

April 2009

**Improving the lives of children in Scotland
- are we there yet?**

Findings from national seminars: January – February 2009

Scottish Alliance for Children's Rights

**SACR
c/o Barnardo's Scotland
Skypark 5
45 Finnieston Street
Glasgow
G3 8JU**

Improving the lives of children in Scotland - are we there yet?

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This report was prepared by Theresa Casey on behalf of SACR, April 2009

The full text of the UN Committee's recommendations (the Concluding Observations) can be found downloaded by following this link:
<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.GBR.CO.4.pdf>

1. Introduction

In October 2008 the United Nations Committee for the Rights of the Child made a series of recommendations to the UK government (known as Concluding Observations) most of which are directly relevant to Scotland.

The Scottish Government prepared a draft response to each of the recommendations from the UN Committee, taking account of domestic NGOs and the Children's Commissioner. In December 2008 the Scottish Government began a consultation exercise to find out which were considered the most important issues for priority action and whether the Government's response was considered proportionate and realistic.

The Scottish Alliance for Children's Rights (SACR) was asked by the government to organise four seminars designed to allow professionals and interested parties in Scotland to gather together to discuss these questions in depth. Scotland's Commissioner for Children and Young People and the Children's Rights Officers' Network worked with SACR in organising the events. The seminars sat alongside a consultation organised by Young Scot with young people and the wider consultation was made available through the distribution of the draft response.

The four seminars took place over January and February 2009 in:

- Glasgow: addressed by Kathleen Marshall, Scotland's Commissioner for Children and Young People and Professor Martyn Rouse, Chair in Social & Educational Inclusion, University of Aberdeen
- Dundee: addressed by Adam Ingram, MSP, Minister for Children and Early Years and Tam Baillie, Scottish Alliance for Children's Rights
- Edinburgh: addressed by Adam Ingram, MSP, Minister for Children and Early Years and Professor Bill Whyte, Criminal Justice Social Work Development Centre for Scotland
- Inverness: addressed by Kathleen Marshall, Scottish Commissioner for Children and Young People and Dr John McKendrick, Director, Scottish Poverty Information Unit

2. Participants

The seminars were made available to anyone working for or with children including those in education, health, justice, alternative care, social work, the media, children's rights and participation.

Including facilitators, note-takers and speakers there were a total of 301 participants in the seminars, as follows:

Total number of participants: 301

Glasgow	78
Dundee	62
Edinburgh	90
Inverness	71

Approximate breakdown of participants by sector

Local authority	29%
Voluntary sector	40%
Police	6%
Scottish Government	6%
Education (HMIE, Unions, LTS, Schools & HE)	6%
NHS	4%
Others	9%

3. Findings from the seminars – cross-cutting issues

The UN Committee's recommendations are very comprehensive, covering many areas of children's lives. Each seminar used the same format covering nine broad areas that followed the pattern of the Concluding Observations. Two rounds of discussion on each topic area were supported by facilitators and recorded by note-takers.

All material recorded at the seminars was reviewed and brought together to identify priorities and areas of concern. Facilitators who had covered several seminars were also asked to review the material and give an overview.

The following issues were found to cut across the main areas of discussion.

Cross cutting issues

- The need to educate children about their rights and incorporate the UNCRC into the curriculum
- The need for mandatory UNCRC training of all professionals working for or with children
- The need to retain and strengthen the position of Scotland's Commissioner for Children and Young People as a distinct office
- The need for measures to counter a culture of intolerance of children & young people and to address negative portrayals of children & young people in the media
- A common view was expressed that lack of ring-fencing of funds is having a negative impact on services for children, particularly for disabled children and looked after children. Concern was also expressed about threats to the services provided by Children's Rights Officers through cuts in hours or posts.

4. Priorities in each area of the consultation

For ease of reference this section is laid out following this format:

- Title of the group used in the seminars and in the government consultation document if different
- Title of equivalent section of the Concluding Observations (COs), a brief summary of the COs and references to relevant articles of the Convention¹
- Priority areas according to the findings of the seminars

1. Implementation of the UN Convention on the Rights of the Child (UNCRC)

General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)

Summary of Concluding Observations

Committee ‘notes with regret’ that previous recommendations have still not, or have not fully, been implemented e.g. incorporation of the CRC in the State party’s law and transparency of all budgets to show the proportion spent on children.

