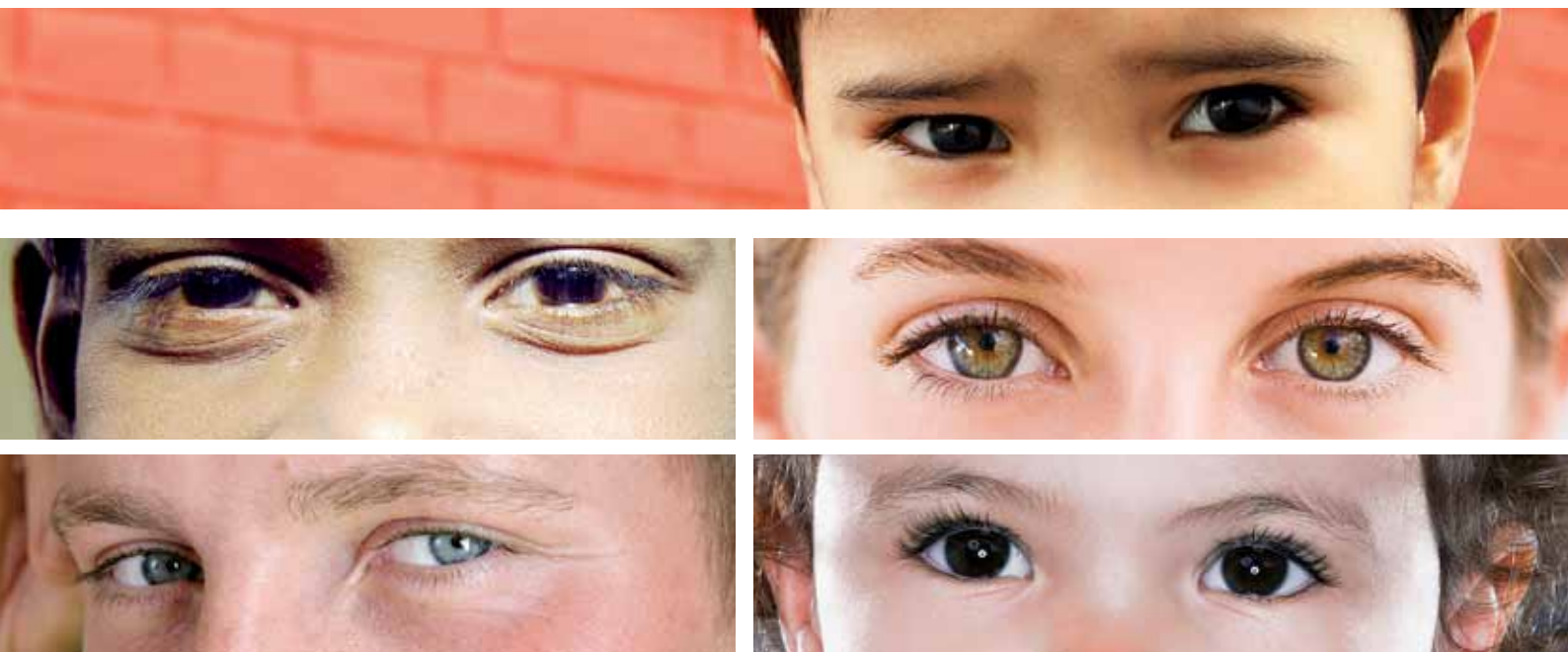


# Governance fit for children

To what extent have the general measures  
of implementation of the CRC been realised  
in the UK



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**Save the Children**

WE ARE the world's leading independent organisation for children.

OUR VISION is a world in which every child attains the right to survival, protection, development and participation.

OUR MISSION is to inspire breakthroughs in the way the world treats children, and to achieve immediate and lasting change in their lives.

This study was carried out by Louise King, UK Child Rights Policy Advisor, Save the Children UK, with assistance from the following Save the Children colleagues: Trudy Aspinwall, Gemma Bartlett, Sally Copley, Aoife Daly, Melanie Hall, Douglas Hamilton, Rebecca Horder, Anne Moore, Rebecca Murray and Emmet Norris.

Save the Children would like to thank the children from its In My Back Yard Project who participated in this research.

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Project coordinator: Camilla Nygren, Save the Children Sweden

Graphic Design: Press Art

Save the Children UK

1 St John's Lane

London EC1M 4AR

Phone: +44 (0)20 7012 6400

Internet: [www.savethechildren.org.uk](http://www.savethechildren.org.uk)

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Note on terminology: The term ‘children’ is used by Save the Children in this report to mean all those under-18 years in line with the definition of children in the CRC, although we appreciate that older children often prefer to be called ‘young people’.

# Foreword

## [FROM THE UN COMMITTEE ON THE RIGHTS OF THE CHILD]

The Convention on the Rights of the Child (the CRC) has the ambition to face two challenges:

- ❖ to confirm the status of the child, who has to be considered as a person, not as an object of adults' benevolence, entitled with dignity and rights – from a historical point of view, a “new” child was born in 1989;
- ❖ to offer universal coverage of all rights to which the child is entitled, irrespective of the place, where the child is living.

This new status of the child, subject of rights, is well illustrated by two principles of the CRC: The primary consideration to be given to the best interests of the child (CRC, art. 3), which places the child at the centre of all decisions affecting him/her, and the child's right to be heard (CRC, art. 12), which considers the child as competent enough for influencing such decisions. These two articles complement each other and present a concept of the active and participating child, which now has to be made a reality.

But how to translate this new status of the child and all the provisions of the CRC, including social, economic and cultural rights (food, shelter, education, health...) and rights to protection (against violence, exploitation, neglect...) into the different realities of countries, regions, communities, ethnicities, cultures and juridical systems?

The legislators of the CRC have not proposed a universal mechanism, but have drafted the article 4 stating that “States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention”, which leaves it to the State Parties find out which measures are helpful to achieve the shared objectives of the CRC. Additional articles give directions; Article 42 (make the CRC widely known), Article 44(6) (make reports widely available), Article 2 (respect the rights of all children) and Article 3(2) (ensure protection and care).

On this basis, the Committee has generated the concept of “General Measures of Implementation” that are to serve as general prerequisites for the implementation of children's rights in details. In the General Comment No. 5 on “General measures of implementation” (CRC/ GC/2003/5) the Committee has explained what all State Parties should consider to do: examine and amend laws, allocate resources, coordinate measures, raise the awareness, carefully monitor the implementation process and arrange for an independent assessment of progress made. These measures are the toolbox for promising efforts to make the substantive rights a reality for children.

The instruments of this toolbox look so far away from what children need and desire. The Committee knows that children are not living in Ministries or in Services, but in villages and cities, in large families or with one parent alone, in an apartment house or in the streets. Still, the very concrete actions, appropriate to context and cultural background, require a framework of general measures in order to secure their effectivity and sustainability.

The studies presented in this report series has investigated, in which ways five member states of the EU and EU institutions have used such general measures of implementation. The results will be seriously considered by the committee in order to make its recommendations to State Parties the most applicable and useful for the benefit of children and their universal rights.

### **Jean Zermatten**

Vice-Chair of the Committee on the Rights of the Child

### **Lothar Krappmann**

Member of the Committee on the Rights of the Child

# Executive summary

## Introduction

The 1989 UN Convention on the Rights of the Child (CRC) and its Optional Protocols<sup>1</sup> enshrine a clear set of principles and standards to realise a positive vision for children.<sup>2</sup> Encompassing civil, political, economic, social and cultural rights, the CRC provides a comprehensive framework against which to evaluate existing and proposed legislation, policy and decision-making structures.

Articles 4, 42 and 44.6 of the CRC set out what States are required to do in order to ensure that the CRC is implemented holistically. Together, these articles are known as the ‘General Measures of Implementation’ (GMI).

To assist states in fulfilling their obligations, the UN Committee on the Rights of the Child (the UN Committee), the UN treaty monitoring body for the CRC, has drawn up a series of guidelines (‘General Comments’) for interpreting and implementing the provisions and principles of the CRC. General Comment No.5<sup>3</sup> sets out the key cross-cutting measures required to implement all the rights in the CRC and General Comment No.2 sets out detailed standards for independent human rights institutions for children.<sup>4</sup>

## Background

In 2010, Save the Children received financial support from the European Union’s Fundamental Rights and Citizenship Programme to assess how far the GMI have been realised in five European countries: Italy, Lithuania, Romania, Sweden and the United Kingdom.

Each report assesses how well States are meeting the standards set by the UN Committee in relation to:

- ❖ Legislative measures (regarding incorporation of the CRC into national law)
- ❖ Development of National Strategies and National Action Plans
- ❖ Co-ordination of implementation
- ❖ Monitoring implementation
- ❖ Data-collection and indicators
- ❖ Making children visible in budgets
- ❖ Co-operation with civil society
- ❖ Independent human rights institutions
- ❖ Information and awareness-raising

This report presents the findings of the study undertaken in the UK. The main components of the study, upon which this report is based, were conducted between March and October 2010 according to a common methodology across the five countries. The main components were:

- ❖ Desk research of documents and statistics (official and other)
- ❖ Semi-structured interviews with key stakeholders (for example, civil servants, independent human rights

1 Optional Protocol on the sale of children, child prostitution and child pornography, General Assembly resolution A/RES/54/263 of 25 May 2000, entered into force 18 January 2002; and Optional Protocol on the involvement of children in armed conflicts, General Assembly resolution A/RES/54/263 of 25 May 2000, entered into force 12 February 2002

2 Defined by Article 1 as ‘every human being below the age of 18 years’

3 General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), General Comment No. 5 (2003), UNCRC/GC/2003/5, 27 November 2003. Also relevant are the General Guidelines regarding the form and contents of periodic reports to be submitted by states parties under Article 44, paragraph 1(b) of the Convention, UNCRC/C/58, 20 November 1996

4 UN Committee on the Rights of the Child (2002) General Comment No.2 The role of independent national human rights institutions in the promotion and protection of the rights of the child

monitors, ‘technical’ experts and NGOs) in England, Wales, Scotland and Northern Ireland (see Annex 2 for full list of interviewees)

- ❖ Analysis of the information collected in the research and formulating key messages and recommendations.

As part of its research in the UK Save the Children asked 25 children aged between eight and 17 years of age, from its In My Back Yard project<sup>5</sup> how much they know about certain aspects of the GMI and how well they think the government is implementing these standards.

A European-wide comparative report has also been published which brings together evidence from the five national studies carried out for the ‘Governance Fit for Children’ project. This report is complemented by a parallel and linked report on how the GMI could also be applied by the EU institutions.

## **UK Government arrangements and the CRC**

The UK Government ratified the CRC in 1991 and as such is the High Contracting party (the party that signed and ratified the CRC). However, in the UK, governmental arrangements now also include devolved administrations in Wales, Northern Ireland and Scotland.

The UK Government, together with the devolved administrations, therefore, have responsibility for implementing the CRC in the UK in relation to reserved, excepted and non-reserved matters although direct responsibility remains with the UK Government as the State Party.

Given the UK’s governmental arrangements the importance of the UN Committee’s comment on devolution is clear:

*“...decentralization of power, through devolution and delegation of government, does not in any way reduce the direct responsibility of the State party’s government to fulfil its obligations to all children within its jurisdiction, regardless of the State structure”. State parties should “establish a permanent monitoring mechanism to ensure that the Convention is respected and applied to all children within its jurisdiction without discrimination”<sup>6</sup>*

## **Overview of study findings**

In recent years, the UK Government and the devolved administrations of Wales, Scotland and Northern Ireland have made progress on putting the GMI into practice. In its 2008 Concluding Observations on the UK, the UN Committee welcomed several developments, for example, reference to the CRC in the Children’s Plan for England; efforts to increase co-ordination of CRC implementation; the establishment of four independent children’s commissioners in the UK; and cooperation of the State party with civil society organizations in the preparation of its periodic report to the UN.<sup>7</sup>

Since the publication of the Concluding Observations, there continues to be welcome developments. Most notably, in January 2011, a landmark piece of legislation was passed by the National Assembly for Wales<sup>8</sup>

5 In My Back Yard is an innovative, grassroots Save the Children UK programme where children, young people and parents run their own advocacy project in their local area. For six months, they engage in a series of activities to share and build their knowledge and understanding on issues important to them in their local community, and create change in that same community.

6 UN Committee on the Rights of the Child (2003) General Comment No. 5 General measures of implementation on the Convention on the Rights of the Child (arts 4, 42 and 44, para. 6)

7 UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland

8 To receive Royal Assent in March 2011

which will impose a legal duty on Welsh Ministers to have due regard to the principles and standards of the CRC (and its Optional Protocols) in exercising any of their functions. The legislation also brings in a ‘children’s scheme’, which will set out the arrangements Welsh Ministers must have in place in order to comply with the CRC. This ground breaking legislation is unique within the UK and will help ensure that the Welsh Assembly Government is held to account on its children’s rights obligations. It has the potential to positively transform the lives of children in Wales.

Similarly, following the publication of Dr Dunford’s report on his independent review of the Office of the Children’s Commissioner for England,<sup>9</sup> the UK Government gave the strongest indication yet that the English Commissioner will be significantly improved so that its general function is to promote and protect the rights of children (rather than represent children’s views and interests) and it is more independent of government. In a written Ministerial statement Sarah Teather MP, the Minister of State for Children and Families, said:

*“The Government... believes it is vital that children and young people have a strong, independent advocate to champion their interests and promote their rights... the Secretary of State and I are pleased to accept them [Dr Dunsford’s recommendations] now in principle and will consult in due course on legislative changes.”<sup>10</sup>*

Such a change would address one of the UN Committee’s key concerns and be a significant step forward in the protection of children’s rights in England.

Across the UK, efforts have also been made to increase awareness of children’s rights: in Wales new resources on the CRC and the Concluding Observations are available in Braille, audio and British Sign Language; the Scottish Government produced and widely disseminated a number of children’s versions of key child rights documents; and the Northern Ireland Executive and the then UK Labour Government have published resources for schools to teach children about the CRC.

The first UK wide ‘action plan’ to address the Concluding Observations has also been published.<sup>11</sup> Described as “*an expression of our [the UK Government and the devolved administrations] continued commitment to make the UNCRC a reality*”, the plan states that the four governments will work together to achieve progress on four areas: tackling child poverty, addressing the negative portrayal of children in the media, supporting children to participate in decision-making and raising awareness of the CRC. Whilst ‘Working Together’ clearly is not a comprehensive UK national action – the development of which is recommended by the UN Committee and the Westminster Parliamentary Joint Committee on Human Rights (JCHR) - it nonetheless is a step in the right direction.

These examples highlight that the UK Government and the devolved administrations are starting to grasp what actions are required to implement the GMI. However, there is still a long way to go before these standards are fully met across the UK. In 2008, the UN Committee issued 20 recommendations in relation to the GMI<sup>12</sup>, many of which are still to be addressed. Currently, there are pockets of good practice across the UK but there is also an urgent need to do much better.

9 Dunford, J., (2010) Review of the Office of the Children’s Commissioner (England)

10 December 2010 Written Ministerial Statement Department for Education Publication of the independent review of the Children’s Commissioner Sarah Teather MP (Minister of State for Children and Families)

11 Department for Children, Schools and Families (2009) Working Together: Achieving More, A joint commitment to take action in response to the UN Committee on the Rights of the Child’s Concluding Observations

12 UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland

A key sticking point is the lack of progress on incorporating the CRC into domestic law (with the exception of Wales), despite clear recommendations from the UN Committee, the JCHR and calls by a number of NGOs. Throughout its time in power, the Labour Administration retained the position that there was no need for legal incorporation of the CRC.<sup>13</sup> The UK Coalition Government's position is currently unclear. The Scottish Government's has said that it will not incorporate the CRC en bloc into Scottish law but will consider matters on an *"issue by issue basis linked to improving outcomes for children."*<sup>14</sup> Disappointingly, with little progress on the development of a Northern Ireland Bill of Rights, a key opportunity for incorporating the CRC in Northern Ireland has been lost.

Apart from the Welsh Assembly Government, there also remains a reluctance to produce a 'Children's Budget', which would provide a mechanism for governments to examine resource allocation with a view to ascertaining what they say about how well children's rights are being implemented. Save the Children's 2009 report 'A Child's Portion', concluded that establishing children's budgets at national and local level will enable greater understanding of, and greater transparency around, public spending on children.

The lack of movement on this issue is extremely worrying given that deep spending cuts are expected in the next few months across the whole of the UK. Whilst it is not yet possible to have a full picture of how the austerity measures will impact on children, concern has already been expressed by a large number of stakeholders and influential bodies that the cuts will have a particular impact on some of the most vulnerable and disadvantaged children. Calculations by Save the Children suggest that the UK Government made £20 billion worth of cuts to children and families prior to the Comprehensive Spending Review, and a recent report by the Institute for Fiscal Studies concluded that the Coalition Government's emergency budget hit families with children hardest, and that the poorest families are set to lose most.<sup>15</sup>

Although publication of child rights 'action plans' across the UK are a positive step they vary considerably in quality in relation to how civil society, including children, were engaged in their development and how the proposed actions were prioritised. Objectives and adequate resource allocation for their implementation are also lacking. The development of a detailed child rights action plan, that meets international standards, is an essential activity of any government that is serious about implementing the CRC.

Whilst there have been some positive developments to improve co-ordination, they don't go far enough to ensure that the CRC is adhered to across government. In Northern Ireland, for example, Junior Ministers have responsibility for children's rights, which could make it difficult to hold senior Ministers (especially from across the political spectrum) to account on their CRC obligations. Similarly, whilst child rights units have been established across the UK, they have not been given adequate resources or the required mandate to do their job effectively. Disappointingly, the Children and Young People's Unit, within the Office of the First Minister and Deputy First Minister in Northern Ireland, was disbanded in spring 2010.

Knowledge of the CRC also remains low across the UK despite some of the initiatives highlighted above. It is not a mandatory requirement to teach children about the CRC in school and professionals who work with and/or for children do not receive statutory pre-qualifying and on-going comprehensive training on the CRC. Raising awareness of the CRC is crucial for its implementation.

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13 Department for Children, Schools and Families (2010) The United Nations Convention on the Rights of the Child: How Legislation underpins implementation in England

14 Scottish Government (2009) Do the Right Thing: A response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

15 Institute for Fiscal Studies (2010) The distributional effect of tax and benefit reforms to be introduced between June 2010 and April 2014: a revised assessment

The GMI are the building blocks which ensure children's rights standards are institutionalised and adhered to. The above clearly shows that, whilst there are some good examples of the GMI being implemented in the UK, much more effort is required to ensure these building blocks are firmly in place. On a number of occasions, government Ministers from the UK Government and each of the devolved administrations have publicly committed to implementing the CRC. If such commitments are to become a reality for all children in the UK, then the concerns raised in this report must be fully addressed and its recommendations implemented.

# Introduction

## **Implementing the UN Convention on the Rights of the Child**

The 1989 UN Convention on the Rights of the Child (CRC) and its Optional Protocols<sup>16</sup> enshrine a clear set of principles and standards to realise a positive vision for child rights, where children are seen not only as passive recipients of protection, *but also as active contributors to society*. Encompassing civil, political, economic, social and cultural rights, the CRC provides a comprehensive framework against which to evaluate existing and proposed legislation, policy and decision-making structures.

The CRC has been almost universally ratified by states worldwide. This reflects recognition that children are among the most powerless of social groups, and that it is vital to support their biological and social development – both to meet their needs in the present, and to invest in their futures and that of their societies.

However the act of ratification alone does not automatically ensure children’s rights to protection<sup>17</sup>, provision<sup>18</sup>, and participation<sup>19</sup> are fully met. The CRC should be seen as a dynamic tool for the development by all key stakeholders – including central and local government, non-governmental organisations (NGOs) and other groups and individuals working with children - of a comprehensive and coherent approach to implementing children’s rights. What is needed is the political will to translate the principles and standards of the Convention into practical action at community, national, regional and international levels.

Under Article 4 of the CRC, States Parties are obliged to *‘undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention.’* Article 42 requires states to *“undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike”* and article 44.6 requires governments to make their reports to the UN Committee widely known to children, parents and all professionals working with and for children.

To assist states in fulfilling their obligations, the UN Committee on the Rights of the Child (the UN Committee), the UN treaty monitoring body for the CRC, has drawn up a series of guidelines (‘General Comments’) for interpreting and implementing the provisions and principles of the CRC.

General Comment No.5 ‘General Measures of Implementation’<sup>20</sup> (GMI) sets out the key cross-cutting measures required to implement all the rights in the CRC and can be summarised as follows:

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16 Optional Protocol on the sale of children, child prostitution and child pornography, General Assembly resolution A/RES/54/263 Of 25 May 2000, entered into force 18 January 2002; and Optional Protocol on the involvement of children in armed conflicts, General Assembly resolution A/RES/54/263 of 25 May 2000, entered into force 12 February 2002

17 E.g. from discrimination, abuse, exploitation, conflict

18 E.g. to health care, education, social security, recreation, an adequate standard of living

19 E.g. to freedom of expression, information, thought, conscience, religion and association

20 General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), General Comment No. 5 (2003), UNCRC/GC/2003/5, 27 November 2003. Also relevant are the General Guidelines regarding the form and contents of periodic reports to be submitted by states parties under Article 44, paragraph 1 (b) of the Convention, UNCRC/C/58, 20 November 1996

- ❖ Legislative measures;
- ❖ Development of National Strategies and Action Plans;
- ❖ Co-ordination of implementation; monitoring of implementation;
- ❖ Data-collection and indicators;
- ❖ Making children visible in budgets;
- ❖ Co-operation with civil society;
- ❖ International co-operation;
- ❖ Independent human rights institutions; and
- ❖ Information and awareness-raising about child rights

General Comment No.2 sets out detailed standards for independent human rights institutions for children.<sup>21</sup>

## **Background to the report**

The Save the Children Europe Group, consisting of 13 national Save the Children organisations in Europe (Denmark, Finland, Germany, Iceland, Italy, Lithuania, the Netherlands, Norway, Romania, Spain Sweden, Switzerland and the UK) has been working together at European level and engaged in EU advocacy since the middle of the 1990s.

In 2010, Save the Children received financial support from the European Union's Fundamental Rights and Citizenship Programme to assess how far the GMI have been realised in five European countries: Italy, Lithuania, Romania, Sweden and the United Kingdom. While the project's geographical scope is limited to the partners' countries in terms of its research activities, the results have wider application to other EU Member States. Indeed, the countries highlighted reflect the main welfare traditions across Europe, from the Liberal/neo-Liberal (UK), to the Social Democratic/Scandinavian (Sweden), the Southern European (Italy), and the Central and Eastern European (Romania, Lithuania).

