



16th July 2026

Dear Mr Burnham,

Restoring the Scottish Parliament's power to protect children and young people's rights across devolved areas

Two years ago today, children and young people in Scotland were told that their rights are part of the law, and that the public bodies making decisions about their lives could be held to account. The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, passed unanimously and on a cross-party basis by the Scottish Parliament, made Scotland the first devolved nation to bring the UNCRC into domestic law. However, for many children, the potential of the UNCRC Act has not been realised, and for reasons only the UK Government can resolve. We write to you as you prepare to take office to ask you to resolve them.

A boy of ten came to Together (Scottish Alliance for Children's Rights) after his council withdrew his school transport, leaving him to walk two hours a day along a busy main road with no safe crossing. He was frightened of the walk. His parents work and cannot take him. Nobody had asked him what he thought. "I learned that children's rights are now part of the law in Scotland so it's wrong that no one is listening to us." He had understood the law exactly as the Scottish Parliament intended him to. However, because the powers his council was using sit in the Education (Scotland) Act 1980, an Act of the UK Parliament passed before devolution, and the UNCRC Act cannot reach it, he had no way to hold anyone to account.

The reason is technical but the consequences are not. Section 28(7) of the Scotland Act 1998 confirms that the UK Parliament may still make laws for Scotland. For almost twenty years this was understood as a restatement of Westminster's sovereignty. The UK Supreme Court has since read it more widely, holding that the Scottish Parliament may not apply general conditions, such as a duty to act compatibly with children's rights, to UK legislation operating in devolved areas. To comply with that judgment, the UNCRC Act had to be narrowed before it was passed. Its duties now reach Acts of the Scottish Parliament, but not the many UK statutes that still govern devolved life in Scotland: much of education law, homelessness law, and the law on children's participation in family proceedings, where the Children (Scotland) Act 1995 still defines what it means to be a looked after child.

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What this leaves is a patchwork. Whether a child can enforce their rights turns on which Parliament happened to pass the relevant law, rather than on whether their rights were respected. Their families, and the professionals who support them, are left to work out which half of the statute book their problem falls in before they can ask whether anyone has done anything wrong.

We are asking you to close that gap, and it can be done without any loss to the sovereignty of the UK Parliament. When devolution began in 1999, it was understood that the Scottish Parliament would have practical control of the law in devolved areas, including the ability to build on and adapt the legislation it inherited from Westminster. That understanding has been narrowed by the courts, which were interpreting the statute as written. The remedy therefore lies with government, and specifically with yours. We ask you to:

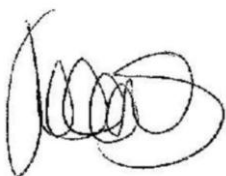
- Commit to restoring the understanding of devolved competence that applied in 1999, by removing the unintended limit the Supreme Court has read into section 28(7).
- Work with the Scottish Government to bring forward a section 30 Order, the fastest and lowest-risk route, confirming that the Scottish Parliament may condition the meaning and effect of UK legislation in devolved areas.

This asks nothing of you on the substance of human rights incorporation, on which your Government need take no view. It restores accountability, so that the Scottish Government can be held to the standards its own Parliament has set, across the whole of the ground it is responsible for. The direction of travel is already agreed. The Scottish Government has committed to seek the removal of these restrictions, and to act itself if there is insufficient progress by November 2026. However, the support of the UK Government is needed.

You have said that devolution is your mission, and that power should sit closer to the people it affects. Here is a chance to show it early, at no cost to sovereignty, in a way that would be felt by children who were promised something in 2024 that they cannot yet use.

We would welcome the opportunity to meet you, or the minister you consider best placed to take this forward. We have attached a briefing containing further information for your consideration.

Yours sincerely



Juliet Harris
Director
Together (Scottish Alliance for Children's Rights)