



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Periodic reports of States parties due in 1998**

**United Kingdom of Great Britain and Northern Ireland\***

[14 September 1999]

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\* For the initial report submitted by the Government of the United Kingdom, see document CRC/C/11/Add.1; for its consideration by the Committee, see documents CRC/C/SR.204-206 and for the Committee's concluding observations see document CRC/C/15/Add.34.

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## 1. INTRODUCTION

1.1.1 This report has been prepared by the United Kingdom Government building on the first report submitted in February 1994<sup>1</sup> and in accordance with article 44 of the Convention, which requires States parties to submit reports on the measures they have adopted which give effect to the rights recognized in the Convention and on the progress made on the enjoyment of those rights. Reports are required within two years of the entry into force of the Convention for the State party concerned and thereafter every five years.

### 1.2 Structure of the report

1.2.1 The report takes full account of the “general guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 44” issued in November 1996 by the Committee on the Rights of the Child.

1.2.2 During the past five years there have been major developments in government policies in relation to children, and those changes are fully reflected in this report.

1.2.3 Those developments of law and policy affecting children have served to reinforce the United Kingdom’s compliance with the Convention over the past five years. But the timing and content of those developments have been dictated by the needs identified within the United Kingdom, and those needs have not necessarily arisen in a pattern which follows the structure of the Convention itself. This presents some difficulty in providing the United Nations Committee and other readers with a full account of relevant policy developments while following the report structure recommended by the United Nations Committee. Some policy developments, especially those which reflect attempts to adopt an increasingly integrated approach to provision for children, cover aspects of several different articles of the Convention, often straddling the chapter structure which the Committee prefers to adopt. The report sets out the relevant developments in the way most likely to give a clear account of their coverage, but to assist those working primarily by reference to the text of the Convention there are cross references where necessary, and references in the margin to articles which are closely connected with the policy developments which are described.

1.2.4 This report also adopts a different approach from the first United Kingdom report in distinguishing material related to the different parts of the United Kingdom. There are distinct cultural and traditional differences between England, Wales, Scotland and Northern Ireland, which in the case of Scotland and Northern Ireland extend to significant differences in the legal systems. This diversity of practice is underpinned and strengthened by the creation of the Scottish Parliament, the new Assembly in Northern Ireland, and the Welsh Assembly. Because this report coincides so closely with those important developments, on this occasion the report includes chapters drawing particular attention to issues arising in Scotland, Wales and Northern Ireland. But throughout the report, frequent use of cross references will enable the United Nations Committee and other readers to see how the different provisions throughout the United Kingdom add up to an increasingly coherent pattern of provision which is capable of adapting to local traditions and needs.

### **1.3 Main messages from 1994-1995 - principal subjects of concern, and recommendations**

1.3.1 The Committee on the Rights of the Child considered the initial report of the United Kingdom on 24 and 25 January 1995 and issued its concluding observations in the same month. The text of the Committee's observations is at annex A.

1.3.2 Though they made many positive comments discussed below, the Committee was concerned about the reservations made to the Convention by the United Kingdom, discussed further at section 1.8 below, and whether sufficient consideration had been given to the establishment of an independent mechanism for the purposes of monitoring developments around the implementation of the Convention.

1.3.3 Other concerns were:

(a) The adequacy of implementation of economic, social and cultural rights - a general issue dealt with throughout this report;

(b) The absence of effective safeguards to prevent ill-treatment of children under emergency legislation in Northern Ireland;

(c) Apparent insufficiency of measures taken to ensure the implementation of the general principles of the Convention (that is, articles 2, 3, 6 and 12);

(d) The possible adverse effects on children of the restrictions applied to unmarried fathers in conveying citizenship to their children;

(e) The rights of the child to express his/or her opinion in relation to the possibility for parents in England and Wales to withdraw their children from parts of sex education programmes in schools and other decisions, including exclusion from school;

(f) The numbers of children living in poverty; the rate of divorce; the number of single parent families and teenage pregnancies; the adequacy of benefit allowances and the availability and effectiveness of family education;

(g) Judicial interpretation of the present law permitting the reasonable chastisement of children within the family context;

(h) The administration of the juvenile justice system including the low age of criminal responsibility;

(i) The ethos of the guidelines for the administration and establishment of Secure Training Centres in England and Wales and the Training Schools in Northern Ireland;

(j) Changes affecting the right to remain silent, made by the Criminal Evidence (NI) Order 1988;

(k) The phenomena of children begging and sleeping on the streets, and the changed regulations regarding benefit entitlement as a possible contributing factor in the increase of numbers of young homeless people;

(l) The situation of Gypsy and Traveller children, especially regarding their access to basic services and the provision of caravan sites.

1.3.4 Additional information and responses on those points are set out in the body of the report.

1.3.5 The Committee's concluding observations of 1995 on the United Kingdom's initial report included the following suggestions and recommendations:

(a) The United Kingdom should consider reviewing its reservations to the Convention with a view to withdrawing them;

(b) The United Kingdom should consider establishing a national mechanism for the purpose of coordinating the implementation and monitoring of the Convention;

(c) Ways and means should be established to facilitate regular and closer cooperation between the Government and non-governmental community, particularly with those non-governmental organizations closely involved in monitoring the respect for the rights of the child;

(d) The general principles of the Convention, particularly the provisions of its article 3 relating to the best interests of the child, should guide the determination of policy-making at both the central and local levels of government;

(e) In line with the provisions of article 42, the United Kingdom should undertake measures to make the provisions and the principles of the Convention widely known to adults and children alike;

(f) Teaching about children's rights should be incorporated into the training curricula of professionals working with or for children;

(g) Greater priority should be given to incorporating the general principles of the Convention, especially the provisions of its articles 3 (best interests of the child) and article 12 (child's right to make their views known and to have these views given due weight) in the legislative and administrative measures and in policies undertaken to implement the rights of the child;

(h) The United Kingdom should consider the possibility of establishing further mechanisms to facilitate the participation of children in decisions affecting them, including within the family and the local community.

1.3.6 Progress on a number of these matters is set out in the report.

#### **1.4 Main messages from 1994-1995 - positive comments**

1.4.1 The Committee listed as positive aspects the implementation of the Children Act in 1991 in England and Wales and the application of the Convention to many of the United Kingdom's dependent territories. There was also welcome for the initiatives to reduce the incidence of Sudden Infant Death Syndrome and to combat bullying in school.

1.4.2 The Committee was also encouraged by steps taken to address the issue of sexual abuse and the advocacy and promotion of inter-disciplinary approaches in this area with the "Working Together" guidance. The Committee also welcomed the commitment of the Government to review its legislation in the area of child labour and to present new legislation in matters relating to the family, domestic violence and disability.

1.4.3 Other positive comments referred to by the Committee included:

(a) Legislative measures planned in the area of adoption, including the intention to ratify the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption;

(b) The Code of Practice for Children with Special Educational Needs;

(c) The preparation by local authorities of Children's Services Plans.

#### **1.5 NGO contributions to the preparation of the report**

1.5.1 Consistent with the spirit of partnership between government and the well-developed sector of non-governmental organizations (NGOs) working in this field, this report has taken account of consultation with NGOs. The Department of Health, which coordinated preparation of the report, began this consultation at a launch conference in London in February 1998, in which a range of NGOs took part. Preparation of the report, and the procedures for involving and consulting NGOs and children, were discussed within an advisory group which included NGOs - necessarily few in number, but chosen for the breadth of their contacts with other bodies having an interest in the field of children's rights throughout the United Kingdom. The responsible departments in Scotland, Wales and Northern Ireland coordinated NGO participation within their countries to widen this interest. NGOs were invited to contribute points which they wanted to see reflected in the report, and many did so. NGOs also had some opportunity to comment on an early draft of the report before the Government reached final decisions on its content and coverage.

#### **1.6 Children's participation in preparation of the report**

1.6.1 The degree of participation by children in the United Kingdom's first report was very limited. It has been possible to expand their contribution, both directly and indirectly, in preparing the present report.

1.6.2 The whole process of preparing the second report was launched at a conference in February 1998, opened by the responsible Minister, and including a wide range of non-governmental organizations (NGOs) to underline the new and more inclusive approach being adopted. This was further emphasized by the participation of a group of children, who set out their perception of children's rights in the United Kingdom.

1.6.3 Preparation of the report was significantly widened on this occasion to include consultation at local level through NGOs who were able to reflect in their replies the views of children with whom they were in touch. This consultation process was handled separately in England and Wales, Scotland and Northern Ireland, which included events aimed at drawing out the views of children.

1.6.4 In Scotland, the Government commissioned Save The Children to undertake a project, entitled "Our Lives", to seek the views of children and young people on some of the main themes of the United Nations Convention namely health, education, family life and protection from harm. The consultation took place throughout Scotland in the autumn of 1998. As part of this initiative a National Conference was held in January 1999 to consult on the findings of Save the Children Scotland's discussions with young people. Young people from across Scotland together with their teachers and youth workers attended the conference.

1.6.5 This process, and the much closer involvement of NGOs, has assisted greatly in broadening the basis of the report. There is no doubt room for further development. The degree of partnership between government, NGOs, and the voluntary sector continues to grow. It should provide the basis for closer cooperation and involvement of children by the time that the United Kingdom's next report becomes due.

1.6.6 In that connection, the United Kingdom Government noted with interest a UNICEF convened conference in December 1998. It stated that:

"the reporting process presents an important opportunity for involvement of children. Indeed, there is growing evidence that children's participation is on the increase. Yet, this evolution is patchy at best, and reaches very few children. In most cases, they are still absent at the local, national and international levels when it comes to evaluating how their rights are promoted and protected."

1.6.7 The United Kingdom Government looks forward to examining the proposals emerging from this important initiative.

## **1.7 Recent developments in policies**

1.7.1 Since taking office in May 1997, Government Ministers have announced a series of policy developments of relevance to the United Nations Convention on the Rights of the Child agenda. These are dealt with in more detail in the remainder of the report. They show how the United Kingdom Government is committed to implementing changes which will be of direct benefit to children and which fully accord with the principles of the Convention.



## 1.8 Reservations review

1.8.1 On ratification of the Convention, the United Kingdom entered a number of reservations. The concluding observations of the Committee on the Rights of the Child (January 1995) on the first United Kingdom report included the following:

“The Committee is concerned about the reservations made to the Convention by the State party. In particular, the Committee is concerned that the reservation relating to the application of the Nationality and Immigration Act does not appear to be compatible with the principles of the Convention, including those of its articles 2, 3, 9 and 10.”

and

“The Committee wishes to encourage the State party to consider reviewing its reservations to the Convention with a view to withdrawing them, particularly in the light of the agreement made in this regard at the World Conference on Human Rights and incorporated in its Declaration and Plan of Action.”

1.8.2 The reservation has been reviewed, with the following results:

(a) *Convention applicable only following a live birth*: This was an interpretative declaration, setting out the interpretation on the basis of which the Government adopted the Convention. As such it does not amount to a reservation representing less than complete compliance with the Convention, and it is likely to need to stand indefinitely.

(b) *Interpretation of reference to “parents”*: The comment immediately above applies also in this case.

(c) *Immigration and Citizenship*: The position has not changed. The reasons for needing to retain the reservation, in the particular circumstances of the United Kingdom, are set out at section 7.3.1.

(d) *Employment legislation for persons under 18*: Since its first report to the United Nations, the United Kingdom has implemented the European Community Directive on the protection of young people at work and on the Organization of Working Time.<sup>2</sup> These Directives require EC member States to bring their domestic law into compliance with standards in relation to the employment of young people under the age of 18. The changes to the United Kingdom law came into effect on 1 October 1980.

(e) *Procedures governing Children’s Hearings in Scotland*: This reservation was rendered unnecessary by the implementation of the Children (Scotland) Act 1995, and was withdrawn on 18 April 1997.

## **1.9 Government responsibility for the report**

1.9.1 The Government of the United Kingdom records its gratitude to the many NGOs who have contributed to the preparation of this report. They have had a considerable influence on its content, and the Government hope that many of them will see their points reflected in it. But the report as submitted to the United Nations must, under the terms of the Convention, be a report by the Government of the United Kingdom. The Government does not expect NGOs to share responsibility for the report, or to be bound by its content. Responsibility for this report rests exclusively with the Government.

## **2. SCOTLAND**

*Articles 3, 5, 18, 19, 20, 23, 24, 25*

2.1.1 Scotland has a separate legal system and in many areas has distinct legislative provisions. Relevant differences between the law of Scotland and other parts of the United Kingdom are explained elsewhere in this report, but since the United Kingdom's first report there has been one major item of legislation which is summarized in this chapter, and which has wide effects on the treatment of children in Scotland.

2.1.2 The United Kingdom's first report recognized the significant contribution that the Children Act 1989 made to the development of childcare law in England and Wales, and noted that proposals for change in law and policy in Scotland had been published and awaited the necessary Parliamentary time. The lengthy process of both developing proposals for change and securing Parliamentary time provided a valuable opportunity to consult widely on those proposals and amend them in light of comments received from interested parties. By the time the Children (Scotland) Bill was introduced to Parliament in 1994, its underlying principles and general proposals had already been well debated by those affected by and with an interest in its provisions. The bringing together of the main private and public childcare law provisions into a single piece of legislation for the first time in Scotland was, to a large extent, a recognition of the broad measure of support for a unified Act which existed in Scotland from both NGOs and statutory organizations.

2.1.3 The Bill's passage through the Parliamentary process was also significant, in that it was the first Bill to use new procedures for the taking of evidence from expert witnesses before proceeding to debate the Bill's provisions. This new procedure engendered a spirit of all-party cooperation and as a result a significant number of important amendments were made to the Bill. Among others, the definition of "child in need" was made more child-centred indicating a positive duty on local authorities to promote the welfare of children in need in their area. Also, the arrangements for the exclusion of a suspected abuser from the family home were amended to include an interim exclusion order which takes immediate effect. Equally significant, a process of dialogue with NGOs was maintained through the process which generated informed discussion on the Bill's provisions both inside and outside the debating chambers.

## 2.2 Principles of the Children (Scotland) Act 1995

2.2.1 The Children (Scotland) Act 1995<sup>3</sup> marks a significant stage in the development of legislation on the care of children in Scotland. Centred on the needs of children and their families, it defines parental responsibilities and rights in relation to children. It sets out the duties and powers available to public authorities to support children and their families and to intervene when the child's welfare requires it. For the first time in Scottish law, public and private law provisions have been brought together.

2.2.2 Prior to the 1995 Act, only parental *rights* were recognized in statute, and public childcare legislation was largely focused on the service providers rather than the children using the services. The Children (Scotland) Act 1995 is clearly centred on the needs of the children themselves, with the responsibilities, rights and duties of others being focused on meeting those needs. This overarching principle, that each child has a right to be treated as an individual, is at the core of the legislative and policy developments which have taken place since the Act's implementation. This appears to be in accordance with the theme which runs throughout the Convention.

2.2.3 In addition, a number of other principles were central to the development of the new procedures:

(a) Each child who can form his or her views on matters affecting him or her has the right to express those views if he or she so wishes (reflecting articles 12 and 13 of the Convention and the Committee's suggestions made in response to the first report);

(b) Parents should normally be responsible for the upbringing of their children and should share that responsibility (reflecting art. 9);

(c) Each child has the right to protection from all forms of abuse, neglect or exploitation (reflecting art. 19);

(d) In decisions relating to protection, the child should remain in the family home where that is in his or her best interests (art. 9); and

(e) Any intervention by a public authority in the life of a child should be properly justified and should be supported by services from all relevant agencies working in collaboration (art. 20).

2.2.4 In recognition of these principles, three main themes run through the 1995 Act:

(a) The child's views should be taken into account where major decisions are to be made about his or her future;

(b) No court should make an order relating to a child and no Children's Hearing should make a supervision requirement unless the court or hearing considers that to do so would be better for the child than making no order or supervision requirement at all; and

(c) The welfare of the child is the paramount consideration in any decision being made about the child by courts and Children's Hearings.

2.2.5 The last of three builds on the Committee's suggestions in respect to the first report that article 3 should be given due weight in legislation. The new provisions promote the welfare of children to a high level, equal to that required in adoption proceedings. The fact that this welfare test applies to children who have committed offences as well as those who are in need of protection is an important step in recognizing that children's difficulties can be tackled by addressing their needs. In the interests of public safety, provision is made to derogate from the paramountcy principle where necessary to protect members of the public from serious harm. The Government believes this to be a necessary safeguard and consistent with its obligations to adults and other children under this and other conventions.

### **2.3 Main changes**

*Articles 5, 9, 12, 18*

2.3.1 The Act introduces a number of significant new provisions designed to enhance the standing of children in Scotland. Part I of the Act deals with the private law provisions and for the first time in United Kingdom legislation set out the responsibilities and rights of parents in relation to their children.

### **2.4 Parental responsibilities**

2.4.1 A parent has responsibility:

- (a) To safeguard and promote the child's health, development and welfare;
- (b) To provide direction and guidance, in a manner appropriate to the stage of development of the child;
- (c) If the child is not living with the parent, to maintain personal relations and direct contact with the child on a regular basis; and
- (d) To act as the child's legal representative.

2.4.2 The above responsibilities are to be fulfilled only insofar as is practicable and in the interests of the child. In addition, all except the responsibility to provide guidance exist until the child reaches the age of 16 years. The responsibility to provide guidance exists until the child is 18 years of age.

## 2.5 Parental rights

*Articles 5, 9, 12, 18*

2.5.1 To enable parents to fulfil their parental responsibilities, certain rights are conferred in relation to the child, as follows:

- (a) To have the child living with him or her, or otherwise to regulate the child's residence;
- (b) To control, direct or guide, in a manner appropriate to the stage of development of the child, the child's upbringing;
- (c) If the child is not living with the parent, to maintain personal relations and direct contact with the child on a regular basis; and
- (d) To act as the child's legal representative.

2.5.2 Those parental rights exist until the child reaches the age of 16 years.

2.5.3 Other important new provisions in family law are:

- (a) A new agreement under which an unmarried father can obtain parental responsibilities and rights with the consent of the child's mother and without having to petition the Court.
- (b) A duty on parents and the court to seek the views of children who will be affected by major decisions;
- (c) An expectation that parents will take joint control in the raising of their children, even after separation or divorce;
- (d) Replacing of the parental rights of custody and access with child centred orders of residence and contact;
- (e) A duty on the court not to make any order unless it considers it would be better for the child to do so than not to do so; and
- (f) New provisions for guardianship and the administration of children's property.

2.5.4 Section 7.25 of this report refers to developments in England and Wales related to parental responsibilities and rights of unmarried fathers. Those developments do not apply in Scotland, but the Scottish Office is seeking views on whether similar changes should be made to the law in Scotland as part of current consultation on Scottish family law and divorce. The consultation paper *Improving Scottish Family Law* was issued in March 1999.

## **2.6 Child Welfare Hearing**

*Articles 5, 18, 12*

2.6.1 The aim of the child welfare hearing was to introduce an early hearing in any civil case involving an application to the court in relation to a child under section 11 of the 1995 Act. This hearing which takes place within a matter of a few weeks of the commencement of a case is designed to be held in informal conditions with the parents and, if possible, the child present. The purpose of the hearing is to enable the court to take a view firstly as to the real issues and secondly as to whether the court needs to intervene and if the latter to try to effect a settlement.

