
**Improving the Lives of Children in Scotland – are we there yet?
Consultation on the Scottish Government’s response to the 2008 Concluding
Observations from the UN Committee on the Rights of the Child**

Submission by Save the Children

INTRODUCTION

1. Save the Children works to ensure that the rights of children in the UK are protected, promoted and respected in line with UN Convention on the Rights of the Child (UNCRC) and other international human rights instruments. The main theme of our work is tackling child poverty. Children growing up in poverty are denied their right to a decent standard of living and evidence shows that poverty has a negative impact on many other children’s rights. Our other main area of work is in continuing to hold government to account on the policies and legislation they have in place to ensure full implementation of the UNCRC. Our response therefore concentrates on these two areas. In addition, we have commented on the rights of Gypsy/Traveller children, based on our work with that group over the last twenty years.

GENERAL COMMENTS

2. Save the Children welcomes the opportunity to comment on the Scottish Government’s response to the 2008 Concluding Observations from the UN Committee on the Rights of the Child. The production of a comprehensive action plan for progressing children’s rights is one of the key recommendations of the Committee. We therefore welcome the fact that the Scottish Government responded to the Concluding Observations in line with UN Committee’s recommendations and that it has done so in such a prompt and comprehensive way. We hope that the UK Government and other devolved administrations will follow the Scottish Government’s lead in this area. We recognise that there is generally a positive approach within Scottish Government to the recognition of children’s rights in Scotland and that considering the implementation of the Concluding Observations provides a real opportunity to build on this. Save the Children’s comments are based on the UN Committee’s Concluding Observations and General Comments.

ACTION PLAN

3. The implementation of the UNCRC table is a very useful document that sets out progress and what more needs to be done to realise the rights of all children in Scotland. The inclusion of recommendations from NGO’s, SCCYP and other general concerns is welcomed. However, we are concerned that many of the

recommendations in the draft action plan are aspirational rather than concrete actions for change and the actions proposed are not always adequate to fully address the recommendation. Our response outlines the actions we believe the Scottish Government should take to address our priority issues.

4. Save the Children believes the action plan should:
 - provide clear leadership, direction and a vision for the realisation of children's rights in Scotland
 - set out clear, time limited, resourced and focussed actions
 - include a clear set of indicators to measure progress in implementing children's rights
 - include the set of criteria that has been used to decide on the priorities.

5. We believe that the action plan should ensure that the four guiding principles of the Convention are taken forward as priority. These principles should underpin all actions in the plan and should be considered in relation to the development and implementation of all policy affecting children in Scotland:
 - Article 2: the obligation of States to respect and ensure the rights set forth in the Convention to each child within their jurisdiction without discrimination of any kind.
 - Article 3: the best interests of the child as a primary consideration in all actions concerning children.
 - Article 6: the child's inherent right to life and State parties' obligation to ensure to the maximum extent possible the survival and development of the child.
 - Article 12: the child's right to express his or her views freely in 'all matters affecting the child', those views being given due weight.

PRIORITIES

6. Save the Children's three priorities for inclusion in the action plan are:
 - **Implement the general measures of implementation by taking forward the UN Committee's recommendations:**
 - Publish a detailed UNCRC implementation action plan, which includes how the Government will address the Committee's recommendations and how progress will be monitored.
 - Bring legislation in line with the UNCRC.
 - Disaggregate sectoral and total budgets across the State Party to show the proportion spent on children.

- Ensure the involvement of civil society, including children, in the implementation of the UNCRC and the follow up of the Concluding Observations.
- Strengthen its efforts to ensure that all the provisions of the UNCRC are widely known.
- Make a clear commitment to the principle of retaining an independent, separate Commissioner for Children and Young People, that is compliant with the Paris Principles.
- Establish a working group to assess the compatibility of existing legislation with the UNCRC and options for progressing incorporation, including consideration of the proposed UK Bill of Rights.
- **Ensure that no child is denied their right to an adequate standard of living and other rights because they live in poverty:**
 - Publish an implementation plan for tackling child poverty in Scotland, which sets out clearly the resources that are committed to achieving this. The plan should set out how severe poverty will be addressed.
 - Make improving the educational outcomes of children living in poverty a national priority.
 - Consider how the UK Government's Child Poverty Bill could ensure co-ordinated action to eradicate child poverty across UK Government, Scottish Government and Scottish Local Authorities.
- **Ensure that specific action is taken to ensure that Gypsy/Traveller children enjoy the same rights as other Scottish children.**