Legislation

Any British Bill of Rights should incorporate the CRC.

Coordination

Acknowledging devolved government and powers, the UK must ensure effective coordination of the implementation of CRC, including locally, especially where local authorities have significant powers to determine their priorities and allocate budgets.

National Plan of Action

UK should adopt comprehensive plans of action for the implementation of the Convention in cooperation with the public and private sectors, rooted in children’s rights. The UK should ensure adequate budget allocations and evaluation mechanisms to regularly assess progress and identify deficiencies.

Independent Monitoring

The UK’s 4 Children’s Commissions should comply with the Paris Principles and specifically, receive and investigate complaints from or on behalf of children.

Allocation of Resources

UK should allocate the maximum extent of available resources for the implementation of children’s rights, especially to eradicate poverty.

Dissemination, training and awareness-raising

UK should work harder to ensure that all of the provisions of the CRC are widely known and understood by adults and children alike, and there is systematic training of all professional groups working for and with children.

Cooperation with civil society

UK should encourage the involvement of civil society, including NGOs and associations of children, in the promotion and implementation of children’s rights.

¹ The summaries for each section are taken from: Scottish Alliance for Children’s Rights (2008) *UN Convention on the Rights of the Child – Implications for Scotland 2008 - 2014*

Priorities areas according to the findings of the seminars

Incorporation on the Convention on the Rights of the Child into Scottish Law

The Committee recommended that continued measures are taken to bring legislation in line with the Convention. Although there was not a clear message from the seminars that the UNCRC should be incorporated as a whole it was suggested that where it had been clearly reflected (education legislation was given as an example) this pushed implementation forward. There was certainly a need to look at remedies for those areas of the law which are not consistent with the UNCRC and the 'rights proofing' legislation would be a welcome step. Discussion about the principles of non-discrimination and respect for the views of the child (next section) suggested that incorporation would result in a much stronger foundation for the implementation of these principles in practice.

Scotland's Commissioner for Children and Young People

Great concern was expressed about the review currently being carried out by The Scottish Parliament and the recommendation that the office of the Children's Commissioner is merged with that of the Scottish Commission for Human Rights within a single, new rights body. Typical of views expressed were:

'If post of Commissioner goes, where does this leave children's rights and champion posts at a LA level? What message does this send to children?'

The office of the Commissioner for Children and Young People (SCCYP) was seen as playing a vital role in increasing awareness of children's rights and advocating on behalf of particularly marginalised or disadvantaged groups of children

Dissemination, training and awareness-raising

The committee recommended that the government should work harder to ensure that all of the provisions of the CRC are widely known and understood by adults and children alike. As noted above, SCCYP was seen as having played a particularly important role in disseminating knowledge about the UNCRC and its application in practice. In addition two other areas were consistently highlighted: the UNCRC in the national curriculum and training of professionals.

UNCRC in the curriculum

The Curriculum for Excellence was seen as an opportunity to embed children's rights in their education. Ensuring children's rights were part of HMIE inspections was proposed as a useful mechanism to that effect. The Scottish Government response does not match the strength of the message from the consultation nor the recommendation of the committee that the UNCRC should be included in statutory national curriculum. Typical points made were:

'Training in UNCRC should be made mandatory in curriculum.'

'Add Children's Rights to curriculum for excellence inspection regime'

'Inspection (HMIE) should build in UNCRC. Not just tick box but does implementation at local/school level work? *E.g. pupil councils – are children truly empowered?*'

'UNCRC should be referred to explicitly in curriculum guidance.'

Mandatory training on UNCRC for all those working for or with children

The committee's recommendation for 'adequate and systematic training of all professional groups working for and with children' was not seen to be sufficiently met by the Government response. The response stated that 'the Scottish Government has no plans at present to make the UNCRC a mandatory part of training for professional groups'.

A wide range of professional groups were identified throughout the discussions as requiring training – educators, NHS and health professionals, media, senior managers, social care staff, police and many others – and only a systemic response was seen as adequate. The need for compulsory training on children's rights for teachers was particularly emphasised as was the need for training for all those in contact with disabled children and looked after children.

'Awareness also needs to be there for senior managers.'

'Chief Executives of agencies in CPPs – need to provide direction and set targets for raising awareness.'

