



COMHAIRLE NAN EILEAN SIAR



Children's Rights Report

2019-2022



AG OB AIR COMHLA
AIRSON NA H-EILEANAN SIAR

CONTENTS

1. Introduction
 2. What is the United Nations Convention on the Rights of the Child (UNCRC)?
 3. Background to UNCRC in Scotland
 4. The Children & Young People (Scotland) Act 2014
 5. The Children and Young People’s Commissioner Scotland
 6. UNCRC Incorporation (Scotland) Bill
 7. Role of Children and Young People
 8. The Cluster Approach
 - PART ONE - What have Comhairle nan Eilean Siar, NHS Western Isles and partners done to improve Children’s Rights in the past 3 years (2019-2022)
 - PART TWO - What would Children and Young People like to see in the Western Isles?
 9. Next Steps
 10. How will the Council, NHS Western Isles and Partners know they have made a difference?
 11. Conclusion
- Appendix 1A
- Appendix 1B
- Appendix 1C

1. INTRODUCTION

Part 1 of the Children and Young People (Scotland) Act 2014 requires Public Authorities to report, “as soon as practicable” after the end of each 3-year period, on the steps they have taken to better secure or further effect the requirements of the United Nations Convention on the Rights of the Child (UNCRC).

Using the UNCRC as the framework for reporting, the Children’s Services partnership have prepared a joint report which sets out actions implemented in the past 3 years (2019-22), and an Action Plan of the proposed measures to be taken forward in the next 3 years (2023-26) to further the rights of children living in the Western Isles. We are committed to further increasing the involvement of children and young people in preparing Child’s Rights Reports in the future, as well as having greater input into the design of our services, policies and plans.

2. WHAT IS THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (UNCRC)?

The UNCRC sets out the human rights of every person under the age of 18. It was adopted by the UN General Assembly in 1989 and is the most widely adopted international human rights treaty in history. Progress on implementation of the UNCRC is monitored by the UN Committee on the Rights of the Child.

The Convention has 54 articles that cover all aspects of a child’s life and sets out the civil, political, economic, social and cultural rights that all children everywhere are entitled to. It makes clear how adults and governments must work together to make sure all children can enjoy all their rights (See appendix 1A).

The Convention must be understood as a whole: all rights are linked, and no right is more important than any other. The right to relax and play (article 31) and the right to freedom of expression (article 13) are as important as the right to be safe from violence (article 19) and the right to education (article 28).

There are 4 Guiding Principles of the Convention, these Guiding Principles help to interpret all the other articles of the Convention and play a fundamental role in realising all the rights for all children. These four principles contribute to a general attitude towards children and their rights. They are based on the notion that children too are equal as human beings.

The affirmation of the rights to play underlines that childhood has a value in itself; these years are merely a training period for life as an adult.

How do we grant children equal value and at the same time guarantee them the necessary protection? The answer lies in the implementations of the four general principles. Together they form nothing less than a new and improved attitude toward children. They give an ethical and ideological dimension to the convention.



Article 2 states all children have the rights set out in the UNCRC, and individual children and young people should not be discriminated against when these rights are realised. This covers both direct and indirect discrimination.

Article 3 states that the interests of children and young people should be thought about at all levels of society, and that their rights should be respected by people in power. In other words, it says adults should think about the best interests of children and young people when making choices that affect them.

Article 6 recognises that all children and young people have the right to survive and the right to develop. It says that children and young people should be able to grow up in conditions that do not negatively impact on their physical and mental wellbeing.

Article 12 states that the opinions of children and young people should be considered when people make decisions about things that involve them. Their opinions should not be dismissed on the grounds of age. Children and young people's views should be taken seriously, with their evolving capacities taken into account. Children and young people should be given the information they need to make good decisions.

These lead onto the three P's of Provision, Protection and Participation and represent the underlying requirements for all rights to be realised (see table below).