This report presents the findings of research undertaken in the UK on the GMI with a focus on:

- ❖ Legislative measures (regarding incorporation of the UNCRC into national law)
- ❖ Development of National Strategies and National Action Plans
- ❖ Co-ordination of implementation
- ❖ Monitoring implementation
- ❖ Data-collection and indicators
- ❖ Making children visible in budgets
- ❖ Co-operation with civil society
- ❖ Independent human rights institutions
- ❖ Information and awareness-raising

At the end of each section is a summary table giving an overview of progress within England, Wales, Scotland and Northern Ireland, with a 'traffic light' code:

- Green – indicates really good progress made
- Amber – some positive progress made
- Red – very little or no progress or progress lost

The main components of the UK study, upon which this report is based, were conducted between March and October 2010 according to a common methodology across the five countries. The main components were:

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21 UN Committee on the Rights of the Child (2002) General Comment No.2 The role of independent national human rights institutions in the promotion and protection of the rights of the child

- ❖ Desk research of documents and statistics (official and other)
- ❖ Semi-structured interviews with key stakeholders (for example, civil servants, independent human rights monitors, ‘technical’ experts and NGOs) in England, Wales, Scotland and Northern Ireland (see Annex 2 for full list of interviewees)
- ❖ Analysis of the information collected in the research and formulating key messages and recommendations.

As part of its research in the UK Save the Children asked 25 children, aged between eight and 17 years of age, from its In My Back Yard project<sup>22</sup> how much they know about certain aspects of the GMI and how well they think the government is implementing these standards.

Children were asked to complete a questionnaire with support from a Save the Children programme officer. The views of children who completed the questionnaire have been integrated throughout the report. We are not claiming that these views are representative of children in the UK but hope that they give a flavour of some of the issues that are important to children in relation to realising the GMI.

A European-wide comparative report has also been published which brings together evidence from the five national studies carried out for the ‘Governance Fit for Children’ project. By identifying trends and patterns between and within states, it helps to shed light on the various ways in which the CRC is being understood and implemented at all levels. Highlighting good practice examples from other countries will also facilitate an invaluable sharing of experiences between EU Member States.

The European-wide comparative report is complemented by a parallel and linked report on how the GMI could also be applied by the EU institutions. The latter is intended to inform and assist the European Commission in its current efforts to develop a comprehensive rights-based EU Strategy on the Rights of the Child. We hope that the good practices from Member States set out in the comparative report will serve as inspiration as to how appropriate mechanisms can be established to ensure the fulfilment of the GMI at EU as well as national and local levels.

These reports are relevant to a range of actors at all levels. Member States are the key duty bearers in relation to the realisation of children’s rights in Europe, with responsibility falling to national governments and parliaments, as well as other state authorities and local policy makers that play a crucial role in terms of realising children’s rights. Civil society organisations in EU Member States will find the report helpful in providing information to inform their advocacy and monitoring activities in relation to central and local governments and/or the EU. Ultimately, the main beneficiaries are children, whose rights will be enhanced if the general measures are implemented effectively.

## **UK Governmental arrangements and the CRC**

The UK Government ratified the CRC in 1991 and as such is the High Contracting party (the party that signed and ratified the CRC). However, in the UK, governmental arrangements now also include devolved administrations in Wales, Northern Ireland and Scotland. The UK Government, together with the devolved administrations, therefore, have responsibility for implementing the CRC in the UK in relation to reserved, excepted and non-reserved matters although direct responsibility remains with the UK Government as the State Party.

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<sup>22</sup> In My Back Yard is an innovative, grassroots Save the Children UK programme where children, young people and parents run their own advocacy project in their local area. For six months, they engage in a series of activities to share and build their knowledge and understanding on issues important to them in their local community, and create change in that same community.

## UK Parliament and UK Government

The UK Government retains responsibility for a number of areas including UK foreign policy; macro economic and monetary policy; and policy related to immigration. The UK Parliament legislates for laws in England and for some laws applicable to Wales (for example justice issues) and for the whole of the UK where the issue is non-devolved (for example immigration).

The UK General Election, held in May 2010, resulted in a hung parliament for the first time since 1974. The Conservative Party won 307 seats, the Labour Party 258, the Liberal Democrats 57 and other parties 28.

After several days of negotiations the Conservative Party succeeded in coming to an agreement with the Liberal Democrats and on 11 May 2010 a Coalition Government was formed replacing the Labour Government, which had been in power for 13 years.

For many years the previous Labour administration had resisted calls for it to take a more child rights approach to policy-making instead focussing on its Every Child Matters five outcomes agenda.<sup>23</sup> However, more recently there had been some positive developments, for example, its review of legislation against the principles and standards of the CRC<sup>24</sup> and its publication of an ‘action plan’ to respond to the Concluding Observations.<sup>25</sup> It is currently too early to have a clear picture of how the Coalition Government will take forward its children’s rights obligations. Commendably it has already made a public commitment to the CRC.<sup>26</sup>

## The National Assembly for Wales and Welsh Assembly Government

Following a referendum in 1997, the National Assembly for Wales was established by the Government of Wales Act 1998. The Act allowed the Assembly to enact subordinate legislation only and implement laws on a range of issues. It could not enact primary law but could negotiate with Westminster to include different provisions for Wales in legislation.

The Government of Wales Act 2006 establishes the Welsh Assembly Government (WAG) as a distinct entity from the National Assembly and gives additional powers to the Assembly and Welsh Assembly Government.

The emphasis on the importance of children’s rights can most clearly be seen when WAG (within the limits of its powers) adopted the CRC in 2004 as the basis of all its policy making for children and young people, positioning its overarching strategy for children within a rights based framework.

## The Scottish Parliament and Scottish Government

The Scottish Parliament was created in 1999 under the Scotland Act 1998.<sup>27</sup>

The Scottish National Party (SNP) is currently in power in Scotland. The SNP is favourable to the child rights discourse, stating in its Manifesto 2007 that *“We will consider the impact on children in all areas of policy development and legislation. We support the provisions of the UN Convention on the Rights of the Child”*.<sup>28</sup>

23 <http://webarchive.nationalarchives.gov.uk/20080911032507/everychildmatters.gov.uk/>

24 Department for Children, Schools and Families, (March 2010) *The United Nations Convention on the Rights of the Child: How legislation underpins implementation in England*

25 Department for Children, Schools and Families (2009) *The UN Convention on the Rights of the Child: Priorities for action*

26 “The education, health and wellbeing of children are vitally important for our society. The Government is committed to the United Nations Convention on the Rights of the Child” *Written Ministerial Statement – Independent Review of the Children’s Commissioner for England* 12 July 2010

27 For a list of such matters, see the Scotland Office website, at <http://www.scotlandoffice.gov.uk/scotlandoffice/53.html> (last visited 20 May 2010).

28 Scottish National Party (2007) *Manifesto 2007: SNP It’s Time*

Whilst the Government is not currently supportive of incorporating the CRC into Scottish law en bloc the approach of the Scottish Government to the implementation of children's rights is generally positive.

### **Northern Ireland Assembly and Executive**

Northern Ireland is emerging from a long period of conflict and political instability. The Northern Ireland Assembly was established by the Northern Ireland Act 1998 following the Belfast Agreement signed 10 April 1998 and a referendum held in May 1998. Devolution was suspended on 14 October 2002 and direct rule (from Westminster) continued until the end of March 2007.

In October 2006 the St Andrew's Agreement provided for the Northern Ireland Executive to be restored. The Executive operates as a power sharing form of government. The Democratic Unionist Party and Sinn Fein are currently the two largest parties and are allocated the position of First Minister and Deputy First Minister, respectively. Other parties can also take up positions within the Executive Committee depending on election results.

Despite some positive developments in implementing the CRC, more recently children's rights have slipped down the political agenda, for example, this report highlights the recent disbanding of the child rights unit and the Executive's inadequate response to the 2008 Concluding Observations.

### **Implementing the CRC across the UK**

Given the UK's governmental arrangements the importance of the UN Committee's comment on devolution is clear:

*"...decentralization of power, through devolution and delegation of government, does not in any way reduce the direct responsibility of the State party's government to fulfil its obligations to all children within its jurisdiction, regardless of the State structure". State party's should "establish a permanent monitoring mechanism to ensure that the Convention is respected and applied to all children within its jurisdiction without discrimination"*<sup>29</sup>

The UN Committee published its Concluding Observations on the UK in October 2008. It made 127 recommendations and in relation to the 'general measures', whilst highlighting a number of positive developments, made 20 recommendations for action which are cited throughout this report.

This report focuses on the Westminster Government and each of the three devolved administrations. It provides a picture of where the four governments' actions converge and where they part in relation to implementing the 'general measures.' It also identifies what is still required to ensure that these standards are adhered to across the UK.

Devolution is not an excuse for where there is disparity in the realisation of the CRC. These rights are universal and inalienable and together the UK and devolved governments must strive to make sure they are fully implemented.

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<sup>29</sup> UN Committee on the Rights of the Child (2003) General Comment No.5 General measures of implementation on the Convention on the Rights of the Child (arts 4, 42 and 44, para. 6)

# Study findings

## **Incorporation of the CRC**

***“For Rights to have meaning, effective remedies must be available to redress violations” UN Committee on the Rights of the Child***

The UN Committee has made it clear that it expects governments to take all appropriate measures so that the CRC is given legal effect within their domestic legal systems. Bringing the CRC into domestic law would mean ensuring that new policies and legislation are ‘child rights proofed’ and public authorities are fully accountable for upholding children’s human rights.

The Committee makes it clear that incorporation *“should mean that the provisions of the Convention can be directly invoked before the courts and applied by national authorities...economic, social and cultural rights, as well as civil and political rights, must be regarded as justiciable.”*<sup>30</sup>

In 2002, the UN Committee encouraged the UK Government *“to incorporate into domestic law the rights, principles and provisions of the Convention”* and in 2008 recommended *“the State Party could take the opportunity given in this regard by the development of a Bill of Rights in Northern Ireland and a British Bill of Rights, and incorporate into them the principles and provisions of the UNCRC”*<sup>31</sup>

Following an inquiry into children’s rights, the Parliamentary Joint Committee on Human Rights (JCHR) concluded it agreed *“with those witnesses who emphasised the benefits of incorporation, accompanied by directly enforceable rights”*<sup>32</sup> The ROCK (Rights of the Child UK) Coalition,<sup>33</sup> made up of 24 organisations from across the UK, is also calling for progress on this issue along with the UK’s four Children’s Commissioners.<sup>34</sup>

Despite such clear recommendations and support there has been little progress. In March 2010, the Labour administration published an analysis of how legislation in England was underpinned by the UNCRC. Whilst this is very welcome it concluded that the UK has *“implemented the UNCRC through a mix of legislative provisions and policy initiatives.”*<sup>35</sup> The Labour administration retained the position that there was no need for legal incorporation. A claim already rejected by the JCHR.<sup>36</sup>

Although there have been some positive developments compliance with the CRC remains very patchy.

30 UN Committee on the Rights of the Child (2003) General Comment no. 5 General measures of implementation of the Convention on the Rights of the Child (art.4, 42 and 44, para. 6)

31 UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, Paragraph 11

32 House of Lords House of Commons Joint Committee on Human Rights (2009) Children’s Rights Twenty-fifth Report of Session 2008-09 Paragraph 28

33 ROCK coalition members: Article 12 in Scotland, the British Humanist Association, the Centre for Studies on Inclusive Education, the Child Rights Information Network (CRIN), the Children’s Legal Centre, the Children’s Rights Alliance for England (CRAE), The Children’s Society, the Fatherhood Institute, the Howard League for Penal Reform, the National Youth Advocacy Service, the National Youth Agency, NCB, the National Society for the Prevention of Cruelty to Children (NSPCC), the Royal College of Paediatrics and Child Health, Save the Children, Scope, the Scottish Alliance for Children’s Rights, Sefton Voices, Shelter, Children’s Legal Service, Unicef UK, Voice, Who cares? Scotland and Young Minds. Individual members names are available on request

34 House of Lords House of Commons Joint Committee on Human Rights (2009) Children’s Rights Twenty-fifth Report of Session 2008-09 Paragraph 21

35 Department for Children, Schools and Families, (March 2010) The United Nations Convention on the Rights of the Child: How legislation underpins implementation in England page 15

36 “The Government has not persuaded us that children’s rights are already adequately protected by UK law nor that incorporation of the UNCRC is unnecessary”. House of Lords House of Commons Joint Committee on Human Rights (2009) Children’s Rights Twenty-fifth Report of Session 2008-09 Paragraph 28

Incorporation is clearly needed so the CRC is the standard against which all law, policy and practice affecting children is judged.

On November 19 2009, a Children's Rights Private Members Bill received its first reading in the House of Lords. The Bill, sponsored by Baroness Walmsley, sought to fully incorporate the CRC into UK law. Unfortunately, following the announcement of the 2010 General Election, Parliament was dissolved before the Bill could receive its Second Reading.

In its 2010 General Election manifesto the Conservative Party did not mention the CRC (though prior to the election it had expressed some support for including children's rights in its proposed British Bill of Rights) whereas the Liberal Democrats committed to incorporation in its General Election manifesto (the only party to do so).<sup>37</sup>

The Coalition Government is currently considering its position on the CRC. Ministers are reviewing the mapping document which seeks to demonstrate the link between the CRC and domestic legislation and will decide if further actions are required.

The Human Rights Act 1998 incorporates the European Convention on Human Rights into domestic law. Whilst the Human Rights Act is not child specific it applies to children in the same way as it does to adults.

The Coalition Government's 'Programme for Government' published in May 2010 states its intention to establish a Commission to:

*"investigate the creation of a British Bill of Rights that incorporates and builds on all our obligations under the European Convention on Human Rights, ensures that these rights continue to be enshrined in British law, and protects and extends British liberties."*<sup>38</sup>

The Commission has not been established to date and it is unclear what implications it will have on CRC incorporation and the protection of human rights in general across the UK.

### **Wales**<sup>39</sup>

Whilst there has been little progress at the UK level there have been developments in Wales. In July 2009, the then Welsh First Minister made a statement on the intention to embed the CRC in legislation.<sup>40</sup> This welcome and commendable statement is the first proposal of its kind in a domestic context.

In March 2010, the Welsh Assembly Government (WAG) published a consultation setting out its plans on how it would take the proposal forward.<sup>41</sup> Commendably, the document proposed that Welsh Ministers would have a duty to have 'due regard' to Part 1 of the CRC and its Optional Protocols. This would make it a legal requirement for these international standards to be taken into account as part of Ministerial decision-making and policy development in Wales.

As the proposal is at devolved level a 'due regard' duty is fitting for the Welsh context. It will result in positive change administratively but will not have an effect on judicial remedies in the courts in Wales.

37 The Conservative Party (2010) Invitation to join the Government of Britain Conservative Party Manifesto 2010 and Liberal Democrats (2010) Liberal Democrat manifesto

38 HM Government (2010) The Coalition: Our programme for government

39 See Annex 1 for a policy update on action in Wales

40 Oral Statement of the First Minister Rhodri Morgan (July 14 2009) The Welsh Assembly Government's Legislative Programme 2009-10

41 Welsh Assembly Government (2010) Proposals for a 'Rights of Children and Young Persons (Wales) Measure'

This is appropriate given the particular stage of Welsh devolution and as Wales shares its legal system with England.

Despite these commendable intentions, however, Save the Children along with other NGOs, respected academics and the Children's Commissioner for Wales are very disappointed that the consultation proposed that this progressive action would only apply to Ministers' 'relevant functions' rather than be a broad duty for all Ministerial decisions. Stakeholders made it clear to WAG that only a pervasive duty will meet the UN Committee's requirements.<sup>42</sup>

Following the consultation, on 14 June 2010, the Proposed Rights of Children and Young Persons (Wales) Measure was introduced to the Welsh Assembly to begin its legislative process. Despite strong representations to introduce a fully pervasive requirement, the proposed Measure will impose a duty upon the Welsh Ministers and the First Minister to have due regard to the CRC and its Optional Protocols only when "*making decisions of a strategic nature about how to exercise functions which are exercisable by them*".<sup>43</sup> There is no definition of 'decisions of a strategic nature' instead Ministers will be required to produce a 'children's scheme' that will set out the criteria "*which will be applied for identifying decisions which are decisions of a strategic nature*".<sup>44</sup>

Whilst this new proposal aims to address previously raised concerns, it nonetheless remains a sectoral approach which will severely undermine what Save the Children hopes Ministers are aiming to achieve. There is a real risk that this approach will mean the CRC will not be taken into account in a number of policy decisions and could actively encourage it to be ignored – if the Minister so desired (s)he could chose to give a very narrow definition of 'decisions of a strategic nature'.<sup>45</sup> As WAG has already adopted the CRC as a basis for its policy this could potentially be a step backwards.

Any proposal to give further legislative effect to children's rights (as the Measure seeks to do) must take the CRC as its starting point and ensure that it is taken into account in *all* decisions that will have a direct or indirect affect on children. The limits of devolution mean that some sectoralism is already inevitable. WAG must ensure that its proposals do not set further limits on a holistic approach.

The proposed Measure will also require Welsh Ministers "*to consider and consult on the relevance of the UNCRC and its Optional Protocols to young people (those aged 18 to 24), and on the potential application of the Measure to them*".<sup>46</sup> Save the Children acknowledges the need to ensure that young adults, especially those from vulnerable groups, can access their rights but does not believe that the Measure should be applicable to this age group. This approach is inappropriate in the context of proposals to incorporate the CRC where article 1 defines a child as 'all persons under the age of 18'. Welsh Ministers should consider how support for young adults can be achieved by other means.

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42 See for example Save the Children (2010) Welsh Assembly Government consultation on

Proposals for a 'Rights of Children and Young Persons (Wales) Measure' Save the Children submission

43 Department for Children, Education, Lifelong Learning and Skills (2010) Proposed Rights of Children and Young Persons (Wales) Measure Explanatory Memorandum and see Section 1 Proposed 'Rights of Children and Young Persons (Wales) Measure'

44 Department for Children, Education, Lifelong Learning and Skills (2010) Proposed Right of Children and Young Persons (Wales) Measure Explanatory Memorandum

45 For a further discussion of concerns with the proposals see Legislation Committee 5 Proposed Rights of Children and Young Persons (Wales) Measure NGO Monitoring Group on the UNCRC Written submission for evidence to Committee 1st July 2010

46 Welsh Assembly Government Deputy Minister for Children (14 June 2010) Written Statement by the Welsh Assembly Government Proposed Rights of Children and Young Persons (Wales) Measure

## Scotland

In contrast to developments in Wales, the Scottish Government's position is not to incorporate the CRC into Scottish Law 'en bloc' but to consider matters on an *"issue by issue basis linked to improving outcomes for children."*<sup>47</sup> Under the Scotland Act 1998 it would be possible for Scotland to incorporate the CRC in relation to devolved matters.<sup>48</sup>

Like the previous UK Government it has argued that *"there is already a legislative basis for the underlying principles of the UNCRC in individual pieces of legislation, for example the Children (Scotland) Act 1995."*<sup>49</sup>

This position is despite clear communication from stakeholders in response to the Government's consultation on its response to the 2008 Concluding Observations:

*There was a clear message from all three consultation strands of the importance of incorporation of the UNCRC, with many respondents calling for en bloc incorporation as the most effective means of ensuring that all rights are given equal importance and that children have legal recourse where those rights are not being upheld. It was suggested that a working group be established to look at the compatibility of existing legislation and options for progressing incorporation.*<sup>50</sup>

More positively, the Scottish Government has pledged to *"look at the compatibility of existing Scottish and UK legislation with the UNCRC and look at options for progressing incorporation"*<sup>51</sup> but it has not yet identified how, when, or by whom this will be done.

## Northern Ireland

The 1998 Belfast Agreement includes a commitment to develop a Bill of Rights for Northern Ireland and offers an excellent opportunity to take forward CRC incorporation.

In 2006, a Bill of Rights Forum, made up of representatives from the voluntary sector, trade unions, the church and political parties, was established to advise the Northern Ireland Human Rights Commission with a view to taking forward the commitment of the Belfast Agreement. The Forum set up seven working groups to examine different areas of human rights. One group focussed on children, young people and women but subsequently a specific group on children was established.

The Children's Working Group submitted its final report to the Forum in January 2008. It recommends that in addition to a specific chapter on children, children's rights should be mainstreamed throughout any Bill of Rights.<sup>52</sup>

The Bill of Rights Forum submitted its final report to the Northern Ireland Human Rights Commission in March 2008 and in December 2008 the Commission issued its final advice to the Secretary of State for Northern Ireland on what the content of a Bill of Rights for Northern Ireland should contain. Whilst not all the recommendations of the Children's Working Group are included, it did recommend seven specific proposals in relation to children's rights.<sup>53</sup>

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47 Scottish Government (2008) Improving the Lives of Children in Scotland - are we there yet?

48 See Scotland Act 1998 Schedule 5, para 7(2)

49 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

50 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

51 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

52 Bill of Rights Forum Child Rights Working Group (2008) Report to the Bill of Rights Forum

53 Northern Ireland Human Rights Commission (2008) A Bill of Rights for Northern Ireland: Advice to the Secretary of State for Northern Ireland

The following year the Labour administration issued the consultation *A Bill of Rights for Northern Ireland: Next Steps*.<sup>54</sup> This document proves very disappointing in terms of strengthening protection for the rights of children in Northern Ireland.

In their joint response to the consultation the Children's Law Centre and Save the Children raised serious concerns that it does not make a single reference to the CRC, even where it refers to the UK Government's international human rights obligations, and disregards the evidence and expert advice that it received from the Northern Ireland Human Rights Commission in relation to effective protection of children's rights.<sup>55</sup>

Giving evidence to the JCHR the Northern Ireland Commissioner for Children and Young People (NICCY) said: "*the biggest problem facing the realisation of children's rights in Northern Ireland is the absence of domestic legislation fully incorporating children's rights in legislation*". The Commissioner argued that the Bill of Rights for Northern Ireland was a clear opportunity to incorporate the CRC into law.

To date there have been no further developments and it is currently unclear what the Coalition Government's position is on a Bill of Rights for Northern Ireland.

## Conclusions

### Progress on CRC incorporation

	Progress made
UK	●
WALES	●*
SCOTLAND	●
NORTHERN IRELAND	●

\* Takes into account progress set out in Annex I.

Despite some positive developments in Wales, opportunities have been missed to take forward CRC incorporation effectively across the UK due to a lack of commitment by government. Despite the UN Committee's clear recommendations some governments in the UK have continued to maintain the CRC incorporation is not necessary. We urge the Coalition Government to take a more progressive approach.

Whilst the Human Rights Act offers vital protection for children and must be preserved, it does not provide the range of rights afforded by the CRC. The Convention was developed specifically for children and recognises their unique status and needs. CRC incorporation into UK law would provide a clear mechanism for policy to be 'child rights proofed' and would enable children to seek redress where rights are infringed across the State party.

## Recommendations

- The UK Government should seek to incorporate the CRC into UK law at the earliest opportunity
- The UK Government should take the opportunity afforded by the Bill of Rights for Northern Ireland to incorporate the CRC taking into account the recommendations of the Northern Ireland Human Rights Commission
- Devolved governments should also take forward effective CRC incorporation within the devolved legislative framework

54 Northern Ireland Office (2009) *A Bill of Rights for Northern Ireland: Next Steps*

55 Children's Law Centre and Save the Children (2010) *Response from the Children's Law Centre and Save the Children to the NIO's consultation document: 'A Bill of Rights for Northern Ireland – Next Steps'*

## Development of national action plans

*“If Government as a whole and at all levels is to promote and respect the rights of the child, it needs to work on the basis of a unifying, comprehensive and rights-based strategy rooted in the Convention”*

UN Committee on the Rights of the Child

The UN Committee expects governments to develop a comprehensive national strategy or action plan for children framed by the CRC. In 1993, the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights also called on governments to ensure the CRC is integrated into national human rights action plans.<sup>56</sup>

The UN Committee has developed detailed guidance on how an action plan should be developed and what it should include.<sup>57</sup> Action plans should:

- ❖ Take into account the Concluding Observations;
- ❖ Relate to the situation of all children and to all the rights in the CRC. Particular attention should be given to identifying and giving priority to marginalised and disadvantaged groups of children;
- ❖ Be developed through a process of consultation, including with children and young people;
- ❖ Be endorsed by the highest level of government and linked to national budgeting;
- ❖ Set real and achievable targets in relation to the full range of economic, social, cultural and political rights of children rather than list good intentions;
- ❖ Have adequate financial and human resources allocated to its delivery;
- ❖ Be widely disseminated, including to children and young people.