'Ensure children's rights are included in teacher training and how to put into practice.'

'If community has raised expectations based on UNCRC then agencies will need to respond to match that expectation.'

Scottish Government Action Plan

The Committee encouraged the government to adopt comprehensive plans of action for the implementation of the Convention. Much appreciation was expressed throughout the seminars that the Scottish Government had produced the draft plan so speedily and was taking seriously the process of consultation.

2. Participation and equality

General principles (arts. 2, 3, 6 and 12 of the Convention)

Summary of Concluding Observations

The UK needs to ensure full protection against discrimination including by 'taking urgent measures to address the intolerance and inappropriate characterization of children, especially adolescents, within the society, including the media'¹. Any discrimination against children should be addressed effectively.

Best interests of the child

The principle of the best interests of the child, needs to be better integrated in all legislation and policies which have an impact on children e.g. in criminal justice.

Right to life, survival and development

UK to use all available resources to protect children's right to life, including by reviewing the effectiveness of preventive measures.

Respect for the views of the child

UK needs to do more to ensure respect for the views of the child e.g. support forums for children's participation, such as the Scottish Youth Parliament. The UK should work with NGOs to increase opportunities for children's meaningful participation, including in the media.

Priorities areas according to the findings of the seminars

Foundations - UNCRC in domestic law and increasing children's knowledge of their rights

Enshrining UNCRC in domestic law was seen as a way of embedding the principles of non-discrimination and respect for the views of the child into Scottish culture. This links to the discussion of incorporation of the UNCRC in the previous section on implementation.

Ensuring children know about and understand their rights is seen as a basic foundation to participation that requires addressing and so links back to the priorities (previous section) of mandatory training on children's rights and UNCRC in schools. It is worth noting that throughout the seminars children with disabilities and looked after children were consistently cited as those least likely to have their right to be listened to upheld in practice.

Non-discrimination and respect for the views of the child were the two main areas picked up on in the seminars in relation to General Principles with concern expressed about the lack of resources to deal with infringements of rights of a number of groups of children.

Non-discrimination

Concern was expressed throughout the seminars about the negative stereotyping of children in the media and the impact that has on society's attitude towards children and young people and their activities. Participants proposed that more resources and more efforts in a sustained way to target negative stereo-typing and that it was important to work directly with the press/media.

Respect for the views of the child

The committee recommended that more needs to be done to ensure respect for the views of the child and that there should be more work with NGOs to increase opportunities for children's 'meaningful participation', including in the media.

Within the seminars discussion about participation was wide-ranging but did not result in a single clear message. It is possible that is a result of both the many and varied ways that children's participation can be supported and because of a lack of a common understanding or clarity about what constitutes 'meaningful' participation. Discussion encompassed informal relationship building opportunities as a basis for genuine engagement with children through to structures such as the Children's Parliament, Youth Parliament and school councils. Along with children with disabilities and looked after children, younger children were considered to be overlooked in terms of opportunities for meaningful participation.

3. Children's rights and freedoms (to be a child)

Civil rights and freedoms (arts. 7, 8, 13-17 and 37 (a) of the Convention)

Summary of Concluding Observations

Freedom of peaceful assembly

The UK should reconsider ASBOs and other measures such as the mosquito devices as they may violate the rights of children e.g. to freedom of movement.

Protection of privacy

The UK should ensure that children are protected against unlawful or arbitrary interference with their privacy e.g. by working with the media.

Cruel, inhuman or degrading treatment or punishment

UK should ensure that restraint against children is used only as a last resort and to prevent harm to the child or others and abolish physical restraint for disciplinary purposes.

Corporal punishment

UK should prohibit as a matter of priority all corporal punishment in the family including through the repeal of all legal defences Scotland. Also, actively promote positive and non-violent forms of discipline to evidence respect for children's equal right to human dignity. The UK should provide parental education and professional training in positive non-violent child-rearing.

Priorities areas according to the findings of the seminars

Providing an adequate social and physical environment for children and young people

Discussions at the seminars touched frequently on the broad issue of whether we are providing an adequate social and physical environment in which children can grow and develop, make mistakes, be cared for and test limits – summed up by this phrase chosen as one of three key points by one group:

'There is a need to let children be children'

This concern encompassed media portrayals of children and consumption of media messages by children, use of public space, parenting, discipline and school and care environments.

