

## **Children in Scotland Written Submission to Inquiry into How is Devolution Changing post-EU?**

### **About Children in Scotland**

Giving all children in Scotland an equal chance to flourish is at the heart of everything we do.

By bringing together a network of people working with and for children, alongside children and young people themselves, we offer a broad, balanced and independent voice. We create solutions, provide support and develop positive change across all areas affecting children in Scotland.

We do this by listening, gathering evidence, and applying and sharing our learning, while always working to uphold children's rights. Our range of knowledge and expertise means we can provide trusted support on issues as diverse as the people we work with and the varied lives of children and families in Scotland.

### **Background to our submission**

Children in Scotland is pleased to be able to response to Committee's call for evidence on 'How is Devolution Changing post-EU?'.

Between 2018 – 2020 we delivered the Children and Young People's Panel on Europe project in partnership with Together, the Scottish Alliance for Children's Rights.<sup>1</sup> The project, funded by the Scottish Government, aimed to ensure the views of children and young people were heard as Britain exited the European Union. Delivered over two distinct phases, through the project we identified priorities for children and young people in the Brexit process.

Our Phase 1 report highlighted 54 calls made by the group of children and young people we worked with.<sup>2</sup> These provided evidence of what children and young people wanted to see happen as Britain negotiated its exit from the EU. These were focused on the following five areas:

- EU Funding
- Opportunities to Work, Study and Travel
- The Economy, Trade and Jobs
- Rights
- Uncertainty.

In Phase 2 we worked with the group to provide more detailed evidence on what children and young people wanted. This was intended to inform decision-making for both Scottish and UK Governments. Our Phase 2 report was published in December 2020.<sup>3</sup>

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<sup>1</sup> <https://childreninscotland.org.uk/children-and-young-peoples-panel-on-europe/>

<sup>2</sup> [https://childreninscotland.org.uk/wp-content/uploads/2019/02/Brexit\\_FINAL\\_nobleed.pdf](https://childreninscotland.org.uk/wp-content/uploads/2019/02/Brexit_FINAL_nobleed.pdf)

<sup>3</sup> [https://childreninscotland.org.uk/wp-content/uploads/2020/11/CYP\\_Panel\\_on\\_Europe\\_Report\\_Final.pdf](https://childreninscotland.org.uk/wp-content/uploads/2020/11/CYP_Panel_on_Europe_Report_Final.pdf)

The recommendations from the Children and Young People's Panel on Europe informed Children in Scotland's Manifesto for 2021-2026, which outlines the key changes the Scottish Government should make to ensure that all children and young people have an equal chance to flourish. The Rights, Democracy and Scotland's Place in the world section of the Manifesto emphasises the need for children and young people to be heard in future democratic opportunities such as Citizen's Assemblies.<sup>4</sup>

It is important to highlight here that Children in Scotland does not have an organisation position on future constitutional arrangements or technical knowledge on regulatory divergence. These are not our area of expertise. However, in this response we intend to use learning from our work in this area to provide insight on what children and young people wanted from the Brexit process. We believe this can inform the committee in identifying appropriate future devolution arrangements.

### **Devolution now and in the future**

The majority of Children in Scotland's work focusses on issues of devolved competence. However, the recent UNCRC (Incorporation)(Scotland) Bill has highlighted key tensions in relation to devolved/reserved competencies and issues affecting children and young people.

As the Committee will be aware, the Bill seeks to incorporate the UN Convention on the Rights of the Child (UNCRC) into Scots Law. The Bill received unanimous support in the Scottish Parliament from across all parties. It has subsequently been challenged within the Supreme Court on the grounds of legislative competence in some areas, with the challenge upheld.

The Bill was the result of years of consultation and development both in parliament and across the children's sector. However, due to these issues around legal competence, children continue to wait for the rights to be fully realized. Along with partners across the sector, we have continued to advocate for the Bill to be brought back before parliament as a matter of urgency to address the sections identified as being unlawful.

However, more pertinently to this call for views, this situation reflects how children and young people's rights can become compromised by problems in communication and joint working between the Scottish and UK Governments. Going forward, we call for a strong commitment from both governments to children's rights and to working together where needed to prevent or resolve any other areas of dispute as quickly as possible. Ultimately, key legislation that will affect human rights and children's wellbeing and development should not become a matter for politics between parties and governments.

There are also opportunities to consider how devolved powers work most effectively within Scotland and how decision-making can be devolved to Local Authorities and communities themselves, to ensure decisions are taken nearest to those they affect. Children in Scotland has been supportive of steps taken to involve children and

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<sup>4</sup> [https://childreninscotland.org.uk/wp-content/uploads/2021/03/Manifesto\\_V2.1\\_March-21.pdf](https://childreninscotland.org.uk/wp-content/uploads/2021/03/Manifesto_V2.1_March-21.pdf)

young people in local decision-making, such as the duty to involve children and young people in the development of local development plans, as outlined in the Planning (Scotland) Act 2019. We would encourage the committee to consider other legislative areas where similar duties could be included.

