



Scottish Alliance for
Children's Rights



Christina McKelvie MSP
Convener
Equal Opportunities Committee
The Scottish Parliament
EDINBURGH
EH99 1SP

Together
Level 1
Rosebery House
9 Haymarket Terrace
Edinburgh
EH12 5EZ

0131 337 9015
info@togetherscotland.org.uk
www.togetherscotland.org.uk
@together_sacr

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Dear Ms McKelvie

Follow Up: Equal Opportunities Committee Meeting (8th September 2016)

We would like to thank you for giving Together (Scottish Alliance for Children's Rights) and the Scottish Youth Parliament the opportunity to meet with members of the Equal Opportunities Committee at last week's breakfast meeting and give evidence at the formal meeting. We are pleased that the Scottish Parliament has agreed to add human rights to the remit of the Committee and look forward to working with you to ensure that the rights of children and young people are central to these discussions.

As the Committee develops and begins to implement its new workplan, we would like to reiterate our request that steps are taken to facilitate open discussion with children and young people, and that they are offered opportunities for direct representation in the legislative process. This would be in line with Article 12 UNCRC and would help to progress the UN Committee's recent recommendations to 'establish structures for the active and meaningful participation of children and give due weight to their views in designing laws, policies, programmes and services', and to recognise youth parliaments as 'permanent forums for children's effective engagement with national legislative processes on issues that affect them'¹.

In setting the priorities for the Committee for the forthcoming parliamentary term, we would like to reiterate the key messages we spoke to you about yesterday:

¹ Para. 31(a)(c). UN Committee on the Rights of the Child (2016) Concluding Observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland.

Deliver international human rights obligations

The Committee could play a lead role in ensuring that Scotland's international human rights obligations are understood, debated, implemented and evaluated across the Scottish Parliament. In doing this, the Committee would need to engage with children and young people and NGOs and build strong links with those taking forward Scotland's Action Plan for Human Rights (SNAP).

As Juliet stated in her evidence, very many of the Concluding Observations already link to areas of scrutiny raised by the Committee. As a small example, this includes bullying faced by children and young people (included in CERD, CEDAW and UNCRC Concluding Observations), the incorporation of socio-economic rights (included in UNCRC and ICESCR Concluding Observations) and refugee and asylum issues (raised in the UPR and by CEDAW, CERD and ICCPR). Many Concluding Observations from different treaty bodies overlap and intersect and can be taken forward in tandem. Together's forthcoming *State of Children's Rights* report (to be published in November 2016) will explore how the Concluding Observations from all 7 international treaty bodies intersect to support the implementation of children and young people's rights.

It is important to note that the Concluding Observations result from in-depth consultation, research and representation from civil society across Scotland and the wider UK. The 2016 Concluding Observations from the UN Committee on the Rights of the Child draw from the expertise of a Committee member who spent two days visiting projects and speaking to children and young people across Scotland, as well as from Together's report to the UN Committee (endorsed by 71 organisations across Scotland) and a number of meetings between Committee members and Together and the Scottish Youth Parliament. As such, the Concluding Observations provide an evidence-based roadmap of the priorities for the Committee to take forward.

There is a clear remit for the Committee to act as a reviewing mechanism for Concluding Observations arising from international treaty bodies, such as the UN Committee on the Rights of the Child, and other mechanisms, such as the Universal Periodic Review.

Protect and enhance existing human rights obligations

Developments at a UK government level pose a clear threat to children's human rights protections in Scotland. The new UK Justice Secretary Liz Truss has recently confirmed that the UK government will continue with plans to replace the Human Rights Act (HRA) with a British Bill of Rights. This is despite strong opposition from the Scottish Government² and across civil society³. Courts throughout the UK have used the UNCRC as an aid to interpret the ECHR⁴. Additionally, the duty on public authorities to act in a way which is compatible with the ECHR has led to positive, everyday changes in the way children's human rights are protected without the need to go to court.