Provision

Survival needs, food and nutrition, health and shelter, and education)

These are rights to the resources, skills and contributions necessary for the survival and full development of the child. They include rights to adequate food, shelter, clean water, formal education, primary health care, leisure and recreation, cultural activities, and information about their rights. This is more critical than ever due to the cost of living crisis, with families having to choose between eating and heating, never mind the ability to pay for children to attend recreational activities. These rights require not only the existence of the means to fulfil the rights but also access to them. Specific articles address the needs of child refugees, children with disabilities and children of minority or indigenous groups.

Protection

(from all forms of harm and exploitation)

These rights include protection from all forms of child abuse, neglect, exploitation and cruelty, including the right to special protection in times of war and protection from abuse in the criminal and youth justice system.

Participation

(as an active agent in their own lives and in society)

Children are entitled to the freedom to express opinions and to have a say in matters affecting their social, economic, religious, cultural and political life. This is more important than ever given the challenging financial position public bodies find themselves. Where difficult decisions must be taken in terms of efficiency savings, services that impact on children needs to be protected as much as is reasonably possible. Participation rights include the right to express opinions and be heard, the right to information and freedom of association. Engaging these rights as they mature helps children bring about the realisation of all their rights and prepares them for an active role in society. The Convention can be read in full or accessed in an alternative simplified formats prepared by the Children and Young People's Commissioner Scotland.

3. BACKGROUND TO UNCRC IN SCOTLAND

UNCRC is an international human rights treaty, which sets out the rights every child has. Scotland is in the unique position of introducing legislation that provides legal protections of these rights in Scots Law. This has been progressed through the Scottish Parliament as the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill. Importantly, calls for incorporation came from children and young people too.

Children aged 9-13 who took part in the Children's Parliament consultation sessions demonstrated a clear understanding of the key issues and expressed concerns that "Children's rights might be forgotten about". They also expressed that they felt rights and duties were important for public services including police, schools and social work. There was a clear call from children to "enforce children's rights instead of just letting it be optional to people".

4. THE CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014

Ministers have a duty to keep the UNCRC 'under consideration', to raise 'awareness and understanding' of its principles and provisions, 'take account' of views of children and local authorities must submit a report to the Scottish Parliament every three years on the changes that have been made to UNCRC implementation over the period. It also contains a duty on public bodies to report on UNCRC implementation.

The Bill became the newly named 'Children and Young People (Scotland) Act 2014' and while it fell short of incorporation, it provided a focal point for children's rights discourse. The key point of the Scottish Government's plan was to make Scotland the best place in the world for children to grow up.

5. THE CHILDREN AND YOUNG PEOPLE'S COMMISSIONER SCOTLAND

The Commissioner's powers are set out in The Commissioner for Children and Young People (Scotland) Act 2003 and amended by The Children and Young People Act 2014. Before the 2014 Act became law the Commissioner could only look into cases that involved human rights of groups of children and young people. As a result of the 2014 Act, the Commissioner can now investigate cases that affect the human rights of individual children and young people. The role of the Commissioner is as follows:

- Protects the rights for children and young people under 18 or up to 21 if in care or care experienced
- Works to ensure that laws are fair and will challenge people in authority to ensure that they have done what they have promised to do. To ensure that all children and young people grow up in an environment of happiness, love and understanding

- Helps children and young people to understand the importance of children’s rights and that children and young people can demand change if their rights or rights of others are not being respected.

6. UNCRC INCORPORATION (SCOTLAND) BILL

The UNCRC Bill was introduced in the Scottish Parliament in September 2020. Its aim was to incorporate the Convention directly into Scots law, providing the children of Scotland with a direct way of ensuring their rights are protected and enabling a proactive culture of day-to-day accountability for children’s rights. The Bill was unanimously passed by the Scottish Parliament in March 2021, but it was then referred by the UK Government to the Supreme Court because the UK Government thought that certain parts of the Bill breached devolution rules.

