



The Government's response to COVID-19

Human rights implications

UK Parliament Joint Committee on Human Rights Inquiry

About Together (Scottish Alliance for Children's Rights)

Together (Scottish Alliance for Children's Rights) is an alliance that works to improve the awareness, understanding and implementation of the UN Convention on the Rights of the Child (UNCRC) and other international human rights treaties across Scotland. We have over 400 members ranging from large international and national non-governmental organisations (NGOs) through to small volunteer-led after school clubs and interested professionals. The views expressed in this submission are based on wide consultation with our members but may not necessarily reflect the specific views of every one of our member organisations.

1. What steps need to be taken to ensure that measures taken by the Government to address the COVID-19 pandemic are human rights compliant?

UK Government¹ must take a child rights-based approach to the crisis, in line with its duty to respect, protect and fulfil children's human rights under the UN Convention on the Rights of the Child (UNCRC).

The UN Committee on the Rights of the Child ('UN Committee') has called on governments to consider the impact of measures on children's human rights, clarifying restrictions "must be imposed only when necessary... proportionate and kept to an absolute minimum."² Governments have an individual and joint responsibility to coordinate responses which prioritise children's health including uninterrupted access to health services, physical support (e.g. food) and psychosocial care to address children's fears and traumas.³

Child rights impact assessments (CRIA)

Effective CRIA ensure children's rights are reflected in law and policy development and prevent future violations. CRIA should be used for all legislation and policy impacting children (directly/indirectly), as early as possible in the decision-making process.

UK Government should conduct CRIA in relation to *all* proposed measures, acknowledging the impact that measures affecting parents/carers and family members can have on children.

Child rights-based budgeting

The UN Committee is clear that resource allocation in the context of COVID-19 must "reflect the principle of the best interests of the child".⁴ Governments must refrain from decisions which have a discriminatory impact on certain children, ensure allocations are not undermined by third party (e.g. business) interests, and take measures to enable and assist children to experience their rights.⁵

UK Government should use child rights-based budgeting to ensure resource allocation prioritises children's human rights, particularly for the most vulnerable.

¹ References to UK Government are equally applicable to Scottish Government.

² [INT/CRC/STA/9095](#), Recommendation 1.

³ [CRC/C/GC/15](#): Paras: 59, 88.

⁴ [INT/CRC/STA/9095](#), Recommendation 1.

⁵ [CRC/C/GC/19](#): Para: 27.

Participation

The UN Committee emphasises governments must disseminate accurate, child-friendly information which is accessible (including for those with limited internet access).⁶ Children should feel they are taking part in decisions in response to the pandemic.⁷

UK Government should provide opportunities for children’s views to be heard and taken into account, and disseminate accessible, child-friendly information.

Monitoring, reporting and review

Emergency powers must be subject to democratic oversight. The Coronavirus Act 2020 expires after two years, subject to six-month reviews. A stronger approach is taken by the Coronavirus (Scotland) Act 2020 which provides for automatic expiry after six months, with the possibility of extension.⁸

UK Government should implement robust monitoring, reporting and review mechanisms.

2. What will the impact of specific measures taken by Government to address the COVID-19 pandemic be on human rights in the UK?

School closures, changes to needs assessment, powers to detain and test and other measures have a significant impact on children’s human rights under the UNCRC. Certain children are disproportionately affected - see Question 3.

3. Which groups will be disproportionately affected by measures taken by the Government to address the COVID-19 pandemic?

Government measures significantly impact all children but those belonging to certain groups are disproportionately affected. The UN Committee has called on governments to take targeted measures to protect these children and respect their right to non-discrimination.⁹ This section outlines some of those at particular risk, recognising many children belong to multiple groups:

Children subject to testing powers

Children may be detained and tested as ‘potentially infectious’ under the Coronavirus Act 2020 (‘2020 Act’). Limited safeguards for children apply only to under-16s in Scotland (cf. under-18s in England, Wales and Northern Ireland).¹⁰ This conflicts with the UNCRC’s definition of a child (under 18)¹¹ and raises questions regarding non-discrimination, the right to liberty, privacy, and to be free from cruel or degrading treatment.

