

United Nations Special Rapporteur on Extreme Poverty and Human Rights

Visit to the United Kingdom of Great Britain and Northern Ireland

Submission

Child poverty is a significant children's rights issue in Scotland and a sustained, systematic and human rights-based approach at both national and local levels is needed to tackle and eradicate it.

We consistently hear from children and young people that poverty is an issue they are concerned about within their community. Those who experience poverty are very aware of the impact it has on their lives.

In November 2017, the four UK Children's Commissioners wrote to the Chancellor of the Exchequer to express concern about the impact of benefits changes on children. We recommended:

- An urgent review of the freeze on benefits, with a particular focus on the impact on families with children;
- Reconsideration of the decision to restrict entitlements to Universal Credit to only two children per family
- An immediate pause in the rollout of Universal Credit to families with children

General

Article 27 of the UNCRC places a duty on States Parties to "recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development". Where this right cannot be met we would consider a child to be living in poverty.

In the UK there is no single universally accepted definition but broad agreement that when a household's income is below 60% of the median national income they are experiencing poverty. The UK Government uses absolute poverty, relative poverty

and low income and material deprivation to estimate the number of children in low income households in its annual publication 'Households Below Average Income'

We recommend that the UK and Scottish Governments define child poverty in accordance with article 27 of the UNCRC.

In 2016, the targets in the Child Poverty Act 2010 were repealed, making it harder to hold the UK Government to account for failing to eradicate child poverty in the UK and Scotland. In response to the repeal of UK targets, the Scottish Parliament passed the Child Poverty (Scotland) Act 2017, introducing four new statutory income-based targets measuring: relative poverty; absolute poverty; combined low income and material deprivation; and persistent poverty. All four are based on income after housing costs, reflecting the impact of increasingly high housing costs.

We welcome the introduction of statutory child poverty targets in Scotland. These allow us to measure progress and hold the Scottish Government to account.

Universal Credit

In addition to the concerns raised in our letter to the Chancellor, we have further concerns about Universal Credit and other benefits:

- **Split Payments** - One of the ways in which domestic abuse can harm a child is through financial control and combined payments of universal credit can facilitate this type of abuse.

We recommend that the UK and Scottish Governments ensure all benefits are paid individually.

- **Sanctions** - Our discussions with families reflect the evidence of CPAG that sanctions result in financial crisis, with expectations on parents often incompatible with caring for their children. A lack of flexible, affordable childcare makes it inevitable that parents will be subject to sanctions. (CPAG, 2017)

We recommend that the UK government review the sanctions and conditionality elements of universal credit, and remove these where they affect children.

- *Benefit Cap & Two Child Limit* - The benefit cap and two-child limit discriminate against children from larger families. Evidence shows that the benefit cap also disproportionately affects lone parent families (CYPCS, 2017).

We recommend that the UK government remove the benefit cap and the two child limit.

Extent of Child Poverty

As with the rest of the UK, child poverty in Scotland is forecast to increase dramatically over the next decade. For example, Scottish Government projections show that relative child poverty (after housing costs) will rise from 26.5% in 2015/16 to 34.5% by 2020/21, reaching 38% by 2027/28 (Reed, 2018). This rise is primarily driven by UK level tax and benefit reforms (Williams, 2018)

Within Scotland there is significant geographical variation in levels of poverty. The majority of areas experiencing significant levels of multiple deprivation, in terms of the Scottish Index of Multiple Deprivation (SIMD) are within a wide band stretching diagonally across central Scotland (SIMD 2016). However the SIMD fails to identify small pockets of poverty within geographically large rural datazones with diverse populations. For example the three island local authorities (Orkney, Shetland and Na h-Eileanan Siar) are amongst the six local authorities with child poverty rates below 10%¹, each has pockets of very high child poverty². For these children, the difference in standard of living, compared to children elsewhere on their island, leads to feelings of stigma and isolation. In island and remote rural areas poverty is exacerbated by increased costs for food and fuel and a lack of affordable housing and evidence shows residents of these areas are less likely to claim entitlements such as free school meals – itself a key measure of child poverty and a measure

¹ The other three are Aberdeenshire, East Dunbartonshire, and East Renfrewshire

² West Kirkwall (25.8%), Lerwick South (26.2%) and Stornoway West (27.1%)

used when allocating funding and targeted interventions such as the Pupil Equity Fund.

