

The Concluding Observations of the UN Committee on the Rights of the Child 2016



Children's
Rights Alliance
for England

In June 2016, the UK Government was examined on its compliance with the UN Convention on the Rights of the Child (CRC) for the first time since 2008. While the UN Committee recognised that some progress has been made. It also identified many areas where the UK needs to improve. This briefing gives an overview of the UN Committee's concerns and recommendations (in its Concluding Observations) for change.¹

What is the CRC?

The CRC applies to all children and young people aged 17 years and under and sets out the basic things that children need to thrive - the right to an adequate standard of living, to be protected from all forms of violence, an education, to play, be healthy, and be cared for. Children's rights should act as a safety net - meaning children always receive at least the minimum standard of treatment whatever the changing economic climate.

The CRC has four guiding principles (General Principles) which are rights in themselves but also the framework through which all the rights in the CRC should be interpreted. They are: non-discrimination (article 2); the best interests of the child (article 3); survival and development (article 6); and respect for the views of the child (article 12).

The CRC reporting process

In 1991, the UK Government ratified the CRC which means it promised to uphold these rights. Roughly every five years, a group of 18 independent experts from the UN - the UN Committee on the Rights of the Child (UN Committee) - scrutinise all States Parties (countries that have ratified the CRC) on how well they are respecting children's rights. They request evidence from government and civil society², including children³, to determine how well children's rights are being respected. The last UK examination took place in June 2016 and the UN Committee made over 150 recommendations setting out how the UK can take action to improve its record on children's rights.

Implementation of the CRC into policy and law

The UN Committee have consistently advised that that the most powerful driver for implementation of the CRC within a nation comes through giving direct force to the CRC in domestic law. This year they urged the UK to *'expedite bringing its domestic legislation in line with the Convention to ensure that the principles and provisions are directly applicable and justiciable under domestic law.'*

The UN also concluded that too often, children bear the brunt of government spending cuts and decisions are made without proper consideration of the impact on their rights. It called on the UK to *'introduce a statutory obligation'* to consider children's needs *'when developing laws and policies affecting children'* and *'adopt comprehensive action plans'* to ensure children in the UK have the best start in life.

Respect for the views of the child

Lack of compliance with article 12 - respect for the views of the child - and a failure to take into account children's views was a particular concern of the UN Committee. It reiterated its previous recommendation that urgent action be taken to address the *'intolerance of childhood'* and general negative public attitudes towards children and young people and called for action to ensure that children's opinions are better taken into account.

The report concluded that *'many children feel that they are often not listened to'* by professionals who they interact with in everyday life such as social workers, independent reviewing officers, paid carers, and teachers. The UN recommended that systems and structures be established to ensure meaningful involvement of children in decision-making at both national and local level, including in education, leisure and play. The UN Committee noted that *'Particular attention should be paid to younger children.'*

Legal aid

The UN recognised that one of the greatest threats to children's rights is the reduction of legal aid introduced by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and the negative

impact this has had on children's access to justice. This law has led to the abolishment of legal aid in several areas which affect vulnerable children, including for separated migrant children, children whose parents are separating and children in education matters (except relating to SEN) such as challenging an exclusion. The UN Committee urged the Government to *'assess the impact and expedite the review of the reforms on legal aid'* which they had committed to when the Act was passed.

Child poverty

An area which came under particular scrutiny was the Government's welfare reform. The UN Committee raised serious concerns about *'the effects that recent fiscal policies and allocation of resources'* have had on children and how they have disproportionately affected children in disadvantaged situations. The report highlighted recent changes that have *'limited the entitlement to child tax credits and social benefits... regardless of the need of households'* and called on the Government to undertake an *'assessment of the cumulative impact'* of these changes. The increasing levels of child poverty was also criticised as well as the scrapping of the target to end child poverty by 2020. The UN Committee urged the Government to *'re-establish concrete targets with a set timeframe and measurable indicators.'*

Homelessness

The worrying increase in homeless households with children and those being housed in B&B accommodation for longer than the six week legal limit was another key concern for the UN Committee. It urged the Government to *'strictly implement the ban on the prolonged placement of children in temporary accommodation.'* The UN recommended that the UK take *'necessary measures to reduce homelessness'* and to guarantee all children stable access to adequate safe housing so children do not have to grow up in cold, damp, unsafe or overcrowded spaces.