GENERAL IMPLEMENTATION OF THE UNCRC

7. Save the Children believes that priority should be given in the action plan to effective implementation of the whole Convention. The General Measures relate to the articles of the UNCRC which set out action to be taken by States to ensure that the UNCRC is fully implemented.¹ Reference should be made to the UN Committee on Rights of the Child, General Comment No. 5 on *General measures of implementation of the Convention on the Rights of the Child*.
8. The numbers below refer to the number in the draft action plan table. The points below outline the key actions Save the Children believes need to be taken forward to meet each of the Committee's recommendations. We have also stated whether we agree or disagree with the proposed actions outlined in the consultation document.

¹ The general measures of implementation relate to; article 4, which sets out the State Parties must take 'all appropriate legislative, administrative and other measures' needed for the implementation of the rights set out in the UNCRC; Article 42, which obliges State Parties to make the principles and provisions of the UNCRC widely known to adults and children and article 44.6, which states that States Parties should ensure that State Party and Committee reports are widely available to the public.

9. **(4) Incorporation of UNCRC in domestic legislation.** Save the Children believes that the provisions and principles of the UNCRC should be incorporated into Scottish law. This would considerably strengthen the position of children's rights within Scottish society. However, we recognise that the Government is not supportive of incorporating the Convention into Scots law en bloc. There are a number of steps that could be taken to further progress incorporation. We welcome the actions set out in the consultation paper, and are particularly supportive of the inclusion of a statement on children's rights in the Policy Memoranda accompanying Scottish Government Bills. However, we would like to see the actions in this section strengthened. Rather than 'consider steps', the Scottish Government 'will make recommendations' or 'set out a plan' to further ensure that the principles and provisions of the Convention are taken into account in the development of policy and legislation.

Recommended action

- **Establish a working group to assess the compatibility of existing legislation with the UNCRC and options for progressing incorporation, including consideration of the proposed UK Bill of Rights.**
10. **(5) Co-ordination.** The introduction and expansion of the Children's Rights Team in Scottish Government provides a central drive for co-ordinating action in Scotland. The team has a key role in progressing the implementation of children's rights in Scotland and co-ordinating work across the Scottish Government and with key external partners in Scotland, through the UNCRC Partners Group. However, there also needs to be co-ordination at Ministerial and Cabinet level in Scotland.
11. While we believe that there is a strong partnership for co-ordination at national Scottish level, Save the Children believes it is also critical to ensure strong co-ordination across all levels of Government – local, national, UK and European. Priority should be given to strengthening co-ordination with local authorities and UK Government. We welcome quarterly UK Government meetings on progressing children's rights at civil servant level. However, we also think it is vital that Ministers meet regularly to provide direction.

Recommended action

- **Interministerial body within Scottish Government to progress children's rights across Government.**
 - **Regular Ministerial meetings with UK Government and Devolved Administration on children's rights.**
12. **(6) National plan of action.** Save the Children welcomes the Scottish Government's commitment to developing an action plan for implementation of the UNCRC. We have set out in paragraphs three to six our views on what that action plan should contain and how it should be structured. It is vital that the action plan goes

beyond statements of policy and principle and sets real and achievable targets for implementing the UNCRC in Scotland. The plan must address the rights of all children, particularly identifying marginalised and disadvantaged groups of children, for example Gypsy/Travellers, and giving priority to these groups. General Comment No. 5 states that this may mean that 'special measures need to be taken to address the rights of certain groups'. In addition, the Scottish Government should work with the UK Government to develop an action plan on reserved issues.

