

Children's rights in Great Britain

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Submission to the UN Committee
on the Rights of the Child
December 2022

Executive summary

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Introduction

This is a summary of our report submitted to the United Nations Committee on the Rights of the Child (UNCRC) in December 2022. The report updates the issues covered in our previous submission to the UNCRC in 2020, and gives evidence on the implementation of recommendations since the United Kingdom's (UK) last review by the UNCRC in 2016.

This summary sets out some of the areas we have identified as priorities for the UNCRC to review:

- violence against children (including harmful practices and online safety)
- health and health services (including outcomes, access to treatment and detention)
- standard of living (including child poverty, the cost of living and social security)
- the right to education (including loss of learning and educational attainment), and
- administration of child justice (including virtual justice and the Police, Crime, Sentencing and Courts Act 2022)

More detail on these areas are in the full report, which also covers additional topics, including:

- reservations and legislation
- comprehensive policy, strategy and coordination
- nationality
- the right to privacy
- human rights education and bullying
- asylum-seeking, refugee and migrant children, and
- trafficking and modern slavery

We identify gaps in protections for children and make recommendations where further action is required. We include evidence that draws on the outcomes and experiences of people who share protected characteristics under British equality law, because equality and non-discrimination are essential to the full realisation of the rights contained in the Convention on the Rights of the Child (CRC).

We recognise the unprecedented burden that the coronavirus (COVID-19) pandemic placed on public services, and how inequalities already facing children were exacerbated or prolonged as a result.

Children also face increased vulnerability to cost-of-living pressures and the risks associated with climate change. We urge the UK and Welsh governments to ensure the rights and views of children are central to economic recovery efforts and net-zero policies.

Britain has strong human rights protections, and progress has been made in children and young people's rights in recent years. We encourage governments to continue to use the CRC reporting process to strengthen implementation processes and improve compliance with human rights obligations.

About our role

The Equality and Human Rights Commission is an independent statutory body and A-status National Human Rights Institution. We are tasked by the UK Parliament with promoting understanding and protection of human rights and encouraging good practice (see the Equality Act 2006, section 9(1)). This includes assessing and reporting on the UK's progress in upholding its human rights obligations under the treaties ratified by the UK Parliament.

Devolution and geographic scope of this report

The UK Parliament has devolved various powers to the Scottish Parliament, the Welsh Parliament (Senedd Cymru) and the Northern Ireland Assembly. The UK Parliament retains responsibility for all matters in England and for matters in Scotland, Wales and Northern Ireland that it has specifically reserved. The UK Government and the devolved governments are responsible for implementing international human rights obligations.

Our report and this summary cover England and Wales for all the thematic areas, and Scotland for those issues reserved to the UK Parliament, in line with our statutory mandate. Our recommendations are aimed at the UK and Welsh governments, though they may be relevant to other devolved administrations.

Violence against children

Children have the right to be free from all forms of violence and abuse. However, some children in Great Britain are subjected to mistreatment in different ways.

We are concerned about the increasing use of Tasers by police against children and their disproportionate use against ethnic minority children. Restraint continues to be used against children in custody, inpatient care, schools and other settings. This can include the use of pain-inducing restraint and prone (face-down) restraint. There has been progress in schools, but restraint is not always used proportionately or as a last resort, and schools are not required to record the use of restraint.

The scale of violence against children is difficult to measure. Official figures indicate that almost 260,000 children experienced or witnessed domestic violence in England in 2021. Some have estimated this figure to be higher. Parents and those acting 'in loco parentis' (in the place of a parent) who are charged with the common assault of a child in England can still seek to rely on the common law defence of 'reasonable punishment'.

The pandemic may have increased violence against children. Safeguarding risks have emerged, with an increase in the proportion of children who are persistently absent from school since the pandemic.

Reported incidents of child sexual exploitation and abuse have increased. The Independent Inquiry into Child Sexual Abuse highlighted widespread institutional failures to protect children, and barriers to reporting for groups with certain protected characteristics. We are concerned that specialist support for children who have experienced abuse is inadequate to address the problem.

