



Universal Periodic Review: UK 3rd Cycle

UN Convention on the Rights of the Child (CRC) – legal measures of implementation

Suggested Questions for the UK:

- What measures will the UK take to ensure the non-regression and the protection of children's human rights in light of the UK's exit from the European Union, and ensure that children and young people are able to participate as fully as possible on post Brexit proposals?
- Can the UK confirm it will not dilute the existing protections provided for children by the Human Rights Act 1998 if it goes ahead with proposals for a British Bill of Rights?
- What steps are being taken by the UK to bring legislation in line with the CRC? What objection do the UK and devolved governments have to fully incorporating the UNCRRC into UK and Scots law? And what steps have the Scottish and Welsh Government taken/proposed to monitor and evaluate the extent to which steps taken to embed the CRC into domestic legislation make a meaningful difference to children's experiences of their rights?
- What steps has the UK taken to fulfil its commitment to consider ratification of the third Optional Protocol to the CRC? And will the UK now commit to ratify the third Optional Protocol?

Suggested Recommendations for the UK:

- There should be no diminution of children's rights protection in law as a result of the UK's exit from the European Union, and all new proposals must be developed through a consultative and democratic process, fully involving the devolved nations and ensuring children's Article 12 rights are fully respected.
- The Human Rights Act should be maintained. Any changes to the current human rights framework must preserve and build upon current protections for children and allow for effective judicial remedies, including through the European Court of Human Rights.
- The UK and devolved governments should take measures to bring its legislation in line with the UNCRRC, including incorporating the CRC and its optional protocols into domestic legislation at the earliest opportunity and ensuring children and young people are able to enforce their rights through the courts. The extent to which current legislative provisions relating to the UNCRRC in Scotland and Wales make a meaningful difference to children's experiences of their rights should be monitored and evaluated on an ongoing basis.
- The UK should ratify the third Optional Protocol to the Convention on the Rights of the Child on a communication procedure with immediate effect.

Background

The UK's exit from the European Union

Children's rights protections in law are at risk of being diminished as a result of the UK's exit from the European Union. Children and young people currently benefit from a broad range of EU protections and support, including legislation that promotes and protects children's rights in a range of different areas, EU policies that further children's health and well-being and EU funding programmes focused on children's issues.¹ Despite the fact that children were unable to vote in the referendum, the UK's exit from the European Union will have a significant and long-lasting impact on their rights. It is evident that many young people voted overwhelmingly to remain within the EU.² As in the run up to the referendum itself, children and young people's views and experiences continue to be excluded from the Brexit negotiations. In its 2017 UPR report, the UK Government states that it is 'committed to maintaining its strong global role in relation to human rights'³ after its exit from the EU. It must therefore, with the full

engagement of the devolved governments, listen to the concerns of children and young people and those who work with them and provide clear, evidence-based proposals as to how children’s rights will be protected in law outside of the EU.

UK Bill of Rights and the Human Rights Act (recommendation 110.32)

Recommendation 110.32 is at serious risk. There is real concern about UK Government plans to repeal the Human Rights Act 1998 (HRA) and replace it with a “British Bill of Rights”. In its 2017 UPR report, the UK Government stated that it ‘remains committed to reforming the domestic human rights framework.’⁴ And yet the Scottish and Welsh Governments strongly oppose the repeal of the HRA,⁵ promising to make every effort to block any repeal, and describing the proposal as “dangerous”.⁶ A recent UN report warned that repealing the HRA could lead to decreased levels of human rights protection.⁷ UK Government has wrongly asserted that the HRA has led to “abuse”.⁸ There is ample evidence of its positive effect on children’s rights. Through the HRA, courts use the CRC as an aid to interpret the ECHR.⁹ The duty on public authorities to comply with the ECHR has also led to positive changes to children’s rights protection without the need to go to court.¹⁰

Bringing legislation in line with the CRC (recommendations 110.9 and 110.10)

There has been some improvement in relation to recommendations 110.9 and 110.10. The Rights of Children and Young Persons (Wales) Measure 2011¹¹ requires Welsh Ministers to have ‘due regard’ to the UNCRC when exercising any of their functions, and the Children and Young People (Scotland) Act 2014¹² requires Scottish Ministers to give due consideration to ways in which the UNCRC can be better implemented in Scotland. Although the UK Government states that Westminster gives regard to the CRC when developing new legislation or policy¹³, no equivalent legislation to that in Wales and Scotland has been introduced, and England is falling behind developments in Wales and Scotland. The plethora of issues raised in the 2016 CRC reporting shows that much more action is needed before the CRC is fully implemented across the UK.¹⁴ There remains no specific legal redress for children in England, Wales or Scotland whose CRC rights are violated.

