

# UN Committee on the Rights of the Child

## Examination of the Fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland

### UK Children's Commissioners' Recommendations May 2016



## Contents

General Measures of Implementation (Articles 4, 42, 44(6)) .....	5
International human rights framework and law reform.....	5
Children’s rights action plans and government wide coordination.....	5
Children’s rights impact assessments .....	6
Allocation of resources .....	6
Children’s Commissioners.....	6
Legal aid .....	6
Definition of the Child (Article 1) .....	7
General Principles (Articles 2, 3, 6 and 12) .....	7
Non-discrimination .....	7
Best interests .....	7
Right to life.....	7
Participation.....	8
Structures.....	8
Youth parliaments.....	8
Administrative proceedings .....	8
Civil rights and freedoms (Articles 7, 8, 13, 14, 15, 16, 17, 37 a).....	8
Voting age .....	8
Stop and search.....	8
Counter Terror measures.....	8
Tasers .....	8
Violence against children (Articles 19, 39, 37(a) and 28(2)) .....	9
Corporal punishment.....	9
Counselling and therapy .....	9
Child sexual abuse and sexual exploitation .....	9
Domestic abuse.....	9
Harmful practices.....	9
Paramilitarism.....	10
Family environment and alternative care (Articles 5, 9, 10, 11, 18, 20, 21, 25, 27(4)) .....	10
Family migration rules .....	10
Children in alternative care.....	10
Children’s human rights based approach to children in alternative care.....	10
Care leavers.....	10

Multiple placement moves and high social worker turnover .....	11
Disability, basic health and welfare (Articles 6(2), 18(3), 24, 24(3), 26, 27(1)-(3), 33) .....	11
Mental health.....	11
Planning and investment .....	11
Children’s admittance onto adult mental health wards.....	11
Custody .....	11
High rates of suicide.....	11
Impact of the NI conflict .....	12
Child poverty, welfare and homelessness .....	12
Eradication of child poverty.....	12
Welfare reform and benefit sanctions.....	12
Homelessness.....	12
Disabled children .....	12
Education, leisure and cultural activities (Articles 28, 29, 30 and 31).....	13
Education .....	13
Children’s human rights based approach to education.....	13
Exclusions.....	13
Additional support needs.....	13
Segregation and selection.....	13
Sexual relationships education .....	14
Play and leisure .....	14
Special protection measures (Articles 22, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40).....	15
Youth justice .....	15
Minimum age of criminal responsibility .....	15
Children should not be treated as adults.....	15
Privacy.....	15
Early intervention and preventive services.....	15
Detention .....	15
Restraint.....	16
Life sentences.....	16
Child victims and witnesses .....	16
Immigration and migration .....	16
Refugee crisis .....	16
Detention .....	17

Deportation.....	17
Restraint.....	17
Legal representation .....	17
Guardianship.....	17
Data collection .....	17
Age assessment.....	17
Access to basic services and benefits .....	17
Children in armed conflict.....	18

## General Measures of Implementation (Articles 4, 42, 44(6))

### International human rights framework and law reform

1. The UK Government should sign and ratify the Third Optional Protocol to the UNCRC on a Communications Procedure.
2. A formal UK-wide mechanism should be put in place to ensure that all the devolved nations are meaningfully involved in international human rights reporting mechanisms, including actively participating in UK delegations, in order to ensure the diversity of experience across the UK is reflected.
3. The UK and devolved governments should fully incorporate the CRC and its Protocols into their legislation. As an immediate and interim step, a statutory duty must be placed on all public bodies to have due regard to the CRC in planning and delivering services for children and young people. Governments should also work towards the incorporation of other Conventions, such as the UNCRPD, CEDAW and ICESCR, given their impact on children and young people.
4. There should be no diminution of children's rights protection in UK law. Any changes to human rights legislation in the UK must be underpinned by the following principles:
  - all the protections in the Human Rights Act must be retained;
  - any new British Bill of Rights should build upon, rather than reduce, the protection of the fundamental rights of all children in the jurisdiction without discrimination, it should also provide effective judicial remedies including through the European Court of Human Rights;
  - the UK Government should ensure that any new proposals are developed through a consultative and democratic process in which children's Article 12 rights are fully respected.
5. The UK Government should meet the commitment in the Belfast Agreement 1998 to introduce a Bill of Rights for Northern Ireland which reflects the particular circumstances of Northern Ireland, incorporating relevant provisions of the CRC.

