



## Universal Periodic Review: UK 3<sup>rd</sup> Cycle UN Convention on the Rights of the Child (CRC) – non-legal measures of implementation

### Suggested Questions for the UK:

- What steps will the UK and devolved governments take to ensure protection and fulfilment of the CRC, including effective co-ordination, and the development of Child Rights Action Plans in partnership with children, young people and civil society?
- What measures will the UK and devolved governments take to ensure the consistent and effective use of child rights impact assessments and child rights budgeting, and how will the resulting effect of children's rights be monitored and evaluated?
- What steps will the UK and Scottish government take to ensure that adequate legal aid is available to all children who need it?
- How does the UK ensure children's views and experiences influence the development of legislation, policy and practice and make sure the CRC is widely known among adults and children, including parents and professionals?

### Suggested Recommendations for the UK:

- The UK and devolved governments should establish structures that ensure effective co-ordination and monitoring of CRC implementation across national and local government. This should include cross-cutting children's rights units with adequate capacity, resources and authority, and child rights action plans that include clear, resourced, time-bound actions and monitoring frameworks.
- The UK and devolved governments should put in place a mandatory, transparent system of child rights impact assessment (CRIA) for all new policy, legislation and budgetary decision-making, including widespread training for officials and regular monitoring and evaluation. CRIA should be published in a timely, accessible and understandable manner to enable scrutiny by civil society, children and young people.
- UK and devolved governments should ensure all children have access to confidential, independent legal aid and assistance, and can access justice and challenge decisions which affect their welfare and rights.
- The UK and devolved governments should establish permanent structures to facilitate the systematic participation and involvement of children and young people at all stages of policy making and ensure that the CRC is widely known among adults and children, including parents and professionals.

### Background

#### *CRC coordination (recommendation 110.46)*

**Limited progress has been made on recommendation 110.46.** Despite each of the devolved governments stating that they 'give effect' to, 'consider' or give 'due regard'<sup>1</sup> to the CRC, much more needs to be done to ensure adequate coordination of CRC implementation. Inadequate political leadership on children's rights has led to their invisibility across UK government, the consequences of which are evident. Day-to-day responsibility for implementation falls within small teams across England,

Scotland and Wales which lack the capacity and authority needed to effectively coordinate CRC implementation in the respective governments.

To date, the Scottish, Welsh and Westminster governments have not made firm commitments to produce Child Rights Action Plans to take forward the UN Committee's 2016 Concluding Observations. Both Scottish and Welsh Governments produced an action plan in 2009 setting out priorities in response to the UN Committee's 2008 Concluding Observations. NGOs in Scotland raised concerns about the lack of specificity in both the 2009 action plan and the subsequent progress report.<sup>2</sup> In Wales, concerns focused on the lack of quantifiable goals and a monitoring framework.<sup>3</sup> England has not had a CRC action plan since 2010.

### ***Child Rights Impact Assessments***

The UK Government states in its 2017 UPR report that 'regard is given to the Convention [on the Rights of the Child] when developing new legislation or policy and this UK Ministerial commitment is welcome.'<sup>4</sup> However, analysis shows implementation is inadequate.<sup>5</sup> In Wales and Scotland, legislation has resulted in the use of CRIA within the Welsh and Scottish Government, although this can be sporadic. In Wales, an independent evaluation of CRIA has been undertaken with officials tasked with progressing recommendations<sup>6</sup> and a programme for children based on CRC principles has been published<sup>7</sup> although it is now in need of urgent review. These welcome steps should be adopted and developed throughout the UK.

### ***Legal aid***

There are grave concerns about the impact of changes to legal aid in England and Wales, with ample evidence of its adverse impact on children<sup>8</sup> despite the UK Government stating that they 'continue to monitor closely the impact of any changes to make sure children have access to legal aid when it is needed.'<sup>9</sup> Exceptional case funding (ECF) fails as a safeguard for children or families with immigration claims.<sup>10</sup> The Court of Appeal has found that guidance governing ECF is too restrictive and not always in accordance with the law.<sup>11</sup> The UK Government has committed to completing a review of legal aid by April 2018. It is crucial that this review considers the negative impact of legal aid on children and sets out plans to address it.

In Scotland, the manner in which eligibility for civil legal aid is assessed is reducing access to justice despite the UK Government stating that 'legal aid maintains a wide-scope'.<sup>12</sup> Children's eligibility is based on parental income, rather than their own (as prior to 2010).<sup>13</sup> Some children who would have been eligible to instruct their own solicitor are no longer able to do so, which can make the difference between their views being heard or not.

