

Scottish Alliance for Children's Rights Review of SPCB Supported Bodies Evidence to ad Hoc Committee

Introduction

The Scottish Alliance for Children's Rights (SACR) is a representative organisation of NGOs. It has the responsibility for reporting on behalf of the NGO sector to the UN Monitoring Committee on the implementation of the UN Convention on the Rights of the Child in Scotland. As a consequence we work closely with the office of the Scottish Commissioner for Children and Young People (SCCYP) and are forging links with the newly formed Scottish Human Rights Commission (SHRC). SACR was closely involved with the process that led to the creation of SCCYP and is keen to ensure that the Commissioner has adequate functions and capacity to fulfil their role of promoting and safeguarding the rights of children and young people in Scotland.

SACR welcomes the opportunity to present evidence to the Committee.

General Position: SACR supports the retention of the office of the Scottish Commissioner for Children and Young People and at this stage believes that the case for significant structural change has not been adequately made.

Current context for the profile of children's rights in Scotland

The position of children's rights in Scotland has recently come under close scrutiny. The UN Committee monitoring the implementation of the Convention on the Rights of the Child (CRC) in the UK published its Concluding Observations¹ in October 2008. This was after a lengthy process of reporting including written reports outlining the position in Scotland from: young people; SACR; and Scottish Government contribution to the UK report. In addition there was a joint report from the four Children's Commissioners in the UK. These written reports were followed up by two oral evidence sessions, one from young people, SACR and the Children's Commissioners and one from the UK government including Scottish government officials. The reason this process is important is because it emphasises the international framework for the scrutiny of children's rights issues in Scotland. The Children's Commissioners played a key role in providing evidence to the Committee, in particular, the lead role played by the Scottish Commissioner for Children and Young People in the oral evidence session.

In Scotland, there has been growing evidence of the prominence of the issue of children's rights through the actions of Scottish Government and Scottish Parliament. Indeed the UNCRC Monitoring Committee commended the UK jurisdictions in the setting up of Children's Commissioners' offices. This has provided a focal point for progressing issues in relation to children. For instance, the removal of the UK reservation on children of asylum seeking families was a move that was promoted by the Scottish Government and the persistent prompting from the Scottish Commissioner for Children and Young People. In early 2009, there appears to be a groundswell of opinion to increase the minimum age

¹ UNCRC, Committee on the Rights of the Child, 49th session, Concluding Observations: United Kingdom of Great Britain and Northern Ireland
<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.GBR.CO.4.pdf> accessed 09/01/09

of criminal prosecution and this has been a long standing issue of criticism of the Scottish justice system by the UN Monitoring Committee. The reason these developments are significant is that the Scottish Commissioner for Children and Young People has played a central role in promoting the children's rights agenda in Scotland and it is beginning to show some signs of having a positive impact.

However, there is a very long way to go as the UNCRC Monitoring Committee Concluding Observations report demonstrates. SACR believes that there are a number of reasons that caution needs to be exercised in proposing significant changes to the office of the Scottish Commissioner for Children and Young People.

1. There would need to be a clear demonstration that the direction of travel for the promotion and safeguarding of children's rights in Scotland could be enhanced through any proposed changes
2. Involving children and young people is central a central function and one of the most difficult to realise. SCCYP conducted one of the biggest consultation exercises undertaken with young people in Scotland to establish its work programme. Any changes would need to be capable of preserving the current level of engagement with young people and should make proper provision for the voice of children and young people to be effectively heard in the process
3. There is not a consistent approach to children's rights in Scotland and in many instances they remain a peripheral concern. The modest progress currently being made is partly because of the single focus of the office of SCCYP and there are risks in the removal or dilution of this focus
4. There are other Children's Commissioners in the UK and in each case, they co-exist alongside other National Human Rights Institutions (NHRI) relevant to the jurisdiction without the suggestion that they merge. There would need to be compelling grounds for Scotland to take a different approach

Recent Changes

The Crerar Review² called for those responsible for scrutiny bodies to simplify governance infrastructure, with the expectation that there would be fewer bodies. The Finance Committee Report³ proposed changes in the relationship between SPCB and supported bodies in terms of scrutiny of expenditure and opportunities for shared services.

Since the setting up of SCCYP in 2004, new National Human Rights Institutions (NHRI) have been established in Scotland. The Equality and Human Rights Commission (EHRC) was established in 2007 with a UK remit and the Scottish Human Rights Commission (SHRC) was established in 2008 with a Scottish remit.

