



Proposed Rights of Children and Young People Bill

**UNISON Scotland's Submission to the Scottish Government on their
Consultation on the Proposed Rights of Children and Young People
Bill**

December 2011

Introduction

UNISON is Scotland's largest trade union representing over 160,000 members working in the public sector. We represent social workers, social care staff, health and education staff, children's hearings reporters, who work closely with children and young people, many of whom will have views on the Scottish Government's proposals.

UNISON Scotland welcomes the opportunity to respond to the Scottish Government on their consultation on the Proposed Rights of Children and Young People Bill

Questions

On the need for legislation

Q1 Do you agree that legislation to embed the UNCRC within the Scottish Government's decision-making and day-to-day business is necessary and appropriate?

UNISON Scotland welcomes the proposals for a Bill to set out the rights of children and young people. We agree that it will keep a focus on children's rights as set down in the UNCRC when the Scottish Government is making policy and conducting business. We believe that this will improve Ministers' accountability for ensuring that all decisions are children's rights compliant and will also allow any action by the Scottish Government which is not UNCRC compliant to be challenged.

Proposal 1

Q2 Do you agree that "due regard" is the appropriate level of regard for the duty on the Scottish Ministers? If not, why not?

UNISON believes that the higher requirement of "due regard" is more appropriate. This aligns it with equalities legislation and is also consistent with the level of regard in the Welsh measure.

Q3 Do you agree that the duty should apply to all the functions of the Scottish Ministers? If not, why not?

Yes. UNISON Scotland can think of no functions that would need to be excluded from this requirement to give "due regard".

Proposal 2

Q4 Do you agree with the proposed arrangements for reporting?

UNISON agrees with the proposed arrangements as far as they go, but we do believe that further consideration should be given to introducing greater accountability to children and young people when dealing with the implementation of the Bill. We believe that Ministers should also be accountable to the Scottish Youth Parliament and Children's Parliament and should consider how to

communicate directly with children and young people, for example through the use of written materials geared at children and young people, along the lines of “Do the Right Thing”.

Proposal 3

Q5 Do you agree with the extension of the duty in respect of UNCRC to young persons aged under 21 who have been looked after?

We do agree that the duty in respect of the UNCRC should be extended to 21 for young people who have been looked after. These young people are amongst our most vulnerable and deserve special and extended protection.

Proposal 4

Q6 Do you agree with the proposals for handling future amendments to the Convention or Protocols or new Protocols?

Yes UNISON is happy to support the proposals.

Other matters

Q7 Is there other provision which should be made in the Bill? (See section 3.3 which sets out what the Bill would not do.)

UNISON would have preferred to have seen full incorporation of the UNCRC into Scots Law. We welcome the proposed Bill as a great step forward, but believe that it still leaves the rights of children and young people secondary to the ECHR, and when it comes to balancing rights and applying these proportionately, there is still a risk that the rights of children and young people may be sacrificed to the rights of adults.

We would also wish to see the Bill extended to include Local Authorities and public bodies and do not accept the reasons for not doing so. Placing these bodies under the same duty as Ministers would, we believe, have ensured a greater and more consistent focus on children’s rights in their policies and service delivery. If there is no extension to local authorities and other public bodies, close scrutiny will be needed at all times to ensure that they do ensure that all their services are delivered in line with the UNCRC, especially at a time of budget cuts.

Q8 Do you have any comments on implementation costs or how they should be estimated?

We have no involvement in implementation costs or how these should be estimated.

Q9 Do you have any other comments?

UNISON Scotland believes that the Bill should include a procedure for challenging government policy and legislation if it is believed not to be UNCRC compliant, including how children and young people can challenge any perceived breach.

UNISON Scotland would be interested to know how children and young people have been consulted on this Bill. We believe that it is very important that they are included and involved from the beginning and have a chance to give their views on the proposals..

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