The UN Committee says governments must “prevent the arrest or detention of children for violating State guidance”¹² yet the 2020 Act allows criminalisation of 16-17-year-olds in Scotland for non-compliance with testing powers. Children must be treated differently to adults due to their vulnerabilities and stage of development (Article 40 UNCRC) yet the 2020 Act makes no distinction between the penalties for adults and children. Penalties are excessive for children and could have far-reaching consequences if they result in a criminal record.¹³

⁶ [INT/CRC/STA/9095](#), Recommendation 10

⁷ [INT/CRC/STA/9095](#), Recommendation 11

⁸ Section 11 (as at 31.01.20), [Coronavirus \(Scotland\) Bill](#).

⁹ [INT/CRC/STA/9095](#), Recommendation 7.

¹⁰ Schedule 21, Paragraphs 18 and 40, [Coronavirus Act 2020](#).

¹¹ Article 1, UNCRC.

¹² [INT/CRC/STA/9095](#), Recommendation 9.

¹³ Schedule 21, Paragraph 45(2). Coronavirus Act 2020.

UK Government must ensure robust safeguards for all children (under 18s) and ensure 16-17-year-olds in Scotland are not criminalised.

Children living in poverty

Governments must ensure online learning does not exacerbate existing inequalities and should make alternative solutions available.¹⁴ The UN Committee has called on governments to “activate immediate measures” to ensure children are fed nutritious food, acknowledging many rely on school schemes.¹⁵ Charities have called for a cash payment for families entitled to free school meals.¹⁶ ¹⁷ UK Government’s supermarket voucher scheme¹⁸ is less flexible - vouchers are vulnerable to shortages and purchase limits, may require transport, may feel stigmatising and cannot be directed towards other costs (e.g. utilities).¹⁹
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Financial support packages and social security changes are welcome, yet many families will still struggle. Those turning to universal credit will face the delayed first payment and delivery problems.²¹ Children in lone parent families will be particularly affected and disproportionately hit by purchase limits.²² ²³

UK Government should ensure emergency financial support for families and remove existing barriers.²⁴

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Families where a child/parent has disabilities and/or other additional support needs

The UN Committee acknowledges disabled children and their families may face additional difficulties during lockdown.²⁶ Children may lose specialist support due to school closures. Anecdotal evidence shows some care placements have been abruptly withdrawn.²⁷ The 2020 Act removes the duty to assess a disabled child’s needs where this is not ‘practical’ or would cause ‘unnecessary delay’.²⁸ Children with disabilities and/or other additional support needs must receive high-quality support – assessments are essential to ensure this.

Further concerns are that no accessible information has been produced for parents with learning disabilities outlining their child’s eligibility to access school hubs.

UK Government should ensure high quality support and accessible information is available to children and their families.²⁹

Children experiencing domestic violence

The UN Committee has recognised lockdown may expose children to increased physical and psychological violence at home, adding to our members’ concerns.³⁰ ³¹ It called for strengthened reporting and referral systems, and awareness activities.

¹⁴ [INT/CRC/STA/9095](#), Recommendation 3.

¹⁵ [INT/CRC/STA/9095](#), Recommendation 4.

¹⁶ CPAG (2020). [Open letter on the impact of Covid-19 school closures.](#)

¹⁷ CPAG (2020). [Supporting families during the Covid-19 pandemic](#)

¹⁸ UK Government (2020). [Voucher scheme launches for schools providing free school meals.](#)

¹⁹ CPAG (2020). [Supporting families during the Covid-19 pandemic](#)

²⁰ The Poverty Alliance (2020). [National organisations & the impact of Covid-19: Poverty Alliance briefing, 22nd April 2020](#)

²¹ CPAG (2020). [Supporting families during the Covid-19 pandemic](#)

²² Engender (2020). Engender Briefing: Women and Covid-19.

²³ One Parent Families Scotland (2020). OPFS Response to COVID-19, April 2020

²⁴ CPAG (2020). [Supporting families during the Covid-19 pandemic](#)

²⁵ Engender (2020). Engender Briefing: Women and Covid-19.

²⁶ [INT/CRC/STA/9095](#), Recommendation 6.

