

September
2012

*State of
Children's
Rights in
Scotland*

Together



together

Scottish Alliance for
Children's Rights

About Together

Together (formerly known as the Scottish Alliance for Children's Rights) seeks the full implementation of the UN Convention on the Rights of the Child (UNCRC) in Scotland. With nearly 200 members throughout Scotland, our aims are to:

- Promote the importance of children's rights in order to highlight issues of concern to policy makers, the media and the general public, and to disseminate information on the UNCRC;
- Establish links with statutory agencies and other bodies to ensure the monitoring and promotion of the full implementation of the UNCRC in Scotland, through policy and legislative mechanisms and good practice;
- Provide a focal point for non-governmental organisations in Scotland on children's rights issues, and in the preparation of reports to the UN Committee on the Rights of the Child on the progress of the UK governments in implementing the UNCRC.

Glossary of Terms

Child / children refers to those under 18 unless otherwise stated

Children's organisations refers to non-governmental organisations in Scotland unless otherwise stated

The UN Committee – United Nations Committee on the Rights of the Child

CJSW - Criminal Justice Social Work report

CoSLA – Convention of Scottish Local Authorities

CRIA – Child Rights Impact Assessment

CSP – Co-ordinated Support Plan

ECHR – European Convention on Human Rights

fSDC – for Scotland's Disabled Children, a coalition of over 50 disability and children's organisations

GIRFEC – Getting It Right For Every Child – Getting it right for every child is a Scottish Government programme that aims to improve outcomes for all children and young people

LGBT – lesbian, gay, bisexual and transgender

NGOs refers to non-governmental organisations in Scotland unless otherwise stated

SCCYP – Scotland's Commissioner for Children and Young People

SCR – Significant Case Review

SMART outcomes – Outcomes that are Specific, Measurable, Achievable, Realistic and Timely.

UKBA – United Kingdom Border Agency

UNCRC – United Nations Convention on the Rights of the Child

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Executive Summary

¹ Together (2011) *State of Children's Rights in Scotland*

The *State of Children's Rights* report 2012 provides a non-government perspective on the extent to which children in Scotland are able to enjoy their rights enshrined in the United Nations Convention on the Rights of the Child (UNCRC). It reflects on the progress made over the past year since the publication of Together's 2011 *State of Children's Rights* report,¹ discussing what progress has been made and where further efforts are needed.

The report was compiled and produced by Together following wide consultation with children's organisations across Scotland. The consultation involved gathering views and opinions from over 100 professionals working with and for children through seminars held in Dundee, Dumfries and Glasgow. This was followed by an online survey completed by seventy-nine children's organisations working across a wide range of issues including looked after children, children of prisoners and additional support needs. The *State of Children's Rights* report 2012 is a culmination of the feedback received throughout the consultation alongside further desk research into issues that were highlighted as being of particular priority.

Background

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

In 2008, the UN Committee examined the UK government's progress in implementing the UNCRC, making a series of recommendations (known as *Concluding Observations*²) to set out where the UK was falling short. In response, in 2009 the Scottish Government published a UNCRC action plan, *Do the Right Thing*,³ which provided a list of twenty one priority actions that it committed to undertake in the short to medium term. In May 2012, the Scottish Government published the *Do the Right Thing* progress report⁴, outlining the progress made in implementing the earlier action plan.

³ Scottish Government (2009) *Do the Right Thing*

⁴ Scottish Government (2012) *Do the Right Thing progress report*

In the past year, the Scottish Government has consulted on a number of pieces of legislation that have the potential to strengthen children's rights across Scotland. This report specifically looks at these opportunities and identifies where progress could be made. It reflects on the proposals outlined by the Scottish Government in the consultation on the *Rights of Children and Young People*⁵ and looks forward to the subsequent consultation on the *Children and Young People Bill*.⁶ Furthermore, we look at how children's rights can be reinforced through the forthcoming *National Parenting Strategy* and consider the recommendations made to the UK at an international level to the UK through the *Universal Periodic Review*.

⁵ Scottish Government (2011). *Consultation on the Rights of Children and Young People Bill*

⁶ Scottish Government (2012). *A Scotland for Children. A Consultation on the Children and Young People Bill*

Aim

The aim of the report is to reflect on measures taken to improve the implementation of the UNCRC in Scotland over the past year, and to highlight what children's organisations see as being the current key issues. Specifically, the report:

- recommends the next steps that should be taken to improve children's rights in Scotland; and
- provides a point of referral against which future efforts can be assessed.

Key Findings

There is a clear commitment from the Scottish Government to enable children to realise their rights under the UNCRC and to improve its implementation across Scotland. This has been demonstrated through the many policy developments in the past year, including the consultations on the *Rights of Children and Young People*,⁷ *Children and Young People Bill*⁸ and *National Parenting Strategy*. Children's organisations welcome the Scottish Government's continued focus on children's rights through the publication of the midterm

⁷ Scottish Government (2011). *Consultation on the Rights of Children and Young People Bill*

⁸ Scottish Government (2012). *A Scotland for Children. A Consultation on the Children and Young People Bill*

⁹ Scottish Government (2012). *Do the Right Thing Progress Report 2012*

¹⁰ Together (2011) *State of Children's Rights report*

¹¹ Scottish Government (2012). *A Scotland for Children. A Consultation on the Children and Young People Bill*. Paragraphs 52, 56.

¹² Scottish Government (2012). *Common Core of Skills, Knowledge & Understanding and Values for the "Children's Workforce" In Scotland*

Do the Right Thing progress report⁹ in May 2012 although raise concern that the report provides little evidence of strategic progress or clear outcomes. As in Together's 2011 *State of Children's Rights* report,¹⁰ children's organisations continue to identify a gap between policy and practice.

Opportunities

- Children's organisations welcome the Scottish Government's decision to introduce children's rights legislation through the *Children and Young People Bill*.¹¹ The forthcoming Bill is seen as an opportunity to introduce an overarching child rights framework that influences all areas of policy and practice, and puts what is best for children at the centre of how Scotland is governed. The *Children and Young People Bill* should bring recognition that it is the responsibility of all sectors to uphold the rights of children.
- The *National Parenting Strategy* is a key opportunity for the Scottish Government to raise awareness and understanding of children's rights, not just with parents and families, but also corporate parents and all those working with and for children. To achieve this, the Strategy must be underpinned by the UNCRC and its principles and provisions.
- The new *Common Core of Skills, Knowledge, Understanding and Values*¹² for the children's workforce was launched in June 2012 and explicitly cross-references the guiding principles of the UNCRC. The launch has been welcomed by children's organisations who now urge the Scottish Government to raise wider awareness of the *Common Core* and ensure that its principles are at heart of all training for professionals.

Together's recommendations

The *State of Children's Rights* report identifies a number of steps that should be taken to improve the implementation of the UNCRC across Scotland. These are referred to in the report as 'Together's recommendations'. Although they are targeted at a number of agencies, the majority are specifically for the Scottish Government. The overarching recommendations are:

- Children's organisations continue to report 'patchy' implementation of the UNCRC across professions and public bodies. The Scottish Government should ensure that the forthcoming *Children and Young People Bill* provides an overarching child rights framework that embeds the UNCRC throughout national and local governments and sets out a longer-term roadmap towards the full incorporation of the UNCRC into Scots Law.
- There is little evidence to show how Scottish Government legislation is delivering real outcomes for children. The Scottish Government should develop a set of clear indicators and establish a robust monitoring framework to effectively report on how its policies and initiatives are improving outcomes for children.
- The Scottish Government should develop a comprehensive strategy to increase knowledge and understanding of the UNCRC throughout society so that its principles are known and practised by all. This should include the production and dissemination of child-friendly publications, guidance for professionals, information for families, parents and carers and systematic child rights training across all sectors and management levels.

Introduction

Together (formerly the Scottish Alliance for Children's Rights) works to secure the rights and needs of all children living in Scotland as enshrined in the UN Convention on the Rights of the Child (UNCRC). Our members range from leading national and international non-governmental organisations to local playgroups and individuals, all sharing a commitment to promote and advocate for children's rights in Scotland. In the past year, we have seen our membership increase significantly from 150 to nearly 200 children's organisations and professionals.

A key role of Together is to hold the Scottish and UK Governments to account on their implementation of the UNCRC. This report, our third annual *State of Children's Rights* report, examines how well the UNCRC is being implemented in Scotland and what more could be done to ensure that children in Scotland are able to access their rights. We look at developments in implementing the UNCRC in Scotland over the past year, and look forward to forthcoming legislative opportunities at a Scottish Government level.

The purpose of the *State of Children's Rights* report 2012 is to provide a non-government perspective on the extent to which the UNCRC is being successfully implemented in Scotland. It provides a means through which progress can be monitored and evaluated, ensuring that the momentum gathered through the last UNCRC reporting round is not lost and that children's rights are at the heart of the policy agenda.

The UN Convention on the Rights of the Child

The UNCRC sets out the basic human rights that children everywhere must have: the right to survival; to develop to their maximum potential; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life. The four core principles of the UNCRC are non-discrimination; the best interests of the child; the right to life, survival and development; and the right of all children to have their views respected and heard.

In 1991, the UK Government ratified the UNCRC, undertaking to implement its principles in UK policy and legislation. Although the UK Government holds overall responsibility for the implementation of the UNCRC, the Scottish Government has devolved responsibility for many of the areas covered – specifically health and social care, education, housing, and youth justice.

States Parties to the UNCRC are required to submit reports approximately every five years to the UN Committee on the Rights of the Child. State Party reports enable the UN Committee to review the measures taken by the reporting country to ensure the rights enshrined in the UNCRC are enjoyed by all children. The reporting process encourages children's organisations, such as Together, to submit reports setting out their assessment of the government's record in implementing the UNCRC.

The UN Committee last examined the UK Government in 2008; making a series of recommendations (*Concluding Observations*) setting out where they believe the UK is falling short of fully implementing the UNCRC. The *Concluding Observations* make 142 separate recommendations that cover many aspects of children's lives and are referred to throughout this report.

Do the Right Thing progress report

In September 2009, the Scottish Government published *Do the Right Thing*, an action plan addressing some of the UN's *Concluding Observations* and providing a list of 21 priority actions that the Scottish Government committed to undertaking in the short to medium-term. In May 2012, the Scottish Government published the *Do the Right Thing* progress report to detail its progress in meeting the actions outlined in the original report. Throughout this report, we reflect on the progress outlined by the Scottish Government in the *Do the Right Thing* progress report.

Legislative developments

In the past year, the Scottish Government has consulted on a number of pieces of legislation that have the potential to strengthen children's rights across Scotland. In September 2011, the Scottish Government committed to give the UNCRC a statutory basis in Scots law through a proposed *Rights of Children and Young People Bill*. This proposed Bill was widely welcomed, although children's organisations pushed the Scottish Government to be even more ambitious in its legislation for children. The *Rights of Children Bill* has now been integrated with the current consultation on the *Children and Young People Bill*.¹³ Children's organisations are urging the Scottish Government to ensure this Bill provides an overarching child rights framework that embeds the UNCRC throughout national and local governments. Alongside the specific children's legislation, the Scottish Government has also been consulting on a *National Parenting Strategy* that is due to be launched in October 2012. The *State of Children's Rights* report 2012 reflects on the opportunities these developments offer in terms of improving the implementation of the UNCRC in Scotland.

¹³ Scottish Government (2012). *A Scotland for Children. A Consultation on the Children and Young People Bill*. Paragraphs 52, 56.

International developments

In December 2011, the UN General Assembly adopted the Optional Protocol to the UNCRC on a complaints mechanism for violations of children's rights. The new Optional Protocol enables children and their representatives to bring complaints to the UN Committee on the Rights of the Child. The UK Government has not yet signed up to the new Optional Protocol.

A further development in the past year has been the consideration of the UK's human rights record through the *Universal Periodic Review* in May 2012. This review, held at the UN Human Rights Council, resulted in a number of recommendations being made around children's rights which are reflected throughout this report.

Consultation for the *State of Children's Rights* report

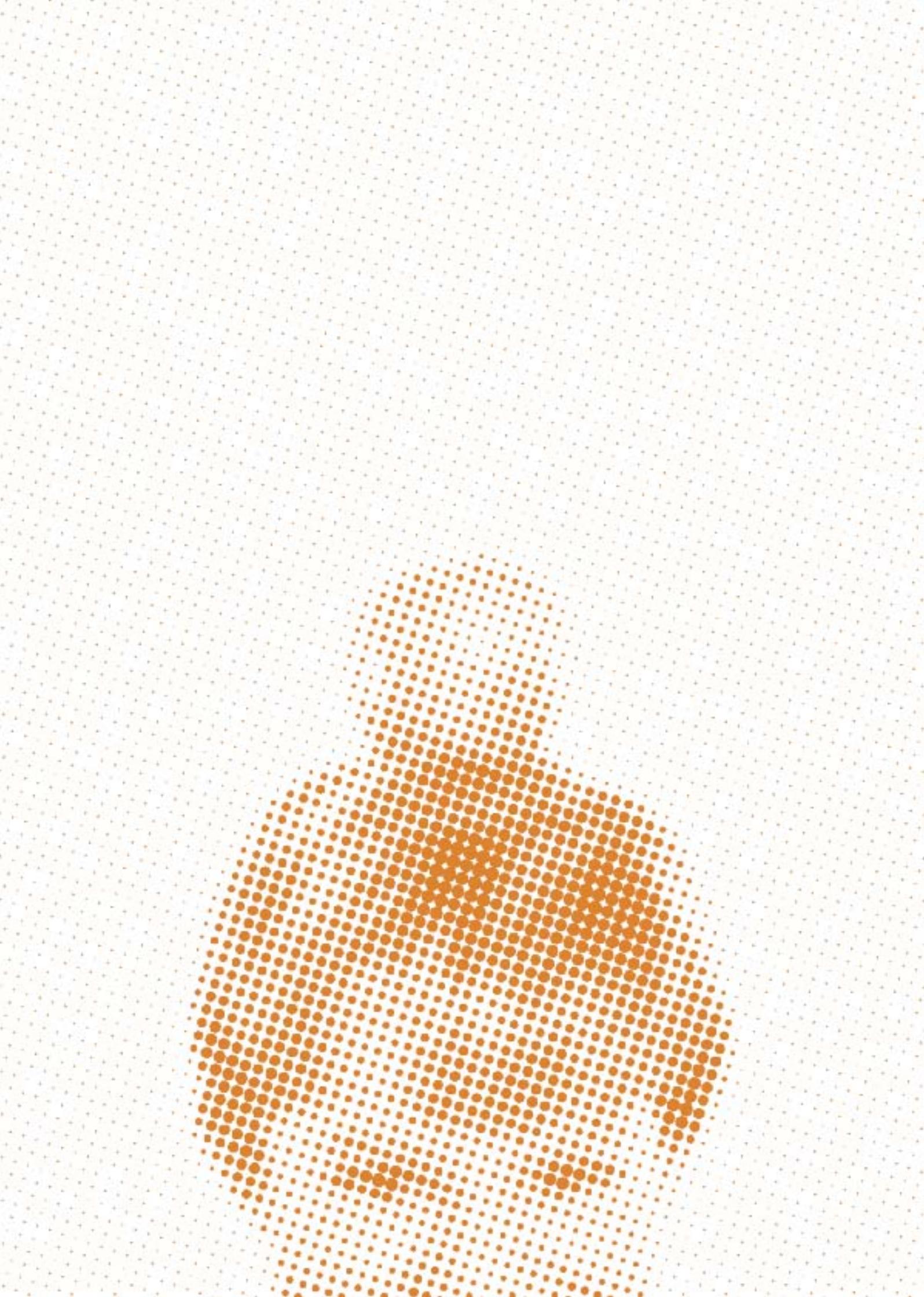
As a coalition of 199 members, most of whom which work directly with children in Scotland, Together is well placed to develop a report on the state of children's rights. To begin the research process, we held a series of seminars across Scotland through which we consulted with a range of children's organisations. These seminars were particularly targeted at regions where representation in Together's membership was low.

The seminars were held in Dundee, Dumfries and Glasgow, and were attended by 113 delegates from across the children's sector. Delegates were from local voluntary organisations (15% of delegates), national voluntary organisations (38%) and local authorities (23%), alongside other professionals from education, health and academics. The seminars provided a forum for professionals to discuss policy and services at a local and national level from a child rights perspective and particularly focussed on the Scottish Government's *Do the Right Thing* progress report. The discussions that took place have played a key role in prioritising

issues for further desk research and for inclusion in this report. Following the seminars, Together ran an online consultation throughout June and July 2012 through which children's organisations were asked to comment on specific issues highlighted at the seminars and through the UN Committee's 2008 *Concluding Observations*. Seventy-nine children's organisations responded, of which 63% were from NGOs, 10% local authorities and 20% from other public bodies (see appendix 4 for more).

Throughout the *State of Children Rights* report 2012 we have included case studies shared by our members that illustrate particular developments in the past year, good practice or concerns, and show how taking a rights-based approach when working with children can improve children's daily lives.

This report is a culmination of the issues raised through our *State of Children's Rights* seminar programme and an online consultation with our members and supporters. Together has been successful in building links with a wider range of children's organisations, particularly in the areas of children of prisoners and looked after children. As a result, this report provides a more comprehensive '*State of Children's Rights*' than the last. However, we still recognise that there are many areas where further research into the implementation of the UNCRC is needed, including juvenile justice, Gypsy/Traveller children and education. We hope that this report will help the Scottish Government to identify and prioritise key opportunities where the forthcoming *Children and Young People Bill* can make a real difference to the outcomes of children.



Chapter

1

General measures of implementation

1.1

1.1. Incorporation of the UNCRC into Scots and UK law

¹⁴ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4)*. No.11,12

¹⁵ United Nation Human Rights Council (2012) *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*

¹⁶ Scottish Government (2011). *Consultation on the Rights of Children and Young People*, Paragraph 73

¹⁷ UNICEF UK (2012) *Advice from Aidan O'Neill QC, Matrix Chambers, to UNICEF UK on the ability of the Scottish Government under current devolved arrangements (Scotland Act 1998) to fully and directly incorporate the United Nations Convention on the Rights of the Child (CRC) into domestic law.*

¹⁸ Paragraph 7(2)(a) of Schedule 5 of the Scotland Act 1998 puts it within the legislative competence of the Scottish Parliament to 'observe and implement international obligations'.

¹⁹ Scottish courts also already have an obligation where possible to interpret and apply the provisions of domestic law consistently with any relevant UK treaty obligations. As such, the Children (Scotland) Act 1995 and the Equality Act 2010 should already be interpreted and applied consistently with the CRC.

²⁰ 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*, paragraphs 19-20

²¹ Scottish Government (2011). *Consultation on the Rights of Children and Young People Bill*

²² <http://www.scotland.gov.uk/Publications/2012/02/8619/downloads> (accessed July 2012)

²³ Children's Parliament (2011) *Rights of Children and Young People Bill: A response from children facilitated by the Children's Parliament*

UN Concluding Observation

- The Committee remains concerned that the principles of the Convention are not duly taken into account in all pieces of legislation throughout the country and that the State party has not incorporated the Convention into domestic law nor has ensured the compliance of all legislation affecting children with it. The Committee recommends that the State party continue to take measures to bring its legislation in line with the Convention.¹⁴

UPR recommendation (Slovakia)

- Incorporate fully, as a matter of urgency, the principles and provisions of the UNCRC into domestic law.¹⁵

In September 2011, the Scottish Government committed to giving the UNCRC a statutory basis in Scots law through a proposed *Rights of Children and Young People Bill*. This announcement demonstrated an important step forward but fell short of the full incorporation of the UNCRC into Scots law. A statement in the consultation paper for the Bill was clear that “*the Scottish Government is not proposing to incorporate the UNCRC into Scots law*”¹⁶ suggesting that directly incorporating the UNCRC would conflict with the Scottish Government’s obligations under the European Convention on Human Rights (ECHR) and the Equality Act (2010). This suggestion was challenged by children’s organisations in their responses to the consultation. It has more recently been challenged in a legal opinion from Aidan O’Neill QC commissioned by UNICEF UK,¹⁷ in which he is clear that:

- It is within the powers of Scottish Government and Scottish Parliament to directly and fully incorporate the CRC into domestic Scots law in relation to devolved issues¹⁸ and;
- The direct incorporation of the CRC into domestic law would not run contrary to the requirements of the European Convention on Human Rights.¹⁹

Direct incorporation is defined by the UN Committee on the Rights of the Child as giving “all the rights in the UNCRC domestic force, placing binding duties on public authorities to respect and protect children’s rights, and allowing children to challenge violations of their rights in domestic courts”.²⁰ Support for incorporation continues to be widespread across Scotland among children’s organisations and with children themselves. This was reflected in responses to the *Rights of Children and Young People Bill*²¹ consultation in December 2011. Despite there being no question in the consultation paper around the incorporation of the UNCRC into domestic law, 40% of all responses from children’s organisations and 25% of all responses from public bodies (including several local authorities and NHS Boards) voiced their support for the full incorporation of the UNCRC into law. Only 6% of children’s organisations and 4% of public bodies specifically expressed an opinion against full incorporation.²² 86% of children taking part in the Children’s Parliament’s consultation on the Bill said that the UNCRC should ‘be like a law that people have to obey’.²³

²⁴ <http://www.scotland.gov.uk/Publications/2012/02/8619/downloads> (accessed July 2012)

²⁵ Scottish Government (2012). *Do the Right Thing Progress Report 2012*

In the *Rights of Children and Young People Bill* consultation responses²⁴ it is clear that children's organisations believe that "placing binding duties" on public bodies and allowing children to "challenge violations of their rights" would help to ensure that:

- children's best interests are routinely taken into account across all areas of policy and legislation;
- children's views and voices are respected and listened to as a matter of course in legislative and administrative procedures;
- the Scottish Government's accountability for its obligations to children is increased;
- the culture change needed across Scotland to ensure children's rights are understood, respected, protected and implemented is prompted;
- children whose rights have been breached have access to justice;
- human rights are accessible to all children regardless of their circumstances.

