



Universal Periodic Review: UK 3rd Cycle Criminal Justice, Policing and Children of Prisoners

Suggested Questions for the UK:

- Can the Scottish Government explain its plan to raise the minimum age of criminal responsibility from 8 years old and ensure the full implementation of juvenile justice standards, as expressed in the General Comment No. 10 of the Committee on the Rights of the Child? Can the UK explain its reasoning for not increasing the age of criminal responsibility in England and Wales?
- Can the UK outline what steps are being taken to ensure that enough local authority accommodation is available to ensure that children are only held overnight in police detention as a last resort? What immediate steps are the UK taking to reverse the increasingly disproportionate number of children from Black and minority ethnic backgrounds in custody?
- Will the UK build on the recommendations of the Youth Justice Review for England and Wales to ensure children are not held in prison-like institutions but welfare-based facilities?
- Can the UK and devolved governments outline any steps it will take to ensure routine assessment of impact on the rights of children affected by the imprisonment of a carer before sentencing an at all stages of the criminal justice process and put in place training and guidance for professionals working with children on how to identify children affected by imprisonment of a family member?

Suggested Recommendations:

- Legislation to increase the mandatory age of criminal responsibility should be introduced at the earliest opportunity.
- UK and devolved governments should ensure overnight police detention is only used as a last resort, and there is sufficient local authority accommodation to accommodate children. Improved data needs to be publicly available.
- Embed in law that children will only be deprived of their liberty as a last resort. Abolish any prison-like detention and develop a new, distinct child-centred secure estate and interventions for the minority of children who do need to be detained. Take action to address the disproportionate number of children from Black, Asian and minority ethnic background who are in custody. Solitary confinement should be banned.
- The UK and devolved governments should ensure routine assessment of impact on rights of children affected by the imprisonment of a carer before sentencing and at all stages of the criminal justice process; legislate to ensure Courts have due regard to the best interests of children when sentencing parents; review sentencing guidelines for persons who are primary care-givers when convicted of low level crimes; and put in place training and guidance for professionals working with children on how to identify children affected by imprisonment of a family member.

Background

Age of criminal responsibility (recommendations 110.94 and 110.95)

Recommendations 110.94 and 110.95 have not been met: The UN Committee has consistently raised concerns about the low age of criminal responsibility - 8 years in Scotland and 10 years in England and Wales.¹ However, the UK argues in its 2017 State Report that 'children aged 10 are able

to differentiate between bad behaviour and serious wrongdoing'.² There has been no progress in England and Wales and only limited progress in Scotland where the Scottish Government announced in December 2016 that it would bring forward a Bill in the current Parliamentary session to raise the age of criminal responsibility to 12 by 2018.

Overnight detention in police custody

In England and Wales, children continue to be held overnight in police cells despite a duty to transfer them to local authority accommodation.³ In Scotland, figures on the number of children held overnight are unavailable.

Numbers of children in prison (recommendation 110.87)

Some progress on recommendation 110.87: In Scotland, the detention of children under 16 who were deemed 'unruly' in prisons or YOIs was prohibited by the Scottish Parliament in 2010.⁴ Although the UK Government UPR report states that 'custody for young people aged 10-17 years old remains an option of last resort', this is not the case in England and Wales.⁵ Children can be held in YOIs, large prison-like institutions, and privately run Secure Training Centres (STCs) - both inappropriate models to meet rights standards – and Secure Children's Homes (SCHs). In the year ending March 2016 the average population of under 18s in the youth secure estate in England and Wales was 960, down 8% from the previous year.⁶ Although this decline is welcome, England and Wales still has the highest child custody rate in Western Europe.⁷

Detained children are not adequately safeguarded and do not have their needs met. There is a high prevalence of emotional and mental health problems among children in prison: with 1,400 incidents of self-harm in the year ending March 2016 an increase of 5% since the previous year.⁸ Segregation is wide-spread. Between October 2013 and 2014 children spent 7,979 days in segregation units.⁹

Although criminal justice in Wales is the responsibility of UK Government, Welsh Government has significant responsibilities in health, education, housing and substance misuse. Whilst the majority of children from Wales who serve custodial sentences are held in Wales, there are no for girls, who are held in STCs in England. This places additional challenge in terms of visits and maintaining connections upon which they might depend after release.¹⁰ In March 2014, the Silk Commission recommended the devolution of the youth justice system (for 10 and 17-year-olds) and a study to investigate the possible devolution of justice and prisons.¹¹