2.6.2 Supplementary to this has been the introduction of procedures refining earlier attempts to involve children in the process and to secure an indication of whether they wish to give their views. In the first place, all children above infancy are served with a specially prepared form which indicates the situation and invites them to say whether they wish to give a view. This form was prepared after very careful discussion with interested parties representing children, and had been the subject of consultation with various children and young people.

2.6.3 Children, therefore, are involved in the process and can instruct their own solicitor receiving legal aid for the purpose or can be represented by a *curator ad litem* if they are too young; or they can indicate that they wish to express a view in some other manner through a social worker or a teacher or a person whom they know and trust.

2.6.4 Once the view of the child is communicated to the court the court can consider whether or not the view remains confidential.

## **2.7 Mediation in Scotland**

2.7.1 The courts in Scotland have a power to refer to mediation any case involving parent-child relationships at any stage of the case. Thus, in the sheriff court, the child welfare hearing could be a stage at which such a referral is made.

2.7.2 Mediation services are provided by Family Mediation Scotland which has a network of local mediation services coordinated from Edinburgh. These services specialize in mediation in issues relating to children and have been established for several years. The techniques which they use are particularly adapted to seeking to achieve responsibility on the part of parents for the continuation of their relationships with their children and are therefore ideal for the philosophy behind Part I of the Children (Scotland) Act 1995.

2.7.3 Other mediation services are provided by solicitors under the general collective title of Comprehensive Accredited Lawyer Mediator. These mediators will deal with mediation in relation to children along with other issues notably concerning finances and property.

2.7.4 In Scotland there has been for many years a tradition of negotiation in relation to marital breakdown. This is assisted by the fact that agreements between divorcing couples can be registered for execution in the public registers and so avoid the need for court intervention. It is the general policy of those involved in family law in Scotland to seek to encourage a negotiation culture and to move away from an adversarial culture. In this, mediation has a very important role.

## **2.8 Public law provisions**

*Articles 9, 19, 25, 27*

2.8.1 The Children (Scotland) Act 1995 replaced most of the provisions relating to the operation of public childcare law in Scotland. This section reports on some of the main changes made in support of the principles of the Convention and provides brief comments on other significant changes.

## **2.9 Young offenders and the children's hearings system**

*Article 40*

2.9.1 The Children (Scotland) Act 1995 carried forward the Children's Hearings System as the core of Scotland's public law provisions and strengthened its role in order to promote the interests of children referred to it. The principle underlying the system is that children, whether they have been referred for care or protection or whether they have offended, have common needs for protection, guidance, treatment or control, although the extent to which these needs are unmet will vary from child to child.

2.9.2 A Children's Hearing is not a judicial body. It comprises three volunteer members of the child's community who consider whether a child might be in need of compulsory measures of supervision, and if so, the nature of the supervision which would best meet the needs of the child. Supervision requirements last up to one year and can be extended on review if that is in the child's interests. A prime focus of the Hearing is the resolution of the child's needs in a family context. Children's Hearings are relatively informal in nature and allow the parties - parents, children and social workers - to discuss both the reasons why problems have arisen and how they might be resolved. In order to ensure compliance with the European Convention on Human Rights, all hearings decisions can be appealed to a judicial body which may consider the matter *de novo*.

2.9.3 The Local Government (Scotland) Act 1994 established the Scottish Children's Reporter Administration (SCRA) and the office of the Principal Reporter. The SCRA formally came into operation as a national service on 1 April 1996. In practice, the SCRA brings the Children's Reporter service together under a single management structure to facilitate the coherent operation of the service and delivers consistent national practice and training.

2.9.4 Being essentially focused on resolution of difficulties within the family, certain matters falling outside this remit are dealt with by the Courts - adoption, for example. The Courts also deal with more serious offences. The document Review of Adoption Law in Scotland recognized that the same child could be subject to parallel, but distinct consideration of their welfare needs as a result of this separation and proposed a greater role for Children's Hearings in such circumstances. The Children (Scotland) Act 1995 therefore introduced provision for Children's Hearings to give advice to the Courts where such matters were being considered, ensuring that the consideration by one forum is informed by the view of the other. Early indications are that such advice is being well received and valued by the Courts.

2.9.5 Another interface which has been improved is that of long term planning for the child's future. The responsibility for such matters falls in the first instance to the responsible local authority, but this issue cannot be considered in isolation from the shorter term decisions of the Children's Hearing. New provisions now ensure that, where long term plans are being considered, the Children's Hearings are made aware of them and are in a position to give advice to the local authority. All these changes are designed to place the child at the centre of the process, and to ensure so far as is possible that all agencies and bodies involved with the child share a common understanding of the child's needs.

2.9.6 The Scottish Office continues to finance several pilot projects which aim to address and, over time, reduce juvenile offending through targeted interventions. Four projects, led by voluntary sector organizations and encompassing multi-agency working, are at different stages of development. Each project is subject to independent evaluation to assist wider discussion and debate on what measures work in addressing youth offending behaviour.

2.9.7 The Barnardos Freagarrach project is based in the Central region of Scotland; the APEX Que Ten and SACRO Offenders' Mediation projects are based in the Fife region. All are well established. Through targeted and intensive programmes of intervention, the projects work with persistent young offenders from within the 10 to 16 year age group. Each aims to tackle offending behaviour and its underlying causes through individual programmes which are more intensive than currently available to the Children's Hearings system. Each project has separate but related goals for participants. Work with offenders entails addressing motivational problems, providing work experience, and developing educational and cognitive skills, social counselling and aspects of mediation and reparation involving victims.

2.9.8 A very recent and innovative project to receive Government funding targets children in the 8-14 year age group and aims to deliver packages of support measures to children identified to be at risk of potential future offending. Based in Central region and involving multi-agency working, the project is being managed by Barnardos. The projects will aim to identify known risk indicators which can lead to future offending behaviour and to develop a multi-faceted approach which works with the children and their families to reduce these indicators through seeking to enhance protective factors.



## **2.10 Safeguarders**

*Articles 3, 12*

2.10.1 Safeguarders are independent people who can be appointed by Children's Hearings and Sheriffs to represent the child's best interests in the proceedings. Before the introduction of the 1995 Act, safeguarders were only appointed when there was a conflict of interest between the child and the parents. Now, however, the Act requires that every Children's Hearing and the Sheriff must consider in all situations whether the appointment of a safeguarder is appropriate.

## **2.11 Young offenders and the age of criminal responsibility**

*Article 40*

2.11.1 One of the main criticisms made by the United Nations Committee in this area on consideration of the first United Kingdom report was in relation to the age of criminal responsibility. Although Scotland has a low age of criminal responsibility (8 years), the vast majority of Scottish children who offend are dealt with through the Children's Hearings system. Children under 16 years are only considered for prosecution in court for serious offences such as murder and rape; and even in such instances it is not automatic that prosecution will occur. Children in these categories can be referred to the Principal Reporter who has the statutory responsibility to decide whether to refer cases to a Children's Hearing. During 1996 just over 28,000 children were referred to a Children's Hearing on offence grounds. In the same year only 47 children under 16 years were sentenced to detention by criminal courts.

2.11.2 A National Planning Group for care and education services for young people with behavioural problems, including offending, was set up in 1997. It is exploring, among other things, the means by which the admission of persons under 17 years to prison could be minimized. This forum is a good example of a partnership between Government, statutory and voluntary agencies to plan strategically for the needs of vulnerable young people. The Group published its report in May 1999, and it will be for the new Scottish Parliament to decide how these issues are to be dealt with in the future.

2.11.3 The Children (Scotland) Act 1995 improved the way in which courts can deal with young offenders. Where children are prosecuted in court, the court may now refer their case to a Children's Hearing for advice on the best method of dealing with them, and the court on receipt of that advice, or in certain cases without seeking advice first, may remit the child's case for disposal by a Children's Hearing.

## **2.12 Reservation to article 37 and the children's hearings system**

*Article 37*

2.12.1 The Committee's concluding observations on the first report welcomed the United Kingdom's intention to consider withdrawing the reservation it made to article 37 of the Convention as it related to procedures governing the Children's Hearings in Scotland.<sup>4</sup>

The reservation was rendered unnecessary by the Children (Scotland) Act 1995, and was withdrawn on 18 April 1997. Section 51 of the Act now provides that where a child is deprived of his or her liberty by being kept in a place of safety under a warrant by the Children's Hearing, an appeal to the Sheriff in respect of the issue of the warrant by the Children's Hearing must be disposed of within three days of the lodging of the appeal; and failing such disposal the warrant shall cease to have effect at the end of that period. In addition, there is an appeal from the Sheriff's decision to that of the Sheriff Principal. There is therefore prompt access to a local court and a local appellate court with access to legal representation and legal aid. These appeals may be made immediately by the children involved and/or their parents and both the Sheriff and the Sheriff Principal can overturn the lower decisions without having to refer the case back, either to the hearing or to the Sheriff.

2.12.2 This more comprehensive and direct system of appeals to a Court than that which previously existed allows access to legal aid and representation. These appeal courts are also local courts which again eases the process for those involved. The maximum time a child may be kept in interim care, before an appeal to the Court must be heard, is three days (essentially over a weekend).

## **2.13 Children's Services Plans**

*Articles 18, 20, 24, 25*

2.13.1 There is now a new obligation on local authorities to produce a plan for the provision of relevant services for children. These plans are designed to ensure that the services being provided locally reflect the needs of children and young people likely to use them, and are delivered in an integrated manner. One of the main aims of children's services plans is the contribution they can make to the coordination of services between departments within a local authority, between different local authorities and with a wide range of other organizations and agencies involved in children's services. These include Health Boards and NHS Trusts, voluntary organizations, Reporters to the Children's Panel, children's panel representatives and housing agencies, thus ensuring that such plans are informed by the needs and views of the voluntary and statutory organizations active in the community.

2.13.2 Equally significant, local authorities are required to consult voluntary organizations which represent the interests of persons who use or are likely to use the services. This means that the views of children's representative organizations will be full taken into account in the formulation of plans.

2.13.3 In April 1998 The Scottish Office completed a review of the first round of Children's Services Plans produced by local authorities.

2.13.4 One of the main areas of strength in the plans was that different departments and agencies collaborated in their production. Some local authorities set up strategic planning groups to take the work forward with representatives of all relevant departments and agencies. The purpose of these planning groups is seen by local authorities as promoting an integrated

provision of services. Many of the plans showed extensive consultation with user and providers of services, and a number importantly underlined not only that the local authority had consulted, but had also acted upon comments received and proposed to continue to take account of views and involve users and providers in the review process.

2.13.5 The content of the plans provide a sound foundation on which further improvements in children's services can be based.

## **2.14 Care plans**

### *Article 25*

2.14.1 All children who are looked after by a local authority, whether they are with foster carers, in a residential establishment, or at home subject to a supervision requirement, must now have a care plan and regular reviews of their case at intervals set out in statute. Children being looked after by local authorities have experienced in the past, a lack of direction in tackling the reasons which led to them leaving their family homes in the first place. Plans are intended to provide a focus for all those involved in caring for a child, so that everyone, including the child, knows what is being worked towards and what their individual role is in day-to-day care. Children being looked after by local authorities, particularly those living away from home, are seen significantly to under-achieve educationally compared to children who do not need social work support. The Government recognizes this position to be unsatisfactory and wishes to promote educational standards of such children to a level comparable with other children. This is an area which will be addressed in the forthcoming consultation exercise on the development of a Strategic Framework for Children's Services.

2.14.2 The Arrangements to Look After Children (Scotland) Regulations 1996<sup>5</sup> set out the processes involved in drawing up care plans. When making any care plan, wherever the child has to live, a local authority should consider a number of issues, including alternative courses of action, whether a change in the child's legal status should be sought, and arrangements which need to be made for the time when the child is no longer looked after. An additional set of considerations apply when the local authority places a child with alternative carers or in a residential home, including the issue of contact between child and parents. These plans must also identify a child's health and education needs, and must set out what is to be done to address those needs by all relevant parties, including the child, parents and local authority. The Regulations set out a clear timetable for reviewing the care plans of all children who are looked after. Where a child is looked after by a local authority and placed away from home, a first review has to take place within six weeks, a second review must happen within three months of the first and subsequent reviews are to be held at intervals of no more than six months. The review timetable for children who remain at home is a first review within three months and subsequent reviews within six months from the date of the previous review.

2.14.3 Although care plans are legally a local authority planning mechanism, parents and children are fully involved in the planning process. Local authorities are obliged to take the views of both parents and children on the proposed plan, and guidance emphasizes that

attendance by children and parents at reviews of the plan is to be encouraged. Although the provisions are relatively new, early indications are that a significant number of children are taking an active part in the planning for their care and education.

2.14.4 To complement these changes, a pilot system concerned to improve the planning and review process for children and young people who are looked after was launched in 1997. The Looking After Children materials, which were developed over a number of years in England and Wales, aim to improve the parenting experience of children looked after by local authorities. They set an agenda for good care by identifying the experiences, concerns and expectations of children at different ages. They also aim to further the development of outcome planning and measurement in social work practice. After positive results in the pilot, the majority of local authorities intend to start implementing the scheme proper in 1999.

## **2.15 Services and support for children**

*Articles 5, 9, 12, 18, 25*

2.15.1 Part II of the Children (Scotland) Act 1995 introduces duties and powers for safeguarding and promoting children's welfare. Under that Part, local authorities are required to safeguard and promote the welfare of children in need and so far as is consistent with that duty to promote their upbringing by their families by providing appropriate services. A child is considered to be in need if:

- (a) He or she is unlikely to achieve or maintain, or to have the opportunity of maintaining, a reasonable standard of health or development unless services are provided for him or her;
- (b) His or her health or development is likely significantly to be impaired, or further impaired unless services are provided;
- (c) He or she is disabled; or
- (d) He or she is affected adversely by the disability of any other person in his or her family.

2.15.2 The Government issued guidance on the range and delivery of services and support that local authorities and NGOs may provide for children in need, including disabled children, emphasizing the need to involve children and families in planning and reviewing services they receive with a view to making these accessible and accountable to children and their families.

## **2.16 Aftercare**

*Article 20*

2.16.1 The Government recognizes that the transition to living independently can be difficult and unsettling for young people, particularly those who were previously looked after by a local authority. There is ample evidence to suggest that they are over-represented in the number of

young people who are homeless. Part of the difficulty is providing a flexible level of support to meet the variety of needs of this transitional age group of 16 to 21 year olds. For some young people with a history of social work involvement there is a great temptation for them to break all ties with the statutory authorities at the earliest opportunity. Many such young people find themselves without the necessary skills or support to live independently. Planning for independence is therefore started early, and the Act imposes a new specific duty on local authorities to provide advice and assistance to prepare a child for the time when he or she ceases to be looked after by a local authority.

2.16.2 At the point where the young person leaves the local authority, the 1995 Act strengthens previous provisions by placing local authorities under a duty to advise, guide and assist any person over school age but not yet 19 years who at the time he or she ceased to be of school age was looked after by a local authority. Local authorities also have a new power to provide such assistance up to age 21, and beyond to complete a course of education. They may provide grants towards expenses of education and training and make contributions to accommodation and maintenance.

2.16.3 In recognition that not all vulnerable young people will previously have been looked after by the local authority, the Act contains a new power to allow local authorities to provide accommodation for young people aged 16 to 21 where their welfare requires it, whether or not they were previously involved with the local authority.

2.16.4 The Act now provides a sufficiently flexible legislative base to allow support to all young people in need of assistance up to the age of 21. The Government recognizes that aftercare support is an area which has not been given high priority in the past, and intends promoting the innovative development of a range of support services building on the flexibility provided for in the legislation.

## **2.17 Children and disability**

### *Articles 23, 24*

2.17.11 The Children (Scotland) Act 1995 introduced specific provision for disabled children and those affected by disabilities. Under the Act local authority services for children "in need" must be designed to minimize the effects of their disabilities and give disabled children the chance to lead as normal a life as possible. Where a child is disabled, chronically sick or mentally ill, or where someone else in the family is disabled, the local authority must carry out this assessment of the child's and the family's needs where requested to do so by the child's parent or guardian. The 1995 Act also places a specific duty on local authorities to publish information about the services they provide for disabled children.

2.17.2 The local authority on being requested to do so must also carry out an assessment of the ability of a disabled child's carer to care for the child.

## **2.18 Refuges for young people**

*Articles 19, 39*

2.18.1 Before the introduction of the Children (Scotland) Act 1995 it was an offence to provide a child, who had absconded from residential care, with accommodation. The 1995 Act allows for an important exception to this. Local authorities and authorized independent persons may now provide short-term refuges, either in residential homes or in the community, for children at risk of harm who run away from home or their carers and who request refuge. These refuges will provide vulnerable young people with a safe place to stay for a short period, and information and advice to help them to decide what to do next.

## **2.19 Children in hospitals and nursing homes**

*Articles 24, 12*

2.19.1 The 1995 Act also introduces a new provision where a child who is accommodated in a health establishment has had, or is likely to have, no parental contact for three months or more. Those circumstances must be notified to the local authority which then has to consider whether the child's welfare needs are being adequately met.

## **2.20 Child protection in Scotland**

*Articles 19, 39*

2.20.1 The Children (Scotland) Act 1995 made important changes for the protection of children at risk, introducing three new court orders, which may be granted by a Sheriff, designed to protect children from harm or the risk of harm:

(a) The child protection order allows anyone to apply to the Court for an order to remove the child from home. The Court may make such an order if it is satisfied that there are reasonable grounds to believe that the child is suffering significant harm because of ill-treatment or neglect or will suffer such harm if he or she is not removed to, or allowed to remain in, a place of safety. The child protection order is firmly focused on the needs of the child but contains a much higher test for removal of the child from home than its predecessor. Both the parents and the child have an early opportunity to have the order set aside or varied by the Court and such an application has to be determined within three working days.

(b) The exclusion order is a new measure in the development of child protection procedures. It is designed to reduce disruption and distress to children who may have already suffered physical or mental abuse. It can be obtained from the Sheriff on broadly the same criteria as a child protection order. If granted, the order requires the person to whom the harm (or potential harm) is attributed to leave the family home or not to visit it, if living elsewhere. It is therefore an alternative to removing the child from the security of his or her home under a child protection order and is a major step in reflecting the principles of article 9. Exclusion may be authorized on an emergency basis but, as in the case of a child protection order, provision is made for early review of the order by the Court.

(c) If there is good reason to suspect that a child may be suffering harm and parents refuse to allow the child to be seen in order to resolve those suspicions, a Court can make a child assessment order which gives the local authority the right to see and assess the child, or arrange for the child to be assessed by other professionals, such as a doctor or psychiatrist. The order may last for up to seven days and will not normally require the child to reside away from his or her family unless this is necessary for the purposes of the assessment.

2.20.2 Where a Sheriff is not available and there is a need to act urgently, a Justice of the Peace may authorize the removal and keeping of a child in a place of safety in certain circumstances.

