 'this is just the way it has always been'". Rowan's story, age 17²⁴

This is a common theme among young people, with similar views being echoed by another young person:

"I want to be heard, school ignored my voice which is expressed with help from an advocate...I have some nice teachers, but I don't feel heard". Cerys's story, age 15²⁵

Both Rowan and Cerys' experiences highlight how difficult it can be for children's views to be considered. Importantly, the quotes are from a 17-year old and a 15-year old, showing that it is not only the youngest children whose voices go unheard. Even as children grow older and their capacities evolve, their views are still not always considered or given the weight they deserve.

There is also a risk that consulting children and young people becomes tokenistic, especially in cases where a child wishes to be withdrawn but their views are overridden by their parents'. Children and young people have in the past expressed concern that consultation is sometimes conducted merely as a formal requirement, rather than with genuine consideration of their perspectives:

"heard for the sake of it being a requirement to consult rather than with young people in mind." Anonymous child, supported by Scottish Youth Parliament and Scouts Scotland.²⁶

²³ Scottish Government (2025). CRWIA.

²⁴ Together (2024). SOCRR. Pg. 81.

²⁵ Together (2024). SOCRR. Pg. 70-71.

²⁶ Together (2024). SOCRR. Pg. 80.

What insights or experiences do you have regarding how the right to withdraw from religious observance and RME/RE currently works in schools?

Together's previous response to the Scottish Government consultation²⁷ highlights that the practice around withdrawal from RO is patchy and inconsistent, and that freedom of religion is a right valued highly by children and young people, who call for stronger measures in upholding this right:

"More religious places...Right to practice own religion". Child aged 15, supported by the Scottish Youth Parliament²⁸

They also express frustration at not being listened to by adults when decisions are made about their lives:

"Decisions by the adults in charge of Scotland are not the best. I feel they don't listen. They could listen to what people want". Child aged 16, supported by Circle²⁹

In particular, children feel they have little influence over educational decisions and wish to have a greater say in what they learn at school. Children and young people further note that schools do not always acknowledge or respect their evolving capacities:

"Most teachers don't recognise I am getting older and should have more responsibilities. They still treat me as a child, but not in a good way." Child supported by SYP and Forces Scotland³⁰

While some schools adopt a rights-based approach, others do not. Parents often make decisions without children being consulted and a significant number of children are unaware of the rights they have around RO withdrawal. As a result, children's voices are often sidelined in practice.³¹

Children highlight that the power dynamics in schools can make it difficult for them to assert their views and that decisions affecting children and young people are normally made on their behalf and without consulting them:

"I wish someone would ask me what help would work best for me"
Extract from composite story by Forces Children Scotland in SOCRR 2024³²

This highlights the need for legislative changes that actively ensure children are informed of their rights and can independently exercise them, or in the case of younger children, they are supported to exercise them.

²⁷ Together (2025). Consultation response from Together (Scottish Alliance for Children's Rights).

²⁸ Together (2024). SOCRR. Pg.125

²⁹ Together (2024). SOCRR. Pg. 169

³⁰ Together (2024). SOCRR. Pg. 80

³¹ Together (2025). Consultation response from Together (Scottish Alliance for Children's Rights).

³² Together (2024). SOCRR. Pg.174.

*Preaching is not Teaching*³³, a soon-to-be published report by the Humanist Society Scotland highlights children's narratives of the real impact of not being permitted to exercise their right to withdraw from RO: At one school, a pupil became visibly distressed during a song with the lyrics, "I love God, God loves me," and asked: "If that's true, why did God kill my mum?" For this child, being told he was loved by God, while dealing with such grief, was deeply upsetting.

Some children expressed that they were not even aware of their right to withdraw from RO:

"I don't think many people even know that they are allowed not to go if their parents tell the school."

When children are withdrawn, the alternatives provided are often isolating. Instead of being given meaningful activities, some are simply made to sit outside classrooms or to do colouring:

"When I excluded my daughter from religious events she was made to sit outside the hall and it was made clear to her that this was an annoyance."

There are also cases where parents are unaware their children are participating in RO:

"We became aware that my daughter was being forced to pray because she told us how uncomfortable she felt."

Above all, these stories remind us that children want to be heard, respected and supported to make their own choices, in line with the UNCRC. The Bill must reflect this by giving them a meaningful and independent right to withdraw from religious observance.

This Bill will introduce an exemption to the section 6 compatibility duty of the UNCRC Act in circumstances where a public authority is compelled to act incompatibly with UNCRC requirements in fulfilment of another Act of the Scottish Parliament. This mirrors the approach taken to Acts of the UK Parliament. Do you have any thoughts on this approach?

