

Draft for comment by civil society – 23/10/2013



HM Government

# **Draft Periodic Report to the UN Committee on the Rights of the Child**

**United Kingdom**

## Contents

<b>Table of Contents</b> .....	<b>2</b>
<b>Introduction</b> .....	<b>4</b>
<b>Chapter I: General Measures of Implementation</b> .....	<b>6</b>
Reservations and declarations to the Convention and the Optional Protocols .....	6
Bill of Rights .....	7
Measures adopted to review and bring domestic legislation and practice into full conformity with the provisions of the Convention and its Optional Protocols .....	7
UNCRC strategies and plans.....	10
Coordination .....	12
Resources to support UNCRC implementation .....	13
Provision of international assistance and aid .....	15
Independent monitoring structures .....	16
Dissemination, training and awareness-raising .....	17
Co-operation with civil society.....	19
<b>Chapter II: General Principles</b> .....	<b>21</b>
Tackling the negative portrayal of children and young people in the media .....	23
Protecting children and young people from discrimination .....	23
Promoting the best interests of the child .....	24
Right to life, survival and development .....	24
Use of Taser weapons.....	26
Respect for the views of the child .....	27
Consultations with children and young people conducted by the UK Government to inform policy and practice.....	30
<b>Chapter III: Civil Rights and Freedoms</b> .....	<b>34</b>
Freedom of peaceful assembly.....	36
Protection of privacy .....	37
Cruel, inhuman or degrading treatment or punishment.....	39
Corporal punishment .....	40
Violence against children.....	41
<b>Chapter IV: Family Environment and Alternative Care</b> .....	<b>48</b>
Parenting Support.....	48
Adoption .....	60
Violence, abuse and neglect.....	62
<b>Chapter V: Basic Health and Welfare</b> .....	<b>67</b>

## Draft for comment by civil society – 23/10/2013

Children with disabilities .....	67
Health and health services and health inequalities .....	73
Mental Health .....	75
Supporting Vulnerable Young People: Health services in the secure estate .....	77
Breastfeeding .....	77
Adolescent Health .....	78
Standard of living.....	81
<b>Chapter VI: Education, Leisure and Cultural Activities .....</b>	<b>85</b>
Reducing the effects of the social background of children on their achievement in school .....	87
The right of all children to a truly inclusive education, including those from disadvantaged, marginalised and school-distant groups.....	89
Ensure that all children out of school get alternative quality education.....	89
School exclusions.....	90
Right to appeal against exclusions and right to appeal to special educational needs tribunals.....	92
Ensuring that children without parental care have a representative who actively defends their best interests .....	93
Intensify efforts to tackle bullying and violence in schools.....	94
Strengthen children’s participation in all matters of school, classroom and learning which affect them.....	96
Take measures to address segregation of education in Northern Ireland and abolish the 11+ transfer and ensure that all children are included in admission arrangements in post-primary schools .....	96
Right to leisure and play .....	97
Increasing participation in learning post-16.....	100
Transport.....	101
<b>Chapter VII: Special Protection Measures.....</b>	<b>102</b>
Asylum-seeking and migrant children .....	102
Sexual exploitation and abuse .....	105
Sale, trafficking and abduction.....	107
Safeguarding from specific risks .....	108
Administration of juvenile justice.....	109
The use of ASBOs with children .....	114
<b>Optional Protocol on the involvement of children in armed conflict.....</b>	<b>116</b>

## Introduction

1. We are pleased to present the UK State Party's submission for the fifth periodic review to the UN Committee on the Rights of the Child.

### **Report structure**

2. The overall submission comprises four documents:

- The UK Common Core Report
- The Treaty Specific report
- Statistical information and data
- Implementation of the UNCRC in the UK Crown Dependencies and Overseas Territories

3. As far as possible, these documents follow the guidelines provided by the UN Committee on the form and content of periodic reports in note CRC/C/58/Rev.2. The State Party will be happy to provide supplementary material in response to any questions the Committee may have.

### **Devolution in the UK**

4. The United Kingdom (UK) comprises England, Wales, Scotland and Northern Ireland. The approximate numbers of children under the age of 18 living within each jurisdiction is as follows: England: 11.4m, Northern Ireland: 0.4m, Scotland: 1m, and Wales: 0.6m.<sup>1</sup> The UK Government is responsible for all legislative and policy matters relating to England, Northern Ireland, Scotland or Wales, in respect of those matters which have not been devolved to their respective legislatures. These include foreign affairs, immigration, defence, macroeconomic policy and, with the exception of Northern Ireland, policing and justice. The extent and pattern of devolution varies for the three nations.

5. The UK State Party and the three devolved legislatures are wholly committed to implementation of the UNCRC. It has been open to the devolved legislatures to develop their own approach to implementation of specific UNCRC articles where they have the legal responsibility to do so. This has resulted in some differences of approach and practice which are highlighted in this submission. We believe it is in children's best interest as it allows each nation to adopt policies and practices which reflect local needs and circumstances. It is also helpful in relation to UNCRC implementation as it allows each nation to learn from each other's practices and to build on their strengths.

---

<sup>1</sup> Office for National Statistics mid-year population estimates, 2012

## Draft for comment by civil society – 23/10/2013

6. The UK State Party and the devolved legislatures also have a policy of devolving funding and decision-taking to local councils so that they can reflect local priorities. Their responsibilities can include education, environmental health, housing, social services and transport, although again the arrangements vary across the Devolved Administrations. Councils provide services to the public directly or may commission other providers to do so. There are separate arrangements for health.

7. There are 14 British Overseas Territories. The UK Government has responsibility for the international relations, internal security, defence and good governance of the Overseas Territories, as well as the well-being of their peoples. The Overseas Territories have their own constitutions and domestic laws, with a substantial measure of responsibility for the conduct of their internal affairs. They are responsible for the protection and promotion of human rights and have a duty to ensure local law complies with the relevant conventions and court judgements and is non-discriminatory.

8. Most of the Overseas Territories are small islands or island groups that face resource and capacity constraints that affect their ability to consider or implement treaties. The UK Government's longstanding practice in this area is to encourage the Territories to agree to the extension of UN human rights conventions that the UK has ratified, but to extend these to the Territories only when they are ready to apply them.

## Chapter I: General Measures of Implementation

### (Articles 4, 42 and 44, Paragraph 6)

1. This chapter provides information on the implementation of the general principles of the UNCRC across the UK, particularly in respect of Articles 4, 42 and 44, paragraph 6, of the Convention, and confirms the UK's position in respect of each of the UNCRC Optional Protocols.

#### **Reservations and declarations to the Convention and the Optional Protocols**

2. The UK signed the UNCRC in 1990 and ratified it in 1991. The State Party has no reservations or declarations in respect of the Convention.

3. The UK signed the **Optional Protocol on the involvement of children in armed conflict** in September 2000 and ratified it in June 2003. At the time of signing and upon ratification the UK Government made a declaration stating that it would take all feasible measures to ensure that members of its armed forces who have not attained the age of 18 years do not take a direct part in hostilities.

4. No service personnel under the age of 18 are knowingly deployed on any operation, outside of the UK, which would result in them becoming engaged in, or exposed to, hostilities. However, the United Kingdom understands that article 1 of the Optional Protocol would not preclude the deployment of members of its armed forces under the age of 18 taking a direct part in hostilities where: -

a) there is a genuine military need to deploy their unit or ship to an area in which hostilities are taking place; and

b) by reason of the nature and urgency of the situation:

i) it is not practicable to withdraw them before deployment; or

ii) to do so would undermine the operational effectiveness of their ship or unit, and thereby put at risk the successful completion of the military mission and/or the safety of other personnel.

5. The UK signed the **Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography** in September 2000 and ratified it in February 2009. The State Party has no reservations or declarations in respect of this Optional Protocol. In 2011 the UK submitted its first periodic report on progress the UK had made in implementing the provisions of the Optional Protocol.

6. The UK has yet to sign and ratify the **Optional Protocol on a Communication Procedure**. In view of the strength of the current legal framework protecting rights in the UK, the State Party is still considering how this Optional Protocol might add practical value for people in the UK. The UK already has strong

and effective laws under which individuals may seek enforceable remedies in the courts or tribunals if they feel that their rights have been breached.

7. The State Party nonetheless recognises the symbolic value of the UK being a party to this Optional Protocol and we will therefore keep the matter under review in light of emerging information about its application in practice.

### **Bill of Rights**

8. The UN recommended that the State Party should develop a British Bill of Rights and a Bill of Rights in Northern Ireland, and incorporate into them the principles and provisions of the Convention, for example by having a special section devoted to child rights. In March 2011 the State Party responded by establishing a Commission on a Bill of Rights to investigate the creation of a UK Bill of Rights, and to examine and promote a better understanding of the operation and implementation of the State Party's international and domestic obligations. The work programme included wide consultation with the public, judiciary and devolved administrations and legislatures. The Commission submitted its final report to the UK Government on 18 December 2012.<sup>2</sup> Currently no decisions have been taken about the way forward.

### **Measures adopted to review and bring domestic legislation and practice into full conformity with the provisions of the Convention and its Optional Protocols**

9. As a general principle, the State Party does not incorporate international treaties directly into domestic law. While the wording of many of the UNCRC Articles helpfully allows local flexibility and encourages progressive implementation, it does not provide the level of precision that would allow legislators to incorporate it directly within the UK legal framework. Consequently, alternative steps have been taken within each jurisdiction to ensure that all aspects of law and practice are compliant with the UNCRC. Each of the four UK nations has taken a different approach. They are in the process of being implemented and we will monitor their impact carefully. Details are given below.

#### **England<sup>3</sup>**

10. In response to the UN's recommendation from the last reporting period, that the State Party should take measures to bring its legislation into line with the Convention, the UK Government undertook a detailed analysis, published in March 2010, of how the rights and obligations set out in each of the Articles in the UNCRC are protected and how implementation of the Convention is achieved through existing legislation and case law.<sup>4</sup>

---

<sup>2</sup> The full report can be found at - <http://www.justice.gov.uk/about/cbr/>

<sup>3</sup> This also relates to the UK in respect of non-devolved matters

<sup>4</sup> The key legislative provisions, case law and policy can be found at -

<http://www.education.gov.uk/childrenandyoungpeople/healthandwellbeing/b0074766/uncrc>

## Draft for comment by civil society – 23/10/2013

11. Following a change of government in May 2010, the UK Government reaffirmed its commitment to the UNCRC by giving a commitment to Parliament that it “would give due consideration to the UNCRC articles when making new policy and legislation” and, in doing so, “would always consider the UN Committee on the Rights of the Child’s recommendations but recognise that, like other state signatories, the UK Government and the UN Committee may at times disagree on what compliance with certain articles entails”.<sup>5</sup>

12. Since this statement, there have been two Bills which were specifically designed to address children’s needs or improve their outcomes and include measures which respond directly to recommendations made by the UN in the 2008 concluding observations:

- The Education Act 2011 includes, among other things, provision for: local authorities to provide information on and secure free early years provision; school staff to secure the personal safety of pupils through carrying out searches for prohibited items (such as weapons or banned substances); reviews of individual pupil exclusions from school; and reforms of the school system to raise standards by allowing more schools to apply for academy status.
- The Children and Families Bill 2013 includes, among other things, provision: to speed up the process of adoptions; to promote mediation and the best interests of the child in disputes between parents; to strengthen support for children with special educational needs; to secure the sufficiency of childcare; to give the Children’s Commissioner a primary role in promoting and protecting children’s rights; and to make provision for the assessment of young carers for support.

### Northern Ireland

13. In line with a recommendation made by the UN Committee in 2008, the Education (2006 Order) (Commencement No.3) Order (Northern Ireland) 2011 offers pupils access to a wider and better balanced range of courses to suit their needs, interests, and aptitudes, regardless of where they live or type of school they attend. This will increase the likelihood of young people, including those from disadvantaged or school-distant groups, to remain engaged in education and achieve improved outcomes.

14. The Safeguarding Board for Northern Ireland (SBNI) was established on 17 September 2012 under the Safeguarding Board Act (Northern Ireland) 2011. The role of the SBNI is to safeguard and promote the welfare of children in Northern

---

<sup>5</sup> The Written Ministerial Statement can be referenced via this link:  
<http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm101206/wmstext/101206m0001.htm>

## Draft for comment by civil society – 23/10/2013

Ireland. In doing so, it must take into account the views of children and young people.

15. Northern Ireland is planning to introduce new fostering regulations to strengthen inspection and regulation of fostering arrangements, promote child protection and behaviour management and ensure that children in foster care are visited by a social worker at least once every four weeks, alone if appropriate.

16. Draft legislation is also being prepared to include the best interests principle in the statutory aims of the youth justice system.

### Scotland

17. The Scottish Government has taken a number of legislative measures which support improved outcomes for children and help to protect their rights, including:

- The Children's Hearings (Scotland) Act 2011 which strengthened mechanisms for ensuring that a child's views are heard and that the child's welfare is the primary consideration in any court decisions;
- The Patient Rights (Scotland) Act 2011 which promotes the involvement of all, including children, in decision-taking about their health and welfare;
- The Social Care (Self-Directed Support) (Scotland) Act 2013 gives children and families more choice and greater control over the care services they receive and ensures that provision is designed around the needs of the individual.

18. The Scottish Government is building on the above through its Children and Young People (Scotland) Bill, currently under consideration by the Scottish Parliament, which will place a new duty on Scottish Ministers to keep under review whether there are steps they might take to strengthen their approach to implementation of the UNCRC, take actions which they believe to be appropriate in response, and be prepared to justify the impact of those actions. The Bill also places a duty on Scottish Ministers to promote awareness and understanding of the UNCRC and introduces new reporting requirements designed to support increased scrutiny of the entire public sector's approach to implementing the Convention.

### Wales

19. In 2011 Wales incorporated children's rights into domestic law through the introduction of the Rights of Children and Young Persons (Wales) Measure 2011.<sup>6</sup>

---

<sup>6</sup> *Subsequent to the referendum on further powers to the National Assembly for Wales in 2011, proposed laws are now called Bills, and enacted laws will be called Acts. The Measures made since 2007 will continue to be called Assembly Measures and will continue to have the same legal effect. What will change is that it will not be possible to make any more Measures and new laws made by the Assembly will be called Acts.*

## Draft for comment by civil society – 23/10/2013

Since 1 May 2012, the Measure has required Welsh Ministers to have due regard to the articles of the UNCRC and its Optional Protocols when developing new or amending existing policies and/or legislation. From May 2014 the Measure will be extended to require Welsh Ministers to have due regard to children's rights whenever they exercise any of their functions. The Measure also confers a power on the Welsh Ministers to make an Order amending other legislation or prerogative instruments if they conclude that it would be desirable to do so to give further or better effect to the rights and obligations in the UNCRC or its Optional Protocols.

20. The Measure states that Welsh Ministers must produce a Children's Rights Scheme identifying the arrangements in place to ensure compliance with the duties of the Measure. The Children's Rights Scheme was approved by the National Assembly for Wales. The Scheme defines the roles and responsibilities of both individuals and groups within the Welsh Government. The Scheme also details how the duty will be implemented and includes the steps to be undertaken to challenge Ministers if it is considered that children's rights have not been taken into account.

### **UNCRC strategies and plans**

*Whether a comprehensive national strategy and corresponding plan or plans of action for children have been adopted and to what extent these have been implemented and evaluated; and whether and how they form part of the overall development strategy, public policies and relate to specific sectoral strategies and plans. In the case of federal Governments, whether plans for children cover beyond the central level and to what extent.*

21. In 2009, the State Party published a joint UK-wide strategy, *Working together, achieving more*, which set out how the four nations would work together to implement the UNCRC. This document sets out the underlying principles which determine the UK's broad approach to UNCRC implementation:

- The UK governments are firmly committed to making their policies and laws compliant with the UNCRC and to work towards more effective implementation.
- We are firmly committed to working together to strengthen children's rights across the UK and to promote children's well-being.
- We are firmly committed to making the UK the best place for children to grow up in. Children's and young people's views have increasingly helped to inform and shape our policies and programmes during the past five years. See pages 30 for more details.

### England<sup>7</sup>

22. In 2009, at the same time as *Working together, achieving more* the then Government issued *Priorities for Action* which set out proposals to address the UN Committee's recommendations following the last periodic review. It was accompanied by *The Children's Plan* which provided a detailed set of underpinning objectives and targets for improvements in children's services at national level; and local authorities were placed under a statutory duty to prepare a children and young people's plan setting out the improvements they would make to children's services at local level and against which they were held accountable.

23. Since May 2010, when the Coalition Government came to office, the State Party aimed to minimise the amount of central government direction and maximise the amount of flexibility and discretion available to local decision-takers. In particular, the Government has sought to avoid bureaucratic processes that take up valuable resources and which may distract professionals from their activities which directly support children. It believes that local government is best placed to work out what improvements are needed and which measures will work best in a local area, and that people who work with children on the frontline and who understand children's needs and wishes are best placed to make decisions about their support.

24. In light of the above, the UK Government is not currently engaged in delivering a separate plan specifically to promote UNCRC implementation and has removed the requirement for local authorities to prepare their own children and young people's plans. However, the Government has promoted on-going commitment to UNCRC implementation through the following:

- Statutory guidance was issued to all local Directors of Children's Services and Lead Councillors (the executive and political leads in local government) in April 2012 which requires them to have regard to the general principles of the UNCRC and to ensure that children and young people are involved in the development and delivery of local services.
- An independent review of the child protection system in England, led by Professor Eileen Munro<sup>8</sup>, concluded that child protection had become too focused on compliance and procedures and had lost its focus on the needs and experience of individual children. The Government agreed with Professor Munro's analysis and published a formal response in July 2011 and new *Working Together* guidance, in April 2013, which encourage all agencies responsible for children's welfare to take a child-centred approach.
- The Positive for Youth Strategy, issued in December 2011 and updated in July 2012, is based on UNCRC principles and sets out a wide range of policies and principles designed to improve young people's outcomes. It reinforces young people's right to have their views taken into account in all

---

<sup>7</sup> This also relates to the UK in respect of non-devolved matters

<sup>8</sup> A child centred system was published in May 2011

decisions that affect their lives; and emphasises the energy, enthusiasm and valuable ideas that young people have for shaping and improving the world around them. It has led to increased involvement of young people in youth councils and youth cabinets, greater representation of young people on steering and management committees, and greater involvement in the development and scrutiny of policies.

### Northern Ireland

25. The Children and Young People's Ten Year Strategy 2006-16 – *Our Children and Young People – Our Pledge* provides the strategic direction for improving outcomes for children and young people in Northern Ireland. A Child Rights Indicator Framework links progress on the outcomes in the Strategy directly to implementation of the UNCRC and informs both the development of policy and the delivery of children's services.

### Scotland

26. Following the UN Committee's 2008 concluding observations, the Scottish Government published a detailed action plan setting out its priorities for implementing the UNCRC over the medium to long term. A subsequent progress report was published in May 2012.

### Wales

27. Following the publication of the concluding observations in 2008, the Welsh Government consulted with a wide range of stakeholders to consider these recommendations and to discuss how to take the work forward. Subsequent to this the *Getting it Right Action Plan 2009* was developed. The plan brings together the actions and progress taken by the Welsh Government against the identified priority areas. The plan allows the progressive strides to be highlighted but also records any new developments in policies or strategies. It is the Welsh Government's intention to refresh the action plan and consult on the refreshed document.

### Coordination

*Which Government authority has the overall responsibility to coordinate implementation of the Convention and its Optional Protocols, with what level of authority*

28. The UK State Party and the devolved governments each have Ministers who are responsible for coordinating UNCRC implementation across the relevant jurisdiction. The five Ministers<sup>9</sup> liaise on areas of common concern and interest.

---

<sup>9</sup> Includes both the First Minister and deputy First Minister in Northern Ireland

## Draft for comment by civil society – 23/10/2013

There are regular meetings between officials in the four jurisdictions to brief each other on UNCRC developments and to share ideas about UNCRC implementation.

29. In England, Edward Timpson, the Minister for Children and Families in the Department for Education, has lead responsibility for UNCRC matters within the UK Government. The Government takes collective responsibility for policies and legislation through a process of cabinet government, whereby each Minister must seek approval from cabinet colleagues before proceeding with a new policy or a new piece of legislation. Each government department is responsible for ensuring that its policies and legislation are compliant with the UNCRC. Minister Timpson has written to the heads of Government Departments to reinforce the commitment to give due consideration to the UNCRC. This is also written into the published guidance which government officials must have regard to before embarking on the legislative process.

30. Implementation of the UNCRC in Northern Ireland is primarily overseen by the Delivering Social Change (DSC) Ministerial Sub Committee on Children and Young People, which is led by Junior Ministers from the Office of the First Minister and Deputy First Minister (OFMDFM) and includes Ministers from all Departments. In addition, Children's Champions have been identified in each Department to act as co-ordinating points and to raise awareness on children's issues.

31. In Scotland, Aileen Campbell, Minister for Children & Young People, has lead responsibility for implementation of the UNCRC. However, many of the requirements set out in the Convention fall within the remit of other Ministerial portfolios, a point clearly recognised by all Scottish Ministers and Government Directorates. Scotland has a national group (the Scottish Children's Rights Implementation Monitoring Group), which involves an independent alliance of non-governmental organisations and the Children's Commissioner. The group meets at least twice a year (often more regularly) to discuss progress in implementing the UNCRC and to share best practice.

32. In Wales, the Rights of Children and Young Persons (Wales) Measure identifies the arrangements to be put in place to ensure UNCRC compliance, and defines the roles and responsibilities of individuals and groups within the Welsh Government. The Scheme also details the monitoring arrangements for the duty, including the steps to be undertaken to challenge Ministers if it is considered that children's rights have not been taken into account.

### **Resources to support UNCRC implementation**

*Whether the budget allocated for the implementation of the Convention and its Optional Protocols is clearly identified and can be monitored as it relates to the comprehensive national strategy and corresponding plan for children.*

33. Following the last UNCRC periodic review, the UN Committee recommended that the State Party should 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, identify priorities and allocate resources to the “maximum extent of ... available resources”.

34. The State Party and some of the devolved governments have sought to address this recommendation but it has been difficult to draw clear conclusions about budget allocations or expenditure specific to implementation of the UNCRC for a variety of reasons:

- The UK Government has a policy of devolution of resources to the front line, where they are spent in accordance with local need.
- At national level, some expenditure is targeted specifically towards children or children’s services whereas other expenditure supports all age groups including children. Generally, Government expenditure data for the latter types of spending are not disaggregated by age group.
- It is difficult to ascertain the benefit to children of expenditure on broader policies. For example, social protection measures, such as unemployment benefits, raise the income of out of work households, including those with children. However, it is decisions made by households that determine how much of that spending benefits children.

35. The UK’s investment in children is substantial and wide-ranging, but within these constraints, it is not possible to provide a definitive response to the UN Committee’s recommendation. We have, however, carried out as rigorous an analysis as the above factors will allow. The full analysis is provided in an annex to this report. Our broad conclusions are that:

- Despite the worldwide recession and its impact on the UK economy, real levels of expenditure on children have been broadly maintained over the five years of the review period. This is at least partly due to the present Government’s policy of protecting some of the most important budgets for children, but it also reflects local prioritisation of resources for children where budgets have been devolved.
- As a proportion of GDP, expenditure on children also appears to have remained broadly the same, and for the same reasons as given above.
- We recognise that the distribution of resources between children is as important as the overall quantum. The present UK Government has adopted a policy of delegating decisions about the distribution of resources to the local level on the assumption that local decision-makers and local commissioners have a better understanding of local needs and priorities than national government. But we recognise the importance of using resources to create fairness and opportunities for everyone. By 2014-15 the UK Government will

be spending £2.5 billion on the Pupil Premium which provides support for disadvantaged pupils in schools in order to close the attainment gap between them and their peers.

### **Provision of international assistance and aid**

*Whether international assistance and development aid are provided and/or received directly related to the implementation of the Convention, its Optional Protocols and related national strategies and plans*

36. The UK Government has sought to address the plight of children in the countries overseas that we work with, from seeking to improve the conditions that threaten children in those countries to providing additional resources for delivering better health and education. Our spending programme is designed to improve basic services such as health, education, water and sanitation, all of which benefit children.

37. It is difficult to identify specific areas of expenditure on children, because of its integration into wider spending and because of the nature of the social and economic reform programmes of partner governments. However, notable resource allocations have been provided to a number of sectors that benefit children in partner countries. For instance:

- The UK Government has pledged to support 9 million children in primary education around the world, by 2015, at least half of whom will be girls, and 2 million children in secondary education. The UK Government has also pledged to help train 190,000 teachers to improve the quality of learning. The UK's Girls Education Challenge will work with businesses and charities to support further an additional 1 million of the world's most disadvantaged girls in school.
- The UK supports children around the world to be immunised against vaccine preventable diseases: through disease-specific interventions such as the Measles & Rubella Initiative, the Global Polio Eradication Initiative and research into new vaccines; through country-level support to routine immunisation and strengthening health systems to deliver vaccines effectively; and through multilateral support to the GAVI Alliance and the World Bank. In 2011/12 alone, the UK Government's direct funding to vaccination through these routes was around £220 million, which helped to vaccinate at least 84 million children.
- UK support is preventing 12.9 million children and pregnant women from going hungry, and is ensuring that 1.6 million births take place safely;
- The UK will provide £9.75 million for a five year programme from 2013-17 to help prevent trafficking of women and girls from South Asia in the domestic work and garment sectors. This will include specific support to 9,000 girls

under 16 who will be supported to stay in school so that they are not compelled to migrate for domestic work.

### **Independent monitoring structures**

*Whether an independent national human rights institution (NHRI) for monitoring implementation has been established and if it receives individual complaints from children or their representatives. States parties to OPAC should indicate whether an NHRI is mandated to monitor military schools and the military, and if voluntary recruitment is permitted below the age of 18 years*

### **The Children's Commissioners**

38. The UK has four Children's Commissioners, appointed by the nations that make up the State Party. The four Commissioner posts have existed since 2004 or earlier and are an established part of the framework of UNCRC monitoring and implementation. They meet regularly with the Irish Commissioner as members of the British and Irish Network of Ombudsmen and Children's Commissioners (BINOCC) to coordinate their overlapping roles, and to agree approaches on issues concerning the British Isles. The Commissioners have developed an operational protocol to ensure that they work together to maximum effect.

39. In 2010, the UK Government commissioned an independent review of the Children's Commissioner in England's role to consider how it could be brought into line with the roles and remits of the other three Commissioners and the expectations of civil society for a national human rights institution for children. After extensive consultation with NGOs and children and young people, the UK Government introduced legislation to change the primary role of the Commissioner to one of promoting and protecting the rights of children, with reference to the UNCRC. Legislation will extend the Commissioner's remit and powers including: strengthening the Commissioner's role by combining the functions of the Children's Rights Director (who has a specific remit for children living away from home or receiving care, clarifying the Commissioner's powers to carry out impact assessments and raise matters with Parliament, and ensuring that the Commissioner is independent from Government.

40. The Northern Ireland Commissioner for Children and Young People has the power to receive and to respond to individual requests from children and their representatives. This includes providing assistance with complaints against relevant authorities, investigating complaints herself and carrying out reviews of advocacy, complaint, inspection and whistle-blowing arrangements both on a general basis and in individual cases. In addition she can initiate, or provide assistance in relation to, legal proceedings on behalf of children and young people. She has recently used her powers of review to make a number of proposals to the Executive for a number of amendments to her legislation. The Executive is currently considering these proposals.

41. Scotland's Children's Commissioner is an appointment of the Scottish Parliament and so is wholly independent of Government. Through the Children & Young People (Scotland) Bill, the Scottish Government has proposed that Parliament extends the role of the Commissioner, enabling them to undertake investigations in relation to the experience of individual children. These new powers are due to take effect from 2016, subject to the Scottish Parliament's agreement.

42. In Wales, the Children's Commissioner acts as an independent champion for children and young people, and has a statutory role to safeguard and promote the rights of children and young people in Wales. In doing so, the Commissioner must have regard to the UNCRC. The Children's Commissioner for Wales's legislation affords powers of review and examination of public bodies and enables investigation of individual cases and provision of advice and support. The Commissioner's annual report is discussed in the National Assembly for Wales, both in committee and plenary. The Welsh Government also responds to the annual report each year.

### Equality and Human Rights Commission

43. In addition to the bodies above, whose focus is specifically on children, the Equality Act 2006 established the Commission for Equality and Human Rights – described in more detail in chapter III, to support the rights of children and adults across the UK.

