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Convener  
Equalities, Human Rights and Civil Justice Committee

*Via email: [ehrcj.committee@parliament.scot](mailto:ehrcj.committee@parliament.scot)*

14th October 2025  
Our reference: SHRC202566

Dear Convener,

## **Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill 2025**

I write further to the oral evidence session held by the Equality, Human Rights and Civil Justice Committee on 30th September 2025 in respect of the Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill 2025 ("the Bill"). The Scottish Human Rights Commission ("SHRC") is grateful to the Committee for considering our concerns about the Bill and we wish to be as constructive as possible. For that reason, I am writing to highlight to the Committee three key considerations, which reflect what SHRC believes is needed to (i) ensure compliance with Scotland's human rights obligations and (ii) ensure that UNCRC incorporation can achieve its full potential to protect and advance children's rights in Scotland.

### Consideration 1

Part 1 in its current form does not achieve compliance with the UNCRC. We are mindful that there is not only one way to guarantee a child's right to freedom of religion within the school curriculum. However, the current proposal would maintain religious observance as a mandatory part of the curriculum subject to parental withdrawal. As a result, we suggest an amendment should be made to Part 1 to also provide children with a right to withdraw from religious observance in schools, as recommended by the UN Committee on the Rights of the Child.

### Consideration 2

Part 1 is not in scope of the compatibility duty in the UNCRC (Incorporation) (Scotland) Act 2024 ("UNCRC Incorporation Act"). This is because it would amend the Education (Scotland) Act 1980, which is out of scope of the UNCRC Incorporation Act, rather than creating standalone legislative provisions. This makes it significantly more difficult for a child to hold their school accountable if it breaches the child's UNCRC rights when carrying out the functions set out in Part 1. We therefore suggest that the process set out in Part 1 (as amended per consideration 1) should be brought in scope of the compatibility duty in the UNCRC Incorporation Act. We recommend that the Committee considers carefully whether this can genuinely be achieved within the confines of the current Bill.

### Consideration 3

Part 2 would unnecessarily weaken the protection for children's rights currently provided by the UNCRC Incorporation Act by adding another carve out to the compatibility duty. It is our view that Part 2 should not proceed. If the Committee is nonetheless inclined to recommend support for its principles, we believe it is essential that amendments are made to ensure greater transparency and accountability around potential conflicting obligations. For example, we suggest there should, as a minimum, be a statutory requirement for (i) the Scottish Government to regularly publish notifications from public authorities of any legislation which they consider to be potentially incompatible with the UNCRC and (ii) the Scottish Government to publish what action it will take in response and by when (or, where no action will be taken, an explanation for why the Scottish Government does not consider an incompatibility to exist).

Finally, we welcomed your letter to the Cabinet Secretary on the 8th October 2025 requesting further views on the Bill and the concerns which have been raised by various stakeholders. I would be interested to see a copy of the Cabinet Secretary's response once this is available.

Yours sincerely,

**Professor Angela O'Hagan**  
**Chair, Scottish Human Rights Commission**