This report summarises the main issues in the Scottish Government’s proposed Bill addressing the rights of children and young people. The Bill seeks to place Children’s Rights as set out in the United Nations Convention on the Rights of the Child, in law and will place a duty on Scottish Ministers to take account of children’s rights in everything they do.

The draft response to the consultation is supportive of the proposals outlined by the Scottish Government.

A copy of the consultation paper is attached to this report.

1. **RECOMMENDATIONS**

   It is recommended that the Strategic Policy Committee:-

   (i) homologates the response to the Government’s consultation paper on the rights of children and young people bill;
   
   (ii) seeks an update from the Director of Social Work and Health and the Director of Education when recommendations arising from this consultation are published.

2. **BACKGROUND**

   The Rights of Children and Young People Bill aims to enshrine in law a duty on Scottish Ministers to recognise the UN Convention on the Rights of the Child (UNCRC) when exercising their responsibilities. The UNCRC is an international human rights treaty setting out the range of rights that children are entitled to. The convention gives children and young people aged 17 and under over 40 substantive rights. The Rights of Children and Young People Bill will place a duty on Scottish Ministers to take account of children’s rights (as expressed in the United Nations Convention on the Rights of the Child) in everything they do. Whilst the UNCRC is reflected in national and local policy, the Bill introduces a mechanism for ensuring these rights are more robustly reflected in both the work of the Government and public policy more generally.

   The Bill is intended to represent the foundation stone upon which a legislative programme that embeds a new approach based on prevention, appropriate early intervention and child centred service delivery will be built. Recognising and respecting the rights of every child is central to achieving this vision. The Bill is central to the subsequent development of the Children’s Services Bill which will be introduced in the Scottish Parliament and issued for consultation in spring 2013. The Children’s Services Bill will have a more specific focus on the delivery of services to children and young people and the legislative changes required to remove the barriers to early intervention and prevention.
3. PROPOSALS

The Bill seeks to enshrine in law the importance of ensuring that the civil, political, economic, social and cultural rights of a child up to the age of 18 are given due prominence. The Bill will ensure that all policies and legislation of the Scottish Government take account of and promote the rights of children and young people, resulting in greater consistency and clarity by introducing the following measures:

- Duty of Scottish Ministers to have ‘due regard’ to the UNCRC
  This will ensure that consideration of the UNCRC is guaranteed where it is relevant and that consideration will be proportionate and will ensure focus on how the particular circumstances of that decision relates to the UNCRC. The Government is proposing that the duty extends to the exercise of any of the Scottish Ministers functions including any statutory duty or power, royal prerogative power, common law duty or power, prosecution function of the Lord Advocate and any dealing with the UK Government.

- Duty on Scottish Government to report
  The Bill will place a duty on Scottish Ministers to report every 5 years on their exercise of the ‘due regard’ duty.

- Extension to young persons aged under 21 who have been ‘looked after’
  The UNCRC defines children as those who have not yet reached 18. The Bill will extend the provisions of the UNCRC to young persons aged under 21 who have previously been ‘looked after’. This is in recognition of the particular vulnerabilities of this group of young people.

- Future proofing against changes to the UNCRC and Protocols
  The Scottish Government proposes to ensure that the Bill is future proofed against subsequent changes to the UNCRC or Optional Protocols or changes to the Declarations made by the UK Government.

Recognising the rights of the child as being of paramount importance is central to achieving the wider vision of the Scottish Government. The Bill sets the foundation for the Government’s overall agenda which focuses support and intervention in the early years of a child’s life and will continue to build on the progress already made with policy developments such as Early Years Framework, Getting It Right, Child Poverty Strategy and Curriculum for Excellence. The agenda includes a stronger emphasis on supporting children in their earliest years, shifting from crisis intervention to early intervention, supporting parents to parent effectively, basing service delivery on need and personalised services.

It is our view that Angus Council should support the proposals contained in the Bill. This is reflected in our proposed response to the consultation, which is attached to this report.

