

Child Poverty (Scotland) Bill

Stage 1 Debate Briefing

Introduction

Poverty can severely affect a child's development and have a negative impact on their health, education, family relationships and aspirations both in childhood and in adult life. Growing up in poverty is one of the biggest barriers to children being able to realise their rights.

More than a quarter of children in Scotland currently live in poverty. In 2015-2016, around 260,000 children were living in relative poverty after housing costs. Food bank use by families with children and young people has risen exponentially¹. This is in direct contravention of their rights.

This briefing provides analysis of the Child Poverty (Scotland) Bill from a children's rights perspective and outlines where further improvements could be made to ensure that children and young people's rights in Scotland are fully safeguarded.

Rights Framework

UNCRC – Relevant Articles

The UN Convention on the Rights of the Child (UNCRC) was ratified by the UK in 1991. It sets out the minimum rights a child or young person under the age of 18 in a signatory country can expect to enjoy.

Article 6 of the Convention recognises that 'every child has the inherent right to life' and that the government must ensure 'to the maximum extent possible the survival and development of the child'².

Article 27 states that every child has the right 'to a standard of living adequate for the child's physical, mental, spiritual, moral and social development'.

Article 24 also 'recognises the right of the child to the enjoyment of the highest attainable standard of health'.

Other children's rights relevant to child poverty include Article 3 (child's best interests), Article 12 (right to express a view), Article 23 (right for a physically or mentally disabled child to enjoy a full and decent life), Article 24 (right to health), Article 26 (right to social security) and Articles 28 & 29 (right to education).

¹ <https://www.trusselltrust.org/2017/04/25/uk-foodbank-use-continues-rise/>

² UN Convention on the Rights of the Child (full text)
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

The UN Committee on the Rights of the Child has stated that children living in poverty belong to the group of children with heightened vulnerabilities³ and recognises that some children are more vulnerable to poverty and deprivation than others. These include younger children, indigenous children, immigrant children and children living in single-parent households.

Any legislation designed to tackle child poverty in Scotland must therefore pay particular attention to the needs of these groups of children and young people.

UNCRC – Maximum Available Resources

Article 4 of the Convention says that ‘States parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the Convention.’ The UNCRC is clear that this should be ‘to the maximum extent of their available resources’. The UK and devolved governments must prioritise children’s rights both in their actions and in their budgeting.

UN Committee on the Rights of the Child - General Comment no 19

The issue of budgeting is explored in more detail in the UN Committee on the Rights of the Child’s General Comment no 19⁴ on ‘Public Budgeting for the Realisation of Children’s Rights’ (Art 4), produced in 2016.

This General Comment includes the views of children and young people who state:

‘It is impossible for you to invest in us if you do not ask us what to invest in. We know; you should ask.’⁵

Children and young people also say that *‘Investment in our families is also an important way of securing our rights.’⁶*

It is crucial therefore that children and young people themselves are consulted and involved in any measures to alleviate child poverty. Equally, there should be clear

³ UN Committee on the Rights of the Child, General Comment 7. Available online here:

<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/GeneralComment7Rev1.pdf>

⁴ General comments are created by the UN Committee on the Rights of the Child to aid interpretation of the Convention. General Comment no 19 is available online here:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?TreatyID=5&DocTypeID=11

General Comment no 19 was informed by several United Nations resolutions and reports that set out budget principles from a human rights perspective, including: (a) Human Rights Council resolution 28/19 aiming towards better investment in the rights of the child, and the report of the United Nations High Commissioner for Human Rights that preceded the resolution, entitled “Towards better investment in the rights of the child” (A/HRC/28/33). They address the role of national policies, resource mobilization, transparency, accountability, participation, allocation and spending, child protection systems, international cooperation and follow-up in relation to investment in children.

⁵ General Comment no 19, p.4

⁶ General Comment 19, p.5

recognition of the impact that wider reforms, for example to parental benefits, will have on children and young people. Measures should be put in place to mitigate any negative impacts upon them.

