

Dunja Mijatović  
Commissioner for Human Rights  
Council of Europe  
67075 Strasbourg Cedex  
FRANCE

28 June 2022

Dear Commissioner,

### **Re. Repeal of the Human Rights Act**

As you will know, our human rights are about the values we hold dear and the way we treat one another – such as dignity, fairness, equality, tolerance, and respect. They are the foundations that help us live together freely and fairly - a safety net to protect us all, including our children. We are therefore alarmed that despite wide-spread opposition, the UK Government has recently introduced a Bill to Parliament which, if enacted, will replace the Human Rights Act (HRA) with a British Bill of Rights.

As organisations working with and for children, we collectively represent decades of experience in the practical application and realisation of the rights of children across all four jurisdictions of the UK. It is on the basis of this experience and expertise that we outline below our shared concerns in relation to the Government's proposals and the profound and harmful impact we know they will have on children.

As you will be aware, the HRA is the primary law which protects fundamental human rights in the UK, including those of children, by enshrining the rights contained in the European Convention on Human Rights (ECHR) into domestic law. As the UN Convention on the Rights of the Child (CRC) has not yet been incorporated into UK law, the HRA also plays a crucial role in the protection and promotion of the rights of children; enabling them to claim and enforce some of the rights contained in the CRC. Since the HRA came into force it has provided important protections for some of our most vulnerable children such as children in care, child witnesses, children in custody, and refugee children.

Importantly for children, who depend heavily on public services, section 6 of the HRA also places a duty on public bodies to comply with the human rights obligations contained within it, including the police and the youth secure estate, care institutions, courts, publicly funded schools, and local authorities. This also requires all public officials to think about human rights in their day-to-day decisions and policy making so that all laws, policies, and guidance are compatible with the HRA.

The proposed reforms will significantly weaken children's human rights and the ability of children to hold the UK Government and public bodies to account where their rights have been infringed. These include introducing a permission stage, which would create a barrier to children's access to justice and likely complicate, delay and add cost to proceedings. The HRA already requires a child, or anyone else, who wants to bring a claim under the HRA to show that they are a victim of a human rights breach and there are admissibility stages for legal cases in the UK which prevent frivolous, academic, or unmeritorious cases from proceeding.

We are also concerned about suggestions to change the definition of public authorities. It is extremely important that even if public functions are contracted out to a charity or company the HRA still applies to them. This is particularly crucial for the protection and safeguarding of children who live in institutions which

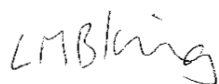
are run by private providers, for example, Secure Training Centres and children's homes. Any changes to the definition of public authorities could therefore put children at risk.

We also strongly disagree with the proposal to enable courts to make a declaration of incompatibility with the HRA rather than overturning secondary legislation given that such legislation has wide-ranging impact on many aspects of children's lives. Such a change will weaken UK Government accountability, which is an important protection for ensuring that secondary legislation respects children's human rights given that it only has very limited parliamentary scrutiny.

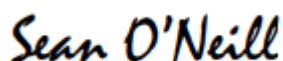
Finally, the Government's proposals for reform are out of step with political and public opinion in the devolved jurisdictions and nations and, in particular, to be incompatible with the Good Friday Agreement (GFA) given the constitutional status of the ECHR in the devolution settlement in Northern Ireland and the provision in the GFA to a Northern Ireland Bill of Rights which would increase rights protections by building on the ECHR. The proposals if enacted, will detrimentally alter the way in which these protections are experienced by children in the devolved jurisdictions and nations. The cumulative impact of the proposals will be to limit access to the Convention rights as currently experienced.

We work with some of the most vulnerable children in society and it is crucial that their rights, as protected under the HRA, are not diluted in any way. We would appreciate if you could raise our concerns about the detrimental impact these proposals will have on children with the UK Government during your visit and urge them to reconsider.

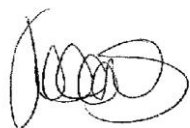
With best wishes,



Louise King, Director, Children's Rights Alliance for England, part of Just for Kids Law



Sean O'Neil, Policy Director, Children in Wales



Juliet Harris, Director, Together, the Scottish Alliance for Children's Rights



Paddy Kelly, Director, Children's Law Centre