In October 2021 the Supreme Court issued their decision that certain aspects of the UNCRC Bill were out with the powers of the Scottish Parliament. Specifically, they ruled that four provisions fell out with the Scottish Parliament’s powers because they impacted UK bodies and UK legislation. The Scottish Government argued that the Bill needs to cover actions and legislation of the UK government that impacts devolved issues.

Following the Supreme Court decision, the Scottish Government, taking cognisance of the Supreme Courts decision, is now working to bring the UNCRC Bill within their powers so it can become law in Scotland.

7. ROLE OF CHILDREN AND YOUNG PEOPLE

Article 12 states that children have the right to express their views in all matters affecting them and to encourage adults to listen to the opinions of children and involve them in decision-making. All children and young people have the right to be involved in decisions that involve them and have the right to have their voices heard about issues affecting them, considering the child’s age and maturity. The UNCRC encourages parents, judges, social workers, childcare workers, and other adults responsible for children to consider the child’s view and to use that information to make decisions that will be in the child’s best interests. The interest of children in rights issues and the way in which parents handle these issues, will vary according to the age of the child. Helping children understand their rights does not mean pushing them to make choices with consequences they are too young to appreciate or understand. The UNCRC encourages parents to deal with rights issues with their children “... in a manner consistent with the evolving capacities of the child ...” (Article 5). The issues which are discussed, the way parents answer questions or the methods of discipline they use, will differ depending on the age of the child.

8. THE CLUSTER APPROACH

The different Articles of the UNCRC are grouped into clusters. This is the structure that is recommended for reports to the UN Committee on the Rights of the Child. There are nine clusters, which help facilitate reporting for Children’s Rights and these are detailed in the table

below. In the Western Isles we will use this cluster approach to report on Child Right's and to inform our future plans and activity.

PART ONE

What have Comhairle nan Eilean Siar, NHS Western Isles and partners done to improve Children's Rights in the past 3 years (2019-2022)?

Over the 3-year period, a number of initiatives have been undertaken which have recognised Children's Rights and so have enabled children and young people an opportunity to state their views. A full list of these initiatives is shown in Appendix 1B attached.

PART TWO

What would Children and Young People like to see in the Western Isles?

In addition to asking children and young people about their rights, we will also seek out their ideas about what they would like to see improve in their local communities. Children and young people will have a critical role in co-producing the next iteration of the Integrated Children's Services Plan.