## **2.21 Adoption**

### *Article 21*

2.21.1 The Review of Adoption Law in Scotland concluded that adoption legislation and practice in Scotland were essentially sound, but a number of significant changes were made through the Children (Scotland) Act 1995 to improve its operation. One major change was to introduce timescales within which adoption applications contested by the birth parents must be brought before the Court for resolution. Previously there was a tendency to delay such applications being made. This had the effect of creating a care planning hiatus and extending the uncertainty for the child. Such delay also acted against the interests of the birth parents, whose claim to have the child returned to them was undermined by the passage of time. The new timetabling arrangements require an application to be brought to the Court for resolution within a period of six months. The Court is now under a corresponding obligation to draw up a timetable for the resolution of the application without undue delay.

2.21.2 A further change to the legislation means that it is now possible for an adoption order to be made in relation to an 18-year-old provided the application was made before the child's 18th birthday.

2.21.3 A new provision has also been introduced to ensure that a Children's Hearing involved with a child is able to give advice to a Court on an adoption application. The interface between the jurisdictions of the hearings and the Court was one which was rightly criticized in the past, with the two forums making decisions in relation to the child without having the benefit of knowing the views of the other. Early indications are that the Court is finding the views of the Children's Hearing on the needs of the child a valuable addition to its consideration of an adoption application.

2.21.4 Prior to the 1995 Act, older children for whom adoption was not a suitable form of alternative long-term care would either remain in the Children's Hearings system and have their supervision extended annually, or have their parental rights assumed by the local authority. With this latter provision the parental rights and powers were vested in the local authority following an administrative resolution. This meant that parents could lose their rights without having the right to challenge that decision in court. The need for such an important step to be made within a court-based setting has been widely recognized in recent years and this particular provision has

now been replaced in the Children (Scotland) Act 1995 by the parental responsibilities order - which local authorities can apply for through the Court. On the granting of the order all the parental responsibilities and rights transfer to the local authority. The grounds for granting the order are:

- (a) That the parent is not known;
- (b) Cannot be found;
- (c) Is incapable of giving agreement;
- (d) Is withholding agreement unreasonably;
- (e) Has persistently failed, without reasonable cause, to fulfil parental responsibilities; or
- (f) Has seriously mistreated the child.

2.21.5 These grounds are the same as those for adoption.

2.21.6 Where a child is freed for adoption and the parental responsibilities transferred to the local authority pending the making of an adoption order, the law has now been amended to ensure that parenthood remains with the birth parents until that title is removed by the subsequent adoption. These changes to the law recognize an important distinction between the child's right to have parents and the quite separate issue of the exercise of parental responsibilities.

## **2.22 Other relevant provisions**

2.22.1 The examples above provide an overview of the main areas of change introduced by the 1995 Act since the first report was made. Other significant changes are:

(a) In making a decision about a child looked after by them, the local authority must have regard to the child's religious persuasion, racial origin, and cultural and linguistic background;<sup>6</sup>

(b) Clarification of the position of children who would wish to instruct their own counsel. The Age of Legal Capacity (Scotland) Act 1991<sup>7</sup> had left some doubt about this. Consequently, the 1991 Act was amended to make it clear that a person under the age of 16 years has legal capacity to instruct a solicitor in connection with any civil matter, if that person has a general understanding of what it means to do so. A person aged 12 years or more is presumed to have such an understanding. It is made clear that a person under the age of 16 years can apply for legal aid;



(c) In making arrangements for the medical examination and treatment of children, the child's consent must be obtained where the child has "requisite capacity" in terms of section 2 (4) of the Age of Legal Capacity (Scotland) Act 1991. Nothing in the 1995 Act can override that consent.

## **2.23 Publications**

2.23.1 In order to keep local authorities and professionals working in childcare informed about the implementation of the Children (Scotland) Act a free Newsletter has been issued on a regular basis. The Newsletter is a source of information on a number of aspects of implementation including training initiatives, regulations, rules and guidance, publications on the Act, legal development, local initiatives and good practice.

2.23.2 Guidance issued to local authorities and other agencies on implementation of the Act also sets out the Government's expectations about how children and young people receiving support from public agencies or looked after, will be informed, consulted and involved in decision-making generally.<sup>8</sup>

2.23.3 A series of public information leaflets have also been produced for children and families covering various aspects of the Children (Scotland) Act 1995, including the Children's Hearings system and child protection. A children's guide has also been published on the family law provisions of the Act. Entitled *You Matter*,<sup>9</sup> this booklet explains to children and young people how the changes in the law relating to parental responsibilities and rights affect them. It also explains the new court rules and procedures and shows how children and young people will be able to put forward their views to the court if they want to. Various groups of children were consulted in the preparation of these public information leaflets which are all designed in a friendly and accessible manner. A parents' booklet, entitled *Your Children Matter*,<sup>10</sup> was published in October 1998. This is in line with the recommendation made by the Committee in the first report. The booklet informs parents about their responsibilities and rights under the family law provisions of the Act.

2.23.4 Both booklets may be obtained from The Scottish Office.

## **2.24 Homelessness and rough sleeping in Scotland**

*Articles 26, 27*

2.24.1 Extra resources of around £300 million are being made available over the three years 1999-2002 for housing in Scotland, which will help to improve housing conditions for households including children among others. Homelessness continues to be a national housing priority, and homelessness among young people is being tackled by improving their rights to accommodation, and the introduction of a Rough Sleepers Initiative including projects specifically aimed at young people.

2.24.2 The Rough Sleepers Initiative was introduced in 1997 to fund action by local authorities and other statutory and voluntary bodies at local level to help rough sleepers, many of whom are young people. The initiative lays emphasis on an integrated approach by all relevant

agencies, such as housing, health, social care and police. £16 million has been made available over the years 1997-2000, which has been allocated to 21 local authorities. Projects assisted include some specifically targeted at young people. Examples include direct access accommodation for young men whose behaviour has meant them being refused entry by existing direct access accommodation and direct access accommodation for young women. A further £14 million has been made available for 2000-2001 and 2001-2002. Ministers recently issued a Rough Sleepers Initiative consultation paper for comment and the future direction of the initiative will depend upon the outcome of that consultation.

2.24.3 A new Scottish Code of Guidance on Homelessness<sup>11</sup> came into force on 1 December 1997. By statute local authorities must have regard to the Code in exercising their functions under the homelessness legislation in Part II of the Housing (Scotland) Act 1987. The Code improves the rights of homeless children and young people by including many of them in groups who should be regarded as being in priority need under the homelessness legislation and hence entitled to accommodation if unintentionally homeless, for example under 18s, and those at risk of sexual or financial exploitation. Young people under 21 years previously in local authority care at school leaving age or later, who are at a high risk both of becoming homeless and of being damaged by homelessness because of the problems which led to them entering care, became a statutory homelessness priority group on 1 January 1998 under the Homeless Persons (Priority Need) (Scotland) Order 1998.<sup>12</sup> Households containing dependent children are already a statutory homelessness priority group. More generally, the Code encourages local authorities always to seek to minimize the risk of homelessness recurring, including the provision of permanent accommodation with security of tenure, and any support services required.

2.24.4 The Code gives good practice guidance on how the Children (Scotland) Act 1995 and homelessness legislation can be used together to help homeless young people, and prevent homelessness recurring.

## **2.25 Subsequent developments in children's rights in Scotland**

2.25.1 As a practical demonstration of the Government's commitment to young people in Scotland a Minister for Children's Issues was appointed in July 1997. In its comments on the first report the Committee suggested that the general principles of the Convention, particularly the provisions of its article 3 relating to the best interests of the child, should guide the determination of policy-making at both central and local levels. With that in mind, the first task of the Minister is to ensure that all areas of The Scottish Office fully consider the effect that their policies will have on children.

2.25.2 A Child Strategy Statement which stresses the importance of the United Nations Convention has been produced which reminds all Scottish Office Departments of the need to identify and take proper account of the interests of children when developing policy. The document was the subject of consultation and it received widespread support. It was recognized that the Child Strategy Statement, whilst intended primarily for application in The Scottish Office, was equally applicable to local authorities and voluntary organizations dealing with children's issues. For that reason, the Statement was given a wide distribution throughout Scottish local authorities and NGOs.

## **2.26 The Children's Issues Unit of The Scottish Office**

2.26.1 A Children's Issues Unit has also been set up within The Scottish Office to ensure that children's issues involving more than one policy area are properly coordinated. The Unit was responsible for coordinating The Scottish Office contribution to this Report. As well as liaison with other Scottish Office Departments, this coordinating role also required working closely with NGOs to ensure that their views on the report were heard. To this end the Unit funded a conference, organized by the Scottish Alliance for Children's Rights (SACR), an umbrella organization for NGOs with an interest in children's issues in Scotland, to take their views. The Conference was well received and the comments of delegates were fed into The Scottish Office contribution to the report.

2.26.2 In recognition of the importance of taking the views of children, The Children's Issues Unit commissioned the Our Lives Project. This was a Scotland-wide consultation exercise which gathered the views of young people in relation to children's rights. The project was carried out by Save the Children Scotland and was jointly funded by both parties. The Our Lives consultation process reflected the principle of article 12 - the right of young people to be listened to in matters which affect them.

2.26.3 Over a three month period Save the Children consulted 43 groups of children and young people (326 in total), between the ages of 12 years and 18 years, from 20 local authorities, representing schools and youth groups from urban and rural Scotland and a wide spectrum of interest groups. The groups of young people were invited to discuss one of five themes: education, family life, health, protection from harm and participation; and their views were sought on how successful the implementation of the United Nations Convention on the Rights of the Child has been so far in Scotland. Findings were gathered from audio recordings of structured and facilitated discussions and group exercises. Further details of this consultation exercise are set out in annex C.

## **2.27 Government of Scotland Act 1998**

2.27.1 The Scotland Act 1998 provided for the establishment of a Scottish Parliament. The Parliament assumed its full powers on 1 July. By virtue of the Scotland Act, the Scottish Parliament has control over Scotland's domestic affairs e.g. health, education, local government, law and order, etc. Westminster retains powers over matters which affect the whole of the United Kingdom e.g. United Kingdom constitution, foreign affairs, defence policy and economic and monetary policy. The Westminster Parliament remains sovereign.

2.27.2 The Scottish Executive is very much committed to young people and is keen to give them every encouragement and opportunity to make their voices heard. An inaugural meeting of the Youth Parliament took place on 30 June. The aim of the Youth Parliament is to provide a voice for young people on issues that affect them and is a channel of communication to the Scottish Parliament.

### 3. NORTHERN IRELAND

3.1.1 This chapter summarizes some of the most important items of legislation relevant to the Convention which have been introduced in Northern Ireland since the United Kingdom's first report. Where necessary, the impact of these developments is explained in more detail in other chapters of this report, to illustrate relevant differences in the law and practice of Northern Ireland and other parts of the United Kingdom.

#### 3.2 The Children (NI) Order 1995

*Articles 3, 5, 18, 19, 20, 23, 24, 25*

3.2.1 Since the United Kingdom's first report, the Children (NI) Order 1995<sup>13</sup> has been made and its main provisions have been in operation since November 1996. This Order reformed and consolidated for Northern Ireland most of the public and private law relating to children, along the lines of the Children Act 1989 in England and Wales. Many of its fundamental principles, such as the welfare principle and the non-intervention principle, serve to reinforce the application of the Convention in Northern Ireland. The Order's operation is kept under review by the Children Order Advisory Committee which was set up to monitor the workings of the court related aspects of the Order. The Committee reports to the Lord Chancellor and the Secretary of State for Northern Ireland. The Department of Health and Social Services, in consultation with the Lord Chancellor, the Department of Education and the Department of Finance and Personnel, is also required to produce an annual general report on the implementation of the Children Order.

3.2.2 The Children Order, which applies to non-criminal cases, includes a wide range of measures designed to promote the welfare of children. For example, there is now a clear legal requirement for courts to make the welfare of the child the paramount consideration when making any decision concerning the upbringing of a child.

3.2.3 The Children Order contains a number of provisions designed to ensure that the wishes and feelings of the child are taken into account when decisions are being made about his or her future. In addition, there is a requirement for a *guardian ad litem*, in effect an independent social worker representing the interests of the child, to be appointed in most public law cases involving children. The Northern Ireland Guardian ad Litem Agency has been established to manage a panel of suitably qualified persons who may be appointed as guardians ad litem by the courts.

#### 3.3 The Children's Law Centre

3.3.1 The need for the voice of the child to be heard has been further recognized by the formation of the Children's Law Centre in September 1997. This is a voluntary organization which receives financial support from the Department of Health and Social Services to develop a range of advisory services, including a free-phone help line to children, parents and carers. It is intended that the Children's Law Centre will work in partnership with other services to offer information, advice, education, training, advocacy and commentary about the law and children's rights in Northern Ireland.

### **3.4 Children's Services Plans in Northern Ireland**

3.4.1 The impetus for the development of Children's Services Plans stems from the commencement of the Children (NI) Order 1995. A major component of the Order is the requirement on Health and Social Services Boards to assess the extent of need for services in their areas and to provide an appropriate range and level of personal social services to meet that assessed need.

3.4.2 On 23 July 1998, the Department of Health and Social Services exercised its powers under article 18 (4) of the Children Order to place a mandatory requirement on Health and Social Services Boards to plan children's services, to consult with a wide range of statutory and voluntary agencies and to publish the resulting plans. The first Children's Services Plans have now been produced and cover the period 1999-2002. They will be reviewed and rolled forward each year, with a full review every three years.

3.4.3 Guidance on the development of Children's Services Plans was issued jointly by the Department of Health and Social Services, the Department of Education and the Northern Ireland Office in July 1998. The guidance encourages Health and Social Services Boards, who have legal responsibility for producing the plans, to reflect local circumstances and engage a wide range of organizations and individuals in the planning process. As part of the process of consultation, each Health and Social Services Board has established an Area Children and Young People's Committee. The Committee is chaired by the Director of Social Services and membership comprises representatives from health and social services, education and library boards, the probation service, the police and the voluntary sector.

3.4.4 The development of the Children's Services Plans reflects the priority given by the three government departments to ensuring that the provision of services to children who are assessed to be in need are fully coordinated at the planning and service delivery levels.

### **3.5 The Family Homes and Domestic Violence (NI) Order 1998**

*Articles 19, 27, 39*

3.5.1 The Family Homes and Domestic Violence (NI) Order 1998,<sup>14</sup> which is due to come into effect in spring 1999, is amongst the strongest pieces of legislation directed against domestic violence in Europe and the Commonwealth, it also contains a number of provisions which will significantly improve the level of protection afforded to children. In particular, two important amendments are made to the Children Order - see section 7.11 below.

3.5.2 In addition, a Family Law Systems Working Group, chaired by a senior High Court Judge and consisting of senior policy-makers and practitioners in the family law area, has been established to examine the delivery of family law in its widest context in Northern Ireland. The Group will look at the systems, structures and processes in this area, including those established by the Children (NI) Order, to ensure that they are operating as efficiently as possible.

### **3.6 Respect for views of children**

#### *Article 12*

3.6.1 The Family Homes and Domestic Violence (NI) Order 1998 contains a provision which, when brought into operation, will allow regulations to be made specifying circumstances in which children may be separately represented under the Order. This reflects a parallel provision in the corresponding legislation for England and Wales. However, under Rule 6.6 of the Family Proceedings Rules (NI) 1996, procedures are already in place to allow for separate representation of children in any family proceedings, where it appears to the court that this ought to be the case.

### **3.7 Juvenile justice**

#### *Article 40*

3.7.1 The Criminal Justice (NI) Order 1996<sup>15</sup> and the Criminal Justice (Children) (NI) Order 1998<sup>16</sup> introduced a number of measures which have had a significant impact on the administration of juvenile justice in Northern Ireland.

3.7.2 The Criminal Justice (NI) Order 1996 established the two key criteria that may justify a custodial sentence - "the seriousness of the offence" and the "protection of the public". The court must be satisfied that the offence, or the combination of the offence and one or more associated offences, is so serious that a custodial sentence is justified. If the offence is of a violent or sexual nature, the court must be of the opinion that only a custodial sentence would be adequate to protect the public from serious harm from the offender. The court is obliged to state openly why it is of the opinion that the criteria apply, and to explain the reasons for the custodial sentence.

3.7.3 The Order provides for offenders, including those who are children, who are dependent on or who misuse drugs or alcohol, to be required as an additional requirement of a probation order to undergo treatment for their condition where it is associated with the offending behaviour.

3.7.4 The major changes made by the Criminal Justice (Children) (NI) Order 1998 were:

(a) To require courts, when dealing with children, to have regard to the prejudicial effect on the child's welfare of any delay;

(b) To require a court to release a child on bail except where the protection of the public and the seriousness of the offence or persistency of offending mean that a remand is necessary;

(c) The introduction of the juvenile justice centre order, replacing the training school order as the main custodial sentence available to the court for those under 17 years. The order is for a determinate period of six months unless the court specifies a longer period not exceeding

two years. Where a court makes a juvenile justice centre order for a period longer than six months, it is required to state its reasons in open court. The new order provides that time spent on remand in custody will count in full to reduce the custodial element of the sentence, which should further reduce the average period of detention in a juvenile justice centre;

(d) It amends the Police and Criminal Evidence (NI) Order 1989<sup>17</sup> to allow magistrates' courts to admit children's evidence in chief by video recording.

3.7.5 These provisions are discussed in more detail in section 10.41.

### **3.8 The law on illegitimacy in Northern Ireland**

#### *Article 8*

3.8.1. The Children (NI) Order 1995 has now reformed the law on illegitimacy in Northern Ireland to remove most of the disadvantages associated with birth outside marriage. A general principle of statutory construction, that relationships between two persons will be taken without regard to whether or not a person's parents were married to each other at a particular time, has been introduced. Any discriminations regarding succession or property rights are removed so that an illegitimate child can inherit the property of his or her more remote relations. Unmarried fathers have been given the means to obtain parental status (or parental responsibility) in respect of their children, either by court order or by agreement with the mother. The full range of financial and property orders is made available for the benefit of children of unmarried parents.

### **3.9 Parental responsibility in Northern Ireland**

#### *Articles 9, 18*

3.9.1 The Children (NI) Order 1995 amended the Guardianship of Infants Act 1886 so that in Northern Ireland married parents now have equal parental responsibility. Where parents are unmarried, the mother alone will have parental responsibility but it will be open to the father to acquire parental responsibility either by agreement with the mother or by court order. A forthcoming consultation exercise will discuss the issue of whether it should be easier for unmarried fathers to acquire parental responsibility subject to any necessary safeguards.

### **3.10 Fair employment in Northern Ireland**

#### *Article 2*

3.10.1 At the time of the passing of the Fair Employment (Northern Ireland) Act 1989 there was an undertaking given that the effect of that Act would be reviewed after five years. In November 1994 the Standing Advisory Commission on Human Rights (SACHR) were asked to carry forward that review and their report *Employment Equality: Building for the Future*<sup>18</sup> was published on 26 June 1997. The report made a wide range of recommendations on Government

policies towards fair employment and unemployment, including the persistent problem of the long-term unemployed, among whom Catholics are disproportionately represented. The report found, however, that the 1989 legislation has had a positive impact on employment equality. In terms of the potential implications for children the proposals for changes to policies and procedures in the fields of education, training and the Government initiatives on Targeting Social Need (TSN) and Policy Appraisal and Fair Treatment (PAFT) are the most relevant.

