

## Children at the Centre:

# The Concluding Observations of the UN Committee on the Rights of the Child 2016 on the General Measures of Implementation



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)<sup>1</sup> for change in relation to the General Measures of Implementation.**

### 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<sup>2</sup> and civil

society<sup>3</sup>, including children<sup>4</sup>, 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.

### What are the General Measures of Implementation?

Articles 4, 42 and 44.6 of the CRC are known as the General Measures of Implementation (GMIs). The GMIs are crucial as they set out what is required of governments to ensure that the CRC is fully implemented.

Article 4 of the CRC obliges countries to *'undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the present Convention.'* Article 42 states children, parents and relevant professionals should know about the CRC and 44.6 requires governments to ensure their reports to the UN Committee are widely available.

General Comments issued by the UN Committee set out further guidance on particular aspects of the CRC. General Comment No. 5 on the GMIs sets out in more detail the cross-cutting measures required to ensure all the rights in the CRC are implemented. General Comment No.2 details the standards required for independent human rights institutions for children. These bodies, which should be independent of government, monitor and promote implementation of children's rights (in the UK these are called Children's Commissioners).

If the GMIs are not adhered to, CRC implementation can only be patchy at best. The UN Committee has made clear in its General Comment that the *'development of a children's rights perspective throughout government, parliament and the judiciary is required for effective implementation of the whole Convention'*<sup>5</sup>

### The GMI require governments to:

1. Review reservations to the CRC and its optional protocols
2. Ratify other international human rights instruments
3. Review legislation to ensure compliance with the CRC
4. Incorporate the CRC into domestic law guaranteeing that redress for breaches of CRC rights can be pursued in the courts. Ensure domestic law reflects the general principles of the CRC and all relevant "sectoral" laws (on education, health, etc.) comply with the principles and standards of the CRC
5. Develop national child rights strategies and action plans
6. Ensure effective co-ordination of implementation and monitoring of the CRC across government
7. Collect data and develop indicators on all aspects of children's rights implementation
8. Make children visible in budgets so it's clear how much money is allocated to implementing the CRC
9. Co-operate with civil society in the implementation of children's rights
10. Co-operate internationally to support implementation abroad
11. Establish independent human rights institutions for children
12. Raise awareness of and share information on the CRC

When examining countries on how well they are respecting children's rights, the UN Committee pays particular attention to the GMIs and gives specific recommendations on them in its Concluding Observations.

### What did the UN say about the UK's implementation of the GMIs in 2016?

#### Fully ratifying the CRC and its Optional Protocols

An Optional Protocol is a legal instrument that adds to a treaty. The CRC has three Optional Protocols on: the involvement of children in armed conflict (OPAC); the sale of children, child prostitution and child pornography; and on a communication procedure (OP3 CRC).

OP3 CRC provides two ways for children to challenge violations of their rights committed by countries: *A communication procedure*, which enables children to bring complaints about violations of their rights to the UN Committee if they haven't been fully resolved in national courts; and *an inquiry procedure* for grave and systematic violations of children's rights. Children are unable to make use of these procedures unless their government has ratified OP3 CRC. The UK is yet to do so. The UN Committee called on the UK Government therefore to ratify OP3 CRC 'in order to further strengthen the fulfilment of children's rights'.

In relation to full ratification of OPAC the UN Committee raised concern that the UK still 'maintains the wide scope of its interpretative declaration on article 1 of OPAC which may permit the deployment of children to areas of hostilities and their involvement in hostilities under certain circumstances.' A declaration sets out how countries interpret an aspect of a Treaty.

#### Bringing the CRC into law

The UN Committee has consistently advised that the most powerful driver for CRC implementation comes through giving direct force to it in domestic law. It 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.*

#### A comprehensive child rights strategy

In its General Comment, the UN Committee has made clear that 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 national strategy, rooted in the Convention'. Such a strategy must go beyond statements of policy and principle, to set real and achievable targets in relation to the rights of children.

The UN Committee called for the revision of the UK-wide child rights strategy (published in 2009) and the adoption of comprehensive child rights action plans to deliver the strategy in England (and the devolved nations). It also recommended the UK *'allocate sufficient human, technical and financial resources, set up clear timelines as well as a monitoring and evaluation framework for the implementation of*

*the strategy*' and pay particular attention to the most vulnerable groups.

### Child rights impact assessment (CRIA)

Concluding that too often children bear the brunt of government spending cuts, and decisions are made without proper consideration of the impact on their rights, the UN Committee called on the UK to *'introduce a statutory obligation' to consider children's needs 'when developing laws and policies affecting children'*. Such assessments must be publicly available and demonstrate how children's rights have been taken into account when deciding on laws and policies.