### Children's rights action plans and government wide coordination

6. The UK and devolved governments should work together with civil society and children to agree a strategy for implementing the CRC across the UK. This strategy must be supported by dedicated action plans which set out clear, adequately resourced, time-bound actions and a monitoring framework. Progress against action plans should be reviewed on an annual basis and made public.
7. Any strategy for implementation should include details on how the UK and devolved governments will:
  - ensure there are permanent teams responsible for the coordination of CRC implementation that have adequate authority and resources to effectively deliver and monitor action on CRC implementation and engage with civil society and children and young people in doing so;
  - raise awareness and understanding of the CRC, including dissemination and understanding of the new UK Concluding Observations 2016;
  - establish robust systems for the collection of disaggregated data across all aspects of children's lives which are comparable across the four jurisdictions.
8. The UK and devolved governments should appoint Cabinet level (or equivalent) Ministers for Children with responsibility and accountability for coordinating the monitoring and implementation of the CRC within each jurisdiction.

## **Children's rights impact assessments**

9. The UK and devolved governments should legislate to ensure children's rights impact assessments are undertaken of proposed policies, budgetary decisions and legislation likely to affect children and young people. Such assessments should reflect the views and experiences of children and outline how any negative impact upon children should be mitigated.

## **Allocation of resources**

10. As a matter of priority, the UK and devolved governments should, in line with the requirements of Article 4 CRC, spend the 'maximum extent of available resources' in order to respect, protect and fulfil all children's rights in relation to the impacts of austerity measures. The needs of the poorest and most vulnerable children should be prioritised.
11. The UK and devolved governments should carry out and publish budgetary analysis to clearly evidence how resources are being allocated to progress children's rights and demonstrate how Articles 2, 3 and 12 of the CRC have been fully engaged in budgetary processes. This should be published on an annual basis and include a breakdown by protected characteristics.

## **Children's Commissioners**

12. In line with the Paris Principles, the Children's Commissioners should be mandated by their legislatures rather than governments and be equipped with the necessary human and financial resources in order to carry out their mandate in an effective and coordinated manner.
13. The NI Executive should consider the 2007 and 2013 reports on the NI Commissioner for Children and Young People and amend the legislation accordingly.
14. The Welsh Government must put a clear plan in place towards legislative reform of the Children's Commissioner for Wales' role and remit, including making the Commissioner accountable to the National Assembly for Wales rather than the Welsh Government and to give the Commissioner powers to respond effectively to any matter affecting a child in Wales.

## **Legal aid**

15. The UK Government and devolved governments should ensure that children and families without sufficient means should be able to obtain legal advice and assistance, and where litigation is contemplated, legal representation free of charge in any case where a child's human rights and/or best interests are engaged.
16. The UK Government should specify what measures it will take to mitigate the negative impact of systematic reductions to legal advice, assistance and representation available to children and their parents/carers in relation to, but not limited to, prison law, immigration, private law and education. The UK Government and devolved governments should commit to reviewing the relevant legislation within a three year time frame and should urgently review children's access to justice, specifically in relation to Articles 3 and 12 of the CRC.
17. The Scottish Government should ensure that eligibility for civil legal aid is based on the child's own income, rather than parental income.

## Definition of the Child (Article 1)

18. Legislation should be aligned across the UK State party to include all children under 18 within the legal definition of a child, while appropriately recognising their evolving capacity.