13. The plan must include arrangements for monitoring and continuous review. A coherent monitoring framework, the development of a set of agreed indicators and regular reporting would ensure regular monitoring and evaluation of the UNCRC (not only every five years when the UK is under examination). Implementation of the UNCRC is a continuous process. The UN Committee have identified two objectives for use of child rights indicators i) maintaining systematic information systems on children's lives and ii) fulfilling government's obligations by showing progressive realisation of children's rights. Such a framework would also go some way to promoting awareness of the Convention and making it more relevant to policy and practice development. Save the Children welcomes the Government's intention to produce an interim report in 2011.

Recommended action

- ***Develop an action plan to progress the implementation of children's rights in Scotland by May 2008, paying particular attention to identifying and giving priority to marginalised and disadvantaged groups.***
 - ***In consultation with stakeholders, develop a set of child rights indicators by end of 2009 to monitor implementation of the Convention.***
 - ***Work in partnership with the UK Government to develop a UK wide plan of action on reserved issues.***
14. **(7) Independent human rights institution, with responsibility for promoting and protecting children's rights.** Save the Children fully supports the office of Scotland's Commissioner for Children and Young People (SCCYP). The establishment of an independent office was one of the things that the Committee welcomed in their concluding observations. It is therefore of great concern that there are suggestions of merging the office into one human rights body. SCCYP has played a key role in implementing child rights in Scotland so far. Save the Children believes that a separate body is required to fulfil the distinct duties and powers of the Children's Commissioner. There are a number of duties of the office that are specific to children and young people, particularly representing the voice of children and young people. The importance of a dedicated individual who is seen by all parties, both children and adults alike, to take a distinctive and exclusive children's perspective in influencing policy and practice should not be underestimated.

Recommended action

- **Scottish Government make a clear commitment to the principle of retaining an independent, separate Commissioner for Children and Young People, that is compliant with the Paris Principles.**

15. **(8) Allocation of resources.** The way in which budgets are currently constructed in Scotland makes it very difficult to identify what is actually spent on children – at national and local level – and also on particular groups of vulnerable or disadvantaged children. More transparency is needed to ensure that civil society can be aware of the budget allocations for children and whether this money is reaching the intended beneficiaries of particular policies or initiatives. Save the Children’s forthcoming research on public spending on children in the UK, with a focus on children living in poverty, has attempted to illustrate how this could be done.

16. Routine analysis of public expenditure on children is required to understand and monitor what governments are doing to promote the rights and wellbeing of children. The UNCRC Committee believes that ‘States cannot tell whether it is fulfilling children’s rights to the ‘maximum extent of...available resources’, as it is required to do under article 4, unless it can identify the proportion of national and other budgets allocated to children, both directly and indirectly’.² Save the Children believes it is particularly important to establish whether increased/ targeted spending at children living in poverty leads to better and more equitable outcomes for the poorest children, information on the spending on children needs to be considered alongside government policies, strategies and information on the outcomes of these policies for children and young people.

Recommended action

- **Scottish Government and local authorities to make investment in children visible by establishing the necessary systems and mechanisms to collect and publish disaggregated data on expenditure on children (to enable the routine analysis of allocation and use of resources).³ The systems and mechanisms must enable analysis which can demonstrate the extent to which public expenditure is ‘pro-poor’ in terms of both allocation and actual spend.**
- **Scottish Government should take steps to make the budget process more accessible and transparent to professionals, the public and children and young people and seek ways to enable children and young people and their representatives to participate in budget setting and to monitor budget allocation and spend.**

² UN Committee on the Rights of the Child (2003) *General Comment No. 5 General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44)*.