Beyond Scotland, support for incorporation of the UNCRC has been expressed at a UK and international level. The UN Committee on the Rights of the Child, the UK Parliamentary Joint Committee on Human Rights, the Rights of the Child UK coalition (made up of 47 member organisations from across the UK) and all four Children's Commissioners across the UK have called for incorporation of the UNCRC into law. The most recent call was made at the Human Rights Council during the *Universal Periodic Review* of the UK in May 2012.

The *Do the Right Thing* progress report²⁵ states that the Scottish Government will "consult further on how legislation might best be used to strengthen our approach to children's rights in Scotland." Children's organisations are hopeful that the forthcoming *Children and Young People Bill* may provide the opportunity for the Scottish Government to outline concrete steps it can take towards incorporation of the UNCRC into law.

Rec

Together's recommendations

The Scottish Government should commit to the incorporation of the UNCRC into Scots law, aiming to layout how it will work towards full incorporation before the UK's next reporting round to the UN Committee on the Rights of the Child in 2014.

²⁶ Scottish Government (2012). *A Scotland for Children. A Consultation on the Children and Young People Bill. Paragraphs 52, 56.*

²⁷ Scottish Government (2011). *Consultation on the Rights of Children and Young People Bill*

The current consultation on the *Children and Young People Bill*²⁶ brings together the earlier plans for separate legislation on children's rights and children's services. Children's organisations welcome the decision to introduce children's rights legislation and are pleased to see such a clear commitment from the Scottish Government to the UNCRC. The forthcoming Bill is seen as an opportunity to introduce an overarching child rights framework that influences all areas of policy and practice, and to put what is best for children at the centre of how Scotland is governed.

However, children's organisations are disappointed with the decision to integrate the two Bills. The children's rights focus could be lost among the wider consideration of children's services, particularly as the Bill goes through the parliamentary process. There are concerns that children's rights could simply be equated with children's services. The Bill should bring recognition that the UNCRC provides the overarching framework for all children's services, and that it is the responsibility of all sectors to uphold the rights of children.

Children's organisations will be responding to the consultation in detail in due course. At this stage, there are a number of aspects included in the Scottish Government's proposals that are welcomed by children's organisations. These include the proposals to:

- place a duty on Ministers to promote and raise awareness of the rights of children;
- introduce a reporting process for Ministers and public bodies to detail progress in implementing children's rights;
- give the Children's Commissioner the power to undertake investigations on behalf of individual children into allegations of rights violations.

However, there are many aspects of the Bill that children's organisations believe can and should be strengthened. There is concern that the steps outlined by the Scottish Government in its consultation paper are weaker than those proposed in the original *Rights of Children and Young People Bill*.²⁷ consultation. The Scottish Government wants Scotland to be '*the best place for a child to grow up in the world*'. Children's organisations are clear that if we are to achieve this vision, the Scottish Government needs to give children a strong message that their rights are at the heart of everything they do, both for and with, them.

To achieve this, children's organisations have already suggested a number of steps that the Scottish Government should take to strengthen their proposals:

- The proposal for a duty to be placed on Ministers to '*take appropriate steps to further the rights of children and young people*' is too imprecise to have the necessary positive impact on the rights of children. It should be strengthened.
- Any duty on Ministers should also be extended to public bodies to reflect the fact that the decisions and actions of public bodies, as well as those of Ministers, have an impact on the lives of children.

- The Scottish Government should fulfil its commitment to ‘develop a child rights impact assessment model’,²⁸ setting out a clear format and process and ensuring that it is used as a matter of routine across government departments (see chapter 4.4).
- The Scottish Government should give serious consideration to ensuring that children have an accessible and effective means of legal redress to challenge rights violations. This should complement the proposal to extend the powers of the Children’s Commissioner to take individual complaints.

There is recognition that the key to the effectiveness of the Bill will be in its implementation and in generating a clear understanding amongst all those involved in working with children on how they can incorporate a children’s rights approach to their practice.

Rec

Together’s recommendations

The Scottish Government should ensure that the forthcoming *Children and Young People Bill*:

- sets out a longer-term roadmap towards the full incorporation of the UNCRC into Scots Law
- provides an overarching child rights framework that embeds the UNCRC throughout national and local governments
- embeds the use of child rights impact assessments within public bodies.

Optional Protocol to the UNCRC on a complaints mechanism

²⁹ United Nation Human Rights Council (2012) Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland

³⁰ As of 13th August 2012 the following states have signed the Optional Protocol: Argentina, Austria, Belgium, Brazil, Chile, Costa Rica, Cyprus, Finland, the former Yugoslav Republic of Macedonia, Germany, Italy Luxembourg, Maldives, Mali, Malta, Mauritius, Montenegro, Morocco, Peru, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain and Uruguay.

UPR recommendation (Slovakia)

- Consider an early ratification of the newest international human right instrument – the third Optional Protocol to the Convention on the Rights of the Child on a communication procedure.²⁹

In December 2011, the UN General Assembly adopted the Optional Protocol to the UNCRC on a complaints mechanism for violations of children’s rights. The new Optional Protocol enables children and their representatives to bring complaints to the UN Committee on the Rights of the Child. It recognises that children, just like adults, should have equal access to international human rights bodies and the international system of accountability for rights violations. To date, 26 states have signed the Optional Protocol.³⁰ At the UK’s examination at the Human Rights Council under the *Universal Periodic Review*, the UK Government was urged to ratify the new Optional Protocol. Alongside other children’s rights alliances and the four Children’s Commissioners across the UK, Together is also encouraging the UK and devolved governments to sign up to the Optional Protocol. The Scottish Government has welcomed the Optional Protocol in principle and ‘*would be minded to offer measured support for its signature and ratification in the future*’. However, the Scottish Government states that before doing so, ‘*it is important to better understand exactly how the UN Committee on the Rights of the Child intends to apply the Protocol*’.

Given its commitment to children’s rights and the UNCRC, children’s organisations would like to see the Scottish Government urge the UK Government to ratify the Optional Protocol to the UNCRC immediately.

Rec

Together’s recommendations

- The Scottish Government should urge the UK Government to ratify the Optional Protocol with immediate effect.

UN Concluding Observation

- Reinforce adequate and systematic training of all professional groups working for and with children, in particular law enforcement officials, immigration officials, media, teachers, health personnel, social workers personnel of child-care institutions³²

³² Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4)*. No. 21.

³³ *Together (2011). State of Children's Rights in Scotland*. Page 9.

³⁴ Scottish Government (2012). *Common Core of Skills, Knowledge & Understanding and Values for the "Children's Workforce" In Scotland*

³⁵ *Together (2010) State of Children's Rights in Scotland, Together (2011) State of Children's Rights in Scotland*

A recommendation was made to the Scottish Government in *Together's 2011 State of Children's Rights* report to "ensure that the *Common Core of Skills, Knowledge, Understanding and Values for the Children's Workforce* firmly embeds the principles of the *UNCRC* and promotes understanding of its provisions".³³ The *Common Core*³⁴ was published in June 2012 and describes the skills, knowledge, understanding and values that everyone should have if they work with children, young people and their families, whether they are paid or unpaid. Children's organisations have welcomed the fact that the *Common Core* now explicitly cross-references the skills, knowledge and understanding needed by those working with children with the guiding principles of the *UNCRC*. However, they raise concerns about a current lack of awareness of the *Common Core* and question how it is going to be taken forward to ensure that the *UNCRC* is at the heart of all training for professionals.

Children's organisations would like to see training in children's rights and child protection which is consistent, embedded across all sectors and national in its scope. Training in children's rights should be provided in a way that enables those working with children to reflect on their own practice and how they can promote a children's rights approach. All those working with and for children should undertake this training, including senior managers. Adult-focused agencies such as the criminal justice system, addiction support services, adult mental health services, and housing and employment services should also receive child rights training to ensure they consider the impact of their actions and decisions on children. Such steps would help to address the issues identified in both the 2010 and 2011 *State of Children's Rights* reports³⁵ whereby children's rights are implemented inconsistently between local authority areas and across different services with a risk of children 'slipping off the radar'.

Rec

Together's recommendations

- All organisations working with and for children should provide child rights training in line with the *Common Core's* skills, knowledge, values and understanding.
- The Scottish Government should ensure that the forthcoming *Children and Young People Bill* is supported by systematic child rights training across all sectors and management levels to accompany the proposed duty on Ministers to 'raise knowledge and awareness of the *UNCRC*'

³⁶ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4)*. No 20.

UN Concluding Observation

- The Committee is concerned that there is no systematic awareness-raising about the Convention and that the level of knowledge about it among children, parents or professionals working with children is low. Furthermore, the Committee regrets that the Convention is not part of the curriculum in schools.³⁶

Children's organisations report increased awareness of the UNCRC in many different fields as a result of work undertaken by SCCYP, various voluntary organisations and children's rights officers within local authorities and health boards. Children's organisations welcomed the extent to which children within residential care settings are provided with information and training relating to the UNCRC. It is now important that awareness-raising and understanding is taken forward more widely among professional bodies, families and the general public. Work to raise awareness of children's rights within residential settings must be extended to include those within foster and kinship care. Further work also needs to be put into developing knowledge and understanding of children's rights among more vulnerable children, such as those outwith the education system and those with communication support needs.

³⁷ Scottish Government (2012) *A Consultation on the Children and Young People Bill* paragraph 53

³⁸ Commissioner for Children and Young People (Scotland) Act 2003

In the consultation paper for the *Children and Young People Bill*, the Scottish Government proposes to include a duty on Ministers to “*promote and raise awareness of the rights of children and young people*”³⁷ similar to the duty on the Children's Commissioner in the *Commissioner for Children and Young People Act*.³⁸ This duty was included in response to an overwhelming view from the children's sector that the proposed legislation would only be translated into practice in all work with and for children if there was greater knowledge and understanding of the UNCRC and its principles. For the duty to achieve its purpose, Ministers should engage all sectors of society, from government officials, parliamentarians and the judiciary through to teachers, health care workers, the police and the media, with the involvement of children at the core. The Scottish Government should develop a strategy that includes further awareness-raising and competence-building measures, such as ongoing high-quality training and development programmes for Scottish Government staff, those working for public bodies, and other relevant groups of professionals.

Rec

Together's recommendations

The Scottish Government should:

- develop a comprehensive strategy for increasing knowledge and understanding of the UNCRC throughout society so that its principles are known and practised by all. This should include the production and dissemination of child-friendly publications, guidance for professionals and information for families, parents and carers.
- identify and take forward opportunities through the *Curriculum for Excellence* to ensure children are aware of and understand their rights. This should include amending the *Curriculum for Excellence* 'Experiences and Outcomes' and providing practical resources to support teaching.

³⁹ Scottish Government (2012). *Do the Right Thing Progress Report 2012*

⁴⁰ Scottish Government (2009). *Do the Right Thing*

⁴¹ <http://www.childrens.parliament.org.uk/wp-content/uploads/2011/09/Linking-learning-to-national-priorities.pdf> (accessed July 2012)

⁴² Scottish Government (2012). *Do the Right Thing progress report*

In May 2012, the Scottish Government published its midterm *Do the Right Thing progress report*.³⁹ This report outlines the progress made since the publication of the *Do the Right Thing action plan*⁴⁰ in 2009 which responded to the UN Committee's 2008 *Concluding Observations*.

The publication of the *Do the Right Thing progress report* was welcomed by children's organisations. The Scottish Government was particularly commended for maintaining momentum around the UNCRC reporting process and ensuring that children's rights remain at the forefront of the agenda. There was concern however that the report provides little evidence of strategic progress or clear outcomes. Although specific areas of practice and funding have been highlighted, little evidence is included detailing how this progress has led to improved outcomes for children. Children's organisations expressed disappointment that the Scottish Government has not taken forward the recommendation made in Together's 2010 *State of Children's Rights* report to base *Do the Right Thing* reporting on SMART outcomes. The *Do the Right Thing progress report* makes many references to the key principles of the UNCRC but does not demonstrate how these key principles are being taken forward in the Scottish Government's practice.

For example, a number of organisations expressed disappointment that the views of children were not included in the progress report. Although the report makes many references to the participation of children, referring to their '*participation in decision-making*', '*participation in schools*' and '*participation of disabled children*', it does not demonstrate whether or not this key principle has been taken into account in the report's development. Work has been conducted with children through the Children's Parliament's '*Do the Right Thing Local Projects*'⁴¹ to identify particular findings relating to the initial action plan but the findings are not reflected in the progress report. These findings link learning from workshops and drop ins with children, parents and professionals with the *Do the Right Thing* priority actions, providing an essential insight into the views and experiences of children. Children's organisations urge the Scottish Government to ensure that such work to establish the views of children are clearly reflected in any future reports.

Issues regarding the accuracy of some of the progress stated were also raised by a number of children's organisations. For example, although the focus on children of prisoners was widely welcomed, the report states that '*there are now Family Strategy Groups in every prison in Scotland*'⁴² whereas children's organisations state that only half of all prisons in Scotland have operational groups. Also, the *PlayTalkRead* bus, while commended by a number of children's organisations, does not directly relate to the Scottish Government's promised action to realise the universal right to play, as it focuses primarily on the promotion of good parenting and literacy.

Concerns were also raised with regards to some of the funding commitments made in the report. While new resources are welcome, these have often led to short-term projects rather than the long-term investment in services required to bring about extensive long-term change.

Rec

Together's recommendations

The Scottish Government should:

- publish the *Do the Right Thing progress report* 'next steps' in a separate document and provide information about timelines and a breakdown of activities to allow for progress to be monitored and scrutinised
- develop a set of clear indicators and establish a robust monitoring framework to effectively report on how its policies and initiatives are improving outcomes for children
- ensure that the views of children are clearly reflected in any future UNCRC related action plans and progress reports.



Article 12:

Every child has the right to say what they think in all matters affecting them, and to have their views taken seriously.

Chapter

2

General principles

Case study:

The Action Research on Violence Project (ARVP)

Article 12 of the UNCRC is clear about the need to listen to and consult with children and young people of all ages and backgrounds. The Action Research on Violence Project supports hard-to-reach young people from Black Minority Ethnic (BME) communities to express their thoughts and opinions on how their lives can be affected by violence and conflict. The project was set up in response to violence and conflict issues being identified by young people accessing support (such as Shakti Women's Aid Young People's Services) and the under-representation of BME young people in studies in Scotland about young people's ideas on, experiences of or attitudes towards conflict & violence. It is a joint project from Shakti Women's Aid and NHS Lothian Health Promotion, funded by the Scottish Government Safer Communities team.

The Action Research on Violence Project was started with a conversation with 1st and 3rd year students at Drummond Community High School. After a period of trust-building sessions introducing different ideas on what 'violence' and 'conflict' could mean, a core group of 10 students was formed. An arts company, Active Inquiry, helped the group use forum theatre and drama skills to create characters and scenarios that would form the central focus of discussion. A main character, 'Saqib' was created along with family and friends, as well as 'freeze frame' scenes where conflict arose for Saqib or people around him. The group discussed Saqib's feelings and considered what his options or barriers might be; issues discussed included bullying at school, domestic abuse and isolation.

One recurring theme from the group was on barriers to speaking out:

"Sometimes you don't want to talk about it because it makes you feel really bad"

"Some people are embarrassed to say they're bullied, because people might make fun of them"

Working creatively in a group also had a strong positive impact:

"I've become more confident in speaking about violence especially through the play and the characters"

"It's good to find out to see if it's a specific group that it's happening to or is it everyone or just black people or Pakistani or Indian people...that's a good way to find out"

A short film of the project, made by Sitar Rose and Screen Education Edinburgh, is to be included in a DVD resource & training pack due for launch later in 2012 and will be featured in Together's e-newsletter.

UN Concluding Observations

...ensure full protection against discrimination on any grounds, including... taking 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.⁴³

⁴³ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4)*. No 25a, b, c.

⁴⁴ United Nations (1989). *Convention on the Rights of the Child. Article 2.*

⁴⁵ Scottish Government (2012). *Do the Right Thing Progress Report 2012*

⁴⁶ Scottish Government (2009). *Valuing Young People*

⁴⁷ www.awardsnetwork.org

⁴⁸ Scottish Government (2009). *Promoting Positive Outcomes: Working Together to Prevent Antisocial Behaviour*

⁴⁹ Scottish Government (2012). *Do the Right Thing Progress Report 2012. Action 4*

Article 2 of the UNCRC is clear that the rights enshrined in the Convention apply to all children, “whatever their ethnicity, gender, religion, abilities, whatever they think or say, no matter what type of family they come from”.⁴⁴ However, despite efforts from the Scottish Government, there continues to be a concern about the on-going discrimination experienced by children.

Members report that children can be routinely discriminated against in their interactions with adults as a result of their age. This is a complex and fundamental challenge for Scotland as a whole. The Scottish Government can be commended for the progress outlined in the *Do the Right Thing* progress report⁴⁵ including the commitments made in *Valuing Young People*,⁴⁶ its support for the *Youth Awards Network*⁴⁷ and its work with a number of children’s organisations to promote the positive involvement of children in the media. However, the Scottish Government needs to ensure that improvements in policy translate into the practice of professionals and culture of parents and carers.

Disappointment was expressed that the *Do the Right Thing* progress report listed the publication of the Scottish Government framework for tackling antisocial behaviour⁴⁸ as progress made under the action to ‘tackle negative perceptions of children and young people’.⁴⁹ It was felt that this link reinforces the stigmatisation and discrimination of children.

A number of issues were raised around the discrimination of specific groups of children and will be discussed in more detail in later chapters of this report. These include:

- Children with a disability being disproportionately affected by funding cuts within local authorities
- Looked after children facing stigma and bullying
- Children of prisoners being discriminated against at school

Other examples were given, such as: a lower level of local housing allowance being given to those under the age of 25 making it more difficult for them to find suitable affordable accommodation; racism, discrimination and bullying of young people from black minority ethnic backgrounds and other minority communities; the impact of homophobic bullying on young people’s health and wellbeing as well as their performance at school and rural children being discriminated against at a community level according to the standing of adult family members.



Together’s recommendations

The Scottish Government should ensure that a comprehensive strategy for disseminating knowledge of the UNCRC (see Chapter 1.5) includes a particular focus on non-discrimination of vulnerable groups, including children with a disability, children of prisoners, LGBT young people, looked after children and black and ethnic minorities.

UN Concluding Observations

...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.⁵⁰

⁵⁰ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4)*. No 27.

⁵¹ United Nations (1989) *Convention on the Rights of the Child. Article 3.*

Article 3 of the UNCRC states that “the best interests of the child shall be a primary consideration in all actions affecting children”.⁵¹ Together’s members reported that some progress is being made in raising awareness of the best interests principle among public and voluntary sectors. However, despite this perceived progress, there is little or no evidence that children’s best interests are actually better met. The principle is by its nature highly subjective and in practice, professionals, parents and carers can often make many presumptions about the ‘best interests’ of a child or young person.

