

# Children’s Right and Wellbeing Impact Assessment – Stage 3

## Publication Template

<b>CRWIA title: Face Coverings</b> <b>Date of publication: April 2021</b>	
<b>Executive summary</b>	<p>The aim of this Children’s Right and Wellbeing Impact Assessment is to analyse the impact of the face covering provisions within the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020.</p> <p>These provisions do not represent a change to the face coverings requirements within the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020. Therefore, the continuation of provisions to:</p> <ul style="list-style-type: none"><li>• Mandate the use of face coverings for adults and children and young people over 5 years of age, in certain indoor places and on public transport (unless they are exempt); and</li><li>• Maintain the exemptions and reasonable excuses for not wearing a face covering in certain indoor places and on public transport, which include children under 5 years of age (among other exemptions).</li></ul> <p>Face coverings - if worn correctly and implemented in addition to other measures such as physical distancing and good hand and respiratory hygiene - can be effective in reducing transmission when people are in close proximity, in crowded settings, and in poorly ventilated places. While face coverings can provide some protection to the wearer, their primary purpose is to reduce the transmission of the virus (including asymptomatic and pre-symptomatic transmission from infectious people).</p> <p>The Scottish Government has made the use of face coverings mandatory in a range of indoor public places, including indoor communal workplaces, and on public transport where we know the risks are highest. This policy is therefore intended to ensure high adherence to the use of face coverings.</p>
<b>Background</b>	<p><i>Legislative Background</i></p> <p>Amendments to the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 came into effect on 22 June and 10 July 2020 that made it mandatory for face coverings to be worn on public transport and in retail settings (respectively), with additional regulations from 9 October 2020 that made it mandatory for face coverings to be worn in storage and distribution facilities, and for face coverings to be worn in communal staff areas in both retail and storage and distribution facilities.</p> <p>The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 came into force on 2</p>

November 2020 which made the use of face coverings mandatory in a large range of indoor public places, including indoor communal workplaces, and on public transport.

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No.21) Regulations 2021 will implement the system of levels of protection which are set out in the updated Covid-19 Strategic Framework, published on 22 February 2021. The provisions relating to the wearing of face-coverings will remain unaltered.

#### *Covid-19 Strategic Framework Update*

The “COVID-19: Strategic Framework update”, published in February 2021 sets out how Scottish Government intends to restore, in a phased way, greater normality to our everyday lives. It also sets out how we will work to suppress the virus and present an honest reflection of the decisions we will need to make, and the balance we will have to reach, and it does so rooted in tackling the four harms we know the virus causes. 1) direct health impacts caused by COVID 19; 2) health impacts not directly related to COVID 19 - such as wider health and social care services; 3) societal impacts; and 4) economic impacts.

The Refreshed Framework updated the original [Strategic Framework](#), published on 23 October 2020, to take account of important developments, including:

- new and highly infectious strains of the virus; and
- progress with the vaccination roll-out.

The updated Framework explains how we will use all of the tools we have available to get coronavirus to the lowest possible level. The updated framework highlights the importance of non-pharmaceutical interventions (NPIs) such as physical distancing, face coverings, hand and respiratory hygiene and enhanced ventilation in indoor spaces as measures that individuals should take to minimise the risk of Covid-19 at every level, including Level 0.

Regarding face coverings, decisions have been informed by advice from the World Health Organisation (WHO) and Scientific Advisory Group for Emergencies (SAGE), the Scottish Government COVID-19 Advisory Group and the Scottish Government Advisory Sub-Group on Education and Children’s Issues.

#### *Face Coverings*

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No.21) Regulations 2021, coming into force on 26 April 2021 do not introduce any changes to the current

	<p>position on the mandatory use of face coverings. Therefore, this document is assessing the ongoing impact of the face-covering requirements on children’s rights and wellbeing.</p>
<p><b>Scope of the CRWIA, identifying the children and young people affected by the policy, and summarising the evidence base</b></p>	<p>This CRWIA sets out the consideration which has been given to children’s rights and wellbeing for the mandatory use of face coverings in certain indoor places and on public transport, particularly for children and young people over 5 years of age (unless they are exempt). It also considers the impact of the exemption for children under 5 years of age from wearing a face covering. Therefore, all children and young people under 18 years of age are within the scope of this impact assessment.</p> <p><i>Adult population</i></p> <p>The Scottish Government position on the use of face coverings in the community and in the workplace remains the same following the emergence of new, highly infectious variants.</p> <p><a href="#">Evidence</a> continues to indicate that face coverings, when worn adequately and implemented - in addition to other measures such as physical distancing, hand and environmental hygiene and ventilation, can bring a benefit of reducing transmission of the virus. Furthermore, face coverings can provide some protection to the wearer from droplet and aerosol transmission and they can also provide protection to those around the wearer. They also serve a purpose in source control by reducing droplet contamination to the environment surrounding the wearer.</p> <p>Emerging <a href="#">evidence</a> indicates that vaccination is having an impact on reducing the number of deaths and research is giving us more confidence in its efficacy of reducing transmission. However, adherence to NPIs continues to be needed to continue suppression the virus.</p> <p>The updated guidance provided by the <a href="#">World Health Organisation (WHO)</a>, published in December 2020, advised that, to prevent Covid-19 spread in areas of community transmission, governments should encourage the general public to wear face coverings in specific environments and settings as part of a range of strategies in the fight against the virus. In December 2020, <a href="#">SAGE advised</a> the need to reinforce the rigour of physical distancing, ventilation and face coverings to mitigate the increased transmissibility of the new Covid-19 variant (B.1.1.7)</p> <p>In this context, maintaining the range of indoor settings in which face coverings are mandatory will benefit the overall population by ensuring high adherence to this measure and helping employees and customers and citizens feel safer and reducing their risk of infection (when implemented with physical distancing and other measures).</p> <p><i>Children</i></p> <p>The policy decision to advise that face coverings should be worn for those aged 5- 11, where it is safe to do so, was informed by advice provided by the Scottish Government’s Covid-19 Advisory Group, the Scientific Advisory Group for Emergencies (SAGE) and the World Health Organisation (WHO).</p>

The advice from the Covid-19 Advisory Group on 12 June 2020 was as follows:

“They should not be used in young children (<5 years of age) and individual discretion should be applied in deciding if they are safe to use in people with learning disabilities and people with breathing problems. Since people are being asked to balance the potential risks and benefits at an individual level, this recommendation is not discriminatory”

On 21 August 2020, the WHO [published evidence](#) on the use of face coverings for children within the community and this was drawn upon to consider policy in Scotland. In particular the WHO noted that:

- Given the limited evidence on the risk of children at specific ages to transmit the virus to other children and adults, national authorities should balance the benefits of wearing face coverings in children for COVID-19 control against the potential harm associated with wearing masks, such as the impact on their health and wellbeing and learning outcomes;
- While the evidence supporting the choice of the age cut-off is limited, children by the age of five have achieved significant developmental milestones, including the manual dexterity and fine motor coordination movements needed to appropriately use a face covering with minimal assistance.

The WHO report also emphasised the need to apply the advice appropriately to the national and local context.

In their paper of 17 December 2020, [SAGE revisited the evidence](#) on the susceptibility of children to infection taking into account the impact of the B.1.1.7 variant, confirming that there continues to be evidence that children’s susceptibility to infection is less than of adults. It also concluded that there continues to be strong evidence that children and younger people (under 19-year-olds) are less susceptible to severe clinical disease than younger people. SAGE also confirmed that there is no evidence of the B.1.1.7 variant has changed the pattern of infection in respect of age.

While there is ample evidence that children and young people are less likely to become seriously ill when they catch Covid-19, the evidence regarding their susceptibility to transmit the virus, especially older children, is less conclusive. As SAGE noted in its [paper](#) of 17 December 2020, “there continues to be mixed evidence for secondary aged and older children, who may have higher levels of susceptibility to infection”.

On the basis of the latest evidence, and a balanced assessment of harms, it is concluded that:

- Babies, toddler and children under 5 years of age continue to be exempt from wearing face coverings. The risk of strangulation and suffocation and the impact on their wellbeing and development needs (harm 2 and 3) significantly outweigh the very low risk of transmission from children to other children and from children to adults (harm 1).