Our office has conducted research on children's right to food, food insecurity and the experience of "holiday hunger" for pupils receiving free school meals (CYPCS, 2018). In 2018, we funded research by the Food Foundation into the affordability of healthy diets in Scotland. Using the UK Government's own guidelines for a healthy diet, we found that the poorest working families would have to spend as much as 40% of their income to eat a healthy diet (Food Foundation, 2018). Food insecurity is geographically variable. Within remote rural and island communities, families in poverty may have difficulty accessing a varied and healthy diet at affordable prices. This also occurs in areas with poor transport links including small towns in central belts and some housing schemes in cities. Children have the right to be free from hunger, food insecurity and malnutrition. Experiencing food insecurity as a child impacts negatively on physical health, mental health, and developmental outcomes and is a violation of their rights. Yet the Scottish Government does not currently collect data on the extent and impact of food insecurity in Scotland.

In their Concluding Observations for the UK in 2016, the UN Committee on the Rights of the Child criticised increasing child poverty and urged the UK's governments to:

"systematically collect data on food security and nutrition for children in order to identify the root causes of child food insecurity and malnutrition,"

"to regularly monitor and assess the effectiveness of policies and programmes on child food security and nutrition..."

The UN Committee on Economic, Social and Cultural Rights stated in 2016 that food insecurity was having an unacceptably heavy toll on those most vulnerable—including children. They called on UK Governments:

"to develop a comprehensive national strategy for the protection and promotion of the right to adequate food across the State Party."

We support these recommendations.

Implications of child poverty for children's rights

Child poverty is a breach of children's human rights. Article 4 of the UNCRC calls on states to: "*undertake all appropriate legislative, administrative and other measures for the implementation of the rights*" in the Convention. Article 26 gives children "*the right to benefit from social security*". Article 27 outlines children's rights to an adequate standard of living and part 3 of article 27 requires states, "*within their means... in case of material needs provide material assistance and support programmes , particularly with regard to nutrition, clothing and housing*".

The United Kingdom is the world's fifth largest economy with a per capita GDP of €36,500. Scotland's per capita GDP is €34,000³. In 2016 the Scottish Government estimated that an independent Scotland would have the 15th highest GDP per capita in the world (Scottish Government, 2016). Although the Scottish Parliament was given powers to vary income tax when it was reconvened in 1999, they were used for the first time this year. Both the UK and Scottish Governments have the means to meet their duties as contained in articles 26 and 27 of the UNCRC.

Since 2010, reductions in benefits for disabled people, more frequent reassessments and inappropriately stringent assessment criteria, have exacerbated the poverty already disproportionately experienced by families that include a disabled person (adult or child). When decisions about the main disability benefits are appealed, 70% of findings are in favour of the claimant's (MoJ, 2018), yet whilst awaiting the outcome of the appeal, families are often plunged into poverty losing not only the benefit being assessed but other benefits and entitlements. For example, withdrawal of the mobility element of Personal Independence Payment (PIP) for a child can result in withdrawal of Carer's Allowance, loss of an accessible vehicle funded through PIP and reductions of disability enhancements to Income Support and Tax Credits.

Child poverty also impacts on the following UNCRC rights:

Article 6 right to life, survival, development.

³ 2016/17 figures. Source: Eurostat

- Article 19 protection from all forms of physical or mental violence, injury or abuse, etc.
- Article 24 highest attainable standard of health
- Article 31 right to rest, leisure, play and participation in cultural and artistic life.

Causes of child poverty and government responses.

The obligations placed on States by the UNCRC and other human rights treaties extend to all arms of the state, including central, devolved and local government. Historically, the main driver of increases in the number of children in poverty has been changes to the UK-wide tax and benefits systems. Devolved and local governments have always had powers which could be used to address child poverty, but initiatives have had mixed success. With additional powers regarding social welfare being devolved to the Scottish Government their duties regarding child poverty will increase.

Income maximisation

Ensuring that families in poverty claim all entitlements is an important way to increase their income. The UK benefits system has become steadily more complex, resulting in benefits being refused or miscalculated, or sanctions being applied. Historically, both local and Scottish governments have funded benefits advice and advocacy services aimed at maximising uptake of entitlements. However, over the last ten years, cuts to funding of local authority and third sector benefits advice services (including Citizens Advice Bureaux) have reduced the availability of these services.