Children in care

Regarding children in the care system, the UN expressed concern about frequent changes of social workers and multiple placements which can be extremely damaging to already vulnerable children. As a result, the UN recommended the UK *'take all measures necessary to provide stability*

for children in care, including efforts to retain social workers and to avoid unnecessary changes in placement.' It also commented on the failure of care leavers to receive adequate support, setting out the importance of *'informing and consulting with children from an early stage on plans for their care and transition and provide sufficient support for care leavers, including for accommodation, employment or further education.'*

Child sexual exploitation and abuse

The UN Committee welcomed measures taken by the Government to address child sexual exploitation (CSE) and abuse; however it remained concerned about the widespread CSE by high profile figures, organised gangs as well as in institutions, and the increasing risk of online CSE and low rates of prosecutions. To tackle this deeply concerning problem, it recommended that the Government *'collect and publish data as well as develop and implement multi-sectoral strategies on CSE and abuse, including online abuse.'*

Health and health services

The inequality in access to health services and outcomes experienced by a number of groups of children – Gypsy, Roma, Traveller children, Black, Asian and Minority Ethnic (BAME) children, migrant children, children living in poverty, in care or custody, living with HIV/AIDS and LGBTI children was highlighted by the UN Committee. It urged the Government to invest the maximum resources available to eliminate these inequalities in access and outcomes, as well as address the underlying social determinants of poor health.

Mental health

Whilst the significant efforts and the Government's £1.4 billion of investment to improve mental health services was welcomed by the UN Committee, it was still very concerned by the increase in the number of children with mental health needs and questioned whether the sum will actually lead to an improvement of the quality of services. It called on the Government to address its lack of data on children with mental health conditions and *'rigorously invest in child and adolescent mental health services and develop a national strategy [...] particularly for children at greater risk such as children living in poverty, children in care and children in contact with the criminal justice system.'*

The UN Committee was particularly concerned by the placement of children far from home without adequate child-specific support, urging the Government to *'Expedite the prohibition of placement of children with mental health needs in adult psychiatric wards or police stations, while ensuring provision of age-appropriate mental health services and facilities.'* It also highlighted the anomaly in relation to children under 16 who can be hospitalised and treated without their consent, requesting the Government *'review current legislation on mental health to ensure that the best interests and the views of the child are taken duly into account.'*

Disabled children

The UN Committee remained concerned that the views of children with disabilities are not given due weight and called for full respect for the rights of children in making important personal decisions in their life such as their choice of education and personal support. In order to reduce the high numbers of children being placed in special schools or units in mainstream schools, it recommended the Government to *'further develop inclusive education and ensure that it is given priority... and make mainstream schools fully accessible to children with disabilities.'* The UN also criticised the inadequate provision for support for transition to adulthood as *'neither sufficient, timely nor well-coordinated'* and not ensuring *'fully-informed decisions.'* It advised the Government to provide an integrated package of services, which would ensure fully-informed decisions by disabled children on their personal choice in the transition.

Asylum seeking, refugee and migrant children

The decision to end the detention of children for immigration purposes was welcomed by the UN Committee but it was extremely troubled by the regression of asylum seeking and refugee children's rights in a number of areas. It drew attention to the Government's continued failure to give separated migrant children access to a statutory independent guardian, despite a trial scheme to allocate these for trafficked children, and reiterated their previous recommendation on their value alongside access to legal advice.

