



Scottish Human Rights National Action Plan

Children's Rights Briefing

Summary

This briefing is to inform responses to the Scottish Human Rights Commission consultation on Scotland's National Action Plan (SNAP) for human rights. It specifically looks at consistent violations of children's rights in Scotland as identified through Together's annual *State of Children's Rights* reports with the aim of:

- informing responses to the SNAP consultation;
- bringing together the collective voice of the children's sector; and
- mainstreaming children's rights within SNAP.

The briefing brings together information from a variety of sources, including the Together *State of Children's Rights* reports, recommendations made through the Universal Periodic Review and UN Committee on the Rights of the Child, alongside the Scottish Human Rights Commission's mapping exercise, *Getting it Right? Human Rights in Scotland*.

Together would like to actively encourage its membership to consider the issues raised when submitting responses to the consultation. Together would also be keen to receive further information or comments from members. Specific topics addressed through this briefing include:

- Incorporation of the UNCRC into Scots law
- Ratification of the Optional Protocol on the UNCRC complaints mechanism
- Training of professionals in children's rights
- Conducting child rights impact assessments
- Improving the participation of children and young people through advocacy
- Giving children equal protection from assault
- Looked after children
- Domestic abuse
- Children of prisoners
- Child poverty
- Children with disabilities
- Mental health
- Participation/equality/additional support for learning
- additional support for learning
- Play
- Refugee and asylum seeker children
- Child trafficking
- Age of criminal responsibility

What is Scotland's National Action Plan (SNAP)?

Over the past three years, the Scottish Human Rights Commission (SHRC) has researched the realisation of human rights in Scotland. *Getting it Right?* reveals that Scotland has a relatively strong legal and institutional framework for human rights. However, actual outcomes for different people can be inconsistent. Scotland needs a more systematic approach to assure the realisation of rights of all ages. Strong human rights based legal and policy frameworks must be translated into more consistent and positive outcomes.

SNAP will be evidence based, developed in an inclusive way and independently monitored. It will set out realistic and practical ways to fill 'gaps', build on good practice and help Scotland look outwards and move forward. It will be launched on International Human Rights Day in December 2013. Together is keen to ensure that SNAP has the realisation of children's rights at its core.

Responding to SNAP consultation

The SNAP consultation is now live on the Scottish Human Rights Commission websiteⁱ and closes on 29th March 2013.

The consultation asks the following two key questions:

- Based on the evidence presented in the report *Getting it right? Human rights in Scotland*, or your own experience, what do you consider to be the most urgent human rights issues which should be addressed in Scotland's National Action Plan for Human Rights?
- What specific and achievable actions do you consider would best address the concerns you identify in your response to question 1?

Together's response to the SNAP consultation

This paper highlights the key issues that Together will raise in its response to the consultation. The issues raised are consistent themes that have emerged in Together annual *State of Children's Rights* reports since 2010.

Together would like to encourage its members and supporters to:

- Use this briefing to inform their own response to the SNAP consultation;
- Provide feedback and further information on the issues to raised to support Together's response to the consultation;
- Sign up to support Together's response to the consultation.

Contact

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1. General Measures of Implementation

1.1. Incorporation

In Together's 2012 State of Children's Rights Reportⁱⁱ, a recommendation was given to the Scottish Government to aim for full incorporation of the UNCRC by the UK's next reporting round to the UN Committee on the Rights of the Child. This recommendation appeared in Together's State of Children's Rights Reports in 2010ⁱⁱⁱ and 2011^{iv}, and was submitted to the UK Government during the previous three UN Committee on the Rights of the Child Concluding Observations; most recently in 2008^v. The UN Committee favours direct and full incorporation as a method of implementation, thus giving full legal effect to the binding commitments made by Governments when ratifying the UNCRC.

During recent consultation of the Children and Young People (Scotland) Bill, there have been positive policy proposals around furthering the implementation of the UNCRC in Scotland, including a proposed duty on Ministers to take 'appropriate steps to further the rights of children and young people.'