Children’s organisations recognise the challenge of moving the best interests principle beyond rhetoric and into practice. They welcome the Scottish Government’s commitment in the *Children and Young People Bill* consultation to ensure that the best interests of children are at the heart of the public sector:

⁵² Scottish Government (2012). *A Scotland for Children. A Consultation on the Children and Young People Bill. Paragraph 4.*

“...we believe that legislation must not simply change how services operate, but change how children’s and young people’s rights are realised. Rights are not simply rhetoric, but fundamental to creating a public sector that constantly acts in the best interests of children and young people”.⁵²

Children’s organisations agree that the best interests principle should be embedded throughout the work of all those who work with and for children, from practitioners through to managers and heads of public bodies. It should also be embedded throughout the work of all other professionals who make decisions that directly or indirectly affect children’s lives. As the UN Committee makes clear, establishing the best interests of a child should not just involve their family and people involved in their lives, but ensure a clear process of listening to the child:

⁵³ UN Committee on the Rights of the Child (2009) *General Comment 12: The Right of the Child to be Heard. Para 74.*

“There is no tension between articles 3 and 12, only a complementary role of the two general principles: one establishes the objective of achieving the best interests of the child and the other provides the methodology for reaching the goal of hearing either the child or the children. In fact, there can be no correct application of article 3 if the components of article 12 are not respected”.⁵³

The GIRFEC approach of putting the voice of the child at the centre of service delivery is to be welcomed. However, more needs to be done to ensure that:

- children have the option of challenging an interpretation of their ‘best interests’;
- professionals understand what the best interests principle means to children;
- training is given to those making decisions that impact on children so they fully understand how to ensure the best interests of the child.

Children’s organisations made specific comments on the implementation of the best interests principle in a number of areas as follows:

In courts

The best interests of the child is a concept central to family actions in court and Children's Hearings proceedings. Recent analysis of reported cases indicates that courts do ensure the paramountcy of the child's welfare in those actions and proceedings. Courts are referring more and more to the provisions of the UNCRC, and the Supreme Court has recently confirmed that undue delay in court proceedings can be a breach of the child's human rights and operate contrary to the best interests of the child.⁵⁴

However, the adult criminal justice system often fails to acknowledge the wider impact that decisions can have on children. For example, the decision to send a parent to prison is likely to have a tremendous impact on a child. This is explored more in chapter 6.1.

Children's hearings

The welfare principle has been reinforced in the new Children's Hearings legislation. Children's Hearings do not issue publicly available written decisions so it is not easy to scrutinise their practice. In general, children's organisations reported that the best interests of the child are usually central to Children's Hearings proceedings. However, a number of concerns were raised around specific issues, the majority of which concerned children not being present when decisions are made at hearings.

Parental contact

Examples were given of children in foster care not being asked about whether they would like to have contact with their birth families. The decision around contact was made in the context of parents rights rather than what was in the best interests of the child. As a result, these children experienced extreme anxiety and exhibited behavioural problems before the contact took place and after contact was made.

Looked after children

The best interests of the child is stated to be at the centre of every decision made within the care system, for example, care placements, education placements, sibling contact and preparation for independent living. However, the he outcomes for looked after children illustrate that this clearly is not the case in practice. Children's organisations have reflected that too often, decisions are made based on resource implications at that time.

Rec

Together's recommendations

The Scottish Government should:

- assess the impact of Getting It Right on ensuring the best interests principle is at the heart of practice in work with all children from all backgrounds living in all local authority areas. (repeated from Together's 2011 *State of Children's Rights* report).
- work with Children's Hearings Scotland to ensure that training for panel members ensures their full knowledge and understanding of the 'best interests' principle. Training should further reiterate the important role of the child's views, along with other factors, in informing decisions about what is in their best interests, and that decisions should only be made in the absence of the child in exceptional circumstances.

UN Concluding Observations

- 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
- Continue to collaborate with civil society organizations to increase opportunities for children's meaningful participation, including in the media⁵⁶

⁵⁶ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4)*. No. 32, 33.

⁵⁷ Scottish Government (2012). *Do the Right Thing Progress Report 2012*

⁵⁸ *Children's Hearings (Scotland) Act 2011*. Section 27 reinforces the need to listen to the views of the child and section 122 children's advocacy services

As progress in furthering the above Concluding Observation, the Scottish Government's *Do the Right Thing progress report*⁵⁷ refers to the development of the 10 core components of GIRFEC and the approach of putting the voice of the child at the centre of service delivery. A further example given is the recent consultation on minimum standards for advocacy. Although not mentioned in the progress report, another policy development is the new children's hearing legislation which reinforces the need to obtain the views of children and, for the first time, introduces a requirement to ensure that children going through the system will be able to get advocacy support.⁵⁸

Children's organisations also highlighted the additional training available to members of the Mental Health Tribunal Scotland which includes how to ensure that children's views were heard, and how they can be supported via advocacy and legal representatives. As a result, it is felt that children's rights are taken more seriously within mental health tribunals.

All of these developments have been welcomed by children's organisations who believe that there is a general acknowledgement of the importance of the principle of participation and of Article 12 across policy and in some areas of practice. It is essential that the voice of the child is not only heard but also listened to and respected. It is clear that children's organisations believe that legislation alone will not be successful in promoting the culture change needed to effectively ensure the full participation of children. In less formal settings, the ability of children to express their views depends much on individual practitioners on the ground.

Children's voices in policy-making

Disappointment was expressed that few resources have been committed to gathering the views of children for the consultation on the *Children & Young People Bill*⁵⁹ and furthermore, that the main consultation period is taking place over the summer holidays when it is more difficult for children's organisations to work with children. Key children's organisations have been given a specific role by the Scottish Government to ensure some children's voices are taken into account in the consultation.⁶⁰ Nevertheless, there are many other children's organisations working with a wide range of children from marginalised groups, such as those with learning disabilities, looked after children and those from BME and migrant communities. These organisations would have welcomed the immediate publication of an easy-read and children's version of the consultation paper to give them sufficient time and appropriate resources to work with these children to inform their responses. The Scottish Government should improve its efforts to use appropriate methods of communication and a realistic timeframe to engage with children from marginalised groups. All consultations on matters that affect children should be made available by the Scottish Government (or any public body issuing a consultation) in child-friendly formats with sufficient time allowed to ensure they understand the concepts in the consultation.

⁵⁹ Scottish Government (2012) *A Consultation on the Children and Young People Bill*

⁶⁰ Scottish Government (2012) *A Consultation on the Children and Young People Bill*

Advocacy

Once again, the importance of independent advocacy services was stressed by children's organisations. Advocacy plays an essential role in promoting the views of the child and ensuring that important decisions take their opinions into account. For the most part, children's organisations recognised that there is an improvement in recognising that looked after young people have a right to advocacy. However, children's organisations felt there can still be resistance among some professionals around the involvement of an independent advocate. Even with adequate advocacy provision, children's organisations reported that some children still find it extremely challenging to highlight an issue affecting them at home or at school.

⁶¹ Quotes from children & young people working with Skye Young Carers

*"People forget that after this meeting I have to go home tonight and then I'm on my own".
"That teacher can make my life hell in class or get me put out of it if he wants to - he's the one with the power".⁶¹*

⁶² Scottish Government (2011) *Improving Advocacy for Children and Young People: Principles and minimum standards*

In early 2012, the Scottish Government consulted on 'Improving Advocacy Support for Children & Young People: principles and minimum standards'.⁶² The *Do the Right Thing* progress report states that 'we will analyse the responses to the consultation on principles and minimum standards and publish a report setting out key findings in June.'⁶³ To date, this report has not been published and children's organisations would urge the Scottish Government to move forward with this work as a matter of priority.

⁶³ Scottish Government (2012) *Do the Right Thing* progress report

Looked after children

A number of local authorities were commended by children's organisations for having reference groups of looked after children. These groups seek the views of other looked after young people and to input these views into the policy development and practice of the local authority.

Vulnerable groups

A particular concern of children's organisations is the challenges faced by particularly vulnerable children in having their voices heard, including children with a disability, LGBT and BME children. The Scottish Government policy and legislation usually states that the views of the child or young person should be taken into account. However, in practice this is often ignored and decisions are taken without reference to the views of the young person. Children's organisations report that children with learning disabilities still feel that no-one listens to them. Scottish Government needs to support and encourage anyone working with children (in health care, education, social work or any other field) to find a way to communicate with children with a disability and ascertain their views before making decisions that will affect that child's life.

Rec

Together's recommendations

The Scottish Government should:

- use appropriate methods of communication and a realistic timeframe to engage with all children, including those from marginalised groups. All consultations on matters that affect children should be made available in child-friendly, easy read formats with sufficient time allowed to ensure they understand the concepts in the consultation.
- fulfil its commitment to analyse the responses to the Improving Advocacy Support consultation and publish a report setting out key findings as a matter of priority.

UN Concluding Observations

- Use all available resources to protect children's rights to life, including by reviewing the effectiveness of preventive measures;
- introduce automatic, independent and public reviews of any unexpected death or serious injury involving children – whether in care or in custody.⁶⁴

⁶⁴ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4)*. No. 29.

Examples were given by children's organisations of significant case reviews which have successfully brought together agencies and highlighted areas of good practice and areas for development. These reviews have usually highlighted poor communication and missed opportunities as key aspects for children needing a significant case review. Children's organisations report that learning and recommendations resulting from these reviews have successfully influenced future working practice. However, all children's organisations agree that there is a need to establish the use of more preventative strategies such as regularly using children's rights impact assessments, rather than launching reactive enquiries after things have gone wrong.

⁶⁵ Dr. Sharon Vincent is undertaking the review in conjunction with IRISS, MARS (2011) *Messages from elsewhere about reviewing serious cases: What's in it for Scotland?*

More work is needed to ensure lessons are learnt nationally from significant case reviews. Some of this work is currently being taking place. For example, a nation-wide analysis of significant case reviews is due to report in August 2012.⁶⁵ Children's organisations urge the Scottish Government to use this analysis to inform guidance and practice for child protection. They also urge the Scottish Government to create a centralised database of the findings of significant case reviews to analyse trends and provide an evidence base to influence policy and practice.

Rec

Together's recommendations

The Scottish Government should:

- use the forthcoming published analysis of significant case reviews to inform child protection guidance and practice
- create a centralised database of significant case reviews to analyse trends and provide an evidence base to influence policy and practice.



Chapter

3

Civil rights and freedoms

Case study: *The Scottish Parliament's Public Petitions Committee and the Mosquito Device*

The 'Mosquito' is a device that makes an unpleasant high-pitched noise that only those under 25 can hear. It is designed to stop groups of young people gathering outside shops and public places. The use of 'Mosquitos', predominantly by shopkeepers, is discriminatory, counter-effective, has health effects and causes severe discomfort, especially to those with autism who find the noise emitted incredibly distressing. It has been criticised by the UN Committee who stated that "they may violate the rights of children to freedom of movement and peaceful assembly" under article 15 of the UNCRC. Andrew Deans of the Scottish Youth Parliament (SYP) has been petitioning the Scottish Parliament Public Petitions Committee on this issue.

Thanks to a partnership between the SYP and the Scottish Parliament's Public Petitions Committee, I was able to submit a public petition to MSPs on the committee with the backing of the SYP in October 2010. The petition, to ban the 'Mosquito' device, was based on a motion I put to the SYP for a vote earlier that year, meaning it had the support of representatives of the young people of Scotland.

In submitting my motion I became the first person to give evidence to a Scottish Parliament committee in the chamber itself. The committee asked a series of tough but important questions, and agreed to write to a number of stakeholders including the Scottish Government.

Since then the committee have considered the petition numerous times, and each time they have demonstrated not only a great deal of interest in the subject, but a great deal of interest in pushing for the change the SYP have asked for. They have grilled the government in several letters, and also brought the then Minister for Community Safety, Fergus Ewing, before them to give a straight answer to the questions – this step led to a change in the Scottish Government's position from a lack of a clear policy to a direct statement that they do not support the use of the Mosquito in Scotland. I have also had the chance to give evidence again, this time alongside a representative of the National Autistic Society Scotland and the inventor and manufacturer of the Mosquito device. A lot of the evidence in this section focused on the UNCRC and ECHR, and their compatibility (or otherwise) with the device.

Although change has been extremely slow, the committee itself has been fantastic, refusing to let the issue be dropped off the political agenda. Awareness of the issue amongst MSPs has increased dramatically, and it certainly has been brought onto the government's radar. In short, I think the Public Petitions system is a great mechanism for raising issues on Children's Rights in Scotland and getting assistance from decision makers in improving Scotland's policies in this area.

3.1

Right to privacy

⁶⁶ United Nations (1989) Convention on the Rights of the Child. Article 16

Article 16 of the UNCRC states that ‘no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence...’⁶⁶ The right to privacy is a relatively new area of concern to children’s organisations in Scotland and very little discussion of this right took place in the UN Committee’s last examination of the UK in 2008. Real concerns have been raised around the potential impact that embedding GIRFEC through the forthcoming *Children and Young People Bill* may have on this right.

⁶⁷ Scottish Government (2011). Consultation on the Rights of Children and Young People Bill

Children’s organisations recognise the challenge of balancing the right to privacy with the need to share appropriate information to safeguard children. Whilst the appropriate sharing of information is to be welcomed when it better protects children, children’s organisations have put forward a great deal of anecdotal evidence that the GIRFEC is resulting in a lack of privacy and confidentiality for children. The proposals in the *Children and Young People Bill*⁶⁷ consultation for every child to have a ‘named person’ will have direct impact on the sharing and storing of information especially with regards to paper and online files, through transitions and at multi agency meetings.

⁶⁸ ChildLine Scotland and the Centre for Learning in Child Protection (2011). *Finding the balance: Children’s right to confidentiality in an age of information sharing*

To rise to this challenge, children’s organisations would like to see the Scottish Government introduce more robust information sharing protocols. These need to be supported by clear guidance from SCCYP and the Information Commissioner. Recommendations made by children’s organisations chime closely with those made in a paper from ChildLine Scotland and the Centre for Learning in Child Protection in September 2011.⁶⁸ These include:

- Overarching principles and values around confidentiality and information sharing must be agreed. There should be consolidation of the same coherent message with regards to confidentiality across all relevant guidance to ensure a clear and shared understanding amongst all partner agencies.
- There should be a strong position statement in GIRFEC on the importance of respecting children’s confidentiality as a fundamental principle and on the parameters on information sharing.
- The position statement in GIRFEC should be supported through multi agency child protection training with a clear emphasis on confidentiality and information sharing to increase practitioner confidence and support professional judgement.
- The principles and values around confidentiality and information sharing should be properly explained to children. There should be meaningful involvement of children in decisions and their consent should be sought to share information wherever possible.

Rec

Together’s recommendations

- The Scottish Government should introduce a strong position statement into GIRFEC on the child’s right to privacy. This should outline overarching principles and values around confidentiality and information sharing, drawing from the recommendations contained in ‘*Finding the balance: Children’s right to confidentiality in an age of information sharing*’.

UN Concluding Observations

- Prohibit as a matter of priority all corporal punishment in the family, including through the repeal of all legal defences;
- 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 childrearing.⁶⁹

⁶⁹ Committee on the Rights of the Child (2008). Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4). No 42a, b.

UPR recommendations

- Take measures to ensure the freedom of children from physical punishment in accordance with the Convention on the Rights of the Child. (Norway)⁷⁰
- Introduce a ban on all corporal punishment of children as recommended by the CRC and other treaty bodies. (Finland)⁷¹
- Reconsider its position about the continued legality of corporal punishment of children. (Sweden)⁷²

⁷⁰ United Nation Human Rights Council (2012) Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland

⁷¹ United Nation Human Rights Council (2012) Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland

⁷² United Nation Human Rights Council (2012) Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland

⁷³ United Nation Human Rights Council (2012) Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland

Together's 2011 *State of Children's Rights* report⁷³ recommended that any form of physical violence against a person under 18 should be a criminal offence and that the Scottish Government should remove the defence of '*justifiable assault*.' Despite repeated calls from the UN Committee and more recently through the UK's examination under the *Universal Periodic Review*, children in Scotland still do not have the same protection from assault as adults in law. Once again, children's organisations continue to raise the need for the removal of the defence of '*justifiable assault*' and for the promotion of positive, non-violent parenting methods.

The current '*justifiable assault*' defence undermines the work that professionals are doing with families on positive parenting. The Scottish Government needs to promote positive approaches to discipline within their ongoing policy programmes and public information campaigns. Parents and carers need to be equipped with alternative forms of behaviour management techniques in order to allow them to support and manage difficult behaviour.

Rec

Together's recommendations

The Scottish Government should give children equal protection from assault in law.

⁷⁴ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4)*. No 39.

⁷⁵ Davidson et al. (2005). *Holding Safely: A guide for residential child care practitioners and managers in physically restraining children and young people and The National Care Standards: Care homes for children and young people (2005; revised 2008)*

⁷⁶ Together (2011) *State of Children's Rights in Scotland*

⁷⁷ Care Commission (2008) *Protecting Children and Young People in Residential Care: Are We Doing Enough?*

UN Concluding Observations

- The Committee urges the State party to 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.⁷⁴

Children's organisations report that there is a greater recognition in both residential and secure units that restraint should be a measure of last resort. However, it is clearly still an ongoing issue. Many professionals report that they have worked with a number of children who have raised concerns about being inappropriately restrained within residential placements. This has included restraints happening too soon and not for the right reasons. There seems to be a gap in knowledge between the use of guidance and knowing what might be happening on the ground.⁷⁵ Local authorities and organisations do have local policies on the use of restraint in residential settings. Incident reports are used within residential facilities and secure accommodation; however, there is no public record as to the degree to which further monitoring procedures are used.

Children's organisations recognise that this is an extremely difficult area of practice for those working with vulnerable children. It is recognised that simplistic approaches for improvement are likely to be counterproductive. Practitioners need safe, facilitative forums in which to make sense of the related complexities and to reflect on their own reactions and responses. In the current economic climate where resources and staff time is at a premium, some units have less space and time for the daily handover and the development of such forums is further threatened.

Together's 2011 *State of Children's Rights* report⁷⁶ contained a recommendation that the Scottish Government should 'introduce a robust and comprehensive national recording system across all residential settings...'. This recommendation echoed a recommendation from the Care Commission report, *Protecting Children and Young People in Residential Care*⁷⁷ which stated that 'the Scottish Government, COSLA, appropriate professional organisations, service providers and the Care Commission should work together to promote the use of a standardised system for recording when physical restraint is used...'

Children's organisations state that it is essential that these recommendations are taken forward with immediate effect. This should include a responsibility to monitor the experiences of children and the impact of being restrained, meeting the training needs of staff and creating a positive culture. It should also include the provision of accessible advocacy services to ensure all children have an opportunity to raise any concerns.

Rec

Together's recommendation

The Scottish Government should introduce a robust and comprehensive national recording system across all residential settings to provide consistency in monitoring the use of restraint. Systems should include information such as what triggered the incident, the staff involved, ensuring all procedures were followed and that debriefing is undertaken. Information gathered should be used to review individual care plans as well as policy and guidance and inform staff training and development (repeated from Together's 2011 *State of Children's Rights* report).

⁷⁸ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4)*. No 35.

⁷⁹ Full transcript at: <http://archive.scottish.parliament.uk/s3/committees/petitions/reports-11/pur11-02.htm>

UN Concluding Observations

- Reconsider ASBOs as well as other measures such as mosquito devices insofar as they may violate the rights of children to freedom of movement and peaceful assembly.⁷⁸

There was general consensus among children's organisations that mosquito devices discriminate against children and should be banned as soon as possible (see Scottish Youth Parliament case study). In April 2011, the then Minister for Community Safety, Fergus Ewing MSP, made it clear that the Scottish Government did not support the use of mosquito devices.⁷⁹ However, the Scottish Government has not committed to end their use and children's organisations are still able to cite many examples of mosquito devices, including in school playing fields out of school hours. Together repeats its 2011 recommendation to the Scottish Government.

Rec

Together's recommendation

The Scottish Government should fulfil its commitment to end the use of mosquito devices by actively exploring and making proposals on bringing legislation to ban their use (repeated from Together's 2011 *State of Children's Rights* report).



Chapter

4

Family environment and alternative care

Case study: *The Rights of Children of Prisoners*

The UNCRC seeks to secure for every child the right to know and maintain meaningful relationships with both parents, except where this is not in the child's best interest. Where a child's parent is in prison, visits should be treated as the right of the child, rather than a privilege of the prisoner that can be withdrawn as a disciplinary measure.