### **Dissemination, training and awareness-raising**

*Measures that have been taken to make the principles and provisions of the Convention and its Optional Protocols widely known to adults and children through dissemination, training and integration into school curricula.*

*Efforts undertaken or foreseen to make reports and concluding observations widely available to the public at large, to civil society, business organizations and labour unions, to religious organisations, the media, and others as appropriate.*

*Efforts undertaken or foreseen to make reports and concluding observations widely available to the public at large at the national level.*

44. Following a review of the National Curriculum in England, the UK Government issued a revised Citizenship programme of study that makes it clear that schools should develop pupils' understanding of democracy, government and the rights and responsibilities of citizens and includes a requirement that pupils should be taught about the UN. The Government trusts schools to decide what specific information their pupils should receive, taking account of their age, needs and interests. The Teachers' Standards set clear expectations around tolerance of, and respect for, the rights of others, and the demonstration of good subject and curriculum knowledge. Teachers who are responsible for Citizenship or PSHE lessons can

## Draft for comment by civil society – 23/10/2013

access the many online materials that are available to improve their understanding of the UNCRC.

45. Targeted training on the UNCRC for government officials and public officers has been undertaken:

- General awareness training on the UNCRC has been provided to groups of central government officials who are working on policy or legislation which may affect children. Officials have been encouraged to undertake children's rights impact assessments for their proposals;
- Frontline staff who work directly with children have been made aware of the UNCRC through training and associated guidance:
  - Section 55 of the Borders, Citizens and Immigration Act 2009 requires officials to take account of the need to safeguard and promote the welfare of children when carrying out our immigration and asylum procedures;
  - The Professional Capabilities Framework for social workers sets standards for skills and knowledge which include the advancement of human rights and promotion of social justice and economic well-being;
  - Early years professionals are required to demonstrate that they promote equality of opportunity through championing children's rights; and
  - Training for staff working in under-18 Young Offenders Institutions includes consideration of UNCRC within modules considering safeguarding, adolescent development, communication and emotional and mental well-being.

46. Within Northern Ireland, copies of the UNCRC have been sent to pupils in all schools and further education colleges and to almost 4,000 civil servants. The Children's Commissioner is responsible for raising awareness of the UNCRC and has provided training on the UNCRC to Children's Champions.

47. Initial Teacher Training provided by the Higher Education Institutions includes provision related to UNCRC. Student teachers have the opportunity to participate in the Northern Ireland Commissioner for Children and Young People's workshop on Children's Rights.

48. Since 2009/10, all children between Year 1 and Year 12 in grant-aided schools in Northern Ireland have undertaken Citizenship Education which seeks to develop their capacity of all young people to participate positively and effectively in society. Pupils have opportunities to use local and global examples to investigate topics such as diversity, inclusion, cultural heritage, equality, democracy, participation and human rights, including the key principles outlined in the UNCRC and the European Convention on Human Rights (ECHR).

49. Action in Scotland includes:

## Draft for comment by civil society – 23/10/2013

- A three year programme to increase awareness and understanding of children's rights in every school across Scotland, including resources and self-evaluation materials for learning professionals;
- A set of common core skills, knowledge and understanding and values which every worker (paid or unpaid) should have as a minimum if they work with children, young people and families, which are cross-referenced to the general principles of the UNCRC; and
- The inclusion of a proposed duty in the Children & Young People (Scotland) Bill requiring Scottish Ministers to promote public awareness and understanding of the UNCRC.

50. In Wales, the Rights of Children and Young Persons (Wales) Measure 2011 places a duty on Welsh Ministers to take such steps as are appropriate to promote knowledge and understanding amongst the public (including children) of the Convention and the Protocols. Actions include:

- A dedicated website providing resources for children and young people and for adults working with children.
- The development of resources to aid officials to gain a better understanding of the UNCRC.
- Systematic training of all professional groups working for and with children. The aim is to encourage all staff in key professions to incorporate an understanding of the UNCRC into their programme of learning.

51. Between 2008 and 2010 the UK Government provided £521,000 of pump priming funding to help UNICEF establish the Rights Respecting Schools (RRS) programme. Over 1000 schools have gained RRS status and more are applying every week. The Rights Respecting Schools Award (RRSA), run by UNICEF UK, recognises schools' achievements in putting the UNCRC at the heart of planning, policies, practice and ethos. It is being successfully implemented in different types of settings – primary, secondary, special and pupil referral units – across England, Northern Ireland, Scotland and Wales.

### **Cooperation with civil society**

*Cooperation with civil society organisations, including non-governmental organisations and children's and youth groups, and the extent to which they are involved in the planning and monitoring of the implementation of the Convention and its Optional Protocols.*

52. All four jurisdictions have made a priority of consulting children and young people on matters that affect them and have regular dialogue with civil society.

53. The UK Government has held numerous consultations with children and young people to inform the development of policy and legislation throughout the period since the last periodic review. Ministers have held twice-yearly meetings with

## Draft for comment by civil society – 23/10/2013

key NGOs and an NGO reference group has helped to plan the process and to act as 'critical friends' in the drafting of this submission.

54. Similar approaches have been adopted in Northern Ireland, Scotland and Wales:

- In Northern Ireland, in formulating its contribution to this Report, the Executive has taken part in a series of engagements with children and young people which have been hosted by children's organisations. Ministers and officials meet regularly with non-governmental organisations to seek their views on policy issues.
- The Scottish Government supports 'Together', an independent alliance of non-government organisations, to publish an annual *State of Children's Rights* report, monitoring the progress made to implement the UNCRC in Scotland. The Scottish Children's Rights Implementation Monitoring Group also provides an important forum for civil society to engage in the work of Government in this area.
- The Welsh Government convenes the 'Getting it right support network' to allow groups and organisations that support children and young people to advise on addressing the concluding observations. 'The Wales UNCRC monitoring group' also scrutinise compliance to the UNCRC. As well as this the Welsh Government consults with stakeholders, including civil society, on a number of legislative and policy areas.

## Chapter II: General Principles

### (Articles 2, 3, 6 and 12)

#### INTRODUCTION

1. This chapter provides information on the implementation of the general principles of the UNCRC across the UK.
2. Significant progress has been made towards delivering the general principles since the last review, not least through the Equality Act 2010, which consolidates anti-discrimination law, and in establishing a strong culture for consulting children on matters that affect them and seeking their views. This chapter highlights some of the key areas of progress, explains how we have addressed recommendations made by the UN Committee since the last review, and sets out the steps we are taking to tackle ongoing issues, or new issues that have emerged since the last review.

#### CONCLUDING OBERVATIONS – FOLLOW-UP

##### **Tackling the negative portrayal of children and young people in the media**

*The UN Committee expressed concern at the general climate of intolerance and negative public attitudes towards children, especially adolescents.*

3. The State Party recognises that this is an ongoing issue and since the last reporting period there have been various examples of negative publicity about ‘youths’, for example following the London riots of summer 2011, although subsequently there were many positive news stories of children and young people being involved in clean-up operations.
4. In the UK, the media is independent of the Government and free to report its own views and opinions. It is not a matter for public policy to dictate to the press how they should talk about young people. However, the Broadcasting Standards Commission Fairness and Privacy Code of Practice, which covers children, sets out the principles and practices to be followed by all broadcasters to avoid unjust or unfair treatment in radio and television programmes. The UK Government has taken action to promote positive images of young people. For example, the UK Government’s *Positive for Youth* document<sup>10</sup>, published in December 2011, recognised that 99% of young people are responsible and hard-working, and want to make the most of their lives and make the world a better place.
5. The UK Government has also taken steps to promote positive images and activities through the high profile National Citizen Service (NCS), which provides 16

---

<sup>10</sup> Positive for Youth - A new approach to cross-government policy for young people aged 13 to 19 - <https://www.gov.uk/government/publications/positive-for-youth-a-new-approach-to-cross-government-policy-for-young-people-aged-13-to-19>

and 17 year olds with a once-in-a-lifetime opportunity to build skills for work and life, while taking on new challenges and meeting new friends. In 2013, the NCS programme had 50,000 places across the UK and, due to its continued success, and the Government's strong commitment to developing young people, there will be 90,000 places in 2014 and 150,000 in 2016. Positive publicity for young people on NCS has been reported at both regional and national levels. News stories have demonstrated the breadth of social action projects being designed and delivered by young people in local areas, shared the stories of the young people taking part, and the achievements they have made in overcoming challenges as part of the programme.

6. The UK Government is also supporting a new, independent organisation, The Campaign for Youth Social Action, as well as the voluntary sector, schools and businesses, to inspire and support a new generation of socially active and responsible young people. The Campaign aims to double the number of young people participating in social action to over 50% by 2020.

7. The UK Government has also supported the Children's Commissioner in England's annual 'Takeover Day' initiative, including through allowing several young people to work-shadow Ministers. Each year, the Children's Commissioner 'Takeover Day' gives children and young people the chance to work with adults for the day and be involved in decision-making. Children have the opportunity to experience the world of work and make their voices heard. The seventh 'Takeover Day' took place on 22 November 2013.

8. In Scotland funding has been provided for a 'Young Scot's Truth About Youth' project which aims to challenge and change negative perceptions of young people in the media and communities. It has used intergenerational workshops and events, an online blogging and video website, and partnership with Scotland's Sunday Mail newspaper, to share young people's stories about the positive contributions they are making to society. Since its launch in 2010, the initiative has resulted in direct engagement with over 23,500 people across all generations in Scotland; and awards of over £25,000 to help nearly 30 youth-led groups set up their own initiatives to tackle perceptions. Recent impact statistics show that 73% of participants felt their perceptions of young people had become more positive as a result of the project.

9. In Wales, to celebrate the 20<sup>th</sup> anniversary of the UNCRC being adopted, the Welsh Government launched *Tell it Like it is*. This is a media toolkit for those working with children and young people and provides information on how to promote positive images and stories in relation to children and young people. The Children's Commissioner in Wales has run a campaign *See Me/Dyma Fi* to encourage the use of responsible and balanced imagery and language when portraying children and young people.

10. In Northern Ireland, the Executive has supported a scheme to remove intergenerational barriers and tackle negative perceptions. Funding has been provided for fourteen projects involving some 2,500 younger and older people. A number of the projects which highlighted the constructive role of children and young people, were reported on in both local and social media.

11. The NI Commissioner for Children and Young People has continually campaigned against negative stereotyping of young people in the media and the Commissioner's Youth Panel has launched a campaign *Disable the Label* which sought to raise awareness and to encourage young people to tackle the issue.

### **Protecting children and young people from discrimination**

*The UN Committee recommended that the State Party should take all necessary measures to ensure that cases of discrimination against children in all sectors of society are addressed effectively, including with disciplinary, administrative or – if necessary – penal sanctions. The UN Committee also recommended that the State Party should strengthen its awareness-raising and other preventive activities against discrimination and, if necessary, taking affirmative actions for the benefit of vulnerable groups of children, such as: Roma and Irish Travellers' children; migrant, asylum-seeking and refugee children; lesbian, bisexual, gay and transgender children; and children belonging to minority groups.*

12. Under the Equality Act 2010, schools must have due regard to the need to eliminate discrimination, advance equal opportunity and foster good relations between children.

13. Romany Gypsies and Irish Travellers are 'racial groups' that are fully protected by the anti-discrimination provisions in the Equality Act 2010. In April 2012, the UK Government published a ministerial working group report which set out 28 measures designed to improve outcomes for the Gypsy, Roma and Traveller communities in England. These included: piloting a virtual head teacher to champion the interests of Gypsy, Roma and Traveller pupils across their local authority and respond to issues of low attainment and attendance; a revised school inspection framework highlighting Gypsy, Roma and Traveller students as a vulnerable group, with inspections paying particular attention to their progress and attainment; and measures to address the high levels of school exclusion amongst Gypsy and Traveller children.

14. In Northern Ireland the Race Relations (Northern Ireland) Order 1997 (as amended) provides protection to minority ethnic groups including Irish Travellers. Other initiatives to tackle race issues include: the Executive working with the Racial Equality Panel and wider representatives of the sector to draft a new Racial Equality Strategy; *Unite Against Hate* campaign designed to make hate crime of any type unacceptable; and the establishment of a new Regional Traveller Education Support

Service (TESS) in April 2013.

15. In Scotland, the Scottish Government is investing nearly £6m during 2012-15 in organisations which aim to tackle racism and religious intolerance, as well as improve the lives of minority ethnic and religious communities.

16. In Wales, in April 2012, the Welsh Government launched its *Strategic Equality Plan (SEP)*<sup>11</sup> and equality objectives. The actions within the SEP are being taken forward and will be reported in the annual report for 2012/13. The Welsh Government also launched a *Framework for Hate Crime* in the summer of 2013, which focuses on hate crime based on race, religion, disability, sexual orientation and gender identity.

### **Promoting the best interests of the child**

*The UN Committee recommended that the State Party should take all appropriate measures to ensure that the principle of the best interests of the child, in accordance with article 3 of the Convention, is adequately integrated in all legislation and policies which have an impact on children, including in the area of criminal justice and immigration.*

17. The principle of the best interests of the child is enshrined in legislation, policy and practice across the UK. In England Section 1 of the Children Act 1989 (CA 1989) provides that, in any proceedings relating to the upbringing of a child or the administration of the child's property or application of any income arising from it, the child's welfare is the paramount consideration. This applies to private family law proceedings under Part 2 of the CA and public law proceedings – emergency protection orders, care orders and supervision orders.

18. New measures being introduced through the Children and Families Bill to strengthen arrangements for adoption, promote family life and reform support for children with special educational needs, are all predicated on the assumption that decisions affecting children should be in their best interests and take account of their views, wishes and feelings.

19. The Northern Ireland Executive is preparing draft legislation to include the best interests principle within the statutory aims of the youth justice system.

### **Right to life, survival and development**

20. The UN Committee recommended that the State party should use all available resources to protect children's right to life, including by reviewing the effectiveness of preventive measures; and introduce automatic, independent and public reviews of

---

<sup>11</sup> [The Strategic Equality Plan](#)

## Draft for comment by civil society – 23/10/2013

any unexpected death or serious injury involving children – whether in care or in custody.

21. Infant mortality rates in England and Wales are improving, with just 4.2 infant deaths per 1,000 live births in 2011 - the lowest rate on record. This compares with 11.1 deaths in 1981, a 62% decrease.<sup>12</sup> Similarly, there has been a steady decline in the number of under-19 deaths resulting from road traffic or other accidents. There have been no child deaths as a result of polio from 2007 to 2011 and no under-19 deaths resulting from hepatitis in 2010 or 2011. However, we are by no means complacent about this progress as between 2007 and 2011, the number of under-19 deaths resulting from disease of the respiratory system remained around 200 and most prevalent in under 5s. In addition, on deaths due to suicides in 2011, the number of under-19 deaths resulting from homicide was 150, the highest level since 2007.

22. In England, statutory procedures must be followed in the event of every child death. Local Safeguarding Children Boards (LSCBs) are required by law to collect and analyse information about each death with a view to identifying: any case which meets the criteria for a Serious Case Review (SCR); any matters of concern affecting the safety and welfare of children in the area of the authority; and any wider public health or safety concerns arising from a particular death or from a pattern of deaths in that area.

23. Every unexpected child death or serious injury which occurs in police custody in England and Wales is subject to investigation either by the police or by the Independent Police Complaints Commission. There is also a Coroner's Inquest before a jury. This is held in public, and the family are able to attend and to question witnesses.

24. Serious Case Reviews (SCRs) are carried out in cases where abuse or neglect is known or suspected and either a child dies, or a child is seriously harmed and there are concerns about how organisations or professionals worked together to protect the child. SCR's are also commissioned in cases where young people (under 18s) die in custody. The UK Government has taken steps to strengthen arrangements for SCR's so that lessons from serious incidents can be learned more effectively. Revised statutory guidance in *Working Together to Safeguard Children* (2013)<sup>13</sup> sets out the revised processes that LSCBs should follow when undertaking SCR's. The guidance makes clear that reviews should get to the heart of what

---

<sup>12</sup> <http://www.ons.gov.uk/ons/rel/vsob1/child-mortality-statistics--childhood--infant-and-perinatal/2011/sty-infant-mortality.html> - published 26 April 2013

<sup>13</sup> Updated in January 2013 – replaces previous guidance *Working Together to Safeguard Children* (2010); *The Framework for the Assessment of Children in Need and their Families* (2000); and *statutory guidance on making arrangements to safeguard and promote the welfare of children under section 11 of the Children Act 2004* (2007).  
<http://www.education.gov.uk/aboutdfe/statutory/g00213160/working-together-to-safeguard-children>

happened in the incident, and why, and that the report of the SCR should be published so that everyone can learn from the case. The UK Government is providing training for SCR reviewers to help them conduct better, more instructive reviews and to write reports which are suitable for publication.

25. In Northern Ireland a statutory Regional Safeguarding Board for Northern Ireland (SBNI) was formally established in September 2012. The SBNI has a statutory duty to undertake Case Management Reviews (CMRs) in circumstances where a child has died or been significantly harmed and specific criteria are met. The SBNI has responsibility for reviewing information regarding regional patterns/trends relating to all child deaths and for identifying and disseminating learning from reviews of sudden or unexpected child deaths in Northern Ireland. A new *Suicide Prevention and Positive Mental Health Strategy* is also being developed and which is due to issue for consultation by Spring 2014. It will emphasise the importance of early intervention and the building of psychological resilience from an early age. The strategy aims to promote positive mental well-being in the general population; the building of psychological resilience from an early age; addresses suicide risk and protective factors as well as crisis response.

26. In Wales, a new Child Practice Reviews<sup>14</sup> framework was introduced. The new framework will help improve the culture of learning by reviewing child protection cases to identify common and preventable factors. A key element of the framework is the requirement that Local Safeguarding Children Boards and key agencies should ensure greater family engagement. Wales has also developed a *National Action Plan to Reduce Suicide and Self Harm*<sup>15</sup> which was developed to assist in reducing the suicide rate in Wales. The plan focuses on identifying and improving responses to people who self-harm, as they are often among those at greatest risk of completing suicide.

27. In Scotland, the Scottish Government does not require automatic reviews of child deaths or significant incidents but is taking action to strengthen the current approach. This includes an exploration of new training methods. All future Reviews will be reviewed by the Care Inspectorate, the scrutiny body charged with inspecting children's services. Findings will be used as part of the ongoing intelligence-gathering by the Care Inspectorate on the quality of children's services throughout Scotland.

### **Use of Taser weapons**

*The UN Committee recommended that the State Party should treat Taser guns and Attenuating Energy Projectiles (AEPs) as weapons subject to the applicable rules and restrictions and put an end to the use of all harmful devices on children.*

---

<sup>14</sup> [New framework to improve child protection practice](#)

<sup>15</sup> [Talk to me: The national action plan to reduce suicide and self-harm in Wales](#)

28. The UK Government has considered this recommendation very carefully and, whilst it supports the principle behind the recommendation, has concluded that it is impracticable to implement while Taser is in use for other age groups. Taser is only deployed where there is a serious threat of violence and by police officers who have been carefully selected and trained in its use. It is for the individual police officer to decide whether it is necessary to deploy a Taser, depending on the circumstances in each case. In some circumstances there is unlikely to be sufficient time or details available for the officer to be able to discern whether an attacker is over or under the age of 18 before taking whatever action is necessary to defend members of the public or themselves. A similar approach is taken in Northern Ireland, Scotland and Wales.

29. Like the use of Taser, Attenuating Energy Projectiles (AEP) are used by the police in support of authorised firearms officers, often allowing the police to bring a potentially violent confrontation to a successful outcome. This reduces the potential of serious injury, both to the individual and police officer. If the AEP was not available to police officers it is highly likely, because of the scenarios in which it is used, the police would have to resort to the use of conventional firearms.

### **Respect for the views of the child**

*The UN Committee recommended that the State Party:*

*(a) Promote, facilitate and implement, in legislation as well as in practice, within the family, schools, and the community as well as in institutions and in administrative and judicial proceedings, the principle of respect for the views of the child;*

*(b) Support forums for children's participation, such as the United Kingdom Youth Parliament, Funky Dragon in Wales and Youth Parliament in Scotland;*

*(c) Continue to collaborate with civil society organisations to increase opportunities for children's meaningful participation, including in the media.*

30. The UK fully endorses and promotes the principle that children and young people should have opportunities to express their opinion in matters that affect their lives. This applies equally to participation in forums and consultations on policy matters that affect groups of children and young people or to decisions affecting them as individuals.

31. The UK Government provides annual funding of £366,000 to the British Youth Council (BYC) to strengthen and maintain the UK Youth Parliament and a Youth Select Committee. This has led to a series of opportunities for children and young people to participate in decision-making:

- The UK Youth Parliament has 600 elected MYPs (Members of Youth Parliament) aged 11-18 and provides opportunities for them to use their voice

in creative ways to bring about social change. A quarter of a million young people voted to select the issues debated at the Parliament's annual Commons sitting on 23rd November 2012.

- The Youth Select Committee (11 members aged 15-18) launched in April 2012 with support from the UK Parliament has given young people opportunities to hold inquiries into issues that young people care about. The first inquiry in July 2012 looked at Transport and Young People. The second inquiry into the role of the education system and the national curriculum began in 2013.
- The National Scrutiny Group allows children and young people to have twice yearly discussions with Ministers and government officials on topics such as the commercialisation and sexualisation of childhood, HealthWatch and exams reform. The BYC has also facilitated regional workshops with young people, for example, in 2013 on UNCRC Articles (12, 15 and 42) for the Department for Education and one on HealthWatch for the Department of Health.
- In England, almost 20,000 children, mostly aged between 11 and 17, have volunteered to represent their peers through Local Youth Councils (LYCs) which have helped to influence local decision-making and shape local services for everyone's benefit.

32. The Family Justice Young People's Board (FJYPB) was established by Cafcass (the Children and Family Court Advisory and Support Service) to help make sure that the voices of children and young people are heard in the family justice system. The FJYPB is a group of 32 children and young people who have been through the family justice system or who have an interest in children's rights and the family courts. Recently, its success was recognised by the Family Justice Review and the Board was expanded to cover the family justice system on a national scale. The Board's remit is to help ensure that the work of the Family Justice Board is child centred and child-inclusive.

33. The above arrangements are reinforced by a variety of arrangements established by the Children's Commissioners and civil society organisations. For example, the Children's Commissioner in England has established Amplify, an advisory group of young people aged between 11 and 18 to inform and influence the Commissioner's own investigations and advise Government policy makers. The Children's Rights Director's Be Heard panel allows a large and disparate group of children in care to respond to specific consultation questions via mobile phone text messaging. All organisations are exploring better ways of using social media to improve children and young people's participation. Many further examples of ways in which children and young people have been able to influence national issues are provided in the box at the end of this chapter.

## Draft for comment by civil society – 23/10/2013

34. Between 2007 and 2012, the Northern Ireland Executive funded the Participation Network to assist departments and agencies to engage proactively with children and young people when developing policy. During this period the Participation Network developed the ASK FIRST training course on engagement; provided training to over 400 public sector staff; and provided child friendly versions of consultation documents thereby assisting 60 public bodies to engage almost 4,000 children and young people in decision making. Examples of engagement to date include:

- The design of a youth transport card;
- Street Talk - an initiative working with young people who are either from interface areas, have a history of offending, or are at risk of engaging in offending behaviours to re-engage them with formal education;
- Creation of a Leaving Care regional website to provide a comprehensive range of information for young people leaving care.
- Public consultation on NI Museums policy – development of a children’s version of the policy, consultation with local schools and the establishment of a focus group of 16-25 year-olds.

35. The new Regional Safeguarding Board for NI has a statutory duty to promote communication between the Board and children and young persons in relation to safeguarding matters. A two year pilot Youth Assembly is currently being considered based on a model developed by a panel of young people. In addition in preparing the Northern Ireland input to the State Party Report a series of direct engagements have taken place to hear the views of those children and young people who rely most on the state to deliver their rights. An online survey is also scheduled to take place to capture the views and experiences of a broader cross-section of children and young people.

36. In Scotland, the Scottish Youth Parliament has 150 members, has three national sittings each year, undertakes two national campaigns annually and delivers a range of peer education and outreach programmes to engage and involve young people across Scotland in the democratic process. The Children’s Hearings (Scotland) Act 2011 strengthens the voice of the child in Scotland’s Children’s Hearings System and the Scottish Government’s 2010 national guidance on child protection cases makes clear that children should be helped to understand how relevant procedures work, how they can be involved and how they can contribute to decisions about their future. Children and young people have helped to formulate policy on issues including domestic abuse, advocacy and changes to legislation focusing on the Children’s Hearings system, children’s rights and children’s services more generally.

37. In Wales, the Children and Families (Wales) Measure 2010 places a duty on local authorities, working with their partners, to promote and facilitate participation by

children and young people in decisions that might affect them. The Children and Young People's Assembly for Wales, Funky Dragon, is a key component for ensuring that children's views are heard at a national level, through their elected representatives. It also funds the facilitation of the involvement of children and young people in the monitoring and reporting process to the UN Committee on the Rights of the Child and holding duty bearers to account.

### **Consultations with children and young people conducted by the UK Government to inform policy and practice**

The following is an extensive, but by no means exhaustive, series of examples of activities through which children and young people have been committed on matter of national significance and through which they have been able to influence policy and practice.

#### **Cabinet Office:**

- As part of the Democratic Engagement Project, the cabinet office launched two projects in August 2013: the Democratic Engagement Innovation Fund and Rock Enrol! Youth Engagement. These projects are aimed at engaging groups which are currently under-represented on the electoral register - these include 16 to 17 year-olds, 18 to 24 year-olds, and people in social housing in regions across England and Wales. Rock Enrol! is an interactive resource aimed at inspiring young people to discuss and debate what they care about, whilst considering why they should register to vote. Cabinet Office developed the resource with the youth-led organisation Bite the Ballot.

#### **Department for Communities and Local Government:**

- Has provided funding to support the National Youth Reference Group and Youth Homeless Parliament which are made up of young people aged 16-25 from across England who are homeless/have experienced homelessness. The groups exist to assist national and local government, local authorities and organisations to develop and improve their involvement opportunities for young people. In particular, the Youth Homeless Parliament act as ambassadors for young people up and down the country, giving youth homelessness a voice at the heart of Parliament to MPs and Ministers about emerging issues and personal experiences.

#### **Department for Education (DfE):**

- Received around 750 responses from children and young people to a consultation on draft legislative proposals for a reformed Office of the Children's Commissioner which ran from July to September 2012. The results were published in December 2012, alongside a Written Ministerial Statement setting

out how the Government intended to move forward in light of the consultation responses.

- Engaged EPIC – Equality, Participation, Influence, Change – a group of 14 disabled young people across the country, supported by the Council for Disabled Children, in the SEN reform process to advise on changes to the SEN and Disability part of the Children and Families Bill. Once enacted, the new measures in this Bill will give children and young people with SEN a greater say in their education and support.
- ANV – A National Voice (run by young people who are in care or who have been in care) worked with the Department for Education (DfE) throughout 2010–2011 to build a national picture of the current position of Children in Care Councils (CiCC's). ANV hosted a series of regional meetings with the DfE and the Office of the Children's Rights Director involving young people and Lead Workers from every CiCC and many examples of the good practice recommended in their final report were gathered during the course of these meetings.
- DfE is funding the National Children's Bureau alongside ANV to hold regional training seminars in 2013 -14 for local authority elected councillors and CiCCs to promote the voice of the child.
- The Children's Minister meets with groups of children in care quarterly to talk about how to improve the support they receive. Separate Ministerial quarterly meetings are held with care leavers and these meetings are organised by the Care Leavers Foundation.
- The DfE funded the Care Leavers Foundation to consult with care leavers at events on the development of a *Charter for Care Leavers*, which was launched in October 2012 and 118 local authorities have now signed up to the principles of the Charter.

### **Department of Health (DH):**

- An independent Children and Young People's Health Outcomes Forum, set up by the Secretary of State for Health in 2012, was asked to identify the health outcomes which matter most for children and young people and make recommendations. The forum engaged with some 2,000 people, children and young people and their families. *Improving Children and Young People's Health Outcomes: a system wide response* and *Better health outcomes for children and young people pledge*, were published on 19 February 2013 by the Under Secretary of State for Children's Health and these set out the Government's response to those recommendations.
- In March 2013, the UK Government asked the Forum to consider issues relating to standards of care as they relate to children and young people, particularly of culture change.<sup>16</sup> The Forum's report in September 2013 was informed by the views of children and young people, which were gathered on its behalf over the

---

<sup>16</sup> This commission followed the report by Robert Francis QC on standards of care at Mid Staffordshire NHS Foundation Trust.

summer by the National Children's Bureau.

- During spring 2013, the UK Government's Department of Health hosted the placement of a Youth Policy Advisor, as part of a wider cross Government programme to work with youth and improve engagement of children and young people. Through the *Building Bridge* programme students were selected from local schools for structured work experience placements, and actively encouraged to contribute to the Department's work in developing better health policies. Examples of policy documents to which they have contributed include the WHO report on decision-making in healthcare, the NHS *Future Forum* report and, working with the children of service families, the MOD's health plan for service children. The scheme gives students the opportunity to see the work of the Department first hand and also provides a unique opportunity for policy makers to gain valuable insight into how young people engage with and interpret these health-related policies.
- NHS England have consulted with young people on what matters to them about Health Services to inform commissioning processes. NHS England also ensure that children and young people are active participants at meetings such as the Annual General Meeting where organisations such as the Council for Disabled Children and Whizz Kids hold NHS services to account.
- Young people have chaired and participated in cross-organisational meetings hosted by NHS England relating to children and young people's experiences of Care.

