

ABPN Background briefing on Children and Young People's Rights

Purpose

The purpose of this paper is to inform Association of British Paediatric Nurses (ABPN) members about progress in embedding the UN Convention on the Rights of the Child across the UK

Background

In 1989 the *UN Convention on the Rights of the Child*¹, an international human rights treaty focused on children was agreed by world leaders. The Convention recognised that childhood is separate from adulthood and encouraged governments to change laws and policies to safeguard and protect children from violence and exploitation.

The overarching principles are:

- non-discrimination (Article 2)
- the best interests of the child as a primary consideration in all actions concerning children (Article 3)
- a child's right to life and obligations to ensure to the maximum extent possible the survival and development of the child (Article 6)
- a child's right to express his or her views freely in all matters affecting them, with views given due consideration (Article 12).

The Convention has 54 articles that cover all aspects of a child's life and set out the civil, political, economic, social and cultural rights (See Appendix 1: outline summary of the UN Convention on the Rights of the Child).

196 countries have ratified the UN Convention on the Rights of the Child. The UK ratified the Convention in 1991.

The Committee on the Rights of the Child monitors the articulation of a clear national plan for children, monitoring the budget spent on children, impact assessments across all government departments and the appointment of independent children's commissioners, enabling children and young people to have their voices heard at the highest level.

¹ United Nations, 1989, UN Convention on the Rights of the Child - <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>

An overview of the current situation across the UK

Although there has been progress in embedding the UN Convention on the Rights of the Child across the UK, there is still room for improvement.

Relevant legislation and statutory guidance across the UK include:

- *Children's Act 1989*² and *2004*³ places a duty on local authorities to promote co-operation with key partners and local agencies, with a view to improving the well-being of children in the authority's area.
- *Children and Social Work Act 2017*⁴
- *Working Together to Safeguard Children*⁵
- *Children's Social Care Framework*⁶
- *Mental Capacity Act (1983)*⁷ applies to over 16-year-olds in relation to the provision of care and treatment for those with mental health concerns.
- *Human Rights Act (1998)*⁸ relates to children's right to confidential advice and treatment in certain circumstances, and their right to be protected from harm within the justice system.
- *Children Act 2004*⁹, *Children and Families Act 2014*¹⁰ and *Social Services & Well-being Act (Wales) 2014*¹¹
- *Rights of Children and Young Persons (Wales) Measure 2011*¹²
- *Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020* Ending Physical Punishment in Wales¹³
- *Children and Young People (Scotland) Act 2014*¹⁴
- In Scotland, a Bill to incorporate the UN Convention on the Rights of the Child into Scottish Law was accepted by the Scottish Parliament in December 2023 and became an Act in January 2024. The Act was fully enacted on 16th July 2024¹⁵.
- *The Children (Northern Ireland) Order 1995*¹⁶
- *The Safeguarding Board Act (Northern Ireland) 2011*¹⁷
- *The Children's Services Co-operation Act (Northern Ireland) 2015*¹⁸

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https://assets.publishing.service.gov.uk/media/60e6fb43d3bf7f56896127e5/The_Children_Act_1989_guidance_and_regulations_Volume_2_care_planning_placement_and_case_review.pdf

³ <https://www.legislation.gov.uk/ukpga/2004/31/contents/enacted>

⁴ <https://www.legislation.gov.uk/ukpga/2017/16/contents>

⁵ <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

⁶ <https://www.gov.uk/government/publications/childrens-social-care-national-framework>

⁷ <https://www.legislation.gov.uk/ukpga/1983/20/contents>

⁸ <https://www.legislation.gov.uk/ukpga/1998/42/contents>

⁹ <https://www.legislation.gov.uk/ukpga/2004/31/contents>

¹⁰ <https://www.legislation.gov.uk/ukpga/2014/6/contents>

¹¹ <https://www.legislation.gov.uk/anaw/2014/4/contents>

¹² <https://www.legislation.gov.uk/mwa/2011/2/contents>

¹³ <https://www.gov.wales/children-abolition-defence-reasonable-punishment-wales-act-2020-first-data-release-html>

¹⁴ <https://www.legislation.gov.uk/asp/2014/8/contents>

¹⁵ <https://www.legislation.gov.uk/asp/2024/1/contents>

¹⁶ <https://www.legislation.gov.uk/nisi/1995/755/contents/made>

¹⁷ <https://www.legislation.gov.uk/nia/2011/7/notes>

¹⁸ <https://www.legislation.gov.uk/nia/2015/10/contents>

- *The Adoption and Children Act (Northern Ireland) 2022*¹⁹

Children's commissioners

There are children's commissioners in each of the four countries of the UK^{20, 21, 22, 23}. Their role is to promote and protect the rights of children, including promoting awareness of their views and interests. Wales was the first country in the UK to appoint a children's commissioner in 2001²⁴.

Review by the Committee on the Rights of the Child²⁵

The United Nations (UN) Committee on the Rights of the Child (CRC) reviews how well countries are implementing the UN Convention on the Rights of the Child (UNCRC) every five years. Countries that have ratified the UNCRC are required to submit a report to identify progress made, with the committee examining the reports submitted before making recommendations and observations.