	<ul style="list-style-type: none"> <li>• Children aged 5-11 are required to wear a face covering where it is safe for them to do so. While there continues to be limited evidence on the risk of transmission by children of early age (harm 1), the impact on learning needs and wellbeing (harm 3) than those at a younger age. The exemptions under the Regulations also apply to children, so any person is exempt from wearing a face covering where they are unable to put on, wear or remove a face covering—because of any physical or mental illness or impairment or disability (within the meaning of section 6 of the Equality Act 2010(1)), or they cannot wear one without severe distress. This means that, for example, any children with breathing difficulties, disable children or any children where the wearing of a face will cause distress, are exempt.</li> <li>• Children and young people aged 12-18 are required to wear face covering where it is safe to do so. The need to minimise harm 1 (risk of transmission of Covid, both between children and from children returning the disease to their households) on a precautionary basis significantly overweighs harm 3 (impact on development needs and wellbeing). Any impact of wearing face coverings on development needs and wellbeing are estimated to be significantly lower for older children. The exemptions under the Regulations also apply to children, so any person is exempt from wearing a face covering where they are unable to put on, wear or remove a face covering—because of any physical or mental illness or impairment or disability (within the meaning of section 6 of the Equality Act 2010(1)), or they cannot wear one without severe distress. This means that, for example, any children with breathing difficulties, disable children or any children where the wearing of a face will cause distress, are exempt.</li> </ul> <p>It should be noted that provisions on the use of face coverings by children and young people in schools is covered in the <a href="#">Early Learning Centres</a> and <a href="#">Schools</a> guidance. An EQIA on the Phase return to in school learning, including the impact of wearing face coverings on children and young people, is available <a href="#">here</a>.</p>
<p><b>Children and young people’s views and experiences</b></p>	<p>There has been no direct engagement with children and young people. However we have engaged with policy leads which engage with children and young people’s organisations and the education sector.</p> <p>We have also monitored the latest data on adherence to face coverings by children and young people to inform our position. The Scottish Government “<a href="#">Working Paper: Covid-19 Mitigation Measures Among Children and Young People</a>”, published in January 2021 indicated that while there is no quantitative data available to date directly from young people on adherence, qualitative research has consistently shown that young people generally are in favour of both physical distancing and the use of face coverings;</p> <p>The Scottish Government commissioned “Young People in Scotland Survey”, running in January 2021, which included questions on awareness of face coverings requirements, attitudes towards requirements and wellbeing impacts of face-covering requirements, which included questions on the impact of face coverings on wellbeing.</p>

	<p>We will analyse the initial findings of the survey to continue informing the policy on face coverings by the general public.</p> <p>The Scottish Government has also consulted with Age Scotland, Asthma UK, Glasgow Disability Alliance, Disability Equality Scotland and Inclusion Scotland and BEMIS.</p> <p>The Scottish Government will keep the face covering policy under regular review and will only maintain this policy for as long as it is strictly necessary. As part of this, we will seek to include the views of children.</p>
<p><b>Key Findings, including an assessment of the impact on children’s rights, and how the measure will contribute to children’s wellbeing</b></p>	<p>The Scottish Government found that this policy does not impinge on children’s rights. We consider that it particularly protects children’s health and wellbeing in a proportionate way:</p> <ul style="list-style-type: none"> <li>• This policy is necessary to reduce the risk transmission of COVID-19 by adults and over 5-year-olds wherever is safe for them to do so. Given the current mixed evidence about the susceptibility of older children to transmit the virus, a mandatory use of face coverings as the rest of the adult population continues to be justified on a precautionary basis, particularly in light of the highly transmissible B.1.1.7 and other variants of concern. The current exemptions whereby anyone is exempt from wearing a face covering (i) if they are unable to wear it without experiencing distress as a result (ii) when a person has a physical or mental illness disability, guarantee that only children and young people who can wear them properly and safely and can tolerate them, will need to wear a face covering;</li> <li>• Preserving the health of parents and family members, by the mandatory use of face coverings in settings which are considered of high risk such as indoor public spaces and on public transport will, in turn, contribute to children’s wellbeing;</li> <li>• The Regulations recognise that there are situations where a person is unable to, or it would be detrimental, for them to wear a face covering. This includes “when a person has a physical or mental illness or impairment or disability (within the meaning of section 6 of the Equality Act 2020)” which might include hidden disabilities, for example, autism, or a learning disability). This may include children with breathing difficulties and disabled children who would struggle to wear a face covering. The Regulations also make exempt for the wearer of face coverings to be able to remove it when communicating with someone who relies on lip reading and facial expressions to communicate. This is fully reflected on the face coverings guidance.</li> <li>• The right of children to play and exercise is also guaranteed. The Regulations make it clear that taking part in exercise of a type which reasonably requires that the person is not wearing a face covering constitutes an exemption to the wearing of face coverings. This is fully reflected on the face coverings guidance as well; and</li> <li>• It should be noted that the Scottish Government guidance makes it clear that those exempt under the Regulations should not be forced to wear a face covering and no one should be abused or treated in an unacceptable way. To support those who are exempt, the Scottish Government has developed an exemption card policy which is currently in place. We also continue to raise-awareness on how employers/customers should approach those who are exempt in a proportionate and respectful way.</li> </ul>

<b>Monitoring and review</b>	The Scottish Government will review the impact of these provisions on children's rights and wellbeing including by engaging with relevant stakeholders. We will publish further Children's Rights and Wellbeing Impact Assessments as is best practice.			
<b>Bill - Clause</b>	<b>Aims of measure</b>	<b>Likely to impact on . . .</b>	<b>Compliance with UNCRC requirements</b>	<b>Contribution to local duties to safeguard, support and promote child wellbeing</b>
Schedule 7 of Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020	<p>To mandate the use of face coverings for adults and children over 5 years of age, in certain indoor places and on public transport (unless they are exempt)</p> <p>To provide a list of exemptions and reasonable excuses for not wearing a face covering in certain indoor places and on public transport in which its use is compulsory</p>	<p><u>Children under 5</u> No direct impact has been identified as children under 5 are exempt from wearing a face covering. Indirect impacts may potentially include communication difficulties in instances in which parents or family members are required to wear a face covering.</p> <p><u>Children and young people over 5</u> A direct impact on children and young people over 5 is that they may experience some discomfort in wearing face coverings. However, the wearing of a face coverings will provide a degree of protection to children over 5 from droplet and</p>	<p>The provisions within Regulations do not impinge on any of the UNCRC articles. The Scottish Government considers that it particularly protects the following articles.</p> <p><u>Article 6</u> is relevant, namely, the right of every child to life and develop to their full potential.</p> <p><u>Article 23</u>, namely, the right of a child with a disability to live a full and decent life with dignity and, as far as possible.</p> <p><u>Article 31</u>, namely, the right of every child to relax, play and take part in a wide range of cultural and artistic events.</p>	<p>The following <a href="#">wellbeing</a> indicator is relevant:</p> <p><b>Healthy</b></p>

		<p>aerosol transmission. Children will also benefit from reduced transmission risk if other adults and children around them are wearing a face covering.</p> <p><u>Children and young people over the age of 5 impacted by disability or underlying medical condition</u></p> <p><a href="#">A Disability Equality Scotland online poll</a> was run at the end of August asking respondents if they had concerns about the use of face coverings in schools and on school transport. 343 individuals responded of which 87% had no concerns. Concerns were reported around stigma for those who are exempt from the regulations; the lack of enforcement of face coverings on school transport, particularly when school transport is shared with the general public, which</p>		
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		increases transmission risks; and the impact of face coverings on pupils with hearing impairments and others who rely on lip reading or facial expressions for communications.		
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## CRWIA Declaration

### Authorisation

<p><b>Policy lead</b></p> <p>Victoria Ayre, FACTS &amp; Compliance Unit, COVID Ready Society</p>	<p><b>Date</b></p> <p>15/04/2021</p>
<p><b>Deputy Director or equivalent</b></p> <p>Elizabeth Sadler, Deputy Director, COVID Ready Society</p>	<p><b>Date</b></p> <p>16/04/2021</p>

**Children's Rights and Wellbeing Impact Assessment - Early Learning and Childcare (ELC) and formal childcare provision at all protection levels of the Strategic Framework**  
Date of publication: **April 2021**

**Executive summary**

This Children's Rights and Wellbeing Impact Assessment (CRWIA) sets out the consideration given to children's rights and wellbeing for the updated Strategic Framework Protection Levels<sup>1</sup>, to enable children to attend formal childcare at all protection levels of the Strategic Framework, to live their lives as normally as possible and to reduce the impact on their health and wellbeing.