### **Ministry of Justice (MoJ):**

- Consulted with young people on a number of occasions in developing the policy and new system of restraint for under-18s in custody. A formal review of the new system of restraint will involve a consultation with young people (spring 2014)
- Gathered the views of children and young people in custody as part of an extensive consultation exercise on Government development plans for the secure estate published in March 2012 – the views of young people had a direct influence on the plans.
- Published a young person's version of their *Transforming Youth Custody: Putting education at the heart of detention* consultation paper and used focus groups across the youth secure estate to seek young people's views during a consultation which ran from February to April 2013.
- Involved young people in reviewing designs for posters about the complaints procedures form for under-18 Young Offender Institutions.
- The Youth Justice Board has introduced an Advocacy Service in the secure estate to make sure that young people's voices are heard. This is an independent service to offer confidential advice and assistance to children and young people in custody in relation to their care, welfare and treatment whilst in custody and to ensure that their rights are respected at all times and their views and wishes heard.

- Alongside HM Inspector of Prisons, the Youth Justice Board also carries out an annual survey of experiences of young people in custody

### **Department for Transport (DfT):**

- Aware of the issues concerning inconsistent and expensive bus fares on offer to some young people, the Parliamentary under Secretary of State has made improving the local transport offer for young people his key bus priority and has been working with other government departments and the bus industry to seek to address some of young people's concerns.
- Listened to the views of young people and disabled young people, including from representatives of the British Youth Council, National Children's Bureau, UK Youth Parliament and Trailblazers, which is part of the Muscular Dystrophy Campaign, a nationwide organisation of 16-30 year-old disabled and non-disabled campaigners.
- Trailblazers, the national network of more than 400 young disabled campaigners who work to tackle the social issues affecting young people with a physical disability, attended the Department of Transport's Disability Workshop in May 2012, which discussed issues around accessible public transport.
- Trailblazers were also invited to attend the Department's summit on improving door-to-door journeys for disabled people in September 2012. This provided them with the opportunity to contribute to the Department's draft Accessibility Action Plan.
- In addition, representatives of Trailblazers have been invited to speak at and, subsequently, attend as observers the meetings held by the Department's Disabled Persons Transport Advisory Committee. Officials also met regularly with representatives of the organisation to discuss transport accessibility related issues.
- The Bus Partnership Forum is chaired by the Parliamentary under Secretary of State. It meets with the Confederation of Passenger Transport UK, major bus operators, local authority representatives, Passenger Focus and Bus Users UK.
- The Forum provides an opportunity for young people to engage directly with the DfT and operators – for example the UK Youth Parliament and East Sussex Youth Cabinet attended forum meetings in 2012. The DfT will be inviting young people's groups to future forum meetings.

### **Home Office:**

- Funding 13 Young People's Advocates working in areas most affected by gangs to provide direct and dedicated support to young people who have been victims, or are at risk of, sexual and domestic violence and/or sexual exploitation.
- Committed to building work with boys and young men into policy development and support and advice to the Ending Gang and Youth Violence priority areas, so that issues around harmful attitudes towards women and girls area addressed

- A Young People's Panel has been created with the NSPCC to help further inform the Government's work on domestic violence. The Panel will meet four times over a period of 12 months. The Panel demonstrates the Government's commitment to hear the views of young people about the decisions that affect them.

#### **Ministry of Defence – in respect of the children of UK Service personnel**

The MOD *Children and Young People's Strategy and Improvement Plan* promotes a range of participation strategies to ensure the children of service personnel are consulted before programmes, projects and issues that affect them are developed and embedded in youth provision across the UK's Armed Forces locations, for example:

- An annual Tri-Service Youth Forum gives young people the opportunity to contribute directly to the MoD *Children and Young People's Strategy and Improvement Plan*, specifically on encouraging participation and influencing developments.
- Youth Work Pledges detailing the offer and commitment to young people have been produced in consultation with young people and produced in accessible formats.
- In an increasing number of Armed Forces locations, young people sit on newly-formed local Children and Young People's Boards.

## Chapter III: Civil Rights and Freedoms

### (Articles 7, 8, 13-17 and 37(a))

#### INTRODUCTION

1. This chapter provides information on the progress made in relation to the implementation of the Civil Rights and Freedoms Articles of the UNCRC across the UK.

2. Since coming into force on 2 October 2000 the Human Rights Act<sup>17</sup> 1998 has made rights from the 1950 European Convention on Human Rights (ECHR)<sup>18</sup> enforceable in UK courts. The Act works in three key ways:

- First, it requires all legislation to be interpreted and given effect so far as possible compatibly with Convention rights. Where it is not possible to do so, a court may quash or disapply subordinate legislation (such as Regulations or Orders), but only Parliament can make changes to primary legislation (such as Acts of Parliament).
- Second, it makes it unlawful for a public authority to act incompatibly with the Convention rights and allows for a case to be brought in a UK court or tribunal against the authority if it allegedly does so.
- Third, UK courts and tribunals must take account of Convention rights in all cases that come before them. This means, for example, that they must develop the common law compatibly with Convention rights, taking account of Strasbourg case law.

3. Several civil rights and freedoms protected by the UNCRC are also provided for in the ECHR and are therefore directly enforceable in UK courts and tribunals. These include: freedom of association and peaceful assembly (article 15 UNCRC, article 11 ECHR); the right to respect for private and family life, home and correspondence (article 16 UNRC, article 8 ECHR); and the prohibition of torture and inhuman or degrading treatment or punishment (article 37(a) UNCRC, article 3 ECHR). The rights to freedom of expression (article 13 UNCRC, article 10 ECHR) and freedom of thought, conscience and religion (article 14 UNCRC, article 9 ECHR) are afforded special statutory protection in the Human Rights Act 1998 and UK courts and tribunals must have particular regard to their importance.

---

<sup>17</sup> <http://www.legislation.gov.uk/ukpga/1998/42/contents>

<sup>18</sup> The 1950 European Convention on Human Rights (ECHR) is a binding international agreement that the UK signed and ratified more than half a century ago. The Convention rights apply to all individuals and all age groups, without discrimination, in all 47 States Parties of the Council of Europe, including the UK.

## CONCLUDING OBSERVATIONS – FOLLOW-UP

### Freedom of peaceful assembly

*The Committee recommended that the State Party reconsider ASBOs (Anti-Social Behaviour Orders) as well as other measures such as the mosquito devices<sup>19</sup> insofar as they may violate the rights of children to freedom of movement and peaceful assembly.*

#### Use of ASBOs

4. This UN recommendation on ASBOs is covered in the section on ASBOs in chapter VII.

#### Use of mosquito devices

5. The UK Government has repeatedly emphasised its opposition to the inappropriate and/or discriminatory use of mosquito devices. For example, our *Positive for Youth* document encourages young people and those that care about them “to challenge the discriminatory and inappropriate use of ‘mosquito’ devices” and we also provide examples of where this has happened successfully, leading to the banning of mosquito devices from all publicly owned premises within several local authority areas.<sup>20</sup>

6. At present it is up to local authorities or individuals to manage problems using the existing noise abatement legislation which allows them to make complaints about noise pollution. We are currently exploring the scope for options for further central action but have not yet reached a firm conclusion on the best way forward. There are various practical difficulties which need to be addressed, such as: there are some instances where the devices may be used legitimately (for example, as a deterrent against burglary or vandalism in unoccupied premises); some devices can be adjusted so that their range can be limited; we do not know how many of these devices exist or where they are located and so it would be almost impossible to carry out routine monitoring of them; and any kind of central controls over their advertising, sale or use would be difficult and burdensome to administer and monitor, especially as come of it is undertaken by overseas companies using the internet.

7. In Scotland, the Scottish Government looked into the issue and has similarly expressed its opposition to the indiscriminate use of mosquito devices. Over the course of 2011 and 2012, the Scottish Parliament debated the use of such devices following a petition on behalf of the Scottish Youth Parliament. As part of those considerations, an analysis showed that Scottish local authorities’ usage of the

---

<sup>19</sup> A mosquito device emits a very loud, high-pitched alarm, which only young people below a certain age are likely to hear. These devices have sometimes been advertised as ‘teenage repellents’.

<sup>20</sup> Foreword to *Positive for Youth* - A new approach to cross-government policy for young people aged 13 to 19- available here: <https://www.gov.uk/government/publications/positive-for-youth-a-new-approach-to-cross-government-policy-for-young-people-aged-13-to-19>

devices was not widespread. Nevertheless, the Scottish Parliament secured a commitment from the inventor of the device that all future devices sold to organisations in Scotland would include clear signage for areas where that device was in use. In light of the widespread concern about the use of mosquito devices across many countries, we find it surprising that the manufacturer has not made this a standard practice for all sales. Scotland's Commissioner for Children & Young People is exploring the matter further and is due to report his findings in summer 2014. All four UK jurisdictions look forward to seeing the outcome of this work.

### **Protection of privacy**

*The Committee recommended that the State Party: (a) ensure, both in legislation and in practice, that children are protected against unlawful or arbitrary interference with their privacy, including by introducing stronger regulations for data protection; (b) intensify its efforts, in cooperation with the media, to respect the privacy of children in the media, especially by avoiding messages publicly exposing them to shame, which is against the best interests of the child; (c) regulate children's participation in TV programmes, notably reality shows, as to ensure that they do not violate their rights.*

### **Data protection**

8. The Protection of Freedoms Act 2012 has brought in several positive reforms that will put an end to unnecessary scrutiny of individuals and address infringements of children's privacy rights. The Act:

- Sets out a new framework for police retention of fingerprints and DNA data. Adults or under-18s without convictions will no longer have their DNA profiles and fingerprints retained indefinitely. Under-18s who have one conviction for a minor offence will have their DNA profiles and fingerprints deleted after 5 years (plus the length of any custodial sentence). Such evidence can be kept if this is deemed to be in the interest of national security but only with the agreement of an independent Biometrics Commissioner. Additionally, a chief constable must destroy DNA profiles and fingerprints if the individual concerned was arrested unlawfully.
- Requires schools and colleges to obtain consent of one parent of a child under 18 for acquiring and processing the child's biometric information and gives a child the right to stop the processing of their biometric information regardless of any parental consent. The Act also states if any parent of the child objects to the processing of biometric information it must also be discontinued.

### Children in the media and taking part in public performances

9. The UK has a self-regulatory system for the press through a Code of Practice<sup>21</sup> which the Press Complaints Commission (PCC) administers. It is incorporated into editors' and journalists' contracts of employment and is overseen by a special committee made up of editors from across the newspaper and magazine industries. The Code gives the newspaper and magazine publishing sector a firm set of standards to guide it and provides the PCC with a clear and consistent framework within which it can address complaints from members of the public. The Code aims to protect both the rights of the individual and the public's right to know. The Code includes sections relating to children in the media which require amongst other things: no unnecessary intrusion into school time; under-16s not to be interviewed or photographed without the consent of a responsible adult; minors must not be paid for material involving children's welfare, nor parents or guardians for material about their children unless it is clearly in the child's interest; and editors must not use the fame, notoriety or position of a parent or guardian as sole justification for publishing details of a child's private life.

10. Like the media, broadcasters are entirely operationally and editorially independent of Government. However, the Communications Act 2003 and the Broadcasting Act 1996 require Ofcom (the broadcasting regulatory body) to ensure that practice is compliant with a set of agreed standards and these are set out in a Broadcasting Code which all broadcasters must comply with. The most recent version of the Code took effect on 21 March 2013 and covers all programmes broadcast on or after 21 March 2013<sup>22</sup>. The Code aims to balance children's right to participate in programmes against the requirement on broadcasters to take appropriate care of them, and governs activity such as sponsorship, product placement, fairness and privacy. The standards also prohibit the broadcasting of material that might impair the physical, mental or moral development of people under eighteen and require broadcasters to take all reasonable steps to protect under-18s in the provision of services and through appropriate scheduling of material that is unsuitable for them.

11. Child performances and appearances in broadcasts are subject to regulation and oversight designed to ensure the well-being and safety of child performers in a range of activities, from local community amateur dramatic societies to West End stage shows, prime time television and major film productions. The performance licensing framework was designed to ensure the safety and well-being of children taking part in performances, and that their education does not suffer as a result of their participation. Local authorities are responsible for administering the performance licensing requirements in their area. A review of these arrangements is currently being undertaken in Scotland.

---

<sup>21</sup> <http://www.pcc.org.uk/cop/practice.html>

<sup>22</sup> <http://stakeholders.ofcom.org.uk/broadcasting/guidance/programme-guidance/bguidance/>.

12. In Northern Ireland, *Guidance for Media Reporting on Child Abuse and Neglect* was developed with the full co-operation of senior journalists in Northern Ireland and has been endorsed by the National Union of Journalists (NUJ) and the Chief Social Services Officer in the Department of Health, Social Services and Public Safety. The guidance was launched in November 2012. It is designed to provide background information for journalists about child protection in Northern Ireland and to support the media and child welfare professionals to work together to ensure that such a sensitive topic can be reported in ways which will help the public to better understand the issues involved.

### **Cruel, inhuman or degrading treatment or punishment**

*The UN Committee recommended that the State Party should ensure that restraint against children is used only as a last resort and exclusively to prevent harm to the child or others and that all methods of physical restraint for disciplinary purposes be abolished.*

13. The use of force in the criminal justice system is subject to section 117 of the Police and Criminal Evidence Act 1984 ('PACE') and section 3 of the Criminal Law Act 1967. With regards to those in custody, the PACE Code of Practice C states that "No additional restraints shall be used within a locked cell unless absolutely necessary and then only restraint equipment, approved for use in that force by the Chief Officer, which is reasonable and necessary in the circumstances having regard to the detainee's demeanour and with a view to ensuring their safety and the safety of others."

14. The UK Government's *Use of Restraint* policy framework sets out that restraint should only ever be used against young people as a last resort, where it is absolutely necessary and where no other form of intervention is possible or appropriate. It also states that physical intervention should never be used as a punishment. A new system of restraint (Managing and Minimising Physical Restraint) that has been independently assessed by a panel of child medical and behavioural experts is currently being rolled out in under-18 Young Offender Institutions and Secure Training Centres. Any staff administering restraint are expected to be trained in the use of safe techniques. The Independent Restraint Advisory Panel (IRAP) monitors the implementation of the new system of restraint as well as assessing the systems of restraint commissioned for use in Secure Children's Homes. IRAP is due to report to Ministers in January 2014.

15. The UK Government has also made clear its expectations on the use of restraint in relation to children in care. The *Statutory Framework for Fostering Services* makes clear the standards expected from fostering services and foster carers in relation to behaviour management, discipline, control and restraint. The expectation is that positive behaviour will be promoted. Every fostering service must prepare and implement a clear written policy about acceptable measures of control,

restraint and discipline of children placed with foster carers. The service must ensure that no form of corporal punishment is used on any child by a foster carer or a member of their household, and that no foster child is subject to any excessive or unreasonable measure of control, restraint or discipline.

16. Equivalent provisions exist within the framework for the regulation of children's homes. A measure of restraint may only be used on a child accommodated in a children's home for the purpose of preventing injury to any person, preventing serious damage to the property of any person and/or preventing the child from absconding from the home; and then only where no alternative to the use of restraint is available. The measure of restraint must be proportionate, and no more force than is necessary should be used. All registered managers of children's homes are required to keep a full written log of any uses of restraint and the child or young person who is involved in the incident asked to record a comment on the log.

17. The law in Northern Ireland similarly allows a measure of restraint to be used in children's homes in order to deal with immediate risks including the prevention of injury to any person and preventing serious damage to the property. Whilst restraint is also permitted to prevent the child from absconding in a known, high-risk scenario, the law does not allow a sustained programme of restraint to be used to ensure a child is contained within a home. Restraint may also be used at times of acute tension, though residential social work staff are trained in therapeutic crisis intervention (TCI) and use de-escalation techniques wherever possible. Each child has an individual crisis management plan (ICMP) which informs staff on how best to respond to children whose behaviour is deteriorating, based on assessed risks and what factors may trigger a crisis for them.

### **Corporal punishment**

*The UN Committee recommended that the State Party should: (a) prohibit all corporal punishment in the family across the UK; (b) ensure that corporal punishment is explicitly prohibited in schools and all other institutions and forms of alternative care; actively promote positive and non-violent forms of discipline and respect for children's equal right to human dignity and physical integrity, with a view to raising public awareness of children's right to protection from all corporal punishment and to decreasing public acceptance of its use in child-rearing; and provide parental education and professional training in positive child-rearing.*

18. The UK Government strongly believes that its policies and practices are compliant with both the spirit behind the Convention and the substance of Article 19. The State Party's view, however, is that a mild smack does not constitute violence and that parents should not be criminalised for giving a mild smack to their child: in our view it would not be in the best interests of the child or the family to do so. The UK has clear laws against violence towards children, regardless of the setting in which it may take place and regardless of who administers it.

19. Nearly all schools in England and Wales and all schools in Scotland are banned by law from using any form of corporal punishment. Northern Ireland has introduced legislation, under which the defence of reasonable chastisement will only be available in the lowest level of charge for common assault. A small number of unregistered independent settings, providing part-time education, are not covered by this ban, but the law already exists to protect children from violence in whatever setting it may occur. Physical punishment has also been banned in child minding, other early years provision, local authority foster care and children's homes, either by statute or through codes of conduct.

20. All UK governments are committed to addressing any abuse or violence towards children and are taking action to promote positive parenting. In England the focus is on improving parenting skills generally with the focus on positive and caring relationships. Northern Ireland's Families Matter Strategy sets out how the Northern Ireland Government will support parents and families in their role as primary care givers, first educators and role models. The Welsh Government has published *Help at Hand; A Positive Approach to Parenting* in partnership with Children in Wales – and is aimed at providing ideas to parents of young children on how to deal with difficult behaviour and steer away from punishment. The Scottish Government's *National Parenting Strategy* sets out a number of areas of priority activity to ensure people are properly equipped and supported in their role as parents. The Strategy includes a commitment to develop comprehensive and practical advice to parents on managing their children's behaviour.

### **Violence against children**

#### **Child Sexual Exploitation**

21. In January 2011, the charity Barnardo's published *Puppet on a string* which highlighted the urgent need to prevent children becoming victims of sexual exploitation. In November 2011, the UK Government published the national *Tackling child sexual exploitation action plan*<sup>23</sup>. The plan sets out a coordinated programme of action for a wide range of national and local organisations to raise awareness; protect young people who are at risk; prosecute, convict and imprison those who exploit children; and help victims and families get their lives back on track. We were supported in this work by the Office of the Children's Commissioner for England which carried out a two year inquiry into child sexual exploitation in gangs and groups.

22. On 3 July 2012, the UK Government published a report on progress with implementing the *Tackling child sexual exploitation action plan*. The report showed some encouraging progress by statutory and voluntary sector organisations at the national and local level but emphasised that there was more to be done. In February 2013, the UK Government reissued the step-by-step guide on what

---

<sup>23</sup> <https://www.gov.uk/government/publications/tackling-child-sexual-exploitation-action-plan>

frontline practitioners should do if they suspect a child is being sexually exploited. The guide complements, and should be read in conjunction with, the *Safeguarding children and young people from sexual exploitation statutory guidance*, published in 2009. The UK Government is supporting this activity through investing £1.8m over the next two years in four new projects with civil society which will help trial new ways of delivering improved support to children and young people at risk of sexual exploitation. We are also trialing new arrangements to make it easier for child victims to give evidence in sex abuse cases and to secure a conviction. More details are provided in Chapter VII.

23. The UK Government has reinforced its efforts to tackle sexual violence through a new National Group on Sexual Violence Against Children and Vulnerable People (SVACV) which comprises a panel of experts and policy makers brought together to co-ordinate and implement the learning from recent inquiries into historical child sexual abuse and current sexual violence prevention issues. The SVACV National Group has built on the strong foundations across the UK Government, and it will address the learning emerging from reviews of historical child sexual abuse cases. The SVACV National Group published its first progress report and action plan on 24 July 2013, which include measures to prioritise action to prevent abuse happening in the first place, protect children online, make sure the police can identify and deal with problems and ensure victims are at the heart of the criminal justice system. The initial focus of this work will be on the critical areas of Prevention, Cyber, Policing, and the Criminal Justice System.

24. Similar action is being taken by the devolved governments. For example, Scotland has established the first Scottish Child Sexual Exploitation Ministerial Working Group to look at what steps should be taken to improve understanding of the prevalence of child sexual exploitation in Scotland and how best to support child victims.

25. In Northern Ireland, a range of actions have been taken to strengthen the protection of children and young people. In 2012, the Safeguarding Board for Northern Ireland (SBNI) was established to support and promote effective interagency co-operation in safeguarding children. The SBNI had identified child sexual exploitation as a strategic priority and has developed a multi-agency action plan to address this. An independent expert-led Inquiry into child sexual exploitation in Northern Ireland was announced in September 2013.

26. The SBNI has also been directed to undertake a thematic review of the cases that triggered an investigation into Child Sexual Exploitation in order to identify the learning from the management of those cases to inform and improve future practice. The Department will also be engaging with children and young people through a number of community and voluntary groups that have a specific interest in children and young people and are represented on a number of our Domestic Violence and Sexual Violence sub groups.

27. In November 2010, the UK Government set out its vision and ambition to tackle the blight of domestic and sexual violence in 'A Call to End Violence against Women and Girls'. In March 2011, it published 88 supporting actions for taking that strategy forward. Recognising that tackling violence against women and girls requires a sustained, robust and dynamic cross-Government approach, the Government updated the Action Plan in March 2012 and reviewed it again in March 2013. This activity is being supported through: £40m from 2010-2015 to fund specialist services for domestic and sexual violence victims; the introduction of criminal offences relating to forcing someone to marry against their will; the introduction of new stalking offences; a summer campaign about forced marriage in 2012 and 2013; and a national campaign to prevent teenagers from becoming victims and perpetrators of sexual and relationship violence and abuse, supported by funding of nearly £1.4m over the next two years in a project to help young victims of domestic and inter-personal abuse. The UK Government is also fulfilling its commitment to tackle rape by providing stable 3-year funding of £4million per year to 78 rape support centres and by opening up to 15 new rape support centres in areas which need them.

28. The UK Government has embarked on a major campaign to prevent female genital mutilation (FGM). FGM has been illegal in the UK since 1985, but we are aware that it continues in secret, often when girls are sent abroad but sometimes in the UK. The Crown Prosecution Service is coordinating efforts across police forces, health authorities and social services to achieve a first prosecution. The campaign has attracted considerable media interest and this has greatly helped to raise the profile of the issue and made children and their families more aware of the risks involved. Other action to improve knowledge and awareness of the practice and support for victims includes: a *Declaration against FGM*, signed by Ministers in November 2012; a short film about FGM; an additional £50,000 funding to support frontline agencies tackling FGM; and we have announced plans to invest up to £35 million over 5 years to tackle FGM, and up to £25 million to build the global evidence base on what works to tackle violence against women and girls.

### Ensuring that child victims do not become further victimised during legal proceedings

29. In June 2013 the UK Government announced pilot measures for recorded pre-trial cross-examination of vulnerable and intimidated witnesses in three Crown Court locations – Liverpool, Leeds and Kingston-Upon-Thames. The pilots are running for six months followed by an assessment period with the intention of rolling the measure out more widely if it proves a success. These measures will allow all children and the most vulnerable adult victims and witnesses to be cross-examined before the trial, and away from the court room. This will be recorded and played during the trial to spare these victims and witnesses from the often distressing process of having to go through every horrific detail, before an audience, in what is

## Draft for comment by civil society – 23/10/2013

often a stressful environment. It will also help witnesses give their best possible evidence. This will add to a number of measures already in place to help vulnerable witnesses - such as giving evidence from behind a screen or via video link and the use of an intermediary.

30. Special measures were introduced through legislation in the Youth Justice and Criminal Evidence Act 1999 and include a range of measures to support victims and witnesses to give their best evidence and to help reduce some of the anxiety of attending court. Piloting this legislation is an element of the *Strategy and Action Plan to Reform the Criminal Justice System* published in June 2013.

31. In Scotland, the Victims and Witnesses (Scotland) Bill was introduced in February 2013. The reforms are part of the ongoing Scottish Government *Making Justice Work* programme, which will improve the efficiency and effectiveness of the justice system generally. In relation to child victims and witnesses, provisions in the Bill will:

- Bring the definition of ‘child witness’ into line with the rest of the UK, with the effect that all those under the age of 18 will be automatically entitled to standard special measures (use of a screen, CCTV link, or supporter) to assist them in giving evidence.
- Put a requirement on police and social workers to have regard to any guidance issued by Scottish Ministers when carrying out a joint investigative interview with a child witness under age 18 in relation to criminal proceedings or matters which may lead to criminal proceedings.
- Modify the current presumption that child witnesses under the age of 12 will give evidence away from the court building so that where a child witness has expressed a desire to give evidence in court, that preference is heeded unless there is a good reason why this would be inappropriate.
- Ensure that children under 14 who are not direct victims of a crime (e.g. the child of a victim) can have a victim statement made on their behalf by a carer to tell the court about the physical, emotional and financial impact of a crime on them.

### Provision to help victims recover and reintegrate

32. In England, section 17 of the Children Act 1989 sets out the local authority’s responsibility for safeguarding and promoting the welfare of children within their area who are in need, and providing, or facilitating the provision of, services appropriate to the individual child’s needs. This includes a duty to ascertain the child’s wishes and feelings and to take them into account when planning the provision of services. *Working Together to Safeguard Children 2013* sets out the process by which assessment of the needs of individual children should take place.

33. In Scotland, Victim Support Scotland is the lead voluntary organisation providing emotional support, practical help and essential information to victims, witnesses and others affected by crime. The service is free, confidential and is provided by volunteers through a network of community-based victim and youth justice services and court-based witness services. Where a child has been the victim of an offence committed by another child and the issue is being dealt with through the Children's Hearings System, separate arrangements are in place to provide victims with information on the outcome of offence referrals. The Scottish Children's Reporter Administration's Victim Information Service provides victims with information while respecting the right of the child to confidentiality. It also aims to provide information on the Children's Hearings System so that victims better understand the basis on which the system deals with young people who offend.

### **EMERGING ISSUES**

#### **Commercialisation and Sexualisation of Children**

34. A concern for many parents is that their children are under pressure to grow up too quickly. This takes two main forms: pressure to take part in a sexualised life before they are ready to do so; and the commercial pressure for consumerism, particularly when it is targeted towards children and young people. In 2011, the UK Government set up an independent review to look into these pressures. The review was published on 6 June 2011<sup>24</sup> and called on businesses and broadcasters to play their part across four themes:

- The sexualised imagery that has become a 'wallpaper' to children's lives
- Clothing, products and services for children
- Children as consumers
- Making parents' voices heard

35. The Government welcomed the broad approach recommended by the review and after 18 months published a stocktake on what had been achieved.<sup>25</sup> Much of the action was voluntary and resulted from a strong commitment from businesses and media regulators. Key changes included:

- Fewer advertisements using highly sexualised images in public places. The Advertising Standards Authority introduced stricter guidelines on how the advertising regulations are interpreted.
- Family television programmes shown at times of the day when children are likely to be watching. Ofcom, the regulator for the broadcast media, introduced new guidance for broadcasters on the content of programmes shown before the 9.00 p.m. 'watershed'.

<sup>24</sup> <https://www.gov.uk/government/publications/letting-children-be-children-report-of-an-independent-review-of-the-commercialisation-and-sexualisation-of-childhood>

<sup>25</sup> <https://www.gov.uk/government/publications/letting-children-be-children-progress-report>.

- Making it more likely to find children's clothes which are age-appropriate. The British Retail Consortium published a code of practice that had been developed by some of its members who retail children's clothes to address concerns about products that were seen to depend on, or promote, the idea that young girls are more sexually mature than their age suggests.
- The regulators for advertising, broadcasting, video on demand, videogames and the printed press collaborated on creating the ParentPort website<sup>26</sup> to make it easier for parents to make complaints, to get information on media regulation, and to provide useful help and advice on children's use of the media.

### The risks associated with children's increased use of social media

36. There has been an exponential growth in the use of various forms of social media across all age groups. The use of Facebook, Twitter and the burgeoning number of chat sites on the internet have given children new opportunities to develop friends and interests but have also exposed them to new kinds of risk which could not have been imagined only a few years ago. Across the UK, although still small in number, the number of reported cases of cyber bullying, grooming of children over the internet and the use of social media to plan suicides between individuals who are strangers grows each year.