In 2008, the UN Committee raised concerns that the CRC *“is not regularly used as a framework for the development of strategies”* and recommended that the State Party *“adopt comprehensive plans of action for the implementation of the Convention”* in all parts of the UK. It urged for *“adequate budget allocation and follow-up and evaluation mechanisms”* to be put in place to ensure regular assessments of progress and identification of deficiencies.”<sup>58</sup>

Similarly, the JCHR urged the UK Government to *“devise a comprehensive and detailed plan for implementation of the UNCRC across the UK. This should be completed in conjunction with the devolved administration and the Children’s Commissioners, and be subject to widespread consultation.”*<sup>59</sup>

Following a joint UK Ministerial meeting in June 2009, the ‘Working Together Achieving More’<sup>60</sup> strategy was developed and published in the November. It is described by the four UK governments as *“an expression of our continued commitment to make the UNCRC a reality.”*

‘Working Together’ welcomes the Concluding Observations and recognises that there is more to be done in relation to CRC implementation but misleadingly states that the UN Committee made *“several recommendations for the State Party to take implementation of the UNCRC forward through the four administrations”*<sup>61</sup> - the Committee made 127 recommendations.

56 World Conference on Human Rights, Vienna, 14-25 June 1993, “Vienna declaration and Programme of Action” cited in UN Committee on the Rights of the Child (2003) General Comment no. 5 General measures of implementation of the Convention on the Rights of the Child (art.4, 42 and 44, para 6)

57 UN Committee on the Rights of the Child (2003) General comment No 5 General measures of implementation of the CRC

58 UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland. Paragraphs 14 and 15

59 Joint Committee on Human Rights (2009) Children’s Rights Twenty-fifth Report of Session 2008-09 Paragraphs 12 and 13

60 Department for Children, Schools and Families (November 2009) Working Together, Achieving More: A joint commitment to take action in response to the UN Committee on the Rights of the Child’s Concluding Observations

61 Department Children, Schools and Families (November 2009) Working Together, Achieving More: A joint commitment to take action in response to the UN Committee on the Rights of the Child’s Concluding Observations

'Working Together' states that the four UK governments will work together to achieve progress on four areas: tackling child poverty, addressing the negative portrayal of children and young people in the media; supporting children and young people to participate in decision-making on issues that affect their lives; and raising awareness of the CRC.

Disappointingly, no consultation took place on the priority areas as it was argued that stakeholder engagement took place at country level in the development of the four national 'action plans' (see below). Rather than agreeing shared actions 'Working Together' will be implemented at country level with regular UK-wide information sharing and best practice exchange.

Whilst this is a first step in improving UK-wide coordination of CRC implementation it is not a comprehensive UK national action plan recommended by the UN Committee and the JCHR. Instead 'Working Together' states that *"each administration will address the UN Committee's recommendations (as appropriate to their own circumstances)."*<sup>62</sup>

The commitments in 'Working Together' are currently being reviewed by Ministers in the Coalition Government and at present its status as a UK-wide document is unclear.

## England

Under the Labour administration, since 2004, children's policy relating to children in England had been based on the then UK Government's Every Child Matters policy agenda which focused on five aspects or outcomes relating to well-being.<sup>63</sup>

In its consolidated 3rd and 4th Periodic Report to the UN Committee<sup>64</sup> the Labour administration focused on this agenda of reforms in response to the Committee's 2002 recommendation to *"expedite the adoption and implementation of a comprehensive plan of action of the implementation of the Convention."*<sup>65</sup> This is despite the Children's Rights Alliance for England (CRAE) noting that Every Child Matters gives *"virtually no attention to the Convention on the Rights of the Child"*<sup>66</sup> and the JCHR describing the framework as *"vague and generalised."*<sup>67</sup>

In December 2007, the then Department for Children, Schools and Families (DCSF) published its first ten year 'Children's Plan' which set out the ambitions *"for improving children and young people's lives over the next decade' in England"* and how it intended to achieve them. Despite the previous administration asserting that the Children's Plan was underpinned by the CRC, reference to the Convention appears mainly in the annex to the document rather than providing its framework.

As the JCHR notes *"beyond references to an understanding of human rights as part of a child's education, the body of the Children's Plan makes no further mention of the UNCRC, or of human rights."*<sup>68</sup>

62 Department Children, Schools and Families (November 2009) Working Together; Achieving More: A joint commitment to take action in response to the UN Committee on the Rights of the Child's Concluding Observations

63 Physical and mental health and emotional well-being; protection from harm and neglect; education, training and recreation; the contribution made by them to society; social and economic well-being.

64 HM Government (2007) The Consolidated 3rd and 4th Periodic Report to the UN Committee on the Rights of the Child UK Government

65 UN Committee on the Rights of the Child (2002) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland. Paragraph 15 CRC/C/15/ADD.188

66 Children's Rights Alliance for England (2008) State of Children's Rights in England Review of the UK Government's implementation of the Convention on the Rights of the Child

67 Parliamentary Joint Committee on Human Rights (2004) Children's Bill, Nineteenth Report of Session 2003-04

68 Joint Committee on Human Rights Children's Rights (2009) Twenty-fifth Report of Session 2008-09 Paragraph 12

Following the publication of the 2008 Concluding Observations, the then Minister of State for Children, Schools and Families, issued a Ministerial Statement on the Government's initial response. Positively, it broadly welcomed the UN Committee's recommendations and made a commitment to give them *"the careful consideration they deserve."*<sup>69</sup>

In November 2008, following representations from CRAE, a one-off meeting was held between civil servants and stakeholders to discuss the Concluding Observations. Unlike in other parts of the UK, no consultation events or any formal consultation period for NGOs was held on how the then UK Government should respond to the UN Committee's recommendations.

The Children and Youth Board<sup>70</sup> did, however, review the Concluding Observations and discussed the key issues for them with the UK Government. An internal review of letters sent to Ministers from MPs and Peers on the UN Committee's recommendations was also carried out by officials.

In December 2008, 'The Children's Plan One Year On' was published which reviewed progress on implementing the Plan and set out how the then UK Government intended to address the recommendations made by the UN Committee.<sup>71</sup> Throughout the report CRC articles are referenced and a statement is made that the Concluding Observations *"provide a helpful framework for further action by Government...to make children's rights under the convention a reality."*<sup>72</sup> This is a positive step forward from the initial Children's Plan but again most of the references to the CRC are in the annex where the relationship between the Children's Plan and the CRC is explained and a table sets out how the Labour administration intended to respond to the Concluding Observations.

Disappointingly, it also implies that the UN Committee considered the Children's Plan to be an adequate CRC implementation plan. Whilst the UN Committee welcomes the Children's Plan, it also called for a comprehensive CRC implementation plan to be developed.

It is not clear what rationale was used for deciding the priorities for responding to the Concluding Observations nor does it state what the Labour administration intended to do (if anything) to address the recommendations that had not been included. These concerns were also raised by witnesses in a JCHR inquiry on children's rights.<sup>73</sup>

The JCHR asked the then Minister for Children to explain how the CRC's recommendations were prioritised. It notes *"the Minister explained that they reflected those areas which the Government had identified within the recommendations where more could be done to further implement the Convention."*<sup>74</sup> This is a disappointing approach which appears to rely more on the priorities of the Government rather than fully addressing the UN Committee's concerns.

Of real concern is that four areas - incorporation of the CRC, a legal ban on corporal punishment in the home, the age of criminal responsibility and the use of Anti-Social Behaviour Orders - were immediately dismissed by the Labour administration which argued that it had a different view on these issues to the UN

69 Department for Children, Schools and Families (October 7 2008) Response to the United Nations Committee

70 The role of the Board is to advise Ministers and policy officials on the development of policy and practice that affects the lives of children and young people in England see below for further details

71 Department for Children, Schools and Families (2008) The Children's Plan One Year On

72 Department for Children, Schools and Families (2008) The Children's Plan One Year On

73 House of Lords House of Common Joint Committee on Human Rights (2009) Children's Rights Twenty-fifth Report of Session 2008-09 Paragraph 15

74 House of Lords House of Common Joint Committee on Human Rights (2009) Children's Rights Twenty-fifth Report of Session 2008-09 Paragraph 16

Committee. This is a disappointing response to the Concluding Observations. When a State ratifies the CRC it is bound by international law to implement it fully<sup>75</sup> rather than picking and choosing what it will adhere to.

Positively, in September 2009, CRAE and UNICEF organised an event for children on behalf of the then Government to discuss how well it had addressed the Concluding Observations but no systematic follow-up meetings were held by the Government with NGOs.

Two months later the then Labour administration published 'United Nations Convention on the Rights of the Child: Priorities for Action'.<sup>76</sup> Structured around the CRC clusters of articles it refers to some of the UN Committee's recommendations, sets out priorities, notes progress since 2008 and details future plans. A commitment is made to report on progress against the actions on an annual basis. Whilst no clear monitoring framework is included in the document, there was an intention to track progress on the plan and a number of milestones had been put in place within the then DCSF.

### **Children's views**

**None of the Children who took part in the Save the Children consultation had had an opportunity to take part in the development of a national action plan on children's rights. The majority did not even know that there was such a plan. Of the six children who had heard of it none of them had actually seen a copy – either a full version or an age appropriate adaptation.**

Due to the large number of recommendations made by the UN Committee some process of prioritisation is necessary but, as was the case with the Children's Plan Progress Report, it does not set out what criteria was used and, like government 'action plans' in other parts of the UK, it often gives the impression of a synthesis of activities already underway rather than a forward thinking strategic plan to address the Concluding Observations. Though officials have said that when agreeing priorities the UK Government wanted to ensure that they were achievable.

It is often not clear how the proposed activities will meet the objectives and necessary follow-up actions are repeatedly missing. Timeframes and budgets are also not attached to the activities - though money had been allocated within the general resources assigned to implementing the CRC within the then DCSF. Some dissemination has taken place and is welcome.

**This is the first time the UK Government has developed a specific document which focuses on how it intends to respond to the UN Committee's recommendations and despite its flaws is a significant step forward in implementing the CRC in England. The process of pulling it together has increased awareness of the CRC across government, which will provide a helpful basis for future work.**

No decision has yet been made by the Coalition Government on how it will go about implementing the CRC including whether or not it will develop a child rights action plan for England.

### **Wales**

Like the other jurisdictions in the UK, Wales does not have a national children's rights action plan that fully meets the UN Committee's standards but there have been a number of very pleasing developments in recent years.

<sup>75</sup> Vienna Convention on the Law of treaties 1969

<sup>76</sup> Department for Children, Schools and Families (2009) The UN Convention on the Rights of the Child: Priorities for action

In 2004, WAG formally adopted the CRC as the overarching set of principles for all its policy on children and translated the CRC into its seven core aims for children in Wales.<sup>77</sup>

Despite this positive commitment, the Wales NGO alternative report ‘Stop Look Listen’ expressed concern that the aims were “*not well understood across all of government (especially outside of policy areas traditionally not focussed on children or young people) and often compete with other governmental strategies and plans.*” It also expressed disappointment that a clear national plan and monitoring framework were not developed alongside the core aims. The report recommended that “*the seven core aims for children are given greater prominence and are reflected in the government’s overarching strategic plan*” and that WAG “*produce a national plan for progressing the seven core aims with targets and milestones*”.<sup>78</sup>

**In November 2008, the (then) Minister for Children, Life Long Learning and Skills, Jane Hutt AM, made a statement on the Concluding Observations in plenary in the Welsh Assembly. The then Minister set out areas where the Committee had noted successes in implementing the CRC in Wales and very commendable recognised that “...despite our successes we cannot afford to be complacent. We still have a long way to go.”<sup>79</sup>**

Shortly afterwards, the Wales UNCRC Monitoring Group<sup>80</sup> convened a multi-agency workshop (which included NGOs, the Children’s Commissioner for Wales, the Equality and Human Rights Commission and representatives from WAG) to determine a way forward for responding to the UN Committee’s recommendations. It was agreed that a national children’s rights conference would be held - ‘Let’s Get it Right’, funded by WAG, to raise awareness of children’s rights and the Concluding Observations, review progress on realising children’s rights in Wales and contribute to a children’s rights action plan for Wales.

‘Let’s get it Right’ was held in March 2009. Whilst the conference acted as an effective vehicle for raising awareness of the UNCRC and the Concluding Observations, stakeholders expressed disappointment that it only allowed for some limited consultation with NGOs and children on how WAG should address the UN Committee’s recommendations and develop a national children’s rights action plan for Wales.

An ‘action plan’ was further developed through a series of meetings with NGOs and an analysis of key issues raised by children through a review of Funky Dragon’s ‘Our Rights Our Story’ (the Wales children’s report to the UN Committee).<sup>81</sup> No formal consultation was held on the draft document as happened in Scotland.

The following November just over a year after the Concluding Observations were issued ‘Getting it Right 2009: United Nations Convention on the Rights of the Child’ was published. Described as a 5-year rolling action plan, it sets out WAG’s priorities in responding to the UN Committee’s recommendations. It contains 16 priority areas and 90 proposed time-bound actions.<sup>82</sup> The 16 priorities are based on WAG’s response to the UN Committee’s request (during the reporting process) for its priorities for children, which were developed following some limited consultation with NGOs in summer 2008. In addition to the 16 priority areas, the action plan also includes activities relating to breast feeding, Gypsy and Traveller children and health and health services.

77 Welsh Assembly Government (2004) Children and Young People: Rights to Action. The seven core aims are: Parenting and childcare; Learning and working; Health, child protection and care; Play and leisure; Participation and equality; Safe home and community; Child poverty

78 Save the Children (2007) Stop, Look, Listen: the road to realising children’s rights in Wales, Wales NGO alternative report

79 Oral Statement by the Welsh Assembly Government (4 November 2008) Welsh Assembly Government’s Response to the United Nations Convention on the Rights of the Child Monitoring Committee Concluding Observations

80 The Wales UNCRC Monitoring Group is a national alliance of non-governmental and academic agencies, chaired by Save the Children, tasked with monitoring and promoting the UNCRC in Wales (see below)

81 Funky Dragon (2007) Our Rights Our Story

82 Welsh Assembly Government (2009) Getting it Right 2009: United Nations Convention on the Rights of the Child.

A key issue raised by stakeholders is that due to the current stage of devolution in Wales, WAG is not able to fully address some of the recommendations of the UN Committee even where there is political will to do so. Issues relating to youth justice, immigration and the physical punishment of children, for example, are all the responsibility of the UK Government.

**This is the first time there has been a document of this kind for Wales and despite some weaknesses credit must be given. Very positively, WAG acknowledges that ‘Getting it Right 2009’ is only ‘the start of the journey’ and describes it as a base from which to move forward - a ‘living document’ which will be reviewed regularly.**

The review mechanism should be used to address the document’s weaknesses, for example, the lack of a budget; an impression that it is sometimes a narrative of current activity; a lack of clarity as to how it links to the ‘Seven Core Aims’; the absence of a clear monitoring framework; and a sometimes inaccurate picture of where Wales is currently at in implementing the CRC.

Disquiet has also been expressed that ‘Getting it Right 2009’ was developed in a silo without firm buy-in from all parts of government or an adequate link to other relevant government strategies and proposals. ‘Getting it Right 2009’ should, however, help to increase awareness of the CRC across government. Stakeholders also thought its provides a useful tool with which NGOs and the Children’s Commissioner for Wales can hold WAG to account.

## **Scotland**

In September 2009, the Scottish Government published its response to the Concluding Observations ‘Do the Right Thing.’<sup>83</sup> It followed a formal consultation period on a draft document<sup>84</sup> and a series of consultation events for NGOs and children and young people. Participants in the written consultation were asked: “What do you think are the most important issues for priority action?” and ‘Do you think the proposed response is proportionate and realistic?’

**Credit must be given to the Scottish Government, which is the only government in the UK to have formally and extensively consulted on its plans to address the Concluding Observations. This was very much welcomed by stakeholders.**

**‘Do the Right Thing’ lists what the Scottish Government will do to improve children’s rights in Scotland and highlights 21 priority areas for action over the next five years. It also highlights issues to be addressed in the medium term, once action on initial priorities has been completed.<sup>85</sup> The influence of the consultation exercise is evident in the fact that each action area of ‘Do the Right Thing’ has a section outlining the corresponding findings from the consultation exercise and provides explanation where actions are not in line with the consultation findings. This is a very positive aspect of the strategy.**

**The plan is accompanied by an extensive annex which refers to proposed action in all the areas covered by the Concluding Observations. Again the Scottish Government is**

83 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

84 Scottish Government (2008) Improving the Lives of Children in Scotland- are we there yet?

85 Scottish Government (2009) Annex Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

the only government in the UK where the government has sought to respond to all the recommendations of the UN Committee.

This is the first time that Scotland has had a children's rights 'action plan' and is a hugely positive step. However, there are still some general aspects which leave scope for improvement.

Under each priority area there are a number of actions proposed, however, many of these are quite indefinite, rather than concrete actions for change, and terminology such as 'consider' is repeatedly used.<sup>86</sup> On the other hand, a number of the actions are very narrow and fail to indicate how they will achieve the broader objectives.<sup>87</sup>

As with other 'action plans' in the UK, there is frequent reference to ongoing activities and there is not a clear set of indicators to measure implementation progress and no timeframe for action. A key flaw is that the strategy does not specify who is responsible for achieving the specific change. Stakeholders were keen for these flaws to be addressed.

### Northern Ireland

An initial commitment was made by the Northern Ireland Executive in 2003 that its future strategy for children would be an "implementation plan for the Convention" in Northern Ireland.<sup>88</sup> However, disappointment has been expressed by both NICCY and children's NGOs that the subsequent strategy did not fulfill this promise.<sup>89</sup>

In 2006, several years after the original announcement was made by the First Minister, and following consultation with both children and the children's sector, the Ten Year Children's Strategy 'Our Children and Young People – Our Pledge'<sup>90</sup> was published. The final document was based on the five outcomes of the 'Every Child Matters' agenda in England with the additional sixth outcome for children 'living in a society which respects their rights'.

The inclusion of an outcome specifically related to children's rights is welcome but if the original intention was to develop a CRC implementation plan the Strategy should take the CRC as its starting point and ensure that its principles and standards underpin the whole document.

Summing up the NGO response to the Children's Strategy, a report by NICCY commented "*whilst the recognition afforded to children's rights within the strategy is to be welcomed, there has been general disappointment within the children's sector that the final strategy has not provided the vehicle for full implementation of the UNCRC within Northern Ireland.*"<sup>91</sup>

Since 2006, two detailed action plans have been published: a one year Action Plan relating to 2007–2008<sup>92</sup>

86 See, e.g. p.10 where it is stated that the government will "consider whether/how to adapt" the SCCYP impact assessment tool, and "consider a trial of children's rights impact assessment".

87 Eg. p.20 "hold a pupil-led Eco-Schools conference".

88 Office of the First Minister and Deputy First Minister (2003) Working Paper on the Emerging Strategy for Children and Young People

89 Northern Ireland Commissioner for Children and Young People in association with Queen's University, Belfast (2004) Children's Rights in Northern Ireland; Northern Ireland Commissioner for Children and Young People (2008) Children's Rights: Rhetoric or Reality. A Review of Children's Rights in Northern Ireland

90 Office of the First Minister and Deputy First Minister (2006) Our Children and Young People – Our Pledge: A ten year strategy for children and young people in Northern Ireland 2006-2016

91 Northern Ireland Commissioner for Children and Young People (2008) Children's Rights: Rhetoric or Reality. A Review of Children's Rights in Northern Ireland

92 Office of the First Minister and Deputy First Minister (2007) Our Children and Young People - Our Pledge: Action Plan 2007-2008

and a three year Action Plan relating to 2008–2011<sup>93</sup>. The aim of both Action Plans is to set out what all eleven Northern Ireland departments, the Northern Ireland Office and the Northern Ireland Court Service will do to deliver the aims of the Strategy.

In relation to the Children’s Strategy and action plan one professional taking part in the NICCY review commented: *“While the inclusion of a high level strategic children’s rights outcome in the 10 year strategy is extremely welcome there is real concern that there is no evidence of this focus in rights being mainstreamed throughout the strategy document and action plans.”*<sup>94</sup>

Similarly, Children in Northern Ireland are disappointed that the second Action Plan like the first appears to be the amalgamation of already planned initiatives and activities:

*“...it is disappointing and of concern that the strategy and action planning to date have not delivered a joined-up co-ordinated approach across government to planning and delivering services to meet the rights and needs of children and young people...All in all the action plan was a collection of government action and activities that was mostly all ongoing or imminent...”*<sup>95</sup>

The Children’s Law Centre is concerned that both Action Plans have been produced with inadequate consultation with stakeholders, including children and a lack of clear child rights indicators. A further concern is that the proposed actions are unlikely to meet the high level outcomes in the Action Plan.<sup>96</sup> Looking at each of the high level outcomes through a ‘child rights lens’ would have significantly strengthened it.

Like other ‘action plans’ in the UK professionals taking part in the recent NICCY review also *“highlighted serious concerns regarding the financial commitment government was making to the implementation of the strategy and the accompanying action plan.”*<sup>97</sup> No dedicated ring-fenced resources to deliver the action plan have been included within departmental budgets.

Disappointingly, despite these flaws, the State Party report to the UN Committee implies that the Children’s Strategy and the Action Plans amount to a CRC implementation plan for Northern Ireland.<sup>98</sup>

The second Action Plan includes a commitment to carry out a *“further exercise focusing specifically on the UNCRRC Concluding Observations”*<sup>99</sup> and subsequently *“UNCRRC – Northern Ireland’s Priorities and Plans”* was published. Encouragingly, it notes that *“Government here is committed to supporting and realising the rights of all our children and young people as an integral part of our work to improve children’s outcomes and help them achieve their potential”* and recognises that *“there is considerable work still to be done”* in order to address the UN Committee’s recommendations.<sup>100</sup>

93 Office of the First Minister and Deputy First Minister (2008) Our Children and Young People - Our Pledge: Action Plan 2008-2011

94 Northern Ireland Commissioner for Children and Young People (2008) Children’s Rights: Rhetoric or Reality. A Review of Children’s Rights in Northern Ireland

95 Children in Northern Ireland (2008) Our Children and Young People – Our Pledge: Action Plan 2007–2008, Comments to Inform the Development of an Action Plan for 2008–2010. Cited in Northern Ireland Commissioner for Children and Young People (2008) Children’s Rights: Rhetoric or Reality A Review of Children’s Rights in Northern Ireland

96 Children’s Law Centre (2008) Response to the Office of the First and Deputy First Minister’s Draft Children and Young People’s Action Plan 2008-2011

97 Northern Ireland Commissioner for Children and Young People (2008) Children’s Rights: Rhetoric or Reality. A Review of Children’s Rights in Northern Ireland

98 HM Government (2007) The Consolidated 3rd and 4th Periodic Report to the UN Committee on the Rights of the Child UK Government

99 Office of the First Minister and Deputy First Minister (2008) Our Children and Young People -Our Pledge: Action Plan 2008-11

100 Office of the First Minister and Deputy First Minister (2010) UNCRRC - Northern Ireland’s Priorities and Plans

'Priorities and Plans' commits to including further activities in the action plan in response to the UN Committee's recommendations and "*make a clearer link between the appropriate actions and the relevant Concluding Observations in both the current and future action plans.*"<sup>101</sup> However, a deadline is not given for this crucial activity.