Members will note that the deadline for responses to the consultation paper was 1 December 2011. The Council’s response has been submitted however any additional comments from Committee will be forwarded to the Government.

4. RISKS

This report does not require any specific risk issues to be addressed.

5. FINANCIAL IMPLICATIONS

There are no financial implications of the Bill at this stage.

6. HUMAN RIGHTS IMPLICATIONS

There are no specific human rights implications contained within this report. The recommendations outlined in this report will further enhance and support children’s rights.
7. **EQUALITIES IMPLICATIONS**

The issues dealt with in this report have been the subject of consideration from an equalities perspective. An equalities impact assessment is not required.

8. **ANGUS COMMUNITY PLAN AND SINGLE OUTCOME AGREEMENT**

This report contributes to the following local outcome(s) contained within the Angus Community Plan and Single Outcome Agreement 2011-2014:

- Our children and young people are confident individuals, effective contributors, successful learners and responsible citizens;
- Individuals and families are involved in decisions which affect them.

9. **CONSULTATION**

The Chief Executive, Director of Corporate Services, Head of Finance, and Head of Law and Administration have been consulted in the preparation of this report.

10. **CONCLUSION**

This report summarises the Consultation on Rights of Children and Young People Bill. It is envisaged that the comments submitted by Angus Council Social Work and Health and Education will contribute positively to the development of the legislation.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

Consultation response attached as Appendix 1
Responding to this consultation paper
We are inviting written responses to this consultation exercise by Thursday 1 December 2011.

We would be grateful if you would indicate clearly in your response to which questions or parts of the consultation paper you are responding to. We recommend using this response booklet, if possible. Please complete the respondent information form contained within the booklet.

Please send your response to:
earlyyearslegislation@scotland.gsi.gov.uk

or

Chris Bain
Scottish Government
Children’s Rights and Well-being Division
Area 2B (North)
Victoria Quay
EDINBURGH
EH6 6QQ

If you have any queries or any comments on the consultation process, please contact Chris Bain at the address/email above or telephone 0131 244 4906.

Public engagement events

Five public engagement events have been arranged at cities across Scotland. All public engagement events will cover the same material and will follow the same format. Spaces at the seminars will be limited: to register your interest in attending one of these events, please visit http://bookings.shscevents.co.uk/all/2787. You will be contacted in due course to confirm whether or not you have a place.

Accessing this and other consultations

This consultation, and all other Scottish Government consultation exercises, can be viewed online at http://www.scotland.gov.uk/consultations. You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is. The Scottish Government now also has an email alert system for SE consultations. You can register to receive a weekly email containing details of all new Scottish Government consultations at http://www.scotland.gov.uk/consultations/seconsult.aspx.

Access to consultation responses

We will make all responses available to the public in the Scottish Government Library by 1 February 2012 unless confidentiality is requested. All responses not marked confidential will be checked for any potentially defamatory material before being logged in the library.
All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Scottish Government
Children and Families Directorate
September 2011
RESPONDENT INFORMATION FORM

Please complete the details below and attach it with your response. This will help ensure we handle your response appropriately:

YOUR DETAILS

<table>
<thead>
<tr>
<th>Name</th>
<th>Angus Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>St Margaret’s House, Orchard Loan, Orchardbank Business Park, FORFAR, ANGUS</td>
</tr>
<tr>
<td>Postcode</td>
<td>DD8 1NS</td>
</tr>
<tr>
<td>Contact telephone number</td>
<td>(01307) 476493</td>
</tr>
<tr>
<td>E-mail</td>
<td><a href="mailto:LeeK@angus.gov.uk">LeeK@angus.gov.uk</a></td>
</tr>
</tbody>
</table>

1. Are you responding as: (please tick one box)

(a) an individual
(b) on behalf of a group or organisation X (go to 2c)

INDIVIDUALS:

2a. Do you agree to your response being made available to the public (in the Scottish Government library and/or on the Scottish Government website)?

Yes (go to 2b below) 

No, not at all (We will treat your response as confidential.)