37. The UK has developed the most robust child internet safety protection in the world and through the UK Council for Child Internet Safety (UKCCIS) significant progress has been made on industry-led initiatives designed to protect children from harmful or inappropriate content online. This work focuses primarily on the provision of tools and information to enable parents to restrict access to internet content in the home and on internet-enabled devices and services outside of the home. Over the past year the four main fixed-line Internet Service Providers (ISPs) have enhanced the parental controls they offer, resulting in new subscribers being required to make a choice about whether to apply filters which block harmful and inappropriate content. UKCCIS has also delivered commitments from providers of public WiFi which will ensure that 96% of public WiFi is provided with adult content filters.

By the end of 2014:

- The ISPs will contact all existing customers to give them an unavoidable choice about whether or not to turn on parental control filters.
- The ISPs will work on creating effective messages to parents to help them bring their parenting skills into the online world; these messages will also be carried on Government services.
- A family-friendly public WiFi logo will be investigated.

---

<sup>26</sup> <http://www.parentport.org.uk/>

## Draft for comment by civil society – 23/10/2013

- 3 (mobile phone network) will fall in line with other mobile phones to offer default filtering of adult content on contract phones.

38. A large-scale campaign to raise awareness of risks associated with the internet is underway. Safer Internet Day is widely promoted every February. In 2013 over 50 million opportunities to see or hear the Safer Internet Day message were provided, a record number of supporters got involved, and a large-scale youth survey capturing the voice of 24,000 children launched on the day to Government, industry and policy-makers. The next Safer Internet Day is on 11 February 2014. In addition, the UK Government has granted Beatbullying £1.3 million over an 18 month period to expand its existing service. Beatbullying supports young people using the internet, making it a safer space, and tackling both online and offline bullying.

39. While regulation of the internet is reserved to the UK Government, the Scottish Government has significant scope to develop and implement policy relating to child internet safety as a direct result of their devolved responsibility for education, policing and child protection. In light of this, Scottish Ministers have established a stakeholder group on child internet safety which includes representation from a wide range of sectors. The group is a means of identifying emerging new concerns in this area and of highlighting and taking forward any necessary national action to address those concerns. The Scottish Government has also announced a summit to be held in December 2013 to see what more can be done in Scotland to protect children online.

## Chapter IV: Family Environment and Alternative Care

### (Articles 5, 9-11, 18 paragraphs 1 and 2, 19-21, 25, 27 paragraphs 4, and 39)

#### INTRODUCTION

1. The UNCRC articles that are relevant to this chapter place requirements on the State Party to provide support for parents in bringing up their children (especially where the child's parents work) and, where parents cannot fulfil that role, to provide children with high quality alternative care. When parents separate, the UNCRC encourages State Parties to make arrangements that allow the child to maintain contact with both parents, unless it would not be in the child's best interests to do so. There are also requirements on the State Party to ensure that children are protected from abuse and neglect, including by parents and, where children are taken into alternative care, to ensure the child's situation is subject to regular monitoring and review. In all these matters, the UNCRC demands that children should have opportunities to have a say on the arrangements that are put in place regarding their care; and that the best interests of the child should be paramount in all decisions.

#### CONCLUDING OBSERVATIONS – FOLLOW-UP

##### Parenting Support

*The UN Committee recommended that the State Party intensify its efforts to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities.*

2. The UK Government recognises that family relationships have the single biggest impact on children's well-being, development and prospects. It believes that its role is to support and empower parents, making choices possible, but not taking decisions for them. A range of measures have been put in place to achieve this.

##### Childcare reforms

3. The UK Government has introduced a range of measures to improve both the quality and affordability of childcare. These include:

- Increasing childcare support to ensure that it is worthwhile for parents to work. This includes an additional £200 million to support lower income families, which will be available within Universal Credit from April 2016. This is equivalent to 85 per cent of costs for families qualifying for Universal Credit, where both parents, or a lone parent, pay income tax. And a new Tax-free Childcare offer for working families not receiving tax credits or Universal

## Draft for comment by civil society – 23/10/2013

Credit. The new scheme will be phased in from autumn 2015 with children under the age of five, building up over time to include children under the age of twelve. The scheme will benefit up to 2.5 million working families;

- Improving regulation, by bringing forward legislation to introduce a new childcare registration system, would replace the current overlapping and confusing sets of rules with a single, consistent set of welfare and safeguarding requirements for all childcare providers.
- Helping parents make informed choices, through improving access to the information they need to make informed choices about childcare.

4. The Scottish Government has also committed to increasing free, flexible early learning and childcare for 3 and 4 year-olds, and looked after 2 year-olds, from 475 hours to a minimum of 600 hours per year, from 2014.

5. In 2012-2013 the Welsh Government invested more than £150m in early education and childcare through the *Building a Brighter Future: Early Years and Childcare Plan*.

### Sure Start Children's Centres

6. In England, a national network of Sure Start Children's Centres acts as a valuable hub for young children (aged 0-5 years) and their families to access integrated services. In particular, they play an important role in supporting disadvantaged and vulnerable families. A clear core purpose for children's centres has been developed which focuses on improving outcomes for young children and their families, and reducing inequalities particularly around child development and school readiness, parenting aspirations, and family health and wellbeing. Sure Start Children's Centres Statutory Guidance, published in April 2013, clarifies the duty on local authorities to secure sufficient children's centres accessible to all families with young children, and targeted evidence-based interventions for those families in greatest need of support.

### Parenting Classes & Advice

7. The UK recognises the importance of strong and confident parenting and wants all families to be able to access and benefit from parenting classes, creating a culture where seeking help to strengthen parenting skills is the norm. A variety of activities to achieve this objective are being delivered across the UK. In England, the CANparent trial (2012-14) aims to stimulate a national self-sustaining market in universal parenting classes, so that any parent can access a class if they choose.

8. Other action to support improved parenting include:

- A contract for the provision of market development services to parenting class providers has been let for two years (2013-15) which will also put the services on a self-sustaining footing. A quality mark is under development and a parent-facing website with information on classes and guidance on choosing them and a variety of key business support services are available to existing providers and those entering the market.
- The UK Government has also provided funding to third sector organisations to deliver family support services online or through helplines, providing advice on relationships, employment, education and benefits and specialist advice for parents whose children are disabled or have special educational needs, or have behaviour problems.
- Parent Support Advisers are employed either by local authorities or individual schools, providing face to face support and advice for parents experiencing social, health or emotional problems. Over the three year period 2008-2011 £102.5 million was made available to expand Parent Support Advisor work across all local authorities.
- The UK Government has also committed £30m to funding relationship support services between 2011 and 2015. A number of expert providers in the voluntary and community sector have been funded to deliver a range of services, including preventative support targeted at couples at risk of family breakdown; activities to encourage the take up of relationship support; and counselling for couples who may be experiencing difficulties.

9. Northern Ireland's family and parenting strategy – *Families Matter* gives priority to early intervention and prevention in family support services through providing support directly to parents. The strategy focuses on joint and partnership working at strategic and operational levels. One initiative under this strategy is the Regional Information System<sup>27</sup> which provides easy access for parents to information about family support where they live. A review of the strategy will also seek to ensure that parents and families continue to receive the information, support and gain the skills they need to help their children reach their full potential. It aims to address the barriers to and the stigma of accessing services by hard to reach parents and raise awareness and uptake of relationship support and family mediation.

10. Family Support Hubs have been developed as coalitions of agencies which provide early intervention services locally for children and families. Their objective is to enhance awareness, accessibility, co-ordination and provision of Family Support resources in local areas, with an emphasis on prevention and early intervention, providing points of contact for information and access to family support, and referrals for children and young people and families to services through a non-stigmatizing process.

---

<sup>27</sup> [www.familysupportni.gov.uk](http://www.familysupportni.gov.uk)

11. On 25 September 2013, the Northern Ireland Executive launched the first phase of *Bright Start* – the Executive’s programme for developing affordable and integrated childcare. The final Childcare Strategy is due to be published in 2014.

12. In Scotland, the National Parenting Strategy, published in October 2012, champions the importance of parenting, by strengthening the support on offer to parents and by making it easier for them to access this support. The strategy sets out 82 commitments, including: committing £18million to create high quality, co-ordinated and accessible family support informed by engagement with parents; assessing the information and advice provided to parents in Scotland to ensure it is comprehensive, consistent and appropriate; creating the National Fathers Advisory Panel to ensure the needs of fathers are considered; and investing £1 million per year (2012-2015) in the PlayTalkRead campaign which encourages parents and carers to play, talk and read to their young children.

13. In Wales the *Families First* programme is designed to improve outcomes for children, young people and families. It emphasises prevention and early intervention for families, particularly those living in poverty and works alongside the support offered through our other programmes. The programme is a key response to the Welsh Government’s Child Poverty Strategy and a significant contributor to the objectives of the Welsh Government’s Tackling Poverty Action Plan. The *Families First* programme is a major driver in the development of multi-agency ‘Team Around the Family’. Development and implementation of the programme is on-going since the pan-Wales roll-out in 2012, and a total of nearly £89m has been allocated to the programme for the two-year period 2012-14.

14. The first National Learning Set took place in January 2013 focusing on the Team Around the Family (TAF) approach and workforce development. All local authorities have developed, and are operating initial TAF models and have active caseloads. As at November 2012, more than 1,600 Joint Assessment Family Framework (JAFF) referrals had been made to local Families First teams and more than 1,300 TAF action plans had been put in place for families.

15. *Flying Start* is a targeted early years programme for families with children under the age of four. Doubling the number of children (to 36,000) benefitting from Flying Start is one of the Programmes for Government’s top five commitments. The elements of the programme are drawn from various options which have been shown to influence positive outcomes for children and families. The programme provides free, quality, part-time child care, enhanced health visiting (with a capped caseload of 110), parenting support and support for early language development. Between April 2012 and March 2013, a total of 23,579 children and their families had benefited from *Flying Start*. The expansion commenced in 2012-13 and the revenue budget for the three years to the end of March 2015 is in excess of £182 million. In

## Draft for comment by civil society – 23/10/2013

addition capital funding has been awarded to 146 capital projects across Wales with a total value of more than £21m.

16. The Welsh Government has prioritised new models of working by rolling out Integrated Family Support Services across Wales (IFSS). IFSS reforms the way services are organised and delivered to vulnerable children and families who have complex needs, through intense integrated support from highly skilled professionals.

### Troubled Families

17. In England, the Government has invested nearly £450m to turn around the lives of 120,000 troubled families by 2015. The Troubled Families programme aims to get children back into school; reduce youth crime and anti-social behaviour; put adults on a path back to work and reduce the high costs these families place on the public sector each year. The Government has committed to increase its investment in the troubled families programme from 2015/16, so that it can continue to provide intensive help for 400,000 more families.

### Family Law

18. The Children & Families Bill in England includes measures to ensure that the needs of children remain firmly at the centre of the private family law system. It includes provision to make attendance at a Mediation, Information and Assessment Meeting (MIAM) a requirement (with exemptions) for applying to court for certain types of family proceedings, with a view to encouraging parents to reach agreement themselves wherever possible. Where cases do proceed to court, the introduction of a new 'child arrangements order' will help ensure a clear focus on the child's needs and a move away from the perception of 'winners' and 'losers' in a case. The inclusion of a presumption of parental involvement will send a clear signal that, where it is safe and appropriate, a child should have the opportunity to benefit from the involvement of each parent in their life, following their parents' separation.

### Young Carers

19. The UK Government is committed to preventing young carers from undertaking inappropriate or excessive caring roles by ensuring that the person they care for is adequately supported. In addition to provisions about assessing the needs and circumstances of young carers in the Children and Families Bill, the Care Bill (which focuses on the reform of adult social care) includes provisions to make regulations requiring a whole family approach to an assessment of an adult needing care where appropriate. This is particularly relevant to families where children are providing care and support to an adult.

20. In July 2010 the Scottish Government produced *Getting it Right for Young Carers*. The strategy sets out steps to improve young carer identification and support within schools, colleges and the health service. It also endorses an approach which organises services around the child or young person so that all their needs will be identified and addressed, including the impact of caring on their health, wellbeing and education. A progress report linked to the Strategy was published in May 2013.

21. In Wales, the *Carers Strategy for Wales*, published in June 2013, identifies young carers as a key priority. The strategy provides a framework for agencies to work together to deliver services and support to carers.

### 'Alternative Care' Looked after Children/Children in Care

*The UN Committee recommended that the State Party should:*

- *Avoid having children taken into alternative care as a result of low parental income.*
- *Take into account in all measures the views of children, and provide them with child-accessible complaint mechanisms in all parts of the country;*
- *Assess why so many children with disabilities are in long-term institutional care and review their care and treatment in these settings.*
- *facilitate the initiation of contact proceedings for all children separated from their parents and siblings, including those in long term residential care,*
- *Monitor the status of children placed in kinship homes, foster care, pre-adoptive homes and other care institutions, inter alia through regular visitations.*
- *Provide training and education programmes to prepare children for adult life.*
- *Take into account the Committee's recommendations issued at the day of general discussion on children without parental care, held on 16 September 2005.*

### Placing children in Care

22. In England, the principles that underpin children's placement in care, under the Children Act 1989 are based on the presumption that children should remain with their families unless they are at risk of significant harm as a result of abuse or neglect. Local authorities are required to consider a hierarchy of placement options, starting with rehabilitation with parents. Where this is not possible or appropriate, in the short or long term the authority is expected to seek placement with a relative, friend or connected person who is a local authority foster carer. Only if these options are not possible should a local authority seek a placement with a foster carer who is not a relative or connected person or in a children's home or other setting.

23. The UK Government is funding 70 local authorities over four years to deliver evidence based interventions for children on the edge of care or custody as well as

## Draft for comment by civil society – 23/10/2013

those looked after. The programmes aimed at children on the edge of care and custody are Multisystemic Therapy, and Family Functional Therapy. The Government is also funding the development of the Family Drug and Alcohol Court, which seeks to reunite children with their families where it is in their best interest. These treatment and parenting interventions are designed to rebuild relationships and avoid children becoming looked after.

24. In Northern Ireland, a major review of residential care provision in Northern Ireland is in its final stages. Some key proposals emerging from the review include:

- A reduction in the size of children's homes depending upon role and purpose to enable staff within a home to better meet the complex needs of young people through individually tailored plans, routines and therapeutic interventions.
- The development of specialist fostering and /or edge of care services to prevent young people from entering residential care on an emergency basis without a full assessment identify care as the preferred option.
- Further developments within edge of care, fostering and 16+ services which will ensure that young people are only placed within residential care as a longer term placement when this is the most appropriate placement.

25. In Scotland, children and young people subject to compulsory measures of care and removed from their families have decisions taken about their care at a Children's Hearing. Any decision should be reviewed at least annually, although this can occur earlier where it is considered necessary by the local authority, the child or their family.

26. The Scottish Government's national policy for supporting children looked after away from home is based on the concept of corporate parenting. The Scottish Government's Children & Young People (Scotland) Bill proposes a number of requirements every corporate parent will need to adhere to. Where a child is looked after, family contact is agreed as part of the child's plan and underpinned by well-established review processes.

### Strengthening the voice of the child

27. All governments in the UK are firmly committed to the principle that at the heart of the care system should be the voice of the child. It wants to see children's voices driving change in the care system. Children's views should not only inform their care plans, but day to day decisions such as bedtimes, overnight stays and undertaking leisure activities.

28. The key to improve children's participation in decisions about their care is to equip those people already working closely with them (carers, social workers,

## Draft for comment by civil society – 23/10/2013

designated teachers, Independent Reviewing Officers etc.) with the right skills, so that children have a voice and are able to express their wishes and feelings in everything they do. The UK Government expects every local authority to have a Children in Care Council (CiCC) and all but a few do now. We are working with voluntary organisations to improve corporate parenting with a particular focus on strengthening the voice of CiCCs. This builds on work involving regional meetings for chairs of CiCC across the country to spread best practice so CiCCs can go back to their local authorities and demand the best from their corporate parents.

29. All children who are looked after by a local authority must have a care plan which sets out the child's needs and how they will be met. The care plan should include what is called a permanence plan. This plan says how the child or young person will be found a permanent home. When deciding on the best care plan for a child, the child's wishes and feelings must be taken into account. The care plan must be looked at regularly, and whenever a "significant change" is proposed, so that careful thought is given to whether the decision is in the child's best interests.

30. All children in care also have an Independent Reviewing Officer. He or she chairs reviews of the child's care plan and has a legal duty to make sure the care plan takes the child's wishes and feelings into account. Children in care are also entitled to be supported by an advocate, whose role is to make sure that the child's views and feelings are heard and to provide them with information and advice about their rights.

31. Cafcass<sup>28</sup> Special Guardians are independent advocates for children and young people who are going through care or adoption proceedings. Their job is to be the voice of children in the family courts and to ensure that children's welfare is put first during proceedings. Special Guardians provide judges with the advice, information and recommendations they need to make a safe decision about each child's future. This includes working with children to find out their wishes and feelings, and reporting these findings back to the court.

32. The UK Government is funding two organisations, VOICE and the National Youth Advocacy Service (NYAS) to provide free advocacy services for children in care, including telephone helplines. The Office of the Children's Rights Director (CRD) is a further source of advice and support for Children in Care and Care Leavers. The CRD has a unique role to safeguard and promote the rights and welfare of children within his or her remit, and can intervene on behalf of a child if the child's views and interests are not taken properly into account when decisions are taken about their care arrangements. The Children and Families Bill will incorporate these functions within the Office of the Children's Commissioner from April 2014.

---

<sup>28</sup> The Children and Families Court Advisory and Support Service

33. The UK Government is committed to supporting local partnerships to sustain and develop evidence-based interventions that are cost effective in tackling the needs of looked after children and children on the edge of care or custody and their families. It has supported piloting of a range of intensive interventions including: Multi Systemic Therapy (MST) for children on the edge of care or custody; Multi-dimensional Treatment Foster Care (MTFC); KEEP (parenting skills for foster carers); and Functional Family Therapy (FFT). These aim to reduce the need for a child to enter care or custody, or to move into more intensive or costly placements.

34. In Scotland, decisions about supporting children and young people who are removed from their families are taken through the Children's Hearings System. Steps were taken through the Children's Hearings (Scotland) Act 2011 to strengthen the voice of the child in that system. In addition, Scotland's *Getting it right for every child* approach to children's services is designed to empower practitioners to place children at the centre of decisions, ensuring they have their voices heard and ensuring that each and every child has the same opportunities, irrespective of their background or circumstances, whether they are looked after or disabled, whatever their needs might be.

### Children whose parents are in prison

35. Most children whose parents are in prison will not be looked after. They will normally be supported by a parent or other relative. Where they are taken into the care system, care planning, placement and review arrangements set out in regulations and statutory guidance will apply.

### Children with disabilities in long-term care

36. The statutory care planning framework requires local authorities to ensure that accommodation in which a looked after child with a disability is placed is suitable to his or her particular needs. Whether in foster or residential care, disabled children must have access to the same facilities such as recreation, living or garden areas, as children who are not looked after in the home. Local authorities have a duty to appoint a representative to visit a looked after child, wherever he or she is living.

### Contact proceedings for all children separated from their parents and siblings, including those in long term residential care

37. Maintaining contact with siblings is reported by children to be one of their highest priorities. There is a specific requirement for a looked after child's care plan to include arrangements for looked after children to maintain contact with brothers and sisters who are also looked after. Social workers are required to facilitate such contact to support the development of healthy sibling relationships between children who are not able to live together.

38. In Scotland, decisions regarding contact are dealt with through the Children's Hearings System.

### Monitoring the status of children placed in kinship homes, foster care, pre-adoptive homes and other care institutions, including through regular visitations

39. The placement arrangements for all looked after children are monitored by the local authority that looks after the child, regardless of placement type. Where children are placed in family and friends care arrangements by a local authority the relative or friend must be approved as a foster carer. All looked after children are required to have a care plan or an adoption plan, depending on the permanence decision made for their care. That plan will be reviewed by an Independent Reviewing Officer at regular intervals in line with the timings set out in care planning or adoption agency regulations.<sup>29</sup>

40. As part of their arrangements for supervising a child's welfare the responsible authority must appoint a representative to visit the child wherever he or she is living. The frequency of visits for these arrangements is set out in regulations and statutory guidance and differs according to the type of placement.

### Improving outcomes of children in care

41. Children in care have significantly poorer education outcomes than their peers. In England, in 2012, only 15% achieved 5+ A\*-C grades at GCSE including English and maths compared to 58% of non-looked after children. While 2012 results showed for the first time that the attainment gap at Key Stage 4 narrowed slightly the attainment gap is still too wide and not closing fast enough. Over 30% have a statement of special educational needs compared to 3% for all children. They are four times more likely to be permanently excluded and have greater mental health needs.

42. The Children and Families Bill in England includes a provision to strengthen the duty on local authorities to promote the educational achievement of looked after children by requiring them to appoint a 'Virtual School Head'. Together with the 'Pupil Premium Plus' - £1,900 for children in care and those who are adopted from care - and bursaries for children in care who go on to further and higher education, the UK Government is taking decisive action to improve the educational attainment of looked after children.

43. The UK Government is committed to improving the outcomes of children who live in care; and to providing greater stability in their lives through quicker and more stable placements. The Government has set in place reforms to ensure that all

---

<sup>29</sup> This arrangement does not apply in Scotland.

## Draft for comment by civil society – 23/10/2013

children in care have strong and stable placements, achieve good educational outcomes, and receive ongoing quality support when they leave care.

44. In May 2012, the Government announced a programme of work to improve fostering services. This was informed by discussions with around 300 people and children from all parts of the fostering sector about what works and what could be improved. The programme focuses on 6 areas: the recruitment and retention of foster carers; the assessment and approval of foster carers; delegation of authority to foster carers; long term foster placements; children's return home; and training and support for foster carers and social workers.

45. In response to the widely reported concerns about the care provided by children's homes the Government is now taking forward a comprehensive programme of work to reform the provision of care in this sector. These reforms including changes to legislation framework are intended to drive improvements so local authorities only place children in homes with the capacity to provide skilled good quality care that offers children the stability necessary to prepare them properly for the next move in their lives.

46. In order to tackle delays in resolving care and supervision orders, the Government is introducing measures – through the Children and Families Bill - which will:

- Introduce a maximum 26 week time limit for completing care and supervision proceedings.
- Ensure that expert evidence is used in children's cases only when it is necessary to resolve proceedings justly.
- Focus a court's consideration of a care plan primarily on those issues that are essential to its decision as to whether or not to make a care order.
- Reduce bureaucracy in the system by removing the need for frequent renewals of interim care and supervision orders.

47. In line with the recommendations from the Munro review, the Government has reduced the burdensome regulatory framework for looked after children, in order to free up social workers to make the best possible, informed decisions; and to place the child's individual needs at the centre of decision-making.

48. The Government's *Mandate to NHS England* (November 2012) includes an expectation that the NHS, working together with schools and children's social services, will support and safeguard vulnerable children, including looked after children and adopted children. Joint Department of Health and Department for Education statutory guidance on *Promoting the Health and Well-being of Looked After Children* (November 2009) sets out the roles and responsibilities of local authorities and health organisations.

49. The National Institute for Health and Care Excellence (NICE) published a health and social care quality standard for the Health and wellbeing of looked-after children and young people in April 2013. The quality standard sets out the priority areas for quality improvement to meet the needs of this highly vulnerable group. It builds on public health guidance issued by NICE and the Social Care Institute for Excellence (SCIE) in 2010.

### Contact proceedings for children separated from their parents and siblings

50. Consideration of contact arrangements is an essential element of the care planning process for looked after children. Local authorities have a duty to endeavour to promote contact between a child and his/her parents and family unless it is not in the interests of the child's welfare.

### Preparing children in care for adult life

51. The UK Government has strengthened the regulations and statutory guidance for local authorities in relation to supporting looked after children and care leavers as they approach 18 and beyond. These make clear that support for care leavers must not stop once they move into the community. Local authorities must provide consistent personal support to care leavers, with a particular focus on education and keeping their needs under review until they are 21. In recognition of the importance of care leavers maximising their educational opportunities, they have an entitlement to leaving care support up to the age of 25 where they take up education or training. We have also used statutory guidance to emphasise the role of the Personal Adviser in coordinating a care leaver's pathway plan. This is particularly in relation to advice around education, training and employment.

52. The UK Government and local authorities have introduced a range of measures to better support care leavers. Over the last year, the number of Local Authorities that have committed to giving Care Leavers at least £2,000 towards setting up their own home has tripled. More than 30,000 Junior Independent Savings Accounts, covering three quarters of eligible children, have been set up with a £200 deposit funded by Government and voluntary contributions. Over 111 (out of 152) local authorities have signed up to the *Care Leaver's Charter*, pledging to support care leavers up until they reach age 25. And new rules will ensure that more 16 and 17 year old Care Leavers will remain in care until their 18<sup>th</sup> birthday. There has also been additional funding to third sector organisations to improve the support provided to care leavers and improve their outcomes.

53. As part of the new Voluntary and Community Sector grant programme we have agreed to fund *Catch22* to improve employment opportunities for care leavers. A key aspect of the programme is for local authorities to employ some care leavers

directly as well as matching and supporting care leavers with opportunities provided by national employers.

54. In Wales, local authorities were in touch with 93% of 19 year-old care leavers; 47% of 19 year-old care leavers were known to be in education, training or employment<sup>30</sup>. A scheme, *When I am ready*, has been developed to highlight the additional options available to children and their foster carers to more effectively manage the transitional period during which children may benefit from stability and security. In Northern Ireland a range of schemes have been introduced to help prepare children living in care to get ready for adult life including - employability guidance to support young people aged 16-17 and continued support of the Going the Extra Mile (GEM) scheme to promote continuity of living arrangements in post-care life of young people aged 18-21.

### **Adoption**

*The UN Committee recommended that (a) the State Party strengthen its efforts to facilitate a situation in which children, always in their best interests, be adopted as speedily as possible, taking in due account, inter alia, their cultural background, and (b) take the necessary measures to expand the application of the Hague Convention on Inter-country Adoption to the Overseas Territories.*

### **Domestic adoption arrangements**

55. The UK Government agrees with the UN recommendation and has been concerned that delays in adoption services mean that it currently takes on average 21 months to place a child for adoption. We recognise that these delays damage a child's development and reduce their chances of finding the love and stability they need with a new family.

56. The Children and Families Bill will introduce wide-ranging reforms to improve the adoption system in England, including measures to: increase the number of prospective adopters; reduce unnecessary delays in the system; improve the quality and timeliness of adoption services; and expand the support available to adopters. In particular, the Bill will:

- Give new powers to the Secretary of State to require local authorities to commission adopter recruitment services from one or more other adoption agencies.
- Encourage local authorities to place children for whom adoption is an option with their potential permanent carers more swiftly, by requiring them to consider placing them in a 'Fostering for Adoption' placement, if one is available.

---

<sup>30</sup> National Statistics on Children Looked After produced by the Welsh Government released in September 2012

## Draft for comment by civil society – 23/10/2013

- Reduce delay by removing the explicit legal wording around a child's ethnicity so that black and minority ethnic children are not left waiting in care longer than necessary because adults want a perfect or partial ethnic match.
- Give prospective adopters a more active role in identifying possible matches with children, by amending the current restrictions around 'public inspection or search' of the adoption register so that they can access the register directly, subject to appropriate safeguards.
- Improve the current provision of adoption support by placing new duties on local authorities to consider requests for personal budgets and to give prospective adopters information about their entitlements to support.
- Reform the arrangements for contact between children in care and their birth parents, and adopted children and their birth parents, to reduce the disruption that inappropriate contact can cause to adoptive placements.

57. In order to encourage more people to adopt, and to reduce the time that adopters have to wait, the UK Government has launched the *Adoption Passport: a support guide for adopters*. This will make it easier for adopters to identify what support will be available to them from local authorities. It will be backed up by legislation, which will put a duty on local authorities to inform adopters about the support that is available locally. The Government has also launched the *First4Adoption* online service, providing all the information adopters need in one place, which will help to speed up the approval process. The Government has also made the £150m *Adoption Reform Grant* available to local authorities, to support local efforts to encourage more people to adopt. In September 2013, the Government also announced the creation of an Adoption Support Fund to make adoption support accessible, timely and of high quality for those families that need it the most. Following a trial phase with a number of local authorities, the fund will be rolled out nationally in 2015. The Government has committed £19.3 million for 2015/16 into the fund with a commitment of continued funding thereafter.

58. The UK Government is also funding a number of initiatives to improve local authorities' recruitment and retention of foster carers, including funding for the Fostering Network to establish an online hub for foster carers to share good practice and to seek advice. This is backed up by the national campaign *Give a Child a Home*, which encourages more people to become foster carers and adopters. There is also extra support for existing foster carers, through the *Fosterline* advice service and training programmes for foster carers to gain the confidence to care effectively for children with complex needs.

