

# Children's rights – UNCRC implementation, poverty, physical punishment, age of criminal responsibility and education



## **Why recommendations on Scotland?**

The Scotland Act 1998 provided for the establishment of the Scottish Parliament and the Scottish Government. The Act sets out that all policy areas not explicitly reserved to the UK Parliament are devolved to the Scottish Parliament. The Scottish Parliament has full legislative powers over devolved matters. This means that issues such as justice, health and social care, education and training, as well as many aspects of transport and environment, are within the powers of the Scottish Parliament and responsibilities of the Scottish Government.

Observing and implementing international human rights obligations relating to devolved matters is the responsibility of both the Scottish Parliament and Scottish Government Ministers.

While the UK is the State Party to the United Nations (UN), UN bodies have increasingly recognised the value of specific concluding observations and recommendations for the Scottish Government. This has been recognised as a way to ensure that law, policy and practice in Scotland is fully compliant with all international human rights law and policy.

## Issues

### Positive steps have been taken to promote children's rights in Scotland.

The Children and Young People (Scotland) Act 2014 introduced a statutory duty on Scottish Ministers to keep the UN Convention on the Rights of the Child (UNCRC) under consideration in any action they take, and to carry out children's rights and wellbeing impact assessments to ensure compliance with the legislation. However, these steps remain far from the duty on the State Party to ensure full implementation of the UNCRC (recommendations 110.9-11.10).

Despite government actions to reduce child poverty, the proportion of children living in poverty remained at 22% in 2014-15 and is predicted to increase further by 2020. Food poverty is also rising significantly, with food bank use at a record high in 2016. The Child Poverty Strategy 2014-17 is a welcome development. However, local authorities are under no statutory duty to implement it, and there are outstanding issues to be addressed at UK level in order to reduce child poverty (recommendation 110.41).

There is unequal protection of children against physical violence in Scotland as the defence of "justifiable assault" remains available to parents and carers (recommendations 110.78-80).

Scotland continues to have the lowest minimum age of criminal responsibility in Europe. In 2016, the Scottish Government conducted an impact assessment on increasing the minimum age of criminal responsibility from 8 to 12 years. Decisions around criminal justice are matters for the Scottish Parliament.

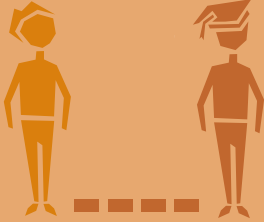
The statutory duty to ensure young people remain in some form of education or training exists only until age 16 in Scotland, compared to 18 in England. This means a high number of young people are not currently in education, employment or training.

The attainment gap between children from the poorest and richest households is already apparent by the age of 5, and increases significantly by the start of secondary school. By the second year of secondary school, pupils from better off areas are more than twice as likely as those from the most deprived areas to do well in numeracy. Children with additional support needs and looked after children, disabled children and Gypsy and Traveller children are less likely to progress to a positive follow-up destination when leaving school. Despite an overall decline in school exclusions, the level of expulsions remains higher for children requiring additional support and those who live in deprived areas, than for the general school population.



**Scotland continues to have the lowest minimum age of criminal responsibility in Europe.**

## Recommendations



**The Scottish Government provides a human rights compliant framework to address child poverty, promote inclusive education and close the attainment gap.**



**The Scottish Government equalises the protection of children from physical assault by removing the defence of “justifiable assault.”**



**The Scottish Government increases the minimum age of criminal responsibility beyond the minimum international standard of 12.**



## Questions for the Government

What actions has the Scottish Government taken to ensure full incorporation of the UNCRC?

What actions has the Scottish Government taken to ensure children receive the same protection under the law as adults in relation to physical assault ?

What steps has the Scottish Government taken to address the attainment gap between children from low-income and high-income households, and to minimise the number of exclusions of those with additional support needs?

What plans does the Scottish Government have for raising the minimum age of criminal responsibility and ensuring that detained children have a statutory right to education?

The Scottish Human Rights Commission is the National Human Rights Institution for Scotland, accredited with A status by the Global Alliance of NHRIs. SHRC is one of the three NHRIs in the UK. SHRC is a member of the UK's National Preventive Mechanism (OPCAT) and the Independent Monitoring Mechanism for the Convention on the Rights of Persons with Disabilities in Scotland.

[www.scottishhumanrights.com](http://www.scottishhumanrights.com)

Scottish Human Rights Commission  
Governor's House  
Regent Road  
Edinburgh  
EH1 3DE

0131 244 3550

[hello@scottishhumanrights.com](mailto:hello@scottishhumanrights.com)

[@ScotHumanRights](https://twitter.com/ScotHumanRights)