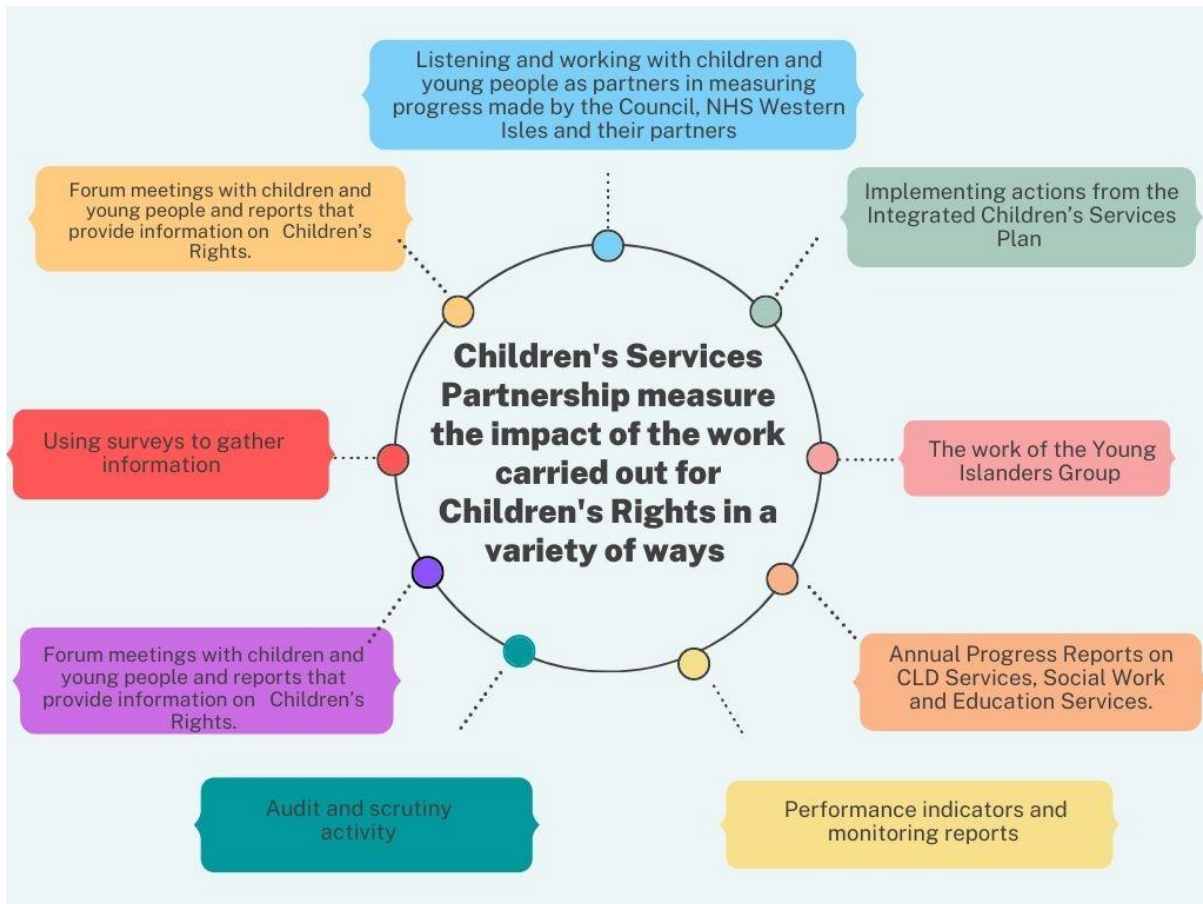
9. NEXT STEPS PROPOSED BY THE COUNCIL

Comhairle nan Eilean Siar, NHS Western Isles and their partners will continue to take forward measures to improve the safety and wellbeing of all children living in Western Isles and to ensure that their rights are fully realised and protected. The emphasis being on supporting all children and young people to realise their rights through the decisions, priorities and actions of public bodies. Local authorities and their partners must ensure that they act in accordance with UNCRC requirements. Significant highlights are detailed below, and the full list is shown in Appendix 1C attached:

The Children's Services Partnership will review its policies to ensure compatibility with the rights of the child; and supporting the development of future strategies and services which will work to further the UNCRC for children and young people in the Western Isles.

Implementation of the Independent Care Review's 'The Promise' (2020) across corporate parent organisations in the Western Isles is a key priority for the next reporting period. Developments will be led through the Scottish Corporate Parenting Strategy 2021-24 and informed by the on-going participation of looked after and care experienced children and young people.

10. HOW WILL THE COUNCIL AND NHS WESTERN ISLES KNOW THEY HAVE MADE A DIFFERENCE?



11. CONCLUSION

In accordance with Part 1 of the Children and Young People (Scotland) Act 2014 the Council, NHS Western Isles and their partners have worked together on a number of initiatives to further children's rights over the past three years and continue to do so in their planned actions for the future. The wide range of activity shown demonstrates a clear awareness of the need to embed Children's Rights in our work. As a result of Children's Rights being incorporated into Scots Law, services provided by the Council, NHS Western Isles and partners will need to ensure that children's rights are embedded into all appropriate policies, plans and strategies and that our decision-making and service delivery is compatible with the rights afforded to children and young people by the Convention.

This work has already commenced and demonstrates our ongoing commitment to Children and Young People in the Western Isles.