3.10.2 The Government gave the SACHR report very thorough consideration and published its response, in the form of a White Paper, *Partnership for Equality*,<sup>19</sup> on 11 March 1998. In regard to the PAFT initiative the White Paper put forward proposals for consultation to replace the existing PAFT guidelines, which were introduced on 1 January 1994, with a new statutory framework. The proposals would place a statutory obligation on public bodies (including District Councils and United Kingdom Departments operating in Northern Ireland) to ensure that, consistent with their other responsibilities, their functions were carried out with due regard to the need to promote equality of opportunity in those groups covered by the current PAFT guidelines. Those are:

- (a) People of different religious beliefs or political opinions;
- (b) People of different gender;
- (c) Married and unmarried people;
- (d) People with or without dependants;
- (e) People within different ethnic groups;
- (f) People with or without a disability;
- (g) People of different ages; and
- (h) People of different sexual orientation.

3.10.3 In order to oversee the above obligations it is proposed that a new Equality Commission be established which will take over the functions now exercised by the Fair Employment Commission for Northern Ireland, the Equal Opportunity Commission for Northern Ireland, the Commission for Racial Equality for Northern Ireland and the Disability Council for Northern Ireland.

3.10.4 These proposals were subject to a consultation exercise which ended on 12 June 1998. Having taken careful account of the responses received and either made changes to meet reservations that were expressed or clarified what was intended, the Secretary of State announced in Parliament on 10 July 1998 her intention to create a unified Equality Commission and to impose a statutory requirement on the public sector to promote equality of opportunity. This was included in the Northern Ireland Act 1998 which received Royal Assent in November 1998.



3.10.5 The White Paper set out plans for a new, more effective Targeting Social Need (TSN) initiative, combined with measures to promote social inclusion. New TSN will continue to be based on objective need, but with a particular focus on measures to combat unemployment and enhance employability. Other departmental programmes will target people and areas in need and key inequalities such as health, housing and education, all of which have implications for children. Under New TSN Northern Ireland will establish a Promoting Social Inclusion (PSI) initiative which will seek to tackle the long-term causes of exclusion and will emphasize prevention.

### **3.11 Housing matters in Northern Ireland**

*Articles 26, 27*

3.11.1 The Housing (NI) Order 1988 sets out the duties of the Northern Ireland Housing Executive. Where necessary, the NI Housing Executive secures immediate temporary accommodation for applicants who are homeless, in priority need and not intentionally homeless. This includes people with families, young persons at risk of sexual or financial exploitation, single parents and other vulnerable members of society. Such accommodation is provided either in one of the Housing Executive's own hostels or in a private sector "bed and breakfast" establishment. Applicants are usually allocated a secure tenancy within two months, depending on their area of choice.

3.11.2 The NI Housing Executive provides advice and assistance to other homeless people in their attempts to find accommodation and helps to fund a number of voluntary bodies which operate hostels for young people. The NI Housing Executive, in partnership with the voluntary sector, has an effective strategy for dealing with homelessness, which is less of a problem in Northern Ireland than in some parts of the United Kingdom. The most common reason for homelessness given by applicants has been a breakdown in sharing arrangements with family, friends or partners (some 30 per cent of cases). There is also evidence that around 40 per cent of hostel residents in Belfast have some form of mental health problem.

3.11.3 In taking measures to tackle violence against women, the Department of the Environment also funds housing for women with special needs, including women with children. Five years ago the Department, in consultation with the Women's Aid Federation, undertook to make additional resources available to increase provision for vulnerable women and children. Over the five-year period housing association provision for this group has more than trebled from just over 100 places to 367, with a further 80 places under construction. Plans are in hand for further provision of almost 150 new places by March 2002.

### **3.12 Children's involvement in human rights issues in Northern Ireland**

*Articles 12, 42*

3.12.1 The School of Education at the University of Ulster completed a study of young peoples' understanding of human rights in Northern Ireland. The results of this study were published.<sup>20</sup> The research formed part of a wider Commonwealth study involving 915 pupils

from 23 schools in Botswana, India, Northern Ireland and Zimbabwe. The results from the international study were published by the United Kingdom Department for International Development.<sup>21</sup>

3.12.2 The Northern Ireland report indicated that whereas pupils at ages 14 and 16 had some understanding of human rights principles in relation to specific issues, they had no coherent, integrated understanding of human rights concepts and the majority (93.5 per cent) were not aware of the United Nations Convention on the Rights of the Child.

3.12.3 The Northern Ireland report also contained a human rights audit of the Northern Ireland curriculum and interviews with pupils, teachers and education advisers. These sections suggest that human rights education is not well integrated into the Northern Ireland curriculum and that pupils and teachers alike would welcome a more explicit focus for such work within the curriculum. In this respect, as part of an overall review of the statutory curriculum, the Northern Ireland Council for Curriculum, Examinations and Assessment is examining how the broad concept of citizenship and education for democracy can be addressed within the curriculum. Approval has been given for the introduction of a pilot programme in schools from September 1999 and CCEA will evaluate this programme before making any proposals for change.

#### **4. WALES**

4.1.1 This chapter summarizes recent legislative and administrative changes specific to Wales and relevant to children's services. It refers to action being taken to further strengthen the safeguards for children in public care, and to protect children at risk of harm or neglect. It also illustrates the practical steps that have been taken in Wales to make sure that children and young people have been able to express their views on a range of issues that concern them.

4.1.2 For the most part, the position on particular services for children and young people is broadly the same as in England. Distinctive arrangements in Wales are highlighted in the appropriate chapters of this report.

#### **4.2 Welsh Language Act 1993**

##### *Article 2*

4.2.1 This Act established the principle that, in the conduct of public business and the administration of justice in Wales, the English and Welsh languages should be treated on the basis of equality.

4.2.2 The Act promotes the development and use of the Welsh language. It established the Welsh Language Board, one of whose activities is to grant aid organizations concerned with the promotion of the language. The Board has invested about £550,000 annually in the Welsh nursery school organization, Mudiad Ysgolion Meithrin, and about £250,000 in the Welsh youth organization Urdd Gobaith Cymru. (See also paragraph 9.36.)

### **4.3 Local Government (Wales) Act 1994**

4.3.1 This Act established 22 unitary local authorities which from April 1996 replaced the 8 Country Councils and 37 District Council in Wales. These new unitary authorities are responsible for delivering all local government services, including education, leisure and social services, to the people in their areas, including children and young people.

### **4.4 Government of Wales Act 1998**

4.4.1 The Government of Wales Act established a National Assembly for Wales, elected for the first time in May 1999. From July 1999 the Assembly took over most of the responsibilities and functions of the Secretary of State for Wales and the financing of most public services in Wales. The Assembly will operate within the framework of primary legislation enacted by the United Kingdom Parliament and has substantial scope for the enactment of secondary legislation distinctive to Wales.

### **4.5 Minister for Children in Wales**

4.5.1 In 1997, the Government designated one of the Ministers at the Welsh Office as Minister for Children in Wales. The Welsh Office subsequently adopted an objective for children of promoting their social development and protecting them from abuse or neglect, improving their health and well-being; and raising their standards of educational achievement. In support of this objective, a Departmental Committee on Children's Issues was established in 1997 with the job of improving effectiveness of policy coordination on children's issues and promoting a coherent structure of children's services across Wales. Following the election of the Assembly, an Assembly Cabinet post has been designated with special responsibility for children's issues.

### **4.6 Strategic approach to children's services**

4.6.1 The Government is committed to the development of a strategic approach to children's services in Wales, as set out in the Social Services White Paper for Wales "Building for the Future",<sup>22</sup> published in March 1999. The strategy will aim to set out clear objectives and principles for the development and delivery of all services for children in Wales. It will take note of the United Nations Convention on the Rights of the Child, and related European Union commitments to child welfare and will provide context for the development of all services for children. In advance of the strategy a number of initiatives are being taken forward in health, social services and education.

4.6.2 The *Children First*<sup>23</sup> programme in Wales was announced in April 1999, broadly along the lines of the *Quality Protects* initiative announced by the Department of Health. The *Children First* programme aims to modernize public services for children in need, particularly for children looked after. It will focus on outcomes for children, taking account of the views of children themselves and their parents. As part of the programme, local authority elected members have been reminded of their corporate parental responsibilities for children in the care of their authorities. Five million pounds has been made available to begin implementation of the programme in 1999-2000.

4.6.3 Also in April 1999, the Welsh Office announced details of the Sure Start programme in Wales, designed to increase opportunities for- very young children and their families, especially in more deprived areas and to help give those children the best possible start in life. Twenty-five million pounds has been allocated to this programme over the next three years. A further £25 million over the same period is being used to establish a Children and Youth Partnership Fund. This will promote local initiatives which will lift youngsters' educational achievement, engage them in creative activities in their communities and encourage them away from crime, drugs, vandalism and truancy.

#### **4.7 Children's Services Planning in Wales**

*Articles 4,5, 9, 16, 19, 20, 39*

4.7.1 The Welsh Office issued guidance to local authorities in Wales in 1993 on *Accommodating Children - A Review of Children's Homes in Wales*.<sup>24</sup> This advised authorities that their plans for residential childcare facilities should form part of an integrated strategy for children within each authority.

4.7.2 In 1994, local authorities in Wales were advised<sup>25</sup> that they should prepare comprehensive plans for children's services. In April 1996, that guidance was strengthened and made mandatory.

4.7.3 The introduction and development of Children's Services Plans in Wales has been widely welcomed and accepted. This is the key mechanism for ensuring that all agencies work together in planning for and providing support for children in need. The effectiveness of the arrangements is monitored by the Social Services Inspectorate, Wales.

4.7.4 The plans produced by local authorities for 1996-1997 were analysed by consultants on behalf of the Welsh Office. A report of this work was published in 1997.<sup>26</sup> The analysis has helped inform the preparation of revised plans and has provided a baseline from which to monitor progress in planning for children's services.

4.7.5 In September 1998, the Welsh Local Government Association (WLGA) launched its report. *Developing a Strategy for Children in Need in Wales - The Local Government Role*.<sup>27</sup> The document, which takes account of the views of many organizations in Wales representing the interests of children, brings together the key local authority responses to children in need. It identifies the main issues for the future from the local government perspective, taking as its principal standpoint the requirements of the Children Act 1989 and the United Nations Convention on the Rights of the Child.

4.7.6 Proposals for consultation on ways to bring together the various separate requirements for children's services planning were made in the Social Services White Paper for Wales. The aim is to establish ground rules for unified children's services plans, with a view to introducing integrated planning from April 2001.

## 4.8 Children in public care in Wales

### *Article 20*

4.8.1 Following the convictions for child abuse of some former members of staff at children's homes in the North Wales area, the Secretary of State for Wales decided in April 1995 to appoint a barrister to review the papers held by the North Wales Police and what were then the Country Councils of Clwyd and Gwynedd. Her conclusion and recommendation was that no public inquiry was necessary, but that there were concerns about the adequacy of the local authorities' procedures in certain respects.

4.8.2 Subsequently a team of experts, the North Wales Child Care Examination Team, was appointed in January 1996 to examine the childcare procedures in the two North Wales countries and the arrangements planned by their successor authorities (April 1996). The Team reported in June 1996.<sup>28</sup> Their recommendations embraced many aspects of the work involved in ensuring effective delivery of services for children. These covered strategic planning, child protection, childcare planning, residential care, foster care, management, inspection and children's rights. Local authorities throughout Wales were asked to implement those recommendations applicable to them and a Development Fund of £500,000 was allocated by the Welsh Office to support authorities in doing this.

4.8.3 In response to continuing public concern, the Secretary of State for Wales decided in June 1996 that a full inquiry should be held into widespread allegations of abuse in the childcare system in North Wales. Under the Tribunals (Evidence) Act 1921, Sir Ronald Waterhouse (a retired High Court judge) was appointed, together with two assessors, to conduct a full judicial inquiry into allegations of abuse at children's homes in North Wales since the mid-1970s. The North Wales Child Abuse Tribunal (NWCAT) heard evidence between January 1997 and March 1998. The Tribunal's report to the Government is awaited and the Government will respond as soon as practicable to the Tribunal's findings.

4.8.4 By the time that the NWCAT was substantively engaged in taking evidence, good progress had been made by local authorities in implementing the recommendations of the North Wales Child Care Examination Team. However, in the light of the evidence submitted to the NWCAT and the recommendations made in Sir William Utting's report *People Like Us*,<sup>29</sup> it was evident that more remained to be done. The Welsh Office therefore established a "Looked-after Children Development Fund" and made available £880,000 to support local authorities in Wales in 1998-1999. This was aimed at further improving local procedures and good practice in providing services for children in public care in Wales.

4.8.5 The report of the North Wales Child Care Examination Team on childcare procedures in North Wales recommended an increase in the staff of Social Services Inspectorate, Wales (SSIW) to provide more effective advice to Ministers and local authorities on children's services in Wales. The Children's Development Unit within SSIW has since been strengthened to help support a programme of work for the development of children's services by new unitary local authorities in Wales. In addition, the Inspectorate's capacity for inspection and advisory services has been strengthened by the appointment of four officers.

4.8.6 The Welsh Office has established an inter-disciplinary group including social services, health and education interests to spearhead work to improve the quality of life and outcomes for children in public care in Wales.

#### **4.9 Child protection in Wales**

*Articles 9, 18, 19, 39*

4.9.1 Social Services Departments across Wales have been striving to address wider child protection issues and ensure that front line social services recognize the signs of abuse or neglect and act upon them without delay. Collaborative working between all the agencies involved is crucial to the success of child protection policies and local authorities, health authorities, schools, the police and the voluntary sector continue to work actively together to secure the safety of all children. The guidance on Area Child Protection Committees (ACPCs), *Working Together*, has been extensively reviewed over the last year. Revised guidance is expected to be issued later in 1999. The Assembly will continue to work with ACPCs, and all the agencies involved in them, to ensure that child protection procedures are kept under continual review and that they remain robust, appropriate and effective.

4.9.2 The Assembly has retained the standing Child Protection Committee established within the Department by the Welsh Office. The key function of the Committee is to analyse the reports of local inter-agency reviews of child protection cases causing concern and to identify and disseminate best practice issues to all the agencies concerned in child protection. A specific grant has been made available annually to local authorities to assist the development of inter-agency working in child protection.

#### **4.10 Childcare strategy for Wales**

*Article 28*

4.10.1 The Out of School Childcare Initiative which started in Wales in 1993 saw about 4,200 new out of school childcare places created in three years. Since 1995, the Welsh Office has also funded the development of a childcare initiative to improve facilities for children under five. The initiative sought to involve employers in provision of childcare for their employees' children in an attempt to retain and recruit parents, particularly women.

4.10.2 Welsh Office funding for Chwarae Teg (Fair Play - an equal opportunities organization) has assisted them to conduct two audits of childcare provision in Wales: one in 1992 and one in 1996. Chwarae Teg has also helped to set up a Wales Childcare Database, which parents can use at Libraries and Job Centres to find out about the childcare services available locally.

4.10.3 In June 1998 the Minister for Children in Wales launched a Green Paper *A Childcare Strategy for Wales*.<sup>30</sup> The Strategy is part of a United Kingdom-wide framework of Government initiatives, including family-friendly employment, welfare reform and help with the costs of childcare for working families. In addition to existing and enhanced Welsh Office programmes,

an additional £1.51 million was made available in 1998-1999 together with a similar level of funding in 1999-2000, to support infrastructure developments to pave the way for implementing the Strategy in Wales.

4.10.4 The Strategy is being taken forward at local level by local childcare partnerships coordinated by local authorities. Starting in 1999 for a period of three years, substantial resources will be available from the National Lottery New Opportunities Fund to set up new out of school childcare places in Wales.

4.10.5 The emerging strategic approach to children's services will encourage childcare and early years developments to be linked effectively with other relevant programmes operating in Wales including the Strategic Development Scheme and Welsh Capital Challenge, and the People in Communities. Sure Start and other programmes designed to improve the quality of life for children and their families by promoting social inclusion.

#### **4.11 Support for Child and Family Services Grant Scheme**

*Articles 24, 26, 27*

4.11.1 Since 1991 this scheme has helped to cover the core costs of a number of children's voluntary bodies in Wales and thereby enabled those organizations to promote the interests of children more generally. For example, at present, it helps to fund Children in Wales, the national umbrella body promoting children's interests in Wales, Childline (Wales), which runs a helpline for children; Voices from Care, representing the interests of children in the public care system; and the Wales Pre-School Playgroups Association, whose members provide pre-school education and care for children under five.

4.11.2 The scheme also assists projects that deliver services to children in need. Examples include:

(a) The Access for Black Children with Disabilities (ABCD) projects in Cardiff to help children have access to appropriate health services;

(b) The Children's Society's Advocacy Unit which operates in South Wales and provides independent representation and advocacy services for children looked after by local authorities;

(c) Young carers projects in Carmarthenshire, Merthyr Tydfil and Flintshire;

(d) A project in Wrexham to provide therapeutic treatment for children who have suffered sexual abuse; and

(e) A community child-minding scheme in Powys;

(f) The grant scheme has responded to emerging priorities. In 1999-2000, these were identified as promoting services for children with disabilities and Advocacy services for children looked after by local authorities. In line with these priorities, £108,000 was made available for six new projects to provide services for disabled children and £120,000 for four Advocacy projects (including the National Youth Advocacy Services independent advice service for children looked after in North Wales, and Childline's Children in Care helpline).

#### **4.12 Publicity and research about the rights of the child**

##### *Article 42*

4.12.1 In July 1994, the Welsh Office published a leaflet in Welsh about the United Nations Convention on the Rights of the Child.

4.12.2 The Welsh Office commissioned a research study, undertaken over six months in the later part of 1998, on the extent and efficacy of existing advocacy services for looked-after children in Wales.

4.12.3 The International Centre for Childhood Studies at the University of Wales (Swansea), recently published *Children and Decision Making*.<sup>31</sup> This is a summary of the Centre's research study of children's participation on decisions about their care during the time when they are looked after by local authorities. Copies of the report have been made available by the Social Services Inspectorate, Wales, as part of their development programme to help those working with looked-after children. The Assembly is funding the development of a training pack for use of these materials to promote active participation of children in making decisions on their care.

#### **4.13 Opportunities for children and young people to express their views in Wales**

4.13.1 Development funding made available by the Welsh Office in recent years has stimulated a wide-range of initiatives across Wales to enable children and young people to express their views about policies which affect them. These initiatives have involved both local authorities working in partnership with voluntary sector organizations and work instigated by the voluntary sector itself.

4.13.2 Children and young people have primarily been able to express their views through consultation processes or through participatory conferences at both national and local level. Examples include:

##### 4.13.3 ALL-WALES

(a) Children in Wales: conference in May 1998 about the 50th anniversary of the Children Act 1948. Participants included 30 children and young people aged 8-17, representing groups from across Wales.

(b) Contribution to the Utting Safeguards Review: representatives of children "looked after" expressed their views directly to Sir William Utting and his team as a contribution to the Safeguards Review.



(c) Children and Young People and the National Assembly: 50 children and young people from across Wales attended each of two events in September 1997 and September 1998 at which they were able to discuss their views with policy makers.

(d) Voices From Care: as a self-help organization for children “looked after”, Voices From Care regularly consults its membership and feeds back the results of those consultations to policy makers in central and local government.

#### 4.13.4 LOCAL/REGIONAL GENERAL CONSULTATIONS

(a) Anglesey Youth Forum Consultation: a one day consultation was held in March 1998 on issues facing children and young people in Ynys Mon (Isle of Anglesey) and the potential development of a forum of young people. Thirty young people aged between 13 and 18 took part from across Ynys Mon.