In the *Getting it Right? Human Rights in Scotland* report, the Scottish Human Rights Commission (SHRC) refers back to a previous proposal from the Scottish Government to place a duty on Scottish Ministers to pay '*due regard*' to the UNCRC in all of their functions. This proposal has now been replaced by the proposals included in the Children and Young People Bill. However, the SHRC states that even this previously stronger proposed duty on Ministers was still '*not an alternative to incorporation.*'^{vi}

A UNICEF UK report was launched in January 2013 and looks at the implementation of the UNCRC in 12 countries beyond the UK. It concludes that the process of incorporation raises awareness of children's rights in Government and civil society; increases the likeliness of children to be perceived as rights holders and generates a culture of respect for children's rights. The main value of UNCRC incorporation was seen to be '*the strong message it conveyed about the status of children and children's rights, and the knock-on effects for implementation of children's rights principles into domestic law and policy.*'^{vii}

At the 2012 UK Universal Periodic Review (UPR) reporting round, Slovakia recommended that the UK incorporate fully, as a matter of urgency, the UNCRC into domestic law.^{viii}

Action: SNAP should outline a roadmap towards the full incorporation of the UNCRC into Scots law.

1.2. Optional protocol of the UNCRC complaints mechanism

The third Optional Protocol (OP) of the UNCRC is a communications procedure to allow individual children to submit complaints regarding specific violations of their rights. It opened for signature on 28th February 2012 and thus far, 35 states have signed and a further 2 have ratified the OP.

At the 2012 UPR reporting round, Slovakia urged the UK to ratify the third OP; a recommendation that was also made in Together's 2012 *State of Children's Rights report*.^{ix}

Action: SNAP should outline the Scottish Government's commitment to take forward its support for signing the Optional Protocol. The Scottish and UK Government should provide a roadmap indicating the timescale and process involved with regards to ratification.

1.3. Training of professionals

The Concluding Observations of the Committee on the Rights of the Child (2008) state that the UK must 'reinforce adequate and systematic staff training about the UNCRC for all professional groups working for and with children'.^x

Together has continually advised the Scottish Government that child rights training must be provided by all organisations working with and for children. Together further recommend that child rights training should fall in line with the Common Core in its 2012 *State of Children's Rights report*.^{xi}

The SHRC *Getting it Right? Human Rights in Scotland* report recognises the need for human rights-based training approaches to training, yet there is no recognition that this approach should be extended to children's rights.^{xii}

Action: SNAP should outline a comprehensive strategy through which the Scottish Government can take forward its commitment to promote and raise awareness of the UNCRC among professionals. This should include ensuring that all organisations working with and for children provide child rights training in line with the Common Core's skills, knowledge, values and understanding.

1.4. Child Right Impact Assessments

Together has consistently urged the Scottish Government to make a Child's Rights Impact Assessment (CRIA) a statutory requirement to ensure that children's rights are integral in all policy-making at local and national level. CRIs provide a valuable tool for looking at legislation and identifying and measuring its effect on children and young people and permit impacts to be predicted, monitored and, if necessary, avoided or mitigated. During recent consultation for the Children and Young People Bill in Scotland, Together reaffirmed the need for CRIs to be used across national and local government in order for policy-making to be meaningful.

Concluding Observations by the Committee on the Rights of the Child (2008) emphasise that the UK must conduct regular child rights impact assessments, with reference to the evaluation and monitoring of budgeting; the realisation of policy developments and the implementation of legislation.^{xiii} The SHRC promotes the use of human rights impact assessments and particularly with regards to health inequalities and the NHS. Working in partnership with the European Human Rights Commission (EHRC), the SHRC are developing an Equality and Human Rights Impact Assessment to support the integration of human rights into decision making, monitoring and accountability.

Action: SNAP should outline a process whereby the use of CRIs can be developed and implemented alongside Human Rights Impact Assessments.

2. General Principles

2.1. Improving Participation and Advocacy

The Scottish Government's *Do the Right Thing UNCRC progress report*^{xiv} refers to legislative examples where children and young people are playing an active part in decisions affecting them, showing a general acknowledgement of the importance of the principle of participation and of Article 12 across policy and in some areas of practice. Yet the recognition of a cultural change necessary to promote full participation in less formal settings is absent in the report.

