

# North Lanarkshire Council Report

## Policy and Strategy Committee

Does this report require to be approved?  Yes  No

Ref AG/REB

Date 19/03/26

## Embedding the United Nations Convention on the Rights of the Child (UNCRC) and Realising Children's Rights in North Lanarkshire

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### Executive Summary

This report seeks Committee approval for the adoption of a clear and proportionate “best practice” policy approach to the incorporation of the United Nations Convention on the Rights of the Child (UNCRC) within North Lanarkshire Council.

The report builds on previous reports to the Education, Children and Families Committee which set out the Council's ongoing activity to support and strengthen the realisation of children's rights, alongside detailed consideration of the legislative framework introduced by the UNCRC (Incorporation) (Scotland) Act 2024, which came into force on 16 July 2024. As previously reported, North Lanarkshire Council has a long-established commitment to children's rights, with rights-based principles already embedded across strategic priorities, action plans, professional standards, and service delivery. Since commencement of the 2024 Act, internal governance, systems, and processes have been further strengthened to support compliance with statutory duties and associated guidance.

A strong and consistent children's rights-based approach is fundamental to the Council's ambition to *support all children and young people to realise their full potential* and is integral to the Resilient People Programme of Work that underpins the Plan for North Lanarkshire. The report recognises, however, that the final form of the 2024 Act creates a complex and, in some areas, inconsistent legal framework. This necessitates a clear policy position that supports the realisation of children's rights while managing legal risk and ensuring the Council retains the ability to take proportionate and appropriate decisions.

### Recommendations

It is recommended that the Policy and Strategy Committee:

- (1) Endorse the content of this report, including the analysis of the legislative framework established by the UNCRC (Incorporation) (Scotland) Act 2024, the associated legal considerations, and the Council's existing and ongoing work to support the realisation of children's rights; and

- (2) Approve the adoption of the following policy position in relation to the incorporation of the UNCRC within North Lanarkshire Council:

**Policy on Children’s Rights and the UNCRC**

*North Lanarkshire Council will apply a children’s rights-based approach across the organisation and will, so far as possible, act in a way which is compatible with the United Nations Convention on the Rights of the Child in the performance of all of its functions, notwithstanding the legislative source of those functions.*

*In doing so, the Council will seek to promote, respect, protect, and fulfil children’s rights, while ensuring that decisions are lawful, proportionate, and financially sustainable, and that the Council retains the ability to take appropriate decisions where competing statutory duties or resource constraints apply.*

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**The Plan for North Lanarkshire**

Priority	Support all children and young people to realise their full potential
Ambition statement	(7) Enhance collaborative working to maximise support and ensure all our children and young people are included, supported, and safe
Programme of Work	Resilient People

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**1. Background**

- 1.1 The United Nations Convention on the Rights of the Child (UNCRC) was ratified by the UK in 1991. As an international treaty, the UNCRC does not automatically have direct applicability in Scots law. The UNCRC (Incorporation) (Scotland) Act 2024 was enacted in order to change that. The 2024 Act had a lengthy journey through Parliament following a Supreme Court challenge by the UK government. As a result of this challenge, the final Act is therefore weakened from the original intention behind the legislation.
- 1.2 The compromise position taken by Scottish Government in response to the Supreme Court challenge was to only require public authorities to comply with the UNCRC in respect of functions which originate from Scottish Acts of Parliament or from the common law. Whilst this was viewed as the solution which would provide the greatest clarity for the public and authorities, the reality is much more complex and is far from clear.

**Duties under the Act**

- 1.3 The Council delivers a huge range of functions to the public, all of which will stem from a statutory function. The statutory landscape for Councils is already complex. Some functions come from UK Acts, some from Scottish Parliament Acts and another set of functions which stem from a UK Act which has been later amended by a Scottish Act. Further functions stem from Regulations and the legal basis for the Scottish Parliament making those could come from a UK Act or a Scottish Act. Most Council functions relate to areas which are devolved to the Scottish Parliament.
- 1.4 The Act therefore requires the Council to act compatibly with UNCRC in relation to some functions and not others. In relation to core services delivered to children and young people there are very significant anomalies which make the legal position

extremely confusing for staff but also for children and parents. A summary of the key areas where the UNCRC does and does not apply are set out in Appendix 1.