Some of the key areas of focus for the UN Committee were:

- Non-discrimination
- Abuse, neglect, and sexual exploitation
- Children deprived of a family environment
- Mental health
- Asylum, refugee, and migrant children
- Children in the criminal justice system
- Child poverty
- Education, leisure, and play

In June 2023, the Committee found there had been some progress but made almost 200 recommendations for the UK to action. These included the need to:

- strengthen efforts to fully incorporate the Convention into national legislation in England, Wales and Northern Ireland
- improve mental health preventative services, access to specialist mental health services for children and young people, as well as the availability of child/young people specific inpatient facilities
- address the underlying causes of poor mental health, eating disorders and self-harm, as well as the number of children and young people living in poverty experiencing food insecurity and homelessness

¹⁹

<https://www.legislation.gov.uk/nia/2022/18/notes/division/2#:~:text=The%20Act%20also%20includes%20measures,adopted%20and%20approved%20prospective%20adopters.>

²⁰ <https://www.childrenscommissioner.gov.uk/>

²¹ <https://www.cypcs.org.uk/>

²² <https://www.childcomwales.org.uk/>

²³ <https://www.niccy.org/>

²⁴

<https://www.legislation.gov.uk/ukpga/2001/18/notes#:~:text=The%20Act%20implements%20the%20policy,and%20different%20sectors%20and%20services.>

²⁵ <https://www.ohchr.org/en/treaty-bodies/crc>

The UK Government's response to the UN Committee's Concluding Observations includes:

- Raising the age of criminal responsibility from 8 to 12
- Implementing equal protection from assault legislation
- Tackling child poverty
- Publishing a Children's Rights Scheme (CRS)

The Scottish Government published an initial response to the UN Committee's concluding observations in March 2024²⁶

The Committee is due to review progress again in 2026.

Good practice documents

Ending physical punishment in Wales resources <https://www.gov.wales/ending-physical-punishment-wales>

The iSupport Case Studies <https://www.isupportchildrensrights.com/english-version>

UNICEF Toolkit on Accessibility [Toolkit on Accessibility Section A: Advocacy for Accessibility \(unicef.org\)](#)

UNICEF Education for refugee and asylum-seeking children [Access-to-Education-report-PDF.pdf \(unicef.org.uk\)](#)

²⁶ <https://www.gov.scot/publications/united-nations-convention-rights-child-scottish-government-initial-response-concluding-observations-issued-un-committee-rights-child/pages/2/>

Appendix 1: **UN Convention on the Rights of the Child – summary**

Article 1 (definition of the child) Everyone under the age of 18 has all the rights in the Convention

Article 2 (non-discrimination) The Convention applies to every child without discrimination, whatever their ethnicity, sex, religion, language, abilities or any other status, whatever they think or say, whatever their family background.

Article 3 (best interests of the child) The best interests of the child must be a top priority in all decisions and actions that affect children.

Article 4 (implementation of the Convention) Governments must do all they can to make sure every child can enjoy their rights by creating systems and passing laws that promote and protect children's rights.

Article 5 (parental guidance and a child's evolving capacities) Governments must respect the rights and responsibilities of parents and carers to provide guidance and direction to their child as they grow up, so that they fully enjoy their rights. This must be done in a way that recognises the child's increasing capacity to make their own choices.

Article 6 (life, survival and development) Every child has the right to life. Governments must do all they can to ensure that children survive and develop to their full potential.

Article 7 (birth registration, name, nationality, care) Every child has the right to be registered at birth, to have a name and nationality, and, as far as possible, to know and be cared for by their parents.

Article 8 (protection and preservation of identity) Every child has the right to an identity. Governments must respect and protect that right, and prevent the child's name, nationality or family relationships from being changed unlawfully.

Article 9 (separation from parents) Children must not be separated from their parents against their will unless it is in their best interests (for example, if a parent is hurting or neglecting a child). Children whose parents have separated have the right to stay in contact with both parents, unless this could cause them harm.

Article 10 (family reunification) Governments must respond quickly and sympathetically if a child or their parents apply to live together in the same country. If a child's parents live apart in different countries, the child has the right to visit and keep in contact with both of them.

Article 11 (abduction and non-return of children) Governments must do everything they can to stop children being taken out of their own country illegally by their parents or other relatives, or being prevented from returning home.

Article 12 (respect for the views of the child) Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. This right applies at all times, for example during immigration proceedings, housing decisions or the child's day-to-day home life.

Article 13 (freedom of expression) Every child must be free to express their thoughts and opinions and to access all kinds of information, as long as it is within the law.

Article 14 (freedom of thought, belief and religion) Every child has the right to think and believe what they choose and also to practise their religion, as long as they are not stopping other people from enjoying their rights. Governments must respect the rights and responsibilities of parents to guide their child as they grow up.

Article 15 (freedom of association) Every child has the right to meet with other children and to join groups and organisations, as long as this does not stop other people from enjoying their rights.

Article 16 (right to privacy) Every child has the right to privacy. The law should protect the child's private, family and home life, including protecting children from unlawful attacks that harm their reputation.

