

Report of the UK Children’s Commissioners

UN Committee on the Rights of the Child

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

List of Recommendations:

1. The UK should sign and ratify the Third Optional Protocol to the UNCRC on a Communication Procedure.
2. A formal UK mechanism should be put in place to ensure that all the devolved nations are routinely and comprehensively involved in international human rights reporting mechanisms, including active participation in UK delegations to international human rights bodies.
3. The State Party and the devolved governments should fully and expressly incorporate the Convention and its Protocols in their legislation.
4. There should be no diminution of children’s rights protection in UK law. Any new Bill of Rights should build upon, rather than reduce, the protection of the fundamental rights of all children in the jurisdiction without discrimination, as well as providing effective judicial remedies including through the European Court of Human Rights, and should be developed through a consultative and democratic process in which children’s Article 12 rights are respected.
5. The UK and the devolved Governments should be required by legislation to routinely and comprehensively carry out child rights impact assessment of proposed policies and legislation and regular child rights impact analysis of policies and legislation already in effect.
6. 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 so that the rights of all children in all parts of the State party are safeguarded.
7. The NI Executive should consider the 2006 and 2013 reports on the NI Commissioner for Children and Young People and amend the legislation accordingly.
8. The UK and devolved governments should routinely carry out child rights-based analyses of both budget and economic decision-making and processes and outcomes. Information on public finances should be made accessible and understandable, to enable scrutiny and wider engagement of civil society, including children.
9. As a matter of priority, the UK State Party should maximise the amount of resources available to protect children, especially those most in need, from the impacts of economic recession and austerity measures. The State Party and devolved governments should ensure that arrangements are in place to clearly set out how resources are allocated to progressing children’s rights and the eradication of child poverty.

10. All national and sub-national public spending and other resource decision-making must be carried out so as prioritise the needs, rights and best interests of children, with a particular emphasis on children experiencing or at risk of poverty or social exclusion.¹
11. Children and families without sufficient means should be able to obtain legal advice, assistance, and where litigation is contemplated, legal representation free of charge in any case where a child's best interests are engaged.
12. 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.
13. The State Party and devolved governments should provide equal legislative protection for children against age discrimination and remove all exemptions relating to children under their equality legislation, unless these can be objectively justified.
14. Public bodies carrying out equality impact assessments should specifically include and assess children in their consideration of 'age' equality.
15. The State Party and devolved governments should take action adequately to address the negative stereotyping of older children.
16. The State Party must ensure that the best interests of the child is a primary consideration in all legislation and administrative and judicial decisions concerning the child, except where a higher standard already applies. Best interests should be determined by an individual assessment of the child and his or her needs and circumstances, which gives due weight to the child's views.
17. All children who are without the care of a parent/guardian (including children for whom the local authority has parental responsibility) should have a named independent representative with statutory authority who actively defends their best interests.
18. The Northern Ireland Executive should ensure that processes to review child deaths in Northern Ireland are put in place forthwith.
19. The State Party and devolved governments should renew their commitment to implement Article 12 and ensure that they provide the resources and mechanisms to enable all children, including younger children and those whose voices are less likely to be heard, to have their experiences understood and their voices heard and so to participate in strategic and individual decision-making processes at the local and national levels. Children should be expressly told and be able to recognise how their views and experiences have influenced the decisions that are made about them.
20. 16 and 17 year olds should be given the vote in all elections and referenda in the UK. The State Party and its devolved governments must seek to improve participation in schools and ensure that robust measures of democratic education are incorporated throughout the statutory education curriculum.

¹ In line with the European Network of Ombudspersons for Children, Position Statement on 'Children and Austerity', adopted at the 18th ENOC General Assembly, Edinburgh, 24 October 2014.

21. The UK State Party and devolved governments must ensure that children who experience any form of child sexual abuse receive appropriate counselling and therapy as a priority.
22. Agencies must establish adequate information sharing and multi-agency working practices to protect children from child sexual abuse including child sexual exploitation.
23. Children's views and experiences should be heard and taken into account in development of all measures to combat child sexual abuse including child sexual exploitation.
24. The State Party should ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. The State Party 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.
25. Statutory independent guardians for all unaccompanied and separated children should be established throughout the State Party.
26. The State Party and the devolved governments should immediately prohibit all corporal punishment in the family and in all other institutions and forms of alternative care, including through the repeal of legal defences, and actively promote positive and non-violent forms of childrearing and behaviour management.
27. The UK should ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (the 'Istanbul Convention').
28. The State Party and the devolved governments should acknowledge and address the problems set out in CRC General Comment No 18 on harmful practices within its domestic legislation and ensure that appropriate mechanisms are in place to implement these provisions in practice.
29. Domestic abuse should be seen as a children's rights issue and children's experiences must be made more visible. All those who take children's views should be trained in the benefits of and methods for participation for children (with specialist input available for very young children) and given materials to support participation in practice.
30. The State Party should review the operation of the Family Migration Rules and in particular, the minimum income requirement and the impact of these Rules on the rights of children under the Convention. Decisions affecting children made under the Rules should always include the best interests of the child as a primary consideration.
31. All children leaving care should have adequately funded living and support services in accordance with their assessed need. Children in residential children's homes should be entitled to access the schemes.
32. The State party should provide the necessary strategic leadership to ensure the provision of high quality independent advocacy provision for all relevant children and young people, to ensure their participation in care planning and in other decisions affecting them.
33. The State party should provide clear evidence that all decisions regarding the care for a looked after child should be made in accordance with the UNCRC particularly Articles 3 and 12. In addition,

as corporate parents, relevant authorities should ensure adequate services for looked after children, including education support and CAMHS.