In general the view was expressed that measures that exclude children and young people from the public area and built environment were counter-productive – better to look to measures such as community engagement, street mediators, inter-generational community spaces etc in order that children have places to play and 'hang around' safely with friends.

It was felt that mosquito devices were unwelcome and unhelpful and that the effectiveness of measures such as ASBOs which exclude the child from society should be reviewed. The idea of shared use of public space should be encouraged.

'Children do better when they are integrated in the community rather than placed into safe zones or designated areas.'

Media Portrayal

Participants proposed that clear guidelines are needed on how the media use children and that there is a role for the Scottish Government to lobby the UK government to ensure children's rights are not violated. A focus on recognising success should be encouraged and more positive portrayals are needed.

Children should be protected by the requirement for *informed consent* from parents and children.

Physical punishment and positive approaches to parenting

More should be done to promote positive parenting strategies and both legislation and social attitudes need to be tackled. While most feedback supported an outright ban on physical punishment the range of comments, such as those below, tended to reflect a view that positive parenting is a broader issue than the introduction of a ban.

'There is a need to help parents play a key role in helping children become responsible citizens.'

'By not banning corporal punishment outright, the Scottish Government's child protection programme is undermined. '

'Need to outlaw 'reasonable chastisement' within context of positive parenting and education of alternative.

'There is a role for networks to teach parenting skills which make physical punishment obsolete'

The Scottish Government booklet 'Children, Physical Punishment and the Law' was considered to be in need of review and possible revision.

4. Family life and children in care

Family environment and alternative care (arts. 5; 18, paras. 1-2; 9-11; 19-21; 25; 27, para. 4; and 39 of the Convention)

Summary of Concluding Observations

Foster Care

Broad recommendations made on the large number of children with disabilities who are in long term institutional care, the need for a child accessible complaint mechanism, the need to support children who have a parent in prison and the need to monitor the status of children placed in kinship homes, foster care, pre-adoptive homes and other care institutions.

Adoption

UK should strengthen its efforts to enable children, in their best interests, to be adopted as speedily as possible taking account of their cultural background.

Violence, abuse and neglect

UK should establish mechanisms to monitor the number of cases and the extent of violence, sexual abuse, neglect, maltreatment or exploitation, including within the family, in schools and in institutional or other care. Also strengthen support for victims of violence, abuse, neglect and maltreatment to ensure that they are not victimised once again during legal proceedings and provide access to adequate services for recovery, counselling and other forms of reintegration.

Priorities areas according to the findings of the seminars

Advocacy and raising awareness of children's rights

The committee recommended that children separated from their parents must have their views taken into account and the Scottish Government acknowledges concerns about limited access to advocacy support for 'looked after children, in particular for those in foster care, with ASN and in secure accommodation'.

The Government statement to 'work across Government and with external colleagues agree priorities for advocacy and to prepare a national plan of action to improve the quality, consistency and availability of advocacy support' (line 43) was welcome.

'All workers should be trained to provide advocacy – children's needs led, not service based and part of whole process, networking, communication.'

'Professional responsibility should allow for hearing and responding to the child regardless of remits.'

'Rights and responsibilities need to be highlighted and promoted – public campaigns, policy, legislation.'

Children of prisoners

The Committee recommended that the government should ensure there is support to children with one or both parents in prison, in particular to maintain contact with the parent(s) (unless this is contrary to their best interests) prevent their stigmatization and discrimination. The government's response to provide grant funding (to March 2010) to support Families Outside which helps prisoners' families, while welcome, was considered a wholly inadequate response to the recommendation. It was felt that a complex and country-wide issue would not be addressed by reliance on a single NGO with short-term funding.

Discussion included: the effect on children of seeing their parent in handcuffs, prison situations; questioning the importance prisons place on maintaining family contact; the cost of prison visits; children's views on contact; space for prisoners to play with their visiting children; alternative ways to maintain contact.

Through-care and aftercare

Discussion at each of the seminars frequently came back to the position of children and young people leaving care and a concern about the transitions into adult life. There was a view that legislation needs to be addressed to ensure rights are met – 'cohesion is required e.g. homeless and childcare legislation.'

'Gaps in service provision and legislation – rights up to 18 years, some legislation up to 16 years'

'Needs to be a range of accessible options available within local areas and sustained where effective.'

