



Child Rights & the Sustainable Development Goals: “Sustainable and resilient recovery from the COVID-19 pandemic”

Children and Young People’s Commissioner Scotland, December 2020

The Covid-19 pandemic continues to affect children’s wellbeing, their rights under the UN Convention on the Rights of the Child and the implementation of the 2030 Agenda for Sustainable Development in Scotland. The information in this submission is primarily informed by our Independent Child Rights Impact Assessment on the response to Covid-19.¹

Goal 1: No Poverty

An estimated 230,000 children per year lived in relative poverty after housing costs in 2016-19.² The pandemic and government responses have significant immediate and long-term impacts for children, with numbers of families in poverty predicted to increase.³ Scottish Government is not on target to meet its poverty reduction targets.⁴

The pandemic has demonstrated it is possible to fund poverty alleviation measures quickly. UK Government initiatives to lessen the pandemic’s impact include the Job Retention Scheme⁵ and social security changes.⁶ In December 2020, the Scottish Government announced £100 million additional funding for low-income families through a winter support fund.⁷

With the rapid shift to online learning, concern about digital poverty has heightened. Many children have limited or no access to information technology, limited devices for concurrent use by multiple family members, low bandwidth internet or no internet access. The educational attainment gap is likely to widen. The Scottish Government provided more money for digital access but there is limited data to show whether need has been met.⁸

Goal 2: Zero Hunger

Food insecurity worsened due to the pandemic. Prior to Covid-19, an estimated 1.9 million children experienced food insecurity across the UK, primarily due to low income, benefit delays and benefit changes.⁹ To-date, there is no comprehensive data on the number of children affected by food insecurity in the wake of the pandemic.

There was no standard approach to free school meals across local authorities during the pandemic. Whilst alternatives were provided via meal replacements, cash replacements, or food vouchers,

¹ Independent Children’s Rights Impact Assessment on the Response to Covid-19 in Scotland (July 2020) <https://cypcs.org.uk/wp-content/uploads/2020/07/independent-cria.pdf>

² Poverty & Income Inequality in Scotland: 2016-19. Scottish Government (26 March 2020) <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2020/03/poverty-income-inequality-scotland-2016-19/documents/poverty-income-inequality-scotland-2016-19/poverty-income-inequality-scotland-2016-19/govscot%3Adocument/poverty-income-inequality-scotland-2016-19.pdf?forceDownload=true>

³ Treanor., M.C. (2020) How COVID-19 crisis measures reveal the conflation between poverty and adversity <https://www.eupublishing.com/doi/full/10.3366/scot.2020.0338>

⁴ Joseph Rowntree Foundation (2020) Poverty in Scotland 2020: The independent annual report. <https://www.jrf.org.uk/file/56631/download?token=6EW9zhhr&filetype=briefing>

⁵ The Coronavirus Job Retention Scheme allows employers to put staff on temporary leave—or furlough—during the lockdown measures at 80% of their income. It is in place until 31 March 2021. <https://www.gov.uk/government/publications/extension-to-the-coronavirus-job-retention-scheme/extension-of-the-coronavirus-job-retention-scheme>

⁶ IPPR (2020) Estimating Poverty Impacts of Coronavirus: Microsimulation Estimates <https://www.ippr.org/research/publications/estimating-poverty-impacts-of-coronavirus>

⁷ Scottish Government, Winter support fund for families and children, <https://www.gov.scot/news/winter-support-fund-for-families-and-children/#:~:text=%C2%A3100m%20package%20will,new%20%C2%A3100m%20support%20package>

⁸ Scottish Government (published 13 September 2020) <https://www.gov.scot/news/help-to-get-online/>

⁹ Sosenko, F et al (2019) State of Hunger: a study of poverty and food insecurity in the UK, online: The Trussell Trust; Food Foundation, “Children’s Future Food Inquiry,” (April 2019) <https://foodfoundation.lcdv.co.uk/wp-content/uploads/2019/04/Childrens-Future-Food-Inquiry-report.pdf>

their delivery was inconsistent, particularly the availability of direct payments. Take-up by parents increased if provision was via a cash payment. The value of substitution varied across local authorities (from £10-£20 per week).¹⁰ Furthermore, the Good Food Nation Bill¹¹ has been postponed and will not be tabled before the end of the Scottish parliamentary term in May 2021.