Children face increasing risks from abuse, exploitation and grooming online. We welcome the UK Government's Online Safety Bill which seeks to make the digital environment safer for children.

Some children are still subjected to harmful practices, including:

- conversion practices intended to change a person's sexual orientation or gender identity
- so-called 'honour-based' abuse (HBA)
- female genital mutilation (FGM), and
- forced marriage.

Health and health services

All children have a right to the highest attainable standard of health. However, some children face inequalities in health access and outcomes. There is also significant evidence of deteriorating mental health of children in Britain.

An NHS study of children and young people in England found that the proportion with a 'probable mental disorder' increased significantly between 2017 and 2021, rising from 11.6% of 6- to 16-year-olds, to 17.4% in 2021. Data in Wales is limited, though a survey covering Wales in 2019/20 found that 19% of pupils aged 11 to 16 years old reported 'very high' symptoms of mental ill-health.

Evidence shows a steady decline in happiness among children and increasing rates of self-harm and suicide. Rates of mental illness are higher among certain groups. We are particularly concerned about evidence which shows the negative and disproportionate impact of the pandemic on children's mental health.

Accessing mental health services is challenging for many children, though some progress has been made to address waiting times. Spending on specialist services has increased, but not enough to keep up with growing demand. Significant regional disparities persist: annual spending per child in 2020/21 varied from £16 to £150 in England.

Children detained because of mental illness face particular risks. Some children are detained in adult settings and, in England, access to Independent Mental Health Advocates is not available for all children in detention. We welcome aspects of the UK Government's plans to reform the Mental Health Act 1983, though we have concerns that the specific needs of children are not sufficiently addressed.

The implications of the pandemic for children's physical health are significant, with new risk factors for the health, wellbeing and development of infants, such as:

- restricted access to health services, including health visitors and general practice
- fewer educational and social interactions due to lockdowns and social distancing measures
- increased levels of stress, and
- increased levels of material deprivation.

Standard of living

Relative poverty refers to household incomes below 60% of the median in a given year, after housing costs. The number of children living in relative poverty across the UK has grown, reaching a 20-year high of 4.3 million in 2019/20, representing almost one-third of all children.

The UK child poverty figure fell to 3.9 million in 2020/21, potentially due to the temporary social security measures introduced in response to the pandemic, although data collection was affected by the pandemic and is therefore subject to uncertainty. The removal of these measures, alongside the falling value of benefits and the increased cost of living, may reverse this trend.

The Welsh Government introduced a child poverty strategy in 2011 and a child poverty income maximisation action plan in 2020, but child poverty remains persistently high. The UK Government has no child poverty reduction strategy.

Ethnic minority children and those living in households where someone is disabled are disproportionately affected by poverty.

Changes to the UK's social security system have reduced the support available for children. Of these changes, the two-child limit on Universal Credit and Child Tax Credit is reported to be the most significant cause of child poverty. In the three years following its introduction, the proportion of children in families of three or more children who live in poverty increased from 41% to 47%, compared with a poverty rate of 24% for children in one- or two-child families.

Increases in inflation, taxation and the cost of living in 2021/22 have worsened living standards for children. Of those who reported increases to their cost of living from March to June 2022, 40% of parents with children over five years old had to cut back on essentials, including food, compared with 34% of people without dependent children. The steps taken by the UK Government in response to the rising cost of living may not be adequate to protect all children, with relative child poverty estimated to hit 33% by 2026/27.

We are concerned that growing numbers of children face difficulty accessing necessities, including housing and food, and that children who live in families with no recourse to public funds, due to their immigration status, are particularly vulnerable to poverty.

The right to education

All children have a right to education on the basis of equal opportunity. Some children face increased barriers to accessing education, and experience inequalities in educational attainment, many of which were worsened by the pandemic.