'Priority has to be on the rights and needs of the child not resources – unmet need needs to be identified, recorded and highlighted – alternative options/creativity also should be identified and highlighted.'

Support to vulnerable families

Throughout the seminars there was support for the idea of early intervention and early support particularly to vulnerable families. That support was seen to encompass rights and responsibilities of parents and children from birth and ongoing through childhood and forms of support to parents including parenting skills, importance of play, parent-to-parent support.

5. Health and wellbeing

Basic health and welfare (arts. 6; 18, para. 3; 23; 24; 26; and 27, paras. 1-3, of the Convention)

Summary of Concluding Observations

Health and health services

Greater co-ordination across Government to address inequalities in access to health services.

Mental health

More trained staff and resources are required to meet the needs of children with mental health problems especially those at greater risk e.g. children deprived of parental care, affected by conflict, living in poverty and in conflict with the law.

Breastfeeding

UK must further encourage breastfeeding.

Adolescent health

UK should intensify its efforts to provide adolescents with appropriate reproductive health services and reproductive health education in the school. The UK should continue to address the issue of substances use by adolescents by preventative measures, by providing accurate and objective information on toxic substances, by delivering reactive services such as accessible mental health and counselling services and support those wanting to end their addiction.

Standard of living

UK is reminded of the broad and entirely negative impact of poverty on children's rights. The UK should achieve the target of ending child poverty by 2020, including by establishing measurable indicators to monitor progress. Also, provide material assistance and support programmes for children and requiring local authorities to provide safe and adequate sites for Travellers.

Priorities areas according to the findings of the seminars

While the areas of mental health, health inequalities and standard of living were a particular focus of discussions a number of concerns ran through each seminar regarding health and well-being:

- The need for children's rights awareness amongst professionals in hospital/health services
- The need for children and young people to be aware of their rights within hospital/health settings
- How to improve experiences for children and young people going through a transition from child to adult care and the need to ensure under-18s are not treated in adult services (that they are still protected by children's rights).
- The need to do more for children and young people around emotional literacy and relationship education to support and prepare young people for adulthood.
- Bringing UNCRC within primary law to ensure children's rights in relation to health and well-being

Mental health & health inequalities

The committee recommended more resources and increased capacity to meet the needs of children with mental health problems, especially those at greater risk e.g. children deprived of parental care, affected by conflict, living in poverty and in conflict with the law.

The varied level of CAMH services between the Health Boards was a cause of concern and in particular the very lengthy waiting times in some areas. Participants quoted waiting times of between 4 weeks and 18 months for services in different areas with an additional concern that children and young people may be referred to the wrong specialist.

‘We all need to be clearer about what we mean when we talk about mental health, mental wellbeing, mental illness, mental ill health.’

‘There is a huge need for resources on the ground, especially in relation to mental health services – universal and for specific vulnerable group.’

‘Better information gathering on children’s health needs, especially MH services to inform service development AND additional resources put in to address the gaps. This should include genuine consultation and involvement of young people. Many young people who present with other issues e.g. sexuality issues; bullying, etc will have MH problems which are not always recognised.’

Standard of living

The focus of discussions on standard of living related to childcare, particularly the cost and quality. There was discussion of the possible negative impact of the Welfare Reform Bill on single parents, young parents and parents of a child with a disability with them being forced back into work (frequently low paid work) and less time to spend with their children.

It was felt that not enough recognition is given to the importance of attachment between young children and their parents and primary carers so for example children might experience a number of different workers at nursery; the quality of relationship and nurturing might not fulfil the basic needs of a young child. Difficulties around attachment can have later impacts of mental health, self-esteem and ability to form relationships.

Adolescent health

Reproductive health services and reproductive health education in school: guaranteeing confidentiality and access to sexual health services in remote and rural areas is still seen to require a lot of work. There is also a need for more public debate and more information since young people are less likely to be sexually active at earlier age if they received good sex education. Issues of teenage of pregnancy linked with cycles of deprivation need to be more fully addressed.

‘Strong feeling round table that Curriculum for Excellence is seen as ‘panacea’ – especially in area of health and well-being. However, some schools experiencing increasing expectations in terms of health curriculum accompanied by decreasing resources to ‘deliver’/work in partnership, bring people in to support delivery.’