The population of the youth secure estate has fallen by more than 70% since August 2008. However, children from Black, Asian and minority ethnic backgrounds continue to be disproportionately over-represented and accounted for 40% of the youth secure estate population in January 2017.¹²

Children of prisoners (recommendation 110.96)

Some progress on recommendation 110.96: A set of minimum standards for encouraging family contact became operational on 1 April 2013 in Scotland.¹³ All prisons in Scotland now have children's visits as a right of the child, and there are good practice examples in NGO service provision.¹⁴ Routine use of Child and Family Impact Assessments at key stages in the criminal justice system is still needed.¹⁵ These would ensure a focus on the rights of the child.

See the briefing on violence against children for further detail on violence against children by the police and in the secure estate.

Recommendations referenced from the UK's UPR 2012 (2nd Cycle)

110.94	Consider the possibility of raising the minimum criminal age and refrain from the practice of keeping children in custody	Belarus: A/HRC/21/9 - Para. 110 & A/HRC/21/9/Add.1 - Para. 21	Noted
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110.95	Consider the possibility of raising the age of criminal responsibility for minors	Chile: A/HRC/21/9 - Para. 110 & A/HRC/21/9/Add.1 - Para. 21	Noted
110.96	Ensure that the best interests of the child are taken into account when arresting, detaining, sentencing or considering early release for a sole or primary carer of the child, bearing in mind that visits of a parent in prison are primarily a right of the child rather than a privilege of the prisoner that can be withdrawn as a disciplinary measure	Slovakia: A/HRC/21/9 - Para. 110 & A/HRC/21/9/Add.1 - Para. 19	Supported
110.87	Take concrete steps to further reduce overcrowding of prisons, including through the increased application of alternative sentencing for juvenile offenders	Austria: A/HRC/21/9 - Para. 110 & A/HRC/21/9/Add.1 - Para. 13	Supported

About us

Children's Rights Alliance for England (CRAE)

CRAE works with over 150 organisational and individual members to promote and campaign to protect children's rights and the UNCRC in England. See: www.crae.org.uk

Together (Scottish Alliance for Children's Rights)

Together is an alliance of over 340 NGO and individual members that works to improve the awareness, understanding and implementation of the UNCRC in Scotland. See: www.togetherscotland.org.uk

Wales UNCRC Monitoring Group

The Wales UNCRC Monitoring Group is a national alliance of non-governmental and academic agencies tasked with monitoring and promoting the UNCRC in Wales. It is currently facilitated by Children in Wales, the national umbrella organisation. See: www.childreninwales.org.uk

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¹ UN Committee on the Rights of the Child (2016) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*, Paragraph 77 (a)

² Ministry of Justice (2017) *UPR: UK, British Overseas Territories and Crown Dependencies National Report* Para. 38

³ Children's Rights Alliance for England (2015) *UK implementation of the UN Convention on the Rights of the Child Civil Society Report 2015 to the UN Committee - England*

⁴ Criminal Justice and Licensing (Scotland) Act 2010

⁵ Ministry of Justice (2017). *UPR: UK, British Overseas Territories and Crown Dependencies National Report* Para. 38

⁶ Youth Justice Board and Ministry of Justice (2017) *Youth Justice Statistics for England and Wales 2015/16*.

⁷ House of Commons Justice Committee (2013) *Youth Justice: Seventh Report 2012-2013*, para 54

⁸ Youth Justice Board and Ministry of Justice (2017) *Youth Justice Statistics for England and Wales 2015/16*

⁹ HC Deb, 7 November 2014, CW

¹⁰ Welsh Affairs Select Committee (2015) *Fourth Report: Prisons in Wales and the treatment of Welsh offenders*

¹¹ Silk Commission (2014) *Empowerment and Responsibility: Legislative Powers to Strengthen Wales*

¹² Youth Justice Board/Ministry of Justice (2017) *Monthly youth custody report January 2017: England and Wales*.

¹³ Scottish Prison Service (2013). 'Standards for Encouraging Family Contact'

¹⁴ Barnardo's Scotland (2015). *Barnardo's Scotland response to the consultation on Support for Children (Impact of Parental Imprisonment) Bill – April 2015*.

¹⁵ Proposed Support for Children (Impact of Parental Imprisonment) (Scotland) Bill – Mary Fee MSP Summary of Consultation Responses