

Draft Periodic Report to the UN Committee on the Rights of the Child

United Kingdom



Response from Together (Scottish Alliance for Children's Rights)

About Together:

Together (Scottish Alliance for Children's Rights) is an alliance of children's charities that works to improve the awareness, understanding and implementation of the UN Convention on the Rights of the Child (UNCRC) in Scotland. We have 241 members including large international and national non-governmental organisations (NGOs) including UNICEF UK, Save the Children, Barnardo's and CHILDREN 1st through to volunteer-led playgroups and after school clubs. Our activities include:

- Collating an annual *State of Children's Rights* report to set out the progress made to implement the UNCRC in Scotland.
- Working in partnership with the Scottish Government and Scotland's Commissioner for Children and Young People (SCCYP) on the *Scottish Children's Rights Implementation Monitoring Group* to develop a common understanding on progressing the UNCRC.
- Submitting the NGO alternative report to the UN Committee on the Rights of the Child to provide an independent NGO perspective on the extent to which Scotland is meeting its UNCRC obligations.

Together is a member of the Rights of the Child UK Coalition and support its submission on the draft periodic report.

For further information, please contact Juliet Harris, Director,
Together (Scottish Alliance for Children's Rights)
Tel: **0131 229 3666** Email: **juliet@togetherscotland.org.uk**
Princes House, 5 Shandwick Place, Edinburgh, EH2 4RG

1. Introduction

Together welcomes this opportunity to comment on the UK Government's draft report to the UN Committee on the Rights of the Child. This response specifically focuses on the extent to which the UK Government report succeeds in reflecting the extent to which the UNCRC is being implemented in Scotland. Together consults widely with its membership through seminars, meetings and ongoing face-to-face consultation and has just published its 2013 State of Children's Rights report for Scotland. This response is based on the evidence received from members and included within the State of Children's Rights reports.

2. General comments on the report

Together welcomes the UK Government's draft report to the UN Committee on the Rights of the Child and the submission made in July 2013 by the Scottish Government to inform the report. We recognise the significant work that has been put into producing a comprehensive report on the implementation of the UNCRC across the UK by governments across the UK. However, we are concerned that the report does not take account of many of the significant developments made in Scotland in implementing children's rights as outlined in the Scottish Government's report to the UK. In addition, the report does not adequately reflect on some of the differences between legislative and administrative mechanisms between Scotland and the UK. For example, the UK report does not reflect on the Scottish Government's key priority of promoting early intervention and prevention. It makes no reference to the Scottish Government's Early Years Collaborative which is working to identify, develop and deliver practical actions to improve the outcomes of children.

It is often unclear in the UK report whether the steps outlined are of benefit for all children living in the UK or just those living within specific jurisdictions. For example, the report provides examples of where consultations with children have been conducted by the UK Government to inform policy and practice. The report states that these are '*examples of activities through which children and young people have been committed on matter of national significance*'. This statement implies that the activities have been of benefit for children across all nations of the UK. However, the examples stated include work with the Department for Education, an independent Children and Young People's Health Outcomes Forum and work with the Department for Transport. Responsibility for education, health and transport are all devolved to the Scottish Parliament and these activities would not have involved - or affected - children living in Scotland. The Scottish Government has outlined examples of its own consultations with children and young people¹ and these should be taken into account in the UK report. The UK report must be clearer in showing whether measures taken to further the UNCRC affect all children across the UK or children living within particular jurisdictions.

¹ Scottish Government (2013). *The 5th UK Government Report to the UN Committee on the Rights of the Child Scottish Government Submission* (pg17)

3. Comments on specific subject areas or chapters

Together has provided feedback to the Scottish Government on its submission to the UK report through its State of Children's Rights report 2013. This report was put together following wide consultation with children's organisations through a series of seminars (attended by 135 delegates), an online consultation (responded to by 53 children's organisations) and desk research. It makes a number of observations and recommendations as to how the Scottish Government could further the implementation of the UNCRC. Together urges the UK Government to take account of its State of Children's Rights report 2013 when finalising its submission to the UN Committee.

In addition, Together has outlined a number of comments below that relate to particular statements made in the UK Government's draft report:

3.1. Incorporation (page 7, paragraph 9)

Together supports and concurs with the submission made by the Rights of the Child UK (ROCK) coalition. We share the concern of the UK Government's incorrect assertion that the UNCRC *'does not provide the level of precision that would allow legislators to incorporate it directly within the UK legal framework'*. Together repeats ROCK's call for the UK Government to amend this inaccurate and unhelpful statement. We also call on the UK and Scottish Government to recognise the benefits of incorporation, and make a commitment in this report to move towards incorporation.