The view was expressed that references to Curriculum for Excellence and the Early Years Framework throughout the response needed to be more specific about what was actually going to be done and how children and young people could participate if we were to be confident of them delivering the particular outcomes.

6. The rights of disabled children

Disabled children (article 23) In the seminars the rights of disabled children were looked at separately from the wider heading of 'health and wellbeing' so that enough attention could be given to them. This is covered in lines 60 -71 of the government consultation document.

Summary of Concluding Observations

Children with disabilities

UK should take all necessary measures to ensure that legislation, programmes and services for children with disabilities, are effectively implemented. Training for professional staff should be provided e.g. teachers and social workers, and a public information campaign organised on children's rights, to encourage their inclusion in society and prevent discrimination.

Priorities areas according to the findings of the seminars

Concern that money for children with disabilities is no longer ring fenced

In October 2007 £34m was allocated by the Westminster government for children with disabilities in Scotland under the Barnett formula. The view of participants was that that it is not possible to trace whether these funds have been spent on children with disabilities or not. It was expressed that if money for children with disabilities is not ring fenced they will lose out, especially in the present climate and particularly because they and their families can not easily 'shout loudest'.

Lack of awareness of UNCRC among professionals and prejudicial attitudes among healthcare professionals towards children with disabilities

Training is widely needed on the UNCRC and on the realities of life as a disabled child. The UN Committee recommends that training is provided for professional staff working with children with disabilities, such as medical, paramedical and related personnel, teachers and social workers, however participants felt strongly that professionals are not receiving training in child disability or the UNCRC.

'Concern about health professionals' negative attitudes towards and assumptions about children with disabilities was mentioned by delegates at a number of the discussions. Interestingly, it was even mentioned as a matter of concern from a representative from the NHS.' (facilitator)

Importance of listening to young people

There is concern that children with disabilities are not listened to, are not given the same opportunities as other children to express their views and their views are given less weight than other children, perhaps with prejudicial assumptions being made the children's level of understanding. Disabled children's views (whether they express views verbally through behaviour or otherwise) should be sought and taken into account.

'children and young people with disabilities have rights and we must endeavour to actively address ways and means to meet them'.

Transitions and lack of facilities and provision for teenagers with disabilities;

Concern about lack of services for teenagers and transition from child to adult services was raised by delegates at several seminars.

Recommendation from one group: Transition and Inclusion. Can government make it more accessible to undertake a study to identify the gaps of transitions 11-25 – to find out what resources we need to fill the gaps?

Play

The Committee noted concern that children with disabilities continue to face barriers in the enjoyment of their right to leisure and play. Linking to the point from the discussion on 'Children's freedom', that 'children need to be children' concerns were expressed in the seminars about lack of access to play opportunities and facilities (resulting from physical access and attitude problems). Opportunities for disabled children to play alongside their peers and families were limited. It was felt that play opportunities for disabled children do not necessarily have to be specialist but all children do need to play.

Comprehensive strategy for Inclusion of disabled children

The committee recommends that the government develop a comprehensive national strategy for the inclusion of children with disability in the society. The Scottish Government does not currently have an overarching children's disability strategy and words like 'consider' and 'engage' were considered too soft. The government is relying too heavily on the Liaison Project manager linking to For Scotland's Disabled Children (FSDC) as the answer.

7. Education and play

Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)

Summary of Concluding Observations

Education, including vocational training and guidance

UK should strengthen its efforts to reduce the effects of the social background of children in their achievement in school; deliver greater investment to ensure right of all children to an inclusive education; intensify efforts to tackle bullying and violence in schools; and strengthen children's participation in all matters which affect them.

Right to leisure and play

UK should guarantee the right of each child to rest and leisure, to engage in play and recreational activities, age appropriate, and to participate freely in cultural life and the arts e.g. in respect of children with disabilities.

Priorities areas according to the findings of the seminars

Exclusions

Concern was expressed in the seminars about the whole area of exclusions from: the discipline policies in the school; engagement with and impact on families; the effect of exclusion on children who are already disadvantaged; to the availability of suitable alternative provision and the right to appeal. There was a concern that there are too many inconsistencies about the way exclusions are handled. It was felt that there should be an emphasis on putting all resources possible into keeping children within the education system - 'schools are often the only consistent positive in some children's lives'.

'Excluded from mainstream class – not from education system.'