The letter below was sent by the Scottish Prison Service (SPS) to a prisoner who had his parent-child visits removed. The punishment, given after the prisoner was caught in possession of a mobile phone, is in addition to what a prisoner without a child would have received. It raises real concerns around how children's rights can be viewed among adult-focussed services, particularly given the incorrect assertions that the UNCRC 'has not yet become a living charter for children of imprisoned parents' and the misrepresentation of a SCCYP report as the source for minimum visits entitlements. This letter clearly illustrates that much more needs to be done to ensure that the adult-focussed services take a child rights approach:

"The decision to remove you from the father & child scheme was made to reflect the serious nature of the report you received. The SPS and the Scottish Government have a clear remit to eradicate the use of mobile phones within prisons due to the serious impact this can have on continued Organised and Serious crime. In light of this, The Criminal Justice and Licensing (Scotland) Act 2010 makes the possession of an unauthorised mobile phone, or any of its component parts a criminal offence.

Your decision to obtain and use a mobile phone whilst in custody was one that you chose as an individual and as such you made a decision to negate the risks involved in this course of action and carry out an illegal act rather than seek the support and assistance of staff.

The Convention on the Rights of the Child has not yet become a living charter for children of imprisoned parents. The shift from prisoners' rights to those of the child of the prisoner has not been made in most countries. Within the Scottish prison system, as in many other countries, visits are seen as 'belonging' to the prisoner and therefore can be taken away from the prisoner as a punishment.

A report by the Scottish Commissioner for Children and Young People, details that in Scotland, untried prisoners are allowed one 30 minute visit per day and convicted prisoners are allowed one 30 minute visit each week or one two hour visit every 28 days. Within – you have access to 5 visits per month which can be taken in any combination of Afternoon, Evening and Weekends this equates to a minimum of 5 hours per month up to 10 hours visiting time.

The governor has the power to refuse or restrict visits on the grounds of security, good order and discipline, or if he or she believes doing so will prevent or discourage crime.

Taking this into account the decision to remove you from the Father and Child scheme is deemed to be appropriate and as such you shall remain off the scheme for a period of 3 months following which you may reapply."

⁸⁰ Scottish Government (2012) *Do the Right Thing progress report.*

The *Do the Right Thing* progress report outlines a number of steps taken by the Scottish Government to improve outcomes for looked after children.⁸⁰ Children's organisations are clear that there is still a long way to go but welcome the Scottish Government's evident commitment.

Corporate Parenting

The focus on defining corporate parenting in the *Children and Young People Bill* consultation is to be welcomed. Children's organisations will be exploring the Scottish Government's proposals in more detail to ensure that a rights-based approach underpins all efforts to improve outcomes for looked after children.

⁸¹ Scottish Government (2011). *Consultation on the Rights of Children and Young People Bill*

Children's organisations continue to report the patchy implementation of services for looked after children across different local authorities. This observation is shared by the Scottish Government in the *Children and Young People Bill* consultation paper.⁸¹ Together's 2011 *State of Children's Rights* report⁸² stated that in 2010, eighteen local authorities (out of a total of thirty-two) had a corporate parenting policy and/or strategy and that others were developing a similar approach. There are no published figures to show whether more local authorities now have such a strategy in place. Anecdotally, children's organisations report that there are still many local authority areas with no corporate parenting strategy. Even in areas that do have a comprehensive strategy, translating it into practice can be a challenge. Training is being delivered in many areas. The work of Who Cares? Scotland on training of elected members on corporate parenting was commended by a number of children's organisations. However, learning is still taking time to filter down to the practice of those working directly with children. Corporate parenting strategies need to be matched by a greater level of collective responsibility between and throughout agencies and the effectiveness of the strategies needs to be closely monitored and evaluated. Such an approach is the only way to encourage the culture change needed to improve outcomes for children.

⁸² Together (2011) *State of Children's Rights in Scotland*

Permanence

Echoing the findings from the Scottish Children's Reporter Administration's report on care and permanence,⁸³ children's organisations expressed particular concern around the backlog in some local authorities in the decision making for permanence for looked after children. They welcomed the steps outlined in the *Do the Right Thing* progress report around implementing the Scottish Government's Care and Permanence Plan and the intention to '*reduce the obstacles which can affect safe, stable and secure placements for looked after children*'.⁸⁴

⁸³ Scottish Children's Reporter Administration (2011) *Care and Permanence Planning for Looked After Children in Scotland*

⁸⁴ Scottish Government (2012) *Do the Right Thing progress report*

The views of the child

There is no indication that significant improvements have been made in ensuring the participation of children in decisions that affect them. Particular concern was raised around establishing the views of children with disabilities and communication difficulties. Decisions are still being dictated by short-term pressures such as what resources are immediately available rather than on the best interests of the child. This risks a higher chance of placement breakdown, causes emotional distress to the child and may be resource intensive in the long-term.

Together's recommendations

The Scottish Government should:

- ensure the forthcoming *Children and Young People Bill* sets out a clear pathway, underpinned by children's rights, that shows how the Bill will produce tangible outcomes for looked after children
- ensure the *National Parenting Strategy* is embraced and understood by those with responsibilities as corporate parents and encourages collective responsibility between and throughout agencies.
- closely monitor and evaluate the effectiveness of corporate parenting strategies and ensure learning is fed back into their development and implementation.

A number of children's organisations have been working with the Scottish Government to support the development of the *National Parenting Strategy*. They have welcomed discussions with the Scottish Government that have included:

- The importance of underpinning the *National Parenting Strategy* with the UNCRC and ensuring the best interests of children is the key goal;
- Ensuring parents get the support they need when they need it;
- Looking at the role of the entire family to strengthen the network around the child to include parents, siblings and carers;
- Acknowledging and addressing the wider issues that can have significant impact on parents and children, for example poverty and drugs and alcohol;
- Tackling child poverty by delivering more support for parents to maximise household resources and improve children's life chances;
- Exploring the issues faced by those who encounter particular difficulties in fulfilling their role as parents, such as parents in prison,⁸⁵ with disabilities or with addiction problems.

⁸⁵ *Delivery of Triple P in prisons as part of a wider roll-out of the programme within Great Glasgow is an excellent example of how this can work in practice.*

It is essential that these key issues and discussions are reflected in the final strategy. In addition, the parenting strategy needs to recognise the positive differences in parenting cultures while recognising where family culture can be used as an excuse to resisting change that benefits children. When launched in October 2012, it is essential that the strategy is genuinely recognised and supported not just by families, but also by corporate parents, and all those working with and for children in health, education and across communities.

Funding

A significant concern was expressed that existing funding for parenting programmes can be opportunistic and inconsistent and can hinder the development of effective programmes. Children's organisations gave the example of the Early Action Fund whereby successful programmes are currently seeing their funding being renewed on a three-monthly basis. The *National Parenting Strategy* should be supported by secure funding for existing evidence-based, effective parenting programmes. This could be achieved by including a list of accredited parenting programmes in the Strategy that local authorities and other service providers would be encouraged to invest in.

Rec

Together's recommendations

The Scottish Government should ensure that the *National Parenting Strategy*:

- is underpinned by the UNCRC and raises awareness of its principles and provisions among parents
- addresses the issues faced by those who encounter particular difficulties in fulfilling their role as parents
- is accompanied by longterm funding commitments to support successful parenting programmes.

⁸⁵ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4)*. No 51.

UN Concluding Observations

- 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
- Provide access to adequate services for recovery, counselling and other forms of reintegration in all parts of the country.⁸⁶

Children's organisations raised many of the difficulties facing children affected by domestic abuse. Such experiences directly infringe many of the rights of children. Witnessing and being subject to domestic abuse significantly impacts the emotional and mental health of children, the effects of which may continue into adulthood. Those whose parent or carer is fleeing domestic abuse are also extremely vulnerable. For example, these children may initially be housed in a refuge sharing a room with a parent or carer and siblings. A lack of housing stock means that they may remain in the refuge for a period of time which greatly affects their right to privacy, a family life and play. It hinders them reaching their potential in school as they worry about their peers finding out about their situation, or often have to change schools to take accommodation in another area. They can then find themselves living away from friends and sometimes supportive extended family. It can be difficult to socialize and make new friends because they don't want others to know they are living in a refuge or the circumstances as to why that came about. Children may have the opportunity to take part in children's activities provided by the refuge but can encounter barriers to their natural friendships and access to social activities.

As domestic abuse is so clearly a children's rights issue, and one that has been raised by the UN Committee, children's organisations would urge the Scottish Government to report on the progress it has made through the *Do the Right Thing* progress report.

⁸⁷ Scottish Government (2008) *National Domestic Abuse Delivery Plan for Children and Young People*

⁸⁸ *Together (2011) State of Children's Rights in Scotland*

Together expressed concern in its 2011 *State of Children's Rights* report that the end of the *National Domestic Abuse Delivery Plan for Children and Young People*⁸⁷ in 2011 might result in domestic abuse losing its profile in the policy and funding agenda.⁸⁸ This remains a concern as some successful projects have had to seek independent funding following the end of Scottish Government funding commitments. Children's organisations would continue to urge the Scottish Government to ensure that the thirteen priority actions from the *National Domestic Abuse Delivery Plan for Children and Young People* are reintroduced into the policy and legislative agenda.

Rec

Together's recommendations

The Scottish Government should ensure that tackling domestic abuse remains high on the policy and funding agenda. Priorities of the three-year *National Domestic Abuse Delivery Plan for Children and Young People* should be embedded into the core work of the Scottish Government, with adequate funding and resources provided to ensure its continued success.

UN Concluding Observations

- Ensure support to children with one or both parents in prison, in particular to maintain contact with the parent(s) (unless this is contrary to their best interests) and to prevent their stigmatization.⁸⁹

UPR recommendation (Slovenia)

- Ensure that the best interests of the child are taken into account when arresting, detaining, sentencing or considering early release for a sole or primary carer of the child, bearing in mind that visits of a parent in prison are primarily a right of the child rather than a privilege of the prisoner that can be withdrawn as a disciplinary measure.⁹⁰

⁸⁹ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4)*, No 45d.

⁹⁰ United Nation Human Rights Council (2012). *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*.

⁹¹ Action for Prisoners' Families, pact, Clinks, and Prison Reform Trust (2007). *Parliamentary briefing – The children & families of prisoners: recommendations for government*.

⁹² Families Outside and Tayside Criminal Justice Partnership. (2004) *'Prison without bars': the experiences of families affected by imprisonment*.

⁹³ Social Exclusion Unit (2002). *Reducing the risk of reoffending by ex-prisoners*

⁹⁴ UN Committee on the Rights of the Child (2012). *Report and Recommendations of the Day of General Discussion on Children of Incarcerated Parents*, para 33.

Each year in the UK, more children experience a parent's imprisonment than a parent's divorce.⁹¹ Children's experience of a family member's imprisonment can be similar to experiencing bereavement, and its effects may include the child 'acting out' or becoming withdrawn, deterioration in performance at school, being bullied or becoming the bully, and increased risk of substance misuse.⁹² Children with a family member in prison suffer from serious mental health issues at three times the rate of other children and are at higher risk of offending and of ending up in prison themselves.⁹³

Following its Day of General Discussion in September 2011, the UN Committee on the Rights of the Child reiterated that children of prisoners have the same rights as other children and that State parties should:

"...ensure that the rights of children with a parent in prison are taken into account from the moment of the arrest of their parent(s) and by all actors involved in the process and at all its stages, including law enforcement, prison service professionals, and the judiciary".⁹⁴

Progress at ensuring children of prisoners are able to access their rights under the UNCRC is slower than is reflected in the *Do the Right Thing* progress report. As mentioned in Chapter 1.6 of this report, although the Scottish Government reports having '*Family Strategy Groups in every prison in Scotland*', this is not the case in practice.

Children of prisoners are regularly discriminated against as a result of their status, particularly as a result of adult-focussed agencies overlooking the rights of children. For example, a Criminal Justice Social Work (CJSW) report provides the courts with the information and advice it needs to decide the most appropriate way to deal with an offender at sentencing stage. The report is meant to take into account any impact on the child and family. However, CJSW reports are only requested in a minority of cases that go to court, and despite recent improvements to the guidance for report-writers and the report template, the impact of different sentencing options on an offender's children and family is not routinely discussed to an adequate extent.

⁹⁵ Multi Agency Public Protection Arrangements (MAPPAs) is the framework which joins up the agencies who manage offenders. The fundamental purpose of MAPPAs is public safety and the reduction of serious harm.

The decision to release a prisoner, including on home leave or Home Detention Curfew, also often does not take the best interests of the child into account. A social work report should be conducted where a prisoner is released to the family home, but these are often conducted by telephone and are only likely to note the impact on a child where there is a known child protection issue. Family participation in risk assessment and risk sentence management processes such as Integrated Case Management only include the family where the prisoner wants this, and prisoners 'opt in' rather than 'opt out' of this participation.

In relation to other decisions that affect children, the decision to release a prisoner often does not take into account the best interests of children. Families tend not to be involved in processes such as MAPPAs⁹⁵ at all, unless social workers raise a specific issue on their behalf. Families may have a history of unreported domestic abuse but are afraid to raise this with prison or social work staff. Families often view pre-release assessments as relating to the prison and not to them; routinely conducting a Child & Family Impact Assessment would be extremely beneficial in identifying the issues the children and families may have in their own right.

⁹⁶ Albeit narrowly in the context of women prisoners; Rule 23 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

Further, decisions that have a direct impact on children, such as the imprisonment of a parent, fail to take the child's best interests into account as a primary consideration, contrary to the terms of the UNCRC. Further, mothers sent to prison are rarely given the opportunity to arrange care for the children prior to their imprisonment, contrary to the 'Bangkok Rules' 2011.⁹⁶

⁹⁷ SCCYP (2011) *Not Seen. Not Heard. Not Guilty. The Rights and Status of the Children of Prisoners in Scotland. Review 2011*

Prison Visitors' Centres are an essential means of ensuring access to support services for families of prisoners, who otherwise tend not to access the support they need. Such Centres act 'as a 'bridge' between prisons and the community, as a tool in building public relations, as a useful neutral venue for engagement with families, and as a 'gateway' for links with community-based support". However, Scotland provides a particularly limited access to such facilities.

Rec

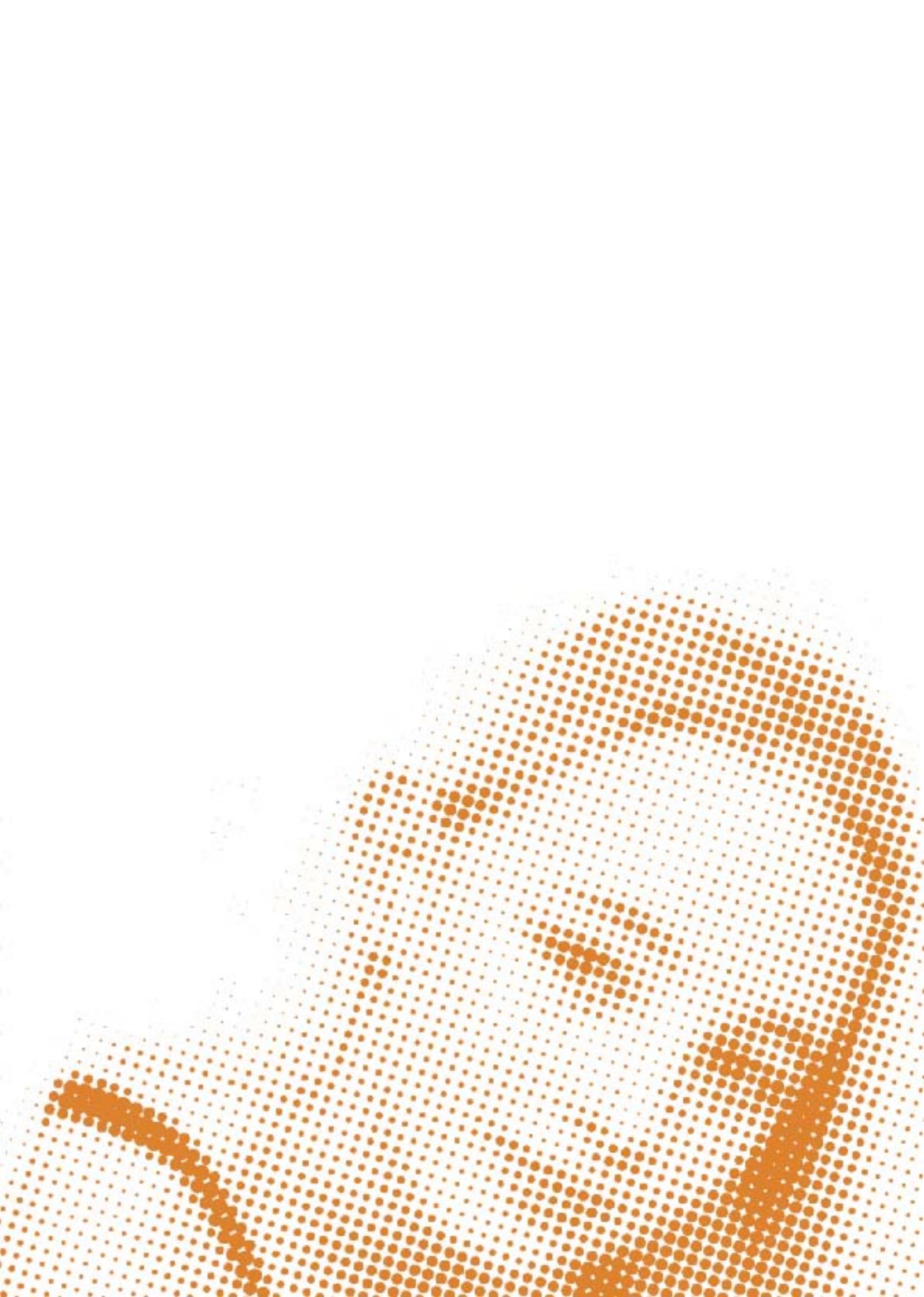
Together's recommendations

The Scottish Government should:

- increase efforts to work with SCCYP to further their recommendations from the 2008 and 2011 reports *'Not Seen, Not Heard, Not Guilty'*;⁹⁷
- ensure that direct support is provided for children of prisoners at school, including improving engagement from schools with parents in prison
- raise awareness throughout the statutory and voluntary sector of the impact of imprisonment on children and their roles and responsibility for addressing this, including amongst adult-focused services
- recognise quality contact with parents in prison as a child's right rather than as a tool for prison discipline.

Child & Family Impact Assessments should be conducted and acted upon throughout the criminal justice process, starting with arrest and continuing through the release of a prisoner (including impact assessments for non-custodial penalties).

The Scottish Prison Service should establish good quality, independently staffed prison visitors' centres at every prison in Scotland to support children and families of prisoners.



Chapter

5

Basic health and welfare

UN Concluding Observations

- Adopt and adequately implement the legislation aimed at achieving the target of ending child poverty by 2020, including by establishing measurable indicators for their achievement
- Give priority in this legislation and in the follow-up actions to those children and their families in most need of support
- When necessary, besides giving full support to parents or others responsible for the child, intensify its efforts to provide material assistance and support programmes for children, particularly with regard to nutrition, clothing and housing.⁹⁸

UPR recommendation (Norway)

- Set out a clear pathway to meet the goal of ending child poverty in the UK by 2020 as stated in the Coalition's programme for government.⁹⁹

⁹⁸ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 65a, b, c.

⁹⁹ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 65a, b, c.

¹⁰⁰ Scottish Government (2012). *Poverty and income inequality in Scotland: 2010-11*

¹⁰¹ End Child Poverty (2012) *Child Poverty Map*

¹⁰² UNICEF UK (2012) *Report Card 10: measuring child poverty*.

¹⁰³ Institute of Fiscal Studies (2012). *Child and Working-Age Poverty from 2010 to 2020*

Poverty continues to affect very many children living in Scotland. At national level one in five children in Scotland are living in poverty.¹⁰⁰ It is an issue across Scotland - in ten local authorities, over 20% of all children are living in poverty.¹⁰¹ Although there was significant progress in tackling child poverty up to 2004/05 this has been followed by a six year period of little change with the number of children experiencing poverty coming to a standstill. Children's organisations are particularly concerned that both relative and absolute child poverty are expected to rocket in coming years and to return to 1999 levels by the end of the decade. It is the impact of experiencing poverty in childhood and the associated denial or rights and negative outcomes that are of greatest concern. UNICEF UK has reported that *'it is becoming increasingly clear that families with children have been among those most affected by the downturn'*.¹⁰² The Institute of Fiscal Studies has predicted that due to changes to the benefits and tax credit system child poverty will rise by 700,000 in the UK by 2020.¹⁰³ This could mean that rather than eradicating child poverty, over 50,000 more children in Scotland will be living in poverty by 2020.