(b) National Society for the Prevention of Cruelty to Children (NSPCC): consultations with seven groups of children and young people connected to NSPCC projects around Wales were held between April and June 1998. The purpose of the consultation was to look at how the voice of young people could be influential in the work of NSPCC Wales. Thirty-five children and young people aged between 12 and 18 took part.

(c) Right On - Cardiff Youth Network: consultation took place between September and December 1998 with young people aged between 13 and 18 on a Cardiff housing estate looking at issues affecting social exclusion as part of an initiative with Save The Children Fund, Centrepoint, Pilotlight and Demos. Ten young people took part.

(d) Aberaeron Young People’s Association: a large consultation was undertaken in November 1997 with children and young people living in Aberaeron and the surrounding area in Ceredigion looking at issues broadly affecting young people. The consultation was completed via questionnaires with children and young people aged 11-17.

(e) Dynamix: approximately 60 children and young people aged 6 to 18 took part in an outreach consultation with children and young people on a large housing estate in Swansea. The consultation focused on the needs of young people in the local community and was mainly conducted through interviews on the street.

(f) Consulting children and young people in Merthyr Tydfil: group consultations and a one-day conference looking at health service, social services, play and leisure, education and housing were organized as part of the process of developing the Children’s Services Plan for Merthyr Tydfil and this was facilitated by the Children’s Society. The activities were held over 1997-1998 and 75 children and young people took part in the conference.

(g) Ynys Mon (Isle of Anglesey) Children’s Services Plan: views of children and young people were sought by the local authority in developing the Children’s Service Plan for Ynys Mon. It involved a focus group of children and young people from across the island and a forum for other young people from each school.

(h) Denbighshire Youth Strategy: a consultation was undertaken with young people in Denbighshire to identify their needs as part of the development of a youth strategy for the county.

#### **4.14 Rough sleeping in Wales**

*Articles 24, 26, 27*

4.14.1 The Assembly will be reviewing advice given to local authorities to make clear that young people who have been in the care of a local authority are deemed to be vulnerable and thus classified as in priority need under section 19 of the Housing Act 1996. It will also be considering whether further action is needed to ensure these young people receive the services and support that they need.

4.14.2 The Assembly will also be devising a strategic programme to address the problems of rough sleepers. The project will include a review of the relationship between local authorities' housing and social services departments and the guidance and support on housing given to young people leaving care.

### **5. GENERAL PRINCIPLES AND GENERAL MEASURES OF IMPLEMENTATION**

**This chapter covers articles:**

- 2** *Discrimination*
- 3** *Action and decisions affecting children to be undertaken in the best interest of the child*
- 4** *Commitment to implement*
- 6** *Right to life*
- 12** *Right to express a view and to be heard*
- 42** *Obligation to promulgate provisions of Convention*
- 44** *Reporting obligations*

#### **5.1 Harmonizing national law and policy with the provisions of the Convention**

*Article 4*

5.1.1 The Human Rights Act received Royal Assent on 9 November 1998. It will give further effect in United Kingdom law to the rights and freedoms contained in the European Convention on Human Rights (the European Convention). Many of the articles in the European

Convention are similar to those in the United Nations Convention on the Rights of the Child, for example those relating to the prohibition of torture, the right to respect for private and family life, freedom of thought, conscience and religion, freedom of expression, and freedom of assembly and association. These provisions are not, of course, directed exclusively at the rights of children. They will be of general application, but will be of benefit to children too.

5.1.2 The Act operates through two main provisions. First, all legislation, both past and future, will have to be interpreted, so far as possible, in a way which is compatible with the European Convention rights. The Government expects that it will be very rare for a court to be unable to construe primary legislation consistently with the European Convention. Where a court cannot do so, it will be required to give effect to that legislation, but the higher courts will be able to make a declaration of incompatibility in respect of it. It will then be for the Government and Parliament to decide how to respond. Where there are compelling reasons for doing so, it will be possible for the incompatible legislation to be amended quickly by a Ministerial order (subject to the approval of Parliament). Where a court cannot interpret subordinate legislation compatibly with the European Convention rights, it will (subject to limited exceptions) be able to set that legislation aside to the extent necessary to give effect to those rights. Courts will also have to develop the common law consistently with the rights under the European Convention.

5.1.3 Second, the Act will (with limited exceptions) make it unlawful for a public authority to act in a way which is incompatible with a European Convention right. The term “public authority” is widely drawn so as to provide a correspondingly wide protection of human rights.

5.1.4 The Act will also place a requirement on Government Ministers to publish a statement on the compatibility with the European Convention of Bills they have introduced into Parliament. This will ensure that full consideration is given to the human rights implications of new measures both during the policy development stage and during debates on the Bill in Parliament.

5.1.5 The Government believes that the Act will assist the United Kingdom in complying with the European Convention on Human Rights, and in so doing will directly support compliance with related articles in the United Nations Convention on the Rights of the Child. The Act will also have a more general benefit by promoting a culture of human rights within the judicial system, within government, and within society as a whole.

5.1.6 Ministers have decided that the main provisions of the Act will be brought into force on 2 October 2000 to take into account the arrangements necessary for implementation. Time is needed to complete a comprehensive programme of judicial training, to make whatever court rules are necessary before implementation, and to allow government departments to prepare for implementation.

5.1.7 The European Convention on Human Rights also has a direct effect in relation to the position of children in Scotland and Wales. It applies to the Scottish Parliament and the Scottish Administration broadly as it will apply in England and Wales, as described at paragraph 5.1.2.

## 5.2 Children's Services Planning in England and Wales

*Articles 4, 5, 9, 16, 19, 20, 39*

5.2.1 Children's Services Planning is a critically important mechanism for improving the broad range of services for children in need and their families. Planning was made mandatory in April 1996: local authorities must now assess the need for children's services in their area, consult various bodies in planning how that need will be met, and publish the resulting plans.

5.2.2 In 1992 local authorities were advised that they should produce plans for children's services. The results were studied by the Social Services Inspectorate (SSI) and reports were published in July 1994 and November 1995.<sup>32</sup> These reports showed that, although most local authorities had produced plans, they varied in content and effectiveness. Planning presented local authorities with significant technical challenges in mapping needs and the supply of services and in bringing parties from several agencies relevant to children's welfare together to plan coherent services.

5.2.3 These problems of achieving coherent services across several agencies were discussed in the report of a study by the Audit Commission into community child health and social services for children in need.<sup>33</sup> A key recommendation of this report, which was published under the title *Seen but not heard* in 1994, was that children's services planning should be mandatory, jointly prepared by relevant agencies and published. A study commissioned from the National Children's Bureau (NCB) by the Department of Health, and published as *Crossing the Boundaries* in 1995,<sup>34</sup> explored ways of encouraging better coordination of services across departmental boundaries.

5.2.4 The Government responded to the Audit Commission recommendation by amending the Children Act 1989 so as to require local authorities to plan children's services, to consult specified agencies, to publish the plans and to review those plans from time to time. This was implemented in April 1996 by the Children Act 1989 (Amendment) (Children's Service Planning) Order 1996.<sup>35</sup> The plans prepared under that Order were required by 31 March 1997. The guidance accompanying the Order superseded the earlier circular and although the mandate for planning related only to services for children in need, it encouraged joint planning for the welfare of children generally.

5.2.5 A report of a third SSI study, entitled *Partners in Planning*,<sup>36</sup> was published in 1998. This showed considerable energy going into joint working at local level and a gaining of experience of working across traditional barriers. Success depended upon the drive of key individuals, the extent to which participants could identify coinciding interests and their influence over resources.

5.2.6 There are indications that real change is occurring slowly. This is borne out by a further report from the NCB<sup>37</sup> of a small study which looked at the extent to which the shape of services has changed in response to planning. There is real enthusiasm to plan better services for children jointly, but this is in the context of a struggle to take on board the technical aspects of measuring and analysing needs and reshaping services.

5.2.7 In recent years other government Departments have proposed or introduced planning requirements which affect children. Some of these new requirements require plans to set out objectives and targets. It will be necessary, in the medium term, to revise the current framework for planning children's services to take account of these developments.

### **5.3 Monitoring Children's Services Plans**

5.3.1 The Department of Health will continue to monitor Children's Services Plans. As part of the Department's work programme for 1997-1998, a study has been commissioned from the National Children's Bureau to look at how planning has led to adjustments to the shape of service delivery in a selection of local authorities children's services plans.

5.3.2 This year the SSI will be conducting an inspection of children's services planning activity in eight authorities. SSI regional offices expect to receive copies of plans as part of their monitoring function. And the Department can, if necessary, call for copies of all the plans. Planning activity for children's services is in its early days and there is much work to be done, but there are some encouraging initial signs that agencies are finding ways of planning services together.

### **5.4 Policy and practice of youth work in Northern Ireland**

*Articles 28, 29, 12*

5.4.1 In October 1997 the Department of Education for Northern Ireland published a curriculum document for the youth service, *Youth work: A Model for Effective Practice*. One of the key points in this guidance document was the stress placed on participation as one of the underlying principles of youth work. The document advises youth groups and organizations to involve young people fully in the making of decisions on matters which affect them. Such matters might include policy-making, the planning and implementation of programmes, and management and organization of facilities.

5.4.2 All members irrespective of ethnic origin, sex or disability should be encouraged to assume relevant responsibilities, commensurate with their age and experience. This, it is hoped, will help young people to shape and develop their own experiences.

### **5.5 The promotion of children's rights and United Kingdom aid policy**

*Article 4*

5.5.1 The Government's objective is "the achievement of human rights for all people - and that includes every woman and child".<sup>38</sup> The Department for International Development (DFID) is committed to a rights based approach to development in poorer countries.<sup>39</sup> This means putting people first, giving particular attention to the needs and the voices of the poor and disadvantaged among whom children are a special priority, focusing on those rights essential for eliminating poverty, and achieving sustainable livelihoods and dignity for all.

5.5.2 The objective of DFID in promoting children's rights is to support international efforts to enhance children's well-being through implementation of the Convention on the Rights of the Child, promoting children's protection and participation, alongside the provision of effective and sustainable services for children's survival and development. In partnership with Governments and civil society organizations, DFID supports, and if necessary assists in meeting the rights set out in the Convention on the Rights of the Child. Provision of services such as health care, education, and welfare is an essential part of the United Kingdom's contribution to promoting children's rights in the countries where DFID works. At the same time, the United Kingdom is placing a stronger emphasis on combining provision for children with children's protection and participation in the development process.

5.5.3 All projects sponsored by the Department for International Development (DFID) have policy information markers which provide a measure of the extent to which projects<sup>40</sup> are pursuing key policy areas. DFID has introduced such a marker for "*Promotion of the Rights of the Child*". This will provide information on numbers of projects and associated expenditure on promotion of the rights of the child and hence will assist the Government to fulfil its reporting obligations to the Committee on the Rights of the Child. For a project to score against this marker, the approach and components of the activity must be informed by an analysis of the situation of children, including children's own perceptions, and children should also have contributed to the design of the activity as their evolving capacities allow (article 12 of the Convention).

5.5.4 **DFID activities** that support or demonstrate a contribution towards the rights of the child<sup>41</sup> include:

(a) **Services responding to children's survival and development needs in education, health water and sanitation, shelter, etc. and which are especially relevant to the needs of excluded and disadvantaged children.** For example, a key focus of the DFID assisted District Primary Education Projects in Andhra Pradesh and West Bengal in India is improving access to education for vulnerable groups, including child labourers. DFID in India is also preparing plans for projects to reach children and adolescents, and to support the National Literacy Mission. In Bangladesh, DFID is providing support to child workers through the UNICEF Basic Education Programme for Urban Hard to Reach Children, and UCEP which provides opportunities through education and training for poor urban working children and promotes children's rights. Some of the education programmes of the larger NGOs that are supported by DFID, are involved in an ILO project for former child garment workers. In Malawi, the Primary Community Schools Programme is involving remote rural villages in the building of up to 100 schools. Community participation is central to ensuring enrolment and continued attendance of children from disadvantaged rural backgrounds in these schools.

(b) **Programmes which assist Governments and civil society organizations to support families in bringing up their children, to reunite children separated from their families and to support children without families in ways which avoid institutionalization.** For example, in those parts of Africa with a high prevalence of HIV/AIDS, such as Zambia, many children are orphans; these children are more likely to have their rights denied or violated and their property taken away from them. DFD works with Governments and civil society to protect such children. DFID has supported family tracing and reunification programmes with the

International Committee of the Red Cross and Save the Children in the Great Lakes and Angola. In Eastern Europe the key issue in a number of country programmes is the de-institutionalization of childcare with a view to both reducing the numbers of institutional care and improving standards in the institutional network. The other side to this reform is the introduction of a system of fostering and adoption. DFID, through the Know How Fund, is supporting projects along these lines in Romania and Bulgaria and a small pilot project in Estonia.

(c) **Programmes which have concentrated on a child rights approach.** For example, DFID will promote programmes which integrate training in the Convention on the Rights of the Child such as natural resources extension programmes. In Malawi, DFID funded an Estate Land Utilisation study which produced data on child labour. DFID already supports a number of NGOs which have mainstreamed a child rights approach and is drawing on their experience to mainstream a child rights approach in its own work. In Bangladesh, DFID is commissioning a scoping study on children's work as part of a broader child rights agenda, to enhance DFID's knowledge about the complex issue of children's work, and identify potential initiatives. This will ensure a more informed response to child rights issues through sectoral project work; and may identify strategic support to child-centred initiatives in the field of children's work.

(d) **Advocacy programmes which seek to influence societal attitudes towards children.** In Uganda, DFID supports the Uganda Society for Disabled Children which helps children with disabilities to live independent and productive lives by promoting self-help and community support. Local people have said this community based programme has resulted in increased awareness and confidence, changed attitudes, and better livelihoods.

(e) **Programmes which encourage the participation of children and young people in decisions which affect them, for example in planning, needs assessment, drafting legislation and research.** For example, DFID part funded an ACTIONAID research project in which children were central and active participants. The research has led to a better understanding of children's work in the household, and the factors which affect the roles of girls and boys. This informed design of practical projects which were implemented following the research. In Egypt, DFID supported a Participatory Poverty Assessment which is highlighting children's perspectives on poverty to be fed into the formulation of the Egyptian Government's National Strategy on Social Development. In Guyana, DFID is funding participatory research, involving children, on constraints on regular attendance at school.

(f) **Activities which increase the awareness of children and adults of children's rights and human rights broadly.** In Bangladesh, DFID supports Shoishab which raises awareness of children's rights for community members who keep children in their households as domestic helpers. On a regional level, the DFID funded Pacific Regional Human Rights Resources Team (a winner of the UNICEF Maurice Pate Award) has focused on children's rights through family law issues such as violence against women, divorce, maintenance and adoption. On an international level, DFID has provided support to the United Nations Special Representative on Children and Armed Conflict whose mandate is to raise awareness of the plight of children in armed conflict and to stimulate international action. In June 1998, DFID hosted an international conference in London which was successful in highlighting the work of the Special Representative and raising awareness of rights, protection and welfare issues related

to children affected by armed conflict. The United Kingdom was also active in securing the inclusion of use of child soldiers under 15 in the definition of war crimes in the statute of the newly established International Criminal Court.

**(g) Programmes which protect children from exposure to violence, danger, exploitation and abuse at home and in the wider community, or which help and support children who have suffered from such exposure.** For example DFID is funding a number of NGO projects which address the needs of street children in Central and South America and helping to address the problem of violence against street children through the provision of safe havens. In Central and Eastern Europe DFID is supporting the transition of State police forces to community police services by improving skills and changing police behaviour and attitudes, emphasising the involvement of local communities and improving the treatment of victims of crime, especially women and children. In Pakistan DFID supports a project implemented by Save the Children which provides social support for children leaving the football stitching industry. DFID supports the International Labour Organization's International Programme for the Elimination of Child Labour and has funded action oriented research in South Asia and South East Asia on trafficking of children and their exploitation in prostitution and other intolerable forms of child labour. DFID supports projects which protect the rights of children affected by conflict and supports rehabilitation of children affected by conflict including child soldiers. DFID are working in this field in partnership with the Office of the United Nations High Commissioner for Human Rights (OHCHR), the International Committee of the Red Cross (ICRC), the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Special Representative on Children and Armed Conflict. DFID also funds projects with NGOs, for example, rehabilitation projects with child soldiers in Liberia and Angola through Handicap International and UNICEF. In Jordan, DFID supports a pilot Family Protection Unit for abused women and children and is currently developing this into a larger programme with the Jordanian police service.

**(h) In Bangladesh,** DFID is exploring support to a street children's programme called Chinnamul Shishu Kishore Sangstha (CSKS) which, in addition to learning opportunities and a safe haven, provides access to legal aid for children held without trial in jails and vagrancy centres. DFID will be addressing juvenile justice issues as part of a broader accessible justice strategy under development.

**(i) Reviews of national legislation** to ensure compatibility with the Convention on the Rights of the Child and creation of mechanisms in central and local government to ensure effective coordination of policy towards children. For example, DFID has begun discussions with the Government of Zambia on reform of the law on children. In Uganda, DFID, with Save the Children, is in discussions with the Government concerning support to piloting the implementation of the 1996 Children's Statute.

**(j) Establishment and strengthening of effective and appropriate national organizations, within Government and civil society** who are concerned with promoting and coordinating implementation of the Convention on the Rights of the Child and with monitoring progress. DFID is currently exploring how best it can support activities in this important area of work.



(k) **Knowledge generation and dissemination concerning the rights and needs of children.** Because the specific needs of children within households and communities are often not understood or explicitly acknowledged, their needs and interests are often overlooked and subsumed by the needs of other household members, who have more power to express themselves. In many societies girl children tend to do the hardest work, have less to eat and are denied the opportunity of an education. In DFID's support to the education sector in Tanzania and Kenya, DFID is helping its partners find out more about the social and economic processes affecting who goes to school and who stays there, and who is excluded and for what reasons. In Pakistan, DFID is providing a Junior Professional Office on Child Rights to the UNICEF office.

(l) **Family tracing in relation to the Kosovo crisis.** DFID is supporting the International Committee of the Red Cross for family tracing and reunification of refugees fleeing Kosovo.

## 6. CIVIL RIGHTS AND FREEDOMS

**This chapter covers articles:**

- 7 *Registration and nationality*
- 8 *Identity*
- 13 *Freedom of expression*
- 14 *Respect for freedom of thought*
- 15 *Respect for freedom of association*
- 16 *Protection of privacy, family, home, correspondence*
- 17 *Freedom of the press, and the child's access to it*
- 37 *Protection against torture*

### 6.1 Freedom of thought, conscience and religion

#### *Article 14*

6.1.1 Where a child is being looked after by a local authority the authority is required to have regard to the child's religious persuasion, racial origin and cultural and linguistic background when making decisions about him. The authority has also to take into account the child's wishes and feelings. Children accommodated in children's homes are required by regulation to be given the opportunity to practise their religion. Positive steps are taken to facilitate their doing so.