## General Principles (Articles 2, 3, 6 and 12)

### Non-discrimination

19. The UK and devolved governments should amend existing equalities legislation to ensure that children are provided with equal legislative protection from age discrimination. Any exemption to this protection must be objectively justified. The Northern Ireland Executive should ensure that all children are included within the scope of the forthcoming NI Age Discrimination (Goods Facilities and Services) Act.
20. Public bodies carrying out equality impact assessments should ensure that the rights of children are taken into consideration when age is being considered as a protected characteristic.

### Best interests

21. The UK and devolved governments should ensure that the best interests of the child are a primary consideration in all legislation and administrative and judicial decisions concerning the child, except where a higher standard already applies. What is in the best interests of the child should be determined by an individual assessment of the child and his or her needs and circumstances. Due weight should be given to the child's views. Care should also be taken to ensure that such an assessment is not used by adults as a means of preventing a child exercising their rights.
22. The UK and devolved governments should ensure that children who are without the care of a parent/guardian should have a named independent representative with statutory authority who actively defends their best interests.

### Right to life

23. In 2008 the Committee on the Rights of the Child welcomed the introduction of statutory child death reviews in England and Wales. However it is very concerning that 3 more children have died in custody since the last 2008 CRC examination. The UK Government, in accordance with the UN Committee's Concluding Observation 2008, should use all available resources to protect children's rights to life, including by reviewing the effectiveness of preventive measures. The UK Government should also introduce automatic, independent and public reviews of any unexpected death or serious injury involving children – whether in care, custody or a mental health setting in England or Wales.
24. The UK and devolved governments should address the most common causes of mortality in children and undertake measures to reduce them. Comprehensive data on all child deaths in all institutional settings should be published spanning education, health, care, custody, mental health settings and the military on an annual basis. Disaggregated data should be collected and made available on children who self-harm or attempt suicide, including those in care, custody, health settings and immigration detention.
25. The Northern Ireland Executive should ensure that processes to review child deaths in Northern Ireland are put in place by commencing article 3 (5) of the Safeguarding Board Act (Northern Ireland) 2011 forthwith.

## **Participation**

### **Structures**

26. The UK and devolved governments must ensure at all levels of governance (i.e. UK, devolved and local) there are effective participation structures for children that fully support children to engage meaningfully in all decision-making about matters that affect them. These structures should be adequately resourced, embedded in practice and protected in legislation and allow for the participation of children of all ages and in particular those children who would otherwise be less likely to be heard.
27. The UK and devolved governments should ensure that where children's views are sought, that appropriate mechanisms are created to provide feedback regarding how their views and experiences have influenced decision-making. This is of particular importance where a decision appears to directly contradict the views expressed by children.
28. The UK Government's Youth Voice programme in England should be extended to include children under the age of 10.

### **Youth parliaments**

29. The young people of each jurisdiction should have a permanent independent, peer-led, democratically elected youth parliament enshrined in law.

### **Administrative proceedings**

30. The UK and devolved governments should introduce a legal duty to ensure that all children subject to administrative proceedings have the statutory right to an independent and confidential advocate.

## **Civil rights and freedoms (Articles 7, 8, 13, 14, 15, 16, 17, 37 a)**

### **Voting age**

31. 16 and 17 year olds should be given the vote in all elections and referenda in the UK.

### **Stop and search**

32. Police forces across the UK should be required to periodically collect, analyse and publish data relating to the use of stop and search on children, in order to ensure that children, or particular groups of children, are not being disproportionately targeted. When this data is reviewed annually, the proportionality of age alongside other protected characteristics should be assessed.

### **Counter Terror measures**

33. The UK and devolved governments should monitor the implementation of Counter Terror initiatives such as Prevent, to ensure that they do not breach children's rights. Specifically, their impact on ethnic minority groups should be measured and children's views should be sought as part of that process.

### **Tasers**

34. In line with paragraph 31 of the Committee's 2008 Concluding Observations, Tasers should never be used on children. Across the UK State party, their use on children should be ended without delay and in the interim should be routinely monitored through the regular collection and publication of fully disaggregated data.



