

Universal Periodic Review: UK 4th Cycle

UN Convention on the Rights of the Child (CRC) – general measures of implementation

Suggested questions for the UK:

- How will the UK Government ensure current rights protections, including enforcement and remedies, enjoyed under the ECHR and the Human Rights Act 1998 and provided for in the *Belfast/Good Friday Agreement* are maintained in any future legislation which amends or repeals this Act?
- When will the UK Government legislate for a Bill of Rights for Northern Ireland, as committed to in the 1998 *Belfast/Good Friday Agreement*?
- What steps are being taken to fully incorporate the UN Convention on the Rights of the Child (CRC) at UK-wide level?
- What steps are being taken to ensure all policy and legislation complies with the CRC, including the use of rights-based budgeting and child rights impact assessments?
- What steps has the UK taken to fulfil its commitment to consider ratification of the third Optional Protocol to the CRC? And will the UK now commit to ratify the third Optional Protocol?

Suggested recommendations for the UK:

- The Human Rights Act 1998 must be maintained. Any changes to the current human rights framework must preserve and build upon current protections and allow for effective judicial remedies.
- The UK and devolved governments should take steps to bring their legislation in line with the CRC, including fully incorporating the CRC and its Optional Protocols into domestic law at the earliest opportunity.
- The UK should ratify the Third Optional Protocol to CRC on a communication procedure with immediate effect.
- The UK and devolved governments should provide evidence of steps taken to ensure children's rights are embedded into decision-making at national and local levels

UK Bill of Rights and the Human Rights Act

Recommendations 134.68 to 134.77 are at serious risk. There is deep concern about UK Government plans to repeal the Human Rights Act 1998 (HRA) and replace it with a 'British Bill of Rights'.¹ An Independent Review commissioned by the UK Government found the HRA had been a success and there was no case for

¹ Together (2022). 130 organisations unite against the Rights Repeal Bill. <https://www.togetherscotland.org.uk/news-and-events/news/2022/07/130-scottish-organisations-unite-against-the-rights-removal-bill-and-ask-uk-government-not-to-scrap-the-human-rights-act/>

radical overhaul.² There is ample evidence of the positive impact the HRA has had on children's rights.³ Nevertheless, the UK Government seeks to remove rights protection by making human rights conditional upon conduct and reducing access to the courts. The obligation on public authorities and courts to read and give effect to legislation in a way which is compatible with Convention rights will also be removed, which will result in a weakening of rights respecting delivery of public services for children. The Bill of Rights also seeks to limit access to rights for certain groups such as children in prison and immigrants undermining the key human rights principle of universality.

The UK Government has failed to properly consider the impact on devolution settlements into which the HRA is embedded. There has been scant regard for operation of the different judicial systems within the UK and engagement with the devolved administrations has been poor, with many of their concerns being ignored. Additionally, the safeguards of the ECHR and HRA, provided for by the Belfast/Good Friday Agreement remain a cornerstone of the finely balanced set of relationships in Northern Ireland and will be violated by the UK Government's current proposals.

Bringing legislation in line with the CRC

There has been some improvement in relation to recommendations 134.59, 134.60, 134.65 and 134.191. The Scottish Parliament unanimously passed a Bill to incorporate the CRC. However, the UK Supreme Court found the Bill had exceeded the powers of the Scottish Parliament and would need amended before it could become law. Almost a year on from this judgment, these amendments have not yet been made. As such, children in Scotland have insufficient legal protection for their rights. There is a need for an audit of existing legislation to assess compatibility with the CRC.

The Welsh Parliament has passed a general and one sectoral legislative measure of implementation: the Rights of Children and Young Persons (Wales) Measure 2011⁴ and section 7 of the Social Services and Well-being (Wales) Act 2014.⁵ The 2011 Measure brings the text of the CRC into the law applicable to Wales. Calls have been made for laws to be strengthened and for full incorporation of the CRC in Wales⁶

There is no equivalent legislation at UK level that gives regard to the CRC and no developments to take forward CRC incorporation. If enacted, the Bill of Rights will severely undermine the ability of children in the UK to enforce their rights in court (where an HRA case involves a child, ECHR rights are interpreted through the lens of the CRC).

Similarly, there is no equivalent legislation in Northern Ireland incorporating the standards of the CRC into domestic law. A standalone Bill of Rights for Northern Ireland was provided for and committed to in the 1998 Belfast/Good Friday Agreement. This Bill of Rights was intended to build upon and expand the protections of the ECHR and is the obvious mechanism to incorporate the CRC domestically. To date, a Bill of Rights for Northern Ireland remains undelivered.

² Independent Human Rights Act Review Panel (2021). The Independent Human Rights Act Review. <https://bit.ly/3L3RgVh>.