² Scottish Government (2007) *The Crerar Report*, Scottish Government: Edinburgh

³ Scottish Parliament (2006) Finance Committee Report, Inquiry into Accountability and Governance <http://www.scottish.parliament.uk/business/committees/finance/reports-06/fir06-07-Vol01-01.htm#indy> accessed 09/01/09

SACR accepts that there is a need for Scottish Parliament to take account of the changing policy landscape and is under the same imperative to react to changing circumstances as are all public bodies.

Specific Proposals

A single 'Rights Body'

SACR is aware of the written evidence⁴ presented on behalf of the SPCB to the Committee and the oral evidence presented on 9th December⁵. This is most useful in setting out the thinking of the SPCB Committee so far. The written evidence proposed a single 'Rights Body' comprising the SHRC and SCCYP on the basis that *'the functions undertaken by both these bodies are primarily advocacy'*. There is no further exploration of the different powers and duties of the offices, nor an assessment of the impact of the proposed changes. SACR believes there is insufficient detail in the evidence provided and suggests that there needs to be a much more detailed examination of what this would entail before it can agree that *'such a merger of functions makes sense'*. The case for change needs to be made on the basis of the benefits for children's rights rather than an overly brief description of common interest. This is suggested in the spirit of being clear about the implications, weighing up the relative benefits and drawbacks and not as a blind defence of the status quo.

SACR is reassured by the comments provided on behalf of SPBC in oral evidence that it is *'not trying to alter the function of the children's commissioner but simply trying to streamline its administration'* and the view that SPCB do not think they *'have suggested in any way that the commissioners functions will change'*.

In the same evidence some indication was given on the thinking of Commissioners' independence from each other and offered an option that *'might involve having a chief or head commissioner, with a commission and individual commissioners who had specialist interests, for example, in children's rights – underneath, such a structure would not provide independence, but one of its strengths might be the ability to deliberate more effectively on extremely difficult cases'*. This option appears to go beyond a merging of administration functions. SACR is concerned that this could have the impact of changing the functions of the Scottish Commissioner for Children and Young People and is seeking further information as to how this would operate in practice.

Finance

SACR understands the desire to explore the potential for more efficient use of resources among SPCB supported bodies and one way of achieving this is through shared services. There may be opportunities for this with respect to HR, IT and other office support services. SACR would be interested in examining such proposals that have estimated

⁴ Scottish Parliament (2008) RSSB/S3/08/2/2 Review of SPCB Supported Bodies Committee <http://www.scottish.parliament.uk/s3/committees/rssb/papers-08/rssbp08-02.pdf> accessed 09/01/09

⁵ Scottish Parliament (2008) Review of SPCB Supported Bodies Committee Official Report 9 December 2008 <http://www.scottish.parliament.uk/s3/committees/rssb/or-08/rssb08-0202.htm> accessed 09/01/09

costs and saving outlined. This issue was picked up in the evidence session on 9th December and we are aware that an undertaking on behalf of SPCB was given '*to produce a more detailed paper that could expand*'. SACR suggests this is required to allow a better assessment of the proposals as well as the impact on respective budgets. SACR does not believe that this should be the driving force for the single 'Rights Body' proposals, but does accept that efficiency savings have to be considered, where possible.

In terms of financial governance, SACR is aware that the recommendations of the Finance Committee Report have been incorporated in the setting up of the Scottish Human Rights Commission (SHRC) without an apparent compromise on the Paris Principles requirements for recognition of SHRC as a NHRI. This could usefully provide a model of financial oversight by SPCB and Scottish Parliament that could be replicated in whatever new arrangements emerge from the review process.

Other matters

SACR is aware of the Finance Committee report with regard to the production of reports and location offices for SPCB supported bodies and believes these can be incorporated into any new arrangements.

SACR is aware of the consideration being given to the length of term of office for the Scottish Commissioner for Children and Young People and is supportive of the proposal for a single term of office longer than the current 5 year term. SACR is content for consideration to be along the lines of the SPCB suggestion '*that it should be between 5-8 years*'

Conclusion

- SACR is strongly committed to maintaining the core role of the Scottish Commissioner for Children and Young People and urges caution in change given the most recent positive developments in safeguarding and promoting children's rights in Scotland
- SACR suggests that the views of children and young people should be sought, prior to any proposals being agreed
- SACR is reassured that there is no intention to change the functions of SCCYP, however believes there is a need to clarify how this will be achieved in whatever new working arrangements emerge
- SACR understands the need for efficiency savings, however needs further evidence of what this actually entails to come to an informed assessment

SACR would be happy to provide oral evidence to the Committee if this was thought to be of value.

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