## **Violence against children (Articles 19, 39, 37(a) and 28(2))**

### **Corporal punishment**

35. The UK and devolved governments should ensure that children have equal protection from violence under the law. All corporal punishment in the family and in all other institutions and forms of alternative care should be prohibited including through the repeal of legal defences.
36. The UK and devolved governments should actively promote positive and non-violent forms of parenting and behaviour management and ensure parents and wider society is made aware of the harmful, long-term effects of physical punishment on children and young people.

### **Counselling and therapy**

37. The UK and devolved governments should ensure that any child who has experienced child abuse is legally entitled to timely and appropriate counselling and therapy.

### **Child sexual abuse and sexual exploitation**

38. The UK and devolved governments should establish adequate information sharing and multi-agency working practices that protect children from child sexual abuse including child sexual exploitation, that:
  - place the child at the centre of the process to identify and tackle abuse;
  - ensure that children's views and experiences are heard and taken into account;
  - minimise the impact of the process e.g. evidence gathering, has on the child;
  - ensure that all professionals are trained to recognise abuse and exploitation and respond appropriately;
  - record the numbers of children who are at risk of child sexual exploitation.
39. The UK Government should ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and should implement the Concluding Observations on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. The UK Government should legislate to ensure that in all parts of the United Kingdom, all children up to the age of 18 are protected from all types of offences covered by the Optional Protocol on the Sale of Children.

### **Domestic abuse**

40. The UK Government should ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (the 'Istanbul Convention').
41. The UK and devolved governments should take steps to ensure that domestic abuse is recognised as a children's human rights issue. All professionals working with, and making decisions on behalf of, children experiencing domestic abuse, should be trained in children's human rights and child participation methods (with specialist provision for younger children. They should also be familiar with the dynamics of domestic abuse, including the existence of coercive control.

### **Harmful practices**

42. The UK and devolved governments should set out clear, legislative plans to tackle harmful practices, as identified in CRC General Comment 18. Appropriate mechanisms should be put in place to implement these provisions in practice.

## **Paramilitarism**

43. The NI Government should make every effort to eradicate paramilitarism in NI and to protect children and young people from paramilitary threat and assault. The NI Government should ensure that young people feel confident in reporting incidents involving paramilitaries to the Police Service of Northern Ireland (PSNI) and the PSNI should record incidents, disaggregated by age and other circumstances.

## **Family environment and alternative care (Articles 5, 9, 10, 11, 18, 20, 21, 25, 27(4))**

### **Family migration rules**

44. The UK Government should review the operation of the Family Migration Rules in order to ensure compliance with the CRC. The minimum income requirement should be re-examined in light of the potential for family separation and any decisions affecting children made under the Family Migration Rules should always include the best interests of the child as a primary consideration.

### **Children in alternative care**

#### **Children's human rights based approach to children in alternative care**

45. The UK and devolved governments should ensure that children in care are made aware of all their CRC rights and should provide clear evidence that all decisions are made in accordance with the UNCRC, particularly Articles 3 and 12. Where children feel that these rights have not been respected, then age appropriate complaints routes should be open to them.
46. The UK and devolved governments should ensure that independent and confidential advocacy provision is made available to all children in care. Without this, children will be unable to meaningfully participate in decision-making processes affecting them.
47. The NI Government should urgently bring forward CRC compliant legislation regarding children in care, including a review of the Children's (NI) Order 1995 and the introduction of measures through the Adoption and Children's Bill.
48. The UK and devolved governments should legislate to ensure that all children in care have the statutory right to an assessment of their mental health needs.

#### **Care leavers**

49. The UK and devolved governments should commit to the provision of ongoing support for all care experienced children including financial, practical and emotional support. Support should be tailored to the needs of the individual child, and available to include those living in all care settings, including residential units.
50. The UK and devolved governments should ensure that care experienced children are involved in the design of such support, which may include the use of local hubs or networks.
51. The UK and devolved governments should legislate to ensure that local authorities are prevented from placing care experienced children in bed and breakfast accommodation.
52. The Welsh Government should ensure that young people who have been placed in residential care are entitled to equal support and care up to the age of 21, to that offered to children in foster care under the 'When I'm Ready scheme'.