Goal 3: Good Health and Wellbeing

Child health in Scotland is amongst the poorest in Western Europe.¹² Children's physical and mental health have been severely affected by the pandemic. The impact of the pressures on the National Health Service and restricted face-to-face contact on children's healthcare is concerning. Access to urgent medical care and paediatric care dropped. There is also a lack of available, accessible information for children. Access to services for children with ongoing health conditions or disabilities were restricted and continue to be affected. The government must guarantee safe levels of paediatric care, including routine vaccinations, medical appointments, sexual health services, procedures, and assessments during crises.¹³

The pandemic will have long-term impacts on children's mental health. In a survey of over 6,000 young people in Scotland conducted between September to November 2020, (38%) disagreed that they felt good about their mental health and wellbeing.¹⁴ Children have reported increased stress and mental ill-health; access to support is insufficient to meet demand.

Children accessing mental health services pre-pandemic, and subsequently, have reported a difference in service delivery with many areas only providing mental health support online or by phone. Barriers to mental health support include limited or no access to a private space to discuss mental health, a lack of knowledge of where to access advice, or an inability to access mental health support and information as it is primarily online.

Measures applied due to the pandemic exacerbated barriers to children's right to play, affecting their development, health and wellbeing. Children without a private space for play were particularly disadvantaged. A lack of outdoor access and the closure of sports and recreational facilities due to lockdown restrictions resulted in fewer opportunities for exercise. Early Learning and Childcare was limited, reducing pre-school children's access to space, time, and support for play activity. Children also experienced restrictions on their social interactions, such as time spent with their friends and in-person contact due to physical distancing.

Goal 10: Reduced Inequalities

The pandemic has widened and further entrenched inequalities, particularly for children in vulnerable situations. During the pandemic, state responses have shifted from early intervention towards crisis management.¹⁵ This is due to decisions about use of available resources, challenges around direct access to families and an increase in demand for support. The impact will disproportionately affect children living in poverty, those who live with one parent, children on the move, children in secure care, disabled children, Gypsy/Traveller children, and young carers, among others. These children are often at increased risk of poverty, fuel poverty, and food insecurity, and have limited or no access to necessary services and support systems.

¹⁰ Lambie-Mumford, H (August 2020) Mapping responses to risk of rising food insecurity during the Covid-19 crisis across the UK. Sheffield: SPERI, <http://speri.dept.shef.ac.uk/wp-content/uploads/2020/08/Food-Vulnerability-During-COVID-19-first-project-report.pdf>

¹¹ Scottish Government, Good Food Nations Policy, <https://www.gov.scot/policies/food-and-drink/good-food-nation/>

¹² Royal College of Paediatrics and Child Health (RCPCH) (2020) State of Child Health <https://stateofchildhealth.rcpch.ac.uk/evidence/at-a-glance/>

¹³ RCPCH (2020) survey: <https://www.rcpch.ac.uk/resources/impact-covid-19-child-health-services-tool-results>

¹⁴ Young Scot (Nov 2020) Lockdown Lowdown

<https://static1.squarespace.com/static/5cee5bd0687a1500015b5a9f/t/5fce4b42d336b863f0f0c787/1607355209528/Dec2020-LockdownLowdown-V2-Survey-Final+%282%29.pdf>

¹⁵ Independent Children's Rights Impact Assessment on the Response to Covid-19 in Scotland (July 2020) <https://cypcs.org.uk/wpcypps/wp-content/uploads/2020/07/independent-cria.pdf>

Disabled children face significant barriers to services, including access to additional learning support and reasonable adjustments. While schools and early years centres and services were closed, individualised teaching and therapeutic support were not provided. Return to school has not been experienced equally by all children.

Local authorities were advised to ensure that hub schools were available for vulnerable children and children of key workers during lockdown, but there was no standard approach. Very low numbers attended school hubs.