³ This recommendation is in line with recommendations set out in the Committee on the Rights of the Child (2007) *Day of General Discussion on ‘Resources for the Rights of the Child – Responsibility of States*

17. **(9) Children’s Rights Impact Assessments.** The UN Committee has stated that *ensuring that the best interests of the child are a primary consideration in all actions concerning children, and that all the provisions of the Convention are respected in legislation and policy development and delivery at all levels of government demands a continuous process of child impact assessments – predicting the impact of any proposed law, policy or budgetary allocation with affects children and the enjoyment of their rights) and child impact evaluation (evaluating the actual impact of implementation). This process needs to be build into government at all levels and as early as possible in the development of policy (No. 5 para 45).* Save the Children is aware that the Education Directorate assesses government policies for their impact on children (but not necessarily children’s rights) but at present this is not carried out routinely, in a formal or transparent way. The Scottish Government’s *Child Strategy Statement* is a useful tool and consideration should be given to how this document could be developed as part of any impact assessment process.⁴

Recommended action

- **Implement a child rights impact assessment process across Government and Parliament.**
- **Produce guidance on how the general principles of the Convention can be taken into account in all policy development and legislation, as a first step. Consideration should be given to how the Child Strategy Statement could be developed as part of this process.**

18. **(10) Dissemination of UNCRC.** Save the Children supports efforts already made to raise awareness of the UNCRC amongst children, young people and adults. However, the Convention is not widely known in Scotland. Therefore, efforts need to be strengthened to ensure that all the provisions of the UNCRC are widely known. A strategy is required to co-ordinate and drive efforts in this area and identify barriers and gaps in knowledge. The strategy should be produced in partnership with SCCYP, civil society and children and young people – the UNCRC Partners Group would be a useful mechanism. The strategy must be regularly evaluated so that progress can be measured.

Recommended actions

- **Strengthen efforts to ensure that all the provisions of the UNCRC are widely known.**
- **Publish a strategy for raising awareness of the UNCRC, in conjunction with SCCYP and Civil Society.**
- **Regularly evaluate progress in raising awareness of the UNCRC, as part of indicators process.**

⁴ Scottish Government, *Child Strategy Statement*, <http://www.scotland.gov.uk/library3/social/css-00.asp>

18. (11) Education about UNCRC and children's rights and (12) Professional training about UNCRC and children's rights. Efforts to integrate children's rights into the school curriculum and training for professionals across all professions working with children are vital for implementing the whole Convention in Scotland. Clearer direction and priority needs to be given to this. Actions to address this should form part of a strategy for raising awareness of the UNCRC (as suggested above).

Recommended actions

- ***Integrate learning about the Convention into initial and in-service training for professionals working with and for children.***
- ***Integrate learning about UNCRC into key stages of the school curriculum.***

19. (13) Cooperation with civil society. The Scottish Government's continued commitment to work with partners to implement the UNCRC in Scotland is welcomed. Save the Children is a member of the UNCRC Partners Group and fully supports this forum as a mechanism for Government and civil society working together to progress children's rights. Children and young people are a key partner and we urge consideration of how they can be directly involved in the work of the Partners Group. We are aware that the Government has worked directly with children and young people. This is a continuous process and effort should be made to ensure that children and young people are fully involved. It may be helpful to raise awareness of children's rights to publish the remit, membership and work of the group on the Scottish Government website. Save the Children supports the suggested actions set out in the consultation document. However, we would suggest stronger language for working with the Partners Group, rather than 'fully involve' and 'looking to work', use 'work in partnership'.

Recommended actions

- ***Consider how children and young people can be directly involved in the work of the UNCRC Partners Group.***

CHILD RIGHTS ISSUES OF PARTICULAR INTEREST TO SAVE THE CHILDREN

Gypsy/Travellers

20. (14-16) Non Discrimination. The action plan should set out how the rights of most excluded groups of young people will be realised. There is a large amount of evidence that shows that Gypsy/Travellers are amongst the most excluded young people and specific actions are required to ensure their rights are realised. Save the Children's research with children and young people in 2005 found that over 70% of young

Gypsy/Travellers described their situations as the same or getting worse in relation to accommodation, healthcare, education and discrimination⁵. This clearly suggests actions taken by the Scottish Executive and public bodies have not had the intended impact on the lives of young Gypsy/Travellers and their families. The Scottish Parliament's Equal Opportunities Committee Inquiry into Gypsy/Travellers in 2001 made comprehensive and significant recommendations for action. However, many of these have still not been taken forward. Save the Children believes that immediate action is required to progress the rights of these children and young people.