Before the pandemic, the children who were negatively affected by gaps in educational attainment were male, disabled, socio-economically disadvantaged, and from certain ethnic groups. Some of these gaps were widening. However, we do not yet fully understand the impact of the pandemic on attainment, partly because of changes to measures of attainment and the cancellation of exams during the pandemic.

In addition, between March 2020 and April 2021 pupils in England lost an average of 61 days of school, and pupils in Wales lost an average of 66 days, due to school closures. The loss of face-to-face teaching is expected to significantly affect the lifetime earnings of a generation of children.

Pupils from disadvantaged backgrounds experienced greater learning losses overall. The shift to remote learning exacerbated some existing educational inequalities. Many children lacked adequate access to computers and the internet at the start of the pandemic. Furthermore, persistent absence from school was rising before the pandemic and continues to do so.

The UK and Welsh governments have committed significant funds to address learning disruption caused by the pandemic. These may not address the scale of the problem nor meet the specific needs of disabled children.

Administration of child justice

Some aspects of the youth justice system in England and Wales present challenges for the realisation of children's rights, including the increasing use of remand and persistent disparities experienced by Black children.

The Children and Young Persons Act 1933 states the minimum age at which a child can be held criminally responsible in England and Wales is 10 years old. This is inconsistent with international human rights standards which recommend a minimum age of 14.

The UK Government's Police, Crime, Sentencing and Courts Act 2022 contains provisions that may result in children spending more time in custody. Children who commit murder face the possibility of being sentenced to effective life imprisonment, contrary to international human rights standards.

We are concerned at the increased use of video links during court proceedings, which can negatively affect the ability of some children to understand and participate. We are also concerned about the UK Government's Judicial Review and Courts Act 2022 which makes it possible for children to plead guilty to offences online or in writing without appearing in court, and for decisions in court to be made without the child defendant being present.

We welcome the overall reduction in the population of children in custody, but we are concerned about the conditions for some of those who remain. Despite this overall reduction, the use of force in custody increased every year between 2016 and 2020, and force is used disproportionately against Black children and girls.

Children in custody face the risk of assault, sexual abuse and treatment which can amount to solitary confinement. We are concerned about the persistent challenges – compounded by restrictions imposed during the pandemic – that children in custody face in accessing mental health support, healthcare provision and education.

Recommendations

These are the recommendations we have made to the UK and Welsh governments where further action is required to improve compliance with human rights obligations. Our recommendations cover all the topics from our full report.

For further details please read our full report [on our website](#).

Reservations and legislation

The UK Government should:

- Give legal effect to the provisions of the Convention on the Rights of the Child (CRC) in domestic law, with a specific focus on filling existing gaps in rights protections, to ensure that children can enforce their rights under the CRC in domestic courts. The UK Government should establish a children's rights working group to advise on treaty incorporation and carry out public consultation, with mechanisms and resources to ensure children's participation.
- Ensure that any proposals to modify domestic human rights protections do not reduce protection for children's rights or limit access to redress; any changes must be subject to parliamentary and other scrutiny, including by children.

The Welsh Government should:

- Take steps to further incorporate the rights in the CRC in domestic law to ensure that children can enforce their rights in domestic courts.

Comprehensive policy, strategy and coordination

The UK and Welsh governments should:

- Reconsider the decision not to establish a mechanism for implementation, reporting and follow-up to implement the recommendations made by UN treaty bodies and under the Universal Periodic Review.
- Publish and implement a Children's Rights Action Plan setting out specific steps to implement the recommendations issued by the United Nations Committee on the Rights of the Child (UNCRC), and recognising the need for urgency to reduce the impact of the COVID-19 pandemic.

Nationality

The UK Government should:

- Ensure that any changes to the UK's nationality and immigration law, policy and processes consider children's rights, including the child's best interests, in line with its legal obligation to do so.
- Emphasise in secondary legislation and guidance on implementation of the [Nationality and Borders Act 2022](#) that the best interests of the child, particularly in not being stateless, should be the primary consideration and that children have a right to acquire or retain nationality; the use and impact of provisions on stateless children should be monitored and, if the effect is to perpetuate statelessness, amended.