### **Multiple placement moves and high social worker turnover**

53. The UK and devolved governments must take urgent action to reduce the percentage of children in care who experience multiple placement moves. Detailed plans, with clear timescales, should be produced to address this.
54. The UK and devolved governments must, as a matter of urgency, set out how they plan to address the matter of high social worker turnover in order to ensure consistent support for children from professionals. Particular attention must be paid to the needs of children on child protection plans and children in alternative care.

## **Disability, basic health and welfare (Articles 6(2), 18(3), 24, 24(3), 26, 27(1)-(3), 33)**

### **Mental health**

#### **Planning and investment**

55. The UK and devolved governments should ensure that any child requiring access to child and adolescent mental health services can do so. Services should be sufficiently resourced to allow children to be seen quickly and avoid any further deterioration in their mental health. Particular attention should be given to disabled children, Black and Minority Ethnic children, children deprived of parental care, children affected by conflict, trauma, abuse and neglect, those living in poverty and those in conflict with the law.
56. The UK and devolved governments must as a matter of urgency, publish detailed plans, with timescales of strategies they will employ to safeguard children's mental health. These should include preventative work, early detection initiatives and services to promote the recovery and reintegration of children.
57. The UK Government and Welsh Government must publish an update on progress towards meeting the recommendations made by the Children and Young People's Mental Health and Wellbeing Taskforce in England, and the plans set out in the 'Together for Children and Young People' (T4CYP) improvement programme in Wales.
58. The UK and devolved governments should ensure there is dedicated provision in all educational settings to enable early identification of, and support for, children's mental health needs.

#### **Children's admittance onto adult mental health wards**

59. Children with mental health needs should only be admitted onto adult mental health wards in exceptional circumstances. The UK and devolved governments should record, monitor and publish the frequency of such incidents in order to inform future age appropriate service provision.

#### **Custody**

60. Children assessed as having mental health needs should not be held in police custody or pre-charge in youth justice custody. The UK and devolved governments should legislate to prevent this. Age appropriate, 24 hour community-based services and places of safety should be used to replace the use of police custody. There should be an implementation plan and timescales to report on progress towards achieving this goal.

#### **High rates of suicide**

61. The NI Government should urgently address the disproportionately high rates of suicide of children in Northern Ireland compared to the rest of the UK, ensuring the root causes are identified, with adequate investment supporting targeted and sustained intervention.

### **Impact of the NI conflict**

62. The NI Government and the UK Government must address the trans-generational impact of the legacy of the conflict on children's mental health, including the impact of ongoing violence and intimidation, and ensure that affected children and their families have access to specialist support and services.

### **Child poverty, welfare and homelessness**

#### **Eradication of child poverty**

63. The UK and devolved governments must prioritise the eradication of child poverty and work to prevent the predicted rise in child poverty by 2020. The 'maximum extent of available resources' should be allocated for this purpose and a clear plan should be created, setting out measures the UK and devolved governments will put in place to tackle child poverty. The UK Government's Life Chances Strategy should prioritise children and include measures which enable the early identification of child poverty.

#### **Welfare reform and benefit sanctions**

64. The UK, NI Government and Scottish Governments should ensure that children's rights to social security and to an adequate standard of living should not be eroded by welfare cuts. Measures should not discriminate against children from particular groups (e.g. children of lone parents, children with disabilities or children from large families). The UK Government should conduct separate and specific impact assessments on all welfare reform proposals and publish at regular intervals a cumulative analysis of welfare reform proposals in relation to their impact on children and families. They should then set out the steps that have been taken to prevent policies from having a detrimental impact.
65. The UK, NI and Scottish Governments must make sure that benefits sanctions are not applied in violation of children's CRC rights. Families with children (under 18) should not be subject to benefits sanctions.

#### **Homelessness**

66. The UK and devolved governments should as a matter of urgency, support local authorities and Trusts to reduce the need for bed and breakfast for families with children, and for young people living outside the family home. Action should be taken against those who don't adhere to statutory time limits for providing more appropriate accommodation.