Ratification of the third Optional Protocol to the CRC (recommendations 110.5)

There has been no progress in relation to recommendation 110.5. The recommendation enjoyed the support of the UK Government, which stated in its 2014 midterm report that it would ‘continue to keep this issue under review’.¹⁵ However, no further steps have been taken to consider giving children in the UK the right to individual petition through the third optional Protocol, and no further update is given in the UK’s 2017 UPR report.

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

110.32	Continue to ensure that human rights principles are integrated in domestic laws	Qatar: 'HRC/21/9/Add.1 Para. 9 & A/HRC/21/9/Add. 1 Para. 11	Supported
110.9	Incorporate fully, as a matter of urgency, the principles and provisions of the CRC into domestic law	Slovakia: 'HRC/21/9 - Para. 110 & A/HRC/21/9/Add. 1 Para. 11	Noted
.110.10	Take all measures necessary to fully implement the CRC.	France: A/HRC/21/9 - Para. 110 & A/HRC/21/9/Add. 1 – Para.9	Supported
.110.5	Consider an early ratification of the newest international human rights instrument – the Third Optional Protocol to the CRC on a communications procedure	Slovakia: A/HRC/21/9 - Para. 110 & A/HRC/21/9/Add.	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 See European Commission ‘Rights of the Child’ [Accessed 30 March 2017] http://ec.europa.eu/justice/fundamental-rights/rights-child/index_en.htm

² Of 70,000 young people consulted for Scottish Youth Parliament’s ‘Lead the Way’ manifesto only 11% wanted to leave. Scottish Youth Parliament (2016) *Lead the Way Manifesto*

³ Ministry of Justice (2017) *UPR: UK, British Overseas Territories and Crown Dependencies National Report* Para 2.

⁴ Ministry of Justice (2017). *UPR: UK, British Overseas Territories and Crown Dependencies National Report* Para 3.

⁵ See speech from Scotland’s First Minister on 23/09/2015 <http://news.scotland.gov.uk/News/Protecting-human-rights-1d79.aspx> Written evidence from the Welsh Government to the House of Lords European Union Committee inquiry into The UK, the EU and a British Bill of Rights (report published 09/05/2016).

⁶ Deans, D. (18 May 2015) ‘Welsh Government will do ‘everything it can’ to block repeal of the Human Rights Act’ *Wales Online*

⁷ UN Committee on the Elimination of All Forms of Racial Discrimination (2016) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*

⁸ UN Committee on the Rights of the Child (2016) *List of issues in relation to the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland Addendum: Replies of the United Kingdom of Great Britain and Northern Ireland to the list of issues*

⁹ See examples illustrated by Children’s Rights Alliance for England (2015) *UK Implementation of the UN Convention on the Rights of the Child: Civil Society alternative report 2015 to the UN Committee*; Wales UNCRC Monitoring Group (2015) *Report to the United Nations Committee on the Rights of the Child*; Together (Scottish Alliance for Children’s Rights) (2015) *Implementation of the UN Convention on the Rights of the Child – Scotland: Report to the United Nations Committee on the Rights of the Child*

¹⁰ For example it has enabled a disabled girl to access transport to get to school, prevented a new born baby and her mum have from being made homeless and enabled a young person to have a voice in order to be rehoused following abuse.

¹¹ Welsh Government (2011) *Rights of Children and Young Persons (Wales) Measure 2011*

¹² *Children and Young People (Scotland) Act 2014*

¹³ Ministry of Justice (2017) *UPR: UK, British Overseas Territories and Crown Dependencies National Report* Para 76.

¹⁴ See UN Committee on the Rights of the Child (2016) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*

¹⁵ UK Government (2014) *United Nations Universal Periodic Review Mid Term Report of the United Kingdom of Great Britain and Northern Ireland, and the British Overseas Territories, and Crown Dependencies* Pg. 12