## **6.2 Religious teaching**

6.2.1 The statutory requirements for the provision of RE and daily collective worship remain broadly unchanged under the School Standards and Framework Act 1998. The Act applies the current arrangements, with minimal changes to the new school framework which comes into effect on 1 September 1999, Under the Act:

(a) RE provision in community schools, and foundation and voluntary schools without a religious character will essentially be the same as is currently in country schools;

(b) Collective worship provision in community and foundation schools without a religious character will essentially be the same as is currently in country schools;

(c) Collective worship provision in voluntary schools without a religious character will essentially be the same as is currently in voluntary schools;

(d) RE and collective worship provision in foundation schools and voluntary controlled schools with a religious character will essentially be the same as is currently in voluntary controlled schools; and

(e) RE and collective worship provision in voluntary aided schools with a religious character will essentially be the same as is currently in voluntary aided schools.

6.2.2 There is a number of existing important provisions that will remain:

(a) In certain circumstances, parents can make arrangements with a school for a child to be taught alternative RE. For example, arrangements can be made for a child attending a community school or a foundation or voluntary school without a religious character to receive denominational RE; and

(b) Community schools and foundation schools without a religious character are able to apply for a “determination” which lifts the “wholly or mainly of a broadly Christian character” requirement from their daily collective worship. Such schools may then choose to provide alternative worship which is distinctive of a particular faith.

6.2.3 Parents of children attending any maintained school retain the right to withdraw their children from RE and daily collective worship either in whole or in part. It is open to parents to take account of their children’s views in exercising their right of withdrawal from RE and collective worship. This is presently a matter for parents and the Government has not issued any advice to that effect.

6.2.4 There is a large number of voluntary schools maintained from public funds representing particular faiths or denominations. It remains open to independent promoters to propose further new schools to be maintained from public funds. All such proposals are considered on their merits.

### **6.3 Privacy and data protection**

#### *Article 16*

6.3.1 Paragraph 4.26 of the United Kingdom's first report referred to data protection legislation. Further changes have been made since that report.

6.3.2 United Kingdom law does not provide for a statutory right of privacy (but see section 5.1 above which deals with the incorporation of the European Convention on Human Rights into United Kingdom law). Children are afforded the same protection as adults under the general law (for example the law on defamation and on interference with correspondence). The Data Protection Act 1984 which provides for safeguards against the misuse of computerized personal information also applies to the personal data of children. The Data Protection Act 1998, which gives effect to the 1995 EC Data Protection Directive, is due shortly to replace the 1984 Act. The new Act applies to certain manual records as well as to computerized information and strengthens individuals' rights.

### **6.4 Privacy in Children's Homes in England and Wales**

#### *Article 16*

6.4.1 Children's homes in England and Wales are required under the Children's Homes Regulations to provide suitable facilities to allow children to meet privately with their family and a range of other people.

6.4.2 Children's homes are required by Regulations to have a telephone where children can make and receive telephone calls in private.

6.4.3 Homes are also required to consider how to provide special privacy in which to allow a child to pursue his religion.

### **6.5 The future of emergency legislation in the United Kingdom**

#### *Article 13*

6.5.1. Specific counter-terrorist powers are available to the police throughout the United Kingdom, and a number of further powers are available in Northern Ireland alone, to enable the security forces and the criminal justice system to deal effectively with the particular terrorist threat which has existed there. The Government seeks to retain the balance between providing the security forces with powers which are appropriate and proportionate to the threat of terrorism and protecting the right of individuals.

6.5.2 Both in Northern Ireland and in the rest of the United Kingdom, these special counter-terrorist powers are independently reviewed annually, and their renewal is subject to debates in Parliament. The Government has now undertaken a major review of counter-terrorism legislation, its use and effectiveness. A consultation paper was issued in December 1998, which considered all aspects of current counter-terrorist legislation, including the Northern Ireland

(Emergency Provisions) Act 1996 and the Prevention of Terrorism (Temporary Provisions) Act 1989, and sets out proposals for new, permanent legislation which is intended to be available throughout the United Kingdom to deal with all types of terrorism. The proposals were made available for consultation until 16 March 1999 and responses are now being analysed with a view to drawing up firm proposals for legislation. As part of the review, the Government will ensure that the proposals put forward for new legislation are compatible with the European Convention on Human Rights and other relevant human rights commitments, including the Convention on the Rights of the Child.

6.5.3 The Committee was particularly concerned about the emergency provisions in Northern Ireland in the context of the Convention. There has been no official assessment of the particular impact upon children of the emergency legislation in Northern Ireland, but allegations of harassment of children are very rare. Any such allegations would be treated extremely seriously, and the procedures for dealing with them are widely publicized.

6.5.4 The detention, treatment and questioning of persons arrested under the terrorism provisions in Northern Ireland are carried out according to statutory codes of practice, which include special safeguards for the rights of detainees. These ensure that in the rare event of the police having to interview anyone who appears to be under the age of 17, the well-being and rights of the interviewee are given the highest priority, and the interviewee must be accompanied by an appropriate adult. The Northern Ireland emergency legislation permits a constable or a member of the security forces to stop and search any person in specific circumstances laid down in legislation. If it is necessary to search a child under 14, this is normally done by a female police officer or a female soldier. For a juvenile older than this, the search is carried out by a police officer or soldier of the same sex as the child.

6.5.5 Similarly, the PACE codes of practice, under which the police operate in England and Wales, contain specific guidance for the police when dealing with cases involving juveniles. In Scotland, when a child under 16 has been either detained or arrested, the police are under a statutory obligation without delay to tell the child's parent or guardian that the child is in custody at a specified place. The parent or guardian has a statutory right, unless there is reasonable cause to suspect that he himself has been involved in the alleged offence, to be permitted access to the child.

## **6.6 Children of unmarried fathers: acquisition of citizenship**

### *Article 7*

6.6.1 The Committee commented on "restrictions applied to unmarried fathers in transmitting citizenship to their children". The Convention provides that a child shall have the right to acquire nationality; it does not require that there shall be a right to transmit nationality from father to child. The law of the United Kingdom makes comprehensive provision for children to acquire British nationality as required by the Convention, including provision for according that status where the child would otherwise be stateless. Further, although there are practical difficulties about automatic provision for transmission of nationality in the male line regardless of legitimacy, provision exists, where an unmarried father with British nationality is

prepared to take responsibility for his minor child resident in the United Kingdom, for the grant of British nationality to that child if he does not already enjoy that status. That may be done by means of an application for a certificate of registration made to the Nationality Directorate of the Home Office.

## **7. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

**This chapter covers articles:**

- 5** *Respect for responsibilities of parents to provide direction and guidance to child in child's exercise of convention rights*
- 9** *Right to live with parents*
- 10** *Freedom to enter or leave country for family reunion*
- 11** *Measures against abduction and non-return from abroad*
- 18** *Responsibilities of parents and guardians*
- 19** *Protection from violence and abuse, neglect and exploitation*
- 20** *Obligations to children without parents*
- 21** *Adoption: authorization procedures, intercountry arrangements*
- 25** *Right to review of those in care*
- 27** *Right to standard of living and parental responsibility for maintenance*
- 39** *Protection of child victims of neglect and abuse*

### **7.1 Supporting families**

*Articles 5, 9, 18*

7.1.1 On 4 November 1998, the Government published a programme of measures to strengthen family life by supporting families with children. The consultative document *Supporting Families*<sup>42</sup> focuses on the Government's responsibility to support families through its policies and to help parents to meet their children's needs.

7.1.2 The consultation paper concentrates on five areas where Government can make a difference. The Government intends to:

- (a) Provide better support to parents to ensure that every parent has access to the advice and support they need;

(b) Give better financial support to families to improve family prosperity and reduce child poverty;

(c) Help families balance work and home so that it is easier for parents to spend time with their children;

(d) Strengthen marriage to help protect the interests of children and reduce family breakdown;

(e) Tackle the more serious problems of family life, including domestic violence and school age pregnancy.

7.1.3 This is the first consultation paper on the family, fulfilling the Government's manifesto commitment to strengthen family life. Although the consultation did not cover Scotland many of the measures referred to in the consultation document extend to Scotland. Over the past year, the Government has developed a range of new measures which will give practical support to families. These include new financial support, such as the increase in Child Benefit and the introduction of the Working Families Tax Credit; £540 million for the new Sure Start Programme to help families ensure that their children are ready to learn when they start school; and the measures announced in the White Paper *Fairness at Work* to help families balance work and home. Some £42 million was made available for the corresponding programme in Scotland.

7.1.4 The consultation paper sets out a major programme of action to support families. The consultation period ended on 15 March 1999. The Ministerial Group on the Family published a summary of the responses to the consultation document on 8 June 1999. The responses to *Supporting Families* will be used in the ongoing development of family policy across Government.

## **7.2 Education for parenthood in England and Wales**

*Articles 18, 28*

7.2.1 The Government wishes to strengthen parenting education in schools. It has set up a National Advisory Group to advise on a framework for personal, social and health education. As part of its work, the Group will develop proposals to help all secondary schools teach their pupils about the responsibilities of parenthood.

## **7.3 Education for parenthood in Scotland**

*Articles 18, 28*

7.3.1 In Scotland the curriculum is not prescribed by statute and the responsibility for the delivery and management of the curriculum rests with education authorities and head teachers. Guidance is, however, provided by the Scottish Office Education and Industry Department. The National Guidelines in Environmental Studies include a section on relationships in which education for parenthood could be introduced.<sup>43</sup>

7.3.2 In addition the materials *Personal Relationships and Developing Sexuality* provide teachers with a curriculum framework covering pupils between the ages of 5-18. These materials offer advice on what issues should be covered at different stages in Scottish schools. The Scottish Qualification Authority also offer a Standard Grade examination in Social and Vocational Skills in which the three themes covered are home, work and community.

#### **7.4 Family learning in England and Wales**

*Articles 18, 28*

7.4.1 The Government has recognized that more needs to be done to improve support for parents. In its consultation paper *Supporting Families*<sup>44</sup> it sets out proposals for providing such practical support. The consultation document invites views on many issues covering families, including ways of improving parental involvement in children's education, parental support for schools and schools' support for parents, and the best ways to develop education on parental responsibility in schools. The National Family and Parenting Institute will have as part of its remit, the development of parenting support programmes and activities, including those which help parents to help their children learn.

7.4.2 Family Learning can involve: families learning together; parents, grandparents, and other carers helping children; and children helping their parents. Family Learning can be an effective approach for families of all sorts, and it can and should be fun.

7.4.3 The Government sees the value of effective family learning both in promoting lifelong learning for adults and raising the attainment of children, both key objectives for Ministers.

7.4.4 The Government is particularly aware that family learning can reach some of the most disadvantaged in society at risk of exclusion, and it can help ensure disadvantaged children get the help they need to lay the foundations for effective learning.

7.4.5 The Government supported Family Literacy Initiative illustrates this point. It reaches parents with poor basic skills and their children particularly in areas of social disadvantage. Independent evaluation has shown it to be effective in assisting both children and parents to improve their literacy skills.

7.4.6 Family Literacy is doubling in size in 1998-1999 and will continue to grow so that all LEAs will have access to provision from 1999-2000. Around 120 LEAs have been offered £4 million funding for 1998-1999 to reach around 6,000 parents and their children, an average of four courses per LEA. From 1999-2000 Family Literacy will be available nationally.

7.4.7 From next year the Government will be supporting Family Numeracy projects with a grant totalling £1 million. The aims are to: provide greater support in the home for numeracy; offer a quick start into numeracy for pre-school and reception children at risk of under attainment; and offer a re-start for their parents' numeracy. Successful pilots have been run, meeting all these aims.

7.4.8 In Wales, the Basic Skills Agency, with funding of £923,000 since 1996 from the Welsh Office, has developed and implemented a successful series of family literacy projects in partnership with primary schools, parents and all 22 local authorities in Wales. The Agency is working up family numeracy projects based on the Family Literacy model.

7.4.9 The Government believes that it is important to embed family learning in mainstream education. That is the way to secure the wider value of family learning for both adults and children. That is the message that the Government is giving to all those involved in providing education, as teachers, managers, or funders. It is also important to promote the potential value of family learning more widely, and that is why the Government supports a range of educational organization who do so.

## **7.5 Family education - Scotland**

*Articles 28, 18*

7.5.1 In Scotland, the Government has committed £15 million to supporting the role of parents in their children's education. The funds will be made available to education authorities over three years, to expand provision of family literacy schemes and home-link teachers, and to develop parent support groups.

## **7.6 Looked after children**

*Articles 18, 20, 25*

7.6.1 In 1995, the Department of Health launched the *Looking After Children: Good Parenting, Good Outcomes*<sup>45</sup> (LAC) materials. They provide the opportunity to engage children, wherever they are placed, in their own care plans and encourage communications between all those involved in the care of the child.

7.6.2 The materials, have been designed to improve the parenting experience of children looked after by local authorities and other agencies. They set an agenda for good parental care by identifying the experiences, concerns and expectations of children of different ages and stages by bringing to the attention of those responsible for their upbringing the probable consequences of different actions. One of the broad aims of the materials is to introduce ideas about outcomes into social work practice.

7.6.3 Since May 1995, most local authorities in England have committed themselves to implementing LAC with the aid of a support programme offered by the Department of Health. The LAC materials are also being used internationally, including Hungary, Canada (six Provinces), Australia (two States), Norway, Sweden, Belgium and Russia.

7.6.4 In Wales, use of the LAC materials was the subject of guidance<sup>46</sup> issued in the context of implementation of the recommendations of the North Wales Child Care Examination Team. The LAC forms were produced in Welsh. The Department has undertaken a two-year programme of work to assist local authorities in Wales to implement the LAC system, which involves a systematic approach to multi-agency assessment planning and review for looked-after children.



7.6.5 Developments in Scotland in arrangements for looking after children are reported above in Chapter 2.

## **7.7 Child protection in England and Wales**

*Articles 19, 30, 39*

7.7.1 The Government is firmly committed to ensuring that all children within the community are safeguarded and protected from abuse. The Children Act 1989 was designed to promote appropriate and decisive action to protect children from abuse and neglect.

7.7.2 Good cooperation and joint working by all agencies - social services, health, education, the police, probation and the voluntary sector - is an essential prerequisite for safeguarding the welfare of children. *Working Together Under the Children Act 1989*, the key Government guidance issued in 1991, provides a solid foundation for inter-agency cooperation in child protection work and real improvements have been made in tackling serious cases of abuse.

7.7.3 In 1995, the Government published a report *Child Protection; Messages from Research*. This gave details of the key messages arising from a major programme of research into child protection, which included 20 individual studies. One of the conclusions reached from the research was that real benefits could arise if there was a focus on the wider needs of children and families rather than a narrow concentration on the alleged incident of abuse.

7.7.4 It is for this reason that the Government began in February 1998 a process of consultation and debate in order to inform the development of new guidance on joint cooperation and working. A consultation paper has been issued which examines the general issues and principles which need to be considered. The key message which the Government wishes to promote is a new emphasis on looking more widely at the needs of the most vulnerable children and families in the community. Families need help at an earlier stage to tackle their problems before parenting difficulties escalate into abuse. However, the Government recognizes that an effective child protection system will continue to be needed to deal with cases of abuse. Work on the new guidance will also be informed by the improvements in understanding and knowledge in many areas of child abuse which have occurred over the past decade.

7.7.5 Public consultation on the revision of the *Working Together* guidance on child protection procedures was undertaken in Wales in parallel with consultation in England.

7.7.6 The Government is also developing a framework for a needs-led assessment of children and their families. The framework will focus on assessing the needs of children and the capacity of parents or family members who meet those needs in both the short and long term. It will be underpinned by the latest knowledge of the impact that domestic violence, alcohol and drug misuse, mental health and sex offending can have on child development.

7.7.7 Following a consultation period with all organizations and individuals with an interest in services for children as well as from those who can speak for children themselves, the Government's intention is to issue new guidance.

## **7.8 The Review of Safeguards for Children Living Away from Home**

*Articles 19, 20, 39*

7.8.1 In November 1997 the Secretary of State for Health published the report of the *Review of Safeguards for Children Living Away from Home* conducted by Sir William Utting and others. This report, which related to England and Wales, followed a series of convictions of people in North Wales for multiple abuse of children in their care.<sup>47</sup> The Secretary of State also announced that he would chair a Task Force “to help the Government prepare costed responses to the principal recommendations of the report and then monitor progress with their implementation”. It includes 10 Ministers from across Government, and advisers from both inside and outside Government. Its terms of reference are:

“To help the Government prepare costed responses to the principal recommendations of the report *People Like Us* and then to monitor progress with their implementation.”

7.8.2 The Review made a number of principal recommendations, and over 150 other recommendations and suggestions for detailed change. These affect a wide range of issues including:

- (a) The quality of local authority care for children they look after, and the support of those children and young people after they leave care;
- (b) Education and health care for looked-after children;
- (c) The regulation of foster care and children’s homes, and boarding schools not already regulated;
- (d) Checks on the suitability of people recruited to work with children;
- (e) The criminal justice system, including the prosecution of alleged child abusers, child prostitution and child pornography;
- (f) The youth justice system and the protection of children in custody.

7.8.3 The Government accepted the general principles of the Review report and a large majority of its detailed recommendations. The report made 20 principal recommendations and over 130 other recommendations with the aims of: improving protection for children in foster and residential care, in schools and the penal system; to provide more effective safeguards and checks to prevent abusers from working with children; provide more effective avenues of complaint and increase access to independent advocates; provide more vigilant management; provide more effective disciplinary and criminal measures; provide effective systems of communication between agencies about known abusers.<sup>48</sup>

7.8.4 The Government's response covers a number of discrete areas namely: public care; care leavers; regulation; education; health; inter-agency working; stopping dangerous people from working with children; juveniles in the penal system; criminal justice. Individual Government Departments will be monitoring implementation of action within their areas of responsibility. In addition, the Ministerial Task Force on Children's Safeguards will monitor the overall programme of action. Some of the proposals cannot be taken forward until there is time in the legislative programme.

7.8.5 The Government has taken into account the costs of the changes in setting the increased level of funding available for individual Departments under the Comprehensive Spending Review. To help finance the improvement in services, the Government has introduced a Children's Special Services Grant totalling £375 million over three years.

7.8.6 In Scotland Roger Kent, a former Director of Social Work, was commissioned in 1996 to carry out a wide ranging review of the arrangements for looked after children living away from home, to make recommendations about improved safeguards for such children and to report. The Kent report, which was entitled the *Children's Safeguards Review* was published in November 1997 and it identified a number of areas as key issues in ensuring the safety of children in such circumstances. These included better recruitment arrangements for those working in residential childcare, raising the status and professionalism of the care task, better communication between families and organizations caring for children, greater rigour and independence in the inspection of children's homes and the development of a culture that does not tolerate abusive behaviour.

7.8.7 The Kent report was the subject of a consultation exercise which concluded in March 1998. Over 80 responses were received, commenting on the 61 recommendations in the report. There was widespread support for the vast majority of the recommendations.

7.8.8 The Government decided to implement a significant package of measures designed to take forward the key recommendations in the Kent report. A Government response to the report was published in November 1998. The Minister has committed himself to a national strategic framework for children's services and the development of national standards. An essential part of this will be the first round of local authority children's services plans which have provided an opportunity to set and review progress towards strategic outcomes for children's services. Individual care plans already require the inclusion of plans for the child's health and education.