Childcare plays a fundamental role in supporting the response and recovery to the pandemic. At all levels, including in the recent lockdown, access to childcare has been prioritised, due its significant impact on children's development, and the ability of families to take part in work and study. Formal childcare, operating under strict regulatory regime, with strong guidance, and applying a package of age appropriate measures has been open to those children who need it most throughout lockdown, and has reopened to all children in advance of the return to the levels framework. Informal childcare has been permitted for essential purposes, and with clear guidance to parents and carers, during lockdown. This settled position, and focus on the impact of reduced access to childcare, has meant that changes in levels framework in April 2021 are limited.

The updated Strategic Framework levels clearly set out the intention to prioritise keeping schools and regulated childcare, including early learning and childcare, open while ensuring the safety of children and young people and the staff who have worked hard to keep settings open. Formal childcare refers to daycare of children services and childminders who are registered by the Care Inspectorate to deliver childcare. Formal childcare includes early learning and childcare for 3 and 4 year olds and eligible 2 year olds funded by local authorities under the Children and Young People (Scotland) Act 2014.

Formal childcare is open at all levels of the Strategic Framework. Guidance on the operation of settings lays out a package of age appropriate measures that reflect the levels approach, and provides for changes to measure to be in place at different protection levels. We assess the overall impacts of the Strategic Framework as being positive for young children, families and childcare, as the measures recommended would enable ELC and formal childcare settings to continue to operate safely without significant impact on accessibility and capacity, so that:

- Children can access childcare options safely in order to support their learning and wellbeing;

<sup>1</sup> [Coronavirus \(COVID-19\): local protection levels - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/local-protection-levels/pages/1-introduction.aspx)

	<ul style="list-style-type: none"> <li>• Families are supported to continue or return to work and other responsibilities;</li> <li>• The childcare workforce is supported to work in a safe environment.</li> </ul> <p>Settings in all levels may be asked to implement additional public health measures that may affect capacity. These may include for example, consistent smaller cohorts, minimising contact between cohorts and/or restriction of blended placements. There may be circumstances in which, based on clear evidence and public health considerations, additional measures will be required. All such decisions will be made in line with the independent advice of local Directors of Public Health.</p> <p>We know from sectoral engagement that these measures could have the impact of reducing capacity in individual childcare services, depending on their layout, staffing and delivery model, meaning it could be the case that fewer children and families would be able to benefit from childcare provision at current levels if such measures were reintroduced. This would have additional impacts on children’s rights and wellbeing.</p> <p>A description of the measures described in the guidance can be found at: <a href="https://www.gov.scot/publications/coronavirus-covid-19-early-learning-and-childcare-services/pages/scotlands-strategic-framework/">https://www.gov.scot/publications/coronavirus-covid-19-early-learning-and-childcare-services/pages/scotlands-strategic-framework/</a></p> <p>Advice from the CMO Sub Group on Education and Children’s Issues, which informs guidance can be found at: <a href="https://www.gov.scot/publications/coronavirus-covid-19-advisory-sub-group-on-education-and-childrens-issues/#history">https://www.gov.scot/publications/coronavirus-covid-19-advisory-sub-group-on-education-and-childrens-issues/#history</a></p> <p>This CRWIA found that the updated Strategic Framework has a direct impact on all children in Scotland who attend registered childcare and will impact on their rights and wellbeing. Enabling formal childcare to remain open at all protection levels will mitigate the negative impact that restricted opening of formal childcare had on children during previous periods of ‘lockdown’.</p> <p>Evidence supports the position that opening formal childcare at all protection levels will have a positive impact for children, particularly for those where home does not provide a safe and secure environment or where access to essential resources (including food or support for additional needs) is limited.</p>
<b>Background</b>	As part of the Scottish Government's response to the COVID-19 pandemic, the Deputy First Minister announced on 19 March 2020 that all local authority schools and childcare settings in Scotland, including childminders, would close from the end of Friday 20 March

2020. Childcare providers in the private and third sector were advised they should also close.

Critical childcare was made available by all local authorities for children and families who were most in need from Monday 23 March 2020<sup>2</sup>. This included provision for the children of keyworkers and for children who local authorities considered would benefit from access due to a broad definition of vulnerability<sup>3</sup>.

On 23 October 2020, the First Minister launched [Scotland's Strategic Framework](#) setting out a refreshed approach to suppressing COVID-19. This introduced new [protection levels](#) providing graduated protections locally and/or nationally, and enabled formal childcare to open at all 5 levels provided that various levels of protective measures were in place.

However, due to the emergence of the new B.1.1.7 variant of COVID-19 in late 2020, restrictions on access to formal childcare were unfortunately needed again in January and February 2021, as a precautionary measure. Formal childcare settings again remained open to ensure access to childcare for key workers and vulnerable families. Formal childcare settings re-opened to all children on 22 February 2021, reflecting scientific and clinical advice from the Chief Medical Officer's Advisory Sub Group on Education and Children's Issues.

On 13 April 2021, the Scottish Government updated the [COVID protection levels](#) to enable formal childcare to remain open at all levels.

### **Decision-making**

As set out in [Scotland's Route Map through and out of the crisis](#):

*COVID-19 is first and foremost a public health crisis, and the measures to combat it have been necessary to save lives. But those measures also cause harm, and can have the most negative impacts on some people in our society least able to withstand them. We are learning that the harms caused by the pandemic are not felt equally.*

*Our response to this pandemic must recognise these unequal impacts. Just as we have sought to shield those most at risk, we must continue to*

<sup>2</sup><https://www.gov.scot/publications/coronavirus-guide-schools-early-learning-closures/pages/overview/>

<sup>3</sup><https://www.webarchive.org.uk/wayback/archive/20200710111815/http://www.gov.scot/publications/coronavirus-guide-schools-early-learning-closures/pages/vulnerable-children/>

*provide additional support for those who need it and seek to advance equality and protect human rights, including children's rights, in everything we do.*

Decisions on closure and re-opening of childcare services have been informed by scientific advice and discussion and agreement through a number of groups. For childcare, the main fora for decision-making have been the Covid-19 Education Recovery Group (CERG) work streams, specifically those on critical childcare and early learning and childcare (ELC); and through the Working Group on ELC and Childcare Recovery. Further information on the key groups are set out here.

**The Scottish Government COVID-19 Advisory Group<sup>4</sup>** was established in March 2020 to:

- apply the advice from the [Scientific Advisory Group on Emergencies \(SAGE\)](#) and other appropriate sources of evidence and information; and
- use it to inform local decisions in Scotland during the pandemic.
- This includes providing insight and modelling to Ministers and the COVID-19 Education Recovery Group.

**The COVID-19 Education Recovery Group<sup>5</sup>** (CERG) was established in April 2020 to support government decision making by providing insight into the practicalities around re-opening schools and childcare. The group has been supported by ten work-streams, which draw on expertise from key stakeholders across the sectors, to recognise and respond to multiple factors that have already affected or will affect children and young people, families and the education workforce. These include:

- the impact of closures and lockdown more broadly.
- the process of re-opening settings and the necessary steps to do so.
- supporting the sectors to ensure that when face-to-face contact resumes, that it is done safely.

**The Coronavirus (COVID-19): Advisory Sub-Group on Education and Children's Issues<sup>6</sup>** was convened in June 2020 as a sub-group of the COVID-19 Advisory Group. It was established to provide increased resource on scientific advice for education and children's issues. Scientific data and guidance continues to evolve and the Scottish Government has continued to adapt its approach accordingly. Due to the ongoing suppression of the virus, all Care Inspectorate registered childcare settings ("registered settings") were able to re-open from 15 July 2020. The first set of guidance on this was published in June and

<sup>4</sup> <https://www.gov.scot/groups/scottish-government-covid-19-advisory-group/>

<sup>5</sup> <https://www.gov.scot/groups/covid-19-education-recovery-group/>

<sup>6</sup> <https://www.gov.scot/publications/coronavirus-covid-19-advisory-sub-group-on-education-and-childrens-issues/>