59. In Scotland, the number of adoptions has almost doubled since 2008 and Local Authority Adoption Service Plans have highlighted that a number of local authorities are taking steps to improve permanence planning. Since its establishment in August 2011, Scotland's Adoption Register has resulted in 37 matches of children

with adoptive parents and is providing further opportunities to find families for hard to place children. Through the Children & Young People (Scotland) Bill, the Scottish Government intends to place the Register on a statutory footing, introducing a requirement for local authorities and registered adoption services to provide specified information to the Register. This should provide further opportunities for finding permanent homes for children more quickly.

60. In Wales, the Social Service and Well Being (Wales) Bill proposes to place a duty on local authorities to come together to establish a single adoption agency. Additionally, the Welsh Government is currently funding a research project looking at the reasons for adoption breakdown. Once complete, the findings will identify the areas where we need to focus to ensure long term stability of placements.

### Inter-country adoption

61. The number of inter-country adoptions continues to fall internationally and from adopters in England. An Order laid before Parliament, the Adoption (Recognition of Overseas Adoptions) Order 2013, which replaces The Adoption (Designation of Overseas Adoptions) Order 1973 means that adoption orders made in an Overseas' Territory, after 3 January 2014, will not be recognised unless the Hague Convention on Inter-country Adoption is extended to that Territory.

### Violence, abuse and neglect

*The UN Committee recommended that the State Party:*

- *Establish mechanisms for monitoring the number of cases and the extent of violence, sexual abuse, neglect, maltreatment or exploitation, including within the family, in schools and in institutional or other care.*
- *Ensure that professionals working with children (including teachers, social workers, medical professionals, members of the police and the judiciary) receive training on their obligation to report and take appropriate action in suspected cases of domestic violence affecting children.*
- *Strengthen support for victims of violence, abuse, neglect and maltreatment in order to ensure that they are not victimised once again during legal proceedings.*
- *Provide access to adequate services for recovery, counselling and other forms of reintegration in all parts of the country.*

62. The Children Act 2004 was introduced following Lord Laming's inquiry into the death of Victoria Climbié in 2000. It builds on the Children Act 1989, and places a duty on local authorities and their partners (including schools and colleges, the police, health service providers and the youth justice system) to cooperate in

promoting the wellbeing of children and young people and to make arrangements to safeguard and promote the welfare of children. In the same year, and in response to the deaths of Holly Wells and Jessica Chapman in Soham, the Bichard Inquiry led to the introduction of the Vetting and Barring Scheme, which aimed to prevent unsuitable individuals from working with children and vulnerable adults. This scheme has since been replaced by the Disclosure and Barring Service.

63. One of the first acts of the Coalition Government when it came into power in 2010 was to ask Professor Eileen Munro to carry out a review of the child protection system in England. Her final report, published in May 2011, made 15 recommendations for reform, including revising and reducing statutory guidance and developing social work expertise. In their response, the Government accepted the principles proposed for an effective child protection system and responded to each of the 15 areas identified for reform. Significant work has since taken place in implementing the reforms.

64. In March 2013 the Government published revised statutory guidance, *Working Together to Safeguard Children*, which sets out in one place the core legal requirements on individuals and organisations to keep children safe and the importance of understanding and responding to the needs of individual children. It is clear that services should be based on a full understanding of the needs and views of individual children, taking into account their unique characteristics and circumstances, including:

- the child's developmental needs, including whether they are suffering or are likely to suffer significant harm;
- parents' or carers' capacity to respond to these needs; and
- the impact and influence of wider family, community and environmental circumstances.

65. To complement the revised *Working Together*, in March 2013, NHS England published its *Safeguarding Vulnerable People in the Reformed NHS: Accountability and Assurance Framework*. The UK Government's *Mandate to NHS England* (November 2012) sets an objective of continuing to improve safeguarding practice in the NHS.

66. Despite these reforms, there are still areas of the child protection system where improvement is required, as evidenced by recent tragic cases.<sup>31</sup> While it is unrealistic to believe that all risk to children can be eliminated, the UK Government remains firmly committed to making further progress on the issue by improving our understanding of abuse and neglect and focusing sharply on children's needs to ensure that each child gets the right support at the right time.

---

<sup>31</sup> For example: Peter Connelly, Daniel Pelka and Keanu Williams

## Draft for comment by civil society – 23/10/2013

67. In Northern Ireland, the key children's safeguarding policy guidance, *Co-operating to Safeguard Children* is currently being revised to ensure that it is reflective of changes in legislation, guidance, policies and procedures and changes in service delivery structures since it was published in 2003. The revised version is due to be published by March 2015, after a period of public consultation.

68. In Scotland, the Scottish Government is implementing *Getting it right for every child*, a holistic approach to supporting children and young people which recognises the crucial role that universal services such as health and education must play, working in partnership where necessary with those involved in providing more specialist support to ensure the wellbeing of children up to the age of 18. The approach builds on the general principles of the Convention, supporting practitioners to place children at the centre of decisions, ensuring they have their voices heard and that each and every child has the same opportunities, irrespective of their background or circumstances, whether they are looked after or disabled, whatever their needs might be.

### Monitoring cases of violence, sexual abuse, neglect, maltreatment or exploitation

69. The UK Government published the children's safeguarding performance information framework in June 2012, which describes the key nationally collected data and the questions that should be asked at a local level to understand the impact and effectiveness of safeguarding children. New nationally collected data to be published in autumn 2014 will, for the first time, provide local authorities and others with vital national information about the effectiveness of children's social care: for example, data about social worker numbers, turnover, absence and reliance on agency staff, all of which were identified by Professor Munro as a key gap in our knowledge. We will also be publishing greater information about the needs of vulnerable children as identified through social work assessments and sources of referral to children's social care to provide a greater understanding of multi-agency working.

### Training and development for professionals

70. In England, the *Working Together to Safeguard Children* statutory guidance makes clear that "professionals working in universal services have a responsibility to identify the symptoms and triggers of abuse and neglect, to share that information and work together to provide children and young people with the help they need." In addition, the revised Early Years Foundation Stage Statutory Framework makes clear that 'training made available by the provider must enable staff to identify signs of possible abuse and neglect at the earliest opportunity, and to respond in a timely and appropriate way'.

71. The UK Government has taken steps to improve the skills and capabilities of those coming into social work, including through the 'Step-up to Social Work' and 'Frontline' programmes. We have also worked with those in the profession to improve local practice, including supporting local areas to establish the role of Principal Child and Family Social Worker. We have also established a new Office of the Chief Social Worker for Children to champion best practice and lead the development of the profession. The first Chief Social Worker, Isabelle Trowler, took up her post in September 2013.

72. The Royal College of Nursing, working with other health professional bodies, is updating the intercollegiate framework *Safeguarding Children and Young People: roles and competences for health care staff*, in light of NHS structural changes in England, to ensure roles and responsibilities are clearly understood. Additional training resources have also been made available to health care professionals, including health visitors, to increase awareness of different forms of abuse and of the impact of domestic violence on children.

73. The UK Government is also taking action to strengthen local arrangements for identifying and supporting arrangements to tackle cases of child abuse and neglect:

- Local Safeguarding Children Boards (LSCBs) are being encouraged and supported to take a strong lead in monitoring and challenging the performance of partner agencies.
- A revised Ofsted inspection framework provides a robust and rigorous assessment of all services for vulnerable children.
- Ofsted, the Care Quality Commission (CQC) and other inspectorates plan to commence multi-agency inspections of local arrangements for safeguarding children and for looked after children in 2015. In the meantime, in September 2013 CQC introduced a new programme to inspect local health service arrangements for these groups.
- The Government has established a Serious Case Review panel to help ensure that lessons are learned when a child dies or is seriously harmed due to abuse or neglect.
- The *Child Protection – Information Sharing* project (CP-IS) will link local authorities' children's social care systems with the health care systems of the NHS, so that vital child protection information can be accessed by healthcare practitioners whenever they suspect neglect or abuse of a child in their care. CP-IS will start to be rolled out in the NHS in 2014.

74. In Wales local authorities and health bodies have been asking to undertake an audit and confirm that robust arrangements are in place locally to ensure that the welfare of vulnerable children is properly safeguarded. Following three reviews carried out in 2009, the Welsh Safeguarding Children Forum was established to

## Draft for comment by civil society – 23/10/2013

ensure that safeguarding was achieved at a national, regional, and local level. The Forum's final report, which contained advice and recommendations on strengthening safeguarding arrangements for children in Wales, will contribute to the Social Services (Wales) Bill. A review of the co-ordination of adult services and children's services where adults with mental health and/or substance misuse problems also have children has resulted in proposals to introduce support for vulnerable children and families through a new approach to Integrated Family Support Teams.

75. In 2012 the Scottish Government published a common core of the skills, knowledge and understanding and values every worker (paid or unpaid) should have as a minimum if they work with children, young people and families. The common core includes a set of 'essential characteristics' which are cross-referenced to the general principles of the UNCRC. Roll-out of the common core is being taken forward as part of the broader implementation of *Getting it right for every child*. Following implementation, every child in Scotland will have a 'Named Person' who will receive training in identifying, assessing and responding to their needs. As of April 2013, all 32 of Scotland's Community Planning Partnerships had delivered some level of training to practitioners taking on the role of the 'Named Person' for children in their area.

## Chapter V: Basic Health and Welfare

### (Articles 6, 18 paragraph 3, 23, 24, 26 and 27 paragraphs 1-3)

#### INTRODUCTION

1. This chapter provides information on a range of measures designed to promote children's health and welfare. It covers arrangements for children with disabilities, health, health services and health inequalities, mental health, breastfeeding, adolescent health and children's standard of living.

#### CONCLUDING OBSERVATIONS – FOLLOW-UP

##### Children with disabilities

*The UN Committee recommended that the State Party should:*

- *Take all necessary measures to ensure that legislation providing protection for persons with disabilities, as well as programmes and services for children with disabilities, are effectively implemented;*
- *Develop early identification programmes;*
- *Provide training for professional staff working with children with disabilities, such as medical, paramedical and related personnel, teachers and social workers;*
- *Develop a comprehensive national strategy for the inclusion of children with disability in the society;*
- *Undertake awareness-raising campaigns on the rights and special needs of children with disabilities, encourage their inclusion in society and prevent discrimination and institutionalization;*
- *Consider ratifying the International Convention on the Rights of Persons with Disabilities and its Optional Protocol.*

##### Legislative protection

2. Children with disabilities are protected by the Equality Act 2010, which proscribes discrimination against those with a disability, defined as a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities, such as sensory impairments, long-term conditions such as epilepsy, mental health conditions and learning difficulties. The Act requires schools to make adjustments in practices, procedures and policies so as not to discriminate against disabled pupils in relation to their access to education and associated services.

3. Through reforms being introduced through the Children and Families Bill, the UK Government is addressing issues relating to the wellbeing of children and young people with special educational needs, and in particular, to prevent them being subjected to multiple and repetitive interventions, often poorly co-ordinated service provision and to improve the awareness over what services are available in each local area. Local authorities and health commissioners will be required to assess the overall education, health and social care needs in their locality and consider what provision is required to meet that need. The local authority and health commissioner will then publish a 'local offer' which details the services which are available locally. This will:

- Include parents in the assessment process and introduce a legal right, by 2014, to give them control of funding for the support their child needs.
- Establish a single assessment process and a combined Education, Health and Care plan so that health and social services are included in the package of support, along with education.
- Ensure assessment and plans run from birth to 25 years old.
- Overhaul teacher training and professional development to better help pupils with special educational needs and to raise their attainment.
- Give parents a greater choice of school and give parents and community groups the power to set up special free schools.

4. The commissioners will be under a statutory duty to deliver the agreed education and health services in the EHC plan. The plans, in running up to the age of 25, will support a new focus on helping to improve outcomes relating to the transition to adulthood, including future employment and independent living.

5. The Care Bill makes provision for improving transition for children to adult care and support, removing barriers and clarifying the role that adult care and support should play in planning better transition. The Bill will ensure that no child reaching the age of 18 should go without the care and support they need around the point of transition. It will require local authorities to maintain children's services until they have adult care and support in place, so there is no gap.

6. In Scotland, the Social Care (Self-directed Support) (Scotland) Act 2013, and the wider policy underpinned by the Act, will make a number of improvements to the realisation of children's rights. Self-directed support ensures that children and families who use social care services and health and social care professionals can access support through a wide variety of options. It allows them to take greater control via a direct payment or an individual service fund, as opposed to receiving services arranged on their behalf. The Act concentrates on the provision of choice to children and families during their social care assessment. It provides a variety of options for the provision of support and it requires the statutory body to 'give effect' to the child or family's choice.

### Health Services

7. The *Mandate to NHS England* sets the Government's ambitions for the NHS, as well as the funding available to achieve and deliver the kind of care people need and expect. It is how the NHS is accountable to Parliament, and therefore the public. The Mandate highlighted the need to improve support for children and young people with special educational needs or disabilities and ensure they are able to access appropriate services, as an area requiring particular improvement.

8. The Mandate also called on NHS England to ensure smooth transitions between children's and adult services, and a programme of work is being developed on Transition to Adulthood (including CAMHS transitions to adult services) which will be tested through new commissioning structures. The Government has also asked NICE to develop guidance and quality standards relating to the transition from children's to adult health services.

### Early identification programmes

9. The UK Government's Healthy Child programme aims to identify and treat problems early, help parents to care well for their children, change health behaviours and protect against preventable diseases. It is the key universal service for improving the health and well-being of children, through health and development reviews, health promotion, parenting support, screening and immunisation programmes. Between 2 and 2 ½ years a child will have a full health and development review where parents have the opportunity to raise any concerns, ask questions and to prepare for the next stage of their child's development. The programme is based on a systematic review of evidence and is expected to prevent problems in child health and development and contribute to a reduction in health inequalities. Over 40 early implementer sites are focusing on:

- Improving antenatal services.
- Increasing breast-feeding/immunisation rates.
- Better information-sharing among practitioners/parents, resulting in improved parental confidence.

10. The *Healthy Child Programme, pregnancy and the first five years of life* is led and delivered by health visitors and their teams. The UK Government is committed to growing, by 2015, the health visitor workforce by 4,200 (over 50%) and developing health visiting services to improve health outcomes and reduce inequalities for the 0-5 years age group. A four-tier service model (ranging from universal action with families through to more targeted support) is described in the four-year *Health Visitor Implementation Plan 2011-2015 – A Call to Action* (published February 2011), which also sets out a programme of recruitment and retention, professional development and improved commissioning. The growth of the health visitor workforce combined with real service transformation will lead to better health and well-being outcomes for

## Draft for comment by civil society – 23/10/2013

children, families and their communities and demonstrates real commitment to improving services during the crucial early years.

11. The 4,200 increase in health visitors will be the biggest percentage workforce growth the service has delivered in recent years. It requires around 6,000 additional nurses and midwives to train as health visitors during the three years 2011 – 2014. Health visitors have first to be trained as nurses or midwives and a full-time health visitor training course takes a year to complete.

12. In addition, the UK Government is increasing the number of places on the Family Nurse Partnership programme to 16,000 by 2015. The programme supports young first-time mothers and their babies, through one-to-one support during pregnancy and the first two years of their baby's life with the aim of improving the outcomes of pregnancy, children's subsequent health and development and women's life courses e.g. by planning subsequent pregnancies.

13. School nurses also work with key partners to deliver a universal service for all school-aged children, including key support on the Healthy Child Programme. They provide evidence based interventions to support health and well-being including health promotion, health protection, and support for children with long-term conditions or disabilities. School nurses provide targeted support for children with additional health needs and vulnerable groups including looked after children or young carers.

14. In Northern Ireland the role of health visitors has been reviewed and articulated in the review of health visiting and school nursing *Healthy Futures 2010-2015: The Contribution of Health Visitors and School Nurses* (March 2010). Based on a similar approach to England, the review reinforces the importance of integrated working and focuses on prevention and early intervention through universal services for all children and families, particularly in the earlier years. This is also reflected within the updated child health promotion programme, Healthy Child Healthy Future (June 2010) which reflects the principles of the Healthy Child Programme. The first test site for the Family Nurse Partnership programme has now been fully introduced to Northern Ireland. Two further sites are in the process of being established.

### Training for professionals

15. The content and standard of healthcare training is the responsibility of the professional regulatory bodies. These organisations are committed to delivering high quality care delivered by high quality health professionals, which addresses the needs of all patients. In addition, all providers of NHS services have an obligation to their patients as part of their Care Quality Commission (CQC) registration requirements to ensure people should be cared for by staff, who are properly qualified and able to do their job.

## Draft for comment by civil society – 23/10/2013

16. A Disability E-Learning Portal is to be developed to provide training material for all those who work with children, young people and young adults across the full spectrum of disabilities, specifically including those with learning disabilities or autism who also have mental health problems or behaviours viewed as challenging.

17. The UK Government has also initiated a programme of training for school nurses to become champions of young carers. The school nurse champions will speak up on behalf of young carers, help head teachers and governors decide how best to support them at school and signpost young carers and their families to other sources of information, advice and support.

18. In Scotland, a cross-Government network of Disability Champions has been established in order to ensure the needs of disabled children, young people and their families are considered in the development of new policies and legislation. ‘*The Common Sense Approach to Moving and Handling Disabled Children*’ guidance document published in September 2012 offers a common-sense practical approach to the assessment of risk in relation to the moving and handling of disabled children and young people. The guidance will help ensure carers get it right for disabled children and young people who have moving and handling needs and workers and employers have a clear understanding of their responsibilities.

19. In Northern Ireland, subject to the approval of the Northern Ireland Executive, a new *Cross-Departmental Autism Strategy and Action Plan* will be launched before the end of 2013. The Strategy will focus on the needs of people with autism and their families and carers throughout their lives. In order to inform the development of the Cross-Departmental Autism Strategy a number of pre consultation engagement events were held across Northern Ireland. This included two events specifically aimed at children and young people, which were facilitated by autism organisations.

### Strategy for the inclusion of children with disabilities

20. The vast majority of children and young people with special educational needs have always been taught in mainstream settings. The UK Government has taken a range of measures to support the development of teachers’ knowledge, understanding and skills in meeting the needs of those with special educational needs in mainstream settings and included a requirement in the National Curriculum for teachers to vary their approaches to support children with different needs.

21. The Northern Ireland Executive is committed to implementing the UN Convention on the Rights of People with a Disability (UNCRPD) through the Delivering Social Change (DSC) framework which is the main vehicle for delivery of the Executive’s new disability strategy, *A strategy to improve the lives of disabled people – 2012 to 2015*. The strategy sets out the key priorities that will be crucial in addressing the barriers that currently hinder disabled people’s full participation in society and covers all types of disability and all ages – children, young people, adults and older people.

22. In Scotland, following on from a National Review of Services for Disabled Children and Young People in 2011, the Scottish Government is taking forward a programme of work implementing policy for disabled children and young people in line with *Getting it right for every child*. This includes participation work with young disabled people to increase their capacity to identify and influence decisions around self-directed support or as part of any other support being delivered in line with *Getting it right for every child*.

### Raising awareness of the rights and special needs of children with disabilities

23. In England, the Children and Families Bill 2013 will introduce a new statutory framework for children and young people with special educational needs, many of whom will also be disabled. It will extend rights and protections that have been enjoyed by children with special educational needs in schools to young people in further education and improve support for families. The rights and duties introduced by the statutory framework will be set out in a new Special Educational Needs Code of Practice which will be widely communicated and will have statutory force. The Code will also make clear the duties that early years settings, schools, colleges and local authorities have towards disabled children and young people.

### International Convention on the Rights of Persons with Disabilities and its Optional Protocol.

24. The UK Government ratified the International Convention on the Rights of Persons with Disabilities and its Optional Protocol in 2009 and is committed to continuing to promote the inclusion of disabled children in the general education system. The interpretive declaration entered by the UK Government on ratification sets out the UK Government's understanding that special schools are allowable as part of the range of education provision available in the UK. The reservation entered at the same time reserves the right for disabled children to be educated outside their local community where more appropriate education provision is available elsewhere, but makes clear that parents of disabled children have the same opportunity as other parents in the UK to state a preference for the school at which they wish their child to be educated. Guidance in a new Special Educational Needs Code of Practice will support teachers in making provision for children with a range of needs. The Code will also draw attention to the duties in the Equality Act 2010 and how they relate to disabled people.

## **Health and health services and health inequalities**

*The Committee recommended that inequalities in access to health services be addressed through a coordinated approach across all government departments and greater coordination between health policies and those aimed at reducing income inequality and poverty.*

25. Improving access to health services is a Government priority, and part of its wider effort to tackle health inequalities. This has included action on the early years of life. The infant mortality gap between the routine and manual group and the whole of the population has narrowed in recent years - from 18% in 2002-04 to 9% in 2009-11.

26. Tackling health inequalities is a priority for the UK Government. The Health and Social Care Act 2012 requires NHS England and local commissioning groups to reduce inequalities in access to, and outcomes from, health services. The inclusion Health programme focuses on the health needs of vulnerable and excluded groups, including homeless people, Gypsies and Travellers, sex workers and vulnerable migrants, and their children. Inclusion Health seeks to improve access and outcomes for vulnerable groups by driving change through system reform and clinical leadership, to ensure everyone gets the care they need, regardless of their needs or circumstances. The new health inequalities duties came into effect in April 2013.

27. Despite unprecedented pressures on public finances, the UK Government has prioritised health, ensuring that the NHS budget is protected. The headline priority to 'enable better health and well-being for all' includes commitments to improve public and community health and reduce health inequalities, including through:

- Improvements to the child immunisation programme and an increase of 4,200 in the number of community-based health visitors.
- Measures to help children to make the best possible start in life, such as doubling the number of families who will benefit from support from the Family Nurse Partnership Programme by 2015, and doubling the number of parents who benefit from receiving high quality advice and information from the NHS Information Service for Parents.
- Improvements to Child and Adolescent Mental Health Services (CAMHS), extending access to evidence based psychological therapies for children and young people and increasing access to transformed CAMHS services to 60% of people aged under 19, through NHS England.
- New governance arrangements for England from June 2013 have been put into place. A new Children and Young People's Health and Wellbeing Partnership and a new Children and Young People's Health Outcomes Board, led by the Chief Medical Officer, will bring together key clinical leaders in child

health to provide a sustained focus on improving outcomes and reducing health inequalities. The work of the Child Health Outcomes Forum will feed expertise to the Board and Partnership arrangement.

28. An updated *Public Health Strategic framework* for Northern Ireland is under development. Consultation on the draft framework involved specific engagement with NI Parenting and with Participation Network. This included meetings with two groups of young people and young offenders. Funding is also provided in Northern Ireland for smoking cessation services targeted specifically at children and young people and available in a range of settings. Information on the harm caused by tobacco use and tips on how to quit are also available through the Smokers Helpline and on the website.<sup>32</sup>

29. In Scotland, a Ministerial Task Force on health inequalities, established in 2007, ensures a cross-government approach to addressing the inequalities in health between the most and least affluent areas. The Task Force's report, *Equally Well* (2008), set out a long-term strategy, recognising that the origins of many health inequalities lie within wider social, environmental and economic factors, such as poverty, education, employment and support for families. Following a successful pilot, Scottish Ministers have committed to implementing the Family Nurse Partnership Programme - an intensive, preventive, home visiting programme for first-time, teenage parents - across Scotland and aim to recruit five new NHS Boards by the end of 2013.

### Young People's involvement in planning and designing health services

30. In early 2012, the UK Government established an independent Children & Young People's Health Outcomes Forum and asked them to: identify the health outcomes which matter most for children and young people; consider how well these are supported by the existing indicators in the Public Health and NHS Outcomes Frameworks; and recommend how the different parts of the health (and wider system) will contribute and work together in the delivery of those outcomes.

31. The Forum reported in July 2012 following engagement with some 2,000 children and young people and their families and those working in the wider health and social care system. In response to the Forum's recommendations, the Government issued a pledge in February 2013<sup>33</sup>, which has been signed by a wide range of organisations including the NHS Commissioning Board (now known as NHS England) Care Quality Commission, several Royal Medical Colleges, and the Local Government Association, and commits them to improve children's health outcomes

---

<sup>32</sup> [www.want2stop.info](http://www.want2stop.info).

<sup>33</sup> The Government Improving Children and Young People's Health Outcomes: a system wide response and Better health outcomes for children and young people

## Draft for comment by civil society – 23/10/2013

so that they become amongst the best in the world. The Pledge is based on shared ambitions that:

- Children, young people and their families will be at the heart of decision-making.
- Services will be high quality and evidence based.
- Early intervention will be of equal importance to caring for those who become acutely unwell.
- Services will be integrated and care coordinated around the individual.
- There will be clear leadership and accountability with organisations working in partnership.

32. The Forum holds annual summits and other key meetings throughout the year, ensuring that the voices of children and young people are included in its policy programme. The summit this year included a session specifically around the engagement of children and young people, and a panel of young people were invited to put questions to key leaders in the field and the Parliamentary Under Secretary of State for Health. The young people who attended were able to help develop discussions following the session on inclusion of their voices in programme planning.

33. NHS England, established in April 2013 has established three new initiatives engaging children and young people. Firstly, the Friends and Family Test will be rolled out to children's services in all areas by 2015. Secondly, a strategic voice for children will be formalised through an NHS Youth forum in collaboration with the British Youth Council which will hold NHS England to account on the services it delivers to Children and Young People. Thirdly, a national children's survey will capture Children and Young People's experiences of health care in an identified area.

### **Mental Health**

*The UN Committee recommended that additional resources and improved capacities be employed to meet the needs of children with mental health problems throughout the country, including children deprived of parental care, affected by conflict, living in poverty, and in conflict with the law.*

34. The UK Government's Pledge for Improving Children and Young People's Health Outcomes has, as one of its aims, improving children's mental health through promoting resilience and mental wellbeing, and providing early and effective evidence based treatment for those who need it. Actions to achieve this include:

- £54 million funding over 2011-12 to 2014-15 to fund the Children and Young People's Improving Access to Psychological Therapies (CYP IAPT) programme. The focus of CYPIAPT is to build a more collaborative

relationship between children, young people, families and therapists through more frequent monitoring, extending participation in service design and feedback, and training of all staff involved in the child and adolescent health service in order to embed evidence based practice across the service.

- development of interactive e-learning programmes on mental health for front line staff working with children (e.g. NHS clinicians, teachers, social workers, counsellors and youth workers) to be delivered in 2014. It will also explore whether e-therapy options can be delivered to children and young people, such as computerised Cognitive Behavioural Therapy (CBT).
- £1.6m has been made available every year since 2007-8 to support the implementation of targeted Child Adolescent and Mental Health Services (CAMHS) within the HM Prison Service young person's estate (under 18s).

35. Action is also taking place within the devolved administrations. For example:

- In Northern Ireland, investment in CAMHS has increased from £9.5M in 2006 to £19M in 2013 including the development of a new 33-bed purpose built Child and Adolescent Mental Health Inpatient Unit and developments in services for eating disorders and crisis intervention. The Department of Health, Social Services and Public Safety published a *Service Model for Child and Adolescent Mental Health Services (CAMHS)* in July 2012. The Service Model promotes a more person-centred approach to mental health service delivery, and young people will be able to move up and down the model steps as their assessed needs change. It places a focus on early and earlier intervention and stresses the importance of developing effective interface protocols with other relevant services and organisations, to ensure that children and young people have access to the full range of support they need. Implementation of the CAMHS Model is underway by the Health and Social Care Board/ Public Health Agency and the Health and Social Care Trusts.
- The Scottish Government launched a new mental health strategy in August 2012 which identified child and adolescent mental health as one of its 4 Key Change Areas. This work builds on the significant progress which has been made over the last three years to improve access to specialist child and adolescent mental health services (CAMHS) by reducing the time patients wait between referral and treatment. The latest data available for the three month period up to September 2012 show that 89% of patients were seen within 26 weeks and the average waiting time was 8 weeks. The availability of such data is a relatively recent development. This progress followed the setting of a national target which states "no patients shall wait longer than 26 weeks between referral and treatment for specialist CAMHS by March 2013". An additional target of 18 weeks by December 2014 has now been set. However, that target does not remove the role of clinicians in deciding when a

child needs to access a service more quickly.

- In Wales, the *Mental Health (Wales) Measure 2010*<sup>34</sup> was introduced in 2012. The Measure ensures that there is appropriate care in place across Wales and focuses on people's mental health needs regardless of age.

### **Supporting Vulnerable Young People: Health services in the secure estate**

36. Young people in secure settings, such as Youth Offender Institutes, Secure Children's Homes or Secure Training Centres, have significantly greater physical, mental and emotional health needs than their peers in the non-secure community. In recognition of this, and reflecting the findings of an investigation by the Children's Commissioner, responsibility for commissioning all healthcare services (with the exception of 111 and emergency services) in the nine Secure Children's Homes in England with both youth justice commissioned and welfare places, transferred to the NHS England from April 2013. In June 2013 the Royal College of Paediatrics and Child Health published new standards<sup>35</sup>, reflecting the views of a wide range of stakeholders and most importantly took account of the children and young people in secure settings. The healthcare standards will play an integral part in the health services commissioned by NHS England.