The UN Committee was also concerned about the changes brought in by the Immigration Act 2016 to remove the entitlement of separated children in care with an irregular or unresolved immigration status to leaving care support and the 'deport first, appeal later' scheme which allows migrants to appeal against the refusal of their stay only from outside of the UK. It strongly recommended these changes be examined against the rights in the CRC.

Trafficked children

The UN Committee welcomed a number of positive steps the Government had taken to combat child trafficking such as the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings, the Modern Slavery Act 2015 and the introduction of guardians for potential victims of trafficking. However they expressed disappointment that the new legislation did not include *'a clear obligation of non-prosecution, and ensure that they [trafficked children] are treated as victims rather than criminals by the law enforcement and judicial authorities.'* They also labelled the system for identifying and supporting victims (the National Referral Mechanism) as *'weak'* and recommended it be strengthened and *'embedded in existing child protection procedures.'*

Children in the criminal justice system

The UN Committee once again repeated its call for England to raise the age of criminal responsibility from 10 in line with acceptable international standards. It urged the Government to *'establish the statutory principle that detention should be used as a measure of last resort and for the shortest possible period of time'*, further reduce the number of children in custody and tackle the disproportionate number of BAME children and children from care in the youth justice system. It requested the Government make immediate improvements to the treatment of children in custody, including abolishing the use of solitary confinement and deliberately painful restraint on children and ensuring *'that child detainees are separated from adults.'*

Civil rights, freedoms and cruel and degrading treatment against children

The use of Tasers on children by the police was of deep concern for the UN Committee; it recommend that their use is banned and data should be published to monitor this. It also advised the Government to *'prohibit the use of mosquito devices in public spaces and collect data on measures used against children, including children aged 10-11 years, to deal with anti-social behaviours, as well as dispersal, and monitor the criteria and proportionality of their use.'*

Finally the UN Committee called for statutory stop and search checks against children to *'always be proportionate, taking into consideration the age and maturity of the child, and non-discriminatory.'* It also requested data on this to monitor its use by age, sex, disability, geographic location, ethnic origin and socioeconomic background!

Education and play

The UN Committee was troubled by the persistent inequalities in educational attainment, particularly for specific groups of children such as those living in poverty, boys, children in care and Roma, Gypsy and Traveller children. It also expressed concern that many children from poorer backgrounds, especially boys, do not meet the expected level of language development prior to starting school, which *'has a negative impact on their primary education, hindering their development through life.'*

The UN Committee welcomed the decreasing use of exclusions but stressed that permanent or temporary exclusion should only be used as a *'means of last resort'* and *'the practice of "informal" exclusions should be abolished.'* It also stated that all children should have the right to appeal against their exclusion.

Finally the UN Committee said efforts must be strengthened so that all children, especially those from disadvantaged backgrounds and disabled children, can access age appropriate play and leisure activities.

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About CRAE

The Children's Rights Alliance for England (CRAE) works with 150 organisational and individual members to promote children's rights, making us one of the biggest children's rights coalitions in the world.

We believe that human rights are a powerful tool in making life better for children. We fight for children's rights by listening to what they say, carrying out research to understand what children are going through and using the law to challenge those who violate children's rights. We campaign for the people in power to change things for children. And we empower children and those who care about children to push for the changes that they want to see.

Find out more

'UN Committee's Concluding Observations':

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en

'Civil Society Alternative Report 2015 to the UN Committee – England':

http://www.crae.org.uk/media/78665/crae_civil_society_report_to_un_web.pdf

'See it, Say it, Change it. Submission to the UN Committee on the Rights of the Child from Children in England':

http://www.crae.org.uk/media/78664/crae_seeit-sayit-changeit_web.pdf

Endnotes

1. UN Committee on the Rights of the Child (2016) *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland*
2. Children's Rights Alliance for England (2015) *Civil Society Alternative Report 2015 to the UN Committee - England*
3. Children's Rights Alliance for England (2015) *See it, Say it, Change it. Submission to the UN Committee on the Rights of the Child from Children in England*



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