	<p>has been updated<sup>7</sup> with the most up-to-date scientific advice<sup>8</sup>. Following the further restrictions on access to formal childcare in January/February 2021, the Sub Group provided further advice on a phased re-opening of formal childcare from 22 February<sup>9</sup>.</p> <p>The <b>Working Group on ELC and Childcare Sector Recovery</b> was created to provide support to the childcare sector through the relevant representative bodies<sup>10</sup>, in response to the needs brought about by COVID-19. The group's work sits within the wider architecture of the CERG and the Critical Childcare and ELC workstreams and is designed to ensure that the private, third and childminding sectors are able to input into the work of the workstreams.</p> <p>The work of the group has primarily been focussed on helping to shape guidance and formulate support to the childcare sector through the provision of expert advice. Early Years Scotland and the Scottish Government provide the formal link between this group and the CERG workstreams.</p>
<p><b>Scope of the CRWIA, identifying the children and young people affected by the policy, and summarising the evidence base</b></p>	<p>This CRWIA assesses the impact on the rights and wellbeing of children in Scotland of the Strategic Framework Protection Levels approach to early learning and childcare. It sets out the consideration that has been given to children's rights and wellbeing for the latest measures, which enable children to access early learning and childcare at all protection levels.</p> <p>This impact assessment seeks to update the CRWIA process carried out on the impact of closing childcare during the initial lockdown (from March 2020), reopening childcare in Summer 2020 and the impact on children's rights and wellbeing of the Protection Levels introduced in October 2020<sup>11</sup>. In drafting this CRWIA, the questions used as part of the re-opening childcare CRWIA<sup>12</sup> have been considered. These questions are presented below, along with an updated summary of key findings.</p> <p>Data sources utilised in this process included:</p> <ul style="list-style-type: none"> <li>• The CRWIAs undertaken in May, September and November 2020.</li> <li>• The EQIA on interventions in Early Learning and Childcare (ELC) and formal childcare at all levels of the Strategic Framework.</li> </ul>

<sup>7</sup> <https://www.gov.scot/publications/coronavirus-covid-19-guidance-on-reopening-early-learning-and-childcare-services/>; <https://www.gov.scot/publications/coronavirus-covid-19-childminder-services-guidance/>; <https://www.gov.scot/publications/coronavirus-covid-19-fully-outdoor-childcare-providers-guidance/>; <https://www.gov.scot/publications/coronavirus-covid-19-guidance-on-reopening-school-age-childcare-services/>

<sup>8</sup> <https://www.gov.scot/publications/coronavirus-covid-19-advisory-sub-group-on-education-and-childrens-issues--physical-distancing-in-early-learning-and-childcare-settings-elc/>

<sup>9</sup> <https://www.gov.scot/publications/coronavirus-covid19-advisory-sub-group-on-education-and-childrens-issues---advice-on-phased-return-to-in-person-learning-in-schools-and-early-learning-and-childcare-elc-settings/>

<sup>10</sup> <https://www.careandlearningalliance.co.uk>; <https://earlyyearsscotland.org/>; <https://www.ndna.org.uk/NDNA/AllAboutUs/Scotland.aspx>; <https://www.childminding.org/>; <https://soscn.org/>

<sup>11</sup> <https://www.gov.scot/publications/coronavirus-covid-19-strategic-framework-reopening-schools-early-learning-childcare-settings-initial-impact-assessment/>, [Coronavirus \(COVID-19\): re-opening childcare - impact assessment - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/coronavirus-covid-19-re-opening-childcare-impact-assessment/) and [Coronavirus \(COVID-19\): impact of restrictions on children and young people - CRWIA - stage 3 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/coronavirus-covid-19-impact-of-restrictions-on-children-and-young-people-crwia-stage-3-gov.scot/)

<sup>12</sup> [Coronavirus \(COVID-19\): re-opening childcare - impact assessment - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/coronavirus-covid-19-re-opening-childcare-impact-assessment-gov.scot/)

	<ul style="list-style-type: none"> <li>Available sources of up to date research and evidence which reflect the picture post March 2020<sup>13</sup></li> </ul>
<p><b>Children and young people’s views and experiences</b></p>	<p>There has been no direct engagement with children and young people given the need to act quickly in response to the COVID-19 pandemic, the lack of scope for face to face engagement, and the very young age of many of the children affected.</p> <p>However, views of the sector, staff and parents have been gathered through the Advisory Sub Group and the Working Group on ELC and Childcare Sector Recovery. In addition, views expressed during a number of studies on the impacts of the pandemic have been considered.</p>
<p><b>Key Findings, including an assessment of the impact on children’s rights, and how the measure will contribute to children’s wellbeing</b></p>	<p><b>What aspects of the policy/measure will affect children and young people up to the age of 18?</b><sup>14</sup></p> <p>All elements of these decisions have affected children in Scotland who attend registered childcare. These children are generally between the ages of 0 and 12 years of age.</p> <p><b>What likely impact – direct or indirect – will the policy/measure have on children and young people?</b><sup>15</sup></p> <p>All elements of these decisions have had a direct impact on all children in Scotland who attend registered childcare. These impacts are further set out below in the section 'What impact have the decisions had on children's rights?'</p> <p><b>Which groups of children and young people will be affected?</b><sup>16</sup></p> <p>All children in Scotland who attend registered childcare have been affected by restrictions imposed on registered childcare as a result of the COVID-19 pandemic. The latest version of the Strategic Framework Protection Levels will therefore affect a broad range of children.</p> <p>Particular consideration will be given to children who will have experienced a disproportionate impact from closure, accessing critical childcare and re-opening. This includes children:</p>

<sup>13</sup> Including the [Connect’s Parent/Carer Survey](#), the [Royal Foundation: State of the Nation survey](#), the [CEYRIS 2 survey](#) and [Children’s Parliament: 15 Stories](#).

<sup>14</sup> The Articles of the UN Convention on the Rights of the Child (UNCRC) and the child wellbeing indicators under the Children and Young People (Scotland) Act 2014 apply to all children and young people up to the age of 18, including non-citizen and undocumented children and young people.

<sup>15</sup> 'Direct' impact refers to policies/measures where children and young people are directly affected by the proposed changes. 'Indirect' impact refers to policies/measures that are not directly aimed at children but will have an impact on them.

<sup>16</sup> Under the UNCRC, 'children' can refer to: individual children, groups of children, or children in general. Some groups of children will relate to the groups with protected characteristics under the Equality Act 2010: disability, race, religion or belief, sex, sexual orientation. 'Groups' can also refer to children by age band or setting, or those who are eligible for special protection or assistance: e.g. preschool children, children in hospital, children in rural areas, looked after children, young people who offend, victims of abuse or exploitation, child migrants, or children living in poverty.

- **with additional support needs** who may have access to resources and experiences in childcare that are not available at home;
- **at an increased risk of harm** through domestic violence, neglect and poor mental health and wellbeing, where childcare provides safety, consistency and access to wider support/interventions.
- **in poverty**, where childcare provides access to experiences and necessities that are not (readily) available at home.

### **Which UNCRC Articles are relevant to the policy/measure?**

All UNCRC rights are underpinned by the four general principles: non-discrimination; the best interests of the child; the right to life, survival and development; and the child's right to have their views given due weight. The following are the key Articles of most relevance to the decisions we are considering in this document:

- **Article 2 - Non-discrimination** - Children should not be discriminated against in the enjoyment of their rights. No child should be discriminated against because of the situation or status of their parent/carer(s).
- **Article 3 - Best interests of the child** - Every decision and action taken relating to a child must be in their best interests. Governments must take all appropriate legislative and administrative measures to ensure that children have the protection and care necessary for their wellbeing - and that the institutions, services and facilities responsible for their care and protection conform with established standards.
- **Article 6 - Life, survival and development** - Every child has a right to life and to develop to their full potential.
- **Article 12 - Respect for the views of the child** - Every child has a right to express their views and have them given due weight in accordance with their age and maturity. Children should be provided with the opportunity to be heard, either directly or through a representative or appropriate body.
- **Article 13 - Freedom of expression** - Every child must be free to say what they think and to seek, receive and share information, as long as the information is not damaging to themselves or others.
- **Article 15 - Freedom of association** - Every child has the right to freedom of assembly: to meet with other children, and to join groups and organisations, as long as it does not stop others from enjoying their rights.
- **Article 18(1,2,3) - Parental responsibilities and state assistance**
  - Parents, or legal guardians, have the primary responsibility for the upbringing and development of the

child, and should always consider what is best for the child.

- Governments must provide appropriate assistance to parents and carers to help them.
- Governments must take all appropriate measures to ensure the children of working parents have the right to benefit from childcare services and facilities.