It argues that this approach would be more effective in integrating respect for children's rights into policy and practice rather than developing a separate CRC action plan. This statement appears to be at odds with the original commitment made in 2003 that the Ten Year Strategy and subsequent action plan is the CRC implementation plan for Northern Ireland.

'Priorities and Plans' goes on to set out 14 priority areas with two cross-cutting themes – bullying and early years intervention. The priority areas were agreed following an initial mapping exercise carried out by the Office of the First Minister and Deputy First Minister (OFMDFM) which cross-referenced the Ministerial Sub-Committee on Children and Young People's six priorities<sup>102</sup>; two reports by NICCY, the findings of a consultation of 132 children and young people, as part of the UNCRC reporting process, and the 2008 Concluding Observations.

Following the mapping exercise a consultation period took place on a set of 15 draft priorities which had been identified with stakeholders, including children through the Participation Network, NICCY, NGOs, the Assembly Committee for the OFMDFM and the All Party Assembly Group on Children and Young People. Responses were analysed to inform the final list of the 14 priority areas, which are linked to the relevant CRC article(s) and recommendations in the Concluding Observations.

The priority areas are very broad, for example 'play and leisure' and 'newcomer/minority ethnic children and Travellers' and no detail is given on what specific activities are planned within these overarching themes or a timeframe for developing them. There is no detail on how any actions will be resourced. The OFMDFM has said that it intends to review the second Action Plan against the priority areas but it is not clear when or how this process will take place. There is also no reference to responding to the other Concluding Observations which are not included within the 14 priority areas.

The current response of the Northern Ireland Executive to the 2008 Concluding Observations is very weak compared to that of the other governments in the UK where the administrations of Wales and Scotland and the previous UK government have at least attempted to set out more detailed actions to address the UN Committee's recommendations even if their 'actions plans' fail to fully meet international standards. This is a disappointment to stakeholders.

It is imperative that the current Action Plan is thoroughly reviewed with urgency to address concerns raised by NICCY and the children's sector as well as the UN Committee's standards.<sup>103</sup>

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101 Office of the First Minister and Deputy First Minister (2010) UNCRC - Northern Ireland's Priorities and Plans

102 A Ministerial Sub-Committee for Children and Young People (co-chaired by the two Junior Ministers) was established in March 2008 to ensure progress against the Ten Year Children's Strategy (see below)

103 Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, paragraphs 14 and 15

## Conclusions

### Progress on development of national action plans following the publication of the 2008 'Concluding Observations'

	Takes into account Concluding Observations	Relates to all children and pays particular attention to disadvantaged groups **	Developed thorough a process of consultation including children	Endorsed by the highest level of government	Sets real & achievable targets	Has adequate human and financial resources allocated to its delivery	Widely disseminated including to children
ENGLAND*	●	●	●	●	●	●	●
WALES	●	●	●	●	●	●	●
SCOTLAND	●	●	●	●	●	●	●
NORTHERN IRELAND	●	●	●	●	●	●	●

\*Since the General Election 2010 there has been no English national action plan for children

\*\*The action plans relating to the devolved administrations are limited to issues which have been defined by the devolution settlement so not all groups of children or all issues relating to children can be included

It is very positive that for the first time each of the four UK governments has published a document setting out how it intends to take forward the Concluding Observations (although as yet there is no confirmation that the UK Coalition Government will endorse or develop its own action plan for England).

However, the 'action plans' vary considerably in quality in relation to how civil society, including children were engaged in their development, how the actions were prioritised and the details of proposed activities. None of the plans fully meet the UN Committee's guidance and according to the views expressed by children in Save the Children's consultation more needs to be done to ensure that children are aware of the action plans and receive age appropriate versions.

The development of a detailed child rights action plan that meets international standards is an essential activity of any government that is serious about implementing the CRC.

## Recommendations

In the short term:

- The governments of Wales, Scotland and Northern Ireland in consultation with stakeholders should review their 'action plans' to ensure they include clear, resourced time-bound actions and a monitoring framework
- The UK Government should commit to developing its own action plan for England (which also addresses non-devolved issues raised by the UN Committee) in full consultation with stakeholders, including children and young people

In the long term:

- The UK Government should devise, in co-operation with the devolved administrations, a comprehensive UK-wide national action plan, in consultation with key stakeholders, including children and young people. It must include time-bound, resourced activities and a concrete monitoring framework

## Co-ordinating and monitoring CRC implementation

*“...a special unit, if given high-level authority – reporting directly, for example, to the Prime Minister, the President or a Cabinet Committee on children – can contribute both to the overall purpose of making children more visible in Government and to coordination to ensure respect for children’s rights across Government and at all levels of Government” UN Committee on the Rights of the Child*

The UN Committee has noted that in examining State Parties it has *“almost invariably found it necessary to encourage further co-ordination of government to ensure effective implementation.”*

Effective coordination is necessary to guarantee respect for all of the CRC’s principles and standards for all children. Crucially, the UN Committee emphasises that co-ordination must ensure that not only departments which have substantial impact on children adhere to the CRC, for example education and health, but also departments right across government, for example those responsible for finance, transport and employment.

The UN Committee does not prescribe the best way of achieving this but draws attention to the advantages of a *“specific department or unit close to the heart of government... with the objective of coordinating implementation...”* with *“...responsibility for developing the comprehensive children’s strategy and monitoring its implementation, as well as for coordinating reporting under the Convention.”*<sup>104</sup>

In its 2008 Concluding Observations, the UN Committee welcomes the development of a child rights unit in England and in each of the devolved nations and recognises that devolution makes it difficult to have one single body responsible for coordinating the implementation of the CRC across the UK. However, reiterating its 2002 recommendation it remains *“concerned at the lack of a body mandated to coordinate and evaluate a comprehensive and effective implementation of the Convention throughout the State Party.”* It recommends that *“...the State Party - in addition to ensuring that each of the jurisdictions has a well resourced and functioning body – could allocate responsibility for the co-ordination and evaluation of the Convention across the State Party to a single, high profile, mechanism.”*<sup>105</sup>

Similarly, the JCHR has said that *“Although we recognise that the devolved administrations have responsibility for certain areas of children’s rights, we note that the UK government is ultimately responsible for ensuring that it complies with its international human rights obligations under the UNCRC.”* It concludes that *“it is not advisable to leave implementation to each nation separately.”*<sup>106</sup>

In 2009, the Labour administration confirmed that *“the Westminster Government is responsible for overall coordination of the UNCRC across the UK”* but continued to maintain that *“Each Devolved Administration takes forward the UNCRC, as appropriate to its own requirements.”*<sup>107</sup>

In recent years there have been some minor developments in relation to UK wide co-ordination. The collaborative mechanisms developed during the 2008 reporting process remain in place with government officials responsible for co-ordination of CRC implementation from across the UK meeting on a quarterly basis along with informal day to day contact. However, the meetings primarily focus on sharing

104 UN Committee on the Rights of the Child (2003) General Comment No.5 General measures of implementation of the Convention on the Rights of the Child (arts 4,42 and 44,para 6)

105 UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland. Paragraphs 12 and 13

106 House of Lords House of Commons Joint Committee on Human Rights (2009) Children’s Rights Twenty-fifth report of Session 2008-09, Paragraph 19

107 Department for Children’s Schools and Families (2010) The United Nations Convention on the Rights of the Child: How legislation underpins implementation in England

information, exchanging best practice and reporting on progress against ‘Working Together’ rather than a UK-wide co-ordinating mechanism.

In June 2009, the four Ministers with responsibility for CRC implementation agreed to meet annually. This is also not sufficient to meet the UN Committee’s recommendation but again is a positive development. With the change in government in Westminster confirmation that these Ministerial meetings will continue is awaited.

As well as calling for effective coordination structures the UN Committee also recommends that effective monitoring structures are put in place. At the ‘Tenth anniversary of the CRC commemorative meeting: achievements and challenges’, the UN Committee recommended that State Parties “take action to harmonize fully their national legislation with the provisions of the Convention” and “set up a mechanism to ensure that all proposed and existing legislative and administrative measures are systematically reviewed to ensure compatibility” with the CRC.<sup>108</sup> Its General Comment no. 5 gives further details:

*“Ensuring that the best interests of the child are a primary consideration in all actions concerning children and, that all the provisions of the Convention are respected in legislation and policy development and delivery at all levels of government demands a continuous process of child impact assessment... This process needs to be built into government at all levels and as early as possible in the development of policy.”*

In its 2008 Concluding Observations the UN Committee raised concern about the lack of child rights impact assessment mechanisms in the UK.<sup>109</sup> The JCHR has also recommended that the UK Government publish annual reports on the state of children’s rights in order to monitor progress on implementation more regularly than is required by the UN monitoring process.<sup>110</sup>

The UN Committee also makes it clear that NGOs and children have a crucial role to play in working with governments to monitor implementation of the CRC: *“The State needs to work closely with NGOs in the widest sense, while respecting their autonomy... NGOs played a crucial part in the drafting of the Convention and their involvement in the process of implementation is vital.”*<sup>111</sup>

**Whilst there is room for improving stakeholder involvement in the preparation of the UK government’s report to the UN Committee (for example, in Northern Ireland there was inadequate time for consultation on the Executive’s report<sup>112</sup> and in Wales stakeholders expressed concern that children were not adequately involved in the development of the Welsh Assembly Government’s report) on the whole it is generally good and was commended by the UN Committee.<sup>113</sup> Several events and consultation activities were held for NGOs and children at UK and devolved level and a four-week consultation period was held on the draft State Party report where NGOs from across the UK could submit written comments. It was clear from the final report that the UK Government had, to a certain extent, taken NGO comments into account.**

108 Conclusions of two day workshop: Tenth anniversary of the Convention on the Rights of the Child commemorative meeting: achievements and challenges’ cited in Unicef (2002) Implementation Handbook for the Convention on the Rights of the Child fully revised edition

109 UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, Paragraph 19

110 House of Lords House of Commons Joint Committee on Human Rights (2009) Children’s Rights Twenty-fifth Report of Session 2008-09, Paragraph 2

111 UN Committee on the Rights of the Child (2003) General Comment No.5 General measures of implementation of the Convention on the Rights of the Child (arts4,42 and 44,para 6)

112 Children’s Law Centre and Save the Children (2008) Northern Ireland NGO report to the UN Committee on the Rights of the Child

113 UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, Paragraph 22

However, systematic involvement of NGOs and children in the follow-up of the Concluding Observations varies considerably across the UK and remains a key issue to address as highlighted by the UN Committee.<sup>114</sup>

## England

### Co-ordination and monitoring

**In June 2007, the Labour administration established the then Department for Children, Schools and Families (DCSF) to work across Government “to make sure that all the aspects of children’s lives are taken into account and prioritised.”**

Although the then DCSF led on many children’s issues it still shared a number of policy areas with other departments, for example, child poverty and juvenile justice (shared with the Department for Work and Pensions and the Ministry of Justice, respectively) and issues relating to children seeking asylum and immigrant children remained predominantly with the Home Office.

This was the first time a Cabinet Minister was given lead responsibility for all key policies affecting children in England and was welcomed by the UN Committee.<sup>115</sup> The Parliamentary Under-Secretary of State was given specific responsibility for implementation of the CRC but as noted by CRAE *“because her responsibilities do not extend to, for example, matters of children’s health, child poverty, criminal justice or immigration, there are many aspects of the UNCRC where her influence over the direction of government policy can be limited.”*<sup>116</sup>

Following the 2010 General Election the then DCSF was disbanded and replaced with the Department for Education (DfE) and a corresponding Secretary of State for Education. The majority of policies relating to children currently remain within this new department although juvenile justice is now the sole responsibility of the Ministry of Justice.

**The Secretary of State is ultimately responsible for implementation of the CRC but direct responsibility now falls under the portfolio of the Minister of State for Children and Families, a more senior minister than under the previous administration – a welcome development.**

A number of Cabinet Committees were established by the Coalition Government in June 2010 and unlike other parts of the UK (but in keeping with the previous administration) disappointingly no Children’s Cabinet Committee was established to ensure co-ordination across government.<sup>117</sup>

**On a day to day basis the Child Rights and Participation Team based in the DfE (and previously in the then DCSF) is responsible for co-ordination and monitoring of CRC implementation.**

Similar to child rights teams across the UK a key challenge is its relatively small size and limited resources. Due to the varying levels of awareness and commitment to the CRC across departments the team lack the capacity and authority required to do its job effectively.

114 UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland. Paragraph 22

115 Un Committee on the Rights of the Child (2002) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland. Paragraph 12

116 Children’s Rights Alliance for England (2009) State of Children’s Rights in England Special United Nations Convention on the Rights of the Child Twentieth Anniversary Edition

117 Cabinet Office (2010) Cabinet Committee System

### Co-operation with civil society and children

There is no formal NGO stakeholders group in England which focuses on CRC implementation. This is despite a request by NGOs to the head of the UK delegation to the UN Committee shortly after the publication of the Concluding Observations. As a result engagement with stakeholders is ad hoc.

A Ministerial Stakeholders group for children was established under the Labour administration but although the CRC was sometimes raised monitoring its implementation was not the purpose of the group.

In answer to a Parliamentary Question the Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford) stated "... *The Department for Education is working with key stakeholders including non-government organisations, the devolved Administrations and children and young people in taking forward the UN committee's concluding observations published in October 2008.*"<sup>118</sup>

However, Save the Children has been told that the Coalition Government is currently reviewing its Ministerial stakeholder engagement in relation to children and no formal mechanisms with NGOs have yet been established.

There is no mechanism to engage with children specifically on monitoring CRC implementation though it is sometimes discussed by the DfE's Children and Youth Board (established under the Labour administration), which is made up of 25 children aged between 8 and 18. The role of the Board is to advise Ministers and policy officials on the development of policy and practice that affects the lives of children in England. The government also works with the Children's Commissioner for England and other organisations to involve children in CRC monitoring, especially as part of the reporting process.

### Child rights impact assessments\*

No formal child rights impacts assessments are carried out and there are currently no plans to introduce such a mechanism. Policy is scrutinised in relation to compatibility with the Human rights Act.

### The role of parliament

The JCHR consists of members appointed from both the House of Commons and the House of Lords. It is charged with considering human rights issues in the UK and undertakes thematic inquiries reporting its findings and recommendations to the Houses of Parliament. It also scrutinises all Government Bills and picks out those with significant human rights implications for further examination. NGOs can submit written evidence to the JCHR and are regularly invited to give oral evidence. During its inquiry into the Children's Rights Commissioner for England children gave oral evidence to a parliamentary select committee for the first time.<sup>119</sup>

\*See policy update in Annex I

<sup>118</sup> Hansard House of Lords Written Answers 27 September 2010 Column 470

<sup>119</sup> House of Lords House of Commons Joint Committee on Human Rights (2003) *The Case for a Children's Commissioner for England* Ninth Report of Session 2002-03

As well as regularly scrutinising specific Bills and policy issues against the standards and principles of the CRC, for example children in care and children in detention, it has also carried out overarching inquiries on CRC implementation in general, for example, following the 2002 and 2008 Concluding Observations on the UK.<sup>120</sup>

The Education Committee replaced the Children, Schools and Families Committee, following the renaming of the DCSF. It monitors the policy, administration and spending of the DfE and its associated arms length bodies. The Committee is investigative and decides on its own inquiries. Whilst its predecessor carried out many inquiries on Government policy which impacted on children, these were not always framed by the standards of the CRC. The Education Committee must consider the Government's CRC obligations whilst carrying out its scrutiny role.

The All Party Parliamentary Group for Children (the APPG) was established in the 1980s. It has over 200 MPs and Peers who are members and as such has a crucial role to play in monitoring CRC implementation.

The APPG has held specific meetings on the CRC and on key child rights issues such as the age of criminal responsibility as well as overseeing a project undertaken by NCB and the Children's Legal Centre on the development of child impact assessments. Its members have also championed specific child rights issues, such as CRC incorporation and tabled parliamentary debates on CRC implementation.

The chair of the APPG recognise that it does not always frame its discussion around the CRC and hopes to address this in future.

## Wales

### Coordination and monitoring

In recent years in Wales a number of encouraging steps have been taken resulting in CRC implementation being reasonably high on the political agenda. Measures have also been taken to improve coordination across WAG.

A Minister for Children with responsibility for the CRC in Wales was established in 2002 and a Cabinet Committee for Children and Young People was established in 2003. The Cabinet Committee is chaired by the Minister for Children, Education and Lifelong Learning with a Children and Young People's Officials Group to support its work. The First Minister is also a member.

The Committee's terms of reference include ensuring that the interests of children and young people are given due priority in all Cabinet and WAG policy making; overseeing the implementation of the CRC in Wales and the Assembly Government's 'Seven Core Aims'; and ensuring that a strategic approach is taken to the development of policies and programmes so as to deliver commitments to children and young people, for example it is responsible for the Child Poverty Strategy.<sup>121</sup>

<sup>120</sup> House of Lords House of Commons Joint Committee on Human Rights (2003) The UN Convention on the Rights of the Child Tenth Report of Session 2002–03 and House of Lords House of Commons Joint Committee on Human Rights (2009) Children's Rights Twenty-fifth Report of Session 2000–09

<sup>121</sup> See <http://wales.gov.uk/about/cabinet/cabinetsubcommittees/cyp/?lang=en>

In early 2008, a Children and Young People's Development Network was established to "*facilitate a cross-cutting, joined up approach to all policy issues impacting on 0-25 year olds.*" It meets on a monthly basis and "serves to raise awareness amongst WAG officials of the UNCRC – its principles and its individual articles insofar as they impact on key policy areas."<sup>122</sup> While raising awareness of the CRC is welcome the role of the group could be strengthened to give it a clear mandate to monitor CRC implementation.

**Within the Department for Children, Education and Lifelong Learning and Skills (DCELLS) responsibility for the CRC is led by the Children and Young People's Rights Team, within the Children, Young People and Family Division. This is sub-divided into four teams: Youth Work; Rights of Children and Young Person's (Wales) Measure; Participation and Advocacy; and Rights Policy and Implementation – who lead on co-ordination and implementation of the CRC.**

**A named official within the Rights Policy and Implementation team is responsible for the ongoing monitoring of progress of 'Getting it Right 2009'. Those with responsibilities for taking forward specific activities have to report annually on progress which will be reviewed internally. This report will be shared with the NGO UNCRC Monitoring Group (see below) after Ministerial sign off.**

As is the case in other parts of the UK, a lack of resourcing and political clout remain key obstacles to satisfactory coordination and monitoring CRC implementation across government in Wales.

Commendably, WAG has said that the Children and Young People's Cabinet Committee will "*play a key role in reviewing progress and revised plans*" in relation to 'Getting it Right 2009'. The effectiveness of the Cabinet Committee in monitoring and driving forward progress is crucial. Stakeholder concerns that the Cabinet Committee is not always effective need to be addressed.

Following the retirement of First Minister Rhodri Morgan AM, in December 2009, and the appointment of a new First Minister and Cabinet, concerns have been expressed that children's rights are beginning to slip down the political agenda in Wales. This fear can be partially confirmed given that in the new government a Deputy Minister for Children is now responsible for the CRC (previously it was part of a senior Minister's portfolio) and it is unlikely that the proposed Rights of Children and Young Person's (Wales) Measure will meet its original objective to embed the CRC in legislation in Wales (see above).

WAG has taken bold steps to realise the CRC in Wales. It should not dilute its commitment to the CRC.

#### **Co-operation with civil society**

WAG also does not have a formal stakeholder group which focuses on implementation of the CRC though it is committed to establishing a CRC Implementation Support Network of key stakeholders. This group would help to drive forward the work and input into the development of an evaluative framework for 'Getting it Rights 2009'<sup>123</sup>. There has been delay in establishing the Network (it was meant to have been established by November 2009) but the terms of reference has now been agreed and will meet shortly.

<sup>122</sup> Welsh Assembly Government (2009) Getting it Right 2009 United Nations Convention on the Rights of the Child. A 5-year rolling Action Plan for Wales setting out key priorities and actions to be undertaken by the Welsh Assembly Government in response to the Concluding Observations of the UN Committee on the Rights of the Child 2008

<sup>123</sup> Welsh Assembly Government (2009) Getting it Right 2009 United Nations Convention on the Rights of the Child. A 5-year rolling Action Plan for Wales setting out key priorities and actions to be undertaken by the Welsh Assembly Government in response to the Concluding Observations of the UN Committee on the Rights of the Child 2008

The Wales UNCRC Monitoring Group was established in July 2002 and provides an important critical yet constructive collective voice that monitors WAG and the UK Government's obligation to realise the rights of children in Wales. It is a national alliance of non-governmental and academic agencies chaired by Save the Children with membership that includes Action for Children, Barnardos Cymru, Children in Wales, Funky Dragon, NSPCC Cymru, and legal and health academics from the Centre for Welsh Legal Affairs and Swansea and Cardiff Universities. WAG has observer status on the Monitoring Group, and officials regularly attend its meetings and provide updates on implementation activities, along with the Children's Commissioner, Welsh Local Government Association and the Equality and Human Rights Commission.

There is no formal mechanism for involving children in monitoring the CRC due to a lack of capacity within the Rights Policy and Implementation Team. Funky Dragon provides a formal mechanism for children's participation in Wales and carries out some work in relation to monitoring CRC implementation funded by the European Social funded and match funded by the Welsh Assembly Government. It has however recently lost funding in relation to the involvement of younger children in this area.

#### Child rights impact assessments<sup>124</sup>

There are no child rights impact assessments in Wales in contrast to those carried out in relation to sustainability, equality and the Welsh language. Such a process would clearly aid the mainstreaming of the CRC across government.

**Once the Proposed Rights of Children and Young Persons (Wales) Measure has completed its passage through the Assembly it will necessitate some kind of impact assessment to ensure that Ministers are meeting its requirements.**

Given the concerns with the Measure (outlined above) it will be interesting to see how this will work in practice and how satisfactorily policies are 'child rights proofed' in the future.

#### The role of Parliament

The National Assembly for Wales' Children and Young People's Committee has a formal role to consider issues which affect children in Wales and examine the expenditure, administration and policy of WAG. The Committee therefore has a role in monitoring CRC implementation and encouraging other Assembly Committees to scrutinise policy in relation to CRC compliance.

The Committee does not tend to look at CRC implementation in its entirety like the JCHR but carries out inquiries on specific issues affecting children or particular groups of children, for example, children in care, places to play, and parenting in Wales. It takes into account the Concluding Observations when making its recommendations.

