

The UN Convention on the Rights of the Child and how parliamentarians can use it

What are children's rights?

The UN Convention on the Rights of the Child (CRC) sets out the fundamental human rights that all children should have, so that every child is able to have a good childhood and develop to their full potential. This includes their right to an adequate standard of living, access to education and healthcare, and to be cared for and protected regardless of their background or circumstances.

What is the UN Convention of the Rights of the Child (CRC)?

Adopted by the United Nations in 1989, the CRC is the most widely ratified international human rights treaty in history. The UK Government ratified the CRC in 1991, which means all areas of the Government and the state (including devolved governments, local government, schools and health services) must do all they can to uphold these rights. Each right is set out in the 54 articles of the CRC. It also has four **General Principles**, which are rights in themselves and the framework through which all the CRC rights should be interpreted. They are:

- non-discrimination (Article 2);
- the best interests of the child (Article 3);
- survival and development (Article 6);
- respect for the views of the child (Article 12).

General Comments, published by the UN Committee on the Rights of the Child (UN Committee), provide a more detailed interpretation of an article or issue relating to the CRC and provide guidance on the actions required by governments to ensure its implementation.

The CRC review process and progress in the UK

The UN Committee scrutinises each country that has ratified the CRC roughly every five years. This group of independent experts assesses how well a country is respecting and promoting children's rights, and publishes its Concluding Observations at the end of each country review. This document includes important recommendations to be taken forward in order for the CRC to be better realised.

The UN Committee published its latest Concluding Observations on the UK in June 2023.¹ While it welcomed several measures taken by the UK (including devolved

administrations) to realise children's rights, such as policy measures to combat violence against children and to support children deprived of a family environment, the Committee raised numerous concerns. For example: long waiting lists for children seeking mental health services; restrictions on the rights of asylum-seeking; high levels of child poverty; refugee and migrant children; and the punitive approach to child justice.

The Committee also recommended stronger national frameworks to embed child rights into law, policymaking and budgetary decisions, and enable children to access justice, including calling for:

- Greater efforts to fully incorporate the CRC into domestic law.
- Mandatory child-rights impact assessment procedures for law and policymaking
- Comprehensive, adequately resourced action plans on implementing the CRC.

The CRC's legal status across the UK

As the UK has ratified the CRC, it is binding in international law. This means the UK Government must adhere to its principles and standards and put relevant laws, policies and procedures in place. However, the UK Government has not directly incorporated the CRC into domestic law. This means it cannot be enforced in UK courts,² although courts use the CRC to interpret the Human Rights Act and use it to inform judgements concerning children.³ The UK Government has also declined to introduce mandatory child rights impact assessments (CRIA), so there is no formal requirement to consider CRC rights in law and policy-making.

In other parts of the UK and neighbouring nations, there has been greater progress on incorporating the CRC and placing child rights at the centre of law and policymaking, with direct incorporation in Scotland, steps towards full incorporation in Wales and Jersey, and requirements to carry out CRIAs. The diagram below shows how far the UK Government is lagging behind these other nations, giving children in England (and across the UK in respect of reserved matters) less protection for their rights.

Parliamentarians and the CRC

Parliament has an important role in working with the Government and ensuring it holds it to account on its obligations under the CRC as well as ensuring it implements the recommendations from the UN Committee. Parliamentarians can do this in the following ways:

- **CRIA template** – Parliamentarians can make use of the CRIA template (developed by the Department for Education alongside civil society) when scrutinising Government policies and legislation, for example, through the passage of a Bill or within a Select Committee. Parliamentarians can also ask if a CRIA was used by the Government when developing a particular piece of policy or legislation.
- **Select Committees** – All parliamentary Select Committees can use the UN Committee's recommendations to hold the Government to account using the inquiry process and when scrutinising legislation. Select Committee recommendations may be referred to by civil society when informing the CRC review process or to put pressure on the Government to make progress.
- **Scrutinising legislation** – Through Bill committees and the Bill process, parliamentarians can ensure legislation meets the UK's responsibilities to implement the CRC and the UN's recommendations and ask for a memorandum setting out the impact of proposed legislation on children's rights.
- **Parliamentary questions** – These can be used to hold the Government to account on their progress against the UN Committee's recommendations, and to highlight or explore an issue.
- **Parliamentary debates** – These can be used to raise awareness of the UN Committee's recommendations or encourage the Government to make progress on them ahead of examination by the UN Committee.

Scotland

- Direct incorporation of the UNCRC into law in 2024.
- Public authorities must not act incompatibly.
- Children can access redress for rights breaches.
- CRIAs must be carried out for new laws or strategic decisions that may affect children.
- The government must publish a Children's Rights Scheme, showing how it is meeting the UNCRC requirements and its plans to improve.

Wales

- Welsh Ministers have a legal duty to have due regard to the UNCRC when exercising their functions, introduced in 2011.
- The government must publish a 'Children's Scheme' with arrangements for securing compliance with the duty.
- The Scheme requires a CRIA of policy proposals that may affect children.

Jersey

- Certain 'duty-bearers' have a legal duty to consider children's rights when they develop policies, laws and practices which could affect children, introduced in 2022.
- This includes completing a CRIA.
- A Children's Rights Scheme, produced under this Law, sets out arrangements for meeting the duty.

England/UK reserved issues

- No domestic legal duties to consider UNCRC rights.
- A voluntary CRIA template and voluntary training pack for civil servants, since 2018, and commitments by previous Children's Minister.
- Inconsistency, significant gaps, lack of accountability and no redress for children.

Endnotes

1. UN Committee on the Rights of the Child (2023) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland.
2. A country incorporates a treaty by passing domestic legislation that gives effect to the treaty in the national legal system.
3. R (P & Q) v The Secretary of State for the Home Department, 2001, EWCA Civ 1151