Good devolved decision-making takes more than legislation and policy to be realised; even when duties exist in statute the quality and meaningfulness of the experience on the ground can be incredibly varied. For example, our experience from our Supporting The Third Sector project has revealed that, for the most part, third sector interfaces (TSIs) and the local third sector organisations they represent do not feel valued in local planning and decision-making, such as Children's Services Planning. Formalising their involvement in local governance should become a priority and would support meaningful devolution of power.

Local participatory decision-making needs to be supported by adequate funding to deliver solutions locally. We know at present that funding for local authorities is extremely tight, making it hard to deliver on existing priorities. Sustainable long-term funding at local authority level is needed for devolution of power to work in practice.<sup>5</sup>

### **Open and transparent policymaking**

While progress has undoubtedly been made in supporting children and young people to be heard in decision-making across Scotland, there is still significant action needed to ensure that they can meaningfully contribute to the development of policy and legislation at its evaluation and review. In our experience, there is a particular gap in policy areas such as the constitution, devolution and regulation.

While the Children and Young People's Panel on Europe provided the space for children and young people to share their views on the process of leaving the EU, we are not convinced that a meaningful difference was made to policymaking as a result of their work. The complexity of the policy areas involved was a factor in this lack of influencing impact. Indeed, this complexity may have contributed to the fact that there was a lack of appropriate mechanisms within government to respond to the recommendations made by the group.

The recent Citizen's Assemblies provided a space for adults to develop ideas and share these with government. Despite recent reports highlighting the Assemblies' recommendations, it is hard to assess the impact this has had on policy and decision-making. It is also important to recognize that the assemblies have, up to now, not been inclusive of those aged under 16 years, despite children having a right to be heard in decisions that affect them (Article 12 of the UNCRC). We urge the Scottish Government to commit to introducing Citizen's Assemblies for under-16s, as outlined in the 2021 SNP manifesto.

Children in Scotland has a wealth of experience of working with children and young people on complex policy areas and ensuring their views are reflected in our work. Many of our partners and members have similar experience to bring. We would encourage the Committee and Scottish Government itself to consider how it can

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<sup>5</sup> <https://www.audit-scotland.gov.uk/publications/local-government-in-scotland-financial-overview-202021>

learn from these experiences to ensure children and young people can be involved in decision-making and their views acted on. We would be more than happy to discuss appropriate structures and mechanisms that could support meaningful engagement on these topics.

We would also strongly encourage the Committee to explore how reducing the voting age in Scotland has affected policymaking. Based on our work with children and young people, we believe this has been a success and based on our work with the Panel on Europe we know young people value the opportunity to exercise their vote. Ultimately, we believe that this opportunity should be extended to all UK elections. This enquiry presents an opportunity to explore these issues further and to encourage discussion between the Scottish and UK governments on the topic.

### **Constitutional arrangements**

As we have highlighted in our initial comments, Children in Scotland does not have a position on constitutional arrangements or how these should be developed. Our priority is instead that any future constitutional arrangements have space for children and young people to feed into them and also that both devolved and reserved powers are organised in such a way as to promote the best outcomes possible for children and young people. Throughout this response, we have highlighted concerns around how children and young people can feed into decision-making in this area and provided advice on how to develop this further.

In terms of how constitutional arrangements actually develop, we believe that ongoing collaboration between UK and Scottish governments is key. We appreciate there will be divergence in priorities and approach across the two governments, however it is important that opportunities to support shared aims are taken to promote the best outcomes for children, young people and families. Within this it would be of benefit for all parties to actively reflect on how messaging can be shared that supports children and young people's understanding of democratic processes and limits uncertainty and worry for them. Children and young people are aware of the world around them and need access to good quality information from trusted sources to help them to safely navigate change.

Our experience from the EU referendum was that children and young people did not have sufficient access to age-appropriate information to help them understand that process. Governments should learn from this and ensure that the information needs and rights of children and young people are met in the future.

There also needs to be greater clarity on cross-border funding. Scotland has previously benefitted greatly from the European Social Fund. We are aware work has been underway to develop the Shared Prosperity Fund (SPF) and that some work on the roll-out of this has begun. However, we are unclear at present about the progress of the delivery of the SPF and are not convinced that the fund will provide commensurate benefit for children and young people as was provided through the European Social Fund.

The Children and Young People's Panel on Europe were clear in their phase 2 report about how any post-EU funding should be used in relation to services for children and young people, making the following recommendations:

- Youth services should get at least the same level of funding as they currently do from the EU through replacement funding
- The Scottish Government needs to make sure that Scotland gets a fair proportion of funding for youth projects and services when a replacement fund is set up
- The Scottish Government needs to give more information about where funding will come from for youth services
- Funding for youth services needs to be spread fairly across the country. <sup>6</sup>

At present it is unclear how the Shared Prosperity Fund will achieve these aims. We believe that there should be joint messaging from the UK Government, Scottish Government and COSLA on the fund in Scotland. This should provide further information on how the fund is being used and the intended impact. We would also advocate for consideration of how the fund can help realise the Panel on Europe's recommendations.