It has also examined key issues relating to the 'GMI' carrying out an inquiry into making children visible in budgets (see below) and pre-legislative scrutiny of the proposed Rights of Children and Young Person's (Wales) Measure. The Committee has not yet examined 'Getting it Right 2009' but plans to do so in the near future.

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<sup>124</sup> See policy update in Annex I

Commendably, the Committee seeks to involve children in its work through a variety of means, for example, holding small private meetings between vulnerable groups of children and Committee members; inviting children to give evidence on particular topics, consulting with children on what they should raise with government and asking children what specific questions they should put to government Ministers. The Committee also attend key events so that members can talk to children in the community. It ensures that it takes children and young people's views into account when formulating its recommendations.

All Welsh Assembly Committee's are currently being reviewed – NGOs are calling to ensure that the Children and Young People's Committee remains.

## Scotland

### Co-ordination and monitoring

The Minister for Children and Early Years has ultimate responsibility for CRC implementation within the Scottish Government.

There are no Cabinet Committees for Children.

A Child Rights Team sits in the Positive Futures, Children, Young People and Social Care Directorate, within the Department of Education and Lifelong Learning. It has the lead role for co-ordinating and monitoring CRC implementation on a day to day basis and is responsible for working with colleagues across government to highlight the links between children's rights and key Scottish Government policies.

The Child Rights Team currently only has two members of staff to work on substantive issues. One of these roles is focussed solely on refugee children and children seeking asylum, leaving only one staff member to work on implementation issues. The Child Rights Team clearly does not have sufficient levels of staffing. Together (the Scottish Alliance for Children's Rights) recent 'State of Children's Rights in Scotland' concludes "*As a result their efforts have limited effect and there does not seem to be a coordinated approach to implementation across government departments and local authorities...*"<sup>125</sup>

'Do the Right Thing' – the Scottish children's rights 'action plan' - includes the proposal for the Child Rights Team to establish 'children's rights champions' across government departments who will have responsibility for monitoring children's rights in their own area of work. To this end there has already been a meeting amongst civil servants to encourage points of contacts in each department and it is planned to hold such meetings on a regular basis.<sup>126</sup> However, it is still not clear what mandate and resources the 'children's rights champions' will have and how this mechanism will work on a day to day basis.

The Scottish Government has also committed to considering "*how other sources/methods can be used for gathering relevant information and monitoring progress.*"<sup>127</sup> Whilst it is positive that consideration is being given to how information-gathering and monitoring can be achieved there is currently little detail on what future monitoring mechanisms will be put in place.

<sup>125</sup> Together (2010) State of Children's Rights in Scotland

<sup>126</sup> Stated at UNCRC Partners Group meeting, COSLA building, Edinburgh, 11 March 2010.

<sup>127</sup> Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

**The commitment to produce an “interim progress report” in 2011-2012<sup>128</sup> is very welcome**

but without clear criteria in ‘Do the Right Thing’ by which to measure success the level of monitoring is likely to be limited.

The UNCRC Partners Group (see below) could also be better utilised to provide a co-ordinating and monitoring mechanism across the public sector as a range of statutory bodies, for example, COSLA (Convention of Scottish Local Authorities), the NHS and Police are represented.

#### Co-operation with civil society and children

**The Scottish Government is very committed to working with civil society to implement the CRC in Scotland. The UNCRC Partners Group is a well-established forum (set up in 2007) which meets quarterly. The purpose of the group is to help the Scottish Government meet the requirements of Article 42 of the CRC and act as a reference group and discussion forum on issues relating to children’s rights in Scotland and the CRC Reporting Process.**

**The Scottish Government has pledged to work with the Partners Group to take forward the actions in ‘Do the Right Thing’.<sup>129</sup> The Child Rights Team reports on progress in relation to CRC implementation at each meeting.**

However, children are not yet directly involved in the work of the Partners Group which is an area that could be improved.

**Another recent positive development is the establishment of a new tri-partite group to monitor implementation of the CRC. The group consists of the Scottish Commissioner for Children and Young People (SCCYP), Together and the Child Rights Team – it will meet on a twice-yearly basis and discuss thematic child rights policy issues.**

As in other parts of the UK the Scottish Government regularly consults directly with children as part of national policy making but there is no systematic mechanism for involving children in monitoring CRC implementation, which means children are often involved on an ad hoc basis. The Government has committed to *“setting up a working group to generate specific proposals to better involve children and young people in the development and implementation of children’s rights policy and practice”*<sup>130</sup> although disappointingly this action has not been prioritised.

**The Scottish Government provides core funding for Together, which drafted the Scottish element of the Shadow Report to the Committee in the 2008 reporting process and some funding to Article 12 Scotland an independent, young person led, non-governmental organisation. Article 12 presented a shadow report to the UN Committee and some of its members attended the NGO hearing as part of the reporting process.**

<sup>128</sup> Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

<sup>129</sup> Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

<sup>130</sup> Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

## Child rights impact assessments

SCCYP has produced a Children's Rights Impact Assessment model<sup>131</sup> which has been used by some Scottish Government officials.<sup>132</sup> Very commendably, the Scottish Government has committed to *"Look at the experience of those who have used the children's rights impact assessment tool developed by Scotland's Commissioner for Children and Young People to help develop policy within the Scottish Government and consider whether/how we should adapt it to make it relevant and appropriate for wider use."*<sup>133</sup>

The Scottish Government is considering a trial of children's rights impact assessment to demonstrate how such a tool could help promote and develop consideration of children's rights in the policy making process.<sup>134</sup> However it has said *"experience suggests (e.g. with the roll-out of equality impact assessment) that there may well be reluctance/ resistance to using the tool across Scottish Government. The Children's Rights Team does not have the resources to offer an impact assessment service."*<sup>135</sup>

Despite positive developments more needs to be done to ensure that child rights impact assessments are seen as valuable across government and mechanisms and resources are put in place to enable them to be carried out.

### The role of parliament

There is not a specific formal process established for CRC monitoring by the Scottish Parliament although the Education, Lifelong Learning and Culture Committee is responsible for scrutinising matters that fall within the responsibility of the Cabinet Secretary for Education and Lifelong Learning – this includes the CRC.

The Committee lacks capacity to monitor CRC implementation closely as it is also responsible for scrutinising matters falling within the responsibility of the Minister for Culture and External Affairs and relevant legislation. The Committee has not had an inquiry on CRC implementation in Scotland and there are currently no plans to do so though there have been inquiries on a range of issues relating to children.

The Committee has formal procedures for engaging NGOs through written and oral evidence but currently does not adequately engage children although the Convenor of the Committee indicated that the Committee was keen to improve children and young people's participation.

## Northern Ireland

### Co-ordination and monitoring

Following the restoration of the Northern Ireland Assembly in 2007, responsibility for children's issues was placed within the portfolio of two Junior Ministers in the Office of the First Minister and Deputy First Minister (OFMDFM). Although this development has been welcomed by NGOs there is still disappointment that Northern Ireland does not have a Minister for Children. The NGO report to the UN Committee also raised concern that *"it is not clear how Junior Ministers will be able to hold full Ministers, especially from difference parties, to account on children's rights."*<sup>136</sup>

131 Scottish Commissioner for Children and Young People (2006) Children's Rights Impact Assessment: The SCCYP Model

132 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child (2009) Do the Right Thing Annex, p.5.

133 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

134 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child (2009)

135 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child Annex

136 Save the Children and Children's Law Centre (2008) Northern Ireland NGO Alternative Report to the UN Committee on the rights of the Child

A Ministerial Sub-Committee for Children and Young People (co-chaired by the two Junior Ministers) was established in March 2008. Its aim is to ensure progress against the Ten Year Children's Strategy and place it at the heart of government. The sub-Committee is for all Executive Ministers and representatives from the Northern Ireland Office are also invited to attend. Very positively, after the first meeting of the Committee the Junior Minister, Gerry Kelly, commented: *"As champions for children and young people we are fully committed to securing and prioritising their rights."*<sup>137</sup>

Despite having the potential to significantly increase effective co-ordination of CRC implementation across government this has not occurred in practice: As noted by NICCY *"The identification of priority work areas by the Committee that span a number of different departments is a positive start, but to date there has been a lack of clarity over the specific focus of these areas, their relationship to the Ten Year Strategy and how they will be progressed and, indeed, the basis on which they were determined."*<sup>138</sup>

Following from a meeting chaired by NICCY on how to take the action plan forward, 'children's champions' were established in each government department. Whilst this is a positive development, 'children's champions' often have a range of responsibilities relating to equality and disability as well as children and as a result have taken on more of an administrative role reporting on departmental activities rather than driving the agenda. Without a clear mandate and adequate resources it is difficult to see how this mechanism can really drive forward CRC implementation.

Lack of co-ordination has resulted in inconsistency across departments on how far responsibility for CRC implementation is recognised with commitment to the CRC often dependent on the personal dedication of particular Ministers and senior civil servants.

**The establishment of the Children and Young People's Unit (CYPU) within the OFMDFM with a remit *"to ensure that the rights and needs of children and young people living in Northern Ireland are given a high priority"* was a very positive development. The responsibilities of the Unit included:\***

- ❖ Taking forward and coordinating overall work on the UNCRC
- ❖ Co-ordinating implementation of the 2008 Concluding Observation across Northern Ireland government departments
- ❖ Co-ordinating implementation of the 2008 concluding Observations across government departments in Northern Ireland
- ❖ Co-ordinating cross-UK response to the 2008 Concluding Observation
- ❖ Co-ordinating delivery of the Northern Ireland 10 year children's Strategy
- ❖ Drafting the Northern Ireland section of the UK State Party periodic report to the UN Committee
- ❖ Dissemination, training and awareness raising in relating to the CRC and the Concluding observations among children and professionals that work with them
- ❖ Servicing the Ministerial Sub-Committee on Children and Young People
- ❖ Co-ordination of the Children's Champions across departments

\* Please note this is not an official list of responsibilities but collected by ongoing engagement with the CYPU by Save the Children and the Children's Law Centre cited in Children's Law Centre and Save the Children (2010) Briefing note on the Dissolution of the Children and Young People's Unit and Implications for the Coordination and Implementation of the UNCRC and Children's Rights

137 Cited in Northern Ireland Commissioner for Children and Young People (2008) Children's Rights: Rhetoric or Reality. A Review of Children's Rights in Northern Ireland

138 Northern Ireland Commissioner for Children and Young People (2008) Children's Rights: Rhetoric or Reality. A Review of Children's Rights in Northern Ireland

Despite its positive work, the CYPU was disbanded in spring 2010. Although it had weaknesses, akin to children's rights teams in other parts of the UK, for example, a lack of clout and resources to adequately hold other government departments to account, to disband it is a retrograde step and is at odds with the first priority area of action in 'Priorities and Plans' to improve co-ordination in implementing children's rights.<sup>139</sup> In answer to an Assembly Question the First Minister justified the disbanding of the CYPU by saying that it *"dealt exclusively with one group, and when their workload was completed or low, they sat there until more work came along."* On the contrary, Save the Children and the Children's Law Centre consistently argued that the CYPU *"was under-resourced and did not have the capacity to respond fully or adequately to many issues in relation to the UNCRC"*<sup>140</sup>.

CRC implementation now falls under the remit of a senior policy lead within the Equality, Rights and Social Needs Division of the Equality Directorate of the OFMDFM. The policy lead does not have a dedicated team but can bid for support from a wider policy team in the Equality Directorate. The OFMDFM does not have the power to hold other government ministers and departments to account on CRC implementation.

### Co-operation with civil society

In 'Priorities and Plans' the Northern Ireland Executive states *"Partnership working is key to progressing children's rights and we will continue to work with NGOs, the Commissioner for Children and Young People and children and young people themselves."*<sup>141</sup> Whilst this is a positive statement as yet there is no government stakeholder group specifically for monitoring CRC implementation in Northern Ireland.

A Strategy Planning and Review Group met for the first time in September 2008. Made up of statutory and voluntary bodies its role is to monitor the implementation of the children's strategy and associated Action Plans. However, it has only met a few times and disappointingly has not met for the past year. In 'Priority and Plans' it states that this group will also monitor progress against the Concluding Observations but there are no details on how this will operate in practice, which is a key concern of stakeholders as this group has not met for some time and does not meet on a regular basis.

### Children's views

Only one of the 25 children who took part in Save the Children's research had been involved in monitoring their government's implementation of the CRC. The vast majority (23 of the 25) had not seen any information or reports for children about the Government's report to the UN Committee on the Rights of the Child or the Concluding Observations.

As in other parts of the UK, there are no formal mechanisms to engage children systematically in monitoring CRC implementation though children are consulted on an ad hoc basis, for example, during the drafting of the Northern Ireland Executive's report on its implementation of the CRC.

### Child rights impact assessments

Child right impact assessments are not currently carried out and there is currently little appetite at government level to progress this issue. Based on the tool developed by SCCYP, NICCY had developed a Child Rights Impact Assessment tool and is calling on the Executive to use it in the early stages of policy development.<sup>142</sup>

139 Office of First Minister and Deputy First Minister (2010) UNCRC –Northern Ireland's Priorities and Plans

140 Children's Law Centre/ Save the Children (2010) Briefing Note on the dissolution of the Children and Young People's Unit and implications for the coordination and implementation of the UNCRC and children's rights

141 Office of First Minister and Deputy First Minister (2010) UNCRC –Northern Ireland's Priorities and Plans

142 Northern Ireland Commissioner for Children and Young People (2008) Children's Rights: Rhetoric or Reality. A Review of Children's Rights

**The role of Parliament**

To date there has not been an Assembly debate on the 2008 Concluding Observations. However, during summer 2009 there were a series of debates which focussed on some specific aspects of the Concluding Observations, mainly around youth justice.

The Legislative Assembly Committee of the First Minister and Deputy First Minister has a scrutiny role in relation to CRC implementation and attempts to apply pressure on the Executive in taking forward the Concluding Observations and the Action Plan. It also seeks to influence other Assembly Committees to take up a particular CRC issue when it falls under their remit.

A key problem is the Committee’s wide policy brief together with the small number of Members of the Legislative Assembly (MLAs) that make up the Committee and the resources of support staff. In addition, high profile political issues which relate specifically to Northern Ireland take up a lot of the Committee’s time. The internal politics of the Committee and the need for consensus hinder its ability to hold the Executive to account and lack of capacity makes it difficult to engage with NGOs as much as it would like.

**The All Party Assembly Group for Children has carried out some activities on the CRC, for example, a briefing meeting with the Junior Minister for Children on the Concluding Observations and pressing the Executive on how it intends to respond to the UN Committee’s recommendations.**

The All Party Assembly Group is trying to increase knowledge of the CRC among MLAs but it is still a steep learning curve for many who are coming to the issue for the first time. Until MLAs are fully aware of the Executive’s CRC obligations it will be difficult for the Assembly – whether through Committees, All Party Groups or on an individual basis, to hold the Executive to account.

Children are not systematically involved in the work of either the Committee or the All Party Assembly Group.

**Conclusions**

**Progress on co-ordinating and monitoring CRC implementation**

	Body to co-ordinate and evaluate CRC implementation	Systematic and ongoing co-operation with civil society	Systematic and ongoing co-operation with children	Systematic child rights impact assessments	Effective Parliamentary scrutiny of CRC implementation
ENGLAND	●	●	●	● *	●
WALES	●	●	●	● *	●
SCOTLAND	●	●	●	●	●
NORTHERN IRELAND	●	●	●	●	●

\*Takes into account progress set out in Annex I.

The UK continues to lack a formal UK-wide mechanism to co-ordinate and monitor CRC implementation across the State Party and where there have been some positive developments, personnel with specific responsibility for this crucial role continue to lack the resources and mandate to effectively co-ordinate and monitor implementation.

If CRC implementation is to be taken seriously responsibility must be placed at the most senior level of government in order for all Ministers, especially those from across the political spectrum in Northern Ireland, to be held accountable for adhering to their obligations.

Mechanisms to ensure that child rights impact assessment are carried out are lacking across the UK, though there has been commitment to consider the issue in Scotland, and whilst there have been some efforts to effectively co-operate with civil society (particularly in Scotland and Wales) engagement in England and Northern Ireland continues to be ad hoc. Across the State Party more needs to be done to ensure that children are involved in monitoring CRC implementation.

### **Recommendations**

- A UK wide mechanism should be established to ensure effective co-ordination of implementation across the State Party
- Structures should be put in place to ensure that children and NGOs from the devolved administrations are able to monitor CRC implementation in relation to non-devolved matters
- Within each government of the UK:
  - ❖ Structures should be established which ensure effective co-ordination and monitoring of CRC implementation across government which include child rights impact assessment, for example a Cabinet Minister with responsibility for CRC implementation, a Children's Cabinet Committee and a cross-cutting children's rights unit with adequate authority and resources.
  - ❖ A formal CRC stakeholders group should be established to ensure that civil society can work effectively with government in monitoring CRC implementation
  - ❖ Children must be systematically involved in monitoring CRC implementation

## Data-collection and child rights indicators

*“Collection of sufficient and reliable data on children, disaggregated to enable identification of discrimination and/or disparities in the realisation of rights, is an essential part of implementation... It is essential not merely to establish effective systems for data collection, but to ensure that the data collected are evaluated and used to assess progress in implementation... Evaluation requires the development of indicators related to all rights guaranteed by the Convention.” UN Committee on the Rights of the Child*

As well as calling for sufficient disaggregated data on all children which is used to assess implementation, the UN Committee has also commended States that have introduced an annual comprehensive assessment of the ‘state of children’s rights’ within their jurisdiction. Such reports when widely disseminated and publicised can provide a focus for debate around CRC implementation. The Committee also emphasises the need to include children’s views in data collection as clearly *“only children themselves are in a position to indicate whether their rights are being fully recognised and realised.”*<sup>143</sup>

In its 2002 Concluding Observations, the UN Committee recommended that *“the State party establish a nationwide system whereby disaggregated data is collected on all persons under 18 years for all areas covered by the Convention, including the most vulnerable groups, and that this data are used to assess progress and design policies to implement the Convention”*.<sup>144</sup>

Save the Children has undertaken considerable work in relation to child rights indicators that governments across the UK should take into consideration.

### England

The UK Government does not have a set of specific child rights indicators though it does have various indicators relating to particular aspects of children’s policy. As a result, a wealth of data is collected on children, and is of course useful, but it does not always relate to particular CRC articles and is not collected with the specific purpose of monitoring CRC implementation. It is therefore not always feasible to monitor implementation with the data available, for example, until recently it was not possible to have an accurate picture of the number of children held in immigration detention due to the way statistics were collected.

The Labour administration made no progress in producing a regular ‘State of children’s rights’ report as recommended by the UN Committee and the JCHR.

Since 2003, CRAE has published an annual, comprehensive audit of progress on the Concluding Observations<sup>145</sup> and the Child Rights and Participation Team has said that it reviews these reports.

Whilst the previous UK Government did commission research with children, for example the ‘Tell Us’ surveys which included the views of around 250,000 children, it did not systematically do it as a way of monitoring CRC implementation. Commendably, in the run up to the reporting process it did commission a consortium of NGOs to carry out research with children on high level aspects of the CRC.<sup>146</sup> It is currently not clear what the Coalition Government’s plans are in relation to child rights indicators.

143 UN Committee on the Rights of the Child (2003) General Comment no. 5 General measures of implementation of the Convention on the Rights of the Child

144 UN Committee on the Rights of the Child (2002) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland Paragraph 19

145 Children’s Rights Alliance for England State of Children Rights in England annually since 2003 see [www.crae.org.uk](http://www.crae.org.uk)

146 Willow, C., Franklin, A., and Shaw, S., (2007) Meeting the Obligations of the Convention on the Rights of the Child in England: Children and young people’s messages to government

## Scotland

There is a wealth of data on children in Scotland, for example, two major longitudinal studies are currently underway ‘Growing up in Scotland’ and ‘The Edinburgh Study of Youth Transitions and Crime’. Much of the data is publically available on the website of the Scottish Government<sup>147</sup> or elsewhere on line. The National Performance Framework also contains a significant number of child-related indicators,<sup>148</sup> and there is a large amount of other data on children, for example in relation to education.<sup>149</sup>

Like elsewhere in the UK, collection of data linked specifically to CRC implementation does not currently happen in Scotland.<sup>150</sup>

**The Scottish Government is however currently drafting a set of indicators on children’s well-being. Although the indicators were not originally rights-based,<sup>151</sup> Save the Children has contributed to the process through suggesting additional rights-based indicators and grouping indicators in accordance with the CRC thematic clusters. It is hoped that ultimately the outcome of this project will be a set of child rights indicators for Scotland.**

**Together, the Scottish Alliance for Children’s Rights, has recently produced its first ‘State of Children’s Rights in Scotland’ report which assesses Government on its implementation of the CRC.<sup>152</sup>**

## Wales

WAG, akin to other governments in the UK, has not yet developed child rights indicators and therefore does not publish data which assesses enjoyment of all specific rights despite collecting a plethora of data on children.

**A ‘Children and Young People’s Wellbeing Monitor’ has been published (first in 2008) and there is a commitment to produce the Monitor every three years. This has been broadly welcomed by stakeholders though there is a need for disaggregation to be improved and for the Wellbeing Monitor to be more rights based. Commendably, WAG are commissioning research to talk to children about their views on what constitutes well-being and what kind of things should be measured.**

There is a need for a clear set of child rights indicators to be developed so progress against CRC implementing in Wales can be measured over time. The 2007 NGO alternative report also recommended that WAG report annually to the Welsh Assembly on the ‘state of children in Wales’.<sup>153</sup>

A lack of systematic data collection of children and young people’s views was also identified by stakeholders. WAG does draw on research carried out by other organisations, for example, Funky Dragan and the Children’s Commissioner for Wales and surveys on specific policy areas, but there is no systematic way of gathering children and young people’s views on the realisation of their rights. This has been recognised by WAG and it hopes to address it through the development of a wider children and young people’s survey. Children’s input into the well-being monitor will also help to address this issue.

147 See Scottish Government <http://www.scotland.gov.uk/Topics/Statistics>

148 See <http://www.scotland.gov.uk/About/purposestratobj>

149 See Scottish Government <http://www.scotland.gov.uk/Topics/Statistics>

150 Scottish Executive (2007) A Report on Implementation of the UN Convention on the Rights of the Child in Scotland 1999-2007

151 The indicators are based on categories according to the Scottish Government’s vision for children- safe, nurtured, healthy, achieving, active, respected & responsible are included.

152 Together(2010) State of Children’s Rights in Scotland

153 Save the Children (2007) Stop, look, listen: the road to realising children’s rights in Wales, Wales NGO alternative report

A further issue is the inadequacy of UK-wide data collection in a Welsh context due to either not including a large enough sample size for Wales or not sufficiently extrapolating devolved level information.