37. By April 2014, NHS England will be responsible for all health commissioning in secure children's homes and the four secure training centres. A new Comprehensive Health Assessment Tool (CHAT) for use with under-18s is being introduced across the secure estate and will be fully implemented during 2014. A version for use in the Community has also been developed, piloted and validated. Implementation is currently under discussion.

### **Breastfeeding**

*The UN Committee recommended that the State Party implement fully the International Code of Marketing of Breastmilk Substitutes. The State party should also further promote baby-friendly hospitals and encourage breastfeeding to be included in nursery training.*

38. The UK Government's Public Health Outcomes Framework published in 2012 includes "Breastfeeding initiation and prevalence of breastfeeding at 6-8 weeks after birth" as indicators under the health improvement domain. While the UK Government encourages exclusive breastfeeding for around the first six months of life because of the health benefits to mothers and babies, we also recognise that infant feeding choices are complex and based on individual and family circumstances. This is why the support and information available to health professionals and parents through the NHS Information Service for Parents, NHS

---

<sup>34</sup> [Mental health \(Wales\) measure 2010 – Mapping of local mental health services](#)

<sup>35</sup> 'Healthcare Standards for Children and Young People in Secure Settings'

Choices and the National Breastfeeding Helpline are so important. A range of activities are helping to raise awareness and understanding of the issues both among parents and professionals. For example: financial support to UNICEF's Baby Friendly Initiative to support the promotion of infant feeding networks and a National Breastfeeding Helpline, new short videos to promote attachment and bonding as part of the NHS Information Service for Parents (ISP); and an e-learning development programme for health visitors which includes several modules dedicated to infant nutrition and breastfeeding.

39. The National Infant Feeding Survey conducted every five years since the late 1950s has shown a continuous increase in breastfeeding initiation rates over time. The results of the 2010 Survey published in November 2012 show that in England the breastfeeding initiation rates have increased from 78% in 2005 to 83% in 2010. 71% of mothers exclusively breastfed at birth, a rise from 66% of mothers in 2005, with a narrowing of the gap between the routine and manual group and all mothers from around 15% to 9%. By the time babies were six months old, 36% were still breastfeeding in some capacity, compared to 26% in 2005. In Wales, the breastfeeding initiation rates have increased from 67% in 2005 to 71% in 2010.

40. In Scotland *Improving Maternal and Infant Nutrition: A Framework for Action* was published by the Scottish Government in January 2011. It is a framework for action which can be taken by NHS Boards, local authorities and others to improve the nutrition of pregnant women, babies and young children and supports and promotes the benefits of breastfeeding. The Scottish Government provide funding to UNICEF to deliver Baby Friendly Initiative (BFI) accreditation in maternity hospitals and in community settings in Scotland. 80% of babies in Scotland are now born in a BFI-accredited unit. The aim is to increase this to 100% by 2015.

### **Adolescent Health**

*The UN Committee recommended that the State Party intensify its efforts to provide adolescents with appropriate reproductive health services, including reproductive health education, in school; and continue to address the issue of substance use by adolescents, including by:*

- *studying the root causes to provide targeted prevented measures;*
- *strengthening mental health and counselling services, ensuring that they are accessible and sensitive to adolescents in all jurisdictions, including the Overseas Territories;*
- *providing children with accurate and objective information on toxic substances, as well as support to those attempting to abandon their use or dependency.*

### Reproductive health education

41. In England in 2011, the under-18 conception rate was 30.7 per 1,000 women aged 15-17, a fall of 10.2% from 2010. Under-18 conception rates are now at their lowest for over 40 years. Work continues to build upon this progress and reduce rates still further. In March 2013, the UK Government published *A Framework for Sexual Health Improvement in England*. This sets out the Government's ambitions to improve the sexual health and well-being of the whole population, including young people aged under 16, by reducing inequalities, building an open and honest culture enabling informed and responsible choices about relationships and sex, and recognising that sexual ill health can affect all parts of society. The framework aims to build knowledge and resilience among young people through:

- all young people receiving good quality sex and relationship education at home, at school, and in the community;
- all children and young people knowing how to ask for help, and be able to access confidential advice and support about wellbeing, relationships and sexual health;
- all children and young people understanding consent, sexual consent and issues around abusive relationships;
- young people having the confidence and emotional resilience to understand the benefits of loving, healthy relationships and delaying sex.

42. The UK Government believes that teaching children about reproductive health education is vital. Schools are encouraged to provide high-quality, age-appropriate information about sex and relationships in sex education (SRE). Their SRE provision must take account of statutory guidance, which provides that pupils should learn about the different forms of contraception and their importance for good sexual health, the reasons for delaying sexual activity and the benefits to be gained from such delay, and where to obtain appropriate advice from doctors and other professionals on sexual health.

43. One of the most important parts of the successful provision of SRE is the involvement of parents. Parents are expected to be consulted about the school's SRE programme so that they can discuss it with the head teacher if they have concerns about any aspect of what is or is not being taught, or the materials used. The governing bodies of all maintained schools must have an up-to-date sex education policy that sets out the school's approach.

44. Similar initiatives are taking place in Northern Ireland, Scotland and Wales. For example, the Welsh Government has funded a pilot scheme run by Public Health Wales (PHW) during 2010-13. The scheme, teenage pregnancy grant, aims to improve sex and relationships education in schools. In Scotland, children are provided with sex and relationship education in school and wherever learning takes

place, with those who are particularly vulnerable prioritised for such education. Parents and carers have an essential role to play in the provision of age appropriate sex and relationships education and stakeholders are asked to support and facilitate parents and carers so they can discuss relationships and sexual health with children and young people.

### Substance Misuse

45. The number of young people in England in 2011/12 who needed help for drug or alcohol use has fallen for the third year running. The number treated for Class A drugs such as heroin, cocaine or ecstasy has reduced by more than two thirds from five years ago, to 631 from a peak of 1,979 (in 2006–07). The vast majority of these under-18s (92%) receive support for primary problems with cannabis or alcohol. The proportion of under-18s who left specialist services having successfully completed their programme rose to 77% in 2011–12 from 50% five years ago.

46. There are a number of risk factors which are predictors of drug use in later life. These include living in poverty, truanting, family difficulties and parental substance misuse. All these factors are addressed in the UK Government's 'reducing demand' strand of the 2010 Drug Strategy. Universal and targeted measures are delivered through a number of different government departments and at local level. These include the promotion of evidence-based programmes, free early education for disadvantaged two year-olds, alternative provision, family nurse partnerships and the Positive Futures programme.

47. The UK Government commissioned the College Centre for Quality Improvement (part of the Royal College of Psychiatrists) to produce guidance to improve the response that young people with substance misuse problems receive from a wide range of health practitioners, workers, professionals and services. *Practice standards for young people with substance misuse problems* was published in June 2012 and brought together guidance based on the available evidence. It emphasises (a) the need for a sensitive, non-judgemental and collaborative approach to identifying risk, assessing all needs, and offering help and support (b) the importance of developing trusting relationships, involving young people's family or carers, and (c) working with practitioners who are already engaged with the young person is promoted and highlighted throughout.

48. FRANK, the UK Government's preventative drug strategy, published in 2010, makes the commitment to provide accurate information to young people, and their parents/carers, about drugs and alcohol through education and the FRANK service. The service has been updated to reflect the new digital age and can now be accessed via the helpline, email, SMS, website and mobile site. In January 2013 Live Chat launched from the website and allows users to ask questions online.

## Draft for comment by civil society – 23/10/2013

49. Specialist substance misuse services for young people are intervening quickly and effectively – in 2011–12 the average wait for a young person to start getting help was just two days. From April 2013 they will be supported by Public Health England which will be responsible for promoting evidence-based practice. There are 24-hour drugs and information helplines in Scotland ‘Know the Score’ and in Wales ‘DAN 24/7’ offering credible and non-judgemental information and advice on drugs and their risks. Young people in Northern Ireland have access to the National Drugs Helpline through the FRANK service.

50. Drug taking among young people in Scotland is now the lowest it has been in a decade. The Scottish Government increased funding for drug and alcohol services in 2007 and established local strategic partnerships, all of whom work to deliver agreed core outcomes focused on children and families affected by problematic substance misuse.

51. In Wales, the Welsh Government invests £50m annually to support *Working Together to Reduce Harm*, a ten year strategy for tackling the harm associated with the misuse of drugs, alcohol and other substances. The strategy is supported by a three year *Substance misuse delivery plan*, published in February 2013.

### **Standard of living**

*The UN Committee highlighted that an adequate standard of living is essential for a child’s physical, mental, spiritual, moral and social development and that child poverty also affects infant mortality rates, access to health and education as well as everyday quality of life of children. In light of that, the Committee recommended that the State Party:*

- *Adopt and adequately implement the legislation aimed at achieving the target of ending child poverty by 2020, giving priority to those children and their families in most need of support; and intensify its efforts to provide material assistance and support programmes for children, particularly with regard to nutrition, clothing and housing.*
- *Reintroduce a statutory duty for local authorities to provide safe and adequate sites for Travellers.*

### **Tackling child poverty**

52. The UK Government remains committed to the Child Poverty Act 2010 and to the target of ending child poverty by 2020. However the Government does not believe that measuring income alone captures the full reality of poverty in the UK. That is why it has consulted on better measures of child poverty, which it intends to use to ensure that it captures the full picture, and is able to address the causes of poverty rather than simply the consequences.

53. The UK Government is committed to the principle that work remains the best route out of poverty. The evidence shows that children in workless households are around 3 times more likely to be in poverty than those in working families. Welfare reforms with the introduction of the Universal Credit will improve work incentives by allowing individuals to keep more of their income as they move into work, and by introducing a smoother and more transparent reduction of benefits when they increase their earnings. Improving work incentives will reduce the number of families where no-one in the household goes out to work, and in the long-run will end cycles of poverty and worklessness.

54. The UK Government estimates that up to 300,000 more people will enter work as a result of the introduction of Universal Credit through improved financial incentives alone. The increase in employment driven by improved incentives is expected to reduce poverty and make an important contribution to reducing child poverty:

- At least half of expected extra people in employment are parents, and around half of these parents are expected to move into jobs of over 16 hours per week.
- We estimate between 1 and 2.5 million extra hours will be worked by those currently in work once Universal Credit is fully implemented. The vast majority of these extra hours will be worked by parents.
- Around 3.1m households will have higher benefit receipt under Universal Credit as a result of changes in entitlement and take-up – focusing on the lower income groups: 75% of the gainers are in the bottom 40% of the income distribution.

55. The introduction of Universal Credit will significantly improve the take-up of unclaimed entitlements, another powerful tool in tackling poverty. A claim for Universal Credit will much more readily ensure that claimants receive amounts associated with their children and their housing costs.

56. Before taking account of the expected increase in numbers of people in work as a result of Universal Credit, and excluding the impact of the minimum income floor for the self-employed, the introduction of Universal Credit is estimated to reduce the number of individuals in relative income poverty by some 600,000; including around 250,000 children and around 350,000 adults.

57. We are committed to monitoring the impacts and responding accordingly. Enabling as many parents as possible to be in work avoids children growing up seeing long-term reliance on benefit as the norm. The reforms enable us to focus finite resource on those most needing help, including those who can never

## Draft for comment by civil society – 23/10/2013

work. Local Authorities are required to assess the needs of children in poverty in their area, and to produce strategies to address those needs. We believe that local people are best placed to understand the needs of children in poverty in their areas and to be able to develop innovative ways of tackling these problems.

58. The UK Government is also focusing on education as a route out of poverty. Specific measures include: investing £2.5 billion in the Pupil Premium to raise the educational attainment of poor children, as well as 260,000 disadvantaged 2 year olds receiving 15 hours a week of early learning.

59. In Northern Ireland the Programme for Government 2011-15 sets out the Executive's commitment to deliver a range of measures to tackle poverty and social exclusion through the *Delivering Social Change* delivery framework through:

- Fulfilling commitments under the Child Poverty Act to reduce child poverty.
- Supporting people into employment by providing skills and training.
- Tackling rural poverty and social and economic isolation.

60. *Delivering Social Change* is the Executive's comprehensive delivery framework to co-ordinate efforts across departments to take forward work on priority social policy areas. This work aims to deliver a sustained reduction in poverty and associated issues, across all ages; and an improvement in children and young people's health, well-being and life opportunities; thereby breaking the long term cycle of multi-generational issues. Six signature programmes have been implemented which:

- Provide literacy and numeracy help to struggling pupils.
- Provide positive parenting programmes.
- Establish 10 Family Support Hubs, 10 Social Enterprise Incubation Hubs and 20 additional nurture units.
- Provide skills programmes to help young people not in education, employment or training.

61. The published *Child Poverty Outcomes Model* helps to assess which interventions are likely to produce the best outcomes over the long term and the impact of programmes already in place. Training is now underway to ensure all departments contribute to this process, intensifying efforts to reduce child poverty.

62. In 2011, the Northern Ireland Executive published a child poverty strategy (2011-14). Work is now underway to review the current strategy and produce a revised strategy, to be laid before the Northern Ireland Assembly in March 2014. The Child Poverty Strategy 2014-17 will take into account developments in this work, using the Delivering Social Change Framework and Child Poverty Outcomes Model to intensify and focus efforts to tackle child poverty.

### Sites for Traveller families

63. In England, the UK Government's Planning Policy for Traveller Sites<sup>36</sup> expects local councils to identify a five-year supply of suitable sites for travellers to meet objectively assessed local needs. The UK Government has also allocated £60 million in Traveller Pitch Funding, as part of the Affordable Housing Programme<sup>37</sup>, to help locally elected councils and other registered providers in England build new traveller pitches and refurbish existing ones. This is currently forecast to deliver around 600 new traveller pitches and 400 refurbished ones by 2015. Local councils are also given an incentive to provide pitches through the New Homes Bonus which rewards them for every new traveller pitch built in their area.

64. The UK Government is also funding a training programme to help local elected councillors and their partner agencies to develop their leadership role in planning to meet the accommodation needs of travellers. So far, some 900 councillors have attended the training courses. The Planning Inspectorate and the Planning Advisory Service have also visited over 200 local planning authorities to provide support with developing local plans, including on traveller site provision, where appropriate.

65. The number and proportion of traveller caravans on authorised sites<sup>38</sup> in England has continued to increase from 15,750 (80%) in January 2010 to 16,000 (85.5%) in January 2013. The number of caravans on unauthorised sites has decreased from 3,600 (20%) in January 2010 to 2,700 (14.5%) in January 2013.

---

<sup>36</sup> Planning Policy for Traveller Sites - [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6078/2113371.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6078/2113371.pdf)

<sup>37</sup> Traveller Pitch Funding - <http://www.homesandcommunities.co.uk/ourwork/traveller-pitch-funding>

<sup>38</sup> Gypsy and Traveller Caravan Statistics - [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/199241/GTCC\\_Table\\_4\\_-\\_final.xls](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/199241/GTCC_Table_4_-_final.xls)

## Chapter VI: Education, Leisure and Cultural Activities

### (Articles 28, 29 and 31)

#### INTRODUCTION

1. This chapter provides information on progress in relation to the implementation of the Education, Leisure and Cultural Activities Articles of the UNCRC across the UK, in respect of Articles 28, 29 and 31 of the Convention. The devolved governments are all responsible for education, leisure and culture and we therefore begin with a brief overview of the key developments within each jurisdiction, then go on to explain how the recommendations made by the UN Committee at the last review in 2008 have been addressed and identify new issues emerging since the last review.

2. The UK Government's vision for England is for a highly-educated society in which all children have the opportunity to do well, regardless of their background or family circumstances. The Government is also determined to promote excellence – academic, cultural and sporting – in all schools. To do this, we are freeing schools from local authority control and giving teachers the freedom to teach. More schools are becoming academies, which have more flexibility than local authority schools; and to give parents real choice, we have enabled the setting up of free schools - state-funded schools, set up in response to what local people say they want and need in order to improve education for children in their community. As of September 2013 we have opened 174 free schools and have approved another 116 to open in 2014 and beyond. That will bring the total to 290. Their specialisms include areas as diverse as leadership, languages, sports and the arts. 8 in 10 mainstream free schools are either in areas of deprivation or areas that have a basic need for places.

3. Other key measures in England to improve the quality of schools and education include:

- The Building Schools for the Future Programme has led to significant improvements in the school stock, including many replacement schools and refurbishments. In 2012-13 expenditure is expected to be £325m.<sup>39</sup>
- School funding has been reformed through the introduction of a pupil premium which focuses resources on the most disadvantaged children.

---

<sup>39</sup> Department for Education Business Plan 2012-2015 (p15) - £6,322m has been devoted to this programme as a whole

<http://media.education.gov.uk/assets/files/pdf/d/department%20for%20education%20business%20plan%202012%202015.pdf>

## Draft for comment by civil society – 23/10/2013

- Teachers have been given stronger powers to ensure good order in the classroom and address poor behaviour at an early stage. This should help reduce the rates of exclusion, but we are also ensuring that troubled children who are placed in alternative provision will be given an education that improves their life chances.
- A new, slimmer national curriculum is being introduced from September 2014 focussed on essential subject knowledge, especially in the core subjects of English, mathematics and science.

4. In Northern Ireland the revised curriculum, which has been taught to all pupils in grant-aided schools since 2009/10, has literacy and numeracy at its core and is less prescriptive in content, giving schools and teachers the professional flexibility to tailor their teaching to best meet the needs of their pupils. It aims to empower pupils to achieve their potential, to make informed and responsible choices and decisions throughout their lives and to prepare for life and work: as individuals; as contributors to society and as contributors to the economy and the environment. In addition, from September 2013, all post primary children will have a statutory right to access a broad and balanced range of courses, no matter where they live or the type of school they attend. They will have access to a minimum number of inspiring and economically relevant courses with clear progression pathways to further or higher education, training and employment. Schools have received additional financial resources to help them expand their curricular offer.

5. In Scotland the new *Curriculum for Excellence* (CfE) is designed to provide a coherent, more flexible and enriched curriculum for individuals aged 3 to 18. Work to implement CfE is ongoing, with the approach being increasingly embedded in primary schools. Roll-out to pupils in year 3 of secondary education commenced in August 2012. The curriculum, which has benefitted from over 8 years investment and effort from teachers, parents, and pupils, is designed to ensure that all children and young people in Scotland develop the attributes, knowledge and skills they will need to flourish in life, learning and work.

6. In Wales, the national curriculum subjects for 3-19 year olds were revised and restructured in 2008 making the content of the national curriculum relevant to the twenty-first century. The *School Effectiveness Framework* (SEF)<sup>40</sup> introduced in 2009 describes the key characteristics required to build on existing good practice and improve children's and young people's learning and wellbeing throughout Wales. Other developments include the School Standards and Organisation (Wales) Bill (April 2012)<sup>41</sup>, a new programme of long term investment in the school

---

<sup>40</sup> [School Effectiveness Framework](#)

<sup>41</sup> [School Standards and Organisation \(Wales\) Bill](#)

infrastructure, and in July 2013 a new Education (Wales) Bill<sup>42</sup>, to bring about greater coherence and recognise the contribution of the education workforce.

### **CONCLUDING OBSERVATIONS – FOLLOW-UP**

*The UN Committee made a number of recommendations for the State Party in relation to education and vocational training:*

- *Continue and strengthen its efforts to reduce the effects of the social background of children on their achievement in school;*
- *Invest considerable additional resources in order to ensure the right of all children to a truly inclusive education which ensures the full enjoyment to children from all disadvantaged, marginalised and school-distant groups;*
- *Ensure that all children out of school get alternative quality education;*
- *Use the disciplinary measure of permanent or temporary exclusion as a means of last resort only, reduce the number of exclusions and get social workers and educational psychologists in school in order to help children in conflict with school; and ensure that children who are able to express their views have the right to appeal against their exclusion as well as the right, in particular for those in alternative care, to appeal to special educational need tribunals*
- *Make sure that children without parental care have a representative who actively defends their best interests;*
- *Intensify its efforts to tackle bullying and violence in schools, including through teaching human rights, peace and tolerance;*
- *Strengthen children's participation in all matters of school, classroom and learning which affect them;*
- *Take measures to address segregation of education in Northern Ireland; and put an end to the two-tier culture in Northern Ireland by abolishing the 11+ transfer test and ensure that all children are included in admission arrangements in post-primary schools.*

### **Reducing the effects of the social background of children on their achievement in school**

7. The UK is determined to address inequality in our school system and narrow the attainment gap between disadvantaged pupils and their peers: it is not acceptable for opportunity and success in life to be affected during school years by economic disadvantage.

8. In England, the new approach to tackling inequality, as set out in the Equality Strategy, moves away from treating people as groups or 'equality strands' who get special treatment. Instead we have developed frameworks that help create fairness

---

<sup>42</sup> [Education \(Wales\) Bill 2013](#)

## Draft for comment by civil society – 23/10/2013

and opportunities for everyone. This includes targeting resource (some £2.5 billion a year by 2014/15) through the Pupil Premium to help break the link between family background and educational achievement; measures to improve literacy and numeracy, and the quality of teaching; and overhauling the Special Educational Needs system so that children's needs are identified and addressed early. Further details are given below:

- The Pupil Premium was introduced in April 2011 and is allocated to schools to provide support for disadvantaged pupils in order to close the attainment gap that exists between them and their peers. The funding is provided to schools in respect of pupils known to be eligible for free school meals and children in care who have been continuously looked after for at least six months. Schools are free to decide how the Pupil Premium is spent. Funding available through the Premium is: £625 million in 2011-12; £1.25 billion in 2012-13; £1.875 billion in 2013-14; and will rise to £2.5 billion in 2014-15. Accountability measures on how it is being used include new measures in Performance Tables to show the attainment of pupils who attract the premium, so their results can be compared to the results of their peers; and Ofsted inspection checks the attainment of pupils who attract the Pupil Premium and the impact it is making.
- In 2012 and 2013 £50 million of the Pupil Premium has been available to secondary schools to run summer schools for disadvantaged pupils moving into Year 7. Schools receive £500 per pupil for a two-week summer school and £250 for a one-week summer school during the summer holidays. The programme aims to allow schools to familiarise themselves with their new pupils, including any additional needs they may have; allow pupils to see their secondary school environment; and improve the educational attainment of disadvantaged children, ensuring gains in primary school are not lost on transfer.
- The UK Government has also invested £125m in the Education Endowment Foundation to support research into practical 'what works' approaches for teaching disadvantaged children.
- There is additional funding for the Year 7 literacy and numeracy catch-up premium. Schools will receive a maximum of £500 for each Year 7 pupil who has not achieved level 4 in reading and/or mathematics at Key Stage 2. From September 2013, schools are required to publish information about their use of the funding, including what effect the previous academic year's allocation and expenditure had on the educational attainment of those pupils at the school for whom this funding was allocated.
- There is clear evidence to show that eating healthily and at the right times of day can improve children's achievement. The Government is committed to providing a free school meal to the most disadvantaged children (up to the age of 18 years) and has recently announced its intention to ensure that all

children between the ages of 5 and 7 receive at least one healthy meal a day.

9. In Northern Ireland targeted support (including an additional £30m over the next two years) is provided to support pupils entitled to free school meals, to help them achieve their full potential and reduce the effects of the social background on their achievement. Guidance issued in 2009 recommends that all schools should use the entitlement to free school meals as their first admission criteria to ensure that children from lower income or disadvantaged backgrounds are able to gain admission to schools on the same basis as other applicants. In recognition of the link between good nutrition and educational attainment, the provision of free school meals has been extended since 2010 to enable pupils at nursery or primary school from working families on low incomes to benefit from a free school meal. From September 2014 the criteria will also be extended to make similar provision for post-primary pupils.

### **The right of all children to a truly inclusive education, including those from disadvantaged, marginalised and school-distant groups**

10. In England, the Government is piloting a Virtual Head Teacher for Gypsy, Roma and Traveller pupils in a small number of local authorities. Funding is allocated to each authority for the appointment of a senior dedicated individual to champion the interests of Gypsy, Roma and Traveller pupils across the authority and to monitor and respond to issues of low attainment and attendance. This is due to complete in 2014 when the findings will be disseminated.

11. In Northern Ireland, the Inclusion and Diversity Service (IDS) has been set up to strengthen and improve support to newcomer children and young people and their parents, primarily working through schools. It offers services such as interpreters, translators, a multi lingual website for teachers and newcomer parents, diversity officers and in-service training. The Traveller Education Support Service (TESS), set up in April 2013, also provides specific support to Traveller pupils, their families and schools.

12. In 2008 the Welsh Government provided a comprehensive guide to schools in relation to all aspects of Gypsy, Traveller and Roma education. Grant funding amounting to £1m was approved in 2012-13 for 'Grant for the Education of Gypsy Children and Traveller Children' which part funded the work of Traveller Education Services which seek to support Gypsy Traveller children to improve their attainment.

### **Ensure that all children out of school get alternative quality education**

*The UN Committee expressed concern that several groups of children have problems being enrolled in school or continuing or re-entering education, either in regular school or alternative educational facilities.*

13. In England the Government is introducing radical reforms to improve the quality of alternative provision (AP) for pupils unable to attend a regular school, based on the recommendations from the 2012 Taylor review of alternative provision. Our aim is to raise attainment by promoting education standards in AP that are on a par with mainstream schools. This will be achieved by having better providers, better commissioning and better-trained teachers. The reforms include:

- Supporting high quality providers to enter the AP market by putting in place the framework for pupil referral units (PRUs) to become AP Academies and for AP Free Schools to be established. Since September 2012, 18 AP Free Schools and 18 AP Academies have opened.
- Introducing a range of changes to raise the standards in PRUs. These include attracting high quality new teachers to PRUs by allowing a period in a PRU to count towards teacher training, improving accountability by increasing the involvement of local schools in PRU management committees, and giving PRUs greater control of their staffing and budgets.
- Giving mainstream schools greater flexibility to use AP for early intervention by allowing them to arrange AP placements to a timeframe that meets pupils' needs.
- Trialling a new approach to exclusion in a number of local areas whereby schools retain greater responsibility for arranging the education that excluded pupils receive and have greater flexibility to intervene with pupils at risk of exclusion.
- Making schools more accountable for their use of AP through an increased focus in school inspection.
- Publishing statutory guidance in January 2013 on the use of AP and on ensuring a good education for children who cannot attend school because of health needs.

### **School exclusions**

14. The UN Committee was rightly concerned in 2008 that the number of permanent and temporary school exclusions remained high and affected in particular children from groups which in general are low on school achievement. Exclusion from school is rare. In 2011/12 only 0.07 % of pupils in England were permanently excluded and 2.16% of pupils received a fixed period exclusion. Nonetheless, the Government is committed to addressing the underlying causes of exclusion.

15. In England, in September 2012 the UK Government issued new statutory guidance on exclusion from schools. This emphasises the need for all exclusions to be legal, reasonable and fair; the importance of schools adhering to their responsibilities under equalities legislation; and the value of early intervention to address behavioural issues before they escalate to the point that exclusion becomes necessary. It makes clear that permanent exclusion should only be used as a last

## Draft for comment by civil society – 23/10/2013

resort, in response to a serious breach, or persistent breaches, of the school's behaviour policy and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

16. The UK Government has given headteachers greater powers to manage behaviour and is addressing the causes of educational disengagement that contribute to exclusion by improving the quality of education that all pupils receive, with particular support for children with additional needs. School inspection arrangements for English schools have also been refocused so that a stronger emphasis is given to the evaluation of behaviour in schools, including schools' use of exclusion and differential rates of exclusion for groups of pupils. A major exclusion trial is currently underway in a number of local authority areas in England until 2014. This gives schools greater responsibility for the education that excluded pupils receive and supports increased use of early intervention in order to tackle the causes of exclusion. If successful, the trial approach could form the basis for a new national approach to exclusion.

17. Exclusion from a school does not mean exclusion from education. Local authorities in England have a legal duty to arrange suitable full time education from the sixth day of a permanent exclusion (schools must arrange similar education from the sixth day of a fixed period exclusion).

18. In Northern Ireland, the number of exclusions has fallen by almost 58% since 2006/07. Rates of suspensions and expulsions are both low, with the latest statistics (2012-13) showing that only 1.3% of the school population were suspended and only 0.01% of the school population were expelled during this year. All schools are required to have a scheme in place, as part of the school's discipline policy, which sets out the procedures to be followed when suspending or expelling pupils. This is examined by the Education and Training Inspectorate as a routine part of school inspections with recommendations for improvement highlighted.

19. In Scotland, exclusion from Scottish schools has decreased by 40% since 2006/07. The Scottish Government's guidance, *Included, Engaged and Involved Part 2: a positive approach to managing school exclusions*, published in 2011, sets out national policy on school exclusion. It notes that the duty to provide education does not stop when a pupil is excluded (either temporarily or permanently) and that it is reasonable to expect alternative provision to be in place within 3 days of the decision to exclude.

