



Submission by Save the Children¹ related to the United Kingdom of Great Britain and Northern Ireland Universal Periodic Review (UPR)

**13th session
21 May to 1 June 2012**

Children's Rights in the UK: Key issues of concern for Save the Children

For more information contact:

Save the Children
1 St John's Lane
London
EC1M 4AR
www.savethechildren.org.uk

Louise King,
UK Child Rights Policy Advisor:
l.king@savethechildren.org.uk
+44 (0) 20 7012 6762

Chris Wellings,
Head of UK Policy:
c.wellings@savethechildren.org.uk
+44 (0) 20 7012 676

¹ Save the Children has ECOSOC status with the UN

1) INSTITUTIONAL FRAMEWORK FOR THE PROMOTION AND PROTECTION OF CHILDREN'S HUMAN RIGHTS IN THE UK

General measures of implementation (GMI) of the UN Convention on the Rights of the Child (CRC)

▪ Introduction

1. The UN Committee on the Rights of the Child (the UN Committee) has made it clear that if a State party is to fully implement the CRC then it must take serious steps to realise the GMI.¹
2. In its 2008 Concluding Observations, the UN Committee issued 20 recommendations in relation to the GMI², many of which still need to be addressed. In 2011, Save the Children launched a report, which assessed how far the UK Government and the devolved administrations of Wales, Scotland and Northern Ireland are realising the GMI.³ It found that whilst there had been some progress there was an urgent need to do much better, particularly in the following areas:

▪ Declaration to the Optional Protocol to the CRC on the involvement of children in armed conflicts (OPAC)

3. When the UK Government ratified OPAC it put in place a declaration which set out a number of circumstances when it might not be possible to prevent the deployment of under-18s in hostilities. Recommendations were received during the UK's 2008 UPR to:
 4. *"Consider removal of its reservations to the... Convention on the Rights of the Child and the Optional Protocol on the involvement of children in armed conflict"* and *"withdraw its reservation against the Convention on the Rights of the Child, concerning the provision that detained children be separated from adults while in detention, as well as the withdrawal of their reservation concerning refugee and asylum seeking children."*
5. Commendably, the UK Government has removed its remaining reservations to the CRC but has not withdrawn its declaration to OPAC.

6. The UK Government should:

- **Remove its declaration to OPAC to ensure that children are never deployed in hostilities**

▪ Incorporation of the CRC into UK domestic law

7. In its General Comment No 5, the UN Committee makes it clear that it expects States to make the CRC fully judiciable.⁴ In 2008 it recommended that the UK *"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 of the UNCRC."*
8. Following an inquiry into children's rights, the Parliamentary Joint Committee on Human Rights concluded it agreed *"with those witnesses who emphasised the benefits of incorporation, accompanied by directly enforceable rights."*⁵ The Rights of the Child UK Coalition⁶ and the UK's four Children's Commissioners are also calling for progress.⁷
9. With the exception of positive developments in Wales and Scotland (see below), little progress has been made on incorporating the CRC into UK domestic law. The UK ratified the CRC nearly 20 years ago yet a wealth of evidence demonstrates that children across the UK do not have adequate realisation of their rights.⁸ Incorporation is needed so the CRC is the standard against which all law, policy and practice affecting children is judged.

Wales

10. The Rights of Children and Young Persons (Wales) Measure 2011 creates a legal requirement for international child rights standards to be taken into account as part of Ministerial decision-making and policy development in Wales and places a legal duty on Welsh Ministers to promote CRC knowledge and understanding. If implemented effectively, this will help ensure the Welsh Government is held accountable in the realisation of children's rights.
11. It is now critical that the Welsh Government takes forward the opportunity offered by this legislation to realise the rights of children across Wales and allocates sufficient financial and human resources to effectively implement it.

Scotland

13. In September 2011, the Scottish Government issued a consultation on a proposed Rights of Children and Young People Bill, which will place a Ministerial duty on Scottish Ministers to have due regard to the CRC in the exercise of any of their functions.⁹ Whilst this is welcome, we urge the Scottish Government to go further and fully incorporate the CRC into Scottish Law (within the boundaries of devolution) and ensure that the legislation requires Ministers to set out and consult on the implementation plans of such a duty and raise awareness of the CRC.