21. The actions suggested in the consultation document in relation to Gypsy/Travellers are vague and will not produce the direction and leadership required to drive action for this group of children, for example, 'take steps to address discrimination'. Actions should prioritise addressing discrimination, accommodation and education. We welcome the inclusion of Gypsy/Travellers in the One Scotland Many Cultures campaign but wish to see a higher priority given to this group and further detail on how children's views will be taken into account. We welcomed the provision of the Housing (Scotland) Act 2001 to require local authorities to assess the accommodation needs of Gypsy/Travellers in their area. However, we are concerned that the basic accommodation needs of Gypsy/Travellers are still not being fully met and urge immediate action to ensure accommodation needs are met. In relation to education, Save the Children is concerned that all action is concentrated on children in schools. Many young Gypsy/Travellers are excluded from school and therefore action must also address this group.

Recommended action

- ***Implement the recommendations of the Scottish Parliament Equal Opportunities Committee Inquiry into Gypsy/Travellers, focusing specifically on tackling discrimination, accommodation and education.***
- ***Gypsy/Travellers must be given a higher profile in anti-discrimination campaigns. A children and young people's stakeholder group should be established to provide advice and information at regular intervals.***
- ***Strong national direction is required to implement strategies to make provision and maintenance of sites parts of mainstream housing provision and encourage all housing providers to make accommodation available to Gypsy/Travellers.***
- ***Take action to support young Gypsy/Travellers excluded from school, in line with the Committee's recommendations.***

⁵ Save the Children (2005) *Having our say, a peer research project with young Gypsy/Travellers in Scotland.*

Child Poverty

22. **(89, 90, 91, 92, 93, 94) – Standard of living.** Save the Children strongly believes that the Action Plan must prioritise tackling child poverty. We share the Scottish Government’s belief that it is ‘morally unacceptable that over 20% of our children still live in poverty’. Children grow up in poverty through no fault of their own. The evidence illustrating the impact poverty has on childhood and on opportunities in later life is strong and compelling. It is clear that poverty affects a child’s right to benefit from an adequate standard of living, as well as several other rights including their right to a quality education, their right to the highest level of health possible and access to health and medical services and their right to participate in leisure and play. Further, the intergenerational cycle of poverty of children growing up poor and becoming poor parents, appears to be escalating⁶. In addition, progress in reducing the numbers of children living in poverty in Scotland has stalled in the last three years.⁷ In order to ensure that every child reaches their full potential we must focus on tackling child poverty. This means taking a long term and preventative approach to raise the standards of living for children and their families. It is essential that this approach is adopted to ensure every child has a positive childhood, greater life chances, and for the future prosperity of Scotland.
23. Save the Children welcomes the publication of the Scottish Government’s anti-poverty framework, *Achieving our potential*. However, we are concerned that there is no clear focus on children and young people. The Scottish Government has stated that it believes the best way to reduce child poverty is through tackling poverty more generally – through *Achieving our potential*, the *Early Years Framework and Equally Well*. Save the Children believes that a co-ordinated approach is required. We believe that the Scottish Government and local authorities in Scotland need to draw out the key actions from the three frameworks into a clear implementation plan for ending child poverty in Scotland by 2020. The plan should clearly outline the resources that are being committed by the Scottish Government and Scottish Local Authorities to achieving the eradication of child poverty.
24. One of the UN Committee’s recommendations was to implement legislation to eradicate child poverty by 2020. Save the Children welcomes the UK Government’s commitment to legislate to eradicate child poverty by 2020. A solid legislative framework will help to ensure that children have their right to an adequate standard of living realised. However, the current proposals do not include duties on the Scottish Government or Scottish Local Authorities. The Scottish Government shares the UK Government’s commitment to ending child poverty by 2020. The powers to take action to end child poverty are shared across all three levels of government. Therefore, to reach the target will require a co-ordinated approach from the UK

⁶ Hirsh, D (2006). *What will it take to end child poverty*, JRF.

⁷ DWP (2008). *Households Below Average Income Statistics 2006/07*.