With regards to participation relating to advocacy, Together has recommended that the Scottish Government should ensure that principles and standards for advocacy are put in place in a way that ensures that children and young people are able to enjoy their right to be heard. It should take account of the UNCRC General Comment 12:

“The right to be heard applies both to proceedings which are initiated by the child, such as complaints against ill-treatment and appeals against school exclusion, as well as to those initiated by others which affect the child, such as parental separation or adoption. States parties are encouraged to introduce legislative measures requiring decision makers in judicial or administrative proceedings to explain the extent of the consideration given to the views of the child and the consequences for the child.”^{xv}

Action: SNAP should outline a strategy through which all levels of Government will listen to the views of children and young people in policy-making and services. Specifically relating to access to advocacy, the Scottish Government should take forward and implement actions resulting from the consultation on ‘Improving Advocacy Support for Children and Young People: principles and minimum standards’ in order to ensure that children and young people have access to high quality advocacy when they need it.

3. Civil Rights and Freedoms

3.1. Equal protection from assault

During the UK UPR reporting round in 2012, Norway, Finland and Sweden advised the UK to reconsider its position with regards to the continued legality of corporal punishment of children, and to take measures to ensure the freedom of children from violent behaviour.^{xvi}

This echoes the UN Concluding Observation (2008) which stresses that the UK must prohibit, as a matter of priority, all corporal punishment in the family, including through the repeal of all legal defences.^{xvii}

In its 2012 *State of Children’s Rights report*, Together recommended that the Scottish Government should accept these recommendations and give children equal protection from assault in law.

Giving children equal protection from assault has not been recognised in the SHRC’s *Getting it Right? Human Rights in Scotland* report.

Action: SNAP should outline a timescale in which the Scottish Government gives children equal protection from assault in law and to commit to providing information and support to parents and organisations providing support to families.

4. Family Environment and Alternative Care

4.1. Looked after children

Together's *State of Children's Rights* reports have repeatedly raised issues regarding looked after children. Amongst these have been:

- the need for ongoing monitoring and evaluation of policies affecting looked after children;
- ensuring that there is a clear pathway underpinned by children's rights that illustrates how these policies produce tangible outcomes for looked after children.

The *Do the Right Thing* progress report outlines a number of steps taken by the Scottish Government in this area, including challenging stigma and reducing discrimination and improving support for care leavers.^{xviii} Despite this evident commitment, there is still a long way to go.

SCCYP calls for changes to the law to prevent councils placing young people in homeless hostels and bed and breakfast establishments, and ensuring that there are options open to young people if their first steps towards independence don't work out. Recommendations include semi-independent living units to be put in place as a stepping stone.

Getting it Right? Human Rights in Scotland recognises the needs of looked after children in areas including 'life after care' services and semi-independent living units, with reference to SCCYP's call for changes to prevent councils placing young people in homeless hostels and B&B establishments.^{xix} It also highlights concerns regarding poor educational outcomes, low income and employment rates, and poor health and early pregnancy of looked after children.^{xx}

Action: **Actions relating to looked after children and young people in SNAP should:**

- **Be underpinned by a children's rights framework and show how they will produce tangible outcomes;**
- **Encourage collective responsibility for looked after children;**
- **Closely monitor and evaluate the effectiveness of corporate parenting strategies.**

4.2. Domestic abuse

The 2008 UN Committee Concluding Observations advised the UK to establish mechanisms for monitoring the number of domestic abuse cases and the details of these cases in the family/school/institutional or other care; ensure that professionals working with children receive training on their obligation to report and take appropriate action in suspected cases of domestic violence affecting children, and to provide adequate services for recovery, counselling and reintegration.^{xxi}

Getting it Right? Human Rights in Scotland raised questions about the definition of domestic abuse in law, as well as the adequacy of policy attention to perpetrators and specific groups of victims/survivors including minority ethnic women, transgender people and men. Furthermore, victims/survivors of domestic abuse discuss a range of problems in accessing accommodation and avoiding homelessness, including extended time periods in refuges waiting for accommodation.^{xxii}

Although SHRC found that policy attention has increasingly addressed the impact of domestic abuse on children, there are continuing problems in access to support services for children. In its *State of Children's Rights reports* (2011 and 2012), Together recommended that the priorities of the three-year *National Domestic Abuse Delivery Plan for Children and Young People* (which was produced in 2008 by the Scottish Government and COSLA) should be embedded into the core work of the Scottish Government, with adequate funding and resources.

Action: All SNAP actions relating to domestic abuse should take into account its impact on children and young people.