Together broadly welcomes the Scottish Government's proposal to amend section 6 of the UNCRC (Incorporation) (Scotland) Act 2024. We recognise the rationale that without this amendment public authorities could be placed in the position of either breaching their UNCRC compatibility duty or failing to comply with binding statutory duties under another Act of the Scottish Parliament.

Our own consultation with children and young people also shows broad support for the principle of the amendment, and highlights the importance of how it is communicated and implemented in practice. Children and young people were clear that:

- The amendment should not be presented as "weakening" rights but as a mechanism to ensure rights are realised in practice.
- Examples are essential to help children and young people understand how the amendment works, with preference for one clear, in-depth scenario (e.g. health care or social work) presented visually.

³³ Humanist Society Scotland (2025, forthcoming). *Preaching is not Teaching*.

- There must be clarity on what it means to “challenge the Scottish Government,” what happens while a case is before the courts, and what other routes exist for children to rely on the law without going to court.

These points strongly echo the CRWIA’s recognition that accessible, child-friendly materials are needed and that children’s participation in shaping those is critical³⁴.

Together’s membership has also been broadly supportive of the amendment in principle, but suggested that it should be accompanied by a reporting duty on public authorities. This would require them to notify the Scottish Government and the Children and Young People’s Commissioner Scotland whenever they become aware that legislation obliges them to act in a way that is not compatible with UNCRC requirements. This safeguard would ensure transparency, accountability and timely remedy of systemic incompatibilities. It would also give practical effect to Ministers’ existing duty under the 2024 Act within the Children’s Scheme to identify and address situations where children’s rights are not being fulfilled³⁵.

The Policy Memorandum confirms that this option was explicitly considered:

“As part of this engagement, officials also explored whether public authorities should be required in law to report to the Scottish Government and the Children and Young People’s Commissioner Scotland when they become aware of a legal requirement to act incompatibly with UNCRC requirements. The public authorities consulted did not support making this a legal requirement but were in favour of a clear notification process... The Scottish Government will work with the Children and Young People’s Commissioner Scotland to ensure there is a notification process in place, on a non-statutory basis, which will provide the Commissioner’s Office with sufficient reassurance.”³⁶

While we welcome recognition of the need for a notification process, Together remains concerned that reliance on a non-statutory basis will not provide sufficient assurance. A statutory reporting duty would offer greater transparency and help ensure Ministers can meet their existing duty under the 2024 Act to identify and address situations where children’s rights are at risk of not being fulfilled. The CRWIA underlines that incorporation must be backed by strong accountability, noting that responsibility for addressing legislative incompatibilities lies with Scottish Ministers and the Scottish Parliament. This accountability is essential if incorporation is to translate into real rights protection for children³⁷.

Our assessment is therefore that the Scottish Government’s current approach partially addresses but does not fully address the recommendation made by Together’s membership. Without a statutory reporting duty, there is a risk that incompatibilities will remain hidden,

³⁴ Scottish Government (2025). CRWIA. Pg.8

³⁵ Section 14(3)(b) of the 2024 Act.

³⁶ Policy Memorandum to the Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill, p.11
<https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/children-withdrawal-from-religious-education-and-amendment-of-uncrc-compatibility-duty-scotland-bill/introduced/spbill66pms062025accessible.pdf>

³⁷ Scottish Government (2025). CRWIA. Pg.8

undermining both the accountability framework envisaged by the Act and children's trust in the system. We urge the Scottish Government to revisit this point and ensure that the proposed amendment is accompanied by a clear, enforceable mechanism for reporting and acting on incompatibilities, with progress transparently reported through the Children's Rights Scheme.

We believe there is scope to strengthen the 2024 Act further to ensure that any incompatibilities in Scottish legislation with the UNCRC can be identified and addressed, and that babies, children and young people can access justice when their rights are not upheld. We understand that the Children and Young People's Commissioner may bring forward proposals in this area, and we would be supportive of these where they strengthen those protections.

One important area that could be strengthened is the powers of the courts and tribunals. At present, only the higher courts can issue declarations of incompatibility, but there is a strong case for enabling a wider range of courts and tribunals – such as those dealing with family law or additional support needs – to do so. These are the places where children's rights are most likely to be raised directly, and where earlier action could make the biggest difference.

It is also important that incompatibility rulings are not limited to laws passed after the Act came into force. Allowing courts to consider both pre- and post-commencement Acts of the Scottish Parliament would ensure that gaps are not left in children's protections of their rights simply as a result of timing.

