

Police Scotland evidence to the Scottish Parliament's Equalities, Human Rights and Civil Justice Committee

Introduction

Police Scotland remains committed to its statement of intent published in 2021,

“Police Scotland is a rights-based organisation that puts our values of integrity, fairness, respect and a commitment to upholding human rights at the heart of everything we do. We will uphold the rights of children and young people as set out in the UNCRC by embedding it within all policies and procedures.

We aim to become a global leader in rights-based service provision and we will work with partners to ensure the safety and wellbeing of children so that Scotland is the best place in the world to grow up”.

We continue to undertake crucial preparatory work to support the implementation of UNCRC following the amended Bill's reintroduction to Parliament in September and value the opportunity to outline these key points for consideration prior to implementation.

Section 6

The amended Bill places a requirement on public authorities to incorporate the UNCRC articles into all functions executed under devolved powers.

Section 6 of the amended Bill relates to the Scottish Government's powers to 'strike down' any legislation which is not compliant with UNCRC. It would be beneficial if the Scottish Government would share their considerations and expectations in terms of the application of this at the earliest opportunity in order to support the early and effective assessment of and potential implications that may arise.

Police Scotland are aware that the amended Bill presents a number of restrictions and we are keen to collaborate with the Scottish Government to confirm their expectations during the application of legislation that does not originate from the Scottish Parliament (e.g. Misuse of Drugs Act 1971, Public Order Act 1986 and Road Traffic Act 1988).

Children's Rights Impact Assessments (CRIA)

Police Scotland continues to work towards the identification of a process to support the application of the UNCRC into its Standard Operating Procedures and National Guidance documents. We are currently in the process of establishing an appropriate forum to gather and understand feedback on the identified two options to support the implementation process.

1. The development of a bespoke Police Scotland Childs Rights Impact Assessment which would be applied prior to the implementation of the amended Bill.
2. The incorporation of the impact assessments into the existing Equalities and Human Rights Impact Assessment process.

The timeframes outlined for the implementation of the amended Bill present Police Scotland with significant concerns if full compliance is expected to be put in place for the 'go-live' date.

Article 37 Requirements

Currently, an arrested child must be taken to a Police Station, leaving no alternative to children attending current police custody facilities.

UNCRC states under Article 37;

'Best interests does not mean for the convenience of the States parties. States parties should establish separate facilities for children deprived of their liberty, which include distinct, child-centred staff, personnel, policies and practices.'

Police Scotland acknowledges that the current Police Scotland custody estate cannot facilitate this and are aware that the issue will be further compounded by the legal requirement in to execute certain legislative requirements within a police station.

The amended Bill is not specific in its reference as to whether this will should apply to the existing custody estate post implementation or if it is applicable only to future estates projects. In the interim Police Scotland commits to ensuring that children will not be placed within a police cell with another adult or child. They will also be separated from adults as best as practically possible when being processed through police custody. This will continue to be a focus for the future estates strategy relating to police buildings and custody suites.

Youth Participation

Police Scotland continue to work and engage with children and young people. And are exploring a number of options to engage with children and young people from a large cross section of Scottish society.

The Scottish Government's Framework for Youth Participation is commended in this regard and it is the aspiration of Police Scotland to build a similar foundation.

Given the current financial constraints and with an already established Framework being held by the Scottish Government, Police Scotland would like to explore the possibility of gaining access to this established system to support the provision of the best possible service to children and young people.

Financial Implications

The financial implications of the amended Bill remain undetermined for Police Scotland.

A legal review of custody processes under UNCRC has yet to be undertaken and as such the financial implications remain unknown but should be included as a consideration for the purpose of implementation of the amended Bill.

In working through Police Scotland's processes and procedures, there will undoubtedly be areas which require significant financial investment to ensure they are compliant. These financial costs cannot be determined until they are fully assessed, which will result in the full financial impact of the amended Bill to remain unknown at this time.

Conclusion

Police Scotland acknowledge that there are challenges associated with the implementation of the amended Bill, however it is committed to work with the Scottish Government and key partners to comply with the requirements of the amended Bill.