4.3. Children of prisoners

The 2008 UN Committee Concluding Observations urged the UK to ensure support to children with one or both parents in prison; to maintain contact (unless contrary to their best interests) and to prevent their stigmatisation.^{xxiii}

Two recommendations were given to the UK in its UPR round in 2012 highlighting these concerns. Slovakia urged 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, whilst recognising that visits to 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. Germany furthered this recommendation by urging the UK to take steps to improve support for children with imprisoned parents.^{xxiv}

Within the 2012 *State of Children's Rights report*^{xxv} Together recommended that the Scottish Government:

- increase efforts to work with SCCYP to further their recommendations from the 2008 and 2011 reports 'Not Seen, Not Heard, Not Guilty',^{xxvi}
- ensure that direct support is provided for children of prisoners at school, including improving engagement from schools with parents in prison;
- raise awareness throughout the statutory and voluntary sector of the impact of imprisonment on children and their roles and responsibility for addressing this, including amongst adult-focused services;
- recognise quality contact with parents in prison as a child's right rather than as a tool for prison discipline.
- Child & Family Impact Assessments should be conducted and acted upon throughout the criminal justice process, starting with arrest and continuing through the release of a prisoner (including impact assessments for non-custodial penalties);
- The Scottish Prison Service should establish good quality, independently staffed prison visitors' centres at every prison in Scotland to support children and families of prisoners.

As recognised in the SHRC *Getting it Right? Human Rights in Scotland* report, Article 9 of the UNCRC protects the right to the child not to be separated from his or her parents except by competent authorities subject to judicial review. Paragraph 4 of Article 9 further acknowledges that such separation may arise from the detention or imprisonment of one or both parents.^{xxvii}

Action: SNAP should bring together duty bearers to further the recommendations from SCCYP's 2008 and 2011 reports 'Not Seen, Not Heard, Not Guilty.'

5. Basic Health and Welfare

5.1. Child poverty

The UK's UPR round in 2008 and the 2008 UN Committee Concluding Observations recommended that, in line with Article 4 of the UNCRC, the UK should allocate the maximum extent of available resources for the implementation of children's rights, with a special focus on eradicating poverty and reducing inequalities across all jurisdictions.

Despite this, children's organisations felt that the UK Government's *Child Poverty Strategy*, published in April 2011, failed to set out a clear pathway towards reaching the 2020 target. This concern was reinforced in the UK's UPR round in 2012, where Norway urged the UK to set out a clear pathway to meet the goal of ending child poverty in the UK by 2020.^{xxviii} SHRC sees this as an indication of the UK's failure thus far to tackle child poverty.^{xxix}

The Scottish Government *Child Poverty Strategy* lacks targets or actions that will be taken to achieve the outcomes, and it is not clear what indicators are used to monitor progress against these outcomes. Commenting on behalf of Scottish children's organisations Together highlighted that the 2012 *annual progress report* presented by the Scottish Parliament lacked information on progress against outcomes at national level and fail to provide a comprehensive overview of progress. It is therefore left unclear how the measures in the *Child Poverty Strategy* are actually delivering direct action to tackle child poverty in Scotland.

The 2012 *State of Children's Rights report*^{xxx} assured that a robust process for driving and monitoring progress at local and national level against key outcomes and measures must be put in place (as recommended in the 2011 *State of Children's Rights report*)^{xxxi}. This would fulfil the recommendation given by the UN Concluding Observations in 2008 for the UK to adequately implement the Scottish Government *Child Poverty Strategy* by establishing measurable indicators.

Action: **SNAP should identify measures to be put in place by the Scottish Government to monitor and evaluate the Child Poverty Strategy at a local and national level.**

5.2. Children with disabilities

The 2008 UN Committee Concluding Observations urged the development of a comprehensive national strategy for the inclusion of children with disability, and action to raise awareness of their rights and special needs to prevent discrimination and institutionalisation. They also urged that programmes and services for children with disabilities must be effectively implemented.^{xxxii}

A national strategy for children with disabilities has not been realised to date. Progress of the *National Review of Services for Disabled Children and Young People* action plan was included in the Scottish Government's recent *Do the Right Thing* progress report.^{xxxiii} Despite welcoming the action plan, Together has found that progress has been slow and that improvement is necessary in areas including GIRFEC practice briefings, staff training, children's service plans and engagement and participation of disabled children and young people. Together gave recommendations in the 2012 *State of Children's Rights report*^{xxxiv} in all of these areas (as similarly echoed in Together's *State of Children's Rights reports* in 2010 and 2011).