The UK's failure to tackle child poverty has been highlighted internationally, most recently by Norway through the *Universal Periodic Review*.

Child poverty strategy

Children's organisations believe that the *Child Poverty Strategy* sets out the right aims and outcomes, highlights the key issues that need to be addressed and the main policy areas where action is required. If the outcomes and aims are delivered significant progress should be made in tackling child poverty.

However, as referred to in Together's 2011 *State of Children's Rights* report,¹⁰⁴ one of the biggest limitations of the strategy is the lack of a robust process for driving and monitoring progress at local and national level against key outcomes and measures. This raises questions about how to assess the impact of the approach.

¹⁰⁴ Together (2011) *State of Children's Rights in Scotland*

¹⁰⁵ Scottish Government (2011) *Child Poverty Strategy for Scotland*

It is difficult to assess the impact of the Scottish Government's *Child Poverty Strategy for Scotland*¹⁰⁵ to date. On one level the number of child experiencing poverty is due to dramatically increase and this presents a significant challenge. Isolating the impact of the Scottish strategy from other factors that have a impact on reducing child poverty in Scotland, such as UK government policy, is difficult. However, it is possible to measure progress against a range of outcomes for families and children outlined in the strategy and using the national statistics (albeit there is a time lag).

¹⁰⁶ Scottish Government (2012). *Annual report for child poverty strategy for Scotland*

The *Do the Right Thing* progress report outlines the next steps that the Scottish Government will take to tackle child poverty. It refers to the production of an 'annual progress report' on the *Child Poverty Strategy* that will be laid before the Scottish Parliament. The first annual report was presented to the Scottish Parliament in March 2012.¹⁰⁶ Children's organisations did not feel it provided a comprehensive overview of progress. The report concentrated on a list of measures that had been taken by Scottish Government rather than any information on progress against outcomes at national level. It is often unclear how these measures are actually delivering direct action to tackle child poverty.

¹⁰⁷ *Together (2011) State of Children's Rights in Scotland*

The Scottish Government has taken forward some work to support delivery of the strategy at local level, for example the development of a Child Poverty Toolkit. However, the *Child Poverty Strategy* does not have an implementation or action plan as recommended in *Together's 2011 State of Children's Rights* report.¹⁰⁷ It does not include key milestones, targets or actions that will be taken to achieve the outcomes. It is not clear what indicators are used to monitor progress against these outcomes (apart from the national child poverty statistics). Children's organisations believe that an implementation plan containing a robust and consistent set of indicators needs to be used to measure progress against these outcomes.

Welfare Reform Act 2012

¹⁰⁸ *Institute of Fiscal Studies (2012). Child and Working-Age Poverty from 2010 to 2020*

Children's organisations raised concerns that measures within the *Welfare Reform Act 2012* will have a number of negative consequences on families with children and tackling child poverty in Scotland. There is a significant amount of evidence to suggest that low income families with children are being worst affected, will be significantly worse off and become 'poorer' due to welfare reform.¹⁰⁸ The main short term measures that impact on child poverty are changes to taxes and benefits and the provision of well paid, secure jobs for parents. In order to support families living in poverty and to meet the aims of the *Child Poverty Strategy*, it will be necessary to look at how to mitigate some of these impacts. Children's organisations recommended a number of steps that could be taken by the Scottish Government, including:

- Reduce essential living costs for families. Make childcare more affordable to low income families and ensure all children living in poverty are entitled to a free school meal;
- Support parents (particularly mothers) into work. Lack of (and reduced) support with the cost of childcare alongside universal credit payments being withdrawn too quickly will affect parents' ability to take up work and the number of hours they can work.¹⁰⁹
- Analyse the impact of welfare reform on families with children. In order to direct policy effectively there is a need to understand what types of families will be worst affected by changes.

¹⁰⁹ *Save the Children's research found that single parents (90% female) working longer hours (16 hours or more) on low pay and some second earners in couples will be substantially worse off under Universal Credit.*

Child care

A number of children's organisations have highlighted the need to ensure that the *National Parenting Strategy* increases access to affordable, accessible, quality childcare. The stresses of combining work and family life, coupled with difficulties in accessing childcare, can be barriers to good parenting. Affordable childcare enables parents to take up and remain in work. This in turn can raise family incomes and tackle poverty. Work is the best route out of poverty, but for too many parents the high costs of childcare means that work simply doesn't pay. Cost coupled with additional barriers that prevent parents' accessing childcare means that many parents are not able to access suitable childcare. The *National Parenting Strategy* should include a long term plan – including a clear timetable – to extend affordable, high quality and flexible childcare to all parents, beginning with those experiencing poverty.

Rec

Together's recommendations

The Scottish Government should:

- urge the UK Government to accept the recommendation made by Norway through the *Universal Periodic Review* of the UK
- produce an implementation plan for the *Child Poverty Strategy* that includes actions, targets, timescales, and robust monitoring, evaluation and reporting processes to assess the extent of success in improving the standard of living for children in poverty (as recommended in Together's 2011 *State of Children's Rights* report).

UN Concluding Observations

- 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
- 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 institutionalization¹¹⁰

¹¹⁰ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4)*. No 53a,c,d,e

¹¹¹ *Inclusion Scotland (2011) Welfare Reform Briefing*

¹¹² *Contact a Family (2012) Counting the Costs*

¹¹³ *Shared Care Scotland (2011) Respite Care, Scotland 2011*

¹¹⁴ *Scottish Government (2012) Progress report on the action plan of the National Review of Services for Disabled Children and Young People*

¹¹⁵ *Scottish Government (2011) National Review of Services for Disabled Children and Young People, Action 3*

Children's organisations report a lack of consistency in services for children with a disability across Scotland. Services are still a postcode lottery and welfare reform and cuts in services at a local authority level are having a disproportionate impact on children with a disability.

Inclusion Scotland predict that families with a disabled child in Scotland will lose over £3,000 each by 2015 due to cuts in disability premiums and the proposed cap on benefits.¹¹¹ A recent survey of parents of children with a disability showed that survey shows that for those in jobs one in seven (14%) is missing meals and one in six (17%) cannot afford to heat their homes. And, for families not in work due to their caring responsibilities, almost a quarter (24%) is going without food and a third (32%) without heating¹¹²

The provision of respite care for children has decreased in the past year from 14% to 11% of all respite care.¹¹³ Children's organisations report a reduction in the support being given to involve children with additional support needs in mainstream activities. Although there are policies in place at a national and local level to ensure those with additional support needs are able to be involved equally with their peers, in practice a lack of resources and funding means that this does not always take place. Universal services, such as education, play and recreation, need to be seen as truly universal and operated from a basis of equal access for all. The costs of inclusion of disabled children should be an integrated element of planning for all children, for example planning changing rooms in community facilities for those in wheelchairs requiring hoists.

The Scottish Government's *Do the Right Thing* progress report reports on the recent publication of the progress report on the action plan of the *National Review of Services for Disabled Children and Young People*.¹¹⁴ Children's organisations welcome the ongoing work and collaboration with the public and voluntary sector on the action plan. Progress against the actions is slow in many areas, and children's organisations would particularly like to see progress made in the following areas:

- *GIRFEC Practice Briefings*.¹¹⁵ A collection of good practice case studies is being developed into a guide for practitioners working with children with a disability. They are due to be published before the end of December 2012. Then publication of the guidance should be accompanied by a clear dissemination strategy to include not only practitioners but also to policy-makers and parents;

¹¹⁶ Scottish Government (2011) *National Review of Services for Disabled Children and Young People, Action 6*

¹¹⁷ Scottish Government (2012). *Common Core of Skills, Knowledge & Understanding and Values for the "Children's Workforce" In Scotland*

¹¹⁸ <http://www.enable.org.uk/campaigns/current-campaigns/Pages/Rights-of-children-with-learning-disabilities.aspx> (accessed July 2012)

¹¹⁹ Scottish Government (2011) *National Review of Services for Disabled Children and Young People, Action 8*

¹²⁰ Scottish Government (2011) *National Review of Services for Disabled Children and Young People, Action 13*

- **Staff Training.**¹¹⁶ The publication of the *Common Core*¹¹⁷ is stated as the progress against this action. Children's organisations believe that more needs to be done to ensure that the *Common Core* ensures 'the consistency of deployment and training of staff across disciplines relevant to services for disabled children.' Specific training needs to take place to complement the *Common Core*, such as mandatory training on basic behaviour management strategies, autism/learning disability awareness and communications strategies for all staff involved in a child's education, from head teachers to learning support assistants, as called for in Enable Scotland's Campaign, 'Bridging the Training Gap'.¹¹⁸
- **Children's services plans.**¹¹⁹ The Scottish Government acknowledges that there is a 'mixed picture across Scottish local authorities' in identifying outcomes for children in children's plans. *The Children and Young People Bill* should explore how legislation could be used to put pressure on Scottish local authorities to ensure the rights of children with a disability are at the centre of community planning and their outcomes improved.
- **Engagement and Participation of Disabled Children and Young People.**¹²⁰ This action refers specifically to the fSDC Conversations Project. Whilst the project has been highly commended by children's organisations, it is a one-off piece of work and will not ensure that the views of children with a disability are systematically taken into account. The Scottish Government should fulfil its commitment to 'develop an ongoing communications strategy that actively engages disabled children, young people and their families' and ensure the views of children with disabilities are routinely taken into account. The Scottish Government should be seen to lead by example and ensure that it engages with some of the most difficult to reach children in their consultations, such as those who are only able to communicate non-verbally.

Rec

Together's recommendations:

The Scottish Government should:

- accompany the publication of the GIRFEC Practice Briefings with a clear dissemination strategy to include practitioners, policy-makers and parents
- complement the *Common Core* with the recommendations made in Enable's 'Bridging the Training Gap' to include mandatory training on basic behaviour management strategies, autism/learning disability awareness and communications strategies for all staff involved in a child's education
- ensure that the forthcoming *Children and Young People Bill* ensures the rights of children with a disability are at the centre of community planning
- fulfil its commitment to 'develop an ongoing communications strategy that actively engages disabled children, young people and their families' and ensure the views of children with disabilities are routinely taken into account.

UN Concluding Observations

¹²¹ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4)*, No 57.

- The Committee recommends that additional resources and improved capacities be employed to meet the needs of children with mental health problems throughout the country, with particular attention to those at greater risk, including children deprived of parental care, children affected by conflict, those living in poverty and those in conflict with the law.¹²¹

¹²² NHS Health Scotland (2012) *Establishing a core set of national, sustainable mental health indicators for children and young people in Scotland*

The overwhelming feedback from children's organisations is that there is no 'one solution' to promote good mental health from pre-birth to adulthood. Attention needs to be given to establish what is needed and what works for children and families in very different circumstances.

¹²³ Scottish Government (2012) *Mental Health Strategy for Scotland: 2011-15: A Consultation*

There have been a number of developments in the past year. The launch of the *Framework of Child Mental Health Indicators*¹²² was welcomed by children's organisations who want to see them being fed into developing improved services for children. The Scottish Government launched a consultation on the *Mental Health Strategy for Scotland*¹²³ and the final strategy is to be launched in summer 2012. Disappointment was expressed by children's organisations that the mental health of children is rarely referred to in the *Do the Right Thing* progress report. This was seen to reflect a lack of joined up thinking between children's rights and mental health and reinforced the need for the mental health strategy to be underpinned by the UNCRC.

Children's organisations are keen to see the new strategy address the following concerns:

Prevention

The Scottish Government should also ensure its mental health strategy promotes sufficient preventative measures to prevent children from developing more serious mental health problems later in life. The mental health of children must be seen more widely than solely being a medical issue. There should be a focus on promoting steps to positive mental health and the sharing of information about mental health to everyone, especially those who are in contact with children. Parents need to know that all children have mental and physical health and that they should know where to get support if their child's mental health is affected. Social workers, health visitors and teachers are often the first professionals to see a child or young person and they may see behavioural changes that can indicate developing mental health problems.

The role played by the voluntary sector in supporting young people on a variety of issues such as discrimination, isolation, after school care, youth justice and community education is significant. All of these activities contribute to the mental health and wellbeing of children and young people, even though they may not be seen as providing 'mental health' services.

The *Mental Health Strategy* should not be seen in isolation, but rather framed alongside other strategies and policies including the forthcoming *Children and Young People Bill* and *National Parenting Strategy*, alongside those for young carers, looked after children, homeless children and those affected by domestic abuse. This should recognise the impact on children of parental mental health. Investment should incorporate mental health in early years education, early intervention programmes for parents, and early years health visitors trained in mental health.

Child and Adolescent Mental Health Services (CAMHS) provision

¹²⁴ *Together (2011) State of Children's Rights in Scotland*

¹²⁵ *Audit Scotland (2009) Overview of mental health services in Scotland*

As in Together's 2011 State of *Children's Rights* report,¹²⁴ children's organisations continue to report that there is insufficient CAMHS provision to support children with mental health issues. The provision of CAMHS across Scotland is patchy and inconsistent.¹²⁵ The demand on CAMH services across many areas of Scotland remains intense, which leads to delays in children accessing the support they need. Even if the 26-week waiting period target is achieved for some, this still leaves many children waiting too long. A more ambitious target for access to CAMHS is needed to send a message to health boards that this is a priority. In addition, there needs to be more flexibility in delivering CAMHS to include more community partnerships and home based appointments.

Vulnerable groups

Particular attention needs to be paid to those who are more likely to experience mental health difficulties. This includes young carers, young offenders, looked after children and those who've suffered abuse or neglect. A focus also needs to be placed on those who are less able to access appropriate support, such as those living in poverty, in rural areas or with complex disabilities or health problems.

Looked after children

Children who are looked after have experienced difficulties in their lives. Significant numbers of looked after children will have suffered abuse and neglect which is detrimental to their mental health and wellbeing. Whilst there has been recognition of the poor mental health of looked after children in comparison to their peers, there is still considerable work to be done to ensure that all looked after children across Scotland have their mental health needs met.

¹²⁶ *Meltzer, H, Lader, D, Corbin, T, Goodman, R and Ford, T (2004) The mental health of young people looked after by local authorities in Scotland.*

The key findings of the first national survey of the mental health of young people looked after by local authorities in Scotland¹²⁶ found:

- 45% of children (aged 5–17) looked after by a local authority have a diagnosable mental disorder
- Over a fifth (22%) of looked after children surveyed had tried to hurt, harm or kill themselves; this rate was higher for children living in residential unit (39%) compared to those with birth parents (18%) or foster carers (14%)

A recent report on the mental health care needs of looked after children in residential and secure care highlights:

- The need for specialist CAMHS for children who are looked after and accommodated
- Looked after and accommodated children may be four times more likely than the general population to need a specialist intervention, such as psychotherapy.¹²⁷

¹²⁷ *Lachlan, A, Millard, A, Putnam, N, Wallace, A, Mackie, P and Conacher, A (2011) Mental health care needs assessment of Looked after children in residential special schools, care homes and secure care.*

Although the report demonstrates the commitment and passion of the workforce in supporting children, it clearly highlights that there is still considerable work needed to ensure the mental health care needs of looked after and accommodated children are adequately met. Furthermore, the CAMHS provision for looked after children in foster care, kinship care and living with birth families remains unknown.

One of the challenges for a proportion of looked after children is ensuring a continuity of mental health care when there are changes in residential placements. This has been highlighted as particularly problematic when children move to a different health board area. In some cases children are awaiting a CAMH service and, during a move, begin the referral process again in a new health board area. In other instances, the service can be discontinued because a child moves outwith a specific health board area. There should be a continuity in care for looked after children to ensure their mental health needs are effectively met.



Together's recommendations:

The Scottish Government should ensure its mental health strategy promotes sufficient preventative measures to prevent children from developing more serious mental health problems later in life. It should be underpinned by the UNCRC and framed alongside other strategies and policies including the forthcoming *Children and Young People Bill* and *National Parenting Strategy*.

ARTICLE 31

RECOGNISE 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.

RESPECT AND PROMOTE THE RIGHT OF THE CHILD TO PARTICIPATE FULLY IN CULTURAL AND ARTISTIC LIFE AND ENCOURAGE THE PROVISION OF APPROPRIATE AND EQUAL OPPORTUNITIES FOR CULTURAL, ARTISTIC, RECREATIONAL AND LEISURE ACTIVITY.

Chapter

6

Education, leisure and cultural activities

Case study: UNICEF UK's Rights Respecting Schools

The United Nations Convention on the Rights of the Child (CRC) provides the rationale and organising framework for the Rights Respecting Schools Award (RRSA). The UNCRC provides a holistic description of a good childhood characterised by dignity, freedom and agency. The RRSA in Scotland aims to develop awareness and knowledge of the CRC among children and young people, teachers and parents. Rather than representing a 'tokenistic' form of child participation, the RRSA shows how a more meaningful and representative approach can make positive changes in terms of children's voices being heard.

The RRSA provides a coherent values framework which enhances school leadership and helps shape the ethos of the school by providing a children's rights based rationale, unifying a range of policies including Getting it Right for Every Child, Additional Support for Learning Act and the Inclusion Agenda, Education for Sustainable Development, Global Citizenship and Enterprise Education, Eco-Schools and Health Promoting Schools. All four capacities of *Curriculum for Excellence* are developed through RRSA, enabling children to be 'Successful Learners', 'Confident Individuals', 'Responsible Citizens', and 'Effective Contributors.' Education Scotland has also taken a keen interest in RRSA and where schools are involved in the award this tends to be given particular mention in reports.

The RRSA offers schools a strong framework for pupil participation which is based on the rights of the child. Adults work with children and young people in an inclusive way to ensure their views are heard and valued in making decisions which affect them.

There is a widening recognition of the emerging capacities of children to play an increasingly informed and active role in the life of the school. The first schools registered in 2007 and there has been significant growth since 2009. 583 primary schools (24%) (out of a possible 2403) and 74 secondary schools (16%) (out of a possible 456) have embarked on the RRS journey.

In a rights respecting school, participation runs like a thread through all aspects of school life. For children and young people, knowing that they have a right to a voice in decisions which affect them and have an impact on decisions made in the school boosts not only their sense of security but also their self-confidence. This opens the way to developing and applying the skills, language and concepts that allow them to realise these rights for themselves and for others.

The following quote is representative of recent research into rights respecting schools and confirms its impact upon children, teachers and other adults in schools:

"Pupils are given a much greater voice in their learning and staff report seeing the potential of pupils in evaluating teaching and learning. Staff and pupils have developed respect for one another and it has been a shared learning journey"
(Sebba and Robinson, December 2011).

UN Concluding Observations

- Strengthen children's participation in all matters of school, classroom and learning which affect them.¹²⁸

¹²⁸ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4)*, No 67g.

The *Curriculum for Excellence* has been welcomed by children's organisations for taking an approach to learning that should ensure that children are better informed and able to exercise their rights. Children's organisations have commended the way the new curriculum puts the child at the centre of their learning and encourages each individual's participation in their education. They have however raised concerns that there is often still a gap between policy and practice.

Pupil participation in schools is not always meaningful and children's organisations raised many concerns about participation being 'tokenistic' or not inclusive. Examples were given of pupil councils having an unrepresentative focus on more sociable and/or academic children, rigid participation structures and/or a lack of support to enable more vulnerable groups to have their voices heard. More needs to be done to improve the effective participation of children in school through pupil councils, with children's organisations reflecting the findings expressed in the *Having a Say at School* research project:

*"Effective pupil councils are distinguishable from those still in need of major improvement by the quality, frequency and integrity of the communications between: adult advisors and pupil councillors; pupil councillors with each other; the council and other school decision-makers; and, last but far from least, the pupil council and the student body it is meant to both represent and serve."*¹²⁹

¹²⁹ *Children in Scotland*, University of Edinburgh (2010) *Having a Say at School: Research Briefing Paper 5: Pupil Council Effectiveness*

The Scottish Government reports on the launch of the new BeXcellent website¹³⁰ in the progress report which will support children's understanding of, and participation in, the *Curriculum for Excellence*. Children's organisations welcome this new web resource and are promoting it through their services and networks. They are yet to receive feedback as to how well the resource fulfils its aim in practice and would welcome an initiative from the Scottish Government to monitor and evaluate its effectiveness .