'Informal exclusions unacceptable – should be closely monitored by SG'

Right to appeal – does it exist? Parents are scared to challenge exclusion decision – SG to ensure info is available to parents'

'Appeal process is too long'

Children out of school

There was a concern in the seminars that there has been a failure to engage with children who are excluded from school and that education for children out of school because of health issues or other reasons (e.g. those in secure accommodation) do not always receive adequate educational opportunities. It would appear that there would be a welcome for the Scottish Government's commitment to 'develop new guidance on exclusion from school which highlights the importance of alternative provision which is of the same standard as education they would normally receive. This is within the context of exclusion as a last resort.' There was, however, a concern as above that perception was that exclusions are too common to be seen as 'a last resort'

Play

Discussion about play linked strongly to the themes discussed in 'children's rights and freedoms'.

The Committee recommended that the Government strengthen its efforts to guarantee the right of the child to rest and leisure, to engage in play and recreational activities and should pay particular attention to provide children, including those with disabilities, with adequate and accessible playground spaces.

Feedback from the seminars suggests that the government response does not address this recommendation as a whole but in a piecemeal fashion. It is particularly weak in relation to guaranteeing play rights for the whole age range, the play needs of disabled children and on play that takes place outside school or childcare settings (most of it). Even within the Early Years Framework awareness of the importance of play and knowledge of how to support play needs to be raised.

There was particular concern about the effects of risk-averse policies and practices and the impact that has by limiting the important development and social experiences that children are able to access through play and leisure.

Because there is no statutory duty to provide for play, no ring fenced funds and no national play strategy play provision was seen to have suffered from inadequate and erratic funding.

General comment

It is worth noting that the education sector was relatively under-represented in the seminars and that not all participants from education chose to take part in the 'education and play' discussion groups. The priorities in this section have been arrived at in the same way as in other sections however with greater participation additional education priorities may also have merged.

8. Children seeking asylum, refugees and child trafficking

Special protection measures (arts. 22, 30, 38, 39, and 32-36 of the Convention)

Summary of Concluding Observations

Asylum-seeking and migrant children

The detention of asylum-seeking and migrant children should only be used as a measure of last resort and for a short period; only specially-trained staff should conduct screening interviews of children; consider the appointment of guardians to unaccompanied asylum-seekers and migrant children; ensure that any return of a child occurs only with adequate safeguards.

Sexual exploitation and abuse

The UK should intensify its efforts to collect data on the extent of sexual exploitation and abuse of children in order to prepare adequate responses and take effective action. Child victims of these criminal practices, should be regarded as victims in need of recovery and reintegration, and not as offenders.

Sale, trafficking and abduction

The UK should provide the necessary resources for effective implementation of the Anti-trafficking Action Plan. The UK should ensure that child protection standards for trafficked children meet international standards.

Priorities areas according to the findings of the seminars

General

Seminar delegates felt that the 'Code of Practice on Keeping Children from Safe Harm' was a good start but were concerned about how it would work in practice. They expressed a feeling that 'UKBA processes are not child friendly still a culture of disbelief' and agreed that the Scottish Government should continue to work with UKBA and Home Office Ministers on the areas which were identified as part of ongoing dialogue. There was general agreement with the actions proposed by the Scottish Government though concern about resources available to follow through adequately.

There was opposition to all removal of children.

There was approval for the alternative to detention pilot with the proviso that it should be properly monitored and evaluated.

Working with asylum seeking children and particularly those who are unaccompanied requires expertise and experience which in Scotland tends to have been developed in Glasgow. Other Local Authorities need support.

'It was raised that the answer to most questions involved social services; those around the table who worked in social services said they feel overwhelmed and left to their own devices (lack of awareness, advice, capacity and funding, etc)'

Age assessment

Age assessment was called a 'huge issue'. Participants welcomed the support given by the Scottish Government to the Committee's recommendation that the benefit of the doubt should be given in age-disputed cases of unaccompanied minors seeking asylum.

In the response it is stated that the Scottish Government will 'engage with UKBA counterparts to determine what proposals they will be bringing forward to deal with age-disputed cases'.

It was suggested that currently the benefit of the doubt is not always given, many young people are not afforded a proper age assessment, and as there is no legal obligation to carry out a full age assessment many young people assessed based on their appearance rather than looking at their culture, family history and their life experiences.