#### **Disabled children**

67. The UK Government and devolved governments should ensure that any changes to welfare enhances, rather than reduces the protection available to disabled children and their families. Additional costs to fully support disabled children and their families must be met by social care budgets.
68. The UK and devolved governments should demonstrate that planning for transition from child to adult services starts early, and conforms to Articles 3, 12 and 23 of the CRC. This includes but is not limited to health, education, community and other support services.
69. Equalities legislation should be amended to ensure that schools are under the same duty to ensure access for people with disabilities as other public buildings.
70. The UK Government must report on the progress of pilots in England introduced by Part 3 of Children and Families Act 2014 enabling children to make their own appeals about Education Health and Care plans to the First Tier Tribunal under section 51 of the Act or under schedule 17 of the Equality Act.

## Education, leisure and cultural activities (Articles 28, 29, 30 and 31)

### Education

#### Children's human rights based approach to education

71. The UK and devolved governments should take all measures necessary to ensure that all children are able to access an education which allows them to reach their full potential, regardless of social background or income level. Where a child requires additional support to succeed, then this should be provided.
72. The UK and devolved governments should intensify their efforts to tackle bullying and violence in educational settings. This should encompass all types of violence and bullying, including online and digital forms of bullying.
73. The UK and devolved governments should intensify their efforts to ensure that all schools include the CRC and human rights more generally in their curriculum (including where applicable through its inclusion in statutory curriculums). The principles and values of the CRC should be integrated into the structures and practices of all schools.
74. The UK and devolved governments should take action to strengthen children's active participation in all matters of the school, classroom and learning which affects them, at both individual and strategic levels. Participation should involve all members of the school community and should go beyond traditional consultation methods.
75. The UK should report on progress in England on enacting section 29 B of the Education Act 2002, which provides students with a mechanism for dialogue with school governing bodies.

#### Exclusions

76. The UK and devolved governments should use the disciplinary measure of permanent or temporary exclusion as a means of last resort only, and take action to ensure that 'informal' and illegal exclusions do not occur. The use of mediation, restorative justice, input from professionals including educational psychologists and social workers should be encouraged in order to reduce exclusions.
77. The UK and devolved governments should ensure that all children have the right to appeal their exclusion and free legal advice and assistance and representation should be provided for these purposes, where necessary. This should also be available to those appealing to special education needs tribunals, for example those in alternative care.
78. The UK and devolved governments should ensure that high quality alternative education provision is made available to all children and young people who require it, including those aged 16 and 17. Where a young person has been excluded from school, they should be referred to alternative education provision without delay.

#### Additional support needs

79. The Scottish Government should ensure that the presumption that looked after children have additional support needs, unless assessed otherwise, is applied consistently across Scotland. Children should be made aware of and supported to exercise their right to appeal to the Additional Support Needs Tribunal, where appropriate.
80. The Scottish Government should monitor and keep under review the extension of rights to children aged 12-15 years under additional support for learning legislation, to ensure that children are able to independently exercise their rights, through accessible and age appropriate processes.

#### Segregation and selection

81. The NI Executive should actively support, promote and develop a fully integrated education system. The provision of shared education should be carefully monitored and evaluated to

ensure that it is delivered appropriately and that it fulfils its objectives. Direct engagement with children should be an integral component of this evaluation.

82. The NI Executive must end the use of academic selection and replace it with a system that ends educational inequalities. Such a system can only be achieved through the full engagement of the whole of society, particularly children and their parents.

### **Sexual relationships education**

83. High quality relationships and sexuality education should be provided by trained practitioners in every educational setting for all children, using a standard curriculum. This must be part of a holistic/whole-school approach that explores issues of consent and teaches children and young people to recognise the existence of certain abusive behaviours, including coercive control. This includes all forms of bullying and harassment and abuse within the family. Children also must be empowered to use the internet safely and this must be reinforced across the curriculum as a whole.