¹³⁰ <http://www.bexcellent.org.uk/>

Concerns were raised that there is an increasing presumption among education professionals that all pupils will have access to computers and the internet to do their school work. Despite widespread computer use and internet access across Scotland,¹³¹ children's organisations report that some families, namely those living in poverty, those affected by homelessness,¹³² young carers and children living in rural communities can experience difficulties accessing computers and/or the internet.

¹³¹ *Scottish Government (2011) Digital Participation in Scotland: A Review of the Evidence*

¹³² *Children in Scotland, Shelter (2012) Homeless Not Hopeless*



Together's recommendations

- The Scottish Government should monitor and evaluate the effectiveness of BeXcellent in supporting children's understanding of, and participation in, the *Curriculum for Excellence* .
- The Scottish Government, local authorities and schools should make provision for those pupils unable to access computers and/or the internet by supporting access through after-school study areas within schools and libraries.

UN Concluding Observations

- Continue and strengthen its efforts to reduce the effects of the social background of children on their achievement in school

¹³³ Joseph Rowntree Foundation (2010) 'The Importance of attitudes and behaviour for poorer children's educational achievement'

¹³⁴ Growing Up in Scotland (2011) Research Findings No.2/2011: Growing Up in Scotland: Changes in child cognitive ability in the pre-school years

¹³⁵ Scottish Government (2012) Summary Statistics for attainment, leaver destinations and school meals No.1: 2011 Edition

There is a consistent achievement gap between children who grow up in poverty and their more affluent peers. It emerges early in a child's life and persists throughout the education system. Far too many children growing up in poverty have their life chances seriously damaged by poor educational achievement.¹³³ Children from disadvantaged backgrounds fall behind their peers in cognitive ability as early as 3 years old.¹³⁴ By the time pupils leave school, the attainment level for those from deprived areas is 65% below the Scottish average, and a huge 137% below that of the richest pupils.¹³⁵

The Scottish Government must do more to break the link between growing up in poverty and educational underachievement and protect the rights of children who grow up in poverty. Research has shown that the vast majority – some 86% - of what influences educational achievement actually occurs outside of the school gates. Underperformance at school is often the symptom, not the cause, of the problems facing children such as difficult home circumstances and emotional and behavioural issues. The underlying causes of educational underachievement, including those in the home, must be addressed by working with parents and children from the early years.

These underlying causes are highly complex. A single solution to this problem does not exist. It is possible to identify the key policy areas that will have the greatest impact. This includes:

- Supporting parents in deprived areas to engage in their child's education and provide a positive home learning environment;
- Providing affordable, high quality and extensive early education and care provision for all children in poverty from a young age;
- Delivering additional, targeted investment to pupils living in poverty.

By taking these steps, the Scottish Government can end the educational achievement gap between children from deprived areas and allow children who grow up in poverty to fulfil their potential. The *Curriculum for Excellence, Children and Young People Bill* and *National Parenting Strategy* all offer opportunities to take these steps forward to break the link between growing up in poverty and underachievement at school.

Rec

Together's recommendations

The Scottish Government should use the *Curriculum for Excellence, Children and Young People Bill* and *National Parenting Strategy* to:

- support parents in deprived areas to engage in their child's education
- provide affordable, high quality and extensive early education and care provision for all children in poverty from a young age.

UPR recommendations

- Adopt a strategy so that children of vulnerable groups are not excluded from the education system. (Costa Rica)¹³⁶

¹³⁶ United Nation Human Rights Council (2012) *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*

¹³⁷ SPICE (2012) *Additional Support for Learning Briefing for Education and Culture Committee*

¹³⁸ Scottish Government (2012) *Supporting Children's and Young People's Learning: A Report on Progress of Implementation of The Education (Additional Support for Learning) (Scotland) Act 2004 (As Amended)*

¹³⁹ <http://www.enable.org.uk/campaigns/current-campaigns/Pages/Rights-of-children-with-learning-disabilities.aspx>

¹⁴⁰ <http://scotland.gov.uk/About/Review/NationalPartnershipGroup/srg/srgemit>

¹⁴¹ Scottish Government (2011) *Teaching Scotland's Future - Report of a review of teacher education in Scotland*

More than a quarter of children in some parts of Scotland require additional support during their schooling. The biggest group in need of additional support – more than 20,000 children across Scotland – are those with social, emotional and behavioural difficulties. There are huge inconsistencies in the numbers of children classed as needing additional support in different areas of the country, with one local authority reporting a figure of 28% and another just 7%. These figures suggest that either the incidence and nature of additional support needs differ considerably or that policy, practice and administration varies considerably between local authorities.¹³⁷

As stated in the *Do the Right Thing* progress report, the Scottish Government published a report to Parliament on the implementation of the Additional Support for Learning legislation in early 2012.¹³⁸ The report revealed that more needs to be done to improve the outcomes of those with 'hidden' additional support needs, such as looked after children, those with mental health needs and young carers. It also reported a need to 'share practice to support more consistency in the identification of, and provision for additional support needs.' These findings echo the experience of children's organisations who believe that the issues can be addressed through annual, mandatory training for professionals working with children on their duties under the *Additional Support for Learning Act*.¹³⁹ The report to Parliament will be followed up in summer 2012 by the development of a long-term plan to support the implementation of the legislation.

Training for education professionals in supporting children with additional needs should remain a high priority under the *Additional Support for Learning* long-term plan. It should also be addressed by the Partnership Group¹⁴⁰ set up to implement the recommendations of *Teaching Scotland's Future*.¹⁴¹ Children's organisations are hopeful that this Partnership Group will implement changes to teacher education that will ensure teachers are able to support learners with additional support needs more effectively. This should include ensuring that children's rights are central to all teacher education and take into account the *Common Core*. In addition, teachers need to be supported with specialist and adequate provision in terms of learning support teachers, classroom assistants and links to other professionals including speech therapists, educational psychologists and social workers.

Strathclyde University has recently redesigned its Bachelor Degree in Education to cover particular aspects of inclusive practice and additional support needs in more depth as part of its core curriculum rather than in an optional module. Children's organisations welcome this initiative.

¹⁴² *The amendments to the additional support for learning legislation in 2009 strengthened the existing framework for supporting looked after children in school.*

¹⁴³ *Scottish Government (2011). Summary Statistics for Schools in Scotland.*

¹⁴⁴ *Barnardo's Scotland (2009) Looked after children with additional support needs in Scotland A scoping study*

Looked after children

Looked after children are automatically assumed to have additional support needs, unless their local authority has assessed otherwise.¹⁴² However, the number of looked after children with Co-ordinated Support Plans (CSP) remains low.¹⁴³ Some children's organisations expressed concern that local authorities are using the GIRFEC approaches and principles instead of establishing a CSP (as a CSP is a legally enforceable plan whilst GIRFEC is not). There were also concerns raised about the role of a local authority as a corporate parent potentially conflicting with its role as a service provider, especially regarding challenges to the assessment or provision of additional support to looked after children.¹⁴⁴ Local authorities should ensure that all looked after children are considered for a CSP and that significantly more are given a CSP to support their learning.

Together's recommendations

Rec

The Scottish Government should ensure that that the long-term plan to support the implementation of the Additional Support for Learning legislation:

- addresses the need for specialist and adequate support for teachers in terms of learning support teachers, classroom assistants and links to other professionals
- includes an extensive monitoring and evaluation framework to build a national picture of the provision of additional support for learning to feed back into improving provision and developing practice.

The Partnership Group set up to implement the recommendations of Teaching Scotland's Future should take into account the *Common Core* to ensure that any changes to teacher education are underpinned by children's rights.

Local authorities should ensure that all looked after children are considered for a CSP and that significantly more are given a CSP to support their learning.

¹⁴⁵ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 67f.

¹⁴⁶ *Respectme* (2011) *Cyberbullying survey*

¹⁴⁷ *Zero Tolerance and YWCA Scotland* (2012) *Under Pressure: Preventing Teen Abuse and Exploitation*

UN Concluding Observations

- Intensify efforts to tackle bullying and violence in schools, including through teaching human rights, peace and tolerance.¹⁴⁵

The *Do the Right Thing* progress report makes no reference to efforts to tackle bullying among children. Children's organisations have highlighted the fact that bullying needs to be recognised as an issue outside of the school gates as well as inside them, and that increasingly, more consideration must be given to the impact of cyberbullying. This is reflected in recent research from *respectme*, Scotland's Anti-Bullying Service¹⁴⁶ which found that:

- 16% of young people questioned said they'd been cyberbullied;
- 63% of those knew the person who was bullying them;
- on 40% of these occasions it has carried over into school
- 25% of young people worry about being cyberbullied when online.

Bullying and abuse within teenage relationships was also raised as a concern, reflecting findings from a recent report into teen abuse and exploitation¹⁴⁷ which showed that most youth workers (86.2%) had experience of young people making comments that could be seen as hurtful to others because of their gender, sexuality or sexual behaviour. A clear focus on the development of respectful behaviour and relationships that respect individual's rights must underpin the work delivered in all settings.

The work of *respectme* in delivering anti-bullying services was once again welcomed by children's organisations, as was the Scottish Government's continued funding commitment to the service. The Scottish Government should ensure that bullying and abuse is recognised as a children's rights issue and is reflected as such in its children's rights action plan.

Rec

Together's recommendations

The Scottish Government should:

- ensure that bullying is recognised as a children's rights issue and reflect it as such in future UNCRC progress reports
- continue to commit resources to raise awareness among professionals and children of the nature and impact of cyber-bullying.

UN Concluding Observations

- The Committee recommends 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. 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. 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 activities¹⁴⁸

¹⁴⁵ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 67.

¹⁴⁹ National Heart Forum (2007). *Building Health: Creating and enhancing places for healthy, active lives*

¹⁵⁰ Department for Children Schools and Families, (2008) *Childhood Wellbeing: Qualitative Research Study*

¹⁵¹ National Children's Bureau (2010) *Our place! Playday 2010 research findings*

¹⁵² KIDS (2010) *The health benefits of play and physical activity for disabled children and young people*

Children's organisations report that the child's right to play is still routinely marginalised in Scotland. This is usually as a result of adult agendas, such as risk aversion and the over protection of children;¹⁴⁹ concerns about traffic¹⁵⁰ and communities being hostile to children at play and the presence of young people in public spaces.¹⁵¹ Vulnerable groups, such as children with disabilities, are frequently less able to access play opportunities or enjoy the freedom to take part in age appropriate unsupervised personal time. This can be as a result of feeling unsafe or bullied if they go outside in their communities or they may be excluded from mainstream play opportunities by the design of play spaces or the attitude of other people towards them.¹⁵²

The *Do the Right Thing* progress report refers to *PlayTalkRead* and the Go Play funds. Both initiatives were welcomed by children's organisations with Scotland being heralded as 'leading the way' in having funding specifically for play. Children's organisations feel that the short-term nature of this funding could hinder longer-term progress. Although some children's organisations have benefited from extra play support through the funds, successful projects can struggle to survive with a lack of consistent and permanent funding. It is only with longer-term funding commitments that children's organisations are able to retain skilled play professionals and provide a consistent universal service that is accessible to more vulnerable children. Children's organisations were clear that any future play fund should be longer-term, available to all areas of Scotland and include older children as well as the early years.

Many children's organisations would like to see the Scottish Government introduce a statutory duty for play that ensures all local authorities have a play strategy in place. This should emphasise free play, outdoor play and adventurous play, as well as outlining the steps that will be taken to make provision for those who may face additional barriers to their right to play, such as children with disabilities and other additional support needs, and those from migrant communities.

When launching its *National Parenting Strategy*, the Scottish Government is urged to take into account the importance of supporting parents/carers in understanding the benefit of play and recreation to children beyond just the early years.

Rec

Together's recommendations

The Scottish Government should:

- enable the play sector to thrive and develop through longer funding commitments and increased availability across all areas of Scotland
- introduce a statutory duty for Article 31 of the UNCRC (the right to recreation, play and cultural activities) that ensures all local authorities have an implementation strategy in place
- ensure that the *National Parenting Strategy* supports parents to understand the benefit of play and recreation for children beyond just the early years.

Article 22:

If a child is a
refugee or seeking
refuge, governments
must ensure they
have the same rights
as any other child.

Chapter

7

Special protection measures

Case study: *Legal advice and representation for migrant and refugee children and young people*

Every year, children come to Scotland fleeing persecution from abroad. Some have been trafficked and exploited within our borders. These children are often separated children, meaning they are not cared for by any adult responsible for their welfare and can face daunting barriers in accessing the information and support they need to achieve safety. Article 22 of the UNCRC requires governments to ensure that refugee and asylum seeking children are protected from harm and accorded the same level of care and support as any other child. Article 39 requires governments to ensure that child victims of exploitation, including trafficking, recover and reintegrate in an environment that fosters the health, self-respect and dignity of the child.

The Legal Services Agency's Young Persons' Project, funded by Paul Hamlyn Foundation, provides legal advice and representation to migrant and refugee children and young people (up to age 25) across Scotland. The Project recognises that there can be an unmet legal need in this area and that these children can be vulnerable in their engagement with mainstream legal processes. This is particularly the case where violence, abuse and exploitation have occurred within the UK.

It seeks to empower these children to realise their rights by offering early and effective legal advice and tailoring its approach to the needs of each particular client. The Project also works closely, and in partnership with, statutory and third sector organisations, including the Scottish Guardianship Service.

A separated child, who was located by the police in Scotland, has recently been supported by these projects. He had fled his own country after being a victim of human trafficking and suffering years of severe exploitation. He arrived in the UK with serious physical and mental health problems. He had no English and no documentation to show who he was or what age he was.

He needed to obtain protection in the UK from being returned to his own country but he also needed to feel safe. Very quickly, he had to speak to police, social workers, health professionals, support workers, the Home Office and a lawyer. When the Project and Guardianship Service first met him, he was scared and confused.

The guardian and lawyer worked with him to improve his understanding of the legal processes and the roles of the key professionals responsible for making decisions about him. They linked him with health services, safer accommodation and access to education, and ensured that his age was accepted as well as his previous experiences as a victim of human trafficking. They helped him to prepare and present his claim for international protection in the UK.

The young man has now been recognised as a refugee and continues to work with his lawyer and guardian to secure his access to services on an equal basis to all children across Scotland.

¹⁵³ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/GBR/CO/4)*. No 71a-f.

UN Concluding Observations

- consider the appointment of guardians for unaccompanied asylum-seekers and migrant children
- give the benefit of the doubt in age-disputed cases of unaccompanied minors seeking asylum, and seek experts' guidance on how to determine age.¹⁵³

Guardianship

The Scottish Guardianship pilot service has been commended by children's organisations for supporting unaccompanied asylum-seeking children through the asylum process. The service has been in place since September 2010 and is partly funded by the Scottish Government. The service supports young people, including trafficked young people, through the complex asylum process by:

- helping them understand and navigate the socio welfare and immigration processes;
- offering participation activities to combat social isolation;
- improving the children's and young people's experiences of claiming asylum in Scotland; and
- identifying systemic obstacles and challenges and seeking practical resolutions to such problems in order that the processes may become more child friendly.

¹⁵⁴ Scottish Government (2012) *Do the Right Thing progress report*

In the *Do the Right Thing* progress report, the Scottish Government states that '*continued funding will depend on the shape of future budgets and, of course, on the evaluation findings for the current service.*'¹⁵⁴ Children's organisations would urge the Scottish Government – on receipt of successful evaluation findings – to continue its funding commitment to the project.

Age assessment

As referred to in the *Do the Right Thing* progress report, guidance on age assessment¹⁵⁵ introduced by the Scottish Refugee Council has been welcomed widely by children's organisations. The practice guidance is the first of its kind in the UK and will help social workers in Scotland to conduct the difficult task of accurately assessing the age of young asylum seekers. Young people often arrive seeking asylum without any documentation showing their age and either may not know their age or their appearance makes it hard to judge. Correct age assessment is vital in order to ensure that they are treated as children or young people in the asylum process and get the protection and support that they need. Research has consistently shown that there is no medical way of accurately assessing the age of young people. Concerns around the lack of consistency had been raised a number of times in previous *State of Children's Rights* reports.¹⁵⁶ Children's organisations particularly welcomed the partnership working that has made the age assessment guidance possible: the Scottish Refugee Council has worked closely with Glasgow City Council and partners including COSLA, the Scottish Government and United Kingdom Border Agency (UKBA).

In the last year, there have been three decisions from the Court of Session on the issue of age assessment.¹⁵⁷ The Court of Session, in these decisions, recognises the difficulties in this exercise for public authorities and the courts given there is no known technique or combination of techniques for determining age at a particular moment in time.

¹⁵⁵ http://www.scottishrefugeecouncil.org.uk/news_and_events/latest_news/1725_scottish_refugee_council_launches_guidance_to_help_social_workers_assess_age_of_young_people_seeking_asylum

¹⁵⁶ The Royal College of Paediatrics and Child Health (2007) *Policy statement on the assessment of the age of refugee children.*

¹⁵⁷ *ISA v Angus Council* [2012] CSOH 134, *ALA v Angus Council* [2012] CSOH 135 and *L v Angus Council* 2012 SLT 304.

The Supreme Court, in a decision in 2009,¹⁵⁸ stated that the question of whether someone is a child or not is an issue of fact to be determined by the court. The three decisions from the Court of Session are from the same judge who is not of the opinion that the Supreme Court decision should be followed in Scotland as it is his opinion that the question of whether an individual is a child or not at a particular moment of time is a question of judgment and not fact. Yet this raises the question *'how is the exercise of judgment to be carried out?'* It was noted that measuring the rate of growth is particularly important as if an individual is growing it is likely they are not an adult. The judge noted that it is for consideration whether asylum seekers claiming to be children should have their height measured on arrival or presentation and at six monthly intervals thereafter.

Availability of legal representation

In response to significant concerns raised in the past about the availability of legal representation to asylum-seeking children in Scotland, a new service providing advice in this area was established at the beginning of this year. The Young Persons' Project housed within the Legal Services Agency, and supported by funds from Paul Hamlyn Foundation, provides legal advice to asylum seekers, refugee and migrant children and young people (up to age 25) across Scotland on a range of issues. The project works closely with the Scottish Guardianship Service and other agencies supporting migrant young people and provides a bespoke service, surgery and drop in sessions and telephone advice. It also delivers training and aims to contribute positively to policy making.

This unique service has been warmly welcomed by children's organisations. It has been reported to have quickly made a significant impact in terms of capacity and quality of specialist representation for this particularly vulnerable group of young people. It has received support from the Scottish Government who are advised to look further at this specialist and holistic provision of legal services.

Rec

Together's recommendations

The Scottish Government should:

- continue its funding commitment to the Scottish Guardianship Service
- work with COSLA to continue to support the roll-out of the new age assessment guidance and monitor and evaluate its use
- take steps to ensure that sufficient high quality specialised legal representation is in place for children seeking asylum and for protecting and representing the victims of child trafficking.

¹⁵⁹ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 76.

¹⁶⁰ United Nation Human Rights Council (2012) *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*

¹⁶¹ United Nation Human Rights Council (2012) *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*

¹⁶² UK Government (2011) *Human Trafficking Strategy*

¹⁶³ UK Children's Commissioners (2011) *Mid-term Report to the UK State Party on the UNCRC*

¹⁶⁴ The Council of Europe Convention on Action Against Trafficking in Human Beings and Directive 2011/36/EU of The European Parliament

¹⁶⁵ Equality and Human Rights Commission (2011) *Inquiry into Human Trafficking in Scotland; SCCYP (2011) A safe place for child traffickers? - A scoping study into the nature and extent of child trafficking in Scotland; Equal Opportunities Committee (2010) Inquiry into Migration and Trafficking.*

UN Concluding Observations

- Provide the necessary resources for an effective implementation of the Anti-trafficking Action Plan. It also recommends 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 standards¹⁵⁹

UPR recommendations

- Increase efforts to combat trafficking in persons, particularly to protect women and children. (Spain)¹⁶⁰
- Standardize anti-trafficking responses across the UK insofar as possible given the devolution of law enforcement powers, and appoint a rapporteur in each devolved authority to make critical assessments and improve the UK's overall anti-trafficking response. (United States)¹⁶¹

International obligations

An EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting Its Victims must be transposed into UK law by April 2013. This broadens the definition of trafficking to include people forced into begging or illegal activities. Articles 13-16 of this Directive relate to the provision of specific assistance, support and protection to child victims of human trafficking who are defined as being under the age of 18. The Directive requires individual assessments of the circumstances of each child victim to be carried out with the requirement that a child be provided with a guardian or representative, from the moment a child is identified by the authorities, in a situation where the parents cannot represent the child because of a conflict of interest between them, or because they are absent.