7.8.9 The Government has piloted a more rigorous means of selection for people who work with children in residential settings. As part of the process social work, education and health authorities can check if an applicant for a position which gives substantial access to children has criminal convictions. The Government intend to add to this by establishing a statutory consultancy index which will allow authorities to access non-conviction information.

7.8.10 It is the Government's aim to reduce the number of children looked after by local authorities living in a residential setting and to expand the availability of foster carers. Children in foster care should have the same level of protection as children living in residential settings and so the Government has proposed the inspection of foster care services.

7.8.11 Extra resources totalling £36.7 million over the three year period commencing 1999/2000 have been available to improve children's services. This included £15 million specifically for the implementation of the key proposals in the Children's Safeguards Review.

7.8.12 At the heart of these proposals for reform are the children themselves. The Government has recommended to local authorities the increased use of Children's Rights workers and *Who Cares? Scotland* workers. The Government has provided additional funding to *Who Cares? Scotland* in order that they can meet these additional demands.

## **7.9 Role of the education service in England and Wales in protecting children from abuse**

### *Article 19*

7.9.1 The Department for Education and Employment issued in October 1995 Circular 10/95 *Protecting Children from Abuse: The Role of the Education Service* which went to schools, including for information to independent schools. This replaced previous advice on child protection. The Circular makes it clear that children have a fundamental right to be protected from harm. The primary responsibility for child protection rests with social services departments (SSDs). The police and the NSPCC also have responsibilities for investigating allegations of abuse. The Circular makes it clear that education staff should not investigate allegations or suspicions of abuse, but should refer cases to the local SSD. However, the guidance recognizes that teachers are in a good position to identify signs, or hear allegations, of abuse.

7.9.2 The main recommendations of Circular 10/95 are that:

- (a) All staff should be alert to signs of abuse and know to whom they should report their concerns or suspicions;
- (b) All schools and colleges should have child protection policies, which should include procedures to be followed if a member of staff is accused of abuse;
- (c) All schools and colleges should have a senior member of staff with designated responsibility for child protection, who should receive appropriate training.

7.9.3 Similar guidance was issued in Wales.<sup>49</sup>

7.9.4 In 1995-1996 and 1997-1998 the DfEE helped to fund the training of teachers with designated responsibility for child protection through the Grants for Education Support and Training (GEST) programme of grants.

## **7.10 Role of the education service in Scotland in protecting children from abuse**

### *Article 39*

7.10.1 The Scottish Office has published inter-agency guidance on child protection, *Protecting Scotland's Children - A Shared Responsibility*. On the basis of the new guidance, it is intended that an update to circular 10/90 on education services' responsibilities for child protection will be prepared and distributed to education authorities.

7.10.2 National guidance was published in November 1998 for all agencies, including social work, health, police and NGOs on how they should work together to tackle child abuse and neglect. This guidance, entitled *Protecting Children - A Shared Responsibility*<sup>50</sup> was consulted on in 1997 and amended in the light of comments and views from a wide range of interests. Related guidance on child protection for health professionals has been prepared by a working group and will be issued later in 1999. SOEID intends to review guidance for education professionals in the light of the new inter-agency guidance.

## **7.11 Protection of children from violence in the home - Northern Ireland**

### *Article 39*

7.11.1 The Family Homes and Domestic Violence (NI) Order 1998 increases the protection available to children under the existing law, in a number of ways.

7.11.2 First, it amends the Children (NI) Order 1995 to enable the court, when making an emergency protection order or an interim care order, to include the requirement that the suspected abuser be excluded from the home, rather than the child having to be removed, as is the case at present.

7.11.3 In addition, when considering making an occupation order or a non-molestation order, the court must take into account as a factor the health, safety and well-being of any child involved.

7.11.4 In common with the Children (NI) Order, the Family Homes and Domestic Violence (NI) Order also allows children (under 16) themselves to apply for remedies with the leave of the court, provided the court is satisfied that they have sufficient understanding to do so.

7.11.5 Further, a new provision has been inserted into the Children Order so that when a court is considering whether or not to make a contact or residence order in favour of someone who has a non-molestation order made against them, it will consider any harm which the child has suffered or is at risk of suffering through seeing or hearing the ill-treatment of another person by the person who has the non-molestation order made against them. This provision therefore recognizes an increased understanding of the harm that can come to children through witnessing the abuse of another person; and also that if a parent has suffered violence from their partner, there is a high risk that the children are also vulnerable to abuse.

## **7.12 Physical punishment of children in the home**

7.12.1 An application was made by a child to the European Commission on Human Rights on the basis that the injuries sustained by the child were in breach of article 3 of the European Convention on Human Rights, which provides that “no one shall be subjected to torture or to inhuman or degrading treatment”. The Court concluded that there had been a breach of article 3 in this particular case and that domestic law in the United Kingdom did not give adequate protection to the child. However the Commission made clear that its finding “does not mean that article 3 is to be interpreted as imposing an obligation on States to protect, through their criminal law, against any form of physical rebuke, however mild, by a parent of a child”.

7.12.2 Before the hearing, the Government had already announced its intention to issue a consultation paper with the aim of seeking the widest possible consensus on how any necessary and appropriate changes to the law relating to physical punishment of children in the home might be made.

## **7.13 Corporal punishment within childcare**

### *Article 19*

7.13.1 In England, Wales and Scotland, Regulations made under the relevant legislation and accompanying guidance have given effect to the Government’s policy that corporal punishment has no place in the public childcare setting. In addition, because of the special vulnerability of children in children’s homes, Regulations also prohibit a range of other punishments in homes.

7.13.2 Several NGOs, including Barnardos and the National Children’s Bureau, made clear their opposition to any form of physical punishment of children when commenting on the existing law in relation to corporal punishment in private schools and the defence of “reasonable chastisement” in relation to the use of corporal punishment in the home.

7.13.3 Section 131 of the School Standards and Framework Act 1998 now outlaws corporal punishment for all pupils in maintained and non-maintained schools, and for children receiving nursery education in England and Wales. These provisions are expected to come into force on 1 September 1999. Similar legislation in Scotland will be a matter for the Scottish Parliament.

## **7.14 Corporal punishment in Northern Ireland**

### *Article 19*

7.14.1 Corporal punishment in grant-aided schools in Northern Ireland has been unlawful since 1987. The relevant provisions do not at present extend to independent schools, but it is intended to extend the existing provisions to such schools as soon as a suitable legislative opportunity occurs.

7.14.2 Corporal punishment has not been used in any of the training schools in Northern Ireland since the 1950s. Early in 1999 new statutory rules under article 52 of the Criminal Justice (Children) (NI) Order 1998<sup>51</sup> will remove the statutory right of training school managers to inflict corporal punishment upon those children ordered to be detained in training schools.

## **7.15 Safety Review by the Chief Inspector of Social Services**

*Articles 19, 39*

7.15.1 To support the work of the Children's Safeguards review, and against the background of concerns raised by the child abuse cases, the Chief Inspector of Social Services wrote to all local authorities in England in May 1997 asking them to review the ways in which they had implemented the provisions of the Children Act and subsequent guidance and to provide a report to local authority Committees and the Social Services Inspectorate of the Department of Health (SSI) by 31 July 1997. Those reports provided the basis for a major inspection of management and practice in a number of local authorities. The Chief Inspector will be reporting to Ministers his assessment of the current procedures for ensuring the safety of children and young people in public care.

## **7.16 Children in public care**

*Article 20*

7.16.1 A local authority has a duty to look after a child when that appears to be the best way of safeguarding and promoting the welfare of the child. A local authority will seek a suitable placement for the child. This may be through a relative looking after the child, or if no one is suitable then an attempt will be made to place the child in the community. Siblings looked after by local authorities should generally be placed together. In all cases, the guiding principle is that decisions should be made in the best interests of the child.

7.16.2 The placement is always intended to promote the best interests of the child. The views of the child and the child's parents are considered before the placement. The child's religion, racial origin, cultural and linguistic background are also taken into account. The placement might be with foster carers, or a children's home or a residential school. Some two thirds of looked-after children live with foster carers.

7.16.3 Children may only be placed with approved foster carers. Placements are subject to continuing supervision by the local authority to ensure that the welfare of the child is being furthered. Foster carers are expected where it is appropriate to maintain links between the child and the child's natural family.

7.16.4 Anyone proposing to foster a child privately has to notify the local authority and to notify when the arrangement ceases. The local authority has a duty to visit the child to promote and safeguard the welfare of the child.

7.16.5 In England and Wales, all children's homes, except small private children's homes (accommodating three or fewer children) and "exempt" homes, such as holiday homes, are subject to the provisions of the Children Act 1989 and Regulations. The Government intends to introduce legislation so that small private children's homes in England and Wales are also subject to provisions of the Children's Homes Regulations. In Scotland, homes where a substantial part of the function is to provide services for the purposes of the Children (Scotland) Act 1995 are similarly required to be registered. The relevant Regulations set out the need for responsible authorities to ensure that the number of staff of each home and their experience and qualifications are adequate to ensure that the welfare of the children accommodated there is safeguarded and promoted at all times.

7.16.6 All homes covered by Children's Homes Regulations are required to be inspected at least twice yearly by the regulating or local authority (one visit unannounced) to ensure that the homes are complying with the standards set. The relevant legislation in both England and Wales and Scotland also allows for the inspection of any children's homes by the appropriate Social Services Inspectorate if necessary.

7.16.7 The position in Northern Ireland is broadly similar to that described above.

#### **7.17 Incidence of care among children of ethnic minority parents in England and Wales**

7.17.1 There is some evidence that children of certain ethnic groups appear to be over-represented in the total of looked-after children. However, there is no centrally collected information on the numbers of ethnic minority children entering and leaving care. The Department of Health is undertaking a programme of work, in consultation with the Welsh Office, to develop national statistics on the ethnic origin of social services staff and service users, including children.

#### **7.18 Coordination between government departments over children in care - views of NGOs**

7.18.1 The Government have noted the comments of the Who Cares? Trust during the preparation of this report. While by no means uncritical of some areas, the Trust noted several developments since 1994 which they welcomed. These included, at the level of government coordination, the following:

(a) The introduction of mandatory Children's Services Plans - although with concerns whether children at local level are involved in the planning process, and about how effective the plans are in practice.

(b) Department of Health *Looking After Children* materials (see section 7.6) which measure the progress of children across seven dimensions and attempt to assess the outcomes of care. The Trust would like there to be more training on the purpose of the materials for them to be used more effectively to benefit children.

(c) Audit Commission/SSI Joint Reviews which measure how well local authorities deliver social services, a key principle being the views of service users, including looked-after children.



- (d) The establishment of a General Social Care Council.
- (e) The Health Select Committee Inquiry into Looked-after Children.
- (f) The creation of the Children's Services Strategy Group in the Department of Health.
- (g) The creation of the Social Exclusion Unit with its focus on the most marginalized groups, such as the homeless and those excluded from school, amongst whom are to be found disproportionate numbers of young people from care.
- (h) The review of social work training.

7.18.2 The Trust see a need, however, for:

- (a) Arrangements to require local authorities to monitor, at the point young people leave care and prior to their twenty-first birthday, where they are accommodated, their educational attainment and employment status.
- (b) An amendment to the Code of Guidance under the Housing Act 1996 to require local authorities to develop strategies for youth homelessness which should make specific reference to meeting the housing needs of care leavers.

## **7.19 Divorce and separation in England and Wales: The Family Law Act 1996**

*Articles 9, 18*

7.19.1 The Family Law Act 1996<sup>52</sup> was passed on 4 July 1996. **Part I** sets out four general principles for the court to consider in exercising functions relating to Parts II and III:

- (a) That the institution of marriage is to be supported;
- (b) That the parties to a marriage which may have broken down are to be encouraged to take all practicable steps, whether by marriage counselling or otherwise, to save the marriage;
- (c) That a marriage which has irretrievably broken down and is being brought to an end should be brought to an end:
  - with minimum distress to the parties and to the children affected;
  - with questions dealt with in a manner designed to promote as good a continuing relationship between the parties and any children affected as is possible in the circumstances;
  - without costs being unreasonably incurred in connection with the procedures to be followed in bringing the marriage to an end;

(d) That any risk to one of the parties to a marriage, and to any children, of violence from the other party should, so far as reasonably practicable, be removed or diminished.

7.19.2 **Part II** deals with divorce and separation; it provides for compulsory attendance at an information meeting before a statement of marital breakdown is filed, and a period for reflection and consideration. Section 22 of the Act has been implemented. The Government announced in June 1999 that it did not intend to implement the remainder of Part II in 2000 as previously planned. Before implementation, the Government must be satisfied that the new divorce procedures will work. The preliminary research results from the information meetings have been disappointing. The full research results from the pilots will be available in early 2000, when the Government will consider whether further research is necessary.

7.19.3 Under section 11 of the Act, in any proceedings for a divorce or separation order the court must consider whether the circumstances of the case require it to use its powers under the Children Act 1989 in respect of the welfare and upbringing of the child and, if it so decides, it may delay granting the divorce or separation order. The child's welfare is paramount in deciding this issue. The court will also have particular regard to:

(a) The wishes and feelings of the child in the light of his age and understanding and the circumstances in which those wishes were expressed;

(b) The conduct of the parties towards the child;

(c) The principle that in the absence of evidence to the contrary the child's welfare is best served by regular contact with those who have parental responsibility for him and with other members of his family;

(d) The aim that the child should have as good a continuing relationship with his parents as possible; and

(e) Any risk arising from arrangements for his care and upbringing.

7.19.4 The provision of legal aid funding for mediation in family disputes under **Part III** of the Act is already available in many areas and will be made available throughout England and Wales. Currently the Legal Aid Board is granting contracts to suppliers of mediation services to permit phased implementation, so as to ensure that sufficient quality-assured services are available to meet the demand for mediation services. A total of 140 mediation services in all areas of England and Wales have already been awarded contracts and a further 110 contracts will be awarded by the end of July 1999. Under the terms of the legal aid franchises, suppliers are required to meet the following standards:

(a) Suppliers must have documented child protection procedures and must be able to demonstrate how child protection cases are identified and referred to the appropriate bodies;

(b) Suppliers must have documented procedures to show that, where children are consulted directly as part of the mediation, they have addressed the issues of:

- parental consent;
- the purpose of the consultation;
- preservation of absolute child confidentiality except where child protection issues arise;

(c) Suppliers must have documented procedures designed to ensure that clients are encouraged to consider:

- the welfare, wishes and feelings of the child;
- whether and to what extent each child should be given the opportunity to express his or her wishes and feelings in the mediation.

7.19.5 In addition section 29, requiring those seeking legal aid in family proceedings first to attend a meeting to consider whether mediation might be suitable for their case, is being introduced on an area by area basis as adequate provision becomes available. The provisions of this section will also be implemented throughout England and Wales.

7.19.6 **Part IV**, providing a single set of civil remedies to deal with domestic violence and to regulate occupation of the family home, was implemented on 1 October 1997. With the leave of the court, and provided the court is satisfied that the child has sufficient understanding, a child under sixteen may apply for an occupation order or a non-molestation order. Non-molestation orders prohibit a person from molesting another adult or child associated with them. Occupation orders deal with the regulation of the occupation of dwelling houses, and would be available only to a child with existing rights in the property.

## **7.20 Adoption, fostering and family proceedings - views of NGOs**

### *Article 21*

7.20.1 The British Agencies for Adoption and Fostering (BAAF) have welcomed the steps being taken by the Government to conclude bilateral agreements with other countries on intercountry adoption. They have however expressed a desire to see stronger measures for ensuring the child's right to be heard in judicial and administrative procedures affecting the child, and for the child's rights to have his or her views given due weight need to be strengthened. In particular:

(a) The child is not normally entitled to party status in adoption proceedings;

(b) In England and Wales, the child may have no representation or other voice in proceedings between parents concerning residence and contact, or in applications by fathers for parental responsibility.

7.20.2 The BAAF have made clear their strong support for the Utting and Kent reports, and in particular the recommendation for the registration of private foster carers.

### **7.21 Recent legislative measures: regulations to prohibit the placement of children with persons who might put them at risk**

*Articles 19, 39*

7.21.1 In October 1997 an important measure for the further protection of children was effected by the introduction of the Children (Protection from Offenders) (Miscellaneous Amendments) Regulations.<sup>53</sup> The purpose of the 1997 Regulations, which came into effect on 17 October 1997, is to prohibit the approval by adoption agencies, local authorities or voluntary organizations acting as responsible authorities of any person as a foster carer or adoptive parents where either that person or any adult member of that person's household over the age of 18 years is known to have been convicted of, or cautioned for, a specified offence. To this end, the 1997 Regulations amend the Adoption Agencies Regulations 1983, the Foster Placement (Children) Regulations 1991, the Children's Homes Regulations 1991 and the Disqualification for Caring for Children Regulations 1991.

7.21.2 Specified offences include those offences, other than the offence of common assault and battery, specified in Schedule 1 to the Children and Young Persons Act 1933, offences in Schedule 1 of the Sexual Offences Act 1956 (rape), section 1 of the Protection of Children Act 1978 and section 160 of the Criminal Justice Act 1988 (offences relating to indecent photographs of children). These offences are now included in the Schedule to the Disqualification for Caring for Children Regulations 1991.<sup>54</sup>

### **7.22 Recent legislative measures in England and Wales: making information available to adopted children**

*Article 21*

7.22.1 New regulations were introduced in July 1997 which require the adoption agency to make available to the adoptive parents information about the child and his or her background, at the latest when the adoption order is made. The purpose of the information is to assist the adoptive parents to tell the child something of his background. The Adoption Agencies and Children (Arrangements for Placement and Review) (Miscellaneous Amendments) Regulations 1997<sup>55</sup> provide that such information as was made available by the adoption agency should be made available to the child before he reaches his eighteenth birthday. Ideally, the information should be given to the child gradually as he grows up so that he will be aware of the fact of his background and adoption and be comfortable with that knowledge.

### **7.23 Intercountry adoption**

*Article 21*

7.23.1 Where a State of origin is prepared to allow some of its children who have no family to be adopted by families living overseas, the United Kingdom, as a receiving State, is in

consequence obliged in practice to accept that the State of origin cannot provide alternative families for these children. Conditions in these States of origin are well documented and the extent of availability of child welfare services is well known. However, the United Kingdom takes appropriate measures to satisfy itself about conditions which exist in some countries including making fact-finding visits.

7.23.2 Adoption legislation in the United Kingdom provides for a child who is adopted overseas to be provided with safeguards and standards of care equivalent to those enjoyed by children born and adopted within the United Kingdom. Also, one of the effects of the making of an adoption order in a United Kingdom court, or recognizing the effects of an adoption order made in certain specified (“designated”) countries, is that the adopted child is to be regarded in law as if he or she was a child of the adopters’ marriage. The same legislation makes it an offence for an authorized person or body to obtain improper financial gain from making arrangements for adoption.

7.23.3 The local authority or approved adoption agency who arranged the adoption will be required to monitor the progress of the child until an adoption order is made - at least one year from the time the child entered the United Kingdom. Where a child has been adopted in a country whose adoption is recognized by the United Kingdom, that child is automatically regarded as a child of the marriage of the adoptive parents and therefore the adoption agency has no further involvement in the process once the child enters the United Kingdom.

