



Introduction

We welcome the 'It is not Cool to be Cruel' report and are fully supportive of its findings.

The Scottish Parliament has a key role to play as a human rights guarantor, ensuring the domestic implementation of human rights by developing a legislative framework and then holding others to account for their performance in safeguarding children and young people's rights.

As such, we are particularly pleased to note the Equalities and Human Rights Committee's willingness to engage with children and young people throughout the inquiry. Committee members offered children and young people a range of opportunities to share their testimonies in a safe and welcoming environment. We are aware that this extended beyond formal evidence sessions to informal meetings with committee members and fact-finding missions. This is most welcome, and something we would like to see replicated across the Scottish Parliament.

We also pay tribute to the children and young people who contributed to the inquiry, many of whom shared very difficult, personal experiences, in order to improve outcomes for others. Committee members stated in their report how impressed they were by how 'articulate, compassionate and dignified' the young people were in telling their stories¹.

This briefing is designed to inform the Equalities and Human Rights Committee and Education and Skills Committee's joint debate on Wednesday, 15th November, 2017. We have outlined our top 5 priorities for tackling prejudice-based bullying and harassment against children and young people in Scottish schools, and explored how good quality personal and social education can help keep children and young people safe.

Rights Framework

The Preamble to the UN Convention on the Rights of the Child (UNCRC) states that children and young people '*should be fully prepared to live an individual life in society, and*

¹ <https://digitalpublications.parliament.scot/Committees/Report/EHRiC/2017/7/6/It-is-not-Cool-to-be-Cruel--Prejudice-based-bullying-and-harassment-of-children-and-young-people-in-schools>

brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity'.

Article 19 of the Convention states that children and young people have a right to be protected from *'all forms of physical or mental violence, injury or abuse'*² whilst Article 37 states that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment³.

Article 34 states that children and young people should be protected from all forms of sexual exploitation and abuse, and Article 39 says that where such abuse takes place, they should be provided with help to recover from their experiences⁴.

However, the existence of bullying and harassment in schools impacts upon a wide range of children and young people's human rights, not just those relating to the act of bullying and harassment itself.

For example, Article 24 of the UNCRC recognises the child's right to enjoy *'the highest attainable standard of health'*⁵. This right encompasses both physical and mental health.

Articles 28 and 29 of the UNCRC set out the child's right to education, stating that the education of the child should be directed towards *'the development of the child's personality, talents and mental and physical abilities to their fullest potential'*⁶ and *'the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations'*⁷.

The Convention also recognises that a child's education should prepare them for *'responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin'*⁸.

The Convention also recognises that some children and young people are more likely to be subjected to prejudice-based bullying and harassment than others. In 2016, the UN Committee on the Rights of the Child highlighted that LGBTI children, disabled children and children belonging to minority ethnic groups, for example, Gypsy and Traveller children⁹ were more likely to experience abuse of this nature.

Article 23 of the Convention states that disabled children and young people should *'enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community'*¹⁰.

² <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

³ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

⁴ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

⁵ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

⁶ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

⁷ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

⁸ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

⁹ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/GBR/CO/5&Lang=En

¹⁰ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

Article 30 of the Convention states that children and young people belonging to ethnic, religious or linguistic minorities shall not be denied the right 'to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language'¹¹

Article 15 of the UNCRC sets out the child's right to freedom of association and to freedom of peaceful assembly and Article 31 recognises the child's right to rest, leisure, play and recreation¹².

Every one of these rights has the potential to be breached if prejudice-based bullying and harassment of children and young people continues to occur within the Scottish education system.

1. Human Rights Education

The Equalities and Human Rights Committee's inquiry provided real insight into the extent and nature of prejudice-based bullying and harassment across schools in Scotland.

Evidence provided by Girlguiding Scotland to the inquiry highlighted the prevalence of sexual harassment in schools and the negative impact this was having on girls' educational experience. Their annual Girls' Attitude Survey found that sexual harassment in schools was widespread, with 59% of girls and young women aged 11-21 saying that they had '*experienced sexual harassment at school, including sexual taunts and unwanted touching*'¹³. A significant percentage of those surveyed also said that fear of sexual harassment prevented them from speaking up in class, thereby interfering with their right to education¹⁴.