### ***Participation and knowledge of rights***

Many children feel that they are not listened to or provided with feedback by professionals in decision making processes. Across the UK, there is no permanent structure or action plan to facilitate systematic participation and involvement of children in policy-making. Provision for under-11s is particularly patchy, as are adequate participation structures at a local level. Wales is without a Youth Parliament although progress in rectifying this at the Assembly level is now underway.<sup>14</sup> Knowledge of children's rights remains poor throughout the UK. Rights training is inadequate for professionals working with and for children and rights education in schools remains patchy.<sup>15</sup>

## **Recommendations referenced from the UK's UPR 2012 (2nd Cycle)**

110.46	Adopt and implement a concrete plan of action realizing recommendations of treaty bodies and UN human rights mechanisms, and international human rights obligations	Iran (Islamic Republic of): A/HRC/21/9 - Para. 110 & A/HRC/21/9/Add. 1 – Para.9	Supported
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## About us

### Children's Rights Alliance for England (CRAE)

CRAE works with over 150 organisational and individual members to promote and campaign to protect children's rights and the UNCRC in England. See: [www.crae.org.uk](http://www.crae.org.uk)

### Together (Scottish Alliance for Children's Rights)

Together is an alliance of over 340 NGO and individual members that works to improve the awareness, understanding and implementation of the UNCRC in Scotland. See: [www.togetherscotland.org.uk](http://www.togetherscotland.org.uk)

### Wales UNCRC Monitoring Group

The Wales UNCRC Monitoring Group is a national alliance of non-governmental and academic agencies tasked with monitoring and promoting the UNCRC in Wales. It is currently facilitated by Children in Wales, the national umbrella organisation. See: [www.childreninwales.org.uk](http://www.childreninwales.org.uk)

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<sup>1</sup> Ministry of Justice (2017) *UPR: UK, British Overseas Territories and Crown Dependencies National Report* Para.76 82,85.

<sup>2</sup> Together (Scottish Alliance for Children's Rights) (2015) *Implementation of the UN Convention on the Rights of the Child – Scotland: Report to the United Nations Committee on the Rights of the Child*

<sup>3</sup> Wales UNCRC Monitoring Group (2014) *Policy Briefing :25th Anniversary of the United Nations Convention on the Rights of the Child*

<sup>4</sup> Ministry of Justice (2017) *UPR: UK, British Overseas Territories and Crown Dependencies National Report* Para. 76.

<sup>5</sup> Children's Rights Alliance for England (2015) *UK implementation of the UN convention on the Rights of the Child: Civil society alternative report 2015 to the UN Committee – England*

<sup>6</sup> Welsh Government paper from the Cabinet Secretary for Communities and Children to the NAFW Children, Young People and Education Committee (31 August 2016) <http://www.senedd.assembly.wales/documents/s52930/CYPE5-03-16%20-%20Paper%2010%20-%20to%20note.pdf>

<sup>7</sup> Welsh Government (2015) *Programme for Children and Young People*

<sup>8</sup> See Office of the Children's Commissioner (2014) *Legal Aid changes since April 2013: Child Rights Impact Assessment*; Joint Committee on Human Rights (2015) *The UK's Compliance with the UN Convention on the Rights of the Child*; Justice Select Committee (2015) *Impact of changes to civil legal aid under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012*

<sup>9</sup> Ministry of Justice (2017) *UPR: UK, British Overseas Territories and Crown Dependencies National Report* Para. 45.

<sup>10</sup> Between October 2013 and September 2015, only 20 applications for exceptional case funding were made on behalf of child applicants with immigration cases aged under 18, and only 9 were granted. For young people aged 18-24, there were 70 applications and 19 grants. For adults aged over 25, there were 514 applications and 145 grants. These are not high numbers and taken as a whole demonstrate a 28% success rate.

<sup>11</sup> *Gudanaviciene and Ors v Director of Legal Aid Casework* [2014] EWHC 1840 (Admin)

<sup>12</sup> Ministry of Justice (2017) *UPR: UK, British Overseas Territories and Crown Dependencies National Report* Para.47.

<sup>13</sup> Civil Legal Aid (Scotland) Amendment Regulations 2010

<sup>14</sup> National Assembly for Wales (19 October 2016) 'Llywydd commits to establishing a Youth Parliament'

<sup>15</sup> See for example Children's Rights Alliance for England (2015) *UK Implementation of the UN Convention on the Rights of the Child: Civil Society alternative report 2015 to the UN Committee*; Wales UNCRC Monitoring Group (2015) *Report to the United Nations Committee on the Rights of the Child*; Together (Scottish Alliance for Children's Rights) (2015) *Implementation of the UN Convention on the Rights of the Child – Scotland: Report to the United Nations Committee on the Rights of the Child*