Right to privacy

The UK Government should:

- Analyse any racial disproportionality of suspicion-less stops by police, publish the findings, and take mitigating action, in line with its obligations under the [Public Sector Equality Duty](#).

- Adopt safeguards to ensure that powers to stop and search children, and to conduct other searches of children, are used by police in a lawful, non-discriminatory manner and only when there is reasonable suspicion; the safeguards must include the presence of an appropriate adult other than in defined exceptional circumstances.
- Ensure that its proposed reforms to data protection do not weaken existing obligations under the [Children's Code](#), and protect the privacy rights of children.

Torture and other cruel, inhuman or degrading treatment or punishment

The UK and Welsh governments, where relevant, should:

- Prohibit the use of Tasers and spit-hoods on children.
- Implement the recommendations of the [Joint Committee on Human Rights inquiry into the detention of young people with a learning disability and/or autism](#), and the recommendation from the [Health and Social Care Committee](#) to ban the use of prone restraint on children in mental health settings.

- Ensure that restraint against children is used proportionately, and as a last resort, in line with our Human Rights Framework for Restraint; this includes prohibiting, in all settings, the use of restraint for disciplinary reasons and techniques that deliberately inflict pain on children.
- Collect, collate, publish and analyse data on all forms of restraint in schools, including by protected characteristic; this data should be used to identify and address any disproportionate use of restraint against certain groups of children.
- Develop national training standards for restraint; these should take a human rights approach to minimising the use of restraint and draw on existing resources, such as the [Restraint Reduction Network Training Standards](#).

The Welsh Government should:

- Consider making any guidance related to the [‘Reducing restrictive practices framework’](#) statutory for schools and other settings.

Freedom of the child from all forms of violence

The UK and Welsh governments, where relevant, should:

- Respond to the recommendations of the [Independent Inquiry into Child Sexual Abuse](#), including by removing barriers to reporting abuse for children with certain protected characteristics.
- Introduce a statutory duty on commissioning authorities to provide community-based services to child victims of violence and abuse, regardless of their immigration status.
- Ensure children are protected from harassment and abuse online through the [UK Government’s Online Safety Bill](#).

The UK Government should:

- Evaluate the Support for Migrant Victims Scheme and carefully consider the implications of maintaining its reservations to the [Istanbul Convention](#) for ensuring effective protection of all victims of abuse, irrespective of residency status.
- Abolish the ‘reasonable punishment’ defence in England.

Harmful practices

The UK and Welsh governments, where relevant, should:

- Develop an effective approach to tackling harmful practices – including FGM, HBA and forced marriage – against children, including by raising awareness, improving identification of victims, and addressing data gaps, low rates of reporting and low rates of prosecution.
- Legislate to ensure that non-urgent medical interventions are not carried out on children with variations in sex characteristics until there is informed consent, and make available adequate information, counselling and psychological services for families and children.
- Legislate to end harmful conversion practices that seek to change a young person's sexual orientation and/or gender identity, while taking the appropriate steps to define key terminology and ensure that legitimate medical, spiritual or counselling practices are not impinged upon.

Health and health services

The UK and Welsh governments should:

- Introduce a cross-government child mental health strategy to:
 - ensure the availability of services such as child and adolescent mental health services, therapeutic care in schools, and community-based services for all children
 - reduce disproportionate rates of mental health disorders among certain at-risk groups
 - address geographic disparities in treatment, and
 - reduce waiting times
- Assess the short- and long-term impacts of the pandemic on the health, wellbeing and development of all children – particularly those facing existing disparities – and take decisive, evidence-based steps to improve access and provision, reduce inequalities and inform any future pandemic response.

The UK Government should:

- Consider the recommendations of the [Health and Social Care Committee's report on children and young people in England](#) and ensure that reforms to the Mental Health Act take account of the needs of children, including the expansion of access to Independent Mental Health Advocates for all children in detention.