In their evidence to the inquiry, the TIE campaign stated that that 27% of LGBTI young people had attempted suicide at least once as a result of prejudice-based bullying. 15% had attempted to end their lives more than once and 45% reported they regularly self-harm as a consequence of bullying, thereby interfering with their right to health¹⁵.

In 2016, the UN Committee on the Rights of the Child recommended that the UK and each devolved government should '*Intensify its efforts to tackle bullying and violence in schools, including through teaching human rights, building capacities of students and staff members to respect diversity at school, improving students' conflict resolution skills,*

¹¹ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

¹² <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

¹³ http://www.parliament.scot/S5_Equal_Opps/General%20Documents/SUBMISSION_FROM_GIRLGUIDING_SCOTLAND.pdf

¹⁴ http://www.parliament.scot/S5_Equal_Opps/General%20Documents/SUBMISSION_FROM_GIRLGUIDING_SCOTLAND.pdf

¹⁵ TIE Campaign submission http://www.parliament.scot/S5_Equal_Opps/General%20Documents/TIE_submission.pdf

conducting regular monitoring of incidences of bullying at school, and involving children in the initiatives and monitoring aimed at eliminating bullying'.¹⁶

We therefore believe that human rights education needs to be embedded into the curriculum in Scotland's schools and that this education should begin at an early age.

2. Creating A Culture of Respect

Human rights education alone will be insufficient to eradicate prejudice-based bullying and harassment, as such behaviour is often grounded in ignorance and a lack of respect for diversity and difference.

We are supportive of the model outlined by Derek Allan of Kirkcaldy High School in his evidence to the Committee in June 2017.¹⁷ In that evidence, he highlighted the importance of taking a preventative approach towards bullying and harassment through the creation of a *'values-based culture – with respect for self, respect for others and respect for learning'* at its heart. He emphasised the need to ensure that pupils themselves were able to speak out – *'equipping them to call out and challenge those who are not treating others fairly or are bullying others.'*¹⁸

Cameron Bowie, a pupil at the same school, also gave evidence to the inquiry and confirmed that the approach taken by the school, had led to it becoming a *'very accepting place'* where *'it is uncool for anyone....to bully someone else'*.¹⁹

However, the inquiry showed that there are some schools where prejudice-based bullying and harassment has been allowed to continue unchallenged, in direct breach of those rights.

In Girlguiding Scotland's evidence to the inquiry, for example, Susie, an 18 year old girl stated: *'Every winter we had something called social dance classes, where we'd be taught ceilidh dancing and things like that. You'd be partnered with a boy and through the course of the dance, move from boy to boy. It was just a given that every time you got to the next boy he'd make a comment at you. It was so well known that those teachers brought in a rule that girls could wear leggings and long sleeve tops to those classes instead of our usual PE shorts and t-shirts. There was never a suggestion that the boys should stop making the comments – it was that the girls should cover up more. Looking back I realise how totally outrageous that attitude was!'*²⁰

This approach clearly demonstrates a lack of understanding by staff of the dynamics of such bullying and harassment and also gives the false impression that it is the girls'

¹⁶ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/GBR/CO/5&Lang=En

¹⁷ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11011&mode=pdf>

¹⁸ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11011&mode=pdf>

¹⁹ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11011&mode=pdf>

²⁰ http://www.parliament.scot/S5_Equal_Opps/General%20Documents/SUBMISSION_FROM_GIRLGUIDING_SCOTLAND.pdf

responsibility to protect themselves, rather than the perpetrators' responsibility not to require them to do so.

We agree with the recommendations in the 'It is not Cool to be Cruel' report which emphasise the need for teacher training to have a great focus on equalities, protected characteristics and human rights²¹. We also agree that such training should extend to CPD for existing teachers.

In line with recommendations 28 and 29 in the inquiry report, we would also suggest that accurate data collection and analysis are vital in order to recognise the true extent of prejudice-based bullying and harassment in Scottish schools. Clear targets should also be set to eradicate such behaviour.