3.2. Corporal punishment (page 40, paragraph 18)

Together is concerned regarding the statement around corporal punishment, that the *'UK Government strongly believes that its policies and practices are compliant with both the spirit behind the Convention and the substance of Article 19'* and that *'the State Party's view, however, is that a mild smack does not constitute violence'*. This echoes the concerning statement from the Scottish Government in its submission to the UK Government's report that it *'does not consider it appropriate to criminalise parents for lightly smacking their children'* and that there is *'currently no intention to change the law in this area'*².

As outlined in Together's 2013 State of Children's Rights report, Scotland (and the UK) is coming under increasing international pressure to give children equal protection from violence.³ Most recently, in May 2013, the UN Committee Against Torture recommended that *'the State party prohibits corporal punishment of children in all settings...repealing all legal defences currently in place, and further promote positive non-violent forms of discipline via public campaigns as an alternative to corporal punishment.'*⁴ Despite such repeated calls, children in Scotland still do not

² Scottish Government (2013). *The 5th UK Government Report to the UN Committee on the Rights of the Child Scottish Government Submission* (pg 21)

³ Together (2012). *State of Children's Rights in Scotland*

⁴ <http://www2.ohchr.org/english/bodies/cat/cats50.htm> (para 27)

have the same protection from assault as adults in law. More than half of the Council of Europe's 47 member states have either achieved full prohibition of physical punishment of children or committed themselves to do so soon. Among the 27 EU states, just four – the UK among them – have neither prohibited physical punishment nor committed themselves to do so.⁵

Although it is true that the occasional light smack does not necessarily cause lasting harm, there is no such thing as a safe smack. All smacks carry a small risk of causing unintended physical injury, for example of an unsteady child being knocked over or a blow being harder than a parent intended. Furthermore, a smack from a parent, even a light one, tells a child that hitting and violence is a legitimate response to conflict or unwanted behaviour. There is also a proven risk of smacking escalating to severe and frequent physical punishment.⁶

Together calls for the UK and Scottish Governments to make a commitment in this report to give children equal protection from assault in law.

3.3. Mosquito device - page 35, para 6

Together is concerned by the UK Government's statement on mosquito devices that *'there are some instances where the devices may be used legitimately (for example, as a deterrent against burglary or vandalism in unoccupied premises)'*. Mosquito devices can only be heard by those aged under 25 years old. It is designed to stop groups of young people gathering and is discriminatory, counter-effective, has health effects and causes severe discomfort, especially to those with autism who find the noise emitted incredibly distressing. It has been criticised by the UN Committee who stated that *'they may violate the rights of children to freedom of movement and peaceful assembly'* under article 15 of the UNCRC. Together refutes the UK Government's assertion that the devices *'may be used legitimately'* as by their very nature, the devices are discriminatory against children and young people. Together calls on the UK and Scottish Government to commit to actively explore and make proposals on bringing forward legislation to ban the use of mosquito devices.

⁵ Within the EU, 17 states have banned it completely and another 6 are committed to doing so. Only four countries in the EU have neither achieved this reform nor committed to it: France, Belgium, the UK and Malta.

⁶ E. T. Gershoff (2002), *Corporal punishment by parents and associated child behaviors and experiences: A meta-analytic and theoretical review*. *Psychological Bulletin*, 128(4), 539-579

4. Any additional examples or supplementary evidence for inclusion in the report, including the views and experiences of children and young people

4.1. *Children of prisoners*

Children of prisoners are particularly vulnerable and likely to experience violations of their rights.⁷ Studies show the profound impact that having a parent in prison can have on a child.⁸ In its report to the UK, the Scottish Government has committed to a number of actions relating to children of prisoners. These include the establishment of minimum standards for family support within the Scottish Prison Service and a feasibility study linked to the establishment of family-friendly visitor centres.⁹ Children's organisations in Scotland have welcomed this progress although recognise that much more needs to be done, particularly with regard to supporting family contact.¹⁰ Together is concerned at the lack of attention given to children of prisoners in the UK Government report. Together calls for the UK Government to outline steps being taken across the UK to support the rights of children of prisoners.

4.2. *Together's State of Children's rights report (2013)*

Together would like to draw the UK Government's attention to its State of Children's Rights report 2013. The State of Children's Rights report examines how well the UNCRC is being implemented in Scotland and what more could be done to ensure that children are able to access their rights. It makes particular reference to the progress outlined by the Scottish Government in the *5th UK Government Report to the UN Committee on the Rights of the Child*. *A copy of the report has been submitted to the Department of Education to support this submission*. Together urges the UK Government to draw evidence from this report in order to inform its submission to the UN Committee.

⁷ Together (2012) *State of Children's Rights in Scotland*

⁸ SCCYP (2011). *Not Seen. Not Heard. Not Guilty. The Rights and Status of the Children of Prisoners in Scotland: Review 2011*

⁹ Scottish Government (2013). *The 5th UK Government Report to the UN Committee on the Rights of the Child* Scottish Government Submission (pg 20)

¹⁰ Together (2013) *State of Children's Rights report*