SHRC's report *Getting it Right? Human Rights in Scotland* recognises that children with disabilities do not fully enjoy their right to education. It is also made clear that as cuts in disability premiums and cuts in

benefits continue, this will have a profound effect on families with a disabled child (also highlighted in Together's 2012 State of Children's Rights report).^{xxxv} There is mention of the *UN Convention on the Rights of Persons with Disabilities* (UNCRPD) and in particular with regards to people exercising their rights in care. The report includes information that work is being done to identify the gaps for the rights of older people, which we would recommend to be extended to the gaps for the rights of children and young people too.

Action: SNAP should outline a timescale in which the Scottish Government introduces mandatory training on basic behaviour strategies, autism/learning, disability awareness and communications strategies for all staff involved in the education of children with a disability.

5.3. Mental health

The 2008 UN Committee Concluding Observations state that additional resources and improved capacities be employed to meet the needs of children with mental health problems throughout the country, with particular attention to those at greater risk (including children of deprived care, children affected by conflict, those living in poverty and those in conflict with the law).^{xxxvi}

The need to give particular attention to mental health services for vulnerable groups such as asylum-seeking children, children of prisoners and children from ethnic minority communities was a recommendation made to the Scottish Government in Together's *State of Children's Rights report* in 2011.^{xxxvii}

Scotland's *Mental Health Strategy* was released in summer 2012. Together has advised the Scottish Government to ensure that it promotes sufficient preventative measures to stop more serious mental health problems developing later in life.^{xxxviii}

Mental health was rarely referred to in the *Do the Right Thing* progress report, which reinforced the lack of joined-up thinking with child rights and mental health. Thus, in Together's 2012 *State of Children's Rights report* a second recommendation with regards to mental health states that the Mental Health Strategy should be underpinned by the UNCRC.^{xxxix} Framing it alongside other strategies and policies including the National Parenting Strategy and the forthcoming Children and Young People's Bill will help to recognise the impact of parental mental health on children.

The SHRC's *Getting it Right? An Overview of Human Rights* report notes that the Mental Health Strategy contains a number of commitments, including that the Government will:

"work with the Scottish Human Rights Commission and the Mental Welfare Commission to develop and increase the focus on rights as a key component of mental health care in Scotland."^{xl}

To further the rights of children and young people with mental health needs, the Scottish Government should also focus on the UNCRC.

Scotland had a target to ensure access to specialist Child and Adolescent Mental Health Services within 26 weeks by March 2013, yet there are concerns that long waiting lists remain for children in need of support.^{xli} What's more, The Scottish Association for Mental Health (SAMH) has raised concern at reported increases in the numbers of young people admitted to adult psychiatric wards in some areas.^{xlii}

Action: SNAP should outline a pathway through which all stakeholders working on the Mental Health Strategy develop and increase the focus on children's rights as a key component of health care in Scotland, taking into account those affected both directly and indirectly by mental health issues.

6. Education, Leisure and Cultural Activities

6.1. Equality in education

Together has welcomed the positive steps associated with the Curriculum for Excellence with regards to children being able to exercise their rights, encouraging child-centred learning and individual participation. Yet there is still a gap between policy and practice, with participation often tokenistic and non-inclusive. This was highlighted in the UN Committee Concluding Observations (2008) which urged the UK to strengthen children's participation in all matters of school, classroom and learning which affect them.^{xliii}

The UN Committee has recognised the efforts in Scotland to ensure the right to education for all children, yet express concern that such effort must be strengthened to reduce the effects of the social background of children on their achievement in school.^{xliv}

By the time pupils leave school, the attainment of those pupils from the richest areas in Scotland is 137 per cent higher than those from the most deprived areas. Those from the most deprived areas achieved attainment levels 65 per cent below the national average.^{xlv}

In its 2012 *State of Children's Rights report* Together recommended that the Scottish Government used current policy reform to support parents in deprived areas to engage in their children's education and to provide affordable, high quality and extensive early education and care provisions for all children in poverty from a young age.^{xlvi}

Action: SNAP should outline a pathway towards providing affordable, high quality and extensive early education and care provision for all children in poverty from an early age.