- **Article 19 - Protection from all forms of violence** - Children have a right to be protected from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation. Governments must do all that they can to ensure this.
- **Article 23 - Children with disabilities** - A disabled child has the right to enjoy a full and decent life in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community. Governments must recognise the right of the disabled child to special care, and ensure the disabled child has effective access to education, training, health care, rehabilitation, preparation for employment, and recreational opportunities.
- **Article 24 - Health and health services** - All children have a right to the highest attainable standard of health, and to health care services that help them to attain this. Governments must provide good quality health care, clean water, nutritious food and a clean environment so that children can stay healthy.
- **Article 30 - Children of minorities/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 people in the country where they live.
- **Article 31 - Leisure, play and culture** - Every child has a right to rest and leisure, to engage in play and recreational activities, and to take part in a range of cultural and artistic activities.
- **Article 34 - Sexual exploitation** - Governments must protect children from all forms of sexual exploitation and abuse.
- **Article 39 - Recovery and rehabilitation of child victims** - Children who have been the victims of any form of exploitation or abuse; cruel, inhuman or degrading treatment or punishment; or who are victims of war should receive the help they need to recover their health, dignity and self-respect, and reintegrate into society

**What impact have the decisions had on children's rights?**

**If a negative impact is assessed for any area of rights or any group of children and young people, what options have you considered to modify the proposal, or mitigate the impact?**

- **Article 2 - Non-discrimination**
- **Article 23 - Children with disabilities**
- **Article 30 - Children of minorities/ indigenous groups**

At the point of closing registered childcare settings to all children during periods of lockdown, both local and national government recognised that some children would be particularly adversely impacted. This would be compounded by restrictions on informal childcare. Access to formal childcare at all protection levels of the framework will mitigate these impacts.

Childcare provides access to opportunities and, in some cases, respite from challenging home circumstances for children, and can be a key element for them enjoying their broader rights (e.g. those covered below on play and freedom of association).

The provision of childcare for vulnerable children, during periods of restricted access to formal childcare, was put in place to support those children as well as their families. Enabling all children to access formal childcare at all protection levels will mitigate this.

During periods of restricted opening of formal childcare, children affected by disability and children with complex additional support needs were identified in guidance on who could access critical childcare<sup>17</sup>. Guidance on re-opening childcare (e.g. for early learning and childcare<sup>18</sup>) also identified some specific groups who may require particular consideration in recognition of differential impacts on them:

- Support for Minority Ethnic children
- Children who are clinically vulnerable
- Children who are clinically extremely vulnerable (shielding)
- Support for children with Additional Support Needs

All children will now be able to attend formal childcare at all protection levels. For those who are shielding, this will be subject to clinical advice and individualised risk assessment.

- **Article 3 - Best interests of the child**
- **Article 6 - Life, survival and development**
- **Article 24 - Health and health services**

In making decisions on childcare, there is a recognition that we are directly impacting on children's enjoyment of their rights.

While some rights have been negatively impacted due to restrictions on access to formal childcare, we believe the decisions we have made promote their best interests, their right to life, survival and development and their right to health. This is embedded in our Getting It Right For Every Child approach.

<sup>17</sup> <https://www.gov.scot/publications/coronavirus-guide-schools-early-learning-closures/pages/vulnerable-children/>

<sup>18</sup> <https://www.gov.scot/publications/coronavirus-covid-19-guidance-on-reopening-early-learning-and-childcare-services/pages/risk-assessment-and-support-for-specific-groups/#additionalneeds>

In providing access to childcare, sector specific guidance has been put in place to ensure risks to children, staff and parents are managed and minimised as far as is possible.

- **Article 12 - Respect for the views of the child**
- **Article 13 - Freedom of expression**

Children's rights to have their views considered in decisions that affect them have been negatively impacted during the decision-making processes. Children have not been consulted on the Strategic Framework Protection Level measures relating to restrictions on formal childcare.

For children of school age, we commissioned work from Active Inquiry to capture the views of children who would normally attend school age childcare using online theatre. While this did not reach a wide audience it provided some insight in to their thoughts and views.

The refreshed early years national practice guidance for Scotland 'Realising the Ambition: Being Me'<sup>19</sup> has been central to the national response during lockdown and preparation for return to full access to childcare. This puts a focus on individual children's needs and interests and promotes seeking and listening to children's views as a central theme.

- **Article 15 - Freedom of association**
- **Article 31 - Leisure, play and culture**

Children's rights to play, to learn and to access experiences that meet their physical, social, emotional and cultural needs, and to associate with their peers have been impacted by childcare closures during the period of the pandemic.

Formal childcare provides access to these experiences for many children and guidance on re-opening all registered childcare highlights the importance of friendships, play and social connections for children. Enabling all children to access formal childcare at all protection levels will ensure this right is protected.

- **Article 18(1,2,3) - Parental responsibilities and state assistance**

Enabling all children to access formal childcare at all protection levels will have had a particularly positive impact on families who access wider support through their child's attendance. This can be resources, including food and advice and signposting to more specialist services.

- **Article 19 - Protection from all forms of violence**
- **Article 34 - Sexual exploitation**
- **Article 39 - Recovery and rehabilitation of child victims**

<sup>19</sup> <https://education.gov.scot/improvement/learning-resources/realising-the-ambition/>

Research indicates children were more likely to experience domestic violence during lockdown<sup>20</sup>. These children for whom home is not a safe or stable environment will benefit from being able to attend formal childcare services which provide access to trusted adults and to wider support.

## **How have the decisions and actions contributed to the wellbeing of children and young people in Scotland?**

### **Safe and Healthy**

All of the decisions related to childcare have been taken bearing in mind the delicate balance of keeping children safe from harm and promoting their health and wellbeing. These decisions have been informed by specific scientific advice for different age groups of children from the Sub-Group on Education and Children's Issues and on the advice of the Chief Medical Officer<sup>21</sup>. In January and February 2021, there was a need to develop an improved evidence based on the impact of the B.1.1.7 variant of COVID on transmission among children and in educational settings. This necessitated a precautionary approach to restricting access to formal childcare for all children during that period.

As outlined above, we know that some risks to children will have increased during the pandemic including experience of domestic abuse, child protection concerns and poor mental health and wellbeing. The Children and Families Leadership Group was a key forum for consideration of these issues with representatives from national and local level public and third sector stakeholders.

Registered childcare was recognised as a priority to be opened at all protection levels in response to the risks to some children. These considerations have also informed our focus on recommending the benefits of outdoor learning and highlighting the importance of children's opportunities to play and socialise together.

### **Achieving and Nurtured**

We know the closure of childcare, particularly disrupting children's access to statutory early learning and childcare, will have had a negative impact on outcomes for some children.

While many children will have benefitted from rich experiences at home, it is likely that full access to childcare at all protection levels, particularly funded ELC, will support improvements in outcomes for all our children.

### **Active**

As indicated above the focus on outdoor learning and benefits of play and socialising are a key element of the provision of childcare in

<sup>20</sup> <https://www.gov.scot/publications/domestic-abuse-forms-violence-against-women-girls-vawg-during-covid-19-lockdown-period-30-3-20-22-05-20/pages/11/>

<sup>21</sup> <https://www.gov.scot/publications/coronavirus-covid-19-advisory-sub-group-on-education-and-childrens-issues--physical-distancing-in-early-learning-and-childcare-settings-elc/>; <https://www.gov.scot/publications/coronavirus-covid-19-advisory-sub-group-on-education-and-childrens-issues--advisory-note-on-physical-distancing-in-schools/>

Scotland. The reduced risks of transmission in outdoor settings was a key driver to opening fully outdoor settings in advance of other registered childcare.

The benefits of active play and outdoor activity were highlighted during the lockdown period in critical childcare provision and are emphasised in the re-opening guidance for registered childcare<sup>22</sup>.

### **Respected and responsible**

The decisions made in relation to access to regulated childcare have been made first and foremost in light of scientific advice and on the advice of the Chief Medical Officer.

As outlined above, we commissioned work from Active Inquiry to capture the views of children who would normally attend school age childcare using online theatre.

Views from young children were not sought directly by national government although a survey was developed by Public Health Scotland to gather the experience of children from age 2-7 during the pandemic through the 'COVID-19 Early years resilience and impact survey' (CEYRIS 2)<sup>23</sup>.

The childcare workforce is well experienced in seeking and observing children's thoughts and feelings and will be well attuned to their needs and views when they return to settings. This is supported by the practice guidance (Realising the Ambition).

These sources will inform ongoing support to children and families as we work through the different stages of the pandemic.