### **Play and leisure**

84. The UK and devolved governments should take all measures to ensure that all children enjoy their rights to play, leisure, recreation, cultural life and the arts in accordance with General Comment 17. Particular attention should be paid to groups of children who face barriers to the realisation of such rights, including children with disabilities. The UK and devolved governments should invest in opportunities to allow these children to participate in play on an equal basis to their non-disabled peers. There must be clear implementation plans with timescales for reporting on progress towards this goal.

## **Special protection measures (Articles 22, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40)**

### **Youth justice**

#### **Minimum age of criminal responsibility**

85. The UK and devolved governments should as a matter of urgency implement the Committee's 2008 recommendation that it 'raise the minimum age of criminal responsibility in accordance with the Committee's General Comment No. 10, and notably its paragraphs 32 and 33'.

#### **Children should not be treated as adults**

86. The UK and devolved governments should ensure that children in conflict with the law are always dealt with within the juvenile justice system and never tried as adults in ordinary courts, irrespective of the gravity of the crime they are charged with or whether they are co-accused with adults.
87. In accordance with Article 37(c) of the CRC, the UK and devolved governments should ensure that children are separated from adults in detention except where it is not in their best interests to do so. Children should not be escorted in cellular vehicles, and should not be escorted with or detained on the same site as adults except where it is in their best interests.

#### **Privacy**

88. Children in contact with the penal system should be entitled to privacy at all stages of the criminal process including following conviction and sentence. Privacy should extend into adulthood.
89. Convictions and non-conviction information, acquired in childhood should be removed from a child's criminal record at 18 years of age, except where it is deemed absolutely necessary for public protection. Any decisions to retain information about a child's behaviour into adulthood must be based upon a robust risk assessment process, with clear review periods and the option of appeal.

#### **Early intervention and preventive services**

90. The UK and devolved governments should protect investment in early intervention and preventive services in order to further reduce the number of children in the juvenile justice system. There should be a statutory presumption against prosecution unless compulsory interventions are required. This should occur only when deemed absolutely necessary for public protection.

#### **Detention**

91. The UK and devolved governments must ensure that detention of children pre and post conviction is always a measure of last resort and for the shortest appropriate period of time. There should be a presumption of bail for children who have not been adjudicated.
92. The UK and devolved governments should carry out a review of the reasons for the disproportionate number of BME children, children experiencing mental ill health, care experienced children, and children with neuro-disability in the youth justice system. A clear plan should be put in place to address the findings of such a review.
93. In line with General Comment No 10, and in order to facilitate visits, children in detention should be placed as close as possible to the place of residence of their families, provided it is otherwise appropriate for them. Custodial facilities should be appropriate to the age and needs of the children detained there: small establishments with high staff to child ratios.

Adult prison-like facilities such as Young Offender Institutions should not be used for children.

94. Similarly, where a parent is being imprisoned, then the presumption should be that they will be placed at a facility as close to the family home as possible, in order to allow the child to visit, when it is in the child's best interests to do so. Visiting facilities should be tailored to children and young people's needs.
95. No child should be subject to solitary confinement under any circumstances. The current use of solitary confinement and isolation must be ended without delay and in the interim should be routinely monitored by relevant inspectorates across the UK State party.
96. All children in detention should be provided with education, health and child protection provision equivalent to that available in the community. Children in detention should enjoy all the rights under the CRC. These should not be constrained by their detention.

### **Restraint**

97. The UK and devolved governments should ensure that in all settings, restraint is only used on a child where they pose an imminent threat of injury to him or herself or others, and only when all other means of de-escalation have been exhausted. Only techniques proven to be safe for children should be used and pain should never be deliberately inflicted in order to restrain a child.
98. All institutional settings, whether run by State, private or voluntary organisations must be open and transparent about their approaches to discipline and behaviour management. Restraint should not be used routinely as part of day to day behaviour management in special schools. The use of Positive Behaviour Support and de-escalation techniques should be encouraged and the use of 'seclusion' rooms should be avoided.
99. The UK and devolved governments must ensure that the use of restraint is recorded, published and critically analysed (including the collection of disaggregated data) in order to ensure that it is only ever used as a last resort. Steps must be taken to address inaccurate recording of incidences and governments must set out what action will be taken to ensure inaccurate reporting does not take place in the future.