**Northern Ireland**

The NGO report to the UN Committee raises concern that government departments fail to collect disaggregated data on all aspects of children’s lives and that there is no standardised methodology for collecting data on under 18s across different agencies and departments.<sup>154</sup>

NICCY has also drawn attention to the lack of data on particular groups of vulnerable children, for example, children with disabilities; children with mental health issues, children seeking asylum and lesbian, gay and bisexual young people, in contravention to the guidance set out by the UN Committee.<sup>155</sup>

Similar to other jurisdictions in the UK, the Northern Ireland Executive does not produce regular ‘state of children’s rights’ report and as highlighted by NICCY “has not yet shown any commitment to producing any form of regular report on the state of implementation of the UNCRC beyond that required in the for of periodic reports to the CRC.”<sup>156</sup>

**Conclusions**

**Data collection and child-rights indicators**

	Collection of sufficient and reliable data on children with a view to monitoring CRC implementation	Official annual publication of a ‘state of children’s rights’ by government	Development of child rights indicators
ENGLAND	●	●	●
WALES	●	●	●
SCOTLAND	●	●	●
NORTHERN IRELAND	●	●	●

Whilst governments across the UK collect a plethora of data on children it is not always disaggregated appropriately and data relating to particular groups of vulnerable children are sometimes absent. Data is not collected with a view to monitoring CRC implementation and despite some progress in Scotland and Wales there is still a need for governments to develop a clear set of child rights indicators.

**Recommendations**

- Governments across the UK, preferably working together, should develop a clear set of child rights indicators and ensure that adequate data on all children is collected with a view to progressing CRC implementation across the State Party. Data should also comprise of information that reflects the views of children on how well their rights are realised
- The UK Government should ensure that UK-wide data includes sample sizes which are large enough to ensure that data relating to children in the devolved administrations can be extrapolated

154 Save the Children and Children’s Law Centre (2008) Northern Ireland NGO Alternative Report to the UN Committee on the rights of the Child

155 McMahon, L. and Keenan, P. (2008) NICCY Rights Review. Belfast: Northern Ireland Commissioner for Children and Young People

156 Northern Ireland Commissioner for Children and Young People. (2008) Children’s Rights: Rhetoric or Reality. A Review of Children’s Rights in Northern Ireland

## Making children visible in budgets

*“No state can tell whether it is fulfilling children’s economic, social and cultural rights ‘to the maximum extent of available resources’, as required under article 4, unless it can identify the proportion of national and other budgets allocated to the social sector and, within that, to children, both directly and indirectly...” UN Committee on the Rights of the Child*

Producing a ‘Children’s Budget’ provides a mechanism for governments to examine resource allocation with a view to ascertaining what they say about how well children’s rights are being implemented:

*“By examining the nuts and bolts of government budgeting alongside information on outcomes and performance, children’s rights budget work helps to sketch a detailed picture of how and how well a particular children’s right is being implemented. This in turn makes it all the more possible to identify a specific intervention and changes that are needed to speed up the delivery of this right to children and improve outcomes”.*<sup>157</sup>

Children’s participatory budgeting (i.e. involving children in the budgeting decision- making process) also helps increase government transparency and accountability.

In its combined 3rd and 4th report to the UN Committee, the then UK Government maintained that *“it is not possible to provide an accurate single UK figure, or an assessment of the percentage of GDP spent on children”* because of *“a combination of factors such as devolved administration, differing policy priorities and a variety of ways in which budgets are allocated.”*<sup>158</sup>

Whilst the UN Committee welcomed the increase in expenditure on children in recent years it remains concerned that *“the lack of consistent budgetary analysis and child rights impact assessment makes it difficult to identify how much expenditure is allocated to children across the State Party and whether this serves to effectively implement policies and legislation around them.”*<sup>159</sup> This echoed its 2002 recommendation that *“the State Party undertake an analysis of all sectoral and total budgets across the State Party and in the devolved administrations in order to show the proportion spent on children.”*<sup>160</sup>

In its 2008 report to the UN Committee, the four UK Children’s Commissioners commented that *“allocation of resources [to children] is not dependent on assessed need, is not transparent, is often of short-term nature, and its impact on outcomes for children is not always evaluated.”*<sup>161</sup> The UK Commissioners recommended that the UK Government and the devolved administrations be required to identify and evaluate the impact of their spending on children.

**In 2009, Save the Children published a report which examined public expenditure on children across the UK in order to identify the extent to which resources are directed towards the poorest children.**

‘A Child’s Portion’ concluded that establishing children’s budgets at a national and local level will enable greater understanding of and greater transparency around public spending on children. A key recommendation is expenditure on children needs to be collected; published and analysed with a view

157 Save the Children (2009) Children’s Budgets at the local level

158 UK Government (2008) The Consolidated 3rd and 4th Periodic Report to the UN Committee on the Rights of the Child

159 UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, paragraph 18.

160 UN Committee on the Rights of the Child (2002) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, paragraph 11

161 Four UK Children’s Commissioners (2008) UK Children’s Commissioners’ report to the UN Committee on the Rights of the Child

to ensuring that investment in children is visible, accountable and transparent and that it is possible to determine the extent to which spending is targeted and benefiting children living in poverty.<sup>162</sup>

**NICCY commissioned research in 2007 to analyse the allocation of resources for children in Northern Ireland compared with the rest of the UK.**

It found that spending on children varied considerably across the UK in relation to social care, health and education.<sup>163</sup>

### England

No children's budget is currently published in England. It is possible to identify funding resources in relation to specific policy areas, for example education and benefits specifically aimed at children, but there is no mechanism which brings all budget information together and disaggregates spend on children.

The then Labour Government also maintained that due to the universal nature of services like the NHS, which is delivered by many hundreds of commissioning organisations, it is impossible to say how much of the funding is spent on children.<sup>164</sup>

Save the Children's research concluded that mechanisms must be established to ensure children's budgets at national and local government level can be developed to deliver transparency and accountability around public spending on children and the impact this investment makes.<sup>165</sup>

### Wales

**In 2006, following a review of public expenditure on children in Wales commissioned by Save the Children 'A Child's Portion',<sup>166</sup> WAG acknowledged the importance of being able to identify how much spending was allocated to children in Wales.<sup>167</sup> It subsequently commissioned an analysis of financial provision for children within its budget for 2004-05<sup>168</sup> in "response to a requirement to understand the resources which are spent on children, in order to inform policy development, and to comply with a responsibility under the United Nations Convention on the Rights of the Child to report on the amount and percentage of national budgets spent on children."<sup>169</sup>**

Though the analysis was described by the NGO Wales alternative report to the UN Committee as "fairly rudimentary" it also acknowledged that this is the first time the Assembly Government had attempted to identify spending on children<sup>170</sup> or indeed any government in the UK, dispelling the myth that it is impossible to do.

<sup>162</sup> Save the Children (2009) A Child's Portion

<sup>163</sup> ERINI (Economic Research Institute for Northern Ireland) and IFS (Institute of Fiscal Studies) (2007) An Analysis of Public Expenditure on Children in Northern Ireland, NICCY, DFP, OFMDFM

<sup>164</sup> UK Government (2008) The Consolidated 3rd and 4th Periodic Report to the UN Committee on the Rights of the Child

<sup>165</sup> Save the Children (2009) A Children's Portion An analysis of public expenditure on children in the UK England Briefing

<sup>166</sup> Sefton, T., (2003), Save the Children, A Child's Portion: Public Spending on Children in Wales

<sup>167</sup> Cited in Save the Children (2007) Stop, look, listen: the road to realising children's rights in Wales, Wales NGO alternative report

<sup>168</sup> Financial provision for children within the Assembly Government budget: a technical note

<sup>169</sup> Statistics for Wales and Welsh Assembly Government (2009) Financial Provision For Children Within The Welsh Assembly Government Budget

<sup>170</sup> Save the Children (2007) Stop, look listen: the road to realising children's rights in Wales, Wales NGO alternative report

A further analysis was carried out for the 2006-07 budget and in March 2009 a statistical bulletin was published which presented estimates for the proportion to be spent on children in the period 2007-08 to 2010-11.<sup>171</sup> Based on existing spending plans the proportion of the Government budget allocated to children is projected to remain around 28%.<sup>172</sup> In 'Getting it Right 2009' WAG recognises that it still has "*very much further to go to provide as accurate a picture as possible*"<sup>173</sup> but despite this being a crude analysis it nonetheless demonstrates the willingness of WAG to take forward the recommendations of the UN Committee.

WAG has committed to "*improving the transparency of budgeting for children and young people*" at national level as one of its 16 priorities.<sup>174</sup> A Task and Finish Group (made up of both policy and financial officials) has been established to work towards a better understanding of current progress and developments in children's budgeting; develop ideas and proposals for ways to improve budget forecasting and spend on children; consider other relevant issues such as participatory budgeting and pro-poor spending; and consider the recommendations made by the Children and Young People's Committee (see below).

Leading the way within the UK, WAG is planning to carry out two projects to strengthen children's engagement in budgetary decision-making. The first project, building on previous work, will develop a new resource for children to improve their financial knowledge; the second project will pilot a number of local and national participatory budgeting projects.

Given the work being carried out by the Assembly Government, the National Assembly for Wales Children and Young People's Committee recently carried out an inquiry into children's budgeting.<sup>175</sup>

The Committee acknowledges that producing budgets for children is a difficult thing to do but sees it as absolutely necessary. The report of its inquiry makes 11 recommendations to WAG to improve children's budgeting. These include:

- ❖ Publishing a single strategy detailing the expected outcomes of its expenditure towards children and young people, accompanied by an action plan for realising this strategy
- ❖ Setting with Local Authorities outcomes that are designed to result from local government's budgetary expenditure towards children and young people.
- ❖ Issuing statutory guidance on the collection of data by local partners, including local authorities and local health boards, to enable the production of Children and Young People's Budget Statements, and sets out timescales for producing them
- ❖ Publishing a WAG Children and Young People's Budget Statement
- ❖ Providing statutory guidance to local authorities on the production of local authorities own Children and Young People's Budget Statements, and sets out timescales for producing them
- ❖ Committing to enabling appropriate participation of children in budget monitoring and setting, to the maximum extent possible

171 Statistics for Wales and Welsh Assembly Government (2009) Financial Provision For Children Within The Welsh Assembly Government Budget

172 Cited in National Assembly for Wales Children and Young People's Committee (2009) Children's Budgeting in Wales

173 National Assembly for Wales (2009) getting it Rights 2009 United Nations Convention on the Rights of the Child. A 5-year rolling Action Plan for Wales setting out key priorities and actions to be undertaken by the Welsh Assembly Government in response to the Concluding Observations of the UN Committee on the Rights of the Child

174 Welsh Assembly Government (2009) Getting it Right 2009 United Nations Convention on the Rights of the Child. A 5-year rolling Action Plan for Wales setting out key priorities and actions to be undertaken by the Welsh Assembly Government in response to the Concluding Observations of the UN Committee on the Rights of the Child 2008

175 Welsh Assembly Finance Committee, Reports from Committees of the National Assembly for Wales regarding the draft budget of the Welsh Assembly Government

- ❖ Including information about enabling children and young people’s engagement in budgetary decision-making in the statutory guidance to local authorities, emanating from the Children and Families (Wales) Measure, should include
  - ❖ Continue to enable a greater focus on budget literacy within the Education curriculum
- WAG will be responding to the to the Committee’s report imminently.

## Scotland

The way in which budgets are currently constructed in Scotland makes it very difficult to identify what is actually spent on children – at national and local level – and also on particular groups of vulnerable or disadvantaged children. As a result no ‘children’s budget’ is published in Scotland.

The Scottish Government holds that *“It has traditionally proved difficult to collect data to the detailed level requested by the UN Committee and to link the data that is available directly to UNCRC requirements”*<sup>176</sup> and like the UK Government gives the example that *“it is not possible to split out spending on children from adults on services such as GPs which are community based.”*<sup>177</sup>

Further, the Concordat between the Scottish Government and the Convention of Scottish Local Authorities includes a number of child related policy areas. However, the vast majority of funding for children’s services is provided for by a block grant. The Scottish Government argues that to create a children’s budget would go against the spirit of the Concordat which allows local authorities to allocate financial resources on the basis of local needs and priorities once it has fulfilled statutory obligations.

There was a clear concern expressed by stakeholders of the implications that the Concordat had on effective monitoring of CRC implementation monitoring.

As well as practical difficulties the Scottish Government has also said that it does not agree with such an approach:

*“We do not believe that input measures are an appropriate mechanism through which to establish the impact of policies on service users, e.g. a fall in spending could be a result of doing things better or reduced demand could be a “good thing” e.g. reduced need for secure accommodation”.*<sup>178</sup>

In ‘A Child’s Portion’ Save the Children recommended that the Scottish Government and Local Government in Scotland publish data on early years and education expenditure and the extent to which it is directed towards the poorest children. Currently the systems and mechanisms needed to collect and publish comprehensive data on expenditure on children living in poverty, including national and local children’s budgets are lacking.<sup>179</sup>

## Northern Ireland

Research commissioned by NICCY found that Northern Ireland has the lowest spend per child on children’s services out of all the jurisdictions of the UK with England spending 29% more, Wales 33%

176 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

177 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

178 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child (2009).

179 Save the Children (2009) A Child’s Portion An analysis of public expenditure on children in the UK: Scotland briefing

more and Scotland 44% more. Despite children making up 27.3% of the population only 14.1% of the person and social service budget is spent on children’s services.<sup>180</sup> Research by Save the Children drew similar conclusions.<sup>181</sup>

These two pieces of research demonstrate the need for a ‘children’s budget’ to be produced in Northern Ireland to ensure that the Executive is meeting its obligations under article 4 of the CRC.<sup>182</sup> Yet it is currently not possible to assess how much of the annual budget is allocated to children. The Northern Ireland NGO report to the UN Committee notes:

*“Government in Northern Ireland has repeatedly claimed that it is not possible to provide a breakdown of expenditure on children. When requested, some individual government departments have been able to provide figures in relation to the percentage of an overall budget spent on children. However, at present it is not possible to obtain figures for spend on all children and young people by each department. . . . Serious difficulties also exist in tracking budgets, as funding is not ring fenced and there are discrepancies between the intended target for monies and where they are actually spent.”<sup>183</sup>*

Some stakeholders recommended that an Assembly Financial Scrutiny Committee should be established, which could assess spending on children on a regular basis.

## Conclusions

### Progress on making children visible in budgets

	Publication of a ‘children’s budget’	Development of mechanisms to allow for participatory budgeting
ENGLAND	●	●
WALES	●	●
SCOTLAND	●	●
NORTHERN IRELAND	●	●

Commendably, Wales has made some extremely positive progress in relation to children’s budgets but progress is still lacking in the rest of the UK.

Deep cuts in public spending are expected over the next few months across the whole of the UK. Whilst it is not yet possible to have a full picture of how the austerity measures will impact on children concern has already been expressed by a large number of stakeholders and influential bodies that the cuts will have a particular impact on some of the most vulnerable and disadvantaged children. Calculations by Save the Children suggest that the UK Government made £20billion worth of cuts to children and families prior to the Comprehensive Spending Review and a recent report by the Institute for Fiscal Studies, for example, concluded that the Coalition Government’s emergency budget hit families with children hardest, and that the poorest families are set to lose most.<sup>184</sup>

180 ERINI (Economic Research Institute for Northern Ireland) and IFS (Institute of Fiscal Studies) (2007) An Analysis of Public Expenditure on Children in Northern Ireland, NICCY, DFP, OFMDFM

181 Save the Children (2009) A Child’s Portion An analysis of public expenditure on children in the UK: Northern Ireland briefing

182 “...With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources.”

183 Save the Children and Children’s Law Centre (2008) Northern Ireland NGO Alternative Report to the UN Committee on the Rights of the Child

184 Institute for Fiscal Studies (2010) The distributional effect of tax and benefit reforms to be introduced between June 2010 and April 2014: a revised assessment

At a time when considerable cuts are planned, many of which will impact children, ‘children’s budgets’ are more vital than ever.

**Recommendations**

- The experience of WAG together with Save the Children’s step by step guide to child rights budgetary analysis<sup>185</sup> should be used by the governments of England, Scotland and Northern Ireland to set out spending on children at both national and local government level with a view to ascertaining how effectively children’s rights are being implemented
- Building on the pilot projects in Wales government’s across the UK should develop mechanisms which facilitate participatory budgeting

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<sup>185</sup> See Save the Children (2009) Children’s Budgeting at the Local Level

## Independent Human Rights Institutions for children

*“Independent national human rights institutions are an important mechanism to promote and ensure the implementation of the Convention and the Committee on the Rights of the Child considers the establishment of such bodies to fall within the commitment made by State parties upon ratification...”*

UN Committee on the Rights of the Child

In 1991, at its 10th Anniversary Commemorative Meeting,<sup>186</sup> the UN Committee encouraged the establishment of independent monitoring mechanism for children’s rights, which should build on both the requirements of the CRC and adhere to the United Nation’s ‘Paris Principles’ – Principles relating to the status and functioning of national institutions for protection and promotion of human rights.<sup>187</sup> Similar calls have also been made by the UN General Assembly in 2003<sup>188</sup> and by the UN High Commissioner for Human Rights in 2005.<sup>189</sup>

The UN Committee’s General Comment no. 2 provides further detailed guidance to State Parties on the minimum standards required for independent monitoring bodies for children’s rights as has the European Network of Ombudspersons for Children (ENOC)<sup>190</sup>.

### The UN Committee on the Rights of the Child’s Minimum Standards for the Mandate and Powers of NIHRs for Children

- ❖ *NHRIs should, if possible be constitutionally entrenched and must at least be legislatively mandated*
- ❖ *Their Mandate should include as broad a scope as possible for promoting and protecting human rights*
- ❖ *The legislation should include provisions setting out specific functions, powers and duties relating to children linked to the CRC and its Optional Protocols*
- ❖ *NHRIs should be accorded such powers as are necessary to enable them to discharge their mandate effectively, including the power to hear any person and obtain any information and document necessary for assessing the situations falling within their competence*
- ❖ *These powers should include the promotion and protection of the rights of all children under the jurisdiction of the State Party in relation not only to the State but to all relevant public and private entities.*

In 1993, the United Nations General Assembly adopted the ‘Paris Principles’ relating to the status of national human rights institutions (NHRIs). These provide clear guidance to State Parties on the competence, responsibilities and independence of NHRIs.

There are no UK-wide independent monitoring mechanisms for children’s rights but separate children’s commissioners have been established in Wales, Scotland, Northern Ireland and England. The four UK Commissioners in their report to the UN Committee raise concern that the *“mandates, independence and funding arrangements of each Commissioner vary considerably”* and that *“no Commissioner’s office fully complies with the characteristics of national human rights institutions...”*<sup>191</sup> (see below).

None of the UK Commissioners have a statutory duty to refer to other international human rights treaties in addition to the CRC.

186 UN Committee on the Rights of the Child (1999) 10th Anniversary Commemorative Meeting

187 Office of the United Nations High Commissioner for Human Rights Principles relating to the status of National Institutions (The Paris Principles) Adopted by General Assembly resolution 48/134 of 20 December 1993

188 UN General Assembly (2004) Resolution adopted by the General Assembly 58/157. Rights of the Child

189 Office of the High Commissioner for Human Rights (2005) Rights of the Child. Human Rights Resolution 2005/44

190 European Network of Ombudspersons for Children (ENOC) (2001) ENOC’s Standards for Independent Children’s Rights Institutions

191 The Children’s Commissioners for Wales, Scotland Northern Ireland and England (2008) UK Children’s Commissioners’ Report to the UN Committee on the Rights of the Child

In 2008, the UN Committee called on the State Party to “ensure that all four established Commissioners are independent in compliance with the Paris Principles and mandated, inter alia, to receive and investigate complaints from or on behalf of children concerning violations of their rights.”<sup>192</sup>

A further concern is that the Children Act 2004 conferred on the English Children’s Commissioner a UK-wide remit in relation to non-devolved issues despite its weaker statutory remit (see below). The UK Commissioners highlight that this is potentially confusing to children in Wales, Scotland and Northern Ireland who would need to seek recourse to the English Commissioner if the issue of concern was non-devolved.<sup>193</sup>

In July 2010, the Secretary of State for Education asked John Dunford, the General Secretary of the Association of School and College Leaders, to carry out an independent review of the Children’s Commissioner for England (see below).<sup>194</sup> The review is a good opportunity to ensure that each UK Children’s Commissioner has responsibility for all children in their jurisdiction regardless of the subject matter.

In addition to the UK Children’s Commissioners there are also a number of bodies that have a responsibility for protecting and promoting human rights more broadly which also includes those of children<sup>195</sup> (but this report focuses on the mandates of the Children’s Commissioners specifically).

## England<sup>196</sup>

### Legislative framework, budget and appointment procedure

The Children Act 2004 established the Children’s Commissioner for England. It has the weakest remit out of the four UK Children’s Commissioners. The Commissioner Campaign Coordinating Group<sup>197</sup> has identified three fundamental flaws with the legislation:

- ❖ The role was not set up to protect children’s rights – the general function is to “promote awareness of the views and interests of children”
- ❖ Lack of independence from Government (see below)
- ❖ UK-wide remit - the Commissioners remit extends to Scotland, Wales and Northern Ireland on non-devolved matters (see above)<sup>198</sup>

The Children’s Commissioner for England is also not able to investigate individual cases as recommended by the UN Committee.<sup>199</sup>

During the passage of the Children Act 2004, the JCHR raised concerns about “the terms of the Commissioner’s mandate, and the extent to which it falls short of the Government’s obligations under the CRC to establish independent national human rights institutions to promote and monitor the implementation of children’s rights.”<sup>200</sup>

192 UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, Paragraphs 16 and 17

193 The Children’s Commissioners for Wales, Scotland Northern Ireland and England (2008) UK Children’s Commissioners’ Report to the UN Committee on the Rights of the Child

194 Letter from Rt Hon Michael Gove MP, Secretary of State for Education to John Dunford, General Secretary, Association of School and College Leaders 12 July 2010 <http://www.education.gov.uk/consultations/downloadableDocs/Letter%20from%20SoS.pdf>

195 The Equality and Human Rights Commission, the Scottish Human Rights Commission and the Northern Ireland Commission for Human Rights

196 See policy update in Annex 1

197 Led by the Children’s Rights Alliance for England the Commissioner Campaign Coordinating Group coordinated the campaign for a rights-based Children’s Commissioner for England and worked together during the passage of the Children Act to strengthen the legislation. The group includes Barnardo’s, NSPCC, Save the Children, The Children’s Society and UNICEF

198 Children’s Rights Alliance for England (2010) Initial Joint statement from Children’s Commissioner Review NGO co-ordinating group

199 UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, paragraph 17

200 Parliamentary Joint Committee on Human Rights (2004) Scrutiny of Bills: Fifth Progress report Twelfth Report of Session 200-04

In a paper written shortly after the Act received royal assent, Jane Williams of the Department of Law, University of Wales writes *“The debates surrounding the new legislation, particularly the Children Act 2004, have shown that the problem is not merely structural, but also conceptual, rooted in a growing divergence between the UK Government and the devolved administrations as to the value of a rights-based framework for child policy.”*<sup>201</sup>

Some of the descriptions used by Parliamentarians to describe the Commissioner have been highlighted by the Children’s Commissioner NGO Campaign Co-ordinating Group: “Government Listening Post”, “Big ears and no Teeth” and “Rights lite.”<sup>202</sup>

The Children Act 2004 seriously compromises the independence of the English Commissioner from the UK Government, for example, Ministers have the power to direct the Commissioner to undertake an inquiry on any matter of relevance to children - a clear breach of independence. The Commissioner also has to consult the Secretary of State before it can initiate its own inquiries. The Office has been ‘sponsored’ by a Government department (now the DfE), since its establishment in 2004 and receives £3million in Grant-in-Aid.