20. In Wales, teachers, head teachers, governing bodies, LAs and independent appeals panel must take account of guidance on *Exclusion from Schools and Pupil Referral Units* published in 2012. This guidance has been issued to support the exclusions and appeals procedure from both schools and pupil referral units. If it is not possible to achieve a possible solution and that the only option remains to

exclude the pupil, the guidance also includes information on how the education of the excluded pupils must be maintained.

### **Right to appeal against exclusions and right to appeal to special educational needs tribunals**

21. The UK has responded to the Committee's 2008 recommendation that children should have the right, in particular for those in alternative care, to appeal to the special educational needs tribunals.

22. In England, revised statutory guidance on exclusion makes clear that excluded pupils should be supported to participate at all stages of the exclusion process. For example it states that:

- Where practical, head teachers should give pupils the opportunity to present their case before taking the decision to exclude.
- Governing bodies should identify the steps they will take to enable and encourage excluded pupils to attend meetings at which exclusion decisions are being discussed, and to speak on their own behalf.
- Consideration should be given as to how the excluded pupil will participate in any independent review of the exclusion decision.

23. Since September 2012, parents have been able to make a claim of disability discrimination to the First-tier Tribunal in relation to a permanent exclusion. The Children and Families Bill, introduced by the UK Government for England will give young people of 16 and over the right to make special educational needs appeals and disability discrimination claims. The Bill also provides for the establishment of pilot schemes in a few local areas to test out giving children under 16 the right to appeals in respect of special education needs, disability discrimination, and alternative care provision. The pilots are due to begin after September 2014.

24. In Wales, the Education (Wales) Measure 2009 makes provision for children in Wales to have a right to appeal in respect of special educational needs (SEN) and the right to make a claim in respect of disability discrimination in schools, to the SENTW (SEN Tribunal Wales) themselves.

25. In Scotland, the 2011 guidance '*Included, Engaged and Involved Part 2: a positive approach to managing school exclusions*', contains a summary of legislation and procedures surrounding exclusion and has details of appeals against exclusion, including where pupils are Looked After by the local authority.

**Ensuring that children without parental care have a representative who actively defends their best interests**

26. The UK Government is committed to improving outcomes for looked after children and raising the corporate parenting aspirations of local authorities to ensure that children in their care are well cared for and reach their full potential. The Minister for Children and Families has written to all Directors of Children's Services about the importance for local authorities of acting as good corporate parents by encouraging, supporting and helping the children they look after to achieve positive outcomes. Encouraging local authorities and their lead member for children to take account of what looked after children and young people are saying about what needs to improve through Government support of Children in Care Councils (CICC) is an important part of that approach. By supporting the development of CICC's the Government is helping them to spread pockets of good local practice nationally.

27. A streamlined care planning, placement and case review framework for looked after children came into force in April 2011. This includes a strengthened role for Independent Reviewing Officers who, prior to the formal meeting to review the child's care plan, must meet the child on a one-to-one basis and ensure that he or she is entitled to an advocate if they request one. Other measures to support the achievement of children in care include:

- Issuing statutory guidance that reinforces the presumption that foster carers should be able to take day-to-day decisions about a child in their care without seeking permission from the responsible authority unless there are good reasons why.
- Giving foster carers the information about what they can do to support the education of a looked after child they care for, for example, appealing to the child's school against a permanent exclusion and advocating on his or her behalf.
- Introducing provision through the Children and Families Bill to require all local authorities to appoint a Virtual School Head to discharge the authority's duty to promote the educational achievement of the children it looks after.
- Issuing a care leavers charter which explains what young people should expect from local authorities as they make the transition to adulthood.
- Supporting voluntary organisations to improve corporate parenting and in particular to promote the voice of the child through children in care councils and provide training sessions for members of children in care councils to share and spread good practice.

28. In Scotland, the Scottish Government's Children and Young People Bill requires every corporate parent to be alert to matters which adversely affect the

wellbeing of looked after children and formerly looked after young people under the age of 26. It will assess the needs of those children and young people for support and services it provides and promote their interests.

### **Intensify efforts to tackle bullying and violence in schools**

*The UN Committee expressed concern that bullying is a serious and widespread problem, which may hinder children's attendance at school and successful learning.*

29. In England, the approach to bullying provides a balance of legal requirements, reforms to give teachers greater scope to tackle bullying and a clear remit for Ofsted to hold schools to account. All schools must by law have a behaviour policy with measures to prevent all forms of bullying among pupils. It is up to them how they do this. In addition we have clarified existing powers and given teachers new stronger ones (included in the Education Act 2011) so that they can tackle disruptive behaviour and bullying. This includes tackling cyber-bullying (via text message or the internet) of children, which is emerging as a new issue that the Government is determined to address. Teachers can search pupils for banned items, delete inappropriate images or files on electronic devices, including mobile phones, and issue same-day detentions.

30. Teachers have a specific statutory power<sup>43</sup> to discipline pupils whose behaviour is unacceptable, who break the school rules or who fail to follow a reasonable instruction. In certain circumstances, this legal power applies to misbehaviour outside school. The UK Government's advice to schools is clear – where bullying outside school is witnessed by a member of staff or reported to teachers, it should be investigated and acted on. The school's behaviour policy should set out what the school will do in response to non-criminal bad behaviour and bullying which occurs off the school premises, including the punishments that will be imposed on pupils who take part in such behaviour. Schools are expected to take immediate action if hate crime and an incident which constitutes a criminal offence must be reported to the police.

31. Ofsted (the schools inspection body) holds schools to account on how well they deal with behaviour and bullying. Since 2012 inspectors have had to consider pupils' freedom from bullying, harassment and discrimination. To ensure that behaviour and safety is more prominent, inspectors consider amongst other things:

- Types, rates and patterns of bullying and the effectiveness of the school's actions to prevent and tackle all forms of bullying and harassment – this includes cyber-bullying and prejudice-based bullying.
- The effectiveness of the school's actions to prevent and tackle discriminatory and derogatory language.

---

<sup>43</sup> Section 90 of the Education and Inspections Act 2006

## Draft for comment by civil society – 23/10/2013

- The views expressed by pupils, and different groups of pupils, of their experiences of others' behaviour and attitudes towards them.

32. The UK Government is providing £4m of funding over 2 years from 2013 to four anti-bullying organisations through the Voluntary Sector Community Enterprise awards:

- £1.5m for *Beatbullying* to train 3,500 11-17 year-olds over two years to act as mentors.
- £800k for the *Diana Award* to identify and train 10,000 pupils to act as anti-bullying ambassadors.
- Just over £250k to *Kidscape* who will work in 9 of London's most economically deprived boroughs to train primary school professionals.
- £1.5m to *The National Children's Bureau consortium* who will focus on those bullied children and young people with Special Educational Needs and/or disabilities.

33. In Northern Ireland, research published in 2007 on the nature and extent of bullying in schools recommended that schools should focus on developing an anti-bullying culture and protecting affected children. Guidance has been issued to all schools to help them to develop an anti-bullying culture and all schools must have in place a Discipline Policy which includes details of anti-bullying measures. The Department of Education published its guidance on this issue *Pastoral Care in Schools: Promoting Positive Behaviour* and has subsequently supported and funded the work of the NI Anti-Bullying Forum in preparing a detailed, practical handbook *Effective Responses to Bullying Behaviour* which was launched earlier this year (2013). *Effective Responses to Bullying Behaviour* includes examples of strong discipline and anti-bullying policies, case studies of best practice and details of practical intervention strategies for teachers to support the victims of bullying and challenge the behaviour of those engaging in bullying behaviour.

34. In Scotland, the Scottish Government, in partnership with the Scottish Anti-Bullying Steering Group, developed and published 'A National Approach to Anti-Bullying for Scotland's Children and Young People,' in 2010. Its purpose is to make sure that work across all agencies and communities is consistently and coherently contributing to a holistic approach to anti-bullying. The Scottish Government also wholly funds the national anti-bullying service, *Respectme*. Launched in 2007, *Respectme* builds adult confidence and competence to recognise and deal with all kinds of bullying behaviour. It has been externally evaluated and found to be a 'catalyst for change' and a 'credible' and 'robust' anti-bullying service.

35. In Wales, head teachers and education establishments must by law have a policy in place on how they and their schools address the problem. The Welsh Government believe that co-working between establishments and organisations such

as schools, local authorities, parents and the Welsh Government itself is a fundamental and critical factor in addressing the problem of bullying. There are many forms of bullying and a variety of materials providing guidance and solutions to the many issues have been published. Five key areas are addressed and guidance is provided on: Race, religion and culture; Special Educational Need and Disability; Cyber bullying; Homophobic Bullying; and Sexist, Sexual and Transphobic Bullying.

### **Strengthen children's participation in all matters of school, classroom and learning which affect them**

*The UN Committee was concerned that the participation of children in all aspects of schools was inadequate, that children had very few consultation rights.*

36. In England, over 99% of schools have pupil voice activity and 95% of schools have a school council which consults pupils on better ways to engage and school improvement. Ofsted seeks the views of pupils as part of school inspection and this may include how pupils are involved in decision-making, for example through the school council.

37. In Wales, since 2009 the *Pupil Participation Project*, building on *The School Councils (Wales) Regulations 2005*, has made it a statutory requirement for all maintained schools in Wales to have a school council. Updated guidance *Listening to and involving young people* published in April 2012 includes the text of Article 12, which has particular relevance to activities in schools to promote the pupil voice.

### **Take measures to address segregation of education in Northern Ireland and abolish the 11+ transfer and ensure that all children are included in admission arrangements in post-primary schools**

*The UN Committee was concerned that academic selection at the age of 11 continued in Northern Ireland.*

38. In July 2010 Northern Ireland published statutory guidance (updated in June 2013) which recommends that schools should not use criteria referenced to academic ability (however assessed) for the purpose of admission to post-primary school. The Boards of Governors of all post-primary schools are required by law to have regard to this guidance in drawing up their admissions criteria. While both the Minister and the Department are committed to putting in place a regulated system of post-primary transfer based on the use of non-academic admissions criteria, this requires political agreement in the Executive and the Assembly. In the meantime, the Department will continue to work to persuade all schools to move away from the use of academic admissions criteria in the interests of equality and in support of the Minister's objective of improving educational outcomes for all young people, regardless of their background.

39. In line with the statutory duty to encourage and facilitate integrated education, the number of integrated schools has increased from 47 in 2002/03 to 62 in 2012/13, while the number of pupils attending integrated schools has also grown by 37% from 15,700 to 21,500 in the same period.

40. The Northern Ireland Programme for Government contains a commitment to advance shared education by ensuring that by 2015 all children and young people have the opportunity to participate in a programme of shared education and to increase the level of sharing of facilities between schools. Shared education seeks to ensure that the organisation and delivery of education:

- meets the needs of, and provides for the education together of learners from all Section 75 categories and socio-economic status;
- involves schools and other education providers of differing ownership, sectoral identity and ethos, management type or governance arrangements; and
- delivers educational benefits to learners, promotes the efficient and effective use of resources, and promotes equality of opportunity, good relations, equality of identity, respect for diversity and community cohesion.

41. The *Together; Building a United Community Strategy*, published in May 2013, seeks to create more opportunities for socially-mixed, shared education, with a view to achieving a full shared education system in Northern Ireland, and is a crucial part of breaking the cycle of inter-generational educational underachievement, unemployment, and sectarianism; and improving good relations amongst and for young people. Through this Strategy, the Executive aims to enhance the quality and extent of shared education provision, thus ensuring that sharing in education becomes a central part of every child's educational experience. The Strategy sets out a series of headline actions which included the establishment of ten new shared education campuses.

### **Right to leisure and play**

*The UN Committee recommended that the State Party strengthen its efforts to guarantee the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts; and that the State Party should pay particular attention to provide children, including those with disabilities, with adequate and accessible playground spaces to exercise their play and leisure activities.*

42. There is a firm principle across the UK that all children, no matter what their background, should have the opportunity to enjoy and participate in culture, sports and leisure. A broad range of provision is available to support this.

### Culture

43. In England, the Education and Inspections Act 2006 places a duty on local authorities to secure adequate leisure and recreation facilities and activities for children. At national level, the 2011 Henley Reviews of cultural and music education, resulted (in May 2013) in a cultural education document and a national plan for music education. The UK Government is making £292 million available between 2012 and 2015 to support pupils' engagement in cultural and music educational activities both inside and outside school. Programmes include: music education hubs so that every child aged 5 to 18 has the opportunity to sing and to learn a musical instrument, as well as perform as part of an ensemble or choir; the Music and Dance Scheme programme for talented young musicians and dancers; a Museums and Schools Programme to increase the number of school visits to museums in 10 areas of social deprivation across England; and supporting the set-up of new National Art and Design Saturday Clubs giving young people aged 14 to 16 the opportunity to study art and design at their local art and design college or university for free.

44. The UK Government sponsored museums and galleries all run world-class activities and events for children and schools, with high levels of engagement. We have retained the free-entry policy which encourages children and other visitors from all diversity backgrounds regardless of wealth to visit and learn.

45. The Arts Council in Northern Ireland recently produced a Youth Arts Strategy which it launched on 25 September 2013. This Strategy provides strategic direction for arts organisations and artists that engage with young people in both formal and informal settings. It establishes dedicated funding for small grants to individuals or groups of talented young people in support of their arts-led creative ventures. The Strategy will also encourage local councils and arts venues to provide young people with regular use of rehearsal space and opportunities to showcase their work.

### Sport

46. There is recognition in the UK that sport can improve children's health and enrich their lives. The London 2012 bid was centred on a desire to use the power of the Olympic and Paralympic Games to inspire more young people into sport. The UK Government is helping to deliver this by: investing £150 million for the next two years into primary school sport; investing more than £100 million of lottery money and public funding into the School Games<sup>44</sup> over the next 3 years; investing £1 billion

---

<sup>44</sup> The School Games, set up in 2011, offers every school and pupil the chance to compete in a wide range of sports regardless of ability or disability. Around half of all schools in England have signed up to the School Games, providing young people aged 5-16 with the chance to regularly compete against their peers in a range of diverse and inclusive sports.

## Draft for comment by civil society – 23/10/2013

over the next 5 years in the Youth and Community Sport Strategy<sup>45</sup> - helping young people to take up sport as a habit for life; investing £155 million through Sport England's Places People Play programme to upgrade 1,000 local sports venues; and ensuring that physical education remains a compulsory part of each of the 4 key stages of the curriculum.

47. In Northern Ireland, the Executive's 10 year strategy for sport and physical recreation<sup>46</sup> includes a range of targets and actions specifically aimed at improving children's participation in PE and extra-curricular sport as well as enhancing the level and quality of sports coaching and facility provision for children up to 2019.

48. In Wales the Sports Council for Wales, which receives £24.7m funding from the Welsh Government, has established the 5x60 scheme for schools. The scheme provides the opportunities for extra curriculum sporting activities for secondary school age children and young people. Nearly all secondary schools have signed up to the scheme.

### Play facilities

49. The UK Government has provided funding of over £200m (2008-2011) for England on developing new, or refurbishing existing, play sites (i.e. parks and playgrounds, in local areas); focusing on the most deprived areas. By 2010, over 2,000 play sites and 20 adventure playgrounds have been built. Wider activities to promote and support play, and address perceptions of the need for children to play, were supported by revenue funding: for example, by funding a sub-programme of 'playwork' training, by ensuring access for disabled children to new or refurbished facilities, and to help local authorities and communities take ownership of and sustain improvements.

50. In Northern Ireland, following on from the publication of its Play and Leisure policy, the Executive published an Implementation plan in 2011 which aims to co-ordinate action across Government to provide opportunities for children and young people to access age-appropriate play and leisure opportunities. The Office of the First Minister and Deputy First Minister is currently reviewing the plan and as part of that review will take account of the UN Committee's recent General Comment on Article 31. In October 2013, the Executive announced an investment of up to £1.6 million to champion play, build sustainable support for play at community level and to make planning and support central to the work of local councils.

---

<sup>45</sup> The Youth (and Community) Sport Strategy aims to increase the number of young people (aged 14+) developing sport as a habit for life. Funding will pay, for example: developing satellite clubs on school sites; investing in facilities – including opening up school facilities to the public; increasing the number of young sport-making volunteers; and attracting less engaged/disadvantaged young people through targeted programs (Get on Track)

<sup>46</sup> "Sport Matters: The Northern Ireland Strategy for Sport and Physical Recreation, 2009 -2019"

51. In Scotland, the Scottish Government published its first national *Play Strategy* in 2013 setting out their vision for play in Scotland and the action they will take to achieve this. The Strategy was developed together with the play sector and other organisations and in discussions with children to ensure it was fully inclusive.

52. Wales has legislated for Play in the Children and Families (Wales) Measure 2010 which will result in play sufficiency assessments and plans to be submitted by all Local Authorities.

### **ONGOING AND EMERGING ISSUES**

#### **Increasing participation in learning post-16**

53. The number of young people not in education, employment or training (NEET) is in decline. In 2011, 5.9 per cent of 16-17 year olds were recorded NEET, and by 2013 this proportion had dropped to 4.9 per cent.<sup>47</sup> While this represents progress this small group of young people not participating includes some of the most vulnerable and is an ongoing concern for all governments in the UK who are taking action to address the issue.

54. In England, the vast majority of 16 and 17 year olds already continue in some form of education or training. In 2012, 90.8 per cent of 16- and 17-year-olds participated in education or training in 2012 (93.1 per cent of 16-year-olds and 88.6 per cent of 17-year-olds).<sup>48</sup> Of the remainder, most had either chosen not to apply for education or training (for example, because they had found a job) or could not be contacted.

55. The UK Government has now raised the age for participation in some form of education or training to 17 in 2013, and it will rise to 18 in 2015. This will help to ensure that every young person has the opportunity to gain skills and qualifications that help them progress to higher education, work and adult life. The *Building Engagement; Building Futures: Our Strategy to Maximise the Participation of 16-24 year olds* outlines this offer. Post-16 education and training in England should be appropriate to meet the young person's needs and may be full or part-time and may be based in a school, a college, or in work-based training.

56. Local authorities have clear statutory duties in relation to post-16 participation – to secure sufficient suitable education and training provision and to support young people to participate. Under the UK Government's 'September Guarantee', 16 and 17 year-olds are entitled to an offer of a suitable place in education or training. Local authorities are responsible for meeting this commitment, and it is for them to agree

---

<sup>47</sup> <http://www.ons.gov.uk/ons/rel/lms/young-people-not-in-education--employment-or-training--neets-/august-2013/statistical-bulletin.html>

with their partners – especially schools and colleges – how the process will operate in their local area.

57. In Northern Ireland, the Executive developed the Northern Ireland Strategy for young people not in education, employment or training - "Pathways To Success" to ensure a cross-departmental, cross-agency approach to achieving better outcomes for those young people who face barriers to participation. The Strategy will contribute to the Executive's 'Delivering Social Change' programme and implementation will ensure that by 2020, every young person will have the opportunity to access education, training or other preparation for employment. The Strategy introduces a number of new initiatives that build on existing programmes: a Community Family Support Programme, a Community-Based Access Programme, a Collaboration and Innovation Fund, and a training allowance for young people taking part in programmes supported by the strategy.

58. In Wales a *Quality and Effectiveness Framework* (QEF) that will support the continued improvements in the quality of post 16 learning was launched in 2009. The QEF includes guidance on learner improvements and also requires all post-16 providers to have documented evidence of their strategy on the involvement of learners' participation in decision making.

### **Transport**

59. Although the UN Committee's concluding observations did not make specific recommendations about transport facilities for children and young people, we have included this brief reference because it is often cited as a concern to children and young people. In 2012 the UK Youth Select Committee conducted an enquiry into transport issues in 2012 and raised a number of issues for the UK Government. The UK Government's Accessibility and Equality Action Plans published in December 2012 and its Door to Door Strategy published in March 2013 took account of the views of children and young people and showed how the Government will ensure its aim of a transport system that works for everyone. Specific policy developments have focused on: improving physical accessibility on public transport for disabled young people, including disability awareness training for transport staff; providing better information to disabled passengers, changing attitudes and behaviours of other passengers towards disabled people, encouraging industry-led initiatives like the BusforUs travel information website which aims to make bus travel easier and more attractive for young people; and road safety education.

## Chapter VII: Special Protection Measures

### (Articles 22, 30, 32-36, 38, 39, 40, 37 (b-d))

#### INTRODUCTION

1. This chapter provides information on progress in relation to the UN Committee's concluding recommendations from 2008 on implementation of the Special Protection Measures Articles of the UNCRC across the UK.

#### CONCLUDING OBSERVATIONS – FOLLOW-UP

##### Asylum-seeking and migrant children

2. *The UN Committee recommended that the State Party:*

- *Intensify its efforts to ensure that detention of asylum-seeking and migrant children is always used as a measure of last resort and for the shortest appropriate period of time, in compliance with article 37 (b) of the Convention.*
- *Ensure that the United Kingdom Border Agency (UKBA) appoints specially-trained staff to conduct screening interviews of children.*
- *Consider the appointment of guardians to unaccompanied asylum-seekers and migrant children.*
- *Provide disaggregated statistical data in its next report on the number of children seeking asylum, including those whose age is disputed.*
- *Give the benefit of the doubt in age-disputed cases of unaccompanied minors seeking asylum, and seek experts guidance on how to determine age.*
- *Ensure that when return of children occurs, this happens with adequate safeguards, including an independent assessment of the conditions upon return, including family environment.*
- *Consider amending section 2 of the 2004 Asylum and Immigration (Treatment of Claimants etc.) Act to allow for an absolute defence for unaccompanied children who enter the UK without valid immigration documents.*

##### Detention of asylum-seeking, migrant and refugee children

3. Policy and practice relating to immigration and asylum is the responsibility of the UK Government and is not devolved.

4. In December 2010, the UK Government published plans for ending the detention of children for immigration purposes in a way which protects the welfare of children, and ensures the departure of families who have no right to be in the UK. A new staged approach to managing family returns was rolled out in March 2011 which

## Draft for comment by civil society – 23/10/2013

places greater emphasis on engagement with families and encourages them to leave without the need for enforcement action.

5. Only if a family fails to take up the practical assistance and opportunities to leave in this way will the Home Office draw up a return plan for the family. This plan is referred to an Independent Family Returns Panel of safeguarding and medical experts for advice on how the welfare of the children can best be safeguarded during the return. The options at this stage include, where appropriate, a new type of specially designed secure pre-departure accommodation, known as Cedars and located near Gatwick Airport. Families stay in self-contained flats and have freedom of movement within extensive grounds. There is also provision for family members to leave the premises, subject to risk assessments. The children's charity, Barnardo's, provides on-site care and welfare services for children to help them to prepare both practically and emotionally for their return. The maximum period of stay is usually 72 hours, which can be extended to a week with the personal authorisation of the Minister.

6. The family returns process is designed for families who have been living in the UK and who must now leave. A separate process has been developed for families who are encountered at the border on arrival in the UK. It continues to be necessary, on occasion, to hold children and families at the border while enquiries are made to decide whether they can be admitted to the country, or until the next available return flight if they are refused entry. The great majority of children and families who are stopped at the border are held for short periods at the port itself. Where it is necessary to hold a family for longer, they may be moved to the family unit at Tinsley House Immigration Removal Centre which is more comfortable and more appropriate to the needs of families. The maximum period of stay is the same as for Cedars.

### Training of staff for screening interviews

7. Training for screening officers is usually undertaken by our local training officers and consists of on the job training. New officers would also have a general induction and be required to undertake any mandatory course, (eg e-learning etc) before going live. In terms of training to screen children all staff would have general screening training.

### Appointment of guardians to unaccompanied asylum-seekers and migrant children

8. Local authorities have a statutory duty to ensure that they safeguard and promote the welfare of all children under Section 11 of the Children Act 2004, regardless of their immigration status or nationality. Local authorities are responsible for coordinating the arrangements for each looked after child to ensure they are

## Draft for comment by civil society – 23/10/2013

safeguarded and have their welfare promoted and education, accommodation, psychological or health needs addressed. There are also a number of people already involved in the child's care - in addition to a social worker, each child must also be allocated an independent reviewing officer (responsible for chairing reviews of care plans and ensuring the child input) and have access to an independent advocate responsible for accurately representing the child's wishes and feelings. We believe that the child's needs and interests are best protected by all the professionals involved in their care working well together and fulfilling their statutory responsibilities.

9. The Scottish Government seeks to deliver targeted and intensive support to asylum seeking children through the continued funding of the Scottish Guardianship Service (SGS) at an annual cost of £200,000. The SGS is a unique service which works with children and young people who arrive in Scotland separated from their families or anyone else with parental responsibility and who may have been trafficked, from outside the European Union. Through its better developed relationships with the children, the SGS has been instrumental in ensuring the availability of more relevant and robust information to UK Border Agency about asylum cases, resulting in more correct decisions being made.

### Age disputed cases

10. If there is no documentation available and there is doubt about whether an individual is a child as claimed, it is perfectly correct that the claimed age should be disputed. Not to do so would be to run the risk of inappropriately placing an adult in children's services, with potential safeguarding consequences. Someone involved in an age dispute will be treated as a child until the dispute is resolved. Provisions remain for individuals to be treated as an adult when their appearance and demeanour strongly suggests that they are significantly over the age of 18, even if they claim to be a child.

11. The UK Government is working with a range of organisations to develop an enhanced multi-disciplinary approach to age assessment.

12. The UK Government publishes statistics on unaccompanied asylum seeking children and age disputes on a quarterly basis. Statistics include the number of applications received from unaccompanied asylum seeking children broken down by age and gender. We also publish statistics on the number of age dispute cases raised and resolved.

### Safe return of children

13. The return of unaccompanied children to their countries of origin only takes place following a thorough case by case assessment, with the best interests of the

child a primary consideration; and only where the child can either be reunited with their parents or alternative reception and care arrangements are put in place. The need to set up suitable reception arrangements has meant that currently in practice, with the exception of transfers to other European Union countries under the Dublin Regulation (EC) No. 343/2003, the UK rarely enforces the return of unaccompanied children to any country. Most unaccompanied asylum seeking children are therefore granted limited leave for three years or until they are 17½, whichever is the shorter period.

14. All family cases, which consist of an adult and at least one child under the age of 18, are managed via the family returns process, which contains a number of safeguards. Each case is handled by a dedicated and specially trained Family Engagement Manager who progresses the family through the various phases of the process including voluntary, required and ensured return stages. The focus is on encouraging families to depart voluntarily, or ensuring their departure if they refuse to do so. The Family Engagement Managers meet the family, including the children, in person at Family Return Conferences and Family Departure Meetings. The Family Engagement Managers present the ensured return plan to the Independent Family Returns Panel (IFRP), whose primary function is to consider the safeguarding of the family and promote the welfare of children.

### Children who enter the UK without valid immigration documents

15. We do not believe an amendment to section 2 of the 2004 Asylum and Immigration Act is necessary. Although there is not a guaranteed defence for UASCs, in practice, we do not generally prosecute minors for this offence as we usually accept a minor is complying with the instruction of an accompanying adult or agent.

### **Sexual exploitation and abuse**

*The UN Committee recommended that the State Party intensify its efforts to collect data on the extent of sexual exploitation and abuse of children, including in the Overseas Territories. The UN Committee also recommended that the State Party should always consider, both in legislation and in practice, child victims of these criminal practices, including child prostitution, exclusively as victims in need of recovery and reintegration and not as offenders. The Committee also recommends that the State Party ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.*

### Data on child sexual exploitation and abuse

16. The Children's Commissioner's inquiry into child sexual exploitation in gangs and groups in England published an interim report in November 2012. The inquiry

collected data which suggested that at least 16,500 children were at risk of sexual exploitation during one year, and that 2,409 children were confirmed as victims of sexual exploitation in gangs and groups during the 14 month period from August 2010 to October 2011. It is, however, notoriously difficult to collect data on this issue because many of the children who are at risk of this form of abuse are not seen regularly by professionals.

17. A UK Government funded 'Safeguarding Children in the Overseas Territories' (SCOT) which ran from 2009 -2013 and focussed on capacity building, strengthening inter-agency collaboration and the creation of National Action Plans for child protection. A follow-up to the SCOT project is under development. We anticipate that this will include strengthening the evidence base in the Overseas Territories on child abuse, including sexual abuse and exploitation and improving services for children who have been abused. During 2013, child safeguarding reviews have also been conducted in St Helena, Ascension and Pitcairn.

### Support for victims of child sexual exploitation

18. The UK Government's determination to tackle the problem of child sexual exploitation and ensure that victims get all the support they need to help them rebuild their lives is described in chapter IV.

19. In January 2013, following reviews by both the Crown Prosecution Service (CPS) and the police of the handling of complaints made against Jimmy Savile, the Director of Public Prosecutions (DPP) and the Association of Chief Police Officers (ACPO) announced steps to ensure a 'sea change' in police and prosecutorial attitudes towards allegations of child sexual abuse (CSA). The ACPO, the College of Policing, and the DPP held a series of roundtables with a range of stakeholders to explore the issues and challenges surrounding these cases. On 17 October 2013 the CPS issued new guidelines on prosecuting CSA cases, which require a new approach to analysing the credibility of the overall allegation rather than just the victim. The guidelines also include a list of common myths and stereotypes around this type of offending so that these can be actively challenged in court.