## **Regulatory divergence**

Issues of regulatory divergence are not part of our day-to-day work at Children in Scotland. We fully appreciate the challenge of delivering competing policy agendas within a complex regulatory environment.

While we do not have technical expertise on appropriate mechanisms for regulatory divergence, we do have a depth of knowledge from our work with the Panel on Europe on what children and young people want in terms of food standards and labour market regulation. Across both Phase 1 and Phase 2 of the project the group highlighted a preference for continuing high standards in food production and for exiting the EU to not detrimentally affect labour market rules in the UK. The group also highlighted areas where they wanted to see the Scottish and UK governments work together to improve standards.

Below we have highlighted a number of these recommendations to support thinking around future regulation and opportunities for divergence and collaboration.

### *Phase 1* <sup>7</sup>

- The UK Government should keep all workers' rights that the EU gives to workers. The Children and Young People's Panel on Europe thinks it is important for people to be happy, healthy and safe at work. The Panel wants Scotland to be a world leader in the way workers are treated.
- The UK Government should maintain and improve rules on health and safety at work that come from the EU. There are EU laws which protect workers'

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<sup>6</sup> [https://childreninscotland.org.uk/wp-content/uploads/2020/11/CYP\\_Panel\\_on\\_Europe\\_Report\\_Final.pdf](https://childreninscotland.org.uk/wp-content/uploads/2020/11/CYP_Panel_on_Europe_Report_Final.pdf)

<sup>7</sup> [https://childreninscotland.org.uk/wp-content/uploads/2019/02/Brexit\\_FINAL\\_nobleed.pdf](https://childreninscotland.org.uk/wp-content/uploads/2019/02/Brexit_FINAL_nobleed.pdf)

rights to a safe workplace. It is important that people are able to be safe at work and are not exposed to lots of risks.

- The UK Government should keep EU rules which prevent people from being forced to work long hours. The Panel thinks it is important that we keep the rules that give workers the right to breaks and to refuse to work more than 48 hours a week. It is important that hours aren't too long so that workers have time to rest, relax, socialise and so parents can spend time with their children.

## *Phase 2*<sup>8</sup>

- We should try to have high food and product standards so we can continue to trade with EU countries. We should try to keep these at around the same level, but we should go higher than a minimum standard required if we can.
- We discussed media reports about possible imports of chlorine-washed chicken and hormone-treated beef, and the fact that haggis is banned in the USA! We feel it is particularly important to have high quality standards for farming and food preparation, and that there should be a traffic light scoring system for food quality to help keep people informed. A similar system is already in place to show the level of saturated fat, sugar, and salt in the food we buy.
- We don't mind if having higher trading standards means that it is harder for us to trade with some countries. We might lose trade opportunities with the EU if we don't do this.
- Increase the minimum wage for everyone because it will affect the money that families have. Living on a low income might mean parents and carers have fewer opportunities to do the things children and young people need, like play and have fun. It also might make parents, carers, children and young people feel stressed, affecting their mental health.

We would strongly encourage the UK and Scottish governments to ensure these recommendations are considered within policymaking going forward. They provide key evidence for both when taking decisions about regulation on the priorities for children and young people.

Similar to the points highlighted throughout this response, there also needs to be space for children and young people's views to be heard more actively in decisions about regulation and divergence across the UK. These are obviously complex topics and require skilled staff and space for meaningful participative approaches.

We are also aware that the Committee is interested in understanding perceptions on the clarity of regulation post EU-exit. Children in Scotland believes work could be done in this area to ensure greater awareness and understanding of the regulatory environment. As a national body which has had a focus on Brexit through our participation work, we have often found it challenging to remain up to date on changes to policy and regulation. We are confident that this will be reflected among our members and by children and young people themselves. We would strongly encourage the UK Government and Scottish Government to consider how they can

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<sup>8</sup> [https://childreninscotland.org.uk/wp-content/uploads/2020/11/CYP\\_Panel\\_on\\_Europe\\_Report\\_Final.pdf](https://childreninscotland.org.uk/wp-content/uploads/2020/11/CYP_Panel_on_Europe_Report_Final.pdf)

provide accessible, relevant information to the public about ongoing changes following our exit from the EU.

## **Education**

Throughout this response we have highlighted the importance of children and young peoples' participation and engagement. The Children and Young People's Panel on Europe highlighted the importance of improving education for children and young people on politics and democratic processes at local levels, in Scotland and the UK. The group felt that there is not enough opportunity to learn about these issues and understand how they, as children, can participate.

## **For more information**

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