The Welsh Government should:

- Consider the actions recommended in [Public Health Wales's report on protecting the mental wellbeing of future generations](#), and report on progress.
- Strengthen data collection on the mental health and wellbeing of children in Wales to support effective interventions.

Standard of living

The UK and Welsh governments should:

- Extend eligibility for free school meals to children living in relative poverty.
- Reintroduce income poverty-related targets for the eradication of child poverty, establish accountability mechanisms and indicators for meeting these targets, and report annually on progress.

The UK Government should:

- Ensure that the social security system provides adequate support to tackle child poverty, with a focus on supporting groups who disproportionately experience poverty and mitigating the impact of the pandemic and the increased cost of living; this should include scrapping the two-child limit and the benefit cap; permanently reducing the five-week wait for a first Universal Credit payment; and ensuring the rate of child benefit remains in line with inflation.

- Develop a comprehensive child poverty strategy for England, with actions to eradicate child poverty and address the inequalities faced by children and young people that have been exacerbated by the pandemic and the increased cost of living, ensuring that the best interests of the child are taken as a primary consideration in line with its obligation under the CRC.

- Assess the impact of no recourse to public funds conditions on children's rights, including through improved data collection, and take steps to mitigate any harmful outcomes for children.

The right to education

The UK and Welsh governments, where relevant, should:

- Ensure that the education recovery programme takes into account the particular challenges faced by different groups of children during, and as a result of, the pandemic, including children with special educational needs and disabilities (SEND), and additional learning needs (ALN).
 - Ensure that policies to improve school attendance rates include tackling barriers to education faced by children with particular protected characteristics, and ensure compliance with the Public Sector Equality Duty in the development and delivery of such policies.
 - Use evidence on access to, and outcomes from, education recovery programmes for protected characteristic groups to ensure that support is tailored to meet their needs; this evidence should also inform wider programmes, such as those aimed at improving regional inequalities in educational performance.
 - Ensure that actions to improve educational attainment and reduce attainment gaps are compliant with the Public Sector Equality Duty and take into account persistent inequalities for children with different protected characteristics.
- Remove the reservation and interpretive declaration on [Article 24 of the UN Convention on the Rights of Persons with Disabilities](#), and take concrete steps to facilitate genuine family choice and realise the right of disabled children to inclusive education.
 - Ensure the long-term sustainability of SEND or ALN provision, including by ensuring that teachers and other school staff are equipped to support the needs of children with SEND or ALN.

The UK Government should:

- Ensure that the register of children not in school is used to understand disproportionality for any protected characteristics groups, and to support local authorities to fulfil their duties in relation to home-educated children.
- Under its proposed reforms to the SEND system, ensure that the introduction of national standards does not reduce the entitlements and rights that children and young people with SEND have under the current legal framework, or raise the thresholds for interventions, such as assessments, to take place.

The Welsh Government should:

- Prioritise the introduction of statutory guidance on elective home education and the collection of data on those educated at home, including data on protected characteristics.
- Monitor implementation of the [Additional Learning Needs and Education Tribunal \(Wales\) Act](#) for any disproportionate impacts on particular groups.

Human rights education and bullying

The UK and Welsh governments should:

- Support schools to adopt a human rights-based approach and implement the recommendation of the [Independent Human Rights Act Review](#) to develop a comprehensive programme of human rights education.
- Ensure that teaching materials across the curriculum reflect the histories, cultures and contributions of ethnic minority people in Great Britain.
- Make human rights education, including knowledge of the CRC, a mandatory part of teacher training and continued professional development.

- Require schools to record incidents of prejudice-based bullying, broken down by relevant protected characteristic, and use the information to inform their anti-bullying strategies.
- Ensure that teacher training includes guidance on how to recognise, respond to and counter identity-based bullying and harassment.