6.2. Additional Support for Learning

During the 2012 UK UPR reporting round, Costa Rica advised the UK to adopt a strategy so that children of vulnerable groups are not excluded from the education system.^{xlvii} This includes children and young people and the inclusive access to additional support for learning.

As stated in the Scottish Government's *Do the Right Thing* progress report, the Scottish Government published a report to Parliament on the implementation of the Additional Support for Learning legislation in early 2012.^{xlviii} The report revealed that not enough was being done to support children and young people with 'hidden' additional support needs, as well as a lack of shared practice in the identification of, and provision for additional support needs.

In the SHRC mapping exercise '*Getting it Right? Human Rights in Scotland*', gaps in additional support for learning legislation are highlighted. These include:

- the omission of duty to be placed on schools to know which children are disabled if they do not face barriers in addition to their impairment in the Education (Additional Support for Learning) (Scotland) Act 2004.

- the Co-ordinated Support Plan and its ability to neglect children who face severe disability barriers but from only one type of service. If a child or young person does not qualify, the Individualised Educational Programme is offered; however due to a lack of statutory status it cannot guarantee additional support to ensure that education is accessible for all.^{xlix}

Representing the experience of children’s organisations, in its 2012 *State of Children’s Rights report* Together recommended that the Scottish Government addresses the need for specialist and adequate support for teachers in terms of learning support teachers, classroom assistants and links to other professionals, and to include an extensive monitoring and evaluation framework to build a national picture of the provision of additional support for learning to feed back into improving provision and developing practice.

Action: SNAP should outline a long-term plan to support the implementation of the Additional Support for Learning legislation that includes:

- specialist and adequate support for teachers in terms of learning support teachers, classroom assistants and links to other professionals
- extensive monitoring and evaluation framework to build a national picture of the provision of additional support for learning to feed back into improving provision and developing practice.

Local authorities should ensure that all looked after children are considered for a CSP and that significantly more are given a CSP to support their learning.

6.3. Play

The Scottish Government’s *Do the Right Thing* progress report refers to *PlayTalkRead* and the *Go Play* funds which are welcomed by the children’s sector. Yet the lack of long-term funding commitments present a concern that a universal play service may be unattainable in the future and that services will lose skilled play professionals, as stated in Together’s 2012 *State of Children’s Rights report* recommendations to the Scottish Government.^l

A General Comment for Article 31 has recently been adopted by the UN Committee. If the Scottish Government was to implement this General Comment it could help Scotland fulfil the concluding observation given to the UK by the UN Committee in 2008. This recommendation stated that efforts must be strengthened to guarantee the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

The UN Committee also focused particular attention on children with disabilities whilst recommending that the UK should provide adequate and accessible playground spaces.

The SHRC’s *Getting it Right? Human Rights in Scotland* report recognises the lack of access to outdoor play for children in care^{li}, yet there is a noticeable lack of information relating to Article 31 of the UNCRC.

Action: SNAP should encourage the Scottish Government to implement the new UN General Comment and ensure vulnerable groups are included in play strategies.

7. Special Protection Measures

7.1. Refugee and asylum seeking children

In the 2012 UK UPR review, Morocco advised the UK to protect the children and families of migrants and refugees, and accede to the ICRMWⁱⁱⁱ (International Convention on the Protection of the Rights of All Migrant Workers).

The issue of asylum, for the most part, is reserved to Westminster. However, SHRC recognises that the implementation of asylum seeker/refugee policy and matters such as education, health and child protection, housing and provision of services, all contribute to the successful integration of asylum seekers and refugees living in Scotland.

The Scottish Government has a role in influencing the UK Government to ensure that Scottish views are taken into account when drawing up relevant legislation, and especially with regards to protection for children, minimal use of detention and integration.

The SHRC's *Getting it Right? Human Rights in Scotland* report includes recently published research stating that the cut by UKBA in asylum support and resources for support services has left many stuck in destitution but unable to return to their home country.^{liii}

The SHRC also highlight the difficulties faced by unaccompanied asylum-seeking children in Scotland and the various challenges involved in the transition from asylum seeker to refugee, especially when navigating the social housing system.

Action: SNAP should ensure that Scotland voices the rights of asylum-seeking and refugee children in Scotland and uses its power to influence the UK Government.