### **Included**

Mitigation of negative impacts, particularly on those children who most need support, has been central to our response. There have been a number of approaches to provide support for those affected by disadvantage, including access to critical childcare, continued provision of free school meals and alternatives during lockdown and during holiday periods. Full access to formal childcare for all children has been prioritised as we have moved out of lockdown.

### **How will the policy/measure give better or further effect to the implementation of the UNCRC in Scotland?**

In these complex, finely balanced decisions, there has been consistent consideration of children's wellbeing and rights, and a particular focus on the reduction of negative impact through mitigating actions.

We recognise that in some circumstances it is not possible to wholly mitigate the impact to children's rights and that some decisions will have

<sup>22</sup> <https://www.gov.scot/publications/coronavirus-covid-19-guidance-on-reopening-early-learning-and-childcare-services/pages/outdoor-spaces/>

<sup>23</sup> [CEYRIS 2](#)

	<p>had a negative impact on some UNCRC rights. These have been assessed as necessary and proportionate and in the best interests of children and young people.</p> <p>With a return to childcare and with the underpinning approach set out in 'Realising the Ambition' we believe access to high quality childcare fundamentally promotes and gives further effect to children's rights.</p> <p><b>What evidence have you used to inform your assessment? What does it tell you?</b></p> <p>We have reflected the information gathered through research, statistical evidence and data, and information provided by colleagues across the Scottish Government. Footnotes are provided throughout.</p> <p>The evidence supports the position that opening childcare at all protection levels will have had a positive impact for children, particularly for those where home does not provide a safe and secure environment or where access to essential resources (including food or support for additional needs) is limited.</p> <p><b>Have you consulted with relevant stakeholders?</b></p> <p>We have worked closely and collaboratively with sector representatives throughout the period of the pandemic. We have not consulted specifically on this document but ongoing discussions have informed its creation.</p> <p>We are open to further discussion on the findings of this process.</p> <p><b>Have you involved children and young people in the development of the policy/measure?</b></p> <p>Given the pace of decision-making, limited resource and limitations of ongoing restrictions, we have not directly involved children in the development of these decisions.</p>			
<b>Monitoring and review</b>	The Scottish Government will review the Strategic Framework Protection Levels every three weeks. However, given the settled position in relation to formal childcare, we do not expect a change to protection level advice but will update and review guidance on a regular basis			
<b>Bill - Clause</b>	<b>Aims of measure</b>	<b>Likely to impact on . . .</b>	<b>Compliance with UNCRC requirements</b>	<b>Contribution to local duties to safeguard, support and promote child wellbeing</b>
Scottish Government Strategic Framework, 16 April 2021	To ensure that at all levels of the Strategic Framework, nurseries,	All children who attend registered formal childcare,	Specific aspects of the UNCRC effected by this measure are	Relevant wellbeing indicators are set out in detail above.

	childminders and regulated school age childcare providers remain open.	such as nurseries, childminders and regulated school age childcare provision.	set out in detail above.	
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## CRWIA Declaration

### Authorisation

<b>Policy lead</b>  <b>Alison Cumming</b> <b>Director, Early learning and childcare</b>	<b>Date</b> <b>23/04/2021</b>
<b>Deputy Director or equivalent</b>  <b>Alison Cumming</b> <b>Director, Early learning and childcare</b>	<b>Date</b> <b>23/04/2021</b>

**Children’s Rights and Wellbeing Impact Assessment - Informal childcare provision at all protection levels of the Strategic Framework**

**Date of publication: April 2021**

**Executive summary**

This Children's Rights and Wellbeing Impact Assessment (CRWIA) sets out the consideration given to children’s rights and wellbeing for the updated Strategic Framework Protection Levels<sup>24</sup>, to enable informal childcare arrangements at protection levels 0-3, subject to wider health protection measures such as physical distancing and hygiene measures, and essential informal childcare arrangements at level 4 of the Strategic Framework.

Informal childcare encompasses care provided by families, neighbours and friends, which may be paid or unpaid. It also includes care provided on a paid basis by nannies (whether agency or self-employed) and babysitters. Generally this care is provided in the place of residence of the child (or children) concerned, but it may take place in the home of the caregiver, or between multiple residences for example where friends or relatives share childcare.

Informal childcare is essential for many families, enabling parents (and women in particular) to work and families with a disabled child or parent to access vital support and respite.

The Strategic Framework allows for informal childcare arrangements across all levels. In Level 4 it is advised that only essential informal childcare is permissible.

In Levels 0-3 consideration should be given to socialising/household restrictions such as adults and children 12 and over from different households staying at least 2 metres apart from each other; maintaining hand and cough hygiene, avoiding touching hard surfaces with hands, not sharing food or utensils, and if possible, keeping rooms well ventilated. From polling work undertaken by YouGov in January 2021, we know at that point that grandparents were a key source of informal childcare – used by around a fifth of families.

We assess the overall impacts of the Strategic Framework at Levels 0-3 as having a positive impact on children’s rights and wellbeing, as the measures recommended for each of these levels would enable informal childcare to continue so that children can access childcare options with trusted adults beyond their household, supporting their wellbeing.

At Level 4, the Strategic Framework advises only essential informal childcare which includes keyworkers, those working in permitted workplaces, and to support home working where necessary. In these cases only children should enter another household for informal childcare in order to limit contacts between adults. The guidance does

<sup>24</sup> [Coronavirus \(COVID-19\): local protection levels - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/covid-19-protection-levels/pages/1-introduction-and-protection-levels.aspx)

	<p>permit that the care giver can come to the child's home where it is essential, for example if a child has additional support needs or due to lack of transportation. This measure could potentially have negative impacts on children, affecting their normal routines and relationships.</p> <p>If a household has only one adult living in it, this household (including, where applicable, any children who live with the single adult), and the members of one other household (of any size) can agree to form an 'extended household'. The guidance on extended households remains the same across all levels of the strategic framework, therefore, where families have formed an extended household, they will be able to access informal childcare with this other household from Level 0 through to Level 4. There are, however, many families for whom this is not applicable as they are not part of an extended household.</p> <p>This CRWIA found that the updated Strategic Framework has a direct impact on all children in Scotland who make use of informal childcare. Enabling informal childcare will mitigate the negative impact that restrictions on informal childcare had on children during previous periods of 'lockdown'. However, some restrictions will remain at level 4, advising that only essential childcare take place, which is likely to have a negative impact on the rights and wellbeing of those children who would normally benefit from informal childcare which isn't deemed to be essential.</p>
<p><b>Background</b></p>	<p>As part of the Scottish Government's response to the COVID-19 pandemic approaches to childcare were carefully considered as lockdown restrictions were eased. Throughout the previous strategic framework, informal childcare has been permitted, including essential informal childcare in level 4 and in stay at home restrictions.</p> <p>On 22 April 2021, the Scottish Government updated the <a href="#">COVID protection levels</a>, which continued to enable informal childcare at levels 0-3, and essential informal childcare at level 4.</p> <p><b>Decision-making</b></p> <p>As set out in <a href="#">Scotland's Route Map through and out of the crisis</a>:</p> <p><i>COVID-19 is first and foremost a public health crisis, and the measures to combat it have been necessary to save lives. But those measures also cause harm, and can have the most negative impacts on some people in</i></p>

	<p><i>our society least able to withstand them. We are learning that the harms caused by the pandemic are not felt equally.</i></p> <p><i>Our response to this pandemic must recognise these unequal impacts. Just as we have sought to shield those most at risk, we must continue to provide additional support for those who need it and seek to advance equality and protect human rights, including children's rights, in everything we do.</i></p> <p>Decisions on informal childcare arrangements have been informed by clinicians and public health experts.</p>
<p><b>Scope of the CRWIA, identifying the children and young people affected by the policy, and summarising the evidence base</b></p>	<p>This CRWIA assesses the impact on the rights and wellbeing of children in Scotland of the Strategic Framework Protection Levels approach to informal childcare. It sets out the consideration that has been given to children's rights and wellbeing for the latest measures, which enable children to access informal childcare at levels 0-3, subject to wider health protection measures such as physical distancing and hygiene measures, and essential informal childcare at level 4.</p> <p>Data sources utilised in this process included:</p> <ul style="list-style-type: none"> <li>• The CRWIAs undertaken in May on the impact of closing childcare during the initial lockdown (from March 2020), September on the impact of reopening childcare in Summer 2020 and November 2020 on the impact on children's rights and wellbeing of the Protection Levels introduced in October 2020<sup>25</sup>.</li> <li>• The EQIA on interventions in Early Learning and Childcare (ELC) and formal childcare at all levels of the Strategic Framework.</li> <li>• Available sources of up to date research and evidence which reflect the picture post March 2020<sup>26</sup></li> </ul>
<p><b>Children and young people's views and experiences</b></p>	<p>There had previously been no direct engagement with children and young people given the need to act quickly in response to the COVID-19 pandemic, the lack of scope for face to face engagement, and the very young age of many of the children affected.</p> <p>However, views are now being gathered through a number of consultations with children specifically about their views of the framework and the levels approach and what they would like to see as restrictions ease, as well as the impacts of those restrictions and relaxations on their lives. This work is being carried out through focus groups arranged and delivered by children's organisations including Young Scot and Children in Scotland.</p>