We would highlight that this data collection can only occur once pupils feel able to bring forward complaints and/or where teaching staff are able to recognise the full range of bullying behaviours that may occur in school.

3. Meaningful Sexual and Reproductive Health Education

Children and young people need meaningful sexual and reproductive health education in order to reduce the incidence of prejudice-based bullying and harassment.

In 2013, the UN Committee on the Rights of the Child produced General Comment 15, which explored the right of the child to enjoy the highest attainable standard of health.

The General Comment was clear that sexual and reproductive health education should be grounded in gender equality²² and should seek to eliminate all forms of sexual and gender-based violence.²³

During 2017 we have worked with young people from RASAC in Perth and Kinross as part of a Europe-wide project on sexuality and relationships education.

In September 2017, young people from across Europe worked with the European Network of Ombudspersons for Children to produce a joint statement which defined a child's right to comprehensive sexuality and relationships education as *'a process of acquiring information and informing opinions, beliefs and values as well as acquiring skills to generate closeness and to be safe. It also means supporting and protecting an age-appropriate positive attitude towards oneself, respecting diversity and experiences of safe closeness. CRSE has a rights-based and gender-focused approach. CRSE includes*

²¹ <https://sp-bpr-en-prod-cdnep.azureedge.net/published/EHRiC/2017/7/6/It-is-not-Cool-to-be-Cruel--Prejudice-based-bullying-and-harassment-of-children-and-young-people-in-schools/5th%20Report%202017.pdf>

²² <http://www.refworld.org/docid/51ef9e134.html>

²³ <http://www.refworld.org/docid/51ef9e134.html>

*scientifically accurate information about human development, interpersonal relationships, affection, body image, anatomy and reproductive health*²⁴.

The Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Abuse (also known as the Istanbul Convention) suggests that the inclusion of teaching materials in formal curricula which emphasise gender equality, mutual respect, non-violent conflict resolution in interpersonal relationships and the right to personal integrity is vital to ensure that levels of prejudice-based bullying and harassment are reduced²⁵. The Convention suggests that such education should take place at all levels of education, including with younger children.²⁶

We therefore support the Committee's recommendation that Primary School pupils should be taught about positive and gender equal relationships, where this can be delivered in an accessible and age appropriate way.

4. Involving Children and Young People

As previously stated, we warmly welcome the contribution of children and young people to this inquiry.

If prejudice-based bullying and harassment in schools is to be eradicated, then the views and suggestions of children and young people themselves will be vital to this. This is particularly important in relation to the role that technology plays in the context of bullying and harassment, where the expertise and experience of children and young people will be essential in developing solutions.

As the recommendations of this inquiry are implemented, we would urge an inclusive process which brings together a broad range of children and young people, including those most likely to be targeted by bullying, to look at potential solutions. This is in line with Article 12 of the UN Convention on the Rights of the Child, which states that children and young people should be consulted and have their views taken into account when decisions are being made that directly affect them²⁷.

5. UNCRC Incorporation

In their 2016 Concluding Observations, the UN Committee on the Rights of the Child recommended that the UK and devolved governments should '*expedite bringing in line with the Convention its domestic legislation, at the national and devolved levels and in the overseas territories and the Crown dependencies, in order to ensure that the principles and provisions of the Convention are directly applicable and justiciable under domestic law.*'²⁸

²⁴ <http://enoc.eu/wp-content/uploads/2017/10/ENOC-position-statement-on-CRSE.pdf>

²⁵ <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e>

²⁶ <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e>

²⁷ <http://www.refworld.org/docid/51ef9e134.html>

²⁸ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/GBR/CO/5&Lang=En

We therefore particularly welcome recommendation 8 of the 'It is not Cool to be Cruel' report, which calls for the Scottish Government to bring forward legislation to incorporate the UN Convention on the Rights of the Child. This is something that we have long campaigned for. It is also the current focus of the Scottish Youth Parliament's 'Right Here, Right Now' campaign.

Should you require any further information in relation to this briefing, please contact Pauline McIntyre, Parliamentary and Policy Officer (pauline.mcintyre@cypcs.org.uk) in the first instance.