- 1.5 The duty to act compatibly applies to key partners such as Police Scotland, NHS Boards and the Integration Joint Board, but again only in relation to functions derived from Acts of the Scottish Parliament or the common law. As an example, most NHS functions come from a UK Act so the duty to comply with the UNCRC will not apply to significant aspects of their work.
- 1.6 The duty to act compatibly also applies to any organisation carrying out “functions of a public nature”. This expressly includes contractors. This means that where services are commissioned through contract or service level agreement, those organisations will have a separate, standalone duty to act compatibly with UNCRC, but only if the function being fulfilled in entering into that arrangement comes from an Act of the Scottish Parliament.
- 1.7 The Act creates new reporting duties which will replace the previous duty to report contained in the Children and Young People (Scotland) Act 2014. Detailed guidance to support the reporting requirements has been published by the Scottish Government and is at Appendix 4. The Council’s report and plan will be prepared in accordance with this guidance over the coming months for publication in summer 2026.

### **Impact of the Act**

- 1.8 Statutory Guidance on the UNCRC Incorporation (Scotland) Act 2024 has been issued by the Scottish Government and is at Appendix 3. This guidance is high level and, in practice, may require further interpretation and support to assist services in understanding how it applies within their specific operational contexts. The Scottish Government has indicated that it does not intend to produce sector-specific guidance to support organisations and services in understanding how the Act applies within particular operational areas, nor separate guidance for contractors or third-party providers. As a result, local authorities will have a significant role in determining how best to implement the legislation within their own organisational and service contexts, taking account of the legal framework established by the Incorporation Act.

### **Implementation Work**

- 1.9 Substantial work has already been undertaken by the Council since implementation of the UNCRC and understanding the Council’s duties under the 2024 Act. This includes the establishment of a Steering Group and a wider Stakeholder Group with a focus on realising rights and not just legislative compliance.
- 1.10 The Steering Group was established in early 2024, working through a framework with 11 headings to assess the position of North Lanarkshire Council and the key actions required to fully embed a children’s rights based approach. The 11 areas became the headings in a forward plan, identifying new, established and future areas of work. This summary is set out in Appendix 2 to this Report. Key achievements to date include:-
  - 1.10.1 Awareness raising with staff, elected members, children, young people and families.
  - 1.10.2 Initial training offer through LearnNL, promoting a national module.

- 1.10.3 Work with staff and young people on where rights are at risk that will be presented in a series of podcasts.
  - 1.10.4 Promotions of the process for child friendly complaints including guidance, supporting paperwork and the development of a training module.
  - 1.10.5 Ongoing work with Rights Respecting Schools to achieve the target of 100% of schools engaged and accredited. In August 2025; 148 of 154 schools have accreditation, reaching 91% of the 48,112 pupils in North Lanarkshire.
  - 1.10.6 Participation in the Improvement Service Budget Action Enquiry, bringing six local authorities together to explore opportunities for child friendly budgeting.
  - 1.10.7 A two-part audit of reports in the 4<sup>th</sup> Committee Cycle of 2024-25 in order to assess if Children's Rights and Wellbeing Impact Assessments were being applied appropriately and the quality of the reports that were undertaken.
- 1.11 Further to agreement by the Corporate Management Team and the endorsement given by Education, Children and Families in May 2023, Children's Rights and Wellbeing Impact Assessments (CRWIAs) were introduced into the Council's standard reporting framework and are, where relevant, highlighted in the impact section of committee reports. Whilst the use of CRWIAs is not itself a statutory requirement, adoption of this tool supports the Council to meet its obligations in this area and also serves to promote awareness and ownership of children's rights across all Council services, recognising that duties in this area sit with the Council as a whole and not solely with Children's Services.