³ https://www.togetherscotland.org.uk/media/2234/hra_response_v2_jh.pdf

⁴ Welsh Government (2011) Rights of Children and Young Persons (Wales) Measure 2011 <http://www.legislation.gov.uk/mwa/2011/2/contents>

⁵ Welsh Government (2014) Social Services and Well-being (Wales) Act 2014 http://www.legislation.gov.uk/anaw/2014/4/pdfs/anaw_20140004_en.pdf

⁶ Wales UNCRC Monitoring Group (2020) State of Children's Rights in Wales <https://www.childreninwales.org.uk/professionals/our-work/state-childrens-rights/>

Ratification of the third Optional Protocol to the CRC

There has been no progress in relation to recommendations 134.7, 134.12, and 134.17 to 134.21.

UK Government has stated that it had not signed the Third Optional Protocol as “the UK already has strong and effective laws under which individuals may seek enforceable remedies in the courts or tribunals.”⁷ The Scottish and Welsh Governments have called upon the UK Government to ratify the Protocol.^{8,9} Combined with the increasing lack of domestic remedies, this leaves children with inadequate access to justice when facing breaches of their CRC rights.

Implementation of the CRC

There has been no progress in relation to recommendation 134.59. Much more needs to be done to establish effective CRC coordination and monitoring structures. In England and Northern Ireland there is no individual Minister with responsibility for children’s rights, weakening oversight and accountability. The Welsh Government appointed a minister with oversight of children’s rights but is not a named Minister for Children, with calls for an appointment to be made being rejected. There is only a small team responsible for coordinating CRC implementation, but the establishment of a Children’s Rights Advisory Group to engage with CSOs is a positive development.

In England, there is no children’s rights action plan to address recommendations from the UPR or UN Committee on the Rights of the Child, nor a centrally based, adequately resourced children’s rights team. In Northern Ireland, the Children and Young People’s Strategy was agreed in 2021, however, limited progress has been achieved as a result of the failure to fully restore the structures of devolution (both the Northern Ireland Assembly and Executive) following the Northern Ireland Assembly election in May 2022.

Child rights impact assessments (CRIAs)

Devolved legislation has resulted in the use of CRIA within the Welsh and Scottish Governments, although this can be sporadic.¹⁰ In England, the Government launched a CRIA template in 2018 which is a positive step¹¹ but unlike Wales there is no statutory obligation to conduct CRIAs in all policy areas affecting children. Very few CRIAs have been carried out in England since the template was published.¹² Despite the UK Government’s commitment to: ‘*give due consideration to the UNCRC articles when making new policy and legislation*’,¹³ in practice this is largely absent.

In Northern Ireland there is no statutory obligation to conduct CRIAs and so their use by government departments and public bodies is rare. This has led to insufficient consideration of children’s rights in decision making and heightened risk of children’s rights being breached.

⁷ UK Government (2014) 5th UK Periodic Report to the UN Committee on the Rights of the Child, Paragraph 17

⁸ Welsh Government (2020) Written Response to the Welsh Parliament Children, Young People & Education Committee inquiry into Children’s Rights in Wales <https://business.senedd.wales/documents/s105741/Welsh%20Government%20response%20-%2023%20September%202020.pdf>

⁹ Scottish Government (2020). Policy Memorandum. <https://www.parliament.scot/-/media/files/legislation/bills/current-bills/united-nations-convention-on-the-rights-of-the-child-incorporation-scotland-bill/introduced/policy-memorandum-united-nations-convention-on-the-rights-of-the-child-scotland-bill.pdf>

¹⁰ The Rights of Children and Young Persons (Wales) Measure 2011 imposes a duty on ministers to have due regard to children’s rights as expressed in the CRC. Part one of the Children and Young People (Scotland) Act 2014 requires all Scottish ministers to give better or further effect to the requirements of the CRC; take account of the relevant views of children of which they are aware; promote public awareness and understanding of the rights of children; and report every three years to the Scottish Parliament on what they have done to fulfil these duties.

¹¹ Nadhim Zahawi MP, Parliamentary Under Secretary of State for Children and Families (20 November 2018) Written Ministerial Statement for Universal Children’s Day HCWS1093.

¹² The true scale of how many CRIAs have been conducted is unknown as they are not centrally collected. Most are not published.

¹³ Lord Agnew of Oulton, Parliamentary Under Secretary of State for the School System (20 November 2018) *Written Ministerial Statement for Universal Children’s Day* HLWS1064.