2b. Where confidentiality is not requested, we will make your response available to the public on the following basis (please tick one of the following boxes)

Yes, make my response, name and address all available 

Yes, make my response available, but not my name or address 

Yes, make my response and name available, but not my address

ON BEHALF OF GROUPS OR ORGANISATIONS:

3. Your name and address as respondents will be made available to the public (in the Scottish Government library and/or on the Scottish Government website). Are you content for your response to be made available also?

Yes X

No (We will treat your response as confidential.)
SHARING RESPONSES/FUTURE ENGAGEMENT

4. We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Government to contact you again in the future in relation to this consultation response?

Yes [x] No

YOUR BACKGROUND

In analysing your response, it would help us to know what your background is. Please indicate using the boxes provided below the area which best describes your involvement with children and add any further comments you wish to make about this.

Early Years [ ] Education [x] Health [ ]

Justice [ ] Parent/Carer [ ] Police [ ]

Social Work [x] Sport and Leisure [ ] Voluntary Organisation [ ]

Other [ ]

Further comments:
This is a joint response between Social Work and Education.
YOUR VIEWS

On the need for legislation

Q1 Do you agree that legislation to embed the UNCRC within the Scottish Government’s decision-making and day-to-day business is necessary and appropriate?

We would agree that children’s rights enshrined in Scottish law is long overdue. Whilst the UNCRC is reflected in national and local policy, this does not go far enough to ensure that children’s rights are fully considered and protected. The introduction of legislation will consolidate the extensive work already underway to support a focus on children’s rights and will demonstrate the full commitment of Scotland to this agenda. We would agree that this Bill will strengthen the foundations for the development of the child focused agenda which will be detailed in the subsequent Children’s Services Bill. In Angus we are committed to delivering a Getting It Right approach with all of our services to children and consider the legislation a welcome development to further strengthen this ethos.

Proposal 1

Q2 Do you agree that “due regard” is the appropriate level of regard for the duty on the Scottish Ministers? If not, why not?

Yes - we would agree with the proposal to adopt the expression of the Equalities Act 2010 for Ministers to have “due regard” for the reasons set out in paragraph 60 of the consultation. This will ensure that any decisions taken will direct Ministers to not only consider the UNCRC but to be more specific about how the particular circumstances of a decision relates to the UNCRC. There is clear accountability in this proposal and if Scottish Ministers were to fail to comply with the above duty to have due regard to the UNCRC in exercising their functions, this may lead to judicial review by the Scottish Courts. However, paragraph 73 of the consultation highlights that this proposal does not extend to incorporating the UNCRC into Scots law due to the potential for conflict with UK wide legislation such as the Equalities Act 2010 and human rights under ECHR. Where such conflict exists in Scottish Ministers decision making, there needs to be clear recording and accountability of the ‘due regard’ rule and how this has been applied.
Q3 Do you agree that the duty should apply to all the functions of the Scottish Ministers? If not, why not?

Yes - it is difficult to identify any functions that do not have the potential to impact on children’s rights and therefore the scope of the functions covered must be all encompassing. Decisions taken that do not directly impact on children can often indirectly have a significant impact on them and therefore the articles of the UNCRC must underpin all decisions.

Proposal 2

Q4 Do you agree with the proposed arrangements for reporting?

Yes - the 5 year timescale in line with other reporting procedures is appropriate.

Proposal 3

Q5 Do you agree with the extension of the duty in respect of UNCRC to young persons aged under 21 who have been looked after?

Yes - we agree that the Bill should have the same coverage as for the Scotland’s Commissioner for Children and Young People for the reason that these young people can be amongst the most vulnerable in our society. It recognises that these young people often require additional protection and care.
Proposal 4

Q6 Do you agree with the proposals for handling future amendments to the Convention or Protocols or new Protocols?

Yes

Other matters

Q7 Is there other provision which should be made in the Bill? (See section 3.3 which sets out what the Bill would not do.)

There are no other provisions that we identify.

Q8 Do you have any comments on implementation costs or how they should be estimated?

We have no comment to make.
Q9  Do you have any other comments?

   No.

Thank you for your time.