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## **2. Report**

### **Implementation of United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 in North Lanarkshire**

- 2.1 As enacted, the 2024 Act provides that:
- 2.1.1 Public authorities must not, in carrying out relevant functions, act incompatibly with the UNCRC requirements as set out in the Act;
  - 2.1.2 Children, young people and their representatives will be able to use the courts in certain circumstances to ensure their rights are recognised;
  - 2.1.3 Legislation originating from the Scottish Parliament will have to be read in a way which is compatible with UNCRC requirements wherever possible;
  - 2.1.4 There are remedial powers which would enable incompatibilities or potential incompatibilities, to be remedied as considered necessary by the Scottish Ministers;
  - 2.1.5 The Children and Young People's Commissioner Scotland and Scottish Human Rights Commission will have powers to take legal action to protect children's rights;
  - 2.1.6 The Scottish Government will publish a Children's Rights Scheme and review this annually; and

- 2.1.7 Public authorities listed in the Act will report every three years and Scottish Parliament will report annually on the actions taken and planned, to secure, better or further the rights of children.
- 2.2 The question of what constitutes a relevant function which requires the Council to act compatibly with the UNCRC is a key consideration. The complex legal framework created by the Act creates uncertainty for Council staff and those who provide services on behalf of the Council. Decisions need to be made about how to tackle that complexity and manage the practical implementation of the Act. One option is for the Council to undertake to incorporate all aspects of the UNCRC as a matter of policy, whether required to by legislation or not.
- 2.3 While attractive in principle, such an approach carries significant legal and financial risks. It would expose the Council to legal challenge in areas where no statutory duty exists. Budget-setting is a key example: this function derives from the Local Government (Scotland) Act 1973 (UK legislation) and is therefore outside the scope of the Act. Voluntarily extending UNCRC compliance to such functions would significantly increase litigation risk at a time of acute financial pressure.
- 2.4 Given these considerations, and as previously reported to the Education, Children and Families Committee on 10 September 2024, the Council sought advice from King's Counsel specialising in children's rights law. The proposed policy position reflects that advice.
- 2.5 It is therefore proposed that the following policy is formally adopted:
- 2.5.1 North Lanarkshire Council will apply a children's rights approach and will, so far as possible, act in way which is compatible with the UNCRC in the performance of all of its functions notwithstanding the nature of the source legislative provision.
- 2.5.2 In doing so, the Council will seek to promote, respect, protect, and fulfil children's rights, while ensuring that decisions are lawful, proportionate, and financially sustainable, and that the Council retains the ability to take appropriate decisions where competing statutory duties or resource constraints apply.
- 2.6 This approach enables the Council to promote and strengthen the realisation of children's rights while retaining the ability to defend unnecessary or inappropriate legal challenge. By acting "so far as possible," the Council aligns with the spirit and purpose of the legislation without undermining its ability to take lawful, proportionate, and financially sustainable decisions.

### **Next Steps**

- 2.7 A number of next steps have been identified, which Committee is asked to acknowledge:
- Continued engagement with Services to support understanding of legal duties;
  - Ongoing delivery of the Steering Group action plan;
  - Briefings for elected members; and
  - Further awareness-raising for all staff.

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### **3. Measures of success**

3.1 Success will be demonstrated through:

- Increased awareness and understanding of children's rights across the Council;
- Proportionate compliance with UNCRC requirements where applicable;
- Organisational readiness to meet legal duties under the 2024 Act;
- Increased and improved use of CRWIAs; and
- Positive internal and external feedback, including from children and young people, evidencing progress in realising children's rights.

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#### 4. Supporting documentation

4.1 Appendix 1 Key functions table


4.2 Appendix 2 UNCRC Steering Group Action Plan

4.3 Appendix 3 Statutory guidance on Part 2 of the UNCRC (Incorporation) (Scotland) Act 2024

<https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2024/02/statutory-guidance-part-2-uncrc-incorporation-scotland-act-2024/documents/statutory-guidance-part-2-uncrc-incorporation-scotland-act-2024/statutory-guidance-part-2-uncrc-incorporation-scotland-act-2024/govscot%3Adocument/statutory-guidance-part-2-uncrc-incorporation-scotland-act-2024.pdf>

4.4 Appendix 4 Statutory guidance on Part 3 of the UNCRC (Incorporation) (Scotland) Act 2024

<https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2024/02/statutory-guidance-part-3-uncrc-incorporation-scotland-act-2024/documents/statutory-guidance-part-3-uncrc-incorporation-scotland-act-2024/statutory-guidance-part-3-uncrc-incorporation-scotland-act-2024/govscot%3Adocument/statutory-guidance-part-3-uncrc-incorporation-scotland-act-2024.pdf>