We recommend that the Scottish Government commit to adequate funding for these services.

Childcare

The Scottish Government have set themselves ambitious targets to increase provision of funded early learning and childcare for all children aged 3 and 4 (and some 2 year olds). This entitlement will rise to 1140 hours per annum from August

2020. Delivery of this has been devolved to local authorities and it's clear that provision is not always flexible enough to support employment. Treanor (2017) reports that in 2015, only 15% of local authorities provided enough childcare to meet the needs of parents who work full time.

Families are often offered provision within nursery classes in schools, with little or no choice in time slots and no availability to pay for additional hours or sessions. Lack of flexible childcare provision is a barrier to working or pursuing further or higher education. Care Inspectorate statistics show that, in 2016, almost all (96%) of private nurseries offered full day placements compared to only 34% of local authority nurseries. Parents of disabled children face additional barriers due to inconsistent provision of suitable early learning and childcare.

We recommend that the Scottish Government ensure that the availability and flexibility of childcare is properly monitored.

We recommend that local authorities fulfil their duty to ensure childcare provision which supports working parents in their area is met.

Poverty and Education

In our 2014 Learning Lessons research into their views of poverty and education in Scotland, young people identified a number of barriers to fully participating in education, including the cost of school trips, and the cost of school uniform and young people were concerned about extra costs associated with certain subjects. They felt that financial stress reduced their families' ability to support them as parents were focussed on meeting the family's basic needs. Young people also reported bullying due to being poor and faced stigma from their peers and from professionals. (Elsay, 2015).

CPAG's Cost of the School Day project explored the impact poverty has on children's experience of school. Working with schools, families and children experiencing poverty in Glasgow, they developed a toolkit which helps schools examine how their practices impact on children in poverty. Cost of the School Day is recommended as an Intervention for Equity in the Pupil Equity Fund National Operational Guidance, but use of the toolkit is inconsistent across Scotland and there continues to be financial barriers to children's access to education. In July

2018, the Education Committee of the Scottish Parliament recommended that the Scottish Government work closely with local authorities to ensure that policies at school level and above are “poverty proofed” so there are fewer financial barriers to school education. (Scottish Parliament, 2018)

In 2018, the Scottish Government legislated for a minimum school clothing grant of £120 per year, intended to cover the cost of clothes and shoes for a year. This is only available to those on very low incomes. The Education Committee highlighted that some schools choose to enforce the wearing of uniforms which are prohibitively expensive. (Scottish Parliament, 2018). Those on incomes slightly above the earning’s threshold continue to be disproportionately affected by the cost of school uniforms.

We recommend that the Scottish Government work further with local authorities and schools to ensure that the cost of attending school is not a barrier to a child’s right to an education.

Carer’s Allowance

The first benefit to be introduced in Scotland’s devolved social security service is the Carer’s Allowance Supplement paid to carers of disabled people, including disabled children. It is only payable to people in receipt of Carer’s Allowance, which excludes families with parents in work or studying full time. Young carers who are in full time education (at school, college or university) or part time work are also excluded from carer’s allowance. The Scottish Government have committed to addressing this disparity but we will continue to monitor this situation

As carer’s allowance is paid to eligible carers, not to disabled people, it ceases to be paid when, for example, a disabled child moves from the family home to attend college or university. This means that not only does the young person lose the care they receive from that person, but their family loses a portion of their income. This can act as a barrier to young people taking opportunities for further education and breaches the State’s obligation to promote the self reliance of disabled children (article 23, UNCRC).

Brexit

Children's human rights have been increasingly embedded into EU legislation with over 80 legal instruments that confer direct entitlement for children covering a wide range of issues to ensure that children's rights are protected, respected and fulfilled across the EU in line with the Charter of Fundamental Rights. This will cease to apply when the UK leaves the EU.

The EU Withdrawal Act gives the UK government power to limit the ability of devolved governments in exercising their powers to prevent, or amend legislation from Westminster, even where this contradicts their own commitments to children's rights.

Incorporation

Taking into account the changing constitutional situation in the UK, as it leaves the EU, it is important that children's rights are firmly embedded into decision making across national and devolved administrations. One of the crucial ways in which this can be achieved is through incorporation of the UNCRC and ICESCR. At present there are no such proposals from the UK government.

We recommend that the Scottish Government proceed with their ambition for incorporation of the UNCRC within Scots law.

Annex

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