Another area where the Act could be strengthened is in the duties placed on Ministers when a court has found legislation to be incompatible. Currently, the duty is limited to reporting to Parliament. We believe this should go further, requiring Ministers to assess the impact of the breach on children, and to provide that assessment back to the court or tribunal, to the child affected, and to the Children and Young People's Commissioner Scotland.

Finally, any ministerial report should always be made available in a version that children and young people can understand. This would provide much-needed transparency, ensuring that children can see for themselves how government is responding to breaches of their rights.

Taken together, these kinds of changes would help ensure that UNCRC incorporation is underpinned by strong systems of monitoring and accountability. They would make sure that Scottish legislation is kept in line with the UNCRC, that incompatibilities can be identified and addressed swiftly, and that babies, children and young people experience justice, remedy and redress in practice.

- **Together recommends that the Committee takes every opportunity to strengthen the UNCRC (Incorporation) (Scotland) Act 2024 so that incompatibilities can be identified and addressed, and babies, children and young people can access justice, remedy and redress. This should include a clear, enforceable mechanism for reporting and acting on UNCRC incompatibilities, with progress transparently reported through the Children's Rights Scheme.**

Have you got any other comments on the Bill?

This Bill as currently drafted inserts new provisions into the Education (Scotland) Act 1980 – a UK Act passed before devolution. This means that these provisions will fall outside the scope of the UNCRC (Incorporation) (Scotland) Act 2024.³⁸ The UNCRC Act’s compatibility duty only applies where powers are exercised under Acts of the Scottish Parliament. It does not extend to pre-1999 UK statutes, even where these are amended by the Scottish Parliament. In practice, this means that if a child’s rights are not respected when decisions are taken under the amended section 9 of the 1980 Act, they will not be able to use the UNCRC Act to challenge this or to seek a remedy. Instead, they would be left with more complex and less accessible routes such as judicial review or ECHR claims. This undermines the purpose of the UNCRC Act, which was passed to make children’s rights binding in Scots law and to give children a clear and direct route to remedy when their rights are breached. It also contradicts the Scottish Government’s previous commitment to minimise future amendments to UK Acts and instead make freestanding provision in new Acts of the Scottish Parliament, so that as much legislation as possible is brought within the UNCRC Act’s scope.³⁹ To address this, the provisions on children’s involvement in decisions about withdrawal should be re-enacted as stand-alone sections within this Bill, rather than as amendments to the 1980 Act.

- **Together recommends that the Committee amends the Bill so that the provisions on children’s involvement in decisions about withdrawal from religious observance are re-enacted as stand-alone sections within this Bill, rather than as amendments to the Education (Scotland) Act 1980.**

³⁸ Under section 6(2) of the UNCRC (Incorporation) (Scotland) Act 2024, the “compatibility duty” applies only to functions conferred by Acts of the Scottish Parliament (or certain instruments made under them). It does not apply to provisions in pre-devolution UK Acts, even where those provisions have been inserted or amended by an Act of the Scottish Parliament. As a result, where functions remain in statutes such as the Education (Scotland) Act 1980, public authorities are not bound by section 6 when exercising them, and children cannot use sections 7 or 8 of the UNCRC Act to seek a remedy.

³⁹ Cabinet Secretary for Social Justice. Response to the Equalities, Human Rights and Civil Justice Committee on the reconsideration of the UNCRC (Incorporation) (Scotland) Bill, 28 November 2023. <https://www.parliament.scot/-/media/files/committees/equalities-human-rights-and-civil-justice-committee/correspondence/2023/reconsideration-of-the-uncrc-incorporation-scotland-bill-cabsecsj-28-november-2023.pdf>

Summary of recommendations to the Committee

We recommend that the Committee:

- Amends the Bill to provide an independent right for children to withdraw from RO while protecting RME/RE as core curricular learning.
- Ensures that children and young people are meaningfully engaged in the scrutiny of the Bill through rights-respecting processes.
- Requires the Scottish Government to provide clear guidance, alongside child-friendly information, that clearly distinguishes between RO and RME/RMPS.
- Takes every opportunity to strengthen the UNCRC (Incorporation) (Scotland) Act 2024 so that incompatibilities can be identified and addressed, and babies, children and young people can access justice, remedy and redress. This should include a clear, enforceable mechanism for reporting and acting on UNCRC incompatibilities, with progress transparently reported through the Children's Rights Scheme.
- Amends the Bill so that the provisions on children's involvement in decisions about withdrawal from religious observance are re-enacted as stand-alone sections within this Bill, rather than as amendments to the Education (Scotland) Act 1980.

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