



Consultation on Support for Children (Impact of Parental Imprisonment) Bill

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

May 2015

Introduction

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 United Nations Convention on the Rights of the Child (UNCRC) in Scotland. With over 280 members, our key aims include progressing children's rights at a local and national level through the provision of support and expertise, and providing robust monitoring of UNCRC implementation in Scotland at a national and international level.

The views expressed in this response are based on the general principles of the UNCRC and do not necessarily reflect the specific views of each of our member organisations.

Q1. Do you support the general aims of the proposed bill? Please indicate yes/no/undecided and explain the reasons for your response.

Yes.

As highlighted in Together's 2014 *State of Children's Rights* report, the decision to send a parent to prison has a tremendous impact on a child. Children's experience of a family member's imprisonment can be similar to experiencing bereavement, and its effects may include the child 'acting out' or becoming withdrawn, deterioration in performance at school, being bullied or becoming the bully, and increased risk of substance misuse. Children affected by imprisonment can suffer from serious mental health issues at three times the rate of other children.¹

Huge numbers of children are affected by imprisonment: Each year in the UK, more children experience a parent's imprisonment than a parent's divorce.²

Together welcomes the general aims of the proposed Bill to support this large and vulnerable group of children, who are likely to face multiple violations of their rights under the UN Convention on the Rights of the Child (UNCRC). The proposed Bill could help to take forward the UN Concluding Observation to the UK in 2008 to *'Ensure support to children with one or both parents in prison, in*

¹ Together (2014). *State of Children's Rights in Scotland* report
<http://togetherscotland.org.uk/pdfs/SOCRRTTogetherReport2014.pdf>

² Families Outside (2009). *Support and Information for children affected by imprisonment*. In Brief 4.

*particular to maintain contact with the parent(s) (unless this is contrary to their best interests) and to prevent their stigmatisation and discrimination against them.*³

Together strongly supports the commitments made to the UNCRC in the consultation document and the statement that “the overall approach is that the principles of the United Nations Convention on the Rights of the Child (1989) (UNCRC) should be enshrined and reflected in the proposed Support for Children (Impact of Parental Imprisonment) Bill.”

Q.2. Would you make any changes to the proposed Support for Children (Impact of Parental Imprisonment) Bill and if so, why?

Together warmly welcomes the statement within the consultation document that the UNCRC should be “*enshrined and reflected*” in the proposed Bill. Furthermore, that Articles 2 and 3 of the UNCRC are of particular relevance. Article 2 requires that State Parties respect and take all appropriate measures to ensure the rights set forth in the UNCRC to all children without discrimination of any kind, regardless of any status. Article 3 requires that the best interests of the child shall be a primary consideration in all actions concerning them.

To ensure that the central aim of the proposed Bill to protect and uphold the rights of vulnerable children is fulfilled, Together recommends that when drafting a Bill, explicit reference is made to the protection, respect and fulfilment of Articles 2 and 3 of the UNCRC.

Together recommends that proposals to reflect and enshrine children’s rights and the UNCRC in a future Bill are in line and integrated with the Children and Young People (Scotland) Act 2014 and the corresponding guidance (currently being produced). This would help to support and enhance existing provisions to further children’s rights under the UNCRC.

This would specifically include ensuring that the Bill is consistent with Part 4 (Child’s Plan), Part 5 (Named Person) and Part 18 (wellbeing). This is to ensure that all mechanisms and structures in place to protect, respect and fulfil children’s rights and wellbeing are both consistent and coherent at a national and local level.

In line with the response submitted by Barnardo’s Scotland, Together would also like to see consideration given to the impact of sibling imprisonment.

Q5. Do you think there are any alternatives to Child and Family Impact Assessments?

Together recommends that, in line with the Scottish Government’s current work to develop a Child Rights and Wellbeing Impact Assessment (CRWIA) model, consideration should be given to change the proposed assessment to a Child and Family *Rights* Impact Assessment. This would help to further the aims of the proposed Bill to reflect and enshrine the UNCRC. It would also assist in ensuring that rights and wellbeing assessments are undertaken consistently and chime with the Assessment of Wellbeing included in Parts 4 and 5 of the Children and Young People (Scotland) Act.

³ (CRC/C/GB/CO/4: Para. 45 (d))

Together encourages the Bill team to refer to the Scottish Human Rights Commission (SHRC) work on Equality and Human Rights Impact Assessments.⁴ Together is also keen to offer its expertise in this area.

Together notes that the proposed Child and Family Impact Assessments would take place after a sentencing decision. During the UK's 2012 Universal Periodic Review, Slovakia made the following recommendation (which was subsequently accepted by the UK):

“Ensure 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, bearing in mind that visits of 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.”

In line with Slovakia's recommendation, Together is keen that a Child and Family Rights Impact Assessment model takes place when arresting, detaining, sentencing or considering early release for a sole or primary carer of a child.

Q8. Is the proposed Bill likely to have any substantial implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

In order to determine whether the Bill is likely to have any substantial implications on the rights of children and to evaluate the extent to which any negative implications might be minimised or avoided, Together recommends that a Child Rights and Wellbeing Assessment (CRWIA) is undertaken on the proposals. This process would help to determine the extent to which the Bill will be able to enhance the support for children affected by parental imprisonment. The Bill team should refer to the CRWIA model which the Scottish Government is currently developing in relation to the new UNCRC duties on Ministers introduced through the Children and Young People (Scotland) Act.

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⁴ <http://www.scottishhumanrights.com/eqhria>