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Children's Wellbeing and Schools Bill

House of Lords Second Reading Briefing: The case for a duty to consider children's rights in law- and policy-making

Overview

- The Children's Wellbeing and Schools Bill is described as a key step towards delivering the Government's 'Opportunity Mission' to break the link between young people's background and their future success. However, the Bill currently lacks explicit measures to ensure that children's rights are systematically considered in law- and policy-making – a key gap in any agenda that seeks to improve children's lives and opportunities.
- The Bill offers the opportunity to embed a step change in the way the UK Government recognises and responds to the rights of children, achieving genuinely 'child-centred government' and building on existing welcome measures to strengthen child protection and promote children's wellbeing.
- There is no statutory requirement for the UK Government to consider children's rights and best interests when developing or reviewing laws and policies that directly or indirectly impact children. This contrasts with Wales, Scotland and Jersey, which all have statutory measures in place. The rights of children in England (and across the UK for reserved matters) are not routinely considered in law- and policy-making.
- This matters because failing to explicitly and systematically consider children's rights, including at the earliest stage of policy-making, means that laws and policies are not always developed with children's unique needs and best interests in mind. This often leads to unintended consequences for the most vulnerable age-group in our society, especially the most disadvantaged children, including disabled children, refugee and asylum-seeking children, those living in poverty, and racially minoritised children.
- Requiring policymakers to routinely consider impacts on children would also ensure that children have visibility and voice in legislative and policy-making processes. This is particularly critical because children are excluded from the formal democratic process.

Ultimately, we want to see the full and direct incorporation of the United Nations Convention on the Rights of the Child into UK law, to transform the way in which children's rights are respected, protected and fulfilled.

As a first step, we urge Peers to support calls for a duty on Ministers to consider children's rights when exercising their functions, and to prepare and publish a Child Rights Impact Assessment of all relevant policies, legislation and decisions. These easily achievable measures would greatly enhance protections for children's rights and wellbeing.

1. The UN Convention on the Rights of the Child

In 1991, the UK ratified (agreed to implement) the United Nations Convention on the Rights of the Child (UNCRC). The UNCRC sets out children's fundamental rights, including the right to adequate living standards, education, the best possible health, and protection from harm. It also establishes four core principles that underpin every right, and which are rights in themselves: non-discrimination, ensuring children's best interests are a primary consideration, the right to survival and development, and the right to express their views and have them taken seriously in matters that affect them. The UNCRC rights ensure that every child can have a good childhood and develop to their full potential. They are essential for children's wellbeing.

By ratifying the UNCRC, states agree to ‘undertake all appropriate legislative, administrative, and other measures’ to implement children’s rights.¹ The UN Committee on the Rights of the Child (UN Committee) – the international body that holds governments accountable for implementing the UNCRC – has identified several key steps that governments should take to achieve this.² **The legislative measure that would most effectively ensure every child can enjoy and enforce their rights is directly incorporating the UNCRC into domestic law.**³ The UN Committee also requires governments to ensure that all domestic laws comply with the UNCRC, and assess the impact of proposed laws, policies and budgetary decisions (and their implementation) on children’s rights.⁴

Following its most recent review of the UK’s compliance with the UNCRC in 2023, the UN Committee recommended that the UK State party ‘strengthen its efforts to fully incorporate the Convention into national legislation’ and develop ‘mandatory child-rights impact assessment procedures for legislation and policies relevant to children’ in parts of the UK where these measures are not yet in place.⁵

2. Measures to enhance protection for children’s rights and wellbeing

The Children’s Wellbeing and Schools Bill presents an invaluable opportunity to genuinely embed consideration of children’s rights into law and policy-making processes. While directly incorporating the UNCRC into domestic law is the gold standard for protecting children’s rights, the following easily achievable measures would represent concrete and meaningful progress.

a. A duty on Ministers to consider children’s rights when exercising their functions

A duty on Ministers of the Crown (as a minimum) to have due regard to the rights and obligations in the UNCRC when exercising their functions would ensure that children’s rights and best interests have visibility, and their needs and wellbeing are not overlooked. Such a duty would be a significant step forward in meeting the UK Government’s obligations to implement the UNCRC. This duty could be easily integrated into existing decision-making processes, and it is a step that other nations have already taken with positive results.

In Wales, Ministers have a statutory duty to have due regard to the UNCRC when exercising their functions.⁶ In the Crown Dependency of Jersey, there is a requirement on specified duty-bearers to consider children’s rights in developing laws, policies and practices.⁷ Scotland has gone even further, taking the ground-breaking step of directly incorporating the

¹ Article 4, UNCRC

² UN Committee on the Rights of the Child (2003) [General Comment No. 5: General measures of implementation of the Convention on the Rights of the Child](#) [accessed: 12/03/25]

³ For key points, see: Rights of the Child UK (2012) [Why incorporate? Making rights a reality for every child](#) [accessed 24/04/25]

⁴ UN Committee on the Rights of the Child (2003) [General Comment No. 5: General measures of implementation of the Convention on the Rights of the Child](#), para 45 [accessed: 12/03/25]

⁵ UN Committee on the Rights of the Child (2023) [Concluding Observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland](#), paras 8(a) and (e) [accessed: 12/03/25]

⁶ The [Rights of Children and Young Persons \(Wales\) Measure 2011](#) requires Welsh Ministers to have due regard to the UNCRC when exercising their functions.

⁷ The [Children \(Convention Rights\) \(Jersey\) Law 2022](#) introduces a requirement for groups of ‘duty-bearers’ to consider children’s rights when they develop policies, laws and practices which impact children.