34. The State party and devolved administrations should invest the required level of funding in child and adolescent mental health services to meet the needs of children in need of such support, with particular attention to those at greatest risk, including disabled 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.

35. The State Party should invest in universal preventative and early intervention children's services, to prevent an increase in mental ill health among children.

36. Children with mental health needs should only be admitted onto adult mental health wards in exceptional circumstances. The State Party and devolved governments should be recording and monitoring such incidents to identify the required action, including the appropriate level of investment in age-appropriate inpatient services.

37. Children with mental health needs should not be held in police custody or pre-charge in youth justice custody. The State Party and devolved governments should legislate to prevent this and should simultaneously prioritise the urgent funding of timely assessments and age appropriate, 24 hour community-based services to replace the use of police custody.

38. The UK government and devolved governments must make child poverty a key focus as a matter of urgency, and fully comply with the Child Poverty Act 2010. Sufficient resources must be provided to meaningfully tackle child poverty and prevent the predicted rise by 2020. The impact of all new policies on families on low incomes must be assessed, and measures put in place to prevent them from having a detrimental impact.

39. Children's rights to social security and to an adequate standard of living should be fulfilled by the welfare system: children and their families should be protected from welfare cuts; and measures should not discriminate against children from particular groups for example children of lone parents, children with disabilities or children from large families.

40. Benefits sanctions should not be applied in violation of children's Convention rights. Families with children to whom benefits sanctions are applied should be passported directly to hardship payments at a level sufficient to fulfil their rights to social security and an adequate standard of living.

41. The State Party should urgently address the need for adequate housing for lower-income families and end the use of inappropriate bed-and-breakfast style accommodation for families with children.

42. The UK State Party should provide guidance to local authorities in England and Wales on meeting the needs of 16 and 17 year olds with a statutory entitlement to support.

43. The State Party should ensure that the additional costs of disability are met by welfare provision for children with disabilities.

44. The State Party should ensure that planning for transition to adult services starts early, and conforms with Articles 3, 12 and 23 of the Convention.

45. The State Party should amend the Equality Act 2010 to ensure that schools are under the same duty to ensure access for people with disabilities as other public buildings.

46. The State Party should:

- Use the disciplinary measure of permanent or temporary exclusion as a means of last resort only, and ensure that 'informal' and illegal exclusions do not occur. Mediation, restorative justice and input from professionals including educational psychologists and social workers should be used to reduce exclusions.
- Ensure that children who are able to express their views have the right to appeal, with legal advice and assistance and where appropriate representation provided for those without means, against their exclusion as well as the right, in particular for those in alternative care, to appeal to special educational needs tribunals.
- Ensure that alternative educational provision for excluded pupils begins promptly after exclusion and is of a high quality.

47. 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.

48. 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.

49. The UK State party and devolved governments should intensify their efforts to tackle bullying and violence in schools, including through teaching human rights, peace and tolerance and strengthen children's participation in all matters of school, classroom and learning which affects them.

50. The UK State Party and devolved governments should ensure that digital competence and online safety is reinforced across the school curriculum as a whole.

51. The State Party and devolved governments should intensify their efforts to ensure that all schools include the Convention in their curriculum (including where applicable through its inclusion in statutory curriculums), and ensure that its principles and values are integrated into the structures and practices of all schools.

52. Relationships and sexuality education must 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 includes internet safety, abuse within the family, all forms of bullying and harassment, child protection and the getting and giving of consent.

53. The State Party 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'.

54. Children in conflict with the law should always be 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.

55. Children in contact with the penal system should be entitled to privacy at all stages of the criminal process including following conviction and sentence.

56. Children's life changes must be curtailed by requirements to disclose convictions for lengthy periods, except in exceptional circumstances where this is absolutely necessary for the protection of the public. Young people should be allowed to apply to have their records cleared on their 18th birthday and this should be granted unless it is assessed to be in their or the public's best interests not to do so.

57. The State Party should protect investment in early intervention and preventive services in order further to reduce the number of children in the juvenile justice system, and should introduce statutory presumptions against detention for children except when necessary to protect the public against serious harm.

58. The State Party should carry out a review of the reasons for the disproportionate number of BME children, looked after children/care leavers and children with neurodisability in custody.

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

60. In accordance with Article 37(c) of the Convention, the State Party should ensure that children are separated from adults in detention except in their best interests. 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.

61. No child should be subject to solitary confinement under any circumstances. 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 Convention not necessarily abridged by the fact of their detention.

62. Restraint should only be used where the child poses an imminent threat of injury to him or herself or others, and only when all other means of control 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.

63. The State Party 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 Convention. In any case, detention must always be a measure of last resort and for the shortest appropriate period of time.

64. The State Party 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.

65. Restraint should only be used for children and pregnant women where the child or woman poses an imminent threat of injury to him or herself or others, and not to enforce immigration control. 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.

66. Local arrangements in areas with ports of entry must ensure that unaccompanied children have access to a legal representative prior to screening and are accompanied by both a legal representative and an appropriate adult to the screening interview.

67. UK Visas and Immigration should report on those claiming to be children but treated as adults as a new category in national migration statistics. The UK State Party should require statutory authorities to submit returns on the numbers of unaccompanied young people a) claiming to be children but refused services on the basis that they are believed to be adult and b) believed to be children but not believed to be the age claimed.

68. The UK State Party should fund the Royal College of Paediatrics and Child Health to produce guidance for paediatricians on how they can contribute to age assessments conducted by local authorities.

69. The State Party 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.

70. The State Party should provide the Committee with disaggregated statistical data on the number of children seeking asylum, including those whose age is disputed. The State Party 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's Commissioner for Wales

Northern Ireland Commissioner for Children and Young People

Children's Commissioner for England

Scotland's Commissioner for Children and Young People

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