Developments at a UK level

In 2011 the UK Government adopted its *Human Trafficking Strategy*.¹⁶² The UK Children's Commissioners have criticised the fact that this is the first UK Government anti-trafficking strategy that only covers England and Wales.¹⁶³ Scotland is not part of the UK strategy and the Scottish Government has not responded to calls for a Scottish anti-trafficking strategy or action plan. This could leave gaps in the implementation of a number of the UK's international obligations.¹⁶⁴

Developments in Scotland

There have been three key Scottish-wide reports on human trafficking (including child trafficking) in the last eighteen months.¹⁶⁵ All call for the Scottish Government to take a strategic lead in tackling this hidden crime and to look at all aspects, from identification to protection to prosecution. Children's organisations are concerned that there has continued to be no prosecutions on child trafficking grounds in Scotland in 2011 and 2012.

¹⁶⁵ Equality and Human Rights Commission (2011) *Inquiry into Human Trafficking in Scotland*; SCCYP (2011) *A safe place for child traffickers? – A scoping study into the nature and extent of child trafficking in Scotland*; Equal Opportunities Committee (2010) *Inquiry into Migration and Trafficking*.

Local authority social work departments have a statutory obligation to provide care and support for the child victims of trafficking. The Scottish Guardianship Pilot Service also directly supports all separated children including those who may have been trafficked. There is now a specialist Scottish-based legal resource for children who have been exploited on transit to and within the UK. Active research is currently being undertaken by a key academic institution in conjunction with specialist social work teams and there is work being undertaken by Scottish Refugee Council on the processing of claims by child trafficking victims. A recent development is the convening of a Human Trafficking Cross Party Group which will hold its first meeting in September. It is hoped that this will be an active and vibrant group that will seek to resolve and action many of the recommendations in the various reports.

¹⁶⁶ The Scottish Parliament (29 February 2012) *Minutes of Proceedings para 5*

In February 2012, the Scottish Parliament agreed a motion which included ‘...welcoming the Scottish Government’s intention to host a summit with key delivery partners to refresh the strategic direction for policy and delivery in this important area and believes that strategic leadership from government must be provided and urgent action must follow across the range of agencies to tackle human trafficking and its consequences for victims, further welcomes the active cooperation among governments and agencies across the UK’.¹⁶⁶

Children’s organisations welcome the Scottish Parliament’s recognition of the issue and are keen to work with the Scottish Government to host a summit to refresh the strategic direction on trafficking before the end of 2012. The Scottish Government should take a strategic lead in not only reviewing the recommendations from the reports on human trafficking noted above but also reviewing current law and practice to ensure compliance with the EU Directive. Concerns regarding potential non compliance centre around how Scots law defines a child, the appointment of a guardian or representative and the prosecution of potential child victims of human trafficking for offences they have been involved in as a direct consequence of having been trafficked.



Together’s recommendations

The Scottish Government should:

- take forward its commitment to host a summit to refresh the strategic direction on trafficking before the end of 2012
- review the three reports, reflect on the recommendations pertaining to children in each and keep abreast of on-going research and work being undertaken in the voluntary sector
- actively look for trends and learning in the Scottish Guardianship Service and Legal Services Agency project and utilise this to create better identification and protection systems for trafficked children
- keep abreast of discussions held at the Cross Party Group and consider the group as a useful vehicle to push forward many of the unresolved and complicated issues
- update its guidance ‘*Safeguarding Children in Scotland who may have been Trafficked*’;¹⁶⁷
- take the lead to ensure Scotland will be in compliance with the provisions of the EU Directive.

¹⁶⁷ Scottish Government (2008) *Safeguarding Children in Scotland who may have been Trafficked*

¹⁶⁹ Committee on the Rights of the Child (2008). *Concluding Observations: United Kingdom of Great Britain and Northern Ireland* (CRC/C/GBR/CO/4). No 78a-h.

¹⁷⁰ United Nation Human Rights Council (2012). *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*

¹⁷¹ United Nation Human Rights Council (2012). *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*

¹⁷² Together (2011). *State of Children's Rights in Scotland 2011*

¹⁷³ Scottish Government (2012). *Do the Right Thing Progress Report 2012*

UN Concluding Observations

- Raise the minimum age of criminal responsibility in accordance with the Committee's General Comment no. 10.¹⁶⁹

UPR recommendations

- Consider the possibility of raising the minimum criminal age. (Belarus)¹⁷⁰
- Consider the possibility of raising the age of criminal responsibility for minors.(Chile)¹⁷¹

As reported in the 2011 *State of Children's Rights* report,¹⁷¹ the age of criminal responsibility in Scotland currently remains one of the lowest in Europe. The introduction of a minimum age for prosecution set at 12 through the Criminal Justice and Licensing (Scotland) Act 2010 reflects a recognition that the children's hearings system is the appropriate place to do so, rather than the criminal justice system. However, Scotland's very low age of criminal responsibility remains in statute and the 'criminal justice consequences' of referral to the children's hearings system on the offence ground, such as a criminal record, will persist for a number of children as young as 8 even after further changes made in the Children's Hearings (Scotland) Act 2011 come into force.

In the *Do the Right Thing* progress report, the Scottish Government has committed to give 'fresh consideration to raising the age of criminal responsibility from 8 to 12.'¹⁷² This proposal, which addresses a recommendation from the UN Committee, is strongly supported by children's organisations. It is hoped this change could lead to an increased emphasis on addressing the specific needs of children within the justice system which can often include issues such as neglect or abusive treatment. It is therefore welcome that the Scottish Government has pledged to take a fresh look at the issue, and Ministers should take action now.

Rec

Together's recommendations:

The Scottish Government should raise the age of criminal responsibility in line with the UN Committee's General Comment No. 10.



Chapter

8

Summary of Recommendations

Summary of recommendations

Recommendations for the *Children & Young People Bill*

A number of recommendations referred to throughout this report are directed at the proposed *Children and Young People Bill*. The consultation for this Bill closes on 25th September 2012. Together and its members will be reflecting a range of these recommendations in their submissions.

The Scottish Government should ensure that the forthcoming *Children and Young People Bill*:

- sets out a longer-term roadmap towards the full incorporation of the UNCRC into Scots Law.
- provides an overarching child rights framework that embeds the UNCRC throughout national and local governments.
- embeds the use of child rights impact assessments within public bodies .
- accompanies the proposed duty on Ministers in the *Children and Young People Bill* to 'raise knowledge and awareness of the UNCRC' with systematic child rights training across all sectors and management levels.
- sets out a clear pathway, underpinned by children's rights, that shows how the Bill will produce tangible outcomes for looked after children.
- ensures the rights of children with a disability are at the centre of community planning.
- is framed alongside other strategies and policies such as the mental health strategy and *National Parenting Strategy*.

Recommendations for the *National Parenting Strategy*

Many other recommendations referred to throughout this report are directed at the forthcoming *National Parenting Strategy*, which is due to be published by the Scottish Government on 3rd October 2012. A number of children's organisations have already fed back these recommendations to the Scottish Government through the consultation process for the Strategy and would urge that they are taken forward further through its ongoing implementation.

The Scottish Government should ensure that the *National Parenting Strategy*:

- is underpinned by the UNCRC and raises awareness of its principles and provisions among parents
- addresses the issues faced by those who encounter particular difficulties in fulfilling their role as parents
- is accompanied by longterm funding commitments to support successful parenting programmes
- is embraced and understood by those with responsibilities as corporate parents and encourages collective responsibility between and throughout agencies
- is framed alongside other strategies and policies including the forthcoming *Children and Young People Bill* and *Mental Health Strategy*
- supports parents to understand the benefit of play and recreation for children beyond just the early years.

Recommendations referring to the *Common Core*

The final *Common Core of Skills, Knowledge & Understanding and Values for the Children's Workforce In Scotland* was published by the Scottish Government in June 2012. It has been widely welcomed by children's organisations but it is clear that greater awareness of its purpose and content is needed across all those working with and for children.

- All organisations working with and for children should provide child rights training in line with the *Common Core's* skills, knowledge, values and understanding
- The Scottish Government should complement the *Common Core* with the recommendations made in Enable's '*Bridging the Training Gap*' to include mandatory training on basic behaviour management strategies, autism/learning disability awareness and communications strategies for all staff involved in a child's education
- *The Partnership Group* set up to implement the recommendations of *Teaching Scotland's Future* should take into account the *Common Core* to ensure that any changes to teacher education are underpinned by children's rights.

1. General measures of implementation

1.1 Incorporation of the UNCRC into Scots and UK law

The Scottish Government should commit to the incorporation of the UNCRC into Scots law, aiming to layout how it will work towards full incorporation before the UK's next reporting round to the UN Committee on the Rights of the Child in 2014.

1.2 The Children and Young People Bill

The Scottish Government should ensure that the forthcoming *Children and Young People Bill*:

- sets out a longer-term roadmap towards the full incorporation of the UNCRC into Scots Law
 - provides an overarching child rights framework that embeds the UNCRC throughout national and local governments
 - embeds the use of child rights impact assessments within public bodies.
-

1.3 Optional Protocol to the UNCRC on a complaints mechanism

The Scottish Government should urge the UK Government to ratify the Optional Protocol with immediate effect.

1.4 Training of professionals

All organisations working with and for children should provide child rights training in line with the *Common Core*'s skills, knowledge, values and understanding.

The Scottish Government should ensure that the forthcoming *Children and Young People Bill* introduces with systematic child rights training across all sectors and management levels to accompany the proposed duty on Ministers to 'raise knowledge and awareness of the UNCRC'

1.5 Awareness of the UNCRC

The Scottish Government should:

- develop a comprehensive strategy for increasing knowledge and understanding of the UNCRC throughout society so that its principles are known and practised by all. This should include the production and dissemination of child-friendly publications, guidance for professionals and information for families, parents and carers.
- identify and take forward opportunities through the *Curriculum for Excellence* to ensure children are aware of and understand their rights. This should include amending the *Curriculum for Excellence* 'Experiences and Outcomes' and providing practical resources to support teaching.

1.6 *Do the Right Thing* progress report

The Scottish Government should:

- publish the *Do the Right Thing* progress report ‘next steps’ in a separate document and provide information about timelines and a breakdown of activities to allow for progress to be monitored and scrutinised
- develop a set of clear indicators and establish a robust monitoring framework to effectively report on how its policies and initiatives are improving outcomes for children
- ensure that the views of children are clearly reflected in any future UNCRC related action plans and progress reports.

2. General Principles

2.1 Non-discrimination

The Scottish Government should ensure that a comprehensive strategy for disseminating knowledge of the UNCRC (see Chapter 1.5) includes a particular focus on non-discrimination of vulnerable groups, including children with a disability, children of prisoners, LGBT young people, looked after children and black and ethnic minorities.

2.2 Best interests

The Scottish Government should:

- assess the impact of *Getting It Right* on ensuring the best interests principle is at the heart of practice in work with all children from all backgrounds living in all local authority areas. (repeated from *Together’s 2011 State of Children’s Rights* report).
- work with *Children’s Hearings Scotland* to ensure that training for panel members ensures their full knowledge and understanding of the ‘best interests’ principle. Training should further reiterate the important role of the child’s views, along with other factors, in informing decisions about what is in their best interests, and that decisions should only be made in the absence of the child in exceptional circumstances.

2.3 Participation

The Scottish Government should:

- use appropriate methods of communication and a realistic timeframe to engage with all children, including those from marginalised groups. All consultations on matters that affect children should be made available in child-friendly, easy read formats with sufficient time allowed to ensure they understand the concepts in the consultation.
- fulfil its commitment to analyse the responses to the Improving Advocacy Support consultation and publish a report setting out key findings as a matter of priority.

2.4 Right to life and development

The Scottish Government should:

- use the forthcoming published analysis of significant case reviews to inform child protection guidance and practice
- create a centralised database of significant case reviews to analyse trends and provide an evidence base to influence policy and practice.

3. Civil Rights and Freedoms

3.1 Right to privacy

The Scottish Government should introduce a strong position statement into GIRFEC on the child's right to privacy. This should outline overarching principles and values around confidentiality and information sharing, drawing from the recommendations contained in '*Finding the balance: Children's right to confidentiality in an age of information sharing*'.

3.2 Equal protection from assault

Scottish Government should give children equal protection from assault in law.

3.3 Restraint

The Scottish Government should introduce a robust and comprehensive national recording system across all residential settings to provide consistency in monitoring the use of restraint. Systems should include information such as what triggered the incident, the staff involved, ensuring all procedures were followed and that debriefing is undertaken. Information gathered should be used to review individual care plans as well as policy and guidance and inform staff training and development (repeated from Together's 2011 *State of Children's Rights* report).

3.4 Freedom of movement and peaceful assembly

The Scottish Government should commit to end the use of mosquito devices by actively exploring and making proposals on bringing legislation to fully ban their use (repeated from Together's 2011 *State of Children's Rights* report).

4. Family Environment and Alternative Care

4.1 Looked after children

The Scottish Government should:

- ensure the forthcoming *Children and Young People Bill* sets out a clear pathway, underpinned by children's rights, that shows how the Bill will produce tangible outcomes for looked after children
- ensure the *National Parenting Strategy* is embraced and understood by those with responsibilities as corporate parents and encourages collective responsibility between and throughout agencies.
- closely monitor and evaluate the effectiveness of corporate parenting strategies and ensure learning is fed back into their development and implementation.

4.2 National Parenting Strategy

The Scottish Government should ensure that the *National Parenting Strategy*:

- is underpinned by the UNCRC and raises awareness of its principles and provisions among parents
- addresses the issues faced by those who encounter particular difficulties in fulfilling their role as parents
- is accompanied by longterm funding commitments to support successful parenting programmes.

4.3 Domestic abuse

The Scottish Government should ensure that tackling domestic abuse remains high on the policy and funding agenda. Priorities of the three-year *National Domestic Abuse Delivery Plan for Children and Young People* should be embedded into the core work of the Scottish Government, with adequate funding and resources provided to ensure its continued success

4.4 Children of prisoners

The Scottish Government should:

- increase efforts to work with SCCYP to further their recommendations from the 2008 and 2011 reports *'Not Seen, Not Heard, Not Guilty'*;
- ensure that direct support is provided for children of prisoners at school, including improving engagement from schools with parents in prison

- raise awareness throughout the statutory and voluntary sector of the impact of imprisonment on children and their roles and responsibility for addressing this, including amongst adult-focused services
- recognise quality contact with parents in prison as a child's right rather than as a tool for prison discipline.

Child & Family Impact Assessments should be conducted and acted upon throughout the criminal justice process, starting with arrest and continuing through the release of a prisoner (including impact assessments for non-custodial penalties).

The Scottish Prison Service should establish good quality, independently staffed prison visitors' centres at every prison in Scotland to support children and families of prisoners.

5. Basic Health and Welfare

5.1 Child Poverty

The Scottish Government should:

- urge the UK Government to accept the recommendation made by Norway through the *Universal Periodic Review* of the UK
- produce an implementation plan for the *Child Poverty Strategy* that includes actions, targets, timescales, and robust monitoring, evaluation and reporting processes to assess the extent of success in improving the standard of living for children in poverty (as recommended in Together's 2011 *State of Children's Rights* report).

5.2 Children with disabilities

The Scottish Government should:

- accompany the publication of the GIRFEC Practice Briefings with a clear dissemination strategy to include practitioners, policy-makers and parents
- complement the *Common Core* with the recommendations made in Enable's '*Bridging the Training Gap*' to include mandatory training on basic behaviour management strategies, autism/learning disability awareness and communications strategies for all staff involved in a child's education
- ensure that the forthcoming *Children and Young People Bill* ensures the rights of children with a disability are at the centre of community planning
- fulfil its commitment to '*develop an ongoing communications strategy that actively engages disabled children, young people and their families*' and ensure the views of children with disabilities are routinely taken into account.

5.3 Mental health

The Scottish Government should also ensure its mental health strategy promotes sufficient preventative measures to prevent children from developing more serious mental health problems later in life. It should be underpinned by the UNCRC and framed alongside other strategies and policies including the forthcoming *Children and Young People Bill* and *National Parenting Strategy*.

6. Education, Leisure and Cultural Activities

6.1 Participation in school and learning

The Scottish Government should monitor and evaluate the effectiveness of *BeXcellent* in supporting children's understanding of, and participation in, the *Curriculum for Excellence*.

The Scottish Government, local authorities and schools should make provision for those pupils unable to access computers and/or the internet by supporting access through after-school study areas within schools and libraries.

6.2 Equality in education provisions

The Scottish Government should use the *Curriculum for Excellence, Children and Young People Bill* and *National Parenting Strategy* to:

- support parents in deprived areas to engage in their child's education
 - provide affordable, high quality and extensive early education and care provision for all children in poverty from a young age
-

6.3 Additional support for learning

The Scottish Government should ensure that that the long-term plan to support the implementation of the *Additional Support for Learning* legislation:

- addresses the need for specialist and adequate support for teachers in terms of learning support teachers, classroom assistants and links to other professionals
- includes an extensive monitoring and evaluation framework to build a national picture of the provision of additional support for learning to feed back into improving provision and developing practice.

The Partnership Group set up to implement the recommendations of Teaching Scotland's Future should take into account the Common Core to ensure that any changes to teacher education are underpinned by children's rights.

Local authorities should ensure that all looked after children are considered for a CSP and that significantly more are given a CSP to support their learning.

6.4 Bullying

The Scottish Government should:

- ensure that bullying is recognised as a children's rights issue and reflect it as such in future UNCRC progress reports
- continue to commit resources to raise awareness among professionals and children of the nature and impact of cyber-bullying.

6.5 Recreation, play and cultural activities

The Scottish Government should:

- enable the play sector to thrive and develop through longer funding commitments and increased availability across all areas of Scotland
- introduce a statutory duty for Article 31 of the UNCRC (the right to recreation, play and cultural activities) that ensures all local authorities have an implementation strategy in place
- ensure that the *National Parenting Strategy* supports parents to understand the benefit of play and recreation for children beyond just the early years.

7. Special Protection Measures

7.1 Refugee and asylum seeking children

The Scottish Government should:

- continue its funding commitment to the *Scottish Guardianship Project*
- work with COSLA to continue to support the roll-out of the new age assessment guidance and monitor and evaluate its use
- take steps to ensure that sufficient high quality specialised legal representation is in place for children seeking asylum and for protecting and representing the victims of child trafficking

7.2 Child trafficking

The Scottish Government should:

- take forward its commitment to host a summit to refresh the strategic direction on trafficking before the end of 2012
- review the three reports, reflect on the recommendations pertaining to children in each and keep abreast of on-going research and work being undertaken in the voluntary sector
- actively look for trends and learning in the *Scottish Guardianship Service* and *Legal Services Agency* project and utilise this to create better identification and protection systems for trafficked children
- keep abreast of discussions held at the *Cross Party Group* and consider the group as a useful vehicle to push forward many of the unresolved and complicated issues
- update its guidance '*Safeguarding Children in Scotland who may have been Trafficked*';¹⁷⁴
- take the lead to ensure Scotland will be in compliance with the provisions of the *EU Directive*.

7.3 Age of criminal responsibility

The Scottish Government should raise the age of criminal responsibility in line with the UN Committee's General Comment No. 10.

Appendices

1-4

Appendices

Appendix 1: UN Concluding Observations 2008

The following list contains the Concluding Observations from the UN Committee on the Rights of the Child in 2008 relating to the areas identified by Together members and supporters as areas of priority. Questions in the online *State of Children's Rights* survey were related to each Concluding Observation listed. Children's organisations were asked to only respond to those *Concluding Observations* that are of direct relevance to their area of expertise. The *State of Children's Rights* report 2011 is based on their responses. Only *Concluding Observations* referred to in this report are included in this appendix. For the full list of Concluding Observations for the UK, please visit www.togetherscotland.org.uk.

General measures of implementation

UN Concluding Observations 11 and 12 - Incorporation of the UNCRC into UK and Scots law

- The Committee remains concerned that the principles of the Convention are not duly taken into account in all pieces of legislation throughout the country and that the State party has not incorporated the Convention into domestic law nor has ensured the compliance of all legislation affecting children with it. The Committee recommends that the State party continue to take measures to bring its legislation in line with the Convention..