The UK Government should:

- Ensure that teaching about the diversity of family backgrounds is clearly part of the curriculum in primary schools, appropriate to age, and in accordance with obligations under domestic and international law, and
- Ensure that schools are supported and encouraged to shape their relationships, sex and health education (RSHE) curriculum in line with a rights-based approach, including prioritising a preventative approach to sexual harassment; this should include supporting children to understand that sexual harassment is a form of discrimination and a human rights violation, to understand when their rights are breached, and to know what to do to challenge or remedy such breaches; children should also be involved in shaping the RSHE curriculum and wider school safeguarding policies to ensure that they are relevant and adapted to their needs.

Asylum-seeking, refugee and migrant children

The UK Government should:

- Ensure that guidance on age assessments for unaccompanied migrant children and children seeking asylum contains a presumption that, where their age is uncertain, they must be treated as a child – including not being detained alongside adults – until their age has been assessed objectively by independent, multidisciplinary experts with attention to the best interests of the child.
- Cease the immigration detention of children and make suitable alternatives available.
- Reduce the waiting times of status determination processes for children seeking asylum, including by setting out service standards to ensure the timely processing of claims.
- Commit to not relocating children seeking asylum, including both unaccompanied and accompanied children, to Rwanda in light of safeguarding risks, and ensure future asylum policymaking complies with the Public Sector Equality Duty and all relevant rights under the CRC.

Administration of child justice

The UK Government should:

- Raise the age of criminal responsibility to 14, in line with international human rights standards.
- Ensure that measurable steps are taken to reduce the use of remand in custody for children, including by making available age-appropriate alternatives to custody in the community.
- Ensure compliance with the law that children in police custody are separated from adult detainees at all times.
- Implement the actions in the UK Government's '[Inclusive Britain](#)' report to tackle ethnic disparities in the criminalisation of young people, and develop a long-term strategy to ensure children from ethnic minorities are not subject to disproportionate treatment in the criminal justice system.
- End the use of mandatory life imprisonment sentences for children and take steps to ensure that children are given the shortest possible custodial sentences, including by enabling judicial discretion in sentencing.

- Research the equality and human rights impacts of using live link, online or written procedures and other new technologies in criminal proceedings for child defendants before expanding their use.
- Ensure that measurable steps are taken to reduce violence in youth custody inflicted upon, and carried out by, children, including assaults and bullying, and take action in response to the recommendations of the [Independent Inquiry into Child Sexual Abuse](#) report on sexual abuse of children in youth custody.
- Improve the provision and availability of physical and mental health services in the youth secure estate; this should include timely support to prevent suicide and self-harm.

The Welsh Government should:

- Work with the UK Government to implement the recommendation from the Commission on Justice that each of the police, Crown Prosecution Service, the judiciary and HM Prison and Probation Service should publish a strategy in respect of Black, Asian and Minority Ethnic people in Wales, and report annually on their strategy to the Welsh Parliament (Senedd Cymru); these strategies must take into account the rights contained in the CRC and include a focus on specific disparities in the youth justice system.

Trafficking and modern slavery

The UK Government should:

- Ensure that the evaluation of the pilot of devolved National Referral Mechanism (NRM) decision-making analyses its equality and human rights impacts to ensure compliance with the Public Sector Equality Duty, and commit to implement measures identified to have positive impacts on children's rights.
- Publish a plan for implementing the recommendations of the [Independent Review of the Modern Slavery Act](#), including those relating to the Independent Child Trafficking Guardians service.
- Monitor the impact of the [Nationality and Borders Act 2022](#) on the recognition and protection of child victims of modern slavery and commit to taking mitigating actions to protect children where any harmful outcomes are identified.

Contacts

This publication and related equality and human rights resources are available from [our website](#).

Questions and comments regarding this publication may be addressed to:

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We welcome your feedback.

For information on accessing one of our publications in an alternative format, please contact:

correspondence@equalityhumanrights.com.

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EASS

For advice, information or guidance on equality, discrimination or human rights issues, please contact the [Equality Advisory and Support Service](#), a free and independent service.

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