### **Life sentences**

100. The UK Government in accordance with the CRC should prohibit all life sentences for children under the age of 18.

### **Child victims and witnesses**

101. The Scottish Government should consider how best to meet the support needs of child victims and witnesses. Widespread modernisation of current court procedures is required in order to ensure that processes become more child-centred. Particular consideration should be made of the role of digital technology in improving the collection of evidence and in the provision of ongoing support to child victims and witnesses.
102. The Scottish Government should also give consideration to how to ensure that children are not further traumatised by the process of giving evidence, either as child victims or witnesses.

### **Immigration and migration**

#### **Refugee crisis**

103. The UK Government should work with all other European states in the framework of international co-operation to support a formal resettlement programme for displaced children in Europe. They should also work with all other European states to safeguard children in refugee camps and expedite all available family reunification measures, including Dublin III regulations to place children safely with family members in the UK.



### **Detention**

104. The UK Government should refrain, as a matter of policy, from detaining unaccompanied children in all circumstances and ensure the right to speedily challenge the legality of detention, in compliance with Article 37 of the CRC.

### **Deportation**

105. The UK Government should ensure that the best interests of all children are independently and individually considered as a primary consideration before their enforced removal or deportation from the UK. Any removal or deportation of a child from the UK should take place with adequate safeguards, including an independent assessment of the conditions upon their arrival to ensure they are able to survive and develop. They should always be supplied with their identity documents and any medication/vaccinations which are medically indicated. Children should be allowed to conduct immigration appeals in the country and not be deported first.

### **Restraint**

106. The UK and devolved governments should ensure that restraint is not used for children and pregnant women, except where the child or woman poses an imminent threat of injury to him or herself or others. Only techniques proven to be safe for children/pregnant women should be used and pain should never be deliberately inflicted in order to restrain a child/pregnant woman. Restraint should never be used as a means of enforcing immigration control.

### **Legal representation**

107. Local arrangements for unaccompanied asylum seeking children (UASC) e.g. at ports of entry, and destinations for UASC subject to dispersal programmes must ensure that unaccompanied children have access to a legal representative at initial screening, and throughout the asylum process, and are accompanied by both a legal representative, an appropriate adult, and have access to interpreters, at the initial screening interview and throughout the process.

### **Guardianship**

108. Statutory independent guardians for all unaccompanied and separated children should be established throughout the UK. Where such a guardianship service is already in existence, then learning from this should be disseminated to the rest of the UK.

### **Data collection**

109. The UK Government should regularly report on the numbers of unaccompanied and separated young people, including those who are seeking asylum, or who are potential victims of trafficking and/or who go missing across each jurisdiction of the UK.

### **Age assessment**

110. The UK Government should ensure multi agency, specialist age assessment is undertaken, including by paediatricians and social workers. The UK Government must develop dedicated guidance and training for paediatricians to enable them to effectively contribute to age assessments conducted by statutory authorities.
111. Statutory authorities should report on those seeking asylum; those claiming to be children but treated as adults; those claiming to be children but refused services on the basis that they are believed to be an adult; and those believed to be children but not believed to be the age they claim.

### **Access to basic services and benefits**

112. The UK and devolved governments should ensure that migrant, refugee and

asylum-seeking children have access to basic services such as education and health, and that there is no discrimination in benefit entitlements for these families that could affect children or be contrary to their rights under Articles 2, 22, 26 or 27 UNCRC.

113. The UK Government should amend section 2 of the 2004 Asylum and Immigration (Treatment of Claimants etc.) Act to allow for a guaranteed defence for children who enter the United Kingdom without valid immigration documents.

### **Children in armed conflict**

114. The UK Government should end the recruitment of children under the age of 18 into the armed forces and visits of armed forces to schools.