APPENDIX 1A

Summary of the Articles

1	Definition of the child	Everyone under the age of 18 has all the rights in the Convention.
2	Non-Discrimination	The Convention applies to every child without discrimination, whatever their ethnicity, gender, religion, language, abilities or any other status, whatever they think or say, whatever their family background.
3	Best Interests of the Child	The best interests of the child must be a top priority in all decisions and actions that affect children.
4	Implementation of the convention	Governments must do all they can to make sure every child can enjoy their rights by creating systems and passing laws that promote and protect children's rights.
5	Parental Guidance and a child's evolving capacities	Governments must respect the rights and responsibilities of parents and carers to provide guidance and direction to their child as they grow up, so that they fully enjoy their rights. This must be done in a way that recognises the child's increasing capacity to make their own choices.
6	Life, Survival and Development	Every child has the right to life. Governments must do all they can to ensure that children survive and develop to their full potential.
7	Birth registration, name, nationality, care	Every child has the right to be registered at birth, to have a name and nationality, and, as far as possible, to know and be cared for by their parents.
8	Protection and Preservation of identity	Every child has the right to an identity. Governments must respect and protect that right, and prevent the child's name, nationality or family relationships from being changed unlawfully.
9	Separation from parents	Children must not be separated from their parents against their will unless it is in their best interests (for example, if a parent is hurting or neglecting a child). Children whose parents have separated have the right to stay in contact with both parents, unless this could cause them harm.
10	Family reunification	Governments must respond quickly and sympathetically if a child or their parents apply to live together in the same country. If a child's parents live apart in different countries, the child has the right to visit and keep in contact with both of them.
11	Abduction and non-return of children	Governments must do everything they can to stop children being taken out of their own country illegally by their parents or other relatives or being prevented from returning home.
12	Respect for the views of the child	Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. This right applies at all times, for example during immigration proceedings, housing decisions or the child's day-to-day home life.

13	Freedom of expression	Article 13 (freedom of expression) Every child must be free to express their thoughts and opinions and to access all kinds of information, as long as it is within the law.
14	Freedom of thought, belief and religion	Every child has the right to think and believe what they choose and also to practise their religion, as long as they are not stopping other people from enjoying their rights. Governments must respect the rights and responsibilities of parents to guide their child as they grow up.
15	Freedom of association	Every child has the right to meet with other children and to join groups and organisations, as long as this does not stop other people from enjoying their rights.
16	Right to privacy	Every child has the right to privacy. The law should protect the child's private, family and home life, including protecting children from unlawful attacks that harm their reputation.
17	Access to information from the media	Every child has the right to reliable information from a variety of sources, and governments should encourage the media to provide information that children can understand. Governments must help protect children from materials that could harm them.
18	Parental responsibilities and state assistance	Both parents share responsibility for bringing up their child and should always consider what is best for the child. Governments must support parents by creating support services for children and giving parents the help, they need to raise their children.
19	Protection from violence, abuse and neglect	Governments must do all they can to ensure that children are protected from all forms of violence, abuse, neglect and bad treatment by their parents or anyone else who looks after them.
20	Children unable to live with their family	If a child cannot be looked after by their immediate family, the government must give them special protection and assistance. This includes making sure the child is provided with alternative care that is continuous and respects the child's culture, language and religion.
21	Adoption	Governments must oversee the process of adoption to make sure it is safe, lawful and that it prioritises children's best interests. Children should only be adopted outside of their country if they cannot be placed with a family in their own country.
22	Refugee children	If a child is seeking refuge or has refugee status, governments must provide them with appropriate protection and assistance to help them enjoy all the rights in the Convention. Governments must help refugee children who are separated from their parents to be reunited with them.
23	Children with a disability	Article 23 (children with a disability) A child with a disability has the right to live a full and decent life with dignity and, as far as possible, independence and to play an active part in the community. Governments must do all they can to support disabled children and their families.