Recommendations referenced from the UK's UPR 2017 (3rd cycle)

134.59	Establish effective coordination and monitoring structures to ensure Convention on the Rights of the Child implementation across national and local governments	Kazakhstan A/HRC/36/9/Ad d.1 - Para. 3	Noted
134.68	Ensure that any legislative changes maintain the same level of human rights protection as HRA	Kazakhstan A/HRC/36/9/Ad d.1 - Para. 3	Noted
134.69	Ensure that any legislative changes maintain the same level of human rights protection as HRA	Kenya A/HRC/36/9/Ad d.1 - Para. 3	Noted
134.70	Ensure that any legislative changes maintain the same level of human rights protection as HRA	Mexico A/HRC/36/9/Ad d.1 - Para. 3	Noted
134.71	Ensure that proposed Bill of Rights does not remove or weaken current protection under HRA.	Namibia A/HRC/36/9/Ad d.1 - Para. 3	Noted
134.72	Take all necessary steps to prevent the new British Bill of Rights from leading to a decreased level of human rights protection	Portugal A/HRC/36/9/Ad d.1 - Para. 3	Noted
134.73	Ensure that any possible reform of the 1998 Human Rights Act has no impact on the scope of protection or the access to the remedies under the ECHR.	Switzerland A/HRC/36/9/Ad d.1 - Para. 3	Noted
134.74	Continue commitment to international human rights obligations and standards and ensure broad based consultations on new legislation, ensure no reduction in rights protection.	Thailand A/HRC/36/9/Ad d.1 - Para. 3	Noted
134.75	Ensure that current level of human rights protection provided by HRA is maintained and improved.	Ukraine A/HRC/36/9/Ad d.1 - Para. 3	Noted
134.76	Conduct extensive consultations with civil society on repeal of HRA. Ensure any new legislation aims at strengthening human rights across all jurisdictions.	Uzbekistan A/HRC/36/9/Ad d.1 - Para. 3	Noted
134.77	Ensure that proposed Bill of Rights does not remove or weaken current protection under HRA.	Belarus A/HRC/36/9/Ad d.1 - Para. 3	Noted
134.59	Establish effective coordination and monitoring structures to ensure CRC implementation across national and local governments	Kazakhstan A/HRC/36/9/Ad d.1 - Para. 3	Noted

134.60	Integrate fully the principles and provisions of the CRC into domestic law	Slovakia A/HRC/36/9/Add.1 - Para. 3	Noted
134.65	Speed up the adjustment of national legislation to the CRC, at UK and devolved levels.	Chile A/HRC/36/9/Add.1 - Para. 3	Noted
134.191	Increase efforts to eliminate child poverty and bring domestic legislation in line with the Convention on the Rights of the Child	Hungary A/HRC/36/9/Add.1 - Para. 3	Supported
134.7	Ratify the Optional Protocol to the CRC on a communications procedure	Portugal A/HRC/36/9/Add.1 - Para. 3	Noted
134.12	Take necessary steps to allow individual complaints mechanisms under the CRC.	Czechia A/HRC/36/9/Add.1 - Para. 3	Noted
134.17	Ratify the Optional Protocol to the CRC on a communications procedure	Slovakia A/HRC/36/9/Add.1 - Para. 3	Noted
134.18	Consider ratifying the Optional Protocol to the CRC on a communications procedure	Georgia A/HRC/36/9/Add.1 - Para. 3	Noted
134.19	Ratify the Optional Protocol to the CRC on a communications procedure	Liechtenstein A/HRC/36/9/Add.1 - Para. 3	Noted
134.20	Ratify the Optional Protocol to the CRC on a communications procedure	Montenegro A/HRC/36/9/Add.1 - Para. 3	Noted
134.21	Consider ratifying the Optional Protocol to the CRC on a communications procedure	Croatia A/HRC/36/9/Add.1 - Para. 3	Noted

About us

Children's Rights Alliance for England (CRAE)

CRAE works with around 100 members to promote children's rights and monitor government implementation of the CRC in England. See: www.crae.org.uk Contact: lking@crae.org.uk

Together (Scottish Alliance for Children's Rights)

Together is an alliance of almost 500 NGO and individual members that works to improve the awareness, understanding and implementation of the CRC in Scotland. See: www.togetherscotland.org.uk Contact: juliet@togetherscotland.org.uk

Wales UNCRC Monitoring Group

The Wales UNCRC Monitoring Group is a national alliance of non-governmental and academic agencies tasked with monitoring and promoting the CRC in Wales. It is currently managed by Children in Wales, the national umbrella organisation. See: www.childreninwales.org.uk Contact: sean.oneill@childreninwales.org.uk

Children's Law Centre

The Children's Law Centre is a registered charity and specialist children's human rights centre in Northern Ireland, founded on the principles enshrined in the CRC. See: www.childrenslawcentre.org.uk Contact: fergalmcFerran@childrenslawcentre.org