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**5. Impacts**

<p><b>5.1 Public Sector Equality Duty and Fairer Scotland Duty</b> Does the report contain information that has an impact as a result of the Public Sector Equality Duty and/or Fairer Scotland Duty? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Yes, please provide a brief summary of the impact?</p> <p>The report has a positive impact in relation to the Public Sector Equality Duty and the Fairer Scotland Duty. It promotes a children’s rights-based approach across the Council, supporting equality of opportunity, non-discrimination, and the inclusion of children and young people, particularly those who may experience disadvantage. The proposed policy position strengthens consideration of children’s rights in decision-making and service delivery, supporting fairer outcomes and alignment with the Council’s wider equality and inclusion objectives. Use of Children’s Rights and Wellbeing Impact Assessments (CRWIAs) further supports systematic consideration of impacts on children and young people.</p> <p>If Yes, has an assessment been carried out and published on the council’s website? <a href="https://www.northlanarkshire.gov.uk/your-community/equalities/equality-and-fairer-scotland-duty-impact-assessments">https://www.northlanarkshire.gov.uk/your-community/equalities/equality-and-fairer-scotland-duty-impact-assessments</a> TO FOLLOW Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p><b>5.2 Financial impact</b> Does the report contain any financial impacts? Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> If Yes, have all relevant financial impacts been discussed and agreed with Finance? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Yes, please provide a brief summary of the impact?</p> <p>The report does not propose new or specific financial commitments. However, it recognises the potential financial implications associated with the implementation of the UNCRC (Incorporation) (Scotland) Act 2024, particularly the risk of increased litigation or resource pressures if UNCRC duties were extended beyond statutory requirements. The proposed policy position is intended to manage and mitigate financial risk by ensuring that decisions remain lawful, proportionate, and financially sustainable, particularly in areas such as budget-setting where no statutory UNCRC duty applies.</p>
<p><b>5.3 HR policy impact</b> Does the report contain any HR policy or procedure impacts? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If Yes, have all relevant HR impacts been discussed and agreed with People Resources? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please provide a brief summary of the impact?</p>

<p><b>5.4 Legal impact</b></p> <p>Does the report contain any legal impacts (such as general legal matters, statutory considerations (including employment law considerations), or new legislation)?  Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>If Yes, have all relevant legal impacts been discussed and agreed with Legal and Democratic?  Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>If Yes, please provide a brief summary of the impact?</p> <p>The report has significant legal implications arising from the UNCRC (Incorporation) (Scotland) Act 2024. It sets out the complex statutory framework created by the Act, including the distinction between functions derived from Scottish and UK legislation, and the associated duties on the Council. The proposed policy position reflects legal advice and is designed to support compliance with statutory duties while managing legal risk, maintaining appropriate decision-making, and avoiding unnecessary exposure to legal challenge in areas where no statutory UNCRC duty applies.</p>
<p><b>5.5 Data protection impact</b></p> <p>Does the report / project / practice contain or involve the processing of personal data?  Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>If Yes, is the processing of this personal data likely to result in a high risk to the data subject?  Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If Yes, has a Data Protection Impact Assessment (DPIA) been carried out and e-mailed to <a href="mailto:dataprotection@northlan.gov.uk">dataprotection@northlan.gov.uk</a>  Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p><b>5.6 Technology / Digital impact</b></p> <p>Does the report contain information that has an impact on either technology, digital transformation, service redesign / business change processes, data management, or connectivity / broadband / Wi-Fi?  Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>If Yes, please provide a brief summary of the impact?</p> <p>Where the impact identifies a requirement for significant technology change, has an assessment been carried out (or is scheduled to be carried out) by the Enterprise Architecture Governance Group (EAGG)?  Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p><b>5.7 Environmental / Carbon impact</b></p> <p>Does the report / project / practice contain information that has an impact on any environmental or carbon matters?  Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>If Yes, please provide a brief summary of the impact?</p>
<p><b>5.8 Communications impact</b></p> <p>Does the report contain any information that has an impact on the council's communications activities?  Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>If Yes, please provide a brief summary of the impact?</p> <p>No direct impacts with respect to this report however where relevant specific strands of work eg the Make it Right Campaign have been supported.</p>