24	Health and health services	Article 24 (health and health services) Every child has the right to the best possible health. Governments must provide good quality health care, clean water, nutritious food, and a clean environment and education on health and well-being so that children can stay healthy. Richer countries must help poorer countries achieve this.
25	Review of treatment in care	If a child has been placed away from home for the purpose of care or protection (for example, with a foster family or in hospital), they have the right to a regular review of their treatment, the way they are cared for and their wider circumstances.
26	Social security	Article 26 (social security) Every child has the right to benefit from social security. Governments must provide social security, including financial support and other benefits, to families in need of assistance.
27	Adequate standard of living	Every child has the right to a standard of living that is good enough to meet their physical and social needs and support their development. Governments must help families who cannot afford to provide this.
28	Right to education	Every child has the right to an education. Primary education must be free and different forms of secondary education must be available to every child. Discipline in schools must respect children's dignity and their rights. Richer countries must help poorer countries achieve this.
29	Goals of Education	Education must develop every child's personality, talents and abilities to the full. It must encourage the child's respect for human rights, as well as respect for their parents, their own and other cultures, and the environment.
30	Children from minority or indigenous groups	Every child has the right to learn and use the language, customs and religion of their family, whether or not these are shared by the majority of the people in the country where they live.
31	Leisure, Play and Culture	Article 31 (leisure, play and culture) Every child has the right to relax, play and take part in a wide range of cultural and artistic activities.
32	Child Labour	Governments must protect children from economic exploitation and work that is dangerous or might harm their health, development or education. Governments must set a minimum age for children to work and ensure that work conditions are safe and appropriate.
33	Drug Abuse	Article 33 (drug abuse) Governments must protect children from the illegal use of drugs and from being involved in the production or distribution of drugs.
34	Sexual Exploitation	Article 34 (sexual exploitation) Governments must protect children from all forms of sexual abuse and exploitation.
35	Abduction, Sale and Trafficking	Governments must protect children from being abducted, sold or moved illegally to a different place in or outside their country for the purpose of exploitation.
36	Other forms of Exploitation	Governments must protect children from all other forms of exploitation, for example the exploitation of children for political activities, by the media or for medical research.

37	Inhumane Treatment and Detention	Children must not be tortured, sentenced to the death penalty or suffer other cruel or degrading treatment or punishment. Children should be arrested, detained or imprisoned only as a last resort and for the shortest time possible. They must be treated with respect and care, and be able to keep in contact with their family. Children must not be put in prison with adults.
38	War and Armed Conflicts	Governments must not allow children under the age of 15 to take part in war or join the armed forces. Governments must do everything they can to protect and care for children affected by war and armed conflicts.
39	Recovery from Trauma and Reintegration	Children who have experienced neglect, abuse, exploitation, torture or who are victims of war must receive special support to help them recover their health, dignity, self-respect and social life.
40	Juvenile Justice	A child accused or guilty of breaking the law must be treated with dignity and respect. They have the right to legal assistance and a fair trial that takes account of their age. Governments must set a minimum age for children to be tried in a criminal court and manage a justice system that enables children who have been in conflict with the law to reintegrate into society.
41	Respect for Higher Standards	If a country has laws and standards that go further than the present Convention, then the country must keep these laws.
42	Knowledge of Rights	Governments must actively work to make sure children and adults know about the Convention. The Convention has 54 articles in total. Articles 43–54 are about how adults and governments must work together to make sure all children can enjoy all their rights.

APPENDIX 1B

What have Comhairle nan Eilean Siar, NHS Western Isles and partner agencies done in the past 3 years to promote children's right. Here are a number of illustrative examples.