In its 2012 *State of Children's Rights report* Together commended the guidance on age assessment introduced by the Scottish Refugee Council and has welcomed the partnership work that has taken place with UKBA, the Scottish Government and COSLA. Together advised that the Scottish Government should continue to support the roll-out of the new guidance on age assessment alongside monitoring and evaluation of its use.

Action: SNAP should further Together's recommendation that the guidance on age assessment introduced by the Scottish Refugee Council should be adequately funded and resourced.

7.2. Age of criminal responsibility

As reported in the 2011 *State of Children's Rights report*,^{liv} the age of criminal responsibility in Scotland currently remains one of the lowest in Europe. This issue has been repeatedly raised by Together. In the *Do the Right Thing* progress report, the Scottish Government has committed to give 'fresh consideration to raising the age of criminal responsibility from 8 to 12.'^{lv}

This addresses the 2008 UN Committee on the Rights of the Child concluding observation that the UK should raise the minimum age of criminal responsibility in accordance with the Committee's General Comment no. 10.^{lvi} It would also address the recommendations made in the 2012 UK UPR round, where both Belarus and Chile stressed that the age of criminal responsibility should be raised.^{lvii}

Action: SNAP should outline a timescale in which the Scottish Government agrees to raise the age of criminal responsibility, in line with the UN Committee's General Comment No. 10.

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- ⁱ <http://www.scottishhumanrights.com/actionplan/participatesnap>
- ⁱⁱ <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>
- ⁱⁱⁱ http://togetherscotland.org.uk/pdfs/Together_Report2010_online.pdf
- ^{iv} http://www.togetherscotland.org.uk/pdfs/Together_Report_2011_PDF.pdf
- ^v Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No's 11, 12.
- ^{vi} Scottish Human Rights Commission (2012) *Getting it Right? Human Rights in Scotland*. Scottish Human Rights Commission.
- ^{vii} UNICEF UK (2012). 'The United Nations Convention on the Rights of the Child: a study of legal implementation in 12 countries.' Queens University, Belfast.
- ^{viii} United Nation Human Rights Council (2012). *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*.
- ^{ix} <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>
- ^x (Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/14). No. 21.
- ^{xi} <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>
- ^{xii} Scottish Human Rights Commission (2012) *Getting it Right? Human Rights in Scotland*. Scottish Human Rights Commission.
- ^{xiii} Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 19.
- ^{xiv} Scottish Government (2012). Do the Right Thing Progress Report 2012
- ^{xv} Paragraphs 33, UNCRC General Comment number 1
- ^{xvi} United Nation Human Rights Council (2012). *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*.
- ^{xvii} Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 42a, b.
- ^{xviii} Scottish Government (2012). *Do the Right Thing progress report*.
- ^{xix} Scotland's Commissioner for Children and Young People (2008). Sweet 16? The Age of Leaving Care in Scotland.
- ^{xx} Scottish Human Rights Commission (2012) *Getting it Right? Human Rights in Scotland*. Scottish Human Rights Commission.
- ^{xxi} Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 51.
- ^{xxii} Scottish Human Rights Commission (2012) *Getting it Right? Human Rights in Scotland*. Scottish Human Rights Commission.
- ^{xxiii} Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 45d.
- ^{xxiv} United Nation Human Rights Council (2012). *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*.
- ^{xxv} <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>
- ^{xxvi} Scotland's Commissioner for Children and Young People (2011). Not seen. Not heard. Not guilty. The rights and status of the children of prisoners in Scotland.
- ^{xxvii} Scottish Human Rights Commission (2012) *Getting it Right? Human Rights in Scotland*. Scottish Human Rights Commission.
- ^{xxviii} United Nation Human Rights Council (2012). *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*.
- ^{xxix} Scottish Human Rights Commission (2012) *Getting it Right? Human Rights in Scotland*. Scottish Human Rights Commission.
- ^{xxx} <http://togetherscotland.org.uk/pdfs/TogetherReport2012.pdf>
- ^{xxxi} http://www.togetherscotland.org.uk/pdfs/Together_Report_2011_PDF.pdf
- ^{xxxii} Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 53, a,c,d,e
- ^{xxxiii} Scottish Government (2012). Do the Right Thing Progress Report 2012
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