Workshop 6

Making a Positive Contribution to Society
Well-being of children and young persons

1.—(1) The functions conferred by this Act are to be exercised for the purpose of improving the well-being of children and young persons.

(2) For this purpose the “well-being” of children and young persons includes—

(a) physical and mental health;
(b) the enjoyment of play and leisure;
(c) learning and achievement;
(d) living in safety and with stability;
(e) economic and environmental well-being;
(f) the making by them of a positive contribution to society;
(g) living in a society which respects their rights;
(h) living in a society in which equality of opportunity and good relations are promoted between persons who share a relevant characteristic and persons who do not share that characteristic.

(3) In this section “relevant characteristic” means a characteristic mentioned in any of paragraphs (a) to (d) of section 75(1) of the Northern Ireland Act 1998.

(4) In determining the meaning of well-being for the purposes of this Act, regard is to be had to any relevant provision of the United Nations Convention on the Rights of the Child.
UNCRC Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

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33. The Committee recommends that the State party, in accordance with article 12 of the Convention, and taking into account the recommendations adopted by the Committee after the Day of General Discussion on the right of the child to be heard in 2006:

a) promote, facilitate and implement, in legislation as well as in practice, within the family, schools, and the community as well as in institutions and in administrative and judicial proceedings, the principle of respect for the views of the child;

b) support forums for children’s participation, such as the UK Youth Parliament, Funky Dragon in Wales and Youth Parliament in Scotland;

c) continue to collaborate with civil society organizations to increase opportunities for children’s meaningful participation, including in the media.

Concluding Observations United Kingdom of Great Britain and Northern Ireland, CRC/C/GBR/CO/4, 3 October 2008
Guidelines for periodic reports the UNCRC asks state parties to provide data on the number of child and youth organisations, the numbers of CYP involved and also the number of schools with independent student councils.

The 2002 UN General Assembly special session on children, ‘A World fit for Children’, States committed to:

• Strive to develop programmes to promote meaningful participation in by children, including adolescents, in decision making processes, including in families, school, and at local and national levels.
• Children and adolescents are resourceful citizens capable of helping to build a better future for all.

General Comment 5- General Measures of Implementation

• Need to open Government decision making up to CYP.
• Appearing to listen to children is relatively unchallenging, giving due weight to their views requires real change.
• Consistent and ongoing arrangements.
• Ascertain representative views . CRC/GC/2003/5, para. 57
States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.
1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected. 4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.
General Comment 10 – Children’s Rights in Juvenile Justice

• General Comment - a statement of the meaning and objectives of an Article.

• Insight into Government’s obligations under Articles 37 and 40.

• The Aim is to provide States with guidance and recommendations, promoting diversion and restorative justice, enabling States Parties to respond to children in conflict with the law in a manner which serves the best interests not only of the child but of society and to promote integration into national policies of other international standards, in particular the relevant United Nations rules and guidelines.

• The leading principles for a comprehensive policy for juvenile justice are found in the General Principles (articles 2 – Non-discrimination, 3 – best interests, 6 – survival and development to maximum potential and 12 – views of the child) together with articles 37 and 40.

UN Committee on the Rights of the Child, Children’s rights in Juvenile Justice (2007) CRC/C/GC/10
27. The Committee recommends that the State party take all appropriate measures to ensure that the principle of the best interests of the child, in accordance with article 3 of the Convention, is adequately integrated in all legislation and policies which have an impact on children, including in the area of criminal justice and immigration.

78. The Committee recommends that the State party fully implement international standards of juvenile justice, in particular articles 37, 39 and 40 of the Convention, as well as the General Comment No.10 on “Children’s rights in Juvenile Justice” the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“the Beijing Rules”), the United Nations Guidelines for the Prevention of Juvenile Delinquency (“the Riyadh Guidelines”) and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (“the Havana Rules”). It also recommends that the State party:

a) raise the minimum age of criminal responsibility in accordance with the Committee’s General Comment n° 10, and notably its paragraphs 32 and 33;
b) develop a broad range of alternative measures to detention for children in conflict with the law; and establish the principle that detention should be used as a measure of last resort and for the shortest period of time as a statutory principle;
c) children in conflict with the law are always dealt with within the juvenile justice system and never tried as adults in ordinary courts, irrespective of the gravity of the crime they are charged with;
d) following the welcomed withdrawal of its reservation to article 37c) of the Convention, ensure that, unless in his or her best interests, every child deprived of liberty is separated from adults in all places of deprivation of liberty;

e) provide for a statutory right to education for all children deprived of their liberty;

f) review the application of the Counter Terrorism Bill to children;

g) ensure that, when children in the Overseas Territories are subject to deprivation of liberty in another country, all the guarantees enshrined in article 40 of the Convention are respected and that this respect is duly monitored; the State party should also ensure that those children have the right, unless it is considered in the child best interest not to do so, to maintain contact with their family through regular visits;

h) adopt appropriate measures to protect the rights and interests of child victims or witnesses of crime at all stages of the criminal justice process.

Concluding Observations United Kingdom of Great Britain and Northern Ireland, CRC/C/GBR/CO/4, 3 October 2008
Your Voice Matters

Engagement with 500+ Children and Young People

Justice Issues Arising
• Interactions with PSNI – Incivility,
• Negative Stereotyping of Children from Certain Areas,
• Minimum Age of Criminal Responsibility
• Child Friendly Justice Complaints Mechanisms
Questions for Consideration

1. What are the issues affecting children generally that should be addressed under this outcome?

2. Are there specific issues affecting particular groups of children?

3. Where are the gaps in our knowledge?

4. What do children and young people think about this issue?

5. Who needs to be involved in addressing this outcome?

6. What other work is currently being taken forward in relation to this outcome?

7. Is it possible to focus down on a few initial priority areas for this outcome?