As the English Commissioner’s general function is not to protect children’s rights and also lacks full independence from Government, it can only have associate membership of ENOC. The Commissioners for Wales, Scotland and Northern Ireland all have full membership.

**The independent review of the English Commissioner will consider its role and functions, how it relates to other roles supported by Government, the role of the Office and value for money. Very commendably in his letter setting out the terms of the review, the Secretary of State writes:**

*“The Government is committed to the United Nations Convention on the Rights of the Child and believes it is vital that children and young people have a strong, independent advocate to champion their interests and views and to promote their rights.”* It also states that he would welcome recommendations as to *“what changes would be desirable to bring the role into line with the United Nation’s “Paris Principles” and how the role can be “reconfigured to... better demonstrate Government’s commitment to the UNCRC”*<sup>203</sup>

The review offers a key opportunity to ensure that children in England have an independent champion to promote and protect their rights.

Positively, John Dunford was asked to consider how best to engage children in giving evidence to the review and to comment on its recommendations. However, insufficient resources were allocated to ensure that this could be done effectively.

John Dunford has to report his findings to the Secretary of State by the end of November 2010. No timeframe has yet been set for the Coalition Government to respond fully to the recommendations of the review.

In September 2010, the Children’s Commissioner Review NGO co-ordinating group published revised

201 Williams, J., Department of Law, University of Wales, Swansea, Effective Government Structures for Children? The United Kingdom’s Four Children’s Commissioners

202 Children’s Rights Alliance for England (2010) Initial Joint statement from Children’s Commissioner Review NGO co-ordinating group

203 Letter from Rt Hon Michael Gove MP, Secretary of State to John Dunford, General Secretary, Association of School and College Leaders 12 July 2010

minimum requirements for the English Commissioner based on international standards.<sup>204</sup> These requirements need to be fully taken into account in the review's recommendations and by the Secretary of State.

The Commissioner is appointed by the Government and has to conform to the Public Appointment Code of Practice. Children and NGOs have been involved in the appointment procedure to a certain extent. Following the appointment of the second Commissioner, Parliament provided some scrutiny through the then Committee for Children, Schools and Families.<sup>205</sup> However, the Committee cannot veto the appointment - despite raising concerns about the appointment it went ahead as planned.

### Engagement with children and NGOs

**Children can contact the Office of the Children's Commissioner via the website, phone, email and letter and the Commissioner meets regularly with groups of children from across the country.**

The Commissioner has observer status on a number of children's NGOs policy groups and has worked in partnership with stakeholders on a number of issues, though some stakeholders thought that an establishment of a formal NGO advisory group would help the Commissioner to ensure better cooperation with civil society.

### Wales

#### Legislative framework, budget and appointment procedure

The Children's Commissioner for Wales was established by the Care Standards Act 2000 and its powers were extended under the Children's Commissioner Act 2001. It was the first Children's Commissioner to be established in the UK.

**Commendably, the principal aim of the Commissioner for Wales in exercising his/her functions is to "safeguard and promote the rights and welfare of children." It has the broadest remit of the four UK Children's Commissioners and can take on both individual case work and investigations although this is limited by resources.**

However, despite these positives, the Children's Commissioner for Wales, like the other Commissioners in the UK, does not fully comply with the Paris Principles. As noted above, it cannot comment directly on policy issues which are non-devolved – these include immigration, tax, and youth justice - policy areas that have a huge impact on children's rights in Wales.

A further problem is that the Commissioner's Office is not funded directly by the National Assembly but by WAG. This severely undermines its independence. An opportunity to give financial accountability to the Welsh Assembly was missed under the Government of Wales Act 2006 (which redefined the relationship between the Assembly and WAG).

The Commissioner is relatively well resourced (with a budget of £1.83 million) although this has been a standstill budget since 2007/08. It is expected that the Office will face cuts given the current financial climate.

204 Children's Rights Alliance for England (2010) Children's Commissioner Campaign Co-ordinating Group Office of the Children's Rights Commissioner for England revised Minimum Requirements September 2010 <http://www.crae.org.uk/news-and-events/news/time-for-englands-children-and-young-people-to-get-a-strong-childrens-rights-champion.html>

205 House of Commons Children, Schools and Families Committee (2009) Appointment of the Children's Commissioner for England Eighth report of Session 2008-09

Children are involved in the recruitment process of the Children's Commissioner and this is generally thought to be done fairly well. The appointment is made by the Government (the First Minister) although it is reviewed by the Assembly.

## Engagement with children and NGOs

Children can contact the Office through a variety of means, for example, via its investigation and advice service and through the very regular visits that the Commissioner makes to children and young people. The Office has considerable engagement with NGOs for example, attendance at the NGO Policy Officers Group meetings in Wales, observer status on the Wales UNCRC Monitoring Group and the Article 42 sub-group (see below), engagement with the Participation Consortium and the Participation Unit (both hosted by Save the Children) and engage proactively with Funky Dragon. The Chief Executive of the Office regularly meets with the heads of children's organisations in Wales and the office also regularly has engagement with local children's organisations.

## Scotland

### Legislative framework, budget and appointment procedure

SCCYP was established by the Commissioner for Children and Young People (Scotland) Act (2003). Admirably, its remit is to promote and safeguard the rights of children and young people. In particular it promotes awareness and understanding of children's rights, monitors law, policy and practice for CRC compliance, promotes best practice by service providers and engages in research.

SCCYP is independent of the Scottish Government and can establish its own priorities. It is accountable to the Scottish Parliament and must report to Parliament at least annually on the exercise of its functions.

SCCYP is not able to intervene in individual cases but it can investigate broader issues. It has no right of entry to premises where a child is accommodated or cared for and does not have the power to require a statutory body to respond to a recommendation in a specific timeframe.

Resources for SCCYP are agreed annually between the Commissioner and the Scottish Parliament<sup>206</sup> and the post is appointed HM The Queen on the nomination of the Scottish Parliament.

Children are involved in the recruitment process though concern has been expressed about the process of involving children, particularly those from the younger age range where it was believed that their involvement in the process had not been valued and that children had not been given adequate time or support to make it a valid part of the recruitment process.

In 2009 the SPCB (Scottish Parliamentary Corporate Body) Supported Bodies Committee carried out a review of SCCYP and considered merging it with the Scottish Human rights Commission. Following representations from Save the Children and others it decided that SCCYP should not be merged into one single human rights body concluding that *"The evidence presented to this Committee has not provided the*

206 Scottish Executive, A Report on Implementation of the UN Convention on the Rights of the Child in Scotland 1999-2007 (2007)

*Committee with the justification to make structural changes to SCCYP at this time*".<sup>207</sup>

### Engagement with children and NGOs

The Commissioner must encourage the involvement of children in the work of the Commissioner and must take reasonable steps to consult with children and children's organisations about the work to be undertaken by the Commissioner. It is currently undertaking extensive consultation with children and adults working with and for children through events across Scotland.

## Northern Ireland

### Legislative framework, budget and appointment procedure

The Commissioner for Children and Young People (Northern Ireland) Order 2003 established NICCY. Positively, the principle aim is to safeguard and promote the rights and best interests of children and young persons.

The appointment of the first Commissioner was described by the Putting Children First Alliance<sup>208</sup> as "*a critical step towards ensuring that the rights of Northern Ireland's Children are enhanced and upheld*".<sup>209</sup>

However, like the other Children's Commissioners in the UK several reviews have concluded that the legislation establishing NICCY is not fully compliant with international standards.

In 2005, the Putting Children First Alliance commissioned an independent review of the Order to assess its compliance with both the Paris Principles and the UN Committee's General Comment No.2. It highlighted a wide range of issues that need to be addressed and made 18 recommendations for change which related to:

- ❖ The establishment process, appointment and funding of the Commissioner;
- ❖ The consolidation of the Commissioner's current strengths;
- ❖ The Commissioner's aim and duties;
- ❖ Its powers in relation to bringing, intervening or in assisting in legal; proceedings and in relation to formal investigations; and
- ❖ The review of the 2003 Order<sup>210</sup>

A key weakness is that NICCY is subject to a Funding Management Statement and Financial Memorandum. This severely constrains how the Commissioner can allocate and spend its resources and means that it can be subject to funding cuts applied to government departments. NICCY also has to report directly to the OFMDFM, rather than to the Assembly, which severely curtails its independence.

207 Review of the SPCB Bodies Committee (2009) 1st report, 2009 (session 3);

208 A multi-agency alliance of organisations working for and/or with children

209 Haydon, D., (2006) Independent Review of the Legislation of the Northern Ireland Commissioner for Children and Young People, Putting Children First Alliance

210 Article 24 of the 2003 Order requires the Commissioner to submit an initial report to OFMDFM on the working of it "as soon as reasonable practicably after the third anniversary of the making of [the] Order" and to submit subsequent reports "at such times as the Commissioner thinks fit" after three years since the initial report

An independent review carried out by Queen's University, Belfast concluded that:

*"It is difficult to imagine how the Commissioner could perform his functions in relation to any controversy concerning OFMDFM (or arguably any government department) when this key government department has substantial control over the Commissioner's policy making and priorities... Given the OFMDFM has to give approval of the detail of the Commissioners financial expenditure, its intrusion into the Commissioners autonomy is substantial"*<sup>211</sup>

The Putting Children First Alliance has also recommended that the Commissioner be given 'victim status' under the Human Rights Act to enable it to take legal action in relation to children's human rights under the Act without having to name a 'victim' or persuade an individual to take a case.<sup>212</sup>

Like the Children's Commissioner for Wales, NICCY is able to take up individual complaints from children but is not always able to carry out this function due to budget constraints.

### **Children's views**

Less than half of the children who took part in Save the Children's research knew there was a Children's Commissioner working for them (nine of 25). Of the nine that were aware, only two said they knew what a Children's Commissioner does and one said that they 'vaguely' knew. Just one of the nine knew how to contact their Children's Commissioner's office.

NICCY has reasonable resources when compared to the other Commissioners in the UK (just over £1.8million in 2008-2009) but it has seen year on year cuts to its budget.<sup>213</sup> Substantial cuts (of at least 20%) are also expected from autumn 2010 due to the current financial climate.

Children are involved in the recruitment process. NICCY is appointed by the Northern Ireland Executive.

### **Involvement of children and NGOs**

Children can contact the office through a variety of means for example the helpline and online. The Participation and Legal teams also hold regular 'clinics' with children and young people's groups and NICCY meets with children very regularly.

NICCY has a formal NGO forum that meets three times a year and works informally with NGOs with regular day to day contact with a range of organisations.

211 Fitzpatrick, B. (2006), Article 24 of the Commissioner for Children and Young People(Northern Ireland) Order 2003 – the Review of the Office of the Commissioner; Queen's University, Belfast

212 Haydon D., (2006) Independent Review of Legislation of the Northern Ireland Commissioner for Children and Young People, Putting Children First Alliance

213 Northern Ireland Commissioner for Children and Young (2009) Annual Report and Accounts For the year ended 31 March 2009

## Conclusions

### Progress on establishing Independent Human Rights Institutions for Children which meet UN Committee standards\*

	Constitutionally entrenched or at least legislatively mandated	Mandate should include as broad as possible for protecting human rights	Establishment process should be consultative, inclusive and transparent and initiated supportive by highest levels of Government	Reasonable financial provision must be provided	Involvement of civil society	Power to consider individual complaints and carry out investigations	Should be geographically and physically accessible to all children	Right to report directly and independently on the State of Children's rights to Parliament
England***	●	●	●	●	●	●	●	●
Wales	●	●**	●	●	●	●	●	●
Scotland	●	●**	●	●	●	●	●	●
Northern Ireland	●	●**	●	●	●	●	●	●

\* This is a summary of the standards set out by the UN Committee. The full standards can be found in UN Committee on the Rights of the Child (2001) General Comment No. 2.

\*\* Legislation establishing the children's commissioners in Wales, Scotland and Northern Ireland only refer to the CRC and not other international human rights instruments

\*\*\* This reflects the current situation though we recognise that this is likely to change given the Ministerial Statement issued in December 2010. See Annex 1 for a policy update of action in England

It is commendable that four Children's Commissioners have now been established across the UK. However, if they are to fully protect and promote children's human rights then their statutory frameworks must be reviewed against international standards and reformed with urgency. Each UK Commissioner also needs to be responsible for all children in their jurisdiction regardless of the subject matter of the issue being raised. Commissioners must ensure that children are aware of their role and how to contact their office.

## Recommendations

- Governments across the UK must amend legislation establishing Children's Commissioners in their jurisdiction to ensure they fully comply with the Paris Principles and General Comment no.2. Each Commissioner in the UK must be responsible for all children in their jurisdiction regardless of the subject matter of the issue that is being raised.

## Information and awareness-raising

*“If the adults around children... do not understand the implications of the Convention, and above all its confirmation of the equal status of children as subjects of rights, it is most unlikely that the rights set out in the Convention will be realized for many children... knowledge of human rights must, of course, be promoted among children themselves...”* UN Committee on the Rights of the Child

Despite the role of the four UK Children’s Commissioners the governments in the UK also have a responsibility to ensure that children, parents and professionals are fully informed about the CRC.

While recognizing the State Party’s efforts, the UN Committee is concerned that there is no systematic awareness-raising of the CRC and that the level of knowledge about it among children, parents and professions working with children is low.<sup>214</sup> The UN Committee recommended that the State Party:

*“...further strengthen its efforts, to ensure that all of the provisions of the Convention are widely known and understood by adults and children alike, inter alia, by including the Convention in the school curriculum and ensure that its principles and values are integrated into the structures and practice of all schools. It also recommends that reinforcement of adequate and systematic training of all professional groups working with children...”*<sup>215</sup>

In the 3rd and 4th consolidated report to the UN it states *“the UK Government and devolved administrations are committed to promoting awareness and understanding of the Convention”*<sup>216</sup> and the fourth priority of ‘Working Together’ is to increase knowledge of the CRC by sharing good practice and developing strategies for making it widely known across England, Wales, Scotland and Northern Ireland.

Disappointingly, to date, no government in the UK has developed a comprehensive, awareness raising strategy though there are a number of positive activities underway.

### England

#### Knowledge among children

Several research reports have shown that the majority of children in England do not know about the CRC. In 2006 a survey carried out on behalf of the English Commissioner revealed three quarters of the participants (11–16 year-olds) were not aware of the CRC.<sup>217</sup>

#### Children’s views

The majority of the children who took part in Save the Children’s research had heard of the CRC before completing the questionnaire (21 of the 25). However, most of these children had only heard about the CRC because of their involvement with Save the Children rather than from their school or other statutory services (19 of the 21). Just two children had heard about the CRC through school and when asked if the information they had received was helpful one of the two children replied ‘not really’.

The majority of the children were keen to learn more about the CRC.

214 UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, Paragraph 20

215 UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, Paragraph 21

216 UK Government (2007) The Consolidated 3rd and 4th Periodic Report to the UN Committee on the Rights of the Child

217 Office of the Children’s Commissioner for England Press release (13 July 2006) Nearly half of young people feel they are not given enough respect

More recently, in the lead up to the 2008 reporting process, CRAE carried out research with children across England to find out how well their rights were respected, protected and realised.<sup>218</sup> When asked had they heard of the CRC only 58% of children said ‘yes’ and only a minority of these respondents (34%) claimed that they knew a lot about it.

Similarly, research commissioned by the then DCSF found a significant lack of awareness of the CRC, with only six per cent of respondents claiming to know ‘a lot’ about it and 29% saying they knew ‘nothing at all’.<sup>219</sup>

### Raising awareness

The Children’s Right and Participation Team in the DfE is responsible for raising awareness of the CRC. Information about the CRC (including UNCIEF UK’s summary for children) and the reporting process were on the then DCSF website but had not yet been placed on the website of the DfE.

The previous Government had provided funding towards UNCIEF UK’s Rights Respecting Schools programme - a project to encourage schools to embed the CRC in their ethos and curriculum. However, it did not produce children’s versions of the CRC, the Concluding Observations or the Government’s report to the UN Committee unlike other government’s in the UK (although children’s NGOs have produced these materials which the previous government had used and disseminated). No separate children’s version of ‘Priorities for Action’ was produced – although the government tried to ensure the document was written in child friendly language.

### Learning about the CRC in school

**In ‘Priorities for Action’ the then Labour Government committed to raising awareness of the CRC through a number of initiatives so that children could learn about their rights in school: through citizenship lessons, the development of curriculum resources and funding the Rights Respecting Schools initiative.**

**The Ministry of Justice and the British Institute of Human Rights published key stage 3 teaching resources for citizenship education in 2008 on Human Rights and a series of lessons plans on the CRC were developed by CRAE as part of this resource.<sup>220</sup>**

One of the key concepts of the key stage 3 and 4 programmes of study for citizenship education is ‘rights and responsibilities’ which seeks to ensure that children have an *“understanding that individuals, organisations and governments have responsibilities to ensure that rights are balanced, supported and protected”* and investigate *“ways in which rights can compete and conflict, and understanding that hard decisions have to be made to try to balance these”*. Whilst this is a step forward it will not guarantee that all children learn about the CRC in school.

The ‘Get Ready for Geneva’ children’s report to the UN Committee recommended that Government make the CRC a compulsory part of the school curriculum.<sup>221</sup>

218 Children’s Rights Alliance for England (2008) What Do They Know? Investigating the human rights concerns of children and young people living in England

219 Willow, C., Franklin, A., and Shaw, S., (2007) Meeting the Obligations of the Convention on the Rights of the Child in England: Children and young people’s messages to government

220 British Institute of Human Rights and Ministry of Justice (2008) Right Here, right now: Teaching citizenship through human rights

221 Cited in Children’s Rights Alliance for England (2008) What do they know? Investigating the human rights concerns of children and young people living in England

The Coalition Government plans to review the National Curriculum which could offer an opportunity to ensure that the CRC is taught in schools.

### Professional training and information for parents

Much more needs to be done to ensure that all professionals working with children are aware of the CRC and how it applies to their profession.

However recently there have been some positive developments, for example, the Children's Workforce Development Council has adopted the CRC to underpin its work and the Common Core of Skills and Knowledge (that everyone who works with children is expected to have) refers to the CRC alongside other relevant legislation. The Common Core is being embedded in initial and continuing professional training.<sup>222</sup> In early 2010, following lobbying by CRAE it was accepted that the CRC would be included in the Director of Children's Services Leadership Programme.

There are few resources on the CRC specifically aimed at parents. There is some information on the CRC for parents on the Direct Gov website (but surprisingly, no information on the CRC is included in the section for young people).<sup>223</sup>

The Labour administration had no plans to develop a comprehensive strategy to ensure greater awareness of the CRC among children, parents and professionals who work with and for them. Stakeholders generally believe that the UK government has been fairly weak on raising awareness of the CRC in England. It is not yet clear how the Coalition Government intends to raise awareness of the CRC.

## Wales

### Knowledge among children

Research carried out by the Welsh Commissioner suggested that only 30% of children are aware of the CRC.<sup>224</sup> WAG has recognised that *"a range of other studies have also identified varying (but universally low) levels of awareness of rights generally."*<sup>225</sup>

Commendably, WAG is striving to improve the evidence base in relation to awareness of the CRC in Wales and has included questions around CRC articles 12 and 42 in the new National Household Survey, which is piloting a young people's section.

### Raising awareness

Although teams across departments are starting to raise awareness of the CRC in relation to specific policy areas as part of implementing 'Getting it Right 2009', the Rights, Policy and Implementation Team within DCELLS lead on awareness raising more generally and WAG has a large number of activities currently underway to raise awareness of the CRC in Wales. This is extremely welcome. Commendably WAG does not promote the concept of rights as dependent on responsibilities as has been the approach by other governments in the UK.

222 UK Government (2008) The Consolidated 3rd and 4th Periodic Report to the UN Committee on the Rights of the Child

223 [http://www.direct.gov.uk/en/Parents/ParentsRights/DG\\_4003313](http://www.direct.gov.uk/en/Parents/ParentsRights/DG_4003313)

224 Cited in Welsh Assembly Government (2009) Getting it Right 2009 United Nations Convention on the Rights of the Child. A 5-year rolling Action Plan for Wales setting out key priorities and actions to be undertaken by the Welsh Assembly Government in response to the Concluding Observations of the UN Committee on the Rights of the Child 2008

225 Welsh Assembly Government (2009) Getting it Right 2009 United Nations Convention on the Rights of the Child. A 5-year rolling Action Plan for Wales setting out key priorities and actions to be undertaken by the Welsh Assembly Government in response to the Concluding Observations of the UN Committee on the Rights of the Child 2008

A very positive aspect of the Proposed Rights of Children and Young Persons (Wales) Measure is the proposition for a direct duty on Welsh Ministers to “*take such steps as are appropriate to promote knowledge and understanding amongst the public (including children)*”<sup>226</sup> of the CRC and its Optional Protocols.

Uniquely, in the UK, WAG is working with communication officials to develop a comprehensive and cross-cutting approach to marketing and communication around the CRC and work is underway to ensure that all policy and strategy relating to children in Wales is clear on how it contributes to implementing the CRC.

A national children’s rights conference, funded by WAG was held in March 2009 with one of its objectives being to raise awareness of the CRC and the Concluding Observations. WAG has also committed to holding a national children’s rights conference each November to celebrate children’s rights day.

On the 20th anniversary of the CRC in November 2009 WAG held an event at The Senedd, which attracted wide-spread media coverage where a CRC Raising Awareness Toolkit was launched. This includes workshop materials for both children and young people, parents and carers and adults working with children and young people.<sup>227</sup> There is a commitment to develop and improve the Toolkit based on feedback received.

The toolkit is available to download on the Lets Get it Rights website which contains information on human rights more broadly, a children and young people’s version of the CRC, a game to learn about rights and children’s versions of the Concluding Observations and ‘Getting it Right 2009’<sup>228</sup> Information on the CRC is also available on the CLIC website – the National Information and Advice Service for young people.

New resources on the CRC and Concluding Observations have recently been made available in Braille, audio, British Sign Language and in Welsh - WAG is committed to producing the documents in other languages if there is demand. This is an extremely positive development and is the only UK Government to do so.

Over Autumn/Winter 2009, WAG launched a competition to raise awareness of the CRC. Children were asked what the Assembly Government could do to make the CRC a reality for children in Wales. The Government is currently considering using the entries as a basis for a publication.

#### Learning about the CRC in school

In 2007, research by Funky Dragon with over 8,000 children across Wales revealed that only 8% of participants had been taught about the CRC in school.<sup>229</sup>

The revised framework for Personal and Social Education (key stages 1-4) makes specific reference to human rights under two of its five key themes - ‘active citizenship’ where it states that “*learners should explore their rights in a democratic society as underpinned by the United Nations Convention on the Rights of the Child*” and ‘sustainable development and global citizenship’ where it refers to human rights more

226 Section 5 Proposed Rights of Children and Young Persons (Wales) Measure section

227 Welsh Assembly Government and European Social Fund (2009) Let’s Get it Right A Toolkit to support the Awareness Raising and Promotion of the United Nations Conventions on the Rights of the Child <http://www.uncrcletsgetitright.co.uk/toolkit.aspx>

228 <http://www.uncrcletsgetitright.co.uk/>.