UNCRC into Scots Law, making it unlawful for public authorities to act incompatibly with incorporated UNCRC rights.⁸ In England – and on reserved matters across the UK – there are no statutory duties to consider children’s rights by Ministers or any other duty-bearers.

b. Child Rights Impact Assessments

A Child Rights Impact Assessment (CRIA) is a key tool for delivering on duties to consider children’s rights in law- and policy-making. CRIs apply a child rights lens when developing (or reviewing) laws and policies that may directly or indirectly affect children. Using the UNCRC as a framework, CRIs enable systematic consideration of how children may be affected – whether positively or negatively – so that any adverse impacts can be identified, avoided or mitigated. A CRIA also enables the policymaker to identify and consider proactive measures that may lead to better implementation and realisation of children’s rights. **The UN Committee expects this process to be built into all levels of government and take place as early as possible in developing new policies and legislation.**

Critically, high quality CRIs informed by meaningful engagement with children are a helpful tool to ensure that children’s views are heard on issues that affect them. This aligns with children’s right to be heard under Article 12 of the UNCRC,⁹ and supports the UK Government’s ambitions to improve the participation of children and young people in policy-making.

The devolved nations of Wales¹⁰ and Scotland¹¹ – as well as the Crown Dependency of Jersey¹² – all have legal measures or statutory arrangements in place that require CRIs to be conducted by certain duty-bearers. In contrast, while the Department for Education has (with support from civil society organisations) adopted a CRIA template and UNCRC training pack, this is not a statutory requirement and **use of the CRIA template across Government is patchy**. The response to two recent Parliamentary Questions confirmed that there is no central oversight of ‘the number or quality’ of CRIs being carried out across UK Government departments, or the extent to which any CRIs conducted are informed by the views and experiences of children.¹³

⁸ The [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#) incorporates the UNCRC into Scots law. It includes a ‘compatibility duty’ making it unlawful for public authorities, including Scottish Ministers, to act incompatibly with incorporated UNCRC rights. MSPs must also make a statement of compatibility when introducing a new Bill to the Scottish Parliament [accessed 12/03/25]

⁹ Article 12 of the UNCRC states that ‘States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.’

¹⁰ The Rights of Children and Young Persons (Wales) Measure 2011 requires Ministers to publish a ‘Children’s Scheme’ (setting out arrangements for securing compliance with the due regard duty) which in turn requires a CRIA of policy proposals.

¹¹ Under the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, Scottish Ministers also have a duty to ‘prepare and publish’ child rights and wellbeing impact assessments (CRWIA) for any Bill introduced in the Scottish Parliament, Scottish statutory instruments, and for certain strategic decisions that may affect children’s rights and wellbeing. Mandatory CRWIAs have been required in Scotland since June 2015 under the Children and Young People (Scotland) Act 2014

¹² The Children (Convention Rights) (Jersey) Law 2022 includes requirements for specified duty-bearers to complete a CRIA.

¹³ [Written answer to Parliamentary Question, 7 April 2025](#) and [written answer to PQ, 14 April 2025](#).

Evaluations have shown that CRIAs are effective for ensuring that policy decisions consider implications for children and improve decision-making.¹⁴ Evidence also shows that considering the impact on children when developing policies that may affect them – whether directly or indirectly – can prevent unintended consequences and ensure coherence with other measures.¹⁵ CRIAs are therefore also a useful tool in helping to achieve a joined-up government approach to policy-making and could support implementation of the Government’s missions.

1. The case for change

As this briefing sets out, there are many compelling reasons to use the Children’s Wellbeing and Schools Bill to embed greater protection for children’s rights. In summary:

1. The UK Government is falling behind other nations in its consideration of children’s rights in law- and policy-making. As a result, children living in England – and across the UK with respect to reserved matters – experience unequal protection of their rights. The measures proposed in this briefing would help to close this gap in child rights protections.
2. Through bringing children’s rights and best interests to the forefront of policy-making and decisions that affect children directly or indirectly, a due regard duty and CRIAs would facilitate the delivery of the UK Government’s Opportunities Mission and support a joined-up mission-led approach.
3. A child rights duty on Ministers would also enhance knowledge and understanding of the UNCRC across Government as well as the wider public.
4. Evaluations and reviews have consistently shown that CRIAs are a critical tool in helping to ensure the implications of policy decisions on children are fully considered, and evidence shows they can prevent unintended consequences. This is especially important because children are excluded from the formal democratic process.
5. While the Department for Education has a CRIA template that can be used by departments on a voluntary basis, its use is highly inconsistent and CRIAs are often not conducted. Making CRIAs mandatory would ensure consistency and strengthen decision-making.
6. The measures proposed in this briefing are easily achievable and can be embedded into existing policy- and decision-making processes and yet would engender real change for children.

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¹⁴ See Hoffman, S. and O’Neill, S. (2018) [The impact of Legal Integration of the UN Convention on the Rights of the Child in Wales](#); UNICEF UK (2017) [CRIA: A review of comparative practice across the UK](#); Hoffman, S. (2015) [Evaluation of the Welsh Government’s Child Rights Impact Assessment procedure under the Children’s Rights Scheme pursuant to the Rights of Children and Young Persons \(Wales\) Measure 2011](#); Backbier et al. (2019) [A children’s Rights Approach: recommendations to the Scottish Government on refining CRWIAs](#) [accessed: 12/03/25]

¹⁵ Children’s Charities Coalition (2023) [Children at the Table: A roadmap for putting children at the heart of the next Government](#), p23 [accessed: 12/03/25]