Northern Ireland

14. The 1998 Belfast Agreement includes a commitment to develop a Bill of Rights for Northern Ireland. In 2006, a Bill of Rights Forum, made up of representatives from across civil society was established to advise the Northern Ireland Human Rights Commission (NIHRC).
15. The Forum submitted its final report to the NIHRC in March 2008 and in December 2008 the Commission issued its advice to the Secretary of State for Northern Ireland on what the content of such a Bill should contain, this included seven specific proposals in relation to children's rights.¹⁰
16. Since the publication of a disappointing consultation on the next steps of this process by the previous Administration in 2009, there have been no further developments. The Northern Ireland Commissioner for Children and Young People has argued that the Bill of Rights for Northern Ireland is a clear opportunity to incorporate the CRC.¹¹ We agree.
17. **The UK Government should:**
 - **Seek to incorporate the CRC into UK law at the earliest opportunity**
 - **Take forward the opportunity afforded by the Bill of Rights for Northern Ireland to incorporate the CRC taking into account the recommendations of the NIHRC**
 - **The devolved governments of Wales, Scotland and Northern Ireland should also take forward effective CRC incorporation within the devolved legislative framework. In particular:**
 - **The Welsh Government should ensure that it puts in place the necessary resources and mechanisms to ensure that the Rights of Children and Young Persons (Wales) Measure is fully implemented**
 - **The Scottish Government should ensure the Rights of Children and Young People Bill fully incorporate the CRC into Scottish Law (within the boundaries of devolution) and ensure that the legislation requires Ministers to set out and consult on the implementation plans of such a duty and raise awareness of the CRC**

UK Bill of Rights and the Human Rights Act

18. In 2011 the UK Government announced the establishment of a Commission on a Bill of Rights (the Commission) - due to report at the end of 2012. Save the Children believes that the UK should have a UK Bill of Rights that affords greater protection for the rights of all (including under 18s) as well as particular rights for children – thus taking forward CRC incorporation. We would like to stress that it is imperative that any proposals for a UK Bill of Rights builds on the strong provisions afforded by the Human Rights Act (HRA) and does not undermine or dilute this protection in any way.
19. We share the concerns of many across the NGO sector and beyond that the process of the Commission could lead to the current legal protection of human rights in the UK being undermined. We would be extremely concerned if this was the outcome of the Commission. Since its enactment, Save the Children has recognised and promoted the crucial role that the HRA plays in the protection of the rights of children.¹²
20. We share the alarm of many that the UK Government's Coalition Agreement¹³ and the Terms of Reference of the Commission do not refer specifically to the HRA but only to the European Convention on Human Rights (ECHR). Whilst this is welcome, it does not equal commitment to the HRA and as such is a cause for concern. The HRA itself is fundamental because it protects the rights of everyone, including all children in the UK, by providing a means of legal redress through the UK courts where these rights have been breached and places a duty on government to ensure that new laws are compatible with the HRA and ensures that all public authorities uphold these rights in all their activities.¹⁴
21. It is imperative that any proposals for a UK Bill of Rights build upon on this important legal instrument.
22. **The Commission on a Bill of Rights should:**
 - **Recommend that any proposals for a UK Bill of Rights builds upon the provisions of the Human Rights Act and incorporates the CRC into UK domestic law****The UK Government should:**
 - **Ensure that any proposals for a UK Bill of Rights build upon the provisions of the Human Rights Act and incorporates the CRC into UK domestic law and do not undermine the process for a Northern Ireland Bill of Rights**

Children's Commissioners

23. Four children's Commissioners have been established across the UK but steps still need to be taken to ensure that they all meet the requirements for independent human rights institutions for children set out by the Paris Principles¹⁵ and the UN Committee.¹⁶
24. Currently, the statutory base of the Children's Commissioner for England is inadequately linked to the CRC. Commendably, the UK Government recently published proposals to change the statutory remit of the English Commissioner so it is rights based. These proposals should be taken forward as soon as possible, taking into account the responses it received from stakeholders during the consultation process.¹⁷
25. **The UK Government and the devolved administrations should:**
 - **Amend legislation in their countries to ensure their Children's Commissioners fully comply with international standards**

Making children visible in budgets

26. Commendably, the Welsh Government has made good progress in relation to children's budgets, but progress is lacking in the rest of the UK, despite a recommendation by the UN Committee in 2008.¹⁸ The four UK Children's Commissioners have concluded that *"allocation of resources [for children] is not dependent on assessed need, is not transparent, is often of short-term nature and its impact in outcomes for children are not always evaluated."*¹⁹
27. With deep spending cuts being implemented across the UK, many of which will impact on the most vulnerable, children 'children's budgets' are more vital than ever.
28. **The UK Government, the Scottish Government and the Northern Ireland Executive should:**
- **Use the experience of the Welsh Government to set out spend on children at both national and local levels with a view to ascertaining how effectively their rights are being realised**
- The Welsh Government should:**
- **Maintain and build on its progress to improve the visibility of children in its budgets**

IMPLEMENTATION OF HUMAN RIGHTS OBLIGATIONS IN RELATION TO CHILDREN

29. Analysis of action on the UN Committee's 2008 Concluding Observations shows there has been little progress in taking forward many of the recommendations. Below we highlight a key issue for Save the Children, which requires urgent attention.