229 Funky Dragon (2007) Our Rights: Our Story

broadly.<sup>230</sup> However, although PSE itself is a statutory part of the curriculum the PSE framework is non-statutory and it is the responsibility of schools to plan and deliver broad, balanced PSE.

Following a Save the Children mapping exercise which identified gaps in teaching materials, WAG is currently developing resources. As in other parts of the UK, stakeholders raised concerns that teachers sometimes lack expertise and confidence to teach children about rights and do not currently receive sufficient training to address this gap.

#### Professional training and information for parents

A 2007 scoping study commissioned by Save the Children to assess the level of knowledge of the CRC among professionals revealed that across professions there is uncertainty about what is really meant by children's rights. Often within youth work and in children and young people's partnerships there is a focus on the importance of Article 12 whilst broader understanding of the CRC was neglected.<sup>231</sup>

WAG has subsequently awarded a grant to Save the Children to develop and deliver training for professionals on the CRC. The programme is currently focusing on a range of professional groups, child care workers and school liaison officers. A website [www.childrensrighsinwales.org.uk](http://www.childrensrighsinwales.org.uk) will be launched in late 2010 that will support implementation of the CRC in Wales by policy makers, planners and professionals working with children.

The CRC is not yet included in statutory training for professionals working with children but the Children and Young People's Workforce Development Network in Wales is currently consulting on a draft Children and Young People's Workforce Strategy, which includes awareness raising of the CRC as does the associated Common Core of Skills, Knowledge and Understanding, which will apply to all professionals working with children and young people. The development of this work has been delayed due a lack of capacity of officials but should be resuming shortly.

The Rights, Policy and Implementation team is also undertaking activities to increase awareness of the CRC across government departments, for example, through the cross-WAG officials, the Children and Young People's Development Network and through the Save the Children project.

WAG has also committed to using its new Parenting Strategy for Wales to help raise awareness of the UNCRC among parents.<sup>232</sup>

In addition to the above activities WAG officials also attend the Article 42 sub-group of the Wales NGO UNCRC Monitoring Group (see above) which looks strategically at how awareness of the CRC can be increased across Wales.

## Scotland

### Knowledge among children

As in other areas of the UK, there is very limited knowledge of the CRC in Scotland, amongst children,

230 Welsh Assembly Government (2008) Personal and social education framework for 7 to 19-year-olds in Wales

231 Milne, B., (2007) Who is disseminating information on the United Nations Convention on the Rights of the Child in Wales? Unpublished scoping study for Save the Children

232 Welsh Assembly Government (2009) Getting it Right 2009 United Nations Convention on the Rights of the Child. A 5-year rolling Action Plan for Wales setting out key priorities and actions to be undertaken by the Welsh Assembly Government in response to the Concluding Observations of the UN Committee on the Rights of the Child 2008

Funky Dragon (2007) Our Rights: Our Story

parents and the general public.<sup>233</sup> A consultation by the Children’s Parliament showed there was little knowledge about the CRC or the concept of rights in general amongst 8-13 year olds.<sup>234</sup> In more recent research conducted by Youth Link Scotland, 11–16 year olds were asked how much they knew about the CRC. 41% had a degree of knowledge about it 21% knew hardly anything at all and close to a third (32%) had never heard of it.<sup>235</sup>

### Raising awareness

The Scottish Government has said that because it is not under a statutory duty to disseminate information about the CRC, until recently little has been done to raise awareness.

**It has said that within the process of the development of any British Bill of Rights the Scottish Government “will give detailed consideration to placing a possible duty on SG [the Scottish Government] to promote and raise awareness of UNCRC.”<sup>236</sup>**

Although having a statutory duty would be welcome, in the meantime it should continue to raise awareness in line with its article 42 obligations.

The Scottish Government has no plans to develop an awareness raising strategy<sup>237</sup> but there are some positive initiatives in relation to general dissemination.

**A number of children’s versions of key documents have been produced and disseminated in recent years, for example a young person’s version of ‘Do The Right Thing’, a young person’s guide to the CRC (produced with SCCYP), ‘Are we there yet?: A report on the CRC in Scotland for under 12s’ and ‘The UNCRC Explained’ (for 12 – 18 year olds). All of these documents are available on Scottish Government website. These reports have been disseminated widely, for example, 8000 copies of the young people’s version of ‘Do the Rights Thing’ have been distributed.**

### Learning about the CRC in school

There is no statutory school curriculum in Scotland, although the Curriculum for Excellence describes a range of experiences and outcomes that children should achieve without prescribing specific topics to be taught. The CRC is not referenced explicitly but under the ‘social wellbeing’ element of the ‘health and well being experiences and outcomes’ it states *“As I explore the rights to which I and others are entitled, I am able to exercise these rights appropriately and accept the responsibilities that go with them. I am able to respect the rights of others.”* There are also opportunities to cover the CRC within other subjects, for example, religious and moral education.<sup>238</sup>

**Learning and Teaching Scotland (LTS) a non-departmental public body funded by the Scottish Government are currently producing information on teaching about rights to be placed on the LTS website and the UNICEF’s rights respecting schools project also works in a number of schools to embed a rights-based ethos in the school.**

233 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

234 Scottish Executive (2007) A Report on Implementation of the UN Convention on the Rights of the Child in Scotland 1999-2007

235 YouthLink Scotland (2009) , Being Young in Scotland 2009 Available at <http://www.youthlinkscotland.org/Index.asp?MainID=7616> (last accessed 3 June 2010).

236 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

237 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

238 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

While these developments are welcome much is left to the discretion of the school to implement teaching on children's rights, and this does not constitute a comprehensive approach to child rights education in schools.

### Professional training and knowledge among parents

The CRC features in training for many professions working with children such as teachers, social workers and nursery staff. The Standard for Initial Teacher Education and the Standard for Full Registration, for example, emphasises the importance of the CRC and requires prospective teachers to demonstrate respect for children's rights. There are also a few areas in the professional education of health care professionals and police officers which include the CRC or human rights generally.

However, Together has concluded that *"Despite areas of success like these the overall view is that training is still extremely patchy."*<sup>239</sup>

The Scottish Government admits that despite an amount of training for professionals *"it is clear it does not always translate effectively into day to day practice"*<sup>240</sup> and during the consultation exercise leading to the publication of 'Do the Right Thing' there were strong calls for mandatory CRC training for all relevant professionals.

### Children's views

When asked 'In general do you think that adults who work with and for children know about children's rights and think about them when making decisions?' just under half answered 'yes' or 'sometimes' and just over half replied 'no'.

Just over half of the children in the research thought that parents either didn't know about the CRC or thought that they probably didn't know. Of the 11 children who thought that parents did know about the CRC, eight thought that this was only the case in relation to their parents because they had told them about it after receiving training on the CRC from Save the Children.

The Scottish government has no plans to introduce mandatory training though it intends to identify gaps in practice and consult training providers and professional groups.<sup>241</sup> Whilst identifying gaps and talking with providers is a step in the right direction it does not replace the need for effective, mandatory training on the CRC for all professionals working with children.

The Scottish Government has also pledged to *"work with local government colleagues to consider how they can help promote understanding and awareness of the UNCRC at a local level"*.<sup>242</sup>

Although disappointingly no detail is given on how this will be taken forward.

239 Together (2010) State of Children's Rights in Scotland

240 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

241 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

242 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

**There is no standard route whereby parents receive information about children's rights. However, the CRC is referred to in issue-specific information such as the Charter for Children, booklet on physical punishment, and in other publications and leaflets that go out to parents.**

On the website of Parenting Across Scotland (a government-funded organisation which provides information and support to Scottish families), there is information relating to “young people's rights” and “parental rights and responsibilities” but no reference to the CRC.<sup>243</sup>

**Commendably the Scottish Government is committed to working with internal and external colleagues to develop information on children's rights that will appeal to parents.<sup>244</sup>**

## **Northern Ireland**

### **Knowledge among children**

The Young Life and Times Survey which interviews 16 years olds in Northern Ireland on an annual basis, includes a section on rights funded by and asked on behalf of OFMDFM. The 2009 survey, which interviewed 856 young people, found that 62% of those who took part said that they had not heard of the CRC and of the 33% who had heard only 8% said that they knew a lot about it. 70% said that they only knew a little about the CRC.<sup>245</sup>

These findings reflect the views of professionals who participated in the NICCY review NICCY who expressed concern that more marginalised groups, such as Traveller children and young people, were less likely to know about their rights. They identified the need for a range of materials on the CRC to ensure that children with disabilities are also able to be informed of their rights.<sup>246</sup>

### **Raising awareness**

**Information and resources on the CRC and the Reporting Process, including the consultation which took place with children and young people, are available on the OFMDFM website.<sup>247</sup>**

**The Executive has also undertaken some specific initiatives to promote understanding and awareness of the CRC. A resource called the ‘Spin Wheel’ has been developed for primary school children to learn about their rights along with a teaching resource to assist teachers and other professionals. Importantly, it acknowledges the government's obligation to inform children of all ages about their rights. This is available on the OFMDFM website and has been disseminated to all primary schools.<sup>248</sup> Age appropriate information has also been produced for older children and distributed to all secondary schools.<sup>249</sup>**

**During the last reporting process, the government produced a summary of the Northern Ireland Report on the CRC<sup>250</sup> and in partnership with NICCY and the Children's Law Centre**

243 Available at <http://www.parentingacrossscotland.org/home.aspx>

244 Scottish Government (2009) Do the Right Thing: A Response by the Scottish Government to the 2008 Concluding Observations from the UN Committee on the Rights of the Child

245 ARK. Young Life and Times Survey, 2009 [computer file]. ARK [www.ark.ac.uk/ylt](http://www.ark.ac.uk/ylt) [distributor], April 2010.

246 Northern Ireland Commissioner for Children and Young People (2008) Children's Rights: Rhetoric or Reality. A Review of Children's Rights in Northern Ireland

247 <http://www.ofmdfmi.gov.uk/index/equality/children-young-people/un-convention-on-the-rights-of-the-child.htm>

248 Office of the First Minister and Deputy First Minister (2008) Children's rights – A Guide for teachers and facilitators

249 Office of the First Minister and Deputy First Minister (2008) Our Children and Young People – Our Pledge Action Plan 2008-2011

250 Office of the First Minister and Deputy First Minister (2008) Northern Ireland Report on the United Nations Convention on the Rights of the Child (UNCRC) Young people's summary

a children and young people's version of the 2008 Concluding Observations<sup>251</sup> (aimed at older children) was published and distributed through NGOs and at workshops. The booklet is available on request from the OFMDFM and a PDF is also available on the OFMDFM website, though the resolution is of poor quality.

### Learning about the CRC in school

The Education (Northern Ireland) Order 2006 includes provision for a revised curriculum for Northern Ireland which was introduced into schools on a phased basis between 2007 and 2010. Key stage 3 'Learning for life and work' includes a statutory requirement under Local and Global Citizenship to include content on human rights as outlined within international instruments. Key Stage 4 includes non-statutory guidance which also includes human rights.

Whilst this is a positive development it will not guarantee that all children learn about the CRC in school. An issue raised by a stakeholder is that children are often taught about their rights in the context of development or in relation to children seeking asylum. Though this is clearly valuable, but it is important that children are also taught about the rights set in the context of their own lives.

One of the key priority areas in 'Priority and Plans' focuses on 'dissemination, training and awareness-raising of the UNCRC, which is welcome<sup>252</sup> but as noted above, there is a lack of detail on what activities are planned under this area and how it will build on those activities already carried out as part of the Second Action Plan. A clear timeframe is also needed along with clarity on what resources will be available.

### Professional training and knowledge among parents

The NICCY review found that there was a wide range of knowledge of the CRC among professionals working with children. Stakeholders also commented that professionals that could have a key role in informing children about their rights, such as youth workers, often weren't given adequate training on the CRC and that teachers did not have adequate knowledge or confidence to effectively teach children about their rights in schools.

A very concerning observation by NICCY was that *"an alarming high number of professionals working with children and young people who NICCY interacted with in the course of this review had an obvious misunderstanding of children's rights. Expression of the opinion that rights should not be automatically afforded to children and young people, but rather be dependent on them fulfilling civic responsibilities."*<sup>253</sup> The NGO alternative report to the UN Committee states that *"an outstanding need for mainstreamed training [on the UNCRC] has been identified by NGOs."*<sup>254</sup>

**During the development of the 10 Year Children's Strategy civil servants received training on the CRC delivered by Save the Children and the Children's Law Centre. NICCY has also delivered training on children's rights to civil servants and the text of the CRC has been distributed to almost 4,000 personnel at middle management level across government departments. The Concluding Observations were also drawn to the attention of MLAs and have been discussed by the Ministerial Sub-Committee and the Champions for Children and Young People.**

251 Office of the First Minister and Deputy First Minister (2008) UN Convention of the Rights of the Child UN UK Concluding Observations 2008 version for children and young people

252 Office of the First Minister and Deputy First Minister (2010) UNCRC – Northern Ireland Priorities and Plans

253 Northern Ireland Commissioner for Children and Young People (2008) Children's Rights: Rhetoric or Reality. A Review of Children's Rights in Northern Ireland

254 Save the Children and Children's Law Centre (2008) Northern Ireland NGO Alternative Report to the UN Committee on the Rights of the Child

Organisations have also received grants from government to deliver training on the CRC to professionals who work with children however these grants tend to be on a one-off basis for particular groups of professionals, which will not guarantee that all professionals receive adequate and ongoing training on the CRC.

**Conclusions**

**Progress on Information and awareness-raising**

	Current knowledge of the CRC among children	Raising awareness of the CRC among children	Learning about the CRC in School	Inclusion of the CRC in professional training	Information on the CRC for parents
ENGLAND	●	●	●	●	●
WALES	●	●	●	●	●
SCOTLAND	●	●	●	●	●
NORTHERN IRELAND	●	●	●	●	●

Despite some good government initiatives (particularly in Wales) general awareness of the CRC remains low and schools are not required to teach about the CRC anywhere in the UK.

The inclusion of the CRC in training for professionals working with and for children remains patchy, especially in the civil service. Training on the CRC needs to be systematic and ongoing. Unless this happens it is unlikely that a culture of adhering to children’s rights standards will be embedded within government departments and professions working with and for children.

The research also found that there is a particular need for governments to develop resources on the CRC for parents, young children and children with disabilities – Wales is the only government to produce Braille, audio and BSL versions of the CRC. Given that raising awareness of the CRC among children is a priority area of ‘Working Together’ more could be done on a UK-wide basis, for example, sharing resources and approaches on this issue.

**Recommendations**

- Governments in the UK need to develop a comprehensive CRC awareness raising strategy perhaps as a joint initiative to consolidate resources and approaches
- Schools must be required to teach about the CRC
- All professionals working with and for children must receive statutory, pre and post qualifying comprehensive and on-going training on the CRC
- Resources should be developed on the CRC for a range of audiences especially parents and specific groups of children and young people. This could be done on a UK-wide basis as appropriate.

# Recommendations

## **Incorporation of the CRC**

- The UK Government should seek to incorporate the CRC into UK law at the earliest opportunity
- The UK Government should take the opportunity afforded by the Bill of Rights for Northern Ireland to incorporate the CRC taking into account the recommendations of the Northern Ireland Human Rights Commission
- Devolved governments should take forward effective CRC incorporation within the devolved legislative framework

## **Development of national action plans**

In the short term:

- The governments of Wales, Scotland and Northern Ireland should review their ‘action plans’ to ensure they include clear, resourced time-bound actions and a monitoring framework
- The UK Government should commit to developing its own action plan for England (which also addresses non-devolved issues raised by the UN Committee) in full consultation with stakeholders, including children and young people

In the long term:

- The UK Government should devise, in co-operation with the devolved administrations, a comprehensive UK-wide national action plan, in consultation with key stakeholders, including children and young people. It must include time-bound, resourced activities and a concrete monitoring framework

## **Co-ordinating and monitoring CRC implementation**

- A UK wide mechanism should be established to ensure effective co-ordination of implementation across the State Party
- Structures should be put in place to ensure that children and NGOs from the devolved administrations are able to monitor CRC implementation in relation to non-devolved matters
- Within each government of the UK:
  - ❖ Structures should be established which ensure effective co-ordination and monitoring of CRC implementation across government which include child rights impact assessment, for example a Cabinet Minister with responsibility for CRC implementation, a Children’s Cabinet Committee and a cross-cutting children’s rights unit with adequate authority and resources.
  - ❖ A formal CRC stakeholders group should be established to ensure that civil society can work effectively with government in monitoring CRC implementation
  - ❖ Children must be systematically involved in monitoring CRC implementation

## **Data collection and child rights indicators**

- Governments across the UK should develop a clear set of child rights indicators and ensure that adequate data on all children is collected with a view to progressing CRC implementation across the State Party, including data that includes the views of children on how well their rights are realised
- The UK Government should ensure that UK-wide data includes sample sizes which are large enough to ensure that data relating to children in the devolved administrations can be extrapolated

**Making children visible in budgets**

- The experience of WAG together with Save the Children’s step by step guide to child rights budgetary analysis<sup>255</sup> should be used by the governments of England, Scotland and Northern Ireland to set out spending on children at both national and local government level with a view to ascertaining how effectively children’s rights are being implemented
- Building on the pilot projects in Wales government’s across the UK should develop mechanisms which facilitate participatory budgeting

**Independent human rights institutions for children**

- Governments across the UK must amend legislation establishing Children’s Commissioners in their jurisdiction to ensure they fully comply with the Paris Principles and General Comment no.2. Each Commissioner in the UK must also be responsible for all children in their jurisdiction

**Information and awareness-raising**

- Governments in the UK need to develop a comprehensive CRC awareness raising strategy
- Schools must be required to teach about the CRC
- All professionals working with and for children must receive statutory, pre and post qualifying comprehensive and on-going training on the CRC
- Resources should be developed on the CRC for a range of audiences especially parents and specific groups of children

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255 See Save the Children (2009) Children’s Budgeting at the Local Level

# Annex I

## Policy updates

Since the research for the UK report was completed in September 2010 there has been three significant positive policy developments.

### Review of the Office of the Children's Commissioner for England

Dr Dunford submitted his recommendations for reform of the Office of the Children's Commissioner for England to the Government in December 2010. He advised that the Children's Commissioner's remit should be strengthened to promote and protect children's rights and for it to be given greater independence from Government.<sup>256</sup>

Following the publication of the Dr Dunford's report the Coalition Government gave the strongest indication yet that it will amend the legislation which established the Children's Commissioner for England so that its general function is to promote and protect the rights of children. In a written Ministerial statement Sarah Teather MP, the Minister of State for Children and Families, said:

*"The Government is a proud signatory of the UN Convention on the Rights of the Child... and believes it is vital that children and young people have a strong, independent advocate to champion their interests and promote their rights... The full implications of Dr Dunford's recommendations will take some months to work through, but the Secretary of State and I are pleased to accept them now in principle and will consult in due course on legislative changes."<sup>257</sup>*

### The Rights of Children and Young Persons (Wales) Measure

As outlined in the main body of the report the draft CRC measure as introduced to the Assembly's legislative process proved disappointing. Confining the impact of the duty to 'decisions of a strategic nature' went against the recommendation for an all-embracing provision that would have a pervasive effect across the exercise by Welsh Ministers of any of their functions. However, through discussion and workshops with Welsh Assembly Government officials and Assembly Members as well as experts from within Wales, the UK and the UN, as well as further written and oral evidence given to the relevant Assembly Committee, the UNCRC Monitoring Group continued to advocate for a pervasive measure.

Ultimately these efforts were successful and amendments were tabled accordingly by the government during stage 2 of the legislative passage of the Measure. The strong collective voice of the non-governmental sector resulted in the CRC measure on January 18th being passed by the National Assembly for Wales with cross-party unanimous support and will go forward to receive royal assent in March.

256 Dunford, J., (2010) Review of the Office of the Children's Commissioner (England)

257 December 2010 Written Ministerial Statement Department for Education Publication of the independent review of the Children's Commissioner Sarah Teather MP (Minister of State for Children and Families)

The legislation will come in two stages: first, from May 1st 2012, applying to the making of new law or policy and review of existing policies and then from May 1st 2014 will apply to all of the Welsh Minister's functions.

This piece of legislation brings in a children's scheme which will set out the arrangements the Welsh Ministers must have in place in order that they comply with the UNCRC. This imposes an obligation to consult with external stakeholders including the Children's Commissioner for Wales, the voluntary sector and children themselves in the development of the children's scheme.

This landmark piece of legislation is unique within the UK. It is a response to the effective and committed lobbying of Save the Children Wales and the UNCRC Monitoring Group over the last 10 years of devolution, in advocating that Government in Wales be made accountable to children in the realisation of their rights.

### **Ministerial Commitment to give due consideration to the CRC**

In a Written Ministerial Statement on December 6 2010, Sarah Teather MP, Minister of State for Children and Families, in the UK Government, said:

*"I can therefore make a clear commitment that the Government will give due consideration to the UNCRC Articles when making new policy and legislation. In doing so, we will always consider the UN Committee on the Rights of the Child's recommendations..."*<sup>258</sup>

This commitment, if translated into practice, has the potential to transform policy making concerning children by significantly progressing implementation of the CRC in England and as such is extremely welcome.

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<sup>258</sup> December 2010 Written Ministerial Statement Department for Education Publication of the independent review of the Children's Commissioner Sarah Teather MP (Minister of State for Children and Families)

# Annex 2

## **Interviewees**

Semi-structured interviews were carried out with representatives from the following:

### **England**

All Party Parliamentary Group for Children  
 Children's Rights Alliance for England  
 Department for Education  
 Children's Commissioner for England  
 Parliamentary Joint Committee on Human Rights  
 UNICEF UK

### **Wales**

Children's Commissioner for Wales  
 Funky Dragon  
 National Assembly for Wales' Children and Young People's Committee  
 Department for Children, Education and Lifelong Learning  
 Wales UNCRC Monitoring Group

### **Scotland**

Department for Education and Lifelong Learning  
 Education, Lifelong Learning and Culture Committee  
 Scottish Commissioner for Children and Young People  
 Together, the Scottish Alliance for Children's Rights

### **Northern Ireland**

All Party Assembly Group for Children  
 Human Rights Consortium  
 Legislative Assembly Committee of the First Minister and Deputy First Minister  
 Office of the First Minister and Deputy First Minister  
 Northern Ireland Anti-Poverty Network  
 Northern Ireland Commissioner for Children and Young People  
 Save the Children, Northern Ireland Programme

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# The Project Governance fit for Children

This report is part of an overarching project across five European countries and the EU institution. Save the Children has received financial support from the European Commission's Fundamental Rights and Citizenship Programme to carry out the project Governance fit for Children to assess how far the general measures of implementation of the UN Convention on the Rights of the Child (CRC) have been realised at European, national and community level.



The general measures of implementation of the Convention on the Rights of the Child (articles 4, 42 and 44.6) concern the structures and mechanisms which need to be in place if the whole of the CRC is to be implemented holistically.

The project focuses on the EU institutions and five European countries: Italy, Lithuania, Romania, Sweden and the United Kingdom.