20. The CPS has delivered master classes across the country to prosecutors on credibility, and set up a network of specialist CSA prosecutors to share good practice and lessons learned. The CPS will be providing training as required on the new guidelines for its in-house prosecutors.

### Council of Europe Convention on the Protection of Children from Sexual Exploitation and Sexual Abuse

21. The United Kingdom signed the Convention in May 2008. In order that due consideration is given to the steps needed to ratify the Convention, UK Government officials have been leading the work to establish the steps that would be required to

ratify and implement the Convention. Ratification is not a straightforward process and this work needs to be further progressed before any further decisions can be made, including in relation to timescales.

### **Sale, trafficking and abduction**

*The UN Committee recommended that the State Party provide the necessary resources for an effective implementation of the Anti-trafficking Action Plan. It also recommended that the State Party ratify the Council of Europe Convention on Action against Trafficking in Human Beings and implement its obligations by ensuring that child protection standards for trafficked children meet international standards.*

22. The United Kingdom ratified the Council of Europe Convention on Action against Trafficking in Human Beings on 17 December 2008 and the Convention came into force on 1 April 2009. The UK Government published its Human Trafficking Strategy in July 2011. Measures in the Protection of Freedoms Act 2012 that came into force on 6 April 2013 permit the prosecution of UK nationals who commit trafficking offences abroad and of those who commit non-sexual trafficking offences that occur wholly within England and Wales. This was part of ensuring compliance with the European Directive in Preventing Trafficking in Human Beings.

23. Child trafficking issues are addressed through both the Inter-Departmental Ministerial Group on Human Trafficking and the Sexual Violence Against Children and Vulnerable People (SVAVC) National Group. The latter Group's action plan already includes a number of measures to support victims better within the criminal justice system, and it will also consider how to provide wider support, including to child trafficking victims, through its 'Supporting Victims' strand.

24. The UK has taken a variety of actions over the reporting period to address this issue:

- The Refugee Council and The Children's Society have undertaken a review looking at the practical care arrangements for trafficked children in care. The review is based on the experiences of trafficked children and practitioners.
- The UK Government's Department of Health has commissioned a project to support healthcare professionals to identify victims and provide better care and support – including referral on to other services. The project has a steering group which includes representatives from professional bodies, NGOs, other government departments and academics. The project completed in April 2013 and a short, clear and accessible toolkit for health professionals is being produced. There will also be a more detailed e-learning toolkit for those with greater interest in human trafficking and health.
- The Department of Health has also funded a longer term project as part of its Policy Research Programme: *Optimising identification, referral and care of*

*trafficked people within the NHS (2012-2015)*. Work on this project commenced in summer 2012. It is designed to enhance the evidence base in this area.

- In Northern Ireland, guidance on the *Working arrangements for the Welfare and Safeguarding of Child Victims of Human Trafficking* was issued jointly by the Department of Health, Social Services and Public Safety and the Police Service for Northern Ireland in February 2010. The Health and Social Care Board has also introduced quarterly reporting measures on separated/trafficked children. These provide up-to-date data on separated children who are present in Northern Ireland, including the number of children who have been, or are suspected to have been, trafficked.
- Scotland's national child protection guidance includes detailed advice on child trafficking. The Scottish Government is working with partners to improve the way risk assessment and identification takes place for child trafficking, based on tools developed by the London Safeguarding Children Board. In addition, a national risk assessment toolkit to support all children involved in child protection processes has recently been rolled out to all parts of Scotland. The Scottish Government has also commissioned the University of Bedfordshire to research the scale and nature of child sexual exploitation in Scotland and how child trafficking relates to this. The first Scottish Summit on Anti-Human Trafficking was held in October 2012. The 4 main areas of action relevant to children include: awareness raising and training of frontline professionals, data collection and analysis of trends, victim support and legislation/ enforcement/ prosecution.
- In 2008 the Welsh Government published *Safeguarding children who may have been trafficked*, imposing responsibility on the Local Safeguarding Children Boards to take account of the needs of children who may have been trafficked. The Welsh Government has appointed an Anti-Trafficking Co-ordinator, a three-year fixed-term post, whose role is to coordinate the best possible support for victims and to make Wales a hostile place for Human Trafficking.

### **Safeguarding from specific risks**

25. In November 2010, the UK Government published its strategy and vision for ending violence against women and girls. This led to an action plan published on International Women's Day, 8 March 2011. Updated versions of the action plan have been published on International Women's Day in 2012 and 2013.

26. In 2009, the UK Government produced *Multi-agency practice guidelines: Handling cases of Forced Marriage*. These include a chapter for schools, colleges and universities on how to take appropriate action where children are at risk of forced marriage. In June 2012 the Prime Minister announced plans to make forcing someone into marriage a criminal offence in England and Wales. The Government

## Draft for comment by civil society – 23/10/2013

is also criminalising the breach of Forced Marriage Protection Orders (FMPOs). Legislation is being achieved to introduce this in the Anti-Social Behaviour, Crime and Policing Bill.

27. In 2012 the Crown Prosecution Service published an action plan on female genital mutilation (FGM), to address the fact that there have been no prosecutions since the Female Genital Mutilation Act 2003. The Department for International Development is investing £35m to tackle FGM in 10 African countries, with around £1m planned to be used in the diaspora, with potential benefits for girls in the UK.

28. In England, following the 2010 murder of Kristy Bamu, the Department for Education brought together stakeholders with an interest in tackling abuse linked to faith or belief – children may be abused because others consider them to be possessed by demons or have the supernatural powers of a witch. The meeting led to the establishment of a national working group, which produced an action plan in 2012.

29. In Wales, a partnership between the Welsh Government, Black Association Women Step Out (BAWSO), Henna Foundation and led by the South Wales Police, training has been developed and evaluated in relation to forced marriages, female genital mutilation and honour-based violence. The training was targeted at and attended by members from a cross-section of agencies including voluntary and statutory sectors.

### **Administration of juvenile justice**

*The Committee recommended that the State Party:*

- *Raise the minimum age of criminal responsibility in accordance with the Committee's General Comment n°10, and notably its paragraphs 32 and 33.*
- *Develop a broad range of alternative measures to detention for children in conflict with the law; and establish the principle that detention should be used as a measure of last resort and for the shortest period of time as a statutory principle.*
- *Ensure that children in conflict with the law are always dealt with within the juvenile justice system and never tried as adults in ordinary courts, irrespective of the gravity of the crime they are charged with.*
- *Ensure that, unless it is in his or her best interests, every child deprived of liberty is separated from adults in all places of deprivation of liberty.*
- *Provide for a statutory right to education for all children deprived of their liberty.*
- *Review the application of the Counter Terrorism Bill to children.*
- *Ensure that, when children in the Overseas Territories are subject to deprivation of liberty in another country, all the guarantees enshrined in*

## Draft for comment by civil society – 23/10/2013

*article 40 of the Convention are respected and that this respect is duly monitored; the State party should also ensure that those children have the right, unless it is considered in the child best interest not to do so, to maintain contact with their family through regular visits.*

- *Adopt appropriate measures to protect the rights and interests of child victims or witnesses of crime at all stages of the criminal justice process.*

30. Overall crime in the UK is down, proven offending by young people is down, fewer young people are entering the criminal justice system and fewer are ending up in custody. The reduction in the population of under-18s in custody since 2000/01 is driven by both a fall in overall numbers being sentenced by the courts and a drop in the proportion sentenced to custody. This is likely to reflect a combination of factors, including falls in youth crime, effective prevention work by Youth Offending Teams (YOTs), more proportionate responses to non-serious first-time offending and more robust alternatives to custody.

### Age of criminal responsibility

31. The position of the UK Government has not changed in relation to the age of criminal responsibility in England and Wales. The UK Government believes that children aged 10 are able to differentiate between bad behaviour and serious wrongdoing and it is right that they should be held to account for their actions. The current age of criminal responsibility accurately reflects what is required by our justice system and we have no plans to raise the age at this time. However, the UK Government also accepts that custody of under-18s, whether in secure care or the prison estate, should be an option of last resort.

32. An independent review of the youth justice system in Northern Ireland recommended that the minimum age of criminal responsibility should be increased. There are no plans to do so at present as cross-party support would be needed for such a change.

33. In 2010, The Scottish Government increased the minimum age of prosecution to 12 and has committed to giving fresh consideration to raising the age of criminal responsibility from 8 to 12 with a view to bringing forward any legislative change by 2016.

### Making best use of alternative measures to detention

34. The majority of offences committed by children between 10 and 14 are dealt with by way of out-of-court disposals. Having the age of criminal responsibility set at 10 allows frontline services to become involved at an early stage and enables robust measures to be put in place to prevent reoffending and enable children to develop a sense of personal responsibility for their actions.

35. Provisions in the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 introduced a streamlined out of court framework for under-18s, giving the police greater discretion in using out-of-court disposals to deal with offences appropriately and proportionately using their professional judgment. The new out-of-court provisions in the LASPO Act came into effect on 8 April 2013. In conjunction with initiatives such as Neighbourhood Justice Panels we are working with the Association of Chief Police Officers to bring greater coherence to police community resolutions and restorative justice. These will remove arbitrary restrictions on the police that might otherwise incentivise inappropriate arrests and charging. Young people who commit serious and persistent offences need to be properly punished, and it is right that they are sentenced to custody. However, the expectation is that minor offending by under-18s should be dealt with at the lowest appropriate level.

36. In Northern Ireland very few children are sentenced to custody. The vast majority of children who commit offences are dealt with in the community, most through the use of restorative practices. In addition the extended use of police discretion correlates with a sharp decrease (46%) in young people entering the formal justice system and corresponding reduction (29%) in prosecutions since 2010.

37. In Scotland, custody, whether in secure care or the prison estate, should be an option of last resort for young people under age 18. The Scottish Government's 'Whole System Approach' promotes the use of diversion from prosecution. Between years 2010-11 and 2011-12, the number of young people diverted from prosecution increased by 59%. The average daily young offender (under 21s) population within Scottish prisons decreased by 8% (sentenced) and 1% (remand) over 2011-12, against a 3% increase for the overall sentenced population. For a small number of 16 and 17 year-olds who commit the most serious offences, prison is the only option. The abolition of 'unruly certificates' in 2010 effectively ended the imprisonment of children under-16 in Scotland.

### Juvenile justice system

38. Courts are public authorities for the purposes of the Human Rights Act 1998 and must not act in a way that is incompatible with a right guaranteed under the European Convention on Human Rights (section 6 Human Rights Act 1998). The vast majority of cases involving young offenders are dealt with in the youth court as cases involving under-18s should be tried and sentenced in the youth court wherever possible. Provisions in the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 ensure that 17 year-olds are dealt with as children rather than adults in court in remand proceedings. These provisions came into force on 3 December 2012.

39. The UK Government operates on the principle that the administration of justice should occur in public so that justice is seen to be done. Cases are heard in open court so that the public can access and the media can report proceedings. The main exception to the open justice principle relates to youth court proceedings, which by statute are not open to the public. The Children and Young Persons Act 1933 (CYPA 1933) places an automatic restriction on reporting that identifies or is likely to identify any person under the age of 18 who is concerned in youth court proceedings as a victim, witness or defendant. The identity of a victim, witness or defendant under the age of 18 who is concerned in proceedings in the magistrates' court or Crown Court may be published unless the court makes an order restricting reporting in a newspaper; or in a sound or television broadcast.

40. In 2011, the Northern Ireland Government conducted a review of the youth justice system, which involved a full public consultation, leading to a plan for developing a more proportionate response to offending by children, based on the best interests of the child, to divert them away from the formal criminal justice system and towards non-criminal justice interventions.

41. In Scotland, children under the age of 16 are not prosecuted in court unless under the explicit instruction of the Lord Advocate. The Lord Advocate has issued guidance setting out those limited circumstances in which offences alleged to be committed by under-16s should be reported for prosecution. The Children's Hearing System remains the primary forum for responding to the needs of children involved in offending behaviour. Separately, the Scottish Government has introduced the Criminal Justice (Scotland) Bill to the Scottish Parliament which will make key changes to aspects of criminal law and practice relating to the treatment of children whilst the subject of Police investigations.

42. In Wales, the Welsh Government is undertaking a Green Paper consultation setting out proposals to improve services to better meet the needs of young people in, or at risk of being in, the youth justice system has been published in 2012. The Green Paper consultation sets out the current landscape of youth justice provision in Wales and seeks views on its effectiveness including whether there is a need for primary legislation in order to improve services.

### Children in custody to be kept separate from adults

43. There is a distinct custodial estate for under-18s in England and Wales with young people always held separately to adults. This is also the case in Northern Ireland, where the small number of children held in custody are accommodated in a purpose-built child-centred facility, staffed by social workers

### Education for all children deprived of their liberty

44. The UK Government published a Consultation Paper in February 2013 *Transforming Youth Custody* which set out the vision for Secure Colleges which would place education and training at the heart of youth custody, ensuring young offenders are equipped with the skills, qualifications and self-discipline they need to stop offending and lead productive lives on release. All young people in custody currently have access to education and training and this is subject to scrutiny by the Office of Standards in Education (Ofsted), where appropriate, as part of inspections by HM Inspectorate of Prisons. However, currently 73 per cent of young offenders released from custody re-offend within 12 months. The UK Government believes that more can be done to improve education in custody and to ensure that those leaving custody have a placement in education, training or employment to help turn their lives around. The UK Government will publish its response to the consultation in 2013 [expected to be October].

45. In Scotland, under-16s whose liberty must be deprived are kept within the secure estate where they receive support in a number of areas, including education. Those children can continue to benefit from that environment until their 18th birthday.

46. In Wales the Youth Justice Board has produced *The learning journey for young people placed by the Youth Justice Board (YJB) in Secure Children's Homes (SCHs)*<sup>49</sup>. Provisions include training and raising awareness with Youth Offending Teams (YOT) about the special educational needs of under 18s in custody. As a result of this a training DVD and work manual has been developed to support YOTs. The Welsh Government has also established 'Reach the Heights' pilot projects to help young people within the criminal justice system to improve their skills and aspirations. In 2011/12 there were 453 participants, many of whom have experienced disruptive and chaotic lifestyles. From the group 26 went on to employment and a further 82 carried on with their learning.

47. In Northern Ireland education and vocational learning classes are compulsory and form a core part of the ethos and regime of the Juvenile Justice Centre. The Department of Justice is currently engaging with the Department of Education and the Department for Employment and Learning to further enhance the opportunities available to the children.

### Juvenile justice in the Overseas Territories

48. The protection and promotion of human rights in each Territory is primarily the responsibility of the Territory Government and they have a duty to ensure local law

---

<sup>49</sup> [The learning journey for young people placed by the Youth Justice Board \(YJB\) in Secure Children's Homes \(SCHs\) in Wales](#)

## Draft for comment by civil society – 23/10/2013

complies with the relevant conventions and court judgements and is non-discriminatory. Evidence from the Overseas Territories shows that they tend to have no cases of deprivation of juvenile liberty. The Cayman Islands has enshrined a Bill of Rights - Rights of Children in its Constitution, which provides children with a right to regular contact with their family whilst incarcerated. The same Bill of Rights states that children be detained as a last resort and only for the shortest period. The constitution also requires that in detaining the child he/she shall be treated in such a matter and kept in conditions having regard to his or her age. The child is also entitled to legal counsel.

### Protecting the rights and interests of child victims or witnesses of crime

49. The UK Government is piloting the implementation of provisions in the Youth Justice and Criminal Evidence Act 1999 which allows the cross-examination of children and the most vulnerable adult victims to be recorded before trial so that they do not have to take part in the live process. These changes will allow victims to give evidence away from the pressurised environment of a live trial to enable them to give evidence in a quieter, more measured environment. Further details are provided in chapter IV. The other special measures in the Youth Justice and Criminal Evidence Act 1999 include giving evidence by TV link or being screened from the defendant in court; video-recorded evidence-in-chief; removal of wigs and gowns; clearing the public gallery in certain cases; aids to communication and the use of an intermediary.

50. Sex offence trials involving vulnerable children are to be conducted by a team of specially vetted judges. The small group of highly experienced judges will undergo 'bespoke training' to help protect weak and exposed child witnesses.

51. Northern Ireland has a new five year Victim and Witness Strategy (2013-18) which will improve services for victims and witnesses of crime (including children). Legislation similar to England and Wales provides for a number of special measures to protect vulnerable and intimidated witnesses, including children.

52. In Scotland, the Victims and Witnesses (Scotland) Bill was introduced to the Scottish Parliament on 6 February 2013. Information was provided in paragraph 31 in chapter III.

### The use of ASBOs with children

53. Although the UK Government is proposing to replace ASBOs with new orders which may result in restrictions or requirements being placed on an individual in order to prevent him or her from engaging in anti-social behaviour. ASBOs tended to focus on enforcement, with over 50 per cent of ASBOs having been breached at least once and just over 40 per cent more than one. The new powers that will

## Draft for comment by civil society – 23/10/2013

replace the ASBO will not only prohibit anti-social behaviour, they could also include positive requirements to get a young person to work with relevant agencies to address the underlying cause of the anti-social behaviour and to help them turn their lives around.

54. The proposed new arrangement will have several advantages:

- A breach of the IPNA, unlike for ASBOs, is not a criminal offence, which means that if a young person breaches an IPNA they will not get a criminal record.
- A child's right to freedom of assembly would only be affected if the court considered that action was needed to prevent them reoffending. The court would consider the individual circumstances of the offender before deciding whether any particular prohibition or restriction is appropriate.
- There are no mandatory restrictions or prohibitions and positive requirements may only be imposed after the court has had the opportunity to consider whether the positive requirements are both suitable and enforceable and that prohibitions or positive requirements in the order must not, as far as practicable, avoid conflicting with an individual's religious beliefs, work or education.

55. Furthermore, the UK Government has also stated that, in most cases, informal interventions in the form of acceptable behaviour contracts or warning letters, should be tried with young people before more formal powers are used, whilst recognising that there may be a minority of cases where immediate court action is the right option and that agencies should have the flexibility to protect victims in such circumstances. We have also made this point clear in the guidance that accompanies the Bill.

56. The proposed new arrangements are being introduced through the Anti-Social Behaviour, Crime and Policing Bill 2013. It is hoped that Royal Assent for the Bill will be received in spring 2014.

57. We have considered these proposals very carefully in light of our obligations under Article 11 of the European Convention on Human Rights and Article 15 of the UNCRC. This consideration is set out publicly in the ECHR Memorandum which accompanied the publication of the draft Anti-social Behaviour Bill and concludes that the new orders are consistent and compliant with both the ECHR and UNCRC. An important factor in this consideration is the need to ensure the "protection of the rights and freedoms of others", as in Article 15(2) of the UNCRC.

58. Steps are being taken across the UK to reduce youth crime and anti-social behaviour to reduce the need for making such orders. For example, the UK

Government's strategy *Healthy Children, Safer Communities* (2009) was developed after a cross-government review of relevant policy. The principles of the strategy are to impact on children's life chances by improving their health, by helping to tackle youth crime and anti-social behaviour and contributing to community safety. The Scottish Government and local authorities have published a joint Framework for tackling antisocial behaviour, *Promoting Positive Outcomes: Working Together to Prevent Antisocial Behaviour in Scotland*. The Framework focuses on prevention and early and effective intervention and recognises the need for more balanced, evidence-based reporting to counter negative stereotypes. The use of ASBOs for young people are considered a measure of last resort in Scotland. The Welsh Government has funded the Community Safety Volunteering Project in North Wales which will pilot a new and innovative approach, using adult volunteers with appropriate interpersonal skills to work directly with young people known to be involved with/or at risk of involvement in crime and anti-social behaviour. Northern Ireland's anti-social behaviour action plan has a focus on intervention and diversionary activity.

### **Optional Protocol on the involvement of children in armed conflict**

59. In its concluding observation on the Optional Protocol to the Convention on the involvement of children in armed conflict, the UN Committee made several recommendations which are included under the sub-headings below.

#### **Dissemination and Training on the Optional Protocol to all members of its armed forces**

*In addition to recommending that training on the Optional Protocol should be provided to all members of the armed forces, including those involved in international operations, the UN Committee also recommended that training on the provisions of the Optional Protocol be provided for all relevant professionals, including those working with asylum-seeking and refugee children, migration authorities, police, lawyers, judges, including military judges, medical professionals, social workers and journalists. The Committee further recommended that, in the light of article 6, paragraph 2, the State Party make the provisions of the Optional Protocol widely known and promoted, by appropriate means, to adults and children alike.*

60. Training on the Law of Armed Conflict is provided at the start and throughout the careers of service personnel. UK Military personnel also receive mandatory pre-deployment training, tailored to specific operational demands, as part of their preparation for operations. This training contains an Operational Law package that includes sections on the Law of Armed Conflict, the Rules of Engagement and the Use of Force. In addition, fully qualified legal experts are an inherent part of any operational headquarters providing specialist legal support to operational commanders.

## Draft for comment by civil society – 23/10/2013

### Direct involvement in hostilities

*The UN Committee recommended that the State Party review its policy and practice to ensure that children are not exposed to the risk of taking direct part in the hostilities.*

61. Service personnel under the age of 18 are not routinely deployed on operations outside of the UK, except where the operation does not involve personnel becoming engaged in, or exposed to, hostilities. Decisions on removing under-18s from units will be made whenever it is considered that there is a greater than low probability of members of the unit having to take a direct part in, or be put at risk by, hostilities. Furthermore, personnel under 18 are not deployed on UN peacekeeping operations.

### Recruitment

*The UN Committee encouraged the State Party to consider raising the minimum age for recruitment into the armed forces to 18 years, but meanwhile give priority to those who are the oldest. The Committee also recommended that the State Party should ensure that its recruitment practices do not specifically target ethnic minorities and children of low-income families; and that parents are included from the outset and during the entire process of recruitment and enlistment.*

62. The UK will continue to recruit from the widest talent pool available in an increasingly competitive employment market to sustain the required manning levels for its Armed Forces but it is very aware of the differing needs of every age group and goes to great lengths to ensure their specific needs are met.

63. The UK does not specifically target children from vulnerable groups but seeks to recruit the best individuals possible. In accordance with Ministry of Defence Diversity Policy, the Armed Forces recognise and value individuals from diverse backgrounds who bring fresh ideas, knowledge, experience and talent. Parents are involved from the start and throughout the recruiting and training process. Parental consent must be specifically obtained before an under-18 can undertake any assessment/selection activity and then again before he/she enlists.

### Discharge

*The UN Committee recommended that the State Party review the requirements for, and expand the exercise of, the 'discharge as of right' for child recruits; and that all persons who were still below 18 on 1 January 2008 should have the right to convert their minimum term of service to four years from the first day of duty.*

## Draft for comment by civil society – 23/10/2013

64. In 2011 the Terms of Service Regulations for the Armed Forces were amended to give all Service personnel under the age of 18 the right to leave the Armed Forces before their 18th birthday following an appropriate period of consultation or cooling off.

### Peace education

*The UN Committee recommended that the State Party, in collaboration with civil society organizations, develop and implement training programmes and campaign to promote the values of peace and respect for human rights and include the subject of peace education and human rights as a fundamental subject in the education system.*

65. As indicated on page 17, paragraph 44 the UK Government has issued a revised citizenship programme of study which emphasises democracy and the rights and responsibilities of citizens. The UK Government does not prescribe that schools should teach about peace but leaves it to them to raise issues with pupils according to their age, needs and interests.

### Protection, recovery and reintegration

*The Committee recommended that the State Party:*

- *Strengthen measures to identify and systematically collect data on refugee, asylum-seeking and migrant children within its jurisdiction who may have been recruited or used in hostilities.*
- *Ensure that these children receive appropriate care and treatment, including Multidisciplinary assistance for their physical and psychological recovery and their social reintegration.*
- *Ensure that the best interests of the child is a primary consideration when processing asylum requests from or on behalf of these children, in particular in decisions concerning their repatriation.*

66. Please see chapter VII page 102, paragraphs 3-11.

### Use of Firearms

*The UN Committee encouraged that the handling and use of firearms be abolished for all children and recommended, meanwhile, that recruits to the armed forces who handle firearms from enlistment should be properly trained and supervised.*

67. Current policy recognises the need for those new to the Service to be appropriately trained and supervised in the use of firearms. During Phase 1 recruit training trainees are not assessed as competent to operate a weapon system safely

until they have passed the relevant handling tests. Additionally as they are developing an appreciation of the potentially lethal responsibility that their career entails, access to either element of a weapon system during Phase 1 is, therefore, confined to close supervised access only, both during formal and informal periods including periods of cleaning or prior to/following exercises or range practices. As part of the formal reporting at the end of Phase 1 an assessment is made of every trainee's maturity and attitude to taking on the personal responsibility of having access to weapon systems.

### Captured child soldiers

*The UN Committee recommended that the State Party ensure: (a) that children only be detained as a measure of last resort and in adequate conditions in accordance with their age and vulnerability; (b) guarantee a periodic and impartial review of their detention and conduct such reviews at greater frequency for children than adults; (c) ensure that monitoring bodies have unimpeded access to all facilities where children are detained and that they have access to independent complaint mechanisms; and (d) Inform parents or close relatives of the detention of the child and his or her whereabouts.*

68. Since the last review in 2008 the MOD has published Joint Doctrine Publication 1-10 for Captured Persons (CPERS) (2<sup>nd</sup> Edition, October 2011). This doctrine sets out how armed forces personnel are expected to treat captured persons on operations.

69. Children, defined as anyone under 15 years old, are only detained if necessary to prevent imminent danger to UK Armed Forces. In certain circumstances children may be removed from a location to be protected from danger. In most cases children are likely to be detained in or near the family home, or alongside older family members, in which case the family will be aware of the child's detention immediately.

70. In cases where children are detained without other family members they will only be held in UK facilities for as long as it takes to find an appropriate family member or appropriate adult to whom they can be safely released. They must be housed in separate accommodation from adult detainees (unless they are detained as part of a family group), be guarded at all times by a minimum of 2 UK personnel (preferably women) and they must not be tactically questioned or interrogated.

71. The International Committee of the Red Cross (ICRC) are informed as a matter of course about all detainees, and have additional processes for contacting relatives. In addition, the ICRC have access to **every** detainee held in UK detention facilities during the course of their visits. The ICRC are able to receive complaints, should a child detainee wish to make one.

72. According to UK policy children are defined as those aged under 15 years old, while those aged 15, 16 or 17 are defined as juveniles. While juveniles are still entitled to special treatment and care, CPERS who are, or are believed to be juveniles, and have been detained where there is evidence of criminal activity or hostile acts against coalition forces, can be transferred to the host nation authorities or to another nation's authorities. Like children, juveniles are accommodated separately from all adult CPERS except where they are part of a family group. In instances where juveniles are detained, they are treated in accordance with international standards for juvenile justice.

### Military justice

*The UN Committee recommended that the State Party ensure that children in conflict with the law, irrespective of its military or civil nature, are always dealt with within the juvenile justice system and are treated in accordance with the standards enshrined in the UNCRC.*

73. Under-18s are subject to the same disciplinary arrangements as over-18s. However, Commanding Officers should be aware and take account of Under-18s' relative immaturity and vulnerability, and offer additional support and advice if appropriate, both during the disciplinary process and beyond, to reduce the risk of reoffending. If an individual aged under 18 is to be tried by court-martial, the Commanding Officer should inform their parents or legal guardian.

### Arms Exports

*The UN Committee recommended that the State Party expressly prohibit, within its legislation, the sale of arms to countries where children are known to be or may potentially be recruited or used in hostilities.*

74. This recommendation does not enjoy the support of the United Kingdom. Under UK export control law the export of arms to all destinations is prohibited, unless authorised by a licence issued by the Secretary of State for Business Innovation and Skills. Applications for licences are assessed against relevant policies, primarily the Consolidated EU and National Arms Export Licensing Criteria. The assessment against the Criteria is made for applications for export licences to any country and takes account of a range of risks, including the risk of internal repression which includes considerations of whether the arms might be used by or against children, or that children have been, or are likely to be, used in military actions in that country or region. The UK will not issue an export licence if there is a clear risk that the equipment might be used for internal repression which includes assessment of the likelihood of the exports being used to commit serious violations of human rights, or of international humanitarian law.



HM Government

© Crown copyright 2013

You may re-use this document/publication (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence v2.0. To view this licence, visit [www.nationalarchives.gov.uk/doc/open-government-licence/version/2](http://www.nationalarchives.gov.uk/doc/open-government-licence/version/2) or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to the Department for Education at [www.education.gov.uk/contactus](http://www.education.gov.uk/contactus).

This document is available for download at [www.gov.uk/government/publications](http://www.gov.uk/government/publications).