The OHCHR's Conceptual Framework Publication

The Office of the High Commissioner for Human Rights' Conceptual Framework Publication⁷ explores how poverty reduction strategies can be strengthened by taking a human rights approach.

An earlier statement adopted by the UN Committee on Economic, Social and Cultural Rights in 2001 also concluded that 'Anti-poverty policies are more likely to be effective, sustainable, inclusive, equitable and meaningful to those living in poverty if they are based upon international human rights.'⁸

Views of Children and Young People

Children's Rights and Well-being Impact Assessment (CRWIA)

I welcome the commitment in the Children's Rights and Well-being Impact Assessment⁹ accompanying this Bill that the Scottish Government will consult young people via the Scottish Youth Parliament. However, it is also important that younger children are consulted, as well as children from the other groups identified as being most likely to be affected by child poverty.

This is vital as not only are children and young people able to provide important perspectives about how poverty directly affects their lives, but they are often able to identify new approaches to tackling poverty and suggest ways in which they can best be supported.

Children and young people need to be involved at every stage of policy development, including in the design of delivery plans, local progress reports and the development of meaningful indicators for the measurement framework. Such consultation should be age appropriate and accessible.

Learning Lessons Report

My office has experience of consulting with children and young people living in poverty. For example, Learning Lessons was a report produced by my office in 2014.¹⁰ It

⁷ <http://www.ohchr.org/Documents/Publications/PovertyReductionen.pdf>

⁸ Poverty and the International Covenant on Economic, Social and Cultural Rights: statement adopted on 4 May 2001 by the Committee on Economic, Social and Cultural Rights (E/C.12/2001/10), para. 13.

⁹ <http://www.gov.scot/Resource/0051/00514809.pdf>

¹⁰ <https://www.cypcs.org.uk/ufiles/Learning-Lessons.pdf>

examined young people's views on poverty and education in Scotland and revealed some helpful insights into the challenges faced by those in poverty and the impact that this might have on their learning.

Young people thought that having an education, a home, their basic needs met and a supportive family were essential to doing well in life.

However, they were also clear that living in poverty presented challenges for young people and their families and identified issues that could be difficult for young people living in poverty to access, such as school uniforms, resources for school work, going on school trips and having basics such as housing and food.¹¹

'The more you have, the better the childhood you have, in my opinion. Because I've got mates that are minted and they're just loving life. And then you see people like me, who don't have a lot of money, while they're walking about with new shoes and everything, and I'm still wearing ones from 2003'. Learning Lessons report, p. 22

Living Is More Important Than Just Surviving Report

More recently, my office undertook some work with children around their understanding of food insecurity, in partnership with Nourish Scotland. Children and young people were clear that much of this stemmed from financial difficulties within families.

They also displayed a mature understanding about the role of food banks in society and agreed that every child has the right to food.¹²

'Some people don't have enough money to buy food and some people have to go to food banks and some people can't go to the food bank because their families are ill.' Living Is More Important Than Just Surviving, p. 10

'You could find a really really rich person...with a lot of money, you could get some money from them because they would still have a lot of money and give it to the poor.' Living Is More Important Than Just Surviving, p. 15

Child Poverty (Scotland) Bill – Key Provisions

The Child Poverty (Scotland) Bill sends out a powerful message that Scotland is serious about tackling child poverty.

In 2016, the UN Committee on the Rights of the Child looked at Scotland's record on children's rights and expressed concern at the repeal by the UK Government of the statutory targets contained within the Child Poverty Act 2010 and recommended that the State Party:

¹¹ Learning Lessons Report, p. 3 <https://www.cypcs.org.uk/ufiles/Learning-Lessons.pdf>

“Set up clear accountability mechanisms for the eradication of child poverty, including by re-establishing concrete targets with a set time frame and measurable indicators, and continue regular monitoring and reporting on child poverty reduction in all parts of the State party;” and “ensure clear focus on the child in the State party’s poverty reduction strategies and action plans.”¹³

This Bill addresses that concern by introducing the four income based targets against which child poverty will be measured. There are, however, areas where the Bill could be enhanced and these are detailed below.