² See speech from Scotland's First Minister on 23/09/2015 <http://news.scotland.gov.uk/News/Protecting-human-rights-1d79.aspx> Reference for Wales needed

³ See Together's submission to the European and External Relations Committee Human Rights Inquiry (2015) www.parliament.scot/S4_EuropeanandExternalRelationsCommittee/General%20Documents/Together_Scotland.pdf

⁴ See examples illustrated by Together (Scottish Alliance for Children's Rights) (2015) Scotland NGO Report to the UN Committee http://www.togetherscotland.org.uk/pdfs/UNCRC_Scotland_NGO_Alternative_Report_2015.pdf

Furthermore, the EU offers myriad rights and protections for children and young people⁵. It is clear that the overall vote for the UK to leave the EU went against the views of the majority of children and young people. Throughout the UK, it has been estimated that 73% of voters aged 18-24 voted to remain in the EU⁶. In Scotland, only 11% of the 72,744 responses from young people aged 12-25 to the Scottish Youth Parliament's recent Lead the Way Manifesto wanted to leave the EU⁷.

There is a clear remit for the Committee to work with the European and External Relations Committee to ensure that each and every protection of children and young people's human rights are highlighted, protected and enhanced in any decision made around the British Bill of Rights and the future of Scotland in the EU.

Scrutinise legislation and policy for impact

The introduction of the Children and Young People (Scotland) Act has resulted in welcome steps to conduct Child Rights and Wellbeing Impact Assessments on policy and legislation. An excellent model of impact assessment has been developed by Scottish Government and made available at a national and local level⁸. It includes specific steps to ensure that children and young people's voices are taken into consideration in the policy-making process. A meaningful consequence of the duties included in the Act is that children and young people's UNCRC rights now have to be considered in all Ministerial decisions – including decisions around transport, the environment and planning as well as education and childcare. Furthermore, Scottish Ministers are required to present a report to the Scottish Parliament every three years to outline steps they have taken – and intend to take – to progress children and young people's UNCRC rights. There is a clear remit for the Committee to scrutinise child rights impact assessments and the UNCRC report to Parliament to ensure that children and young people's rights are being respected, protected, and fulfilled.

Both Together and the Scottish Youth Parliament met with the Joint Committee for Human Rights (JCHR) in January 2016 to discuss the implementation of the UNCRC in Scotland. The JCHR is currently conducting a number of inquiries that have relevance to Scotland, including the UK's record on children's rights⁹, and human rights and business¹⁰ and has recently concluded an inquiry into counter-extremism¹¹. We would like to encourage the Committee to liaise with the JCHR wherever appropriate to ensure that Scottish perspectives are heard in UK-wide inquiries and to draw from the resources already developed by the JCHR.

⁵ See Together's submission to the European and External Relations Committee Inquiry into EU reform and the EU referendum www.togetherscotland.org.uk/news-and-events/news/detail/?news=1163

⁶ Source: Lord Ashcroft Polls (24 June 2016) lordashcrofthpolls.com/2016/06/how-the-united-kingdom-voted-and-why/#more-14746

⁷ Scottish Youth Parliament (2016) Lead the Way www.syp.org.uk/manifesto

⁸ See the CRWIA model at www.gov.scot/Topics/People/Young-People/families/rights/child-rights-wellbeing-impact-assessment

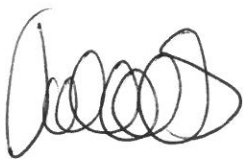
⁹ See: www.parliament.uk/business/committees/committees-a-z/joint-select/human-rights-committee/inquiries/parliament-2015/childrens-rights-16-17/

¹⁰ See: <http://www.parliament.uk/business/committees/committees-a-z/joint-select/human-rights-committee/inquiries/parliament-2015/inquiry/>

¹¹ See: www.publications.parliament.uk/pa/jt201617/jtselect/jtrights/105/10502.htm

We hope that this will help to supplement our discussions at the breakfast meeting and subsequent evidence session. It would be extremely useful to set up a formal structure of communication between the Committee and the Scottish Youth Parliament's Equalities Committee. Please do let us know if we can work with your Clerks to take this forward. In the meantime, we would be happy to meet you and the other Committee members at any point to discuss any of the matters we raise in this letter, and would be keen to provide any further briefings or evidence you may require.

With thanks and best wishes.



Juliet Harris
Director, Together



Suki Wan
Deputy Convenor, Equalities Committee, Scottish Youth Parliament