- **Child poverty**

Meeting child poverty targets

30. During the UK's 2008 UPR, it received recommendations to: *"enhance its programmes aimed at addressing socio-economic inequalities, from a human rights perspective in fulfilment of its obligations under the International Covenant on Economic, Social and Cultural Rights)"* and *"provide further information with regard to efforts to reduce poverty among children by half by 2010"*.
31. Article 27 gives children the right to an adequate standard of living. In 2008 the UN Committee welcomed the commitment to end child poverty by 2020 but noted that *"poverty is a very serious problem affecting all parts of the United Kingdom"*²⁰ It recommended that the State party *"Adopt and adequately implement the legislation aimed at achieving the target of ending child poverty by 2020, including by establishing measurable indicators for their achievement; Give priority in this legislation and in the follow-up actions to those children and their families in most need of support; and when necessary... intensify its efforts to provide material assistance and support programmes for children..."*²¹
32. Similarly, in 2009 the UN Committee on Economic, Social and Cultural Rights raised concern that *"poverty and fuel poverty, especially among children, remain wide-spread."*²²
33. Despite these strong recommendations, levels of child poverty remain unacceptably high throughout the UK: 3.5 million children live in poverty in the UK (after housing costs)²³, with 1.6 million children living in severe poverty (13% of all children). In some local areas (including Manchester and a number of London Boroughs) around one in four children are living in severe poverty.²⁴ The UK Government has acknowledged severe child poverty as a major issue and included a focus on severe poverty in its first Child Poverty Strategy (see below), but it has not set out a clear plan or target to eradicate or reduce severe poverty.

34. 900,000 children were lifted out of poverty between 1999 and 2010 but this fell short of the target to halve child poverty by around 800,000 during that same period.²⁵ The Institute for Fiscal Studies (IFS) have projected that child poverty will begin to rise again after 2013²⁶ and will reach 3.3million (before housing costs) and 4.2million (after housing costs) by 2020. In effect, the progress made in reducing child poverty between 1999 and 2010 will have been reversed.
35. The UK Government's Child Poverty Strategy, published in April 2011,²⁷ failed to set out a clear pathway towards reaching the 2020 target. Whilst we welcome the focus on early years in the Strategy, there needs to be a much clearer recognition of the financial pressures currently facing families and the impact this is having on the health, education and well-being of children.
36. Reaching the 2020 target requires significant political will and investment: Meeting the 2010 target required an extra annual investment of 4.2billion²⁸ in tax credits. It is likely that a similar level of investment will be required to meet the 2020 target. This investment would help low income families at a time of welfare retrenchment, wage stagnations, public service cuts and increasing levels of unemployment.
37. The IFS child poverty projections cited the change in the way benefits are updated - moving from the Retail Price Index (includes housing costs) to the Consumer Price Index (excludes housing costs) - as the main reason behind the expected large increase in child poverty between now and 2020. This move is seen as a cost saving measure by the UK Government but it will have a detrimental impact on the finances of the poorest families.
38. **The UK Government should:**
- **Invest in Child Tax Credits and benefits so that levels of child poverty do not increase**
 - **Set out a clear pathway towards meeting the 2020 target**
 - **Set a target to eradicate severe child poverty by the end of the Parliament**
 - **Reduce in-work poverty and ensure employment is an effective route out of poverty by allocating the resources needed to create clear work incentives for parents so that they keep more of earnings**

The Education achievement gap

39. The evidence on how socio-economic background affects early learning and development is stark. Using data from the 1970 British Cohort Study research has found that differences in children's cognitive development linked to parental background can be seen as early as 22 months²⁹ A study, which tracks children born in 2000/01, shows those who experienced persistent poverty or episodes of poverty scored markedly less well at age five in English schools than those who grew up free from poverty.³⁰
40. Statistics for England from the Department for Education show that at every stage of schooling the poorest children do worse and make less progress than their better-off peers. At the Early Years Foundation Stage 39% of children eligible for free school meals showed a good level of development compared to 59% of their peers. At age 11, 62% of FSM pupils scored expected levels in English compared to 83% of their classmates. Children from poorer homes are around half as likely to get five good GCSEs as their classmates.³¹
41. In 2008, the UN Committee raised concern that "*significant inequalities persist with regard to school achievement of children living with their parents in economic hardship*"³² and recommended that the State party: "*Continue and strengthen its efforts to reduce the effects of the social background of children on their achievement in school.*"³³