<sup>25</sup> <https://www.gov.scot/publications/coronavirus-covid-19-strategic-framework-reopening-schools-early-learning-childcare-settings-initial-impact-assessment/>, [Coronavirus \(COVID-19\): re-opening childcare - impact assessment - gov.scot \(www.gov.scot\)](#) and [Coronavirus \(COVID-19\): impact of restrictions on children and young people - CRWIA - stage 3 - gov.scot \(www.gov.scot\)](#)

<sup>26</sup> Including the [Connect's Parent/Carer Survey](#), the [Royal Foundation: State of the Nation survey](#), the [CEYRIS 2](#) survey and [Children's Parliament: 15 Stories](#).

	Views have also been gathered through the Advisory Sub Groups and through views expressed during a number of studies on the impacts of the pandemic <sup>27</sup> .
<p><b>Key Findings, including an assessment of the impact on children’s rights, and how the measure will contribute to children’s wellbeing</b></p>	<p><b>What aspects of the policy/measure will affect children and young people up to the age of 18?</b><sup>28</sup></p> <p>These decisions have affected all children in Scotland who access informal childcare. These children are mostly between the ages of 0 and 12 years of age.</p> <p><b>What likely impact – direct or indirect – will the policy/measure have on children and young people?</b><sup>29</sup></p> <p>All elements of these decisions have had a direct impact on all children in Scotland who access informal childcare. These impacts are further set out below in the section 'What impact have the decisions had on children's rights?'. </p> <p><b>Which groups of children and young people will be affected?</b><sup>30</sup></p> <p>All children in Scotland who access informal childcare have been affected by restrictions imposed on this as a result of the COVID-19 pandemic. The latest version of the Strategic Framework Protection Levels will therefore affect a broad range of children.</p> <p><b>Which UNCRC Articles are relevant to the policy/measure?</b></p> <p>All UNCRC rights are underpinned by the four general principles: non-discrimination; the best interests of the child; the right to life, survival and development; and the child's right to have their views given due weight. The following are the key Articles of most relevance to the decisions we are considering in this document:</p> <ul style="list-style-type: none"> <li>• <b>Article 2 - Non-discrimination</b> - Children should not be discriminated against in the enjoyment of their rights. No child should be discriminated against because of the situation or status of their parent/carer(s).</li> <li>• <b>Article 3 - Best interests of the child</b> - Every decision and action taken relating to a child must be in their best interests. Governments must take all appropriate legislative and</li> </ul>

<sup>27</sup> See for example [Connect’s Parent/Carer Survey](#), the [Royal Foundation: State of the Nation survey](#), the [CEYRIS 2](#) survey and [Children’s Parliament: 15 Stories](#).

<sup>28</sup> The Articles of the UN Convention on the Rights of the Child (UNCRC) and the child wellbeing indicators under the Children and Young People (Scotland) Act 2014 apply to all children and young people up to the age of 18, including non-citizen and undocumented children and young people.

<sup>29</sup> 'Direct' impact refers to policies/measures where children and young people are directly affected by the proposed changes. 'Indirect' impact refers to policies/measures that are not directly aimed at children but will have an impact on them.

<sup>30</sup> Under the UNCRC, 'children' can refer to: individual children, groups of children, or children in general. Some groups of children will relate to the groups with protected characteristics under the Equality Act 2010: disability, race, religion or belief, sex, sexual orientation. 'Groups' can also refer to children by age band or setting, or those who are eligible for special protection or assistance: e.g. preschool children, children in hospital, children in rural areas, looked after children, young people who offend, victims of abuse or exploitation, child migrants, or children living in poverty.

administrative measures to ensure that children have the protection and care necessary for their wellbeing - and that the institutions, services and facilities responsible for their care and protection conform with established standards.

- **Article 6 - Life, survival and development** - Every child has a right to life and to develop to their full potential.
- **Article 12 - Respect for the views of the child** - Every child has a right to express their views and have them given due weight in accordance with their age and maturity. Children should be provided with the opportunity to be heard, either directly or through a representative or appropriate body.
- **Article 13 - Freedom of expression** - Every child must be free to say what they think and to seek, receive and share information, as long as the information is not damaging to themselves or others.
- **Article 15 - Freedom of association** - Every child has the right to freedom of assembly: to meet with other children, and to join groups and organisations, as long as it does not stop others from enjoying their rights.
- **Article 18(1,2,3) - Parental responsibilities and state assistance**
  - Parents, or legal guardians, have the primary responsibility for the upbringing and development of the child, and should always consider what is best for the child.
  - Governments must provide appropriate assistance to parents and carers to help them.
  - Governments must take all appropriate measures to ensure the children of working parents have the right to benefit from childcare services and facilities.
- **Article 19 - Protection from all forms of violence** - Children have a right to be protected from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation. Governments must do all that they can to ensure this.
- **Article 23 - Children with disabilities** - A disabled child has the right to enjoy a full and decent life in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community. Governments must recognise the right of the disabled child to special care, and ensure the disabled child has effective access to education, training, health care, rehabilitation, preparation for employment, and recreational opportunities.
- **Article 24 - Health and health services** - All children have a right to the highest attainable standard of health, and to health

care services that help them to attain this. Governments must provide good quality health care, clean water, nutritious food and a clean environment so that children can stay healthy.

- **Article 30 - Children of minorities/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 people in the country where they live.
- **Article 31 - Leisure, play and culture** - Every child has a right to rest and leisure, to engage in play and recreational activities, and to take part in a range of cultural and artistic activities.
- **Article 34 - Sexual exploitation** - Governments must protect children from all forms of sexual exploitation and abuse.
- **Article 39 - Recovery and rehabilitation of child victims** - Children who have been the victims of any form of exploitation or abuse; cruel, inhuman or degrading treatment or punishment; or who are victims of war should receive the help they need to recover their health, dignity and self-respect, and reintegrate into society

**What impact have the decisions had on children's rights?  
If a negative impact is assessed for any area of rights or any group of children and young people, what options have you considered to modify the proposal, or mitigate the impact?**

### **Overview**

#### **Protection Levels 0-3**

The Strategic Framework states that, at Levels 0-3, informal childcare is permitted. Consideration should be given the rules for socialising which although limits household mixing still enables childcare to continue other than for multiple households. The impact on children would be mostly positive in that they can continue to access the wellbeing benefits of informal childcare with a trusted adult. There may be some changes to arrangements for children whose childcare is shared with another family which could result in a possible negative impact for children who enjoy mixing with others as part of this childcare experience.

Informal childcare can provide access to opportunities and respite from home for many children and can be a key element for them enjoying their broader rights, such as Article 31 of the UNCRC (Leisure, play and culture). Allowing most informal childcare to continue supports this positive impact.

#### **Protection Level 4**

Level 4 of the Strategic Framework states that essential informal childcare is permitted. This includes keyworkers, those working in

permitted workplaces and to support work from home where needed. Where informal childcare takes place it is advised that only children should enter the home of another household unless there are extenuating circumstances such as a child with a disability or additional support need. This means that most families will be permitted to continue to access informal childcare resulting in positive impacts for most children.

For some families the advice for only children to enter the house of the caregiver may mean that their normal childcare options are not available – e.g. if they use a nanny, as they would normally attend the child’s own home to provide care.

For children whose parents work atypical hours or who are in low income work, having to travel to the home of their caregiver rather than have them come to the child’s home may have negative impacts on the accessibility of their informal childcare provision which in turn may impact on the child’s access to informal childcare.