Statutory Interim Targets

Statutory interim targets should be put in place to allow for effective review and provide a means of measuring progress towards the 2030 targets.

I support the Social Security Committee’s view¹⁴ that a review should take place before 2030. I would suggest having one at the half way point would allow enough time for reflection, but also allow for adjustments to be made should it appear that the 2030 targets will not be met.

I also agree with the Committee’s view that having such a review point in place will ‘aid focus and create greater immediacy’.

Delivery Plans and Progress Reports

The income based targets will sit alongside delivery plans and progress reports, but there is limited detail on these. Delivery plans should specify, through regulations or other means, the policy areas which could be included, for example, employment rates for parents and carers and how this is being facilitated and supported, the provision of information, advice and assistance to parents and carers, availability of income maximisation measures, availability of childcare, access to affordable housing and the extent to which the newly devolved social security powers are contributing to reducing child poverty. The experiences of children and young people should also feed into the development of these plans and these should also make specific reference to the measurement framework.

The Bill also places a duty on local authorities and health boards to produce ‘local child poverty action reports’ which will describe the actions taken in each local authority area in the last year which have contributed to the achievement of the child poverty targets.

¹³ Committee on the Rights of the Child, 2016. Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland.
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en

¹⁴ <https://digitalpublications.parliament.scot/Committees/Report/SC/2017/5/22/Stage-One-Report-on-the-Child-Poverty--Scotland--Bill>

Effective local activity is a central tenet of the Bill, but the reports are currently retrospective and limited. I would like to see a more forward looking and strategic approach which focuses on targeted interventions, rather than reporting on progress from the previous year.

I would suggest that further Children's Rights and Wellbeing Impact Assessments (CRWIAs) should be carried out for each aspect of such an approach. This would help to ensure that potential impacts are assessed and children's rights and views are taken into account at every stage.

It is also worth noting that Part 3 of the Children and Young People (Scotland) Act 2014 contains a duty for local authorities and health boards to report on progress on poverty against the national and local outcomes. Making the links to other statutory requirements is essential, and the use of tools such as CRWIAs will assist in that process.

Child Poverty Measurement Framework

The current child poverty measurement framework should incorporate a wider range of evidence based indicators than is currently provided - both quantitative and qualitative. These must also be clearly linked to the areas outlined in the delivery plans.

Making Use of the New Social Security Powers Devolved to Scotland

The new social security powers should also demonstrate that they are contributing to reducing child poverty. These new powers allow us to top up reserved benefits, including child benefit.

There is great potential for the Scottish Government to use its social security powers to further protect and promote economic, social and cultural rights within law, policy and practice in Scotland. This will also help to realise children's rights in numerous ways, for example, ensuring benefits protect the right to an adequate standard of living, particularly for families with children.

The Child Poverty Action Group has demonstrated that increasing child benefit by £5 per week is likely to reduce child poverty by 14%, lifting 30,000 children out of poverty. Topping up child benefit will also make a significant contribution to meeting the proposed statutory income targets outlined in the Bill.

A Commission to Scrutinise Delivery and Progress

The Social Security Committee called for the establishment of an independent commission, on a statutory footing, to scrutinise Scottish Ministers' delivery and progress. I support this call and the Committee's view that having such a commission, on a statutory footing, will ensure current and successive Scottish Ministers and

Parliaments take account of the commission's views and that the Parliament has a say in the appointees.¹⁵

Concluding Remarks

Legislation alone cannot eradicate child poverty, but the Bill provides a good foundation for work at both national and local levels. This should be complemented by a range of policy and practice initiatives. Child poverty needs to be recognised as 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.

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

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¹⁵ <https://digitalpublications.parliament.scot/Committees/Report/SC/2017/5/22/Stage-One-Report-on-the-Child-Poverty--Scotland--Bill>