Gypsy/Traveller children face additional risks, as their accommodation makes it difficult to limit virus spread, comply with physical distancing, and self-isolate, and public toilet and washing facilities closed during lockdown and may not have re-opened.

Goal 13: Climate Action

Biodiversity loss and environmental degradation, particularly air pollution, affect children's health. The lockdown led to less air pollution and traffic. Ensuring a healthy environment protects children's health and wellbeing.¹⁶ Transport is a dominant cause of air pollution in Scotland. Car engines often remain on when children are dropped off or picked up at school or nursery, significantly increasing their exposure. The Scottish Government's forthcoming climate change plan must focus on transformation of transport, particularly clean public transport, cycling, walking and low emission zones. The pandemic itself threatens a healthy environment and the realisation of children's rights. Use of public transport has been discouraged to limit the spread of Covid-19, behaviour change will be needed during the recovery phase.

Goal 16: Peace, Justice and Strong Institutions

Violence against Children

Lockdown restrictions exposed some children to an increased risk of child abuse and domestic violence, both at home and online. Guidance allowed people at risk of violence to leave home for safety reasons during lockdown. However, it did not contain specific safety planning for children or information on how to seek help. The closure of schools and other sports, recreational and community centres or groups resulted in the closure of alternative support channels for children experiencing or at risk of violence. Child contact centres also closed. These are places where adults may notice and report safeguarding concerns. Some remain closed due to physical distancing rules.

Face-to-face support for children experiencing or witnessing violence shifted to phone and online services. However, these are not always accessible due to privacy and safety concerns. Helpline use rose during the lockdown, but child wellbeing and protection-related referrals and referrals to the Children's Hearings System¹⁷ did not.

Court proceedings have faced delays and Children's Hearings have been held virtually. However, it is not always private, safe, or appropriate to participate from home, children may find it difficult to give an accurate account of their views and feelings within a virtual setting, and barriers to participation exist for the digitally-excluded.

Children and the Justice System

In some areas of Scots law, a 'child' is defined as someone under 16. Under the UK-wide Coronavirus Act 2020,¹⁸ 16- and 17-year-old children in Scotland are at risk of being charged,

¹⁶ UN Human Rights Council, Annual Day Rights of the Child, (July 1, 2020) <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26024&LangID=E>

¹⁷ The welfare-based Children's Hearings System makes decisions for children who require compulsory measures of supervision, care and protection, including those who are accused of having committed an offence.

¹⁸ Coronavirus Act 2020, <https://www.legislation.gov.uk/ukpga/2020/7/enacted>

arrested, detained and convicted of criminal offences and can also be liable for up to one year's imprisonment.

Emergency coronavirus legislation has extended the duration of court proceedings. Emergency coronavirus legislation has also extended how long children may be kept in secure care or in Young Offenders' Institutions (YOIs), contravening the principle that deprivation of liberty should only ever be applied as a last resort and for the shortest time possible.

Despite clear guidance to the contrary,¹⁹ children were not prioritised for release from custody. No individualised assessments for children in detention were undertaken to ensure the correct balance between rights and public safety, and no consideration at all was given to releasing children detained on remand.²⁰

Children deprived of their liberty in residential care, mental health wards, and YOIs experienced significant reductions in access to education and recreation. They also experienced an extended period without face-to-face contact with their families, social workers, or lawyers. As digital access is not systematically available, family and professional contact has also been restricted online.

Challenges

Several challenges persist resulting from the pandemic and government responses. The response to the pandemic required the urgent introduction of emergency legislation including: the Coronavirus Act 2020; the Coronavirus (Scotland) Act 2020 and the Coronavirus (Scotland) (No 2) Act 2020. Whilst these were necessary, they had considerable impact on children and young people's rights. The pandemic has demonstrated the need for a structured process, where Child Rights Impact Assessments (CRIA) are conducted as a matter of course, as government responses often overlooked children's rights. Several decisions affecting children were taken without a published CRIA, including school closures and restrictions on family contact and play. Furthermore, the pandemic has revealed significant and concerning data gaps, making it challenging to assess the impact of the pandemic and State responses on children.