²⁷ Children and Young People’s Commissioner Scotland (2020). Coronavirus Bill Legislative Consent Memorandum. Briefing for MSPs.

²⁸ Section 16. Coronavirus Act 2020.

²⁹ SCLD (2020). [SCLD Statement on Coronavirus.](#)

³⁰ [INT/CRC/STA/9095](#), Recommendation 6.

³¹ Scottish Women’s Aid (2020). [Statement on Covid-19.](#)

UK Government should ensure appropriate support, and robust safeguards to ensure parents/carers fleeing domestic violence with children are not penalised for infringing lockdown.

Young carers

The 2020 Act allows removal of the current duty to prepare a young carer statement,³² replacing it with only a 'power' to prepare one. This puts young carers' rights at even greater risk.^{33 34}

UK Government should ensure needs assessments and support for young carers is protected, recognising the likely increase in caring responsibilities during lockdown.

Refugee and migrant children

Hostile environment policies mean many families are afraid to seek support - medical or otherwise. Children and families with 'No Recourse to Public Funds' cannot access mainstream benefits crucial to avoid destitution. UK Government must ensure support for NRPF families is in place, as outlined in a recent framework for Scottish local authorities.³⁵

UK Government should ensure migrant children and their families have access to high quality support and accessible healthcare.

Care-experienced children

Official guidance recommends relying on family/wider support networks during lockdown. Care experienced children might not have this network so may be disproportionately affected (emotionally and financially).³⁶ Contact arrangements have been disrupted and there are concerns around the reliance on social media for remote contact, given not all children have access to smartphones, sufficient data plans or private spaces to talk.

UK Government should ensure high quality support for care experienced children and facilitate remote contact with family/friends.

Children deprived of their liberty

Children in secure care or young offenders' institutions could spend long periods in isolation due to lockdown, longer in custody due to court business changes, and may have limited/no family contact. The UN Committee has called for children's release where possible, and facilitation of regular online/phone contact with family and friends where it is not.³⁷ It recommends revisiting the ban on visits if the lockdown is extended.

UK Government should pay particular attention to ensuring children's human rights are upheld in detention.

Parental imprisonment

Suspension of visits creates a barrier to children staying in contact with imprisoned parents. While some measures have been introduced in Scotland (e.g. phone credit top-ups), issues remain including limited access to video-call facilities.

UK Government should facilitate remote contact between children and imprisoned parents.

³² Under the Carers (Scotland) Act 2016

³³ Children and Young People's Commissioner Scotland (2020). Coronavirus Bill Legislative Consent Memorandum. Briefing for MSPs.

³⁴ With thanks to Carers Trust Scotland for their comments and assistance.

³⁵ COSLA (2020). [Covid-19 Response Planning: Supporting Migrants with No Recourse to Public Funds: A framework to support local authorities and their partners in local decision making.](#)

³⁶ Who Cares? Scotland. [Response to Covid-19: Impact of Covid-19 on the Care Experienced Community](#)

³⁷ [INT/CRC/STA/9095](#), Recommendation 8.

Children with mental health issues

COVID-19 is having a significant impact on children's mental health.³⁸ Further, the 2020 Act reduces safeguards in mental health legislation.³⁹ The UN Committee calls on governments to provide professional mental health services for children in lockdown.⁴⁰

UK Government should ensure child-friendly support is available and accessible.

Child protection

The UN Committee calls on states to define core protection services as essential, ensuring they remain functioning.⁴¹ The 2020 Act permits a relaxation of child protection legislation, allowing suspension of certain offence provisions relating to barred individuals recruited for regulated work.⁴² This exposes vulnerable children to a heightened risk of abuse.

UK Government should set out the steps that will be taken to ensure children's right to protection from abuse and harm is adequately protected.

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³⁸ Young Minds (2020). [Coronavirus: Impact on young people with mental health needs.](#)

³⁹ Mental Health (Care and Treatment) (Scotland) Act 2003

⁴⁰ [INT/CRC/STA/9095](#), Recommendation 6.

⁴¹ [INT/CRC/STA/9095](#), Recommendation 6.

⁴² Sections 34-35. Coronavirus Act 2020.