### Co-ordinating CRC implementation

The UN Committee reiterated its previous recommendation from 2008 which said that effective mechanisms should be put in place *'at a high inter-ministerial level with a clear mandate and sufficient authority to coordinate all activities across the relevant sectors'* with responsibility for implementing the CRC. It emphasised that such a unit should have adequate human, technical and financial resources in order to be effective.

### Allocation of resources

The UN Committee was particularly concerned about the effects *'recent fiscal policies and allocation of resources have had in contributing to inequality in children's enjoyment of their rights'* and that such policies *'disproportionately affected children in disadvantaged situations'*. Drawing attention to Sustainable Development Goal 10 and article 4 of the CRC, the UN Committee recommended the UK do more to allocate *'the maximum extent of available resources for the implementation of children's rights with a focus on eradicating child poverty and reducing inequalities'*.

It also urged the UK to implement a tracking system for the allocation and use of resources for children throughout the budget; ensure that spending decisions affecting children are transparent and involve relevant stakeholders, including children; make sure there are clear lines in the budget for disadvantaged children and protect them even in times of economic recession; regularly conduct CRIA on budgetary decision-making and regularly monitor and assess the adequacy and efficacy of resources allocated to children.

### Independent monitoring

General Comment No. 2 says that *'The role of national human rights institutions is to monitor independently the State's compliance and progress towards implementation and to do all it can to ensure full respect for children's rights.'* It emphasises *'the essential element is independence'*. The increased independence of the Children's Commissioner for England was therefore welcomed but the UN Committee was none the less concerned that there remained a need for independence to be strengthened and for the Commissioner to have improved human and financial resources.

### Children's rights in the business sector

The UN Committee recommended that in the revised version of the UK's first National Action Plan on Business and Human Rights an explicit focus on children rights is integrated. Business regulations should be developed and implemented to ensure *'the business sector, including in the context of public procurement, complies with the rights of the child'*. The UN Committee referred the UK Government to General Comment No. 16 on State obligations regarding the impact of business on children's rights.

### Data collection

Collection of sufficient and reliable data on children, disaggregated to enable identification of discrimination and/or disparities in the realisation of the CRC is an essential part of implementation. The UN Committee calls for better data collection on a number of issues to ensure better monitoring and implementation of children's rights. These include:

- Methodically gathering and publishing comprehensive data on child exploitation and abuse, including through mandatory reporting, in all settings
- Regularly collecting information on children's mental health
- Systematically collecting statistics on food security and nutrition for children, including those relevant to breast-feeding, overweight children and obesity
- Conducting a comprehensive assessment of the cumulative impact of the full range of social security and tax credit reforms introduced between 2010 and 2016 on children, including disabled children and children belonging to ethnic minority groups

- Systematically collecting and issuing disaggregated information on the number of children seeking asylum, including those whose age is disputed.

### Legal aid

The UN Committee 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. This law abolished 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.

### Awareness-raising

The UN Committee called for children's rights education to be mandatory in schools and recommended that the UK takes all appropriate measures to ensure the 2016 Concluding Observations are widely available as well as the reports and information the UK Government submitted to the UN as part of its examination.

### Ratification of international human rights instruments and cooperation with regional bodies

In order to further strengthen the fulfilment of children's rights, the UN Committee recommended that the UK ratify the core human rights instruments to which it is not yet a party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and the Optional Protocol to the International Covenant on Civil and Political Rights.

The UN Committee also recommended that the UK cooperates with the Council of Europe on the implementation of the CRC and other human rights instruments, both within the State party and in other Council of Europe member States.

### 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](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](http://www.crae.org.uk/media/78665/crae_civil_society_report_to_un_web.pdf)

UN Committee on the Rights of the Child (2003) General Comment No. 5 on the General Measures of Implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6): [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2002%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2002%2f2&Lang=en)

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: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2002%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2002%2f2&Lang=en) [nk/media/78664/crae\\_seeit-sayit-changeit\\_web.pdf](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. UN Committee on the Rights of the Child (2015) *Consideration of reports submitted by States parties under article 44 of the Convention Fifth periodic reports of States parties due in 2014 United Kingdom*
3. Children's Rights Alliance for England (2015) *Civil Society Alternative Report 2015 to the UN Committee - England*
4. 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*
5. UN Committee on the Rights of the Child (2003) *General Comment No. 5 on the General Measures of Implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)*

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