Article 17 (access to information from the media) Every child has the right to reliable information from a variety of sources, and governments should encourage the media to provide information that children can understand. Governments must help protect children from materials that could harm them.

Article 18 (parental responsibilities and state assistance) Both parents share responsibility for bringing up their child and should always consider what is best for the child. Governments must support parents by creating support services for children and giving parents the help they need to raise their children.

Article 19 (protection from violence, abuse and neglect) Governments must do all they can to ensure that children are protected from all forms of violence, abuse, neglect and bad treatment by their parents or anyone else who looks after them.

Article 20 (children unable to live with their family) If a child cannot be looked after by their immediate family, the government must give them special protection and assistance. This includes making sure the child is provided with alternative care that is continuous and respects the child's culture, language and religion.

Article 21 (adoption) Governments must oversee the process of adoption to make sure it is safe, lawful and that it prioritises children's best interests. Children should only be adopted outside of their country if they cannot be placed with a family in their own country.

Article 22 (refugee children) If a child is seeking refuge or has refugee status, governments must provide them with appropriate protection and assistance to help them enjoy all the rights in the Convention. Governments must help refugee children who are separated from their parents to be reunited with them.

Article 23 (children with a disability) A child with a disability has the right to live a full and decent life with dignity and, as far as possible, independence and to play an active part in the community. Governments must do all they can to support disabled children and their families.

Article 24 (health and health services) Every child has the right to the best possible health. Governments must provide good quality health care, clean water, nutritious food, and a clean environment and education on health and well-being so that children can stay healthy. Richer countries must help poorer countries achieve this.

Article 25 (review of treatment in care) If a child has been placed away from home for the purpose of care or protection (for example, with a foster family or in hospital), they have the right to a regular review of their treatment, the way they are cared for and their wider circumstances.

Article 26 (social security) Every child has the right to benefit from social security. Governments must provide social security, including financial support and other benefits, to families in need of assistance.

Article 27 (adequate standard of living) Every child has the right to a standard of living that is good enough to meet their physical and social needs and support their development. Governments must help families who cannot afford to provide this.

Article 28 (right to education) Every child has the right to an education. Primary education must be free and different forms of secondary education must be available to every child. Discipline in schools must respect children's dignity and their rights. Richer countries must help poorer countries achieve this.

Article 29 (goals of education) Education must develop every child's personality, talents and abilities to the full. It must encourage the child's respect for human rights, as well as respect for their parents, their own and other cultures, and the environment.

Article 30 (children from minority or indigenous groups) Every child has the right to learn and use the language, customs and religion of their family, whether or not these are shared by the majority of the people in the country where they live.

Article 31 (leisure, play and culture) Every child has the right to relax, play and take part in a wide range of cultural and artistic activities.

Article 32 (child labour) Governments must protect children from economic exploitation and work that is dangerous or might harm their health, development or education. Governments must set a minimum age for children to work and ensure that work conditions are safe and appropriate.

Article 33 (drug abuse) Governments must protect children from the illegal use of drugs and from being involved in the production or distribution of drugs.

Article 34 (sexual exploitation) Governments must protect children from all forms of sexual abuse and exploitation.

Article 35 (abduction, sale and trafficking) Governments must protect children from being abducted, sold or moved illegally to a different place in or outside their country for the purpose of exploitation

Article 36 (other forms of exploitation) Governments must protect children from all other forms of exploitation, for example the exploitation of children for political activities, by the media or for medical research.

Article 37 (inhumane treatment and detention) Children must not be tortured, sentenced to the death penalty or suffer other cruel or degrading treatment or punishment. Children should be arrested, detained or imprisoned only as a last resort and for the shortest time possible. They must be treated with respect and care, and be able to keep in contact with their family. Children must not be put in prison with adults.

Article 38 (war and armed conflicts) Governments must not allow children under the age of 15 to take part in war or join the armed forces. Governments must do everything they can to protect and care for children affected by war and armed conflicts.

Article 39 (recovery from trauma and reintegration) Children who have experienced neglect, abuse, exploitation, torture or who are victims of war must receive special support to help them recover their health, dignity, self-respect and social life.

Article 40 (juvenile justice) A child accused or guilty of breaking the law must be treated with dignity and respect. They have the right to legal assistance and a fair trial that takes account of their age. Governments must set a minimum age for children to be tried in a criminal court and manage a justice system that enables children who have been in conflict with the law to reintegrate into society.

Article 41 (respect for higher national standards) If a country has laws and standards that go further than the present Convention, then the country must keep these laws. Article 42

(knowledge of rights) Governments must actively work to make sure children and adults know about the Convention.

The Convention has 54 articles in total. Articles 43–54 are about how adults and governments must work together to make sure all children can enjoy all their rights, including: article 45 UNICEF can provide expert advice and assistance on children's rights - <https://www.unicef.org.uk/>

Optional Protocols:

- on the sale of children, child prostitution and child pornography,
- on the involvement of children in armed conflict
- on a complaints mechanism for children (called Communications Procedure).

For more information go to <https://www.unicef.org.uk/>