Participants would like the Scottish Government to press UKBA to fund an age assessment centre where young people are carefully assessed over a period of time. It was suggested that social workers feel that there is a conflict of interests for them to carry out age assessments and they would prefer an independent age assessment centre where young people can be afforded a full age assessment.

UASC

It was suggested that a policy be developed whereby UASC staying in Scotland for a specified period of time could stay on 18+ (This would be a separate legacy policy to that of families). A policy might allow UASC who have been in the UK for 3 years for instance before they turn 18 to remain in the UK indefinitely - as currently young people have the uncertainty of not knowing if they will be returned at 18. This causes young people enormous anxiety and they find it difficult to make long term plans for their future.

Devolved power in asylum and immigration

While acknowledging that it may be 'unlikely or unrealistic' participants suggested that the Scottish Government continue to step up work with UKBA and push for devolved power in immigration and asylum matters

Child trafficking

Participants would like to see the formal guidance mentioned in the action plan issued as soon as possible. It was suggested that there is a lack of awareness of how to identify trafficking and lack of advice. It was suggested that the following would help:

- More information on identifying children and know to support them in Las;
- Clear guidance as to law/procedures;
- How to be non-judgemental/non-discriminatory in the process;
- Signposts – where to get advice and information on local authority website/intranet so it is accessible for frontline staff;
- Knowing which are the right questions to ask.

9. Youth justice

Articles 40, 37 and lines 126-133 of the government consultation document - in the seminars youth justice was looked at separately from the wider heading of 'special measures' so that enough attention could be given

Summary of Concluding Observations

Administration of juvenile justice

The UK should raise the minimum age of criminal responsibility and develop a broad range of alternative measures to detention for children in conflict with the law. Adopt a statutory principle that detention is a measure of last resort and for the shortest period of time.

The UK should adopt appropriate measures to protect the rights and interests of child victims or witnesses of crime at all stages of the criminal justice process.

The UK should conduct an independent review on the ASBOs with a view to abolishing their application to children.

Priorities areas according to the findings of the seminars

Age of criminal responsibility

The Scottish Government said in its response that it would reflect on the comments from the UN Committee and points raised in the Scottish Parliament regarding the age of criminal responsibility in Scotland. The Committee recommends that the age is raised from 8 and there was wide support for this within the seminars with various ages being proposed between 12 and 18. Much discussion related to providing the best types of intervention and support to children committing offences but the main message was that children should not be criminalised.

ASBOs

Although it was recognized that ASBOs are rarely used for under 18s in Scotland compared to the rest of the UK, participants still wanted to emphasise that they are not in the best interests of children and therefore should not be used. The Scottish Government plan states that it will revise guidance on ASB issues in light of current review findings

Focus on mental health

Participants welcomed the statement that work with partners to embed good practice regarding mental health ('The prevention and high risk strands of the youth justice framework for action actively consider the mental health needs of young people involved in, or at risk of becoming involved in, offending'.) Mental health was seen as an area in particular need of increased attention.

'Lack of services/resources for under 16s in the field of mental health: particularly out of hours.'

'Important to maintain/improve focus/assessment on mental health needs.'

Alternatives to custody

The issue of mental health was raised within the response to the recommendation from the Committee that a broad range of alternative measures to detention for children in conflict with the law be developed; and that the principle that detention should be used as a measure of last resort and for the shortest period of time as a statutory principle should be established. More discussion is required in finding effective alternatives ('tagging young people is appalling')

'We are asking young people to change entire lifestyle – must provide effective, mandatory, realistic alternatives.'

'Realistic expectations from young people needed.'

'Need to overcome territorial issues.'

5. Concluding remarks

These comments are part of the three strands of consultation undertaken by the Scottish Government on their response to the UN Committee's Concluding Observations. The priorities identified in this report were arrived at as a result of in-depth discussion by people from a wide cross-section of sectors and interests..

Throughout the seminars participants identified a wide range of issues which require action and gaps where more attention should be paid. While acknowledging that there is always work to be done, they recognised signs that children's rights have moved significantly up political and professional agendas in recent years.

The seminars proved to be an opportunity greatly welcomed by professionals to gather together to discuss issues effecting children in the context of children's rights and the UNCRC. This is reflected in the overwhelmingly positive comments in the feedback forms of the seminars