Engagement with and participation of children was lacking during the first lockdown and in ongoing government responses. This was demonstrated in government decisions to close schools, cancel examinations, and grading of performance in the absence of exam results.²¹ Children and young people's views are often not heard in complaints and appeals processes, e.g., exam appeals. For exams due in the 2020/2021 academic year, and for future crises, lessons should be learnt to minimise the impact on educational outcomes and children's mental health and ensure that future systems are clear and fair for all children. This will also ensure that the education system is more resilient.

The Scottish and UK governments have lacked focus on long-term recovery from Covid-19. The pandemic has revealed concerning inequalities, which continue to widen. Yet, government responses continue to focus on the immediate containment of the virus, to the detriment of sustainable and resilient recovery which improves the situation for and protects the rights of all children, including those in vulnerable situations. The additional complexity of Brexit²² has consumed governments future-focussed effort.

¹⁹ Committee on the Rights of the Child, "Covid-19 Statement," (April 2020)

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CRC/STA/9095&Lang=en; Alliance for Child Protection in Humanitarian Action, "Technical Note: COVID-19 and Children Deprived of their Liberty," (April 2020)

<https://www.ohchr.org/Documents/Issues/Detention/ChildrenDeprivedofLibertyandCOVID.pdf>

²⁰ Independent Children's Rights Impact Assessment on the Response to Covid-19 in Scotland (July 2020) <https://cypcs.org.uk/wp-content/uploads/2020/07/independent-cria.pdf>

²¹ Education and Skills Committee (June 2020) Evidence of the Children and Young People's Commissioner Scotland, <https://cypcs.org.uk/wp-content/uploads/2020/06/Education-and-Skills-Committee-Evidence-June-2020.pdf>

²² The process of the UK leaving the European Union.

Good Practice

- The pandemic has demonstrated it is possible to fund poverty alleviation quickly, including through time-bound policy initiatives such as protection of incomes by the Job Retention Scheme, the provision of free school meals or alternatives throughout the school holidays, and the winter support fund (£100 per family, for low-income families until payments start for the Scottish Child Payment in February 2021).
- Scottish Government recognition that closing schools presents a serious risk of harm to the wellbeing of children and young people, particularly those who are vulnerable.²³
- Children under 12 were exempt from restrictions on household gatherings and permitted to meet in larger groups.
- Emergency legislation and rapid policy changes have increased government focus on the need for effective CRIA to better understand the impact of decisions on children's rights.

Recommendations

The Scottish and UK Governments should consider the following recommendations to ensure a sustainable and resilient recovery from Covid-19 that realises children's rights and the 2030 Agenda:

- Adopt an effective, child rights-based response to the recovery from the pandemic. This response must protect and benefit those most marginalised and in vulnerable situations and include targeted, tailored responses. The best interests of the child must always be a primary consideration, and children should be consulted and actively engaged. This should include systematically conducting a CRIA when developing laws and policies affecting children.
- Ensure that the introduction of emergency legislation is lawful, necessary, proportionate and time-limited, and actively review it on an ongoing basis. These laws must be repealed or replaced as soon as they are no longer necessary.
- Ensure that the education system is prepared for emergency situations, including sufficient provision for all students to access online learning, and measures to support children's learning and assessment throughout the pandemic and future crises.
- Ensure a minimum standard for children's access to and provision of healthcare during crises, universal access to mental health services, and that children can enjoy their rights to rest, recreation and play, as benefits their physical and mental health.
- Develop a child rights approach to budgeting, which allows for transparent and equitable budget allocation for children.
- Collect high-quality, disaggregated data to understand need and measure the impact of policies.
- Amend the definition of 'a child' in all legislation to include all children under 18.
- Reduce the number of children deprived of their liberty and ensure no children are detained in the criminal justice system.
- Adopt a child-centred response to the environmental crisis, which protects and promotes health and wellbeing of individuals and of the planet.

²³ Coronavirus (COVID-19): Advisory Sub-Group on Education and Children's Issues - evidence on children, schools, early learning and childcare settings and transmission- summary report (published 18 November 2020) <https://www.gov.scot/publications/coronavirus-covid-19-evidence-on-children-schools-early-learning-and-childcare-settings-and-transmission-from-covid-19---summary-report/>