- 42. The UK Government and devolved administrations should:**
- **Ensure that resources (school funding and the best teachers) are targeted on the poorest pupils; accountability systems prioritise closing the attainment gap; and admissions rules promote equity**
 - **Make certain that family support programmes that help parents to engage with their children's early learning and development are widely available in every community and are a universal entitlement in deprived neighbourhoods**
 - **Give support to schools so they can effectively allocate the Pupil Premium (extra school funding attached to each child from a poor home) and provide them with evidence on what works in terms of closing the achievement gap**
 - **Provide children living in deprived communities with opportunities to realise their potential by offering them a range of support that goes beyond education**

London, 21 November 2011

¹ Articles 4, 42 and 44.6 of the CRC and UN Committee on the Rights of the Child (2003) General Comment no.5 (2003) General Measures of Implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44.6)

² UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland

³ Save the Children (2011) Governance fit for Children: To what extent have the general measures of implementation of the CRC been realised in the UK

⁴ General Comment no.5 (2003) General Measures of Implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44.6)

⁵ House of Lords House of Commons Joint Committee on Human Rights (2009) Children's Rights Twenty-fifth Report of Session 2008-09 Paragraph 28

⁶ Made up of 24 organisations from across the UK, the ROCK coalition members are: 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 YoungMinds. Individual members names are available on request

⁷ House of Lords House of Commons Joint Committee on Human Rights (2009) Children's Rights Twenty-fifth Report of Session 2008-09 Paragraph 21

⁸ See for example UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland; House of Lords House of Commons Joint Committee on Human Rights (2009) Children's Rights Twenty-fifth Report of Session 2008-09; Children's Rights Alliance for England (2010) State of Children's Rights in England: Review of Government action on United Nations' recommendations for strengthening children's rights in the UK; Kilkelly et al (2004) Children's Rights in Northern Ireland; Croke and Crowley (eds) (2006) Righting the Wrongs: the reality of children's rights in Wales

⁹ Scottish Government (2011) Consultation on Rights of Children and Young People Bill

¹⁰ Northern Ireland Human Rights Commission (2008) A Bill of Rights for Northern Ireland: Advice to the Secretary of State for Northern Ireland

¹¹ House of Lords House of Commons Joint Committee on Human Rights (2009) Children's Rights Twenty-fifth Report of Session 2008-09;

¹² See for example, Drew S., (2000) Children and the Human Rights Act 1998, Save the Children

¹³ HM Government (2010) The Coalition: Our programme for Government

¹⁴ Section 6 Human Rights Act

¹⁵ Principles relating to the status and functioning of national institutions for the promotion and protection of human rights

¹⁶ 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

¹⁷ Department for Education (2011) Establishing a New Office of The Children's Commissioner For England (OCCE): Consultation On Legislative Proposals

¹⁸ UN Committee on the Rights of the Child (2002) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland paragraph 11

-
- ¹⁹ Four UK Children's Commissioners (2008) The UK Children's Commissioners report to the UN Committee on the Rights of the Child
- ²⁰ UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, Paragraph 64
- ²¹ UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, Paragraph 65
- ²² UN Committee on Economic, Social and Cultural Rights (2009) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, Paragraph
- ²³ Institute for Fiscal Studies, 'Child and working-age poverty from 2010 to 2013', 2010.
- ²⁴ New Policy Institute 'Severe child Poverty An Update: a NPI report for Save the Children', February 2011.
- ²⁵ Department for Work and Pensions (2011) Households Below Average Income: An analysis of the income distribution 1994/95-2009/10
- ²⁶ Institute for Fiscal Studies (2010) Child and Working-Age Poverty from 2010 to 2013
- ²⁷ Department for Education (2011) A New Approach to Child Poverty: Tackling the Causes of Disadvantage and Transforming Families' Lives
- ²⁸ Joseph Rowntree Foundation (2009) Ending child poverty in a changing economy
- ²⁹ Feinstein (2003) Pre-school educational inequality? British children in the 1970 cohort, Centre for Economic Performance, LSE, London
- ³⁰ Kiernan and Mensah (2011), 'Poverty, family resources and children's early educational attainment: the mediating role of parenting', British Educational Research Journal, 37 (2), 317-336
- ³¹ Department for Education Official Statistics: www.education.gov.uk/researchandstatistics/statistics DCSF - Key Stage 2 Attainment by Pupil Characteristics in England 2008/09; DCSF - Attainment by Pupil Characteristics in England 2007/08; DfE - Early Years Foundation Stage Profile Results in England 2009/10
- ³² UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, Paragraph 68
- ³³ UN Committee on the Rights of the Child (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, Paragraph 67