<p><b>5.9 Risk impact</b>          Is there a risk impact?          Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>          If Yes, please provide a brief summary of the key risks and potential impacts, highlighting where the risk(s) are assessed and recorded (e.g. Corporate or Service or Project Risk Registers), and how they are managed?</p> <p>The primary risk relates to non-compliance with the United Nations Convention on the Rights of the Child (UNCRC) requirements, particularly if due regard is not consistently applied in decision-making. Potential impacts include adverse outcomes for children and young people, reputational damage, and increased scrutiny from regulators or oversight bodies.</p> <p>These risks are assessed and recorded within the relevant Service Risk Register and are managed through established governance arrangements, including officer review, impact assessment processes, staff awareness and training, and ongoing monitoring to ensure compliance with UNCRC duties.</p>
<p><b>5.10 Armed Forces Covenant Duty</b>          Does the report require to take due regard of the Armed Forces Covenant Duty (i.e. does it relate to healthcare, housing, or education services for in-Service or ex-Service personnel, or their families, or widow(er)s)?          Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>          If Yes, please provide a brief summary of the provision which has been made to ensure there has been appropriate consideration of the particular needs of the Armed Forces community to make sure that they do not face disadvantage compared to other citizens in the provision of public services.</p>
<p><b>5.11 Children's rights and wellbeing impact</b>          Does the report contain any information regarding any council activity, service delivery, policy, or plan that has an impact on children and young people up to the age of 18, or on a specific group of these?          Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>          If Yes, please provide a brief summary of the impact and the provision that has been made to ensure there has been appropriate consideration of the relevant Articles from the United Nations Convention on the Rights of the Child (UNCRC).</p> <p>This report is designed to support the realisation of all areas of Children's Rights in North Lanarkshire by formally adopting as policy that the Council will apply a children's rights approach and will, so far as possible, act in way which is compatible with the UNCRC.</p> <p>If Yes, has a Children's Rights and Wellbeing Impact Assessment (CRWIA) been carried out? TO FOLLOW          Yes <input type="checkbox"/> No <input type="checkbox"/></p>

**Appendix 1**  
**Key Functions Table**

<b>Function</b>	<b>Compatibility Duty</b>
<b>Education</b>	
Duty to provide education	X
Curriculum	√
Additional Support Needs	√
Exclusion	X
Attendance	X
Transport	X (but possibly√ for ASN)
<b>Children's Social Work</b>	
Services to children in need/children with disability	x
Young carer support	√
Voluntary Accommodation for children	x
Duties to Looked After Children	x
Duty to plan and review for looked after children	√
Fostering Service	√ (but not Private Fostering)
Emergency Protection	√
Children's Hearings – referrals and supervision; secure accommodation	√
Permanence and Adoption	√
Throughcare and aftercare	X and √
<b>Culture</b>	
Libraries and Museums	X
Arts/theatres	X
<b>Greenspace</b>	
Parks and play areas	X
<b>Housing</b>	
Homelessness	X and √
Allocations	X
Repossession	√
<b>Transport</b>	
Partnerships, policy, ticketing arrangements	√

**Appendix 2**  
**UNCRC Steering Group**  
**Action Plan 2024-26**

Areas of work and priorities work

**Priority 1 – Active/new area**

**Priority 2- progressing/established/ ongoing**

**Priority 3-future area of**

1. Leadership	Leadership staff and elected members	CRWIA	Planning, evaluation and reporting		
2. Participation of children and young people	Youth participation structures	Policy, practice and decision making	Approaches and methods- Council	Approaches and methods- Community planning	Feedback
3. Empowerment of children and young people	Advocacy contract	Rights Respecting Schools	Parents/carers	GIRFEC	
4. Child friendly complaints	Child friendly complaints process	Prevention and resolve	Improvement, learning and networks		
5. Training and awareness raising	Staff, children, young people, families and communities	Awareness raising	Training and learning		
6. Improving practice, tools, resources	Equalities and EQIA	Policy and strategy	Procurement	Links and networks	
7. Publishing child friendly and easy read information	Feedback on services and supports	Child friendly/easy read information	Capacity		
8. Measuring progress					
9. Children's rights budgeting	Service design and procurement	Budget allocation- schools establishments	Budget allocation- Community planning	CR Budgeting action enquiry	
10. Accountability and reporting on children's rights	Planning	Reporting			

11. Non discrimination and rights at risk	Equalities policy and practice	Information and awareness	Access to support Programmes of work	Access to support Rights at Risk	
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