1	For children and young people identified as young carers, a dedicated social work post has been created to complete Young Carer Statements.
2	A Teacher for the Hearing Impaired is a new appointment in the last year and she has been given funds to procure resources for schools, particularly inclusive sound technologies, to improve inclusivity of learners with hearing impairments in routine lessons.
3	Established a CAMHS/Social Work post to support children and young people with their mental health difficulties, taking a holistic and family systems approach to their care pathway.
4	Established a dedicated school-based counselling service for pupils with mental health and wellbeing difficulties.
5	Established a dedicated post for resettling Unaccompanied Asylum-Seeking children into our community.
6	Developed a supported lodgings scheme.
7	Exceeded the number of unaccompanied asylum-seeking children that we were mandate to.
8	The Hebridean Year of Care joined the nationwide Festival of Care. Our Year of Care shone a light on children and young people's experience of care across Eilean Siar in the context of The Promise . With a diverse range of awareness-raising opportunities, and a host of fun events allowing young people with Care Experience and their friends to come together, it has had one question at its heart - how do we work together so that every one of our children and young people is able to shine brightly? Voice, understanding and relationships have emerged as key themes.
9	NHSWI have reviewed the paediatric admission documentation to acute hospital care to reflect a more GIRFEC centred approach. This allows children the opportunity to be more involved in their admission to hospital and be able to express what is important to them during their stay. It also provides an opportunity for them to comment on the care they received and rate their experience.
10	Hosted the week long Children's Commissioner visit in May 2022 where he met with young people/MSYP's involved in Sport/Music & Culture
11	Guidance inputs delivered to all in Nicolson on Young Scot including Article 12 – promoting youth participation opportunities with Young Scot and Members of Scottish Youth Parliaments
12	Our Young Islanders Group is mentioned but maybe clarify that work is led by CLD and Who Cares Scotland work (supporting care experienced young people and friends, those not engaging in work or education)
13	LGBQ+ Group, facilitated by Who Carers? Scotland and CLD meet weekly.

APPENDIX 1C

Next steps proposed by the Council, NHS Western Isles and partners for 2023-2026	
1.	Introduce the next iteration of the Integrated Children’s Services Plan, with significant co-production from children and young people.
2.	Who Carers? Scotland will provide a briefing to Elected Members on their Corporate Parenting responsibilities in early 2023.
3.	Survey all children in the Western Isles in terms of their views on how Comhairle nan Eilean Siar, Western Isles Health Board and partners uphold and promote their rights as per UNCRC.
4.	All relevant resource, strategy and policy decisions taken will have had a child impact assessment undertaken prior to decisions being made.
5.	The Relationships Legacy Project will look to the very deep well of possible significant relationships for children, young people and families across the breadth and depth of public service and within community. It will explore what would emerge if public servants and others, whatever their role, were more enabled and supported to ‘follow the relationship’ rather than ‘stick with the role’. It will identify how we can ‘give permission’ for relationships rather than formal ‘role’ to take more of a lead in shaping support.
6.	The Community of School Legacy Project will create an ambitious, sustained approach to further awareness-raising and understanding across entire school communities (pupils, staff, parents/carers) about what care experience is and how we support and enable Care Experienced people. It will make use of powerful material created during the HYOC, and the learning from other areas of Scotland where these approaches are having real impact.
7.	The Better Meetings Legacy Project will have its foundations in what we have learnt from children and young people about how decision-making processes can feel for them. It will build on the ground-breaking Better Meetings work alongside children and young people in Moray, seeing decision-making processes through their eyes, powerfully reflecting the challenging findings of The Promise . It will also help young people make sense of the connections between meetings of all sorts, as they navigate what are often very complex situations.
8.	<p>The Spaces that Matter Legacy Project will identify and enable spaces that can be made to work well for children, young people and families across Eilean Siar, responding to their needs and wishes. There will be a focus in Working Group on the way in which Spaces that Matter can have impact in many different ways, including:</p> <ul style="list-style-type: none"> • The development of imaginative Group and Participatory Opportunity • Enhanced access to individual support in spaces that feel more comfortable, including mental health, therapeutic and wellbeing support and independent advocacy support • Meeting spaces for YP to choose, if they wish, as the venue that works best for them for their meetings, whether as the venue for a physical meeting or as the space from which they join a meeting remotely with the support that works best for them - enhancing choice, agency and voice with links to Better Meetings