Government, Scottish Government and Scottish Local Authorities. We believe that the Scottish Government should give serious consideration to how the proposals in the Child Poverty Bill could ensure co-ordinated action to eradicate child poverty across UK Government, Scottish Government and Scottish Local Authorities.

25. Save the Children specifically focuses on those children living in severe and persistent poverty – those termed by the Committee as ‘most in need of support’. We estimate that around 90 000 children in Scotland live in severe poverty and that this number has not changed in recent years. Further, our research suggests that current policies are not reaching these children and young people.⁸ Severe poverty needs to be addressed through policies that maximise parents’ income (through reducing expenditure as well as increasing income), supporting parents into sustainable employment, focus on supporting children in the early years and on reducing educational inequalities of the poorest children.

Recommended actions

- ***Publish an implementation plan for tackling child poverty in Scotland, which sets out clearly the resources that are committed to achieving this. The plan should set out how severe poverty will be addressed.***
- ***Consider how the UK Government’s Child Poverty Bill could ensure co-ordinated action to eradicate child poverty across UK Government, Scottish Government and Scottish Local Authorities.***

26. **(95) Social security.** *Achieving our potential* sets out some important principles in relation to the benefits system. Benefits and tax credits play a vital role in boosting the incomes of families facing poverty, both in and out of work, and are an important tool in the strategy to end child poverty. Yet many families miss out on the benefits and tax credits to which they are entitled either because they do not claim or are unable to challenge poor decision making and administration relating to their claims. Official estimates suggest one in five families fail to claim tax credits worth around £70m in Scotland alone.⁹ There is evidence that families facing the most severe and persistent poverty are not receiving the benefit support they should be. Save the Children research showed that 14% of children living in severe and persistent poverty had not received benefits in the previous 5 years, rising to 68% of children who had experienced severe poverty over a short term.¹⁰ Therefore, promoting the uptake of benefit and tax credits is an important part of the strategy to end child poverty and a key action that the Scottish Government can take.

Recommended action

⁸ Middleton & Magadi (2007). *Severe child poverty in the UK*, Save the Children.

⁹ <http://www.hmrc.gov.uk/stats/personal-tax-credits/takeup-rates2004-05.pdf>

¹⁰ *Britain’s Poorest Children*, Save the Children (2002)

- **Set out a clear plan for promoting the take up of benefit and tax credits in Scotland.**

Poor educational outcomes for children living in poverty

27. **(96) Inequalities in education.** A substantial body of evidence suggests that poverty correlates highly with limited educational opportunities/outcomes. Research also suggests that this link, if anything, is strengthening¹¹. Pupils from the most deprived areas account for higher levels of absence, lower levels of attainment and are more likely to leave school without qualifications. Thus, while the Scottish education system caters well for the majority, it is failing to deliver for the poorest children in our society.
28. Save the Children believes that narrowing the widening gap in educational outcomes for children living in poverty and children from more affluent backgrounds should become a key priority of education policy in Scotland. It is therefore of great concern that this is not a priority in the Scottish Government's frameworks for tackling poverty. Over the long term the improvement in educational outcomes for children from disadvantaged families is a vital part of a strategy to eradicate child poverty and end the intergenerational cycle of child poverty.¹² Save the Children wants every child to have access to a quality education and learning opportunities that support them to reach their 'full potential'.¹³ This is a key area where the Scottish Government could drive action forward and take a preventative approach to ending child poverty to meet the UN Committee's recommendation to 'reduce the effects of social background of children in their achievement in school'.

Recommended action

- **Improving the educational outcomes of children living in poverty should be a national priority.**
- **Implement a co-ordinated and joined up strategy aimed at dramatically improving the educational outcomes for children living in poverty.**

FURTHER INFORMATION:

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¹¹ *Tackling low educational achievement*, JRF (2007) and *Futures Project Analysis Papers*, Scottish Executive (2006)

¹² Hirsh (2006) *What will it take to end child poverty*. JRF

¹³ All children aged 5-16 have a right to an education that develops their 'full potential' as set out in the in the *Standards in Scotland's Schools etc. Act 2000* and article 27 of the UN Convention on the Rights of the Child.