



EQUALITY & HUMAN RIGHTS IMPACT ASSESSMENT (EHRIA)

EHRIA PUBLICATION

Date: May 2021

This is a summary of the key decisions/actions taken in the recent EHRIA, and has been separated from the full EHRIA document for publication on SCRA's external website in compliance with statutory requirements.

The Scottish Children's Reporter Administration (SCRA) are pleased to publish the outcome of this Equalities and Human Rights Impact Assessment on:

SCRA'S RIGHTS RESPECTING APPROACH & ROUTE MAP

BACKGROUND

SCRA's Rights Respecting Approach and Route Map is a newly developed policy. The development of this work has been as a result of ongoing thought and informal discussion between SCRA and CHIP and there has been regular informal dialogue with members of Children's Hearings Scotland, the Scottish Commissioner for Children & Young People's Office, Education Scotland and other key partners to the Children's Hearing.

The Rights Respecting Approach and Route Map has been developed as an introduction for SCRA's focused and dedicated work on rights and children's rights. In the light of The Promise reports and the UNCRC (incorporation) (Scotland) Act it is fitting and timely that SCRA take this approach to all of our work.

The intended outcome is that SCRA is an organisation which can meet the demands of UNCRC incorporation across the board and be able to demonstrate clearly and with a robust evidence base that we have met those demands. The second intended outcome is that the culture of SCRA shifts and becomes 'rights first' - so that all our practice and procedure is filtered through the lens of rights and children's rights. The intended impacts of this work are as follows:

- 1) For SCRA to be a recognised rights respecting organisation.

- 2) For everyone who works for SCRA to be aware of rights and children's rights and to recognise the importance of these in the work that they do.
- 3) For children and families to feel that their rights are respected and promoted by SCRA whenever we become involved in their family life.

This rights respecting approach has been designed to enable SCRA to commit to change as required by UNCRC incorporation but also to commit to the long term developments as outlined in The Promise reports from the Independent Care Review. The approach will have an as yet unknown impact on SCRA's work across portfolio's and indeed sets out a series of actual and potential 'projects' and developments which will require impact assessment in their own right.

In addition, there are specific pieces of work which are required as a result of this approach, the most immediate of these are:

- 1) The audit of rights readiness for SCRA – the approach indicates that this is required, but a full proposal for an audit, including further details of how and when this will be done is necessary and will require EHRIA.
- 2) The approach needs to sit within a governance structure and reporting framework which aligns to SCRA's statutory responsibilities – and this structure and reporting framework will be a change which requires EHRIA.

IMPACTS

Public Sector Equality Duty

The approach has no negative impact in relation to discrimination, harassment or victimisation and will instead have a positive impact across all these areas.

In order to respect rights we need to understand them – and this applies across the specifics of each protected characteristic. In doing this we will advance equality of opportunity as we will no longer overlook things that may have been overlooked before, (like the ability of a disabled child to give their views to their hearing).

When we make improvement in one area we start to see other areas of work where improvements can be made. For an organisation like SCRA who are working closely to a continuous improvement agenda this is positive, means we can start to change areas of work quickly and build on the positive impact of change whenever that positive impact is perceived.

Fairer Scotland Duty

We are recognising what we need to action in order for all children and families in Scotland to have the same experience. If we can action change in relation to the 'rights' of children then we can also action change in relation to other things which have in the past led us to treat people differently or in different ways.

Islands Communities Impact Assessment

In order to give a parity of experience we will need to pro-actively consider aspects of the experience of a child and family in an island or remote community in ways that we have assumed or taken for granted in the past. Our change programme in these communities will need to be focused and co-produced and delivered with those who live and work in the communities. But this change programme should make a real difference.

Rights

The rights respecting approach considers rights at the forefront of everything else. In doing so the UNCRC rights (in the same way as ECHR rights) will be front and centre of our thinking. Alongside the rest of the children's services workforce in Scotland we will be developing knowledge and we hope some expertise as we work towards the implementation of the UNCRC (Incorporation) (Scotland) Act 2021. We will develop a working knowledge of rights across our professional workforce and will be much more sighted on the range of rights that require to be considered in relation to our work. In relation to children's rights this is even more complicated – as children often require adults to ensure that their rights are protected and indeed met.

Our statutory responsibility means a justified interference with rights and we should be clear and confident whenever we decide that this justified interference should happen. With children – this can be a direct interference with a UNCRC right (like the article 9 right not to be separated from your parents unless it is in your best interest) or it can be more nuanced – and an interference based on the inability of a parent to provide the basic care required in order to keep a child safe.

This is a complex arena and a difficult balancing act which applies to all children in Scotland aged 0-18 – and so covers all aspects of the UNCRC.

Our rights respecting approach will mean that we are all able to articulate why we are interfering with rights and to justify that interference in concrete terms, with a robust evidence base and in the best interest of Scotland's children.

Children's Well-Being: SHANARRI indicators

The SHANARRI indicators are all practical realisations of aspects of the UNCRC in relation to a child in the context of their family and circumstances and allow us to actively demonstrate the 'wellbeing' of any child at any given point. The indicators are also formulated to follow a hierarchy of need – from a child being 'safe' to a child developing individual agency / personality and societal links in their own right.

As such our rights respecting approach should enable fundamental rights to be realised for children which will have a positive impact on their wellbeing and development – across the board.

EHRIA Outcome

Outcome 1: Proceed – no potential for unlawful discrimination/adverse impact on equality duty or interference with human rights has been identified. ☒

SCRA's rights respecting approach, if adopted, will give us a solid foundation for developing our approach to social justice in the children's hearing. It will allow us to prepare for the implementation of the UNCRC (Incorporation) (Scotland) Act 2021 and more than that, it is the right approach to take to deliver a modern children's hearing that is fit for purpose and designed for the demands and needs of the children of 2021. The approach has been designed to be a positive one, to be inclusive and responsive and to adapt as we develop knowledge and expertise. Our assessment of the impact of the approach is positive across the board and we look forward to turning the positive impacts we have identified into real action.

Equality Review Group

May 2021