Accessing informal childcare is more likely to be used by parents working atypical hours, as well as those employed irregularly with evidence that lone parents are more heavily reliant on this form of care.<sup>31</sup> Some evidence suggests that younger and more socio-economically disadvantaged mothers may use informal care more frequently (if they have the support network to offer this), but there is some ambiguity in the evidence on who uses informal childcare.<sup>32</sup>

Level 4 restrictions, however small, could have a differential negative impact on children from more disadvantaged socio-economic backgrounds, affecting their parents’ ability to continue to work in non-essential roles and limiting contact between the child and their extended families or networks.

Informal childcare can provide access to opportunities and respite from home for many children and can be a key element for them enjoying their broader rights, such as Article 31 of the UNCRC (leisure, play and culture). While some of children’s rights may be negatively impacted by restrictions required in Level 4, we believe the decisions we have made promote their best interests, their right to life, survival and development and their right to health.

Impacts on specific UNCRC rights are set out below:

<sup>31</sup> <http://www.healthscotland.scot/media/1786/provision-of-early-learning-and-childcare-and-parents-outcomes-an-evidence-brief.pdf>

<sup>32</sup> <http://www.healthscotland.scot/media/1786/provision-of-early-learning-and-childcare-and-parents-outcomes-an-evidence-brief.pdf>

- **Article 2 - Non-discrimination**
- **Article 23 - Children with disabilities**
- **Article 30 - Children of minorities/ indigenous groups**

At the point of imposing restrictions relating to the use of informal childcare, it was recognised that some children would be particularly adversely impacted. Enabling families to make use of informal childcare going forward will mitigate these impacts.

Informal childcare provides access to opportunities and respite from home for many children and can be a key element for them enjoying their broader rights (e.g. those covered below on play and freedom of association).

- **Article 3 - Best interests of the child**
- **Article 6 - Life, survival and development**
- **Article 24 - Health and health services**

In making decisions on informal childcare, there is a recognition that we are directly impacting on children's enjoyment of their rights. While some rights have been negatively impacted due to restrictions on access to informal childcare, we believe the decisions we have made promote their best interests, their right to life, survival and development and their right to health. This is embedded in our Getting It Right For Every Child approach.

In providing access to informal childcare, sector specific guidance has been put in place to ensure risks to children, parents and carers are managed and minimised as far as is possible.

- **Article 12 - Respect for the views of the child**
- **Article 13 - Freedom of expression**

Children's rights to have their views considered in decisions that affect them have been negatively impacted during the decision-making processes. Children have not been consulted on the Strategic Framework Protection Level measures relating to restrictions on informal childcare.

- **Article 15 - Freedom of association**
- **Article 31 - Leisure, play and culture**

Children's rights to play, to learn and to access experiences that meet their physical, social, emotional and cultural needs, and to associate with their peers are likely to have been positively impacted by the ability to continue to access informal childcare. For those who have been unable to continue to access their normal informal childcare arrangements during the period of the pandemic there will likely be some negative impacts.

There is a strong recognition that social interactions, with friends and wider family plays a key role to optimise children's development and their wider wellbeing. This has different impacts depending on their age and

stage of development and the circumstances that children are currently living in. Evidence suggests that parents also use childcare to support their child's development, rather than for purely practical purposes (e.g. for childcare while the parent worked)<sup>33</sup>. A range of evidence has been gathered on the impact on children during this time, and it shows that although for some aspects of some children's lives there have been positive effects, such as spending more time with their parents in the home, for the majority of children the impacts of restrictions on childcare have been negative.

- **Article 18(1,2,3) - Parental responsibilities and state assistance**

Enabling children to access some level of informal childcare at all protection levels will have had a particularly positive impact on families who access wider support through informal childcare arrangements.

- **Article 19 - Protection from all forms of violence**
- **Article 34 - Sexual exploitation**
- **Article 39 - Recovery and rehabilitation of child victims**

Research indicates children were more likely to experience domestic violence during lockdown<sup>34</sup>. These children for whom home is not a safe or stable environment may benefit from being able to attend informal childcare which provide access to trusted adults or to wider support.

### **How have the decisions and actions contributed to the wellbeing of children and young people in Scotland?**

#### **Safe and Healthy**

All of the decisions related to childcare have been taken bearing in mind the delicate balance of keeping children safe from harm and promoting their health and wellbeing.

As outlined above, we know that some risks to children will have increased during the pandemic including experience of domestic abuse, child protection concerns and poor mental health and wellbeing. The Children and Families Leadership Group was a key forum for consideration of these issues with representatives from national and local level public and third sector stakeholders.

Informal childcare was recognised as a priority to be available at protection levels 0-3 (with essential informal childcare available at level 4) in response to the risks to some children.

#### **Respected and responsible**

<sup>33</sup> Ipsos MORI. State of the nation: Understanding public attitudes to the early years. [https://mk0royalfoundatcnhl0.kinstacdn.com/wp-content/uploads/2020/11/ipsos-MORI-SON\\_report\\_FINAL\\_V2.4.pdf](https://mk0royalfoundatcnhl0.kinstacdn.com/wp-content/uploads/2020/11/ipsos-MORI-SON_report_FINAL_V2.4.pdf)

<sup>34</sup> <https://www.gov.scot/publications/domestic-abuse-forms-violence-against-women-girls-vawg-during-covid-19-lockdown-period-30-3-20-22-05-20/pages/11/>

The decisions made in relation to access to informal childcare have been made on the advice of public health experts and the Chief Medical Officer.

Views from young children were not sought directly by national government although a survey was developed by Public Health Scotland to gather the experience of children from age 2-7 during the pandemic through the 'COVID-19 Early years resilience and impact survey' (CEYRIS 2)<sup>35</sup>. These sources will inform ongoing support to children and families as we work through the different stages of the pandemic.

**How will the policy/measure give better or further effect to the implementation of the UNCRC in Scotland?**

In these complex, finely balanced decisions, there has been consistent consideration of children's wellbeing and rights, and a particular focus on the reduction of negative impact through mitigating actions.

We recognise that in some circumstances it is not possible to wholly mitigate the impact to children's rights and that some decisions will have had a negative impact on some UNCRC rights. These have been assessed as necessary and proportionate and in the best interests of children and young people.

The impact on children would be mostly positive in that they can continue to access the wellbeing benefits of informal childcare with a trusted adult. There may be some changes to arrangements for children whose childcare is shared with another family which could result in a possible negative impact for children who enjoy mixing with others as part of this childcare experience.

Informal childcare can provide access to opportunities and respite from home for many children and can be a key element for them enjoying their broader rights, such as Article 31 of the UNCRC (Leisure, play and culture) . Allowing most informal childcare to continue supports this positive impact.

**What evidence have you used to inform your assessment? What does it tell you?**

We have reflected the information gathered through research, statistical evidence and data, and information provided by colleagues across the Scottish Government. Footnotes are provided throughout.

The evidence supports the position that enabling informal childcare to take place will have had a positive impact for children.

**Have you consulted with relevant stakeholders?**

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<sup>35</sup> [CEYRIS 2](#)

	<p>We have worked closely and collaboratively with sector representatives throughout the period of the pandemic. We have not consulted specifically on this document but ongoing discussions have informed its creation.</p> <p>We are open to further discussion on the findings of this process.</p> <p><b>Have you involved children and young people in the development of the policy/measure?</b></p> <p>Given the pace of decision-making, limited resource and limitations of ongoing restrictions, we have not directly involved children in the development of these decisions.</p>			
<b>Monitoring and review</b>	The Scottish Government will review the Strategic Framework Protection Levels on a 3 weekly basis and more frequently if public health considerations require it.			
<b>Bill - Clause</b>	<b>Aims of measure</b>	<b>Likely to impact on . . .</b>	<b>Compliance with UNCRC requirements</b>	<b>Contribution to local duties to safeguard, support and promote child wellbeing</b>
XXX Scottish Government Strategic Framework, 16 April 2021	To ensure that children can attend informal childcare arrangements at protection levels 0-3, subject to wider health protection measures such as physical distancing and hygiene measures, and essential informal childcare arrangements at level 4 of the Strategic Framework.	All children and families who make use of informal childcare arrangements.	Specific aspects of the UNCRC effected by this measure are set out in detail above.	Relevant wellbeing indicators are set out in detail above.
<b>CRWIA Declaration</b>				
<b>Authorisation</b>				
<b>Policy lead</b>  Alison Cumming  Director, Early learning and childcare		<b>Date</b>  23/04/2021		

**Deputy Director or equivalent**

**Date**  
**23/04/2021**

**Alison Cumming**

**Director, Early learning and childcare**