UN Concluding Observation 21 – Training of professionals

- Reinforce adequate and systematic training of all professional groups working for and with children, in particular law enforcement officials, immigration officials, media, teachers, health personnel, social workers and personnel of child-care institutions.

UN Concluding Observation 20 – Awareness of the UNCRC

- The Committee is concerned that there is no systematic awareness-raising about the Convention and that the level of knowledge about it among children, parents or professional working with children is low. Furthermore, the Committee regrets that the Convention is not part of the curriculum in school.

UN Concluding Observation 15 – UNCRC action plan

- Adopt a comprehensive action plan to implement the UNCRC in cooperation with public and private sectors.

General principles

UN Concluding Observation 25 – Non-discrimination

- Take urgent measures to address the intolerance and inappropriate characterization of children, especially adolescents, within the society, including in the media;
- 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 (LBGT); and of children belonging to minority groups;
- 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.

UN Concluding Observations 26 and 27 – Best interests of the child

- The Committee recommends that the State party 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.

UN Concluding Observations 32 and 33 – Participation and respect for the views of the child

- 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;
- Continue to collaborate with civil society organizations to increase opportunities for children's meaningful participation, including in the media.

Civil rights and freedoms

UN Concluding Observation 42 – Corporal punishment

- Prohibit as a matter of priority all corporal punishment in the family, including through the repeal of all legal defences;
- 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 childrearing;
- Provide parental education and professional training in positive child-rearing.

UN Concluding Observation 39 – Restraint

- The Committee urges the State party to 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

UN Concluding Observation 35 – Freedom of movement and peaceful assembly

- Reconsider the ASBOs as well as other measures such as the mosquito devices insofar as they may violate the rights of children to freedom of movement and peaceful assembly.

Family environment and alternative care

UN Concluding Observation 45 – Looked after children

- Avoid having children taken into alternative care as a result of low parental income;
- Monitor the status of children placed in kinship homes, foster care, pre-adoptive homes and other care institutions, inter alia through regular visitations;
- 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;
- Take into account the Committee's recommendations issued at the day of general discussion on children without parental care, held on 16 September 2005.

UN Concluding Observation 51 – Domestic abuse

- 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 victimized once again during legal proceedings;
- Provide access to adequate services for recovery, counselling and other forms of reintegration in all parts of the country.

Basic health and welfare

UN Concluding Observation 65 – Poverty

- Adopt and adequately implement the legislation aimed at achieving the target of ending child poverty by 2020, including by establishing measurable indicators for their achievement;
- Give priority in this legislation and in the follow-up actions to those children and their families in most need of support;
- When necessary, besides giving full support to parents or others responsible for the child, intensify its efforts to provide material assistance and support programmes for children, particularly with regard to nutrition, clothing and housing.

UN Concluding Observation 53 – Children with disabilities

- 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;
- 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.

UN Concluding Observation 53 – Health inequalities

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

UN Concluding Observation 57 – Mental health

- The Committee recommends that additional resources and improved capacities be employed to meet the needs of children with mental health problems throughout the country, with particular attention to those at greater risk, including children deprived of parental care, children affected by conflict, those living in poverty and those in conflict with the law.

Education, leisure and cultural activities

UN Concluding Observation 67 – Education

- Strengthen children’s participation in all matters of school, classroom and learning which affect them.
- 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.
- Continue and strengthen its efforts to reduce the effects of the social background of children in 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, marginalized and school-distant groups.
- Intensify efforts to tackle bullying and violence in schools, including through teaching human rights, peace and tolerance.
- 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.

Special protection measures

UN Concluding Observation 71 – Asylum-seeking and refugee children

- Intensify 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;
- 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.

UN Concluding Observation 76 – Child trafficking

- Provide the necessary resources for an effective implementation of the Anti-trafficking Action Plan. It also recommends 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.

UN Concluding Observations 78 – Age of criminal responsibility

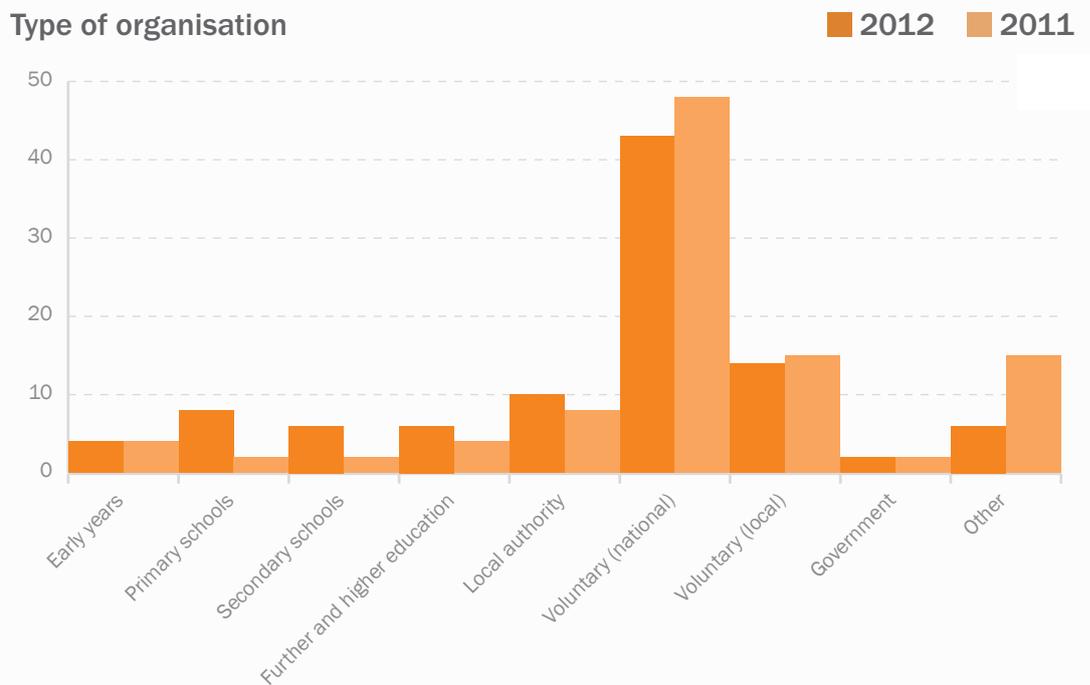
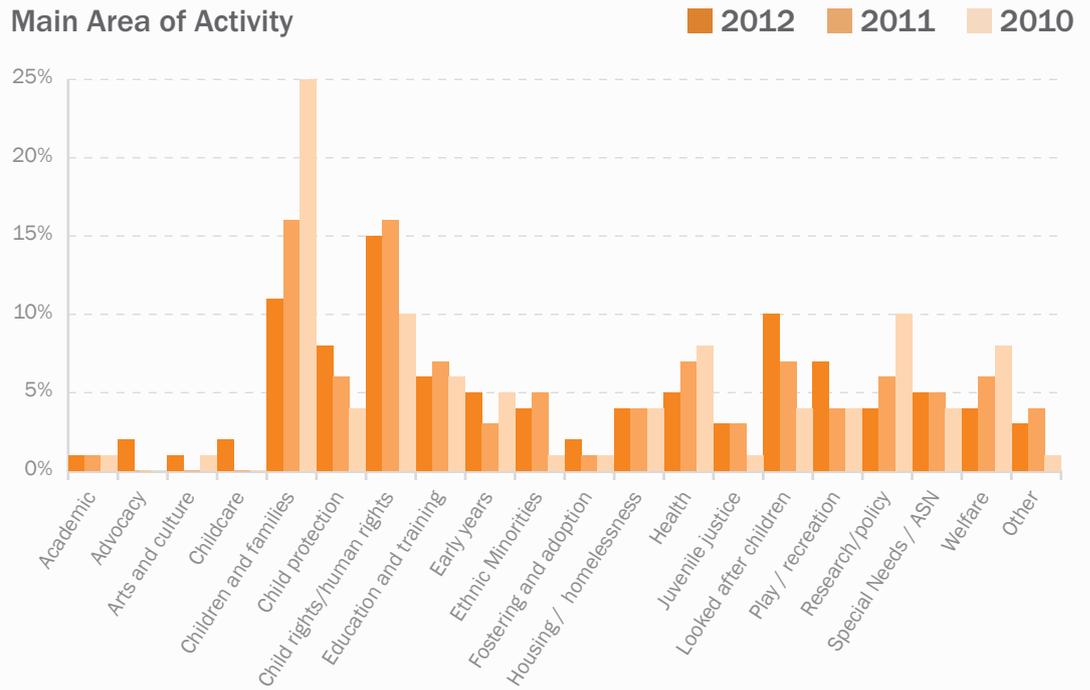
- Raise the minimum age of criminal responsibility in accordance with the Committee’s General Comment no. 10

Appendix 2: Summary of Do the Right Thing actions

Do the Right Thing is the Scottish Government's UNCRC action plan, published in September 2009 in response to the UN Committee's *Concluding Observations* of 2008. In May 2012, the Scottish Government published the *Do the Right Thing* progress report, outlining what progress had been made since September 2009 against each action. A summary of each action area is below. For more details on each action, refer to *Do the Right Thing* (<http://www.scotland.gov.uk/Publications/2009/08/27111754/25>) or the *Do the Right Thing* progress report (<http://www.scotland.gov.uk/Resource/0039/00392997.pdf>)

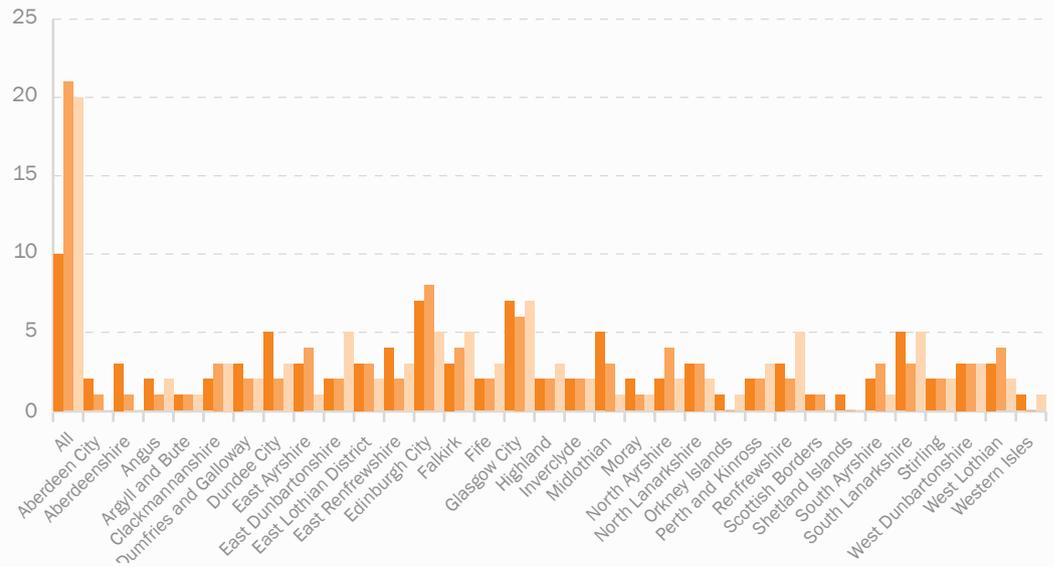
- Action 1.** Ongoing monitoring of the UNCRC in Scotland and development of UK-wide work
- Action 2.** Promoting children's rights in the Scottish Government
- Action 3.** Promotion and awareness raising of UNCRC, including training of professionals who work with children
- Action 4.** Tackling negative perceptions of children and young people
- Action 5.** Gypsy and Traveller children and young people
- Action 6.** Advocacy services for children and young people
- Action 7.** Participation of children and young people in schools
- Action 8.** Mosquito devices
- Action 9.** Promote Positive Forms of Parenting
- Action 10.** Young Carers
- Action 11.** Improve outcomes for looked after children and young people
- Action 12.** Children of Prisoners
- Action 13.** Private Fostering
- Action 14.** Children with Disabilities
- Action 15.** Improve outcomes for teen parents
- Action 16.** Support the delivery of the *Curriculum for Excellence* Education and wellbeing experiences and outcomes
- Action 17.** Child Poverty
- Action 18.** Play
- Action 19.** Better support for unaccompanied asylum seekers
- Action 20.** Child Trafficking and Sexual Exploitation
- Action 21.** 16 and 17 year olds in the youth justice system

Appendix 3: Contributing organisations



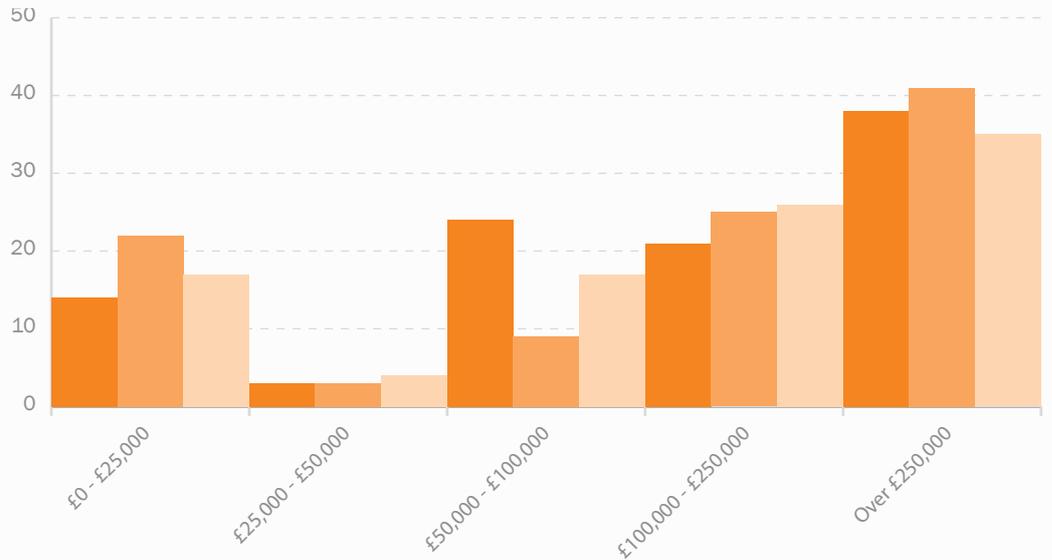
Local Authority Area

2012 2011 2010

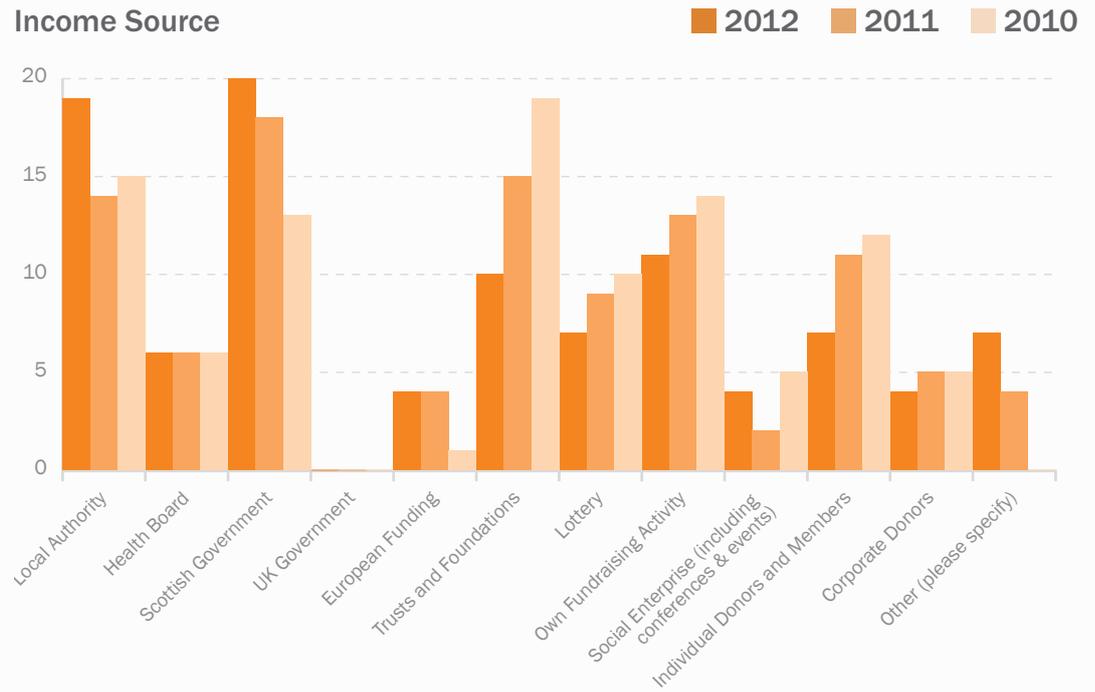


Turnover

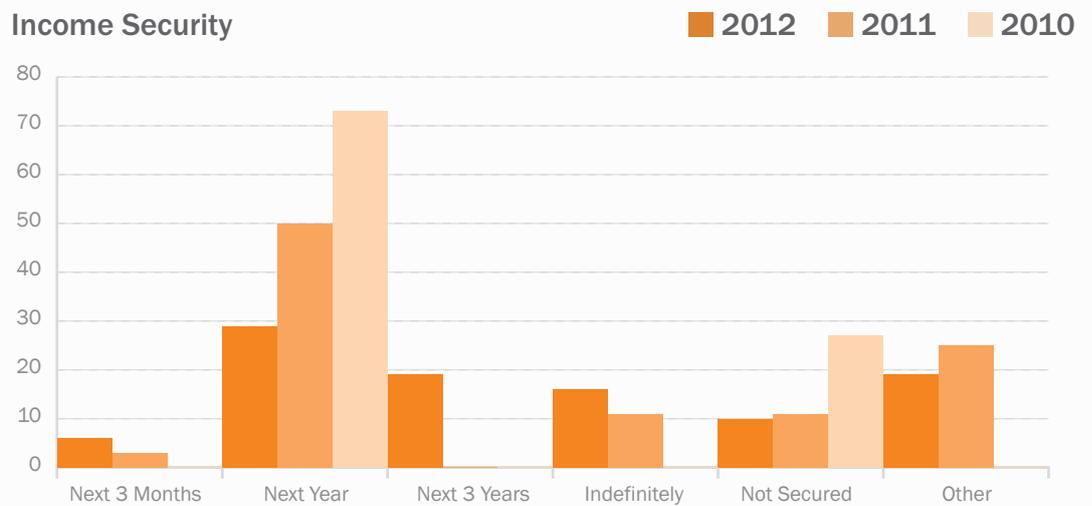
2012 2011 2010



Income Source



Income Security



Appendix 4: Credits

The *State of Children's Rights* report 2012 represents an overall consensus of opinion of NGOs within Together's membership. It does not necessarily represent in all respect or detail the views of every member of Together, nor every organisation that has contributed to this report. Views expressed in separately by Together's members should be also be taken into account. Thanks go to the following organisations for sharing their experiences to inform the preparation of this report:

Contributing Children's Organisations

Action for Sick Children (Scotland)	Lochmaben Playcare
Angus Women's Aid	Loreburn Housing Support Service
Article 12 in Scotland	Moffat Childcare
Barnardo's Scotland	NSPCC
BEMIS	Partners in Advocacy
The Bridge Dumfries & Galloway (DG Play)	PEACE Childcare
British Red Cross	Play Scotland
CELCIS (Centre for Excellence for Looked after Children in Scotland)	Primary PlayCare Ltd
CHILDREN 1ST	The Princess Royal Trust for Carers in Scotland
Children in Scotland	Quarriers
Children's Parliament	respectme - Scotland's Anti-Bullying Service
cl@n childlaw	SASW
Contact a Family Scotland	Save the Children UK
The Corner	Scottish Women's Aid
Drumchapel Children's Rights Project	Scottish Out of School Care Network
East Pollokshields Out Of School Care	Scottish Refugee Council
ENABLE Scotland	Shakti Women's Aid
Families Outside	Skye and Lochalsh Community Care Forum - Young Carers
Geeza Break	Stonewall Scotland
Headway (Dumfries & Galloway) Association Ltd	UNICEF UK
IPA Scotland	Waverley Care
Keys to Inclusion	Who Cares? Scotland
The Kidz Stop Nurseries and Out of School Club	With Kids
Legal Services Agency	Youth Borders

Other contributors

Aberdeen City Council	Dundee City Council
Fife Council	Aberdeenshire Council
East Lothian Council	Glasgow City Council

And many others who did not wish or were unable to be credited.

Thanks

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‘Working to promote
the full implementation
of the UN Convention
on the Rights of the
Child in Scotland’
September 2012



together

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