7.23.4 The United Kingdom played a full part in the 1993 Hague Conference on Protection of Children and Cooperation in Respect of Intercountry Adoption and formally signed the Convention on 12 January 1994. The United Kingdom is working with several countries with the aim of entering into formal intercountry adoption agreements; these agreements are firmly based on the principles of the 1993 Convention and set out the process and procedures which will permit United Kingdom citizens to adopt children in the respective country.

7.23.5 The Government passed the Adoption (Intercountry Aspects) Act 1999 which enables the United Kingdom to give effect to the 1993 Hague Convention on Protection of Children and Cooperation in Respect on Intercountry Adoption. The Act also places a responsibility on the public bodies to undertake intercountry adoption work and makes it an offence for a person to bring a child to the United Kingdom without approval. Its provisions will enable a more efficient process to be introduced for improving intercountry adoption.

7.23.6 The legislation will allow the United Kingdom to join 34 other countries which to date have ratified or acceded to the Convention. Ratification is expected to take place before the end of the year 2000. The Act provides effective measures to protect children living overseas and also places intercountry adoption on a firm legislative footing along with domestic adoption.

7.23.7 Article 21 embodies the sound legislative provisions and principles of good social work practice which the United Kingdom recognizes, most of which is already contained in existing adoption law and practice.

7.23.8 Statistics on intercountry adoption in the United Kingdom are below:

**Figure 1. Overseas adoption 1993-1997**

**Number of Overseas adoption applications**

Country	1993	1994	1995	1996	1997	1998	1999 Jan.-Apr.	Total 1993-1999
Albania	1	1	1	1	0	0	0	4
Algeria	0	0	0	0	0	0	1	1
Argentina	0	0	0	0	0	0	0	0
Armenia	0	0	1	0	0	0	0	1
Bahrain	0	0	0	0	0	0	1	1
Belarus	0	0	0	0	1	1	1	3
Bolivia	1	0	1	0	0	0	1	3
Brazil	3	3	7	4	4	3	0	24
Bulgaria	2	3	0	2	0	4	1	12
Burundi	0	0	0	0	1	0	0	1
Canada	0	0	0	0	0	0	0	0
Cambodia	0	0	0	0	0	2	0	2
Chile	1	1	1	0	4	4	0	11
China	3	1	1	4	4	7	0	20
Colombia	0	0	0	0	1	0	0	1
Czech Republic	0	0	0	0	1	0	0	1
Egypt	0	0	0	1	0	0	0	1
Eire	0	0	0	0	0	1	0	1
El Salvador	1	3	1	0	0	0	0	5
Estonia	0	0	0	0	3	0	0	3
Ethiopia	1	0	0	0	0	0	0	1
Greece	0	0	0	0	1	0	0	1
Guatemala	2	3	12	16	26	20	2	81
Honduras	0	1	0	0	0	0	0	1
Hong Kong	1	0	0	1	0	0	0	2
Hungary	1	1	1	0	1	0	0	4
India	16	20	22	29	21	22	8	138
Indonesia	1	0	0	0	0	0	0	1
Iran	0	0	0	1	0	0	0	1
Israel	1	0	0	0	0	0	0	1
Jamaica	2	0	0	0	1	0	0	3
Japan	0	0	0	0	0	1	0	1
Jordan	0	0	0	0	1	0	0	1
Latvia	1	0	0	0	0	0	0	1
Lebanon	0	2	0	0	1	0	0	3
Lithuania	0	0	0	0	0	1	0	1
Madeira	0	0	0	0	1	0	0	1
Mauritius	0	0	0	0	1	0	0	1
Mexico	0	0	1	0	0	2	0	3

Country	1993	1994	1995	1996	1997	1998	1999 Jan.-Apr.	Total 1993-1999
Nepal	1	1	1	1	1	2	0	7
Nicaragua	0	0	0	1	0	0	0	1
Nigeria	0	0	0	0	0	0	0	0
Pakistan	1	2	3	1	3	2	4	16
Panama	1	0	0	0	0	0	0	1
Paraguay	8	16	6	1	1	0	0	32
Peru	1	0	0	0	1	1	0	3
Philippines	7	2	1	5	4	4	0	23
Poland	2	1	2	1	1	2	0	9
Romania	22	14	9	10	5	17	4	81
Russia	1	4	4	3	3	13	5	33
Serbia, Republic of	0	1	0	0	0	0	0	1
Sierra Leone	0	0	1	0	0	0	0	1
Singapore	0	0	0	1	1	0	0	2
Sri Lanka	4	6	3	2	3	0	1	19
Taiwan	0	0	0	0	0	1	0	1
Tanzania	1	0	0	0	0	0	0	1
Thailand	4	10	5	10	10	13	8	60
Trinidad	0	0	0	0	0	0	0	0
Turkey	1	1	1	0	0	0	0	3
Ukraine	2	0	1	0	0	2	0	5
United States of America	4	0	8	4	5	8	2	31
Viet Nam	0	1	1	1	3	2	0	8
Venezuela	0	0	0	0	0	0	0	0
Yugoslavia	0	0	0	0	0	0	0	2
<b>Total</b>	<b>101</b>	<b>115</b>	<b>154</b>	<b>308</b>	<b>223</b>	<b>258</b>	<b>86</b>	<b>1 245</b>

## 7.24 Nationality consequences of adoption

### *Articles 7, 21*

7.24.1 The present law on acquisition of British citizenship through adoption is contained in the British Nationality Act 1981. Under this Act, a child adopted in the United Kingdom by a British Citizen becomes such a citizen automatically from the date of the adoption provided at least one of the adopters is a British citizen at the time the adoption order is made. There is at present no similar provision for children adopted by British citizens outside the United Kingdom. Instead, the Home Secretary is normally prepared to use his discretionary power to register any minor as a British citizen where at least one of the adoptive parents is a British citizen otherwise than by descent and he is satisfied that the adoption was not arranged merely to facilitate the child's admission to this country. In the Government's view this practice enables the United Kingdom to meet its obligations under the 1967 European Convention on the Adoption of Children.

7.24.2 The possibility of providing for the automatic acquisition of citizenship by children adopted overseas was considered prior to the introduction of the 1981 Act. A number of potential problems were identified. Such acquisition might have caused some children to lose their original citizenship, either at once or on reaching adulthood. The arrangement might also have resulted in the widespread acquisition of British citizenship by people having no connection with the country beyond the adoptive parent-child relationship. The stated purpose of the 1981 Act, on the other hand, was to limit the acquisition of British citizenship to those with rather more substantial United Kingdom connections. Finally, it was feared that in some cases, intercountry adoptions might have been arranged with the sole aim of circumventing British immigration controls, perhaps by unscrupulous third parties for financial gain.

7.24.3 The advantage of the registration procedure is that the adoptive parents (and, where appropriate, the child) can be made aware of the possible consequences of acquiring British citizenship and so make an informed decision on whether or not to proceed. It also enables the Home Secretary to refuse citizenship where there are concerns about irregularities in the adoption process.

7.24.4 It is hoped that the 1993 Hague Convention on Intercountry Adoption, when fully implemented, will serve to eliminate some of the worst abuses of the intercountry adoption process. The United Kingdom intends to ratify the Convention in due course but, like other signatories, will first need to make some changes to its domestic law on adoption. An individual Member of Parliament has recently introduced a Bill on intercountry adoption which seeks to amend the British Nationality Act 1981 so that once the United Kingdom has ratified the Convention, children resident outside the United Kingdom who are the subject of 1993 Convention adoptions by British citizen parents who are resident in the United Kingdom would acquire British citizenship automatically. If the Bill is successful the United Kingdom will be able to ratify the Convention in the year 2000.

## **7.25 Consultation on possible changes in the determination of paternity and the parental responsibilities of unmarried fathers**

*Articles 9, 20, 27*

7.25.1 The Government carried out a public consultation in the spring of 1998<sup>56</sup> to seek views on possible changes to the law on the determination of paternity through the courts and on the acquisition of parental responsibility by unmarried fathers.

7.25.2 **Paternity:** At present there are two separate procedures in England and Wales for obtaining a determination of paternity through the courts. The consultation addressed the feasibility of establishing a single procedure.

7.25.3 **Parental responsibility:** The Children Act 1989 introduced a new concept of "parental responsibility", defined as "all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property". The Act confers parental responsibility automatically on all mothers, married or unmarried, and on married fathers. It also introduced a new procedure for an unmarried father to acquire parental



responsibility by making an agreement with the mother, which must be properly witnessed and registered with the court. In cases where the parents are unable to reach agreement the father may apply to the court for a parental responsibility order.

7.25.4 The consultation discussed two main questions - whether it was right in principle to make it easier for unmarried fathers to acquire parental responsibility for their children, subject to any necessary safeguards, and whether automatic parental responsibility should be limited to certain categories of unmarried fathers, such as a father who registers the child's birth jointly with the mother.

7.25.5 Following consideration of the results of the consultation, the Government announced on 28 June 1998 that it had concluded that parental responsibility should be conferred on unmarried fathers who sign the birth register jointly with the mother. More than 70 per cent of unmarried fathers already do that.

7.25.6 A separate consultation has been carried out in Scotland (see section 2.5.4 of this report). Any legislation there, will be a matter for the Scottish Parliament.

## **7.26 Recovery of maintenance for the child**

### *Article 27*

7.26.1 The Government believes that all children are entitled to the financial and emotional support of both their parents, wherever they live. The child support scheme, which applies in England, Wales and Scotland, aims to ensure that non-resident parents fulfil their financial responsibilities towards their children. Regular payments of child maintenance can transform the lives of lone mothers and their children, providing a stable income that can help lone mothers off Income Support and into work. An equivalent scheme operates in Northern Ireland.

7.26.2 The Child Support Agency assesses maintenance and either collects it or arranges for it to be paid direct from the non-resident parent to the parent with care. At May 1998, the Agency had a caseload of 786,000 and in 1997-1998 it collected and arranged almost £550 million in maintenance.

7.26.3 The child support scheme has not yet gained the cooperation of all non-resident parents. In the quarter up to May 1998, only 35 per cent of non-resident parents paid all their regular maintenance due. Support among parents with care has also declined recently: as many as 7 in every 10 who have made a claim for Income Support tried to avoid applying for child support. Steps are being taken to improve the compliance of parents, including using the telephone more actively and interviewing parents with care about child support when they claim benefit. In addition, an extra £15 million is being invested in the Child Support Agency this year and next, specifically aimed at increasing the amounts of maintenance which are paid.

7.26.4 Where a non-resident parent refuses to pay, the Child Support Agency may secure regular payments by serving a deduction from earnings order on his employer. If the non-resident parent is not working for an employer, or a deduction from earnings order is ineffective, an application can be made to the magistrates' court for a liability order. Such an

order authorizes the use of enforcement action to recover the debt (entering the liability order on the Register of County Court judgements which may affect the parent's credit rating, or sending bailiffs to seize goods to the value of the maintenance due).

7.26.5 A fundamental problem with the current scheme is the complex formula used to calculate maintenance liability. Up to 100 pieces of information may be required, leading to lengthy processing times, high error rates and providing every opportunity for the potentially uncooperative parent to frustrate the process. The Agency spends 90 per cent of its time assessing cases and keeping assessments up to date and only 10 per cent of its time enforcing payment.

7.26.6 In July 1998, the Government published a Green Paper *Children First: a new approach to child support*<sup>57</sup> setting out proposals for a new, local, customer-focused child support scheme based on a radically simpler method of assessment.

7.26.7 To ensure that women and their children on the lowest incomes see financial benefit from cooperating with the Child Support Agency a Child Maintenance Premium is proposed. Parents with care on Income Support would be allowed to keep up to £10 per week of the maintenance paid for their children.

7.26.8 The proposed child maintenance service will have a simple transparent formula, enabling parents to know before they apply for an assessment roughly how much child maintenance to expect. For those fathers who earn £200 a week or more, liability will be based on a simple percentage of net income: 15 per cent for one child; 20 per cent for two children; and 25 per cent for three or more children. There will be a flat rate of £5 for fathers with incomes of less than £100 per week and a sliding scale for those with incomes between £100 and £200. There will also be an allowance for any children in the non-resident parent's new family.

7.26.9 The new scheme will improve the situation for lone mothers - maintenance should be assessed quickly and accurately, providing a vital bridge from dependency on benefit to the world of work. The scheme will also work better with other support for families such as mediation. It will support continuing contact for non-resident parents and make improved provision for parents who have shared care of their children.

7.26.10 The consultation period on the Green Paper ended on 30 November 1998. Extensive consultation has been undertaken, and over 1,500 responses to the Green Paper received. MPs, academics and NGOs have been invited to meet the Minister and officials. The results of this exercise have not yet been fully analysed, but will be published in due course. Legislative and operational constraints mean that the new scheme cannot be introduced immediately. However, a number of improvements are already under way or planned within the Child Support Agency to pave the way for radical reform, including:

- (a) Extended working hours;
- (b) A simpler and more efficient process for making and appealing decisions;

(c) Reorganization to centralize processing work and free local staff to concentrate on providing advice face to face for those clients who require this service.

7.26.11 An extra £12 million has been allocated to the Child Support Agency in 1998-1999 for a number of customer-focused initiatives including improvements to the telephone service and more user-friendly forms and letters.

## **7.27 Hague Convention on the Civil Aspects of International Child Abduction**

### *Article 11*

7.27.1 The 1980 Hague Child Abduction Convention provides procedures for the return of wrongfully removed or wrongfully retained children to their country of habitual residence.

7.27.2 The Hague Conference organizes a rolling programme of reviews of the various Hague Conventions in which all contracting states participate. The most recent Special Commission to review the 1980 Convention took place in March 1997. The United Kingdom proposed, and the review meeting accepted, that contracting states had a responsibility to ensure the safety of children returned to their country of habitual residence. The Hague Conference is considering how to take this forward.

## **7.28. European Convention on Family Matters (Brussels II)**

### *Article 11*

7.28.1 A Convention on Jurisdiction and Recognition and Enforcement in certain Family Matters<sup>58</sup> was signed by Ministers of the European Union in May 1998. The Convention will ensure that orders in Member States in divorce and similar cases, including orders affecting children made at the time of the divorce, will generally be recognized throughout the European Union with the minimum of procedural requirements.

7.28.2 The Convention has three main elements:

(a) It lays down the circumstances in which courts in Member States are to have competence to hear proceedings for divorce, nullity and judicial separation, and proceedings for parental responsibility orders made in the context of matrimonial proceedings.

(b) It lays down rules to regulate the situation where there are concurrent matrimonial proceedings in courts of different Member States involving the same parties, but not necessarily the same type of case, for example where there are divorce proceedings in one country and, at the same time, nullity proceedings in another.

(c) There is a provision for the recognition and enforcement throughout the European Union of matrimonial decrees and orders made under the Convention. This includes limited grounds for refusal or recognition and enforcement in appropriate cases.

7.28.3 This Convention has been drafted with the intention that its provisions should not interfere with the operation of the 1980 Hague Convention on International Child Abduction.

## **7.29 The 1996 Hague Convention**

*Articles 3, 5, 11, 18, 20*

7.29.1 The United Kingdom participated in the negotiations leading up to the 1996 Hague Convention on the Protection of Children.<sup>59</sup> The Government expects to consult on whether to ratify the Convention. Issues to be addressed include the grounds of jurisdiction applicable to orders relating to children, provision for the transfer abroad of such jurisdiction and grounds of recognition and enforcement of such orders. This convention has been drafted with the intention that its provisions should not interfere with the operation of the 1980 Hague Convention on International Child Abduction.

## **7.30 International enforcement of maintenance orders**

*Article 27*

7.30.1 The United Kingdom has agreements with a number of countries for the reciprocal enforcement of maintenance orders. Some of these agreements have been negotiated with individual countries and others arise from international conventions on maintenance which the United Kingdom has signed and ratified. These arrangements are designed to assist a parent in one country to recover maintenance, on behalf of themselves or a child, from the absent parent residing in the other.

7.30.2 The Hague Conference on private international law arranged a Special Commission to consider the conventions on Maintenance Obligations, which met in April 1999. The meeting examined problems and decided to seek solutions in this area. The United Kingdom will participate fully in this work.

## **7.31 Reservation relating to immigration and nationality**

7.31.1 The Committee raised the concern that the reservation relating to the application of the Immigration and Nationality Act might not be compatible with the principles and provisions of the Convention, including those of its articles 2, 3, 9 and 10. The Committee asked the United Kingdom to review the reservation with a view to withdrawing it and has suggested that a review be undertaken of nationality and immigration laws and procedures to ensure their conformity with the principles and provisions of the Convention.

7.31.2 The Government believes that the United Kingdom's immigration and nationality law is entirely consistent with the Convention. In fact the United Kingdom makes generous provision both for the admission of foreign children to join parents settled here, and for the acquisition of citizenship. In the years 1986-1996, 98,000 children were granted settlement and 103,587 were registered as British Citizens.

7.31.3 It should be borne in mind that the chairman of the working group which drafted the Convention explicitly stated that article 9 on the separation of children from their parents was intended to apply to domestic law, and not to international situations; and that article 10's family reunion provisions were not intended to affect the general right of states to establish and regulate their immigration laws in accordance with their international obligations. In other words, the Convention is not intended to establish any new rights in relation to immigration.

7.31.4 Notwithstanding this, to avoid argument about the extent to which the fine detail of immigration and nationality law is or is not in keeping with the letter or spirit of the statements, necessarily generalized, about children's rights contained in the Convention, the United Kingdom entered a reservation which made it clear, for the avoidance of doubt, that nothing in the Convention was to be interpreted as affecting the operation of United Kingdom immigration and nationality legislation.

7.31.5 The United Kingdom has made similar reservations, for the same reason, to several other human rights conventions, including the International Covenant on Civil and Political Rights.

## **8. BASIC HEALTH AND WELFARE**

**This chapter covers articles:**

- 6** *Right to life*
- 18** *Responsibilities of parents and guardians*
- 23** *Rights of disabled children*
- 24** *Right to health care*
- 26** *Right to social security and insurance*
- 27** *Right to standard of living and parental responsibility for maintenance*

### **8.1 General policy on child health**

#### *Article 24*

8.1.1 Health is a constant theme of Government policy, which is concerned with taking determined action to deal with the social and economic influences which undermine health:

- The Welfare to Work budget has set in hand a New Deal to fight joblessness;
- The worst excesses of low pay will be tackled through a national minimum wage;

- Social exclusion will be the subject of a long-term, determined and coordinated Government effort;
- Repairs and new building will provide decent housing, paid for by the phased release of councils' accumulated proceeds from the sale of council houses;
- An integrated transport and environment policy will ensure better public transport and a healthier environment for all;
- Tough measures on crime will help ensure that families and communities have the chance of healthier lives; and
- Education reforms, such as nursery education, smaller classes and higher standards, will give families the means to better themselves and so improve their health.

8.1.2 The Government intends to take action to ensure that all those responsible for the provision of health and social services pay particular attention to those at greatest risk and those who have the most difficulty in having access to health and social care. There are three levels for action to deliver the agenda for better health: central Government; regions and communities; and individuals. Central Government cannot do everything, but it can set the agenda and priorities for local and community action.

## **8.2 The Parliamentary Select Committee on Health: Reports on Health Services for Children and Young People**

*Articles 23, 24*

8.2.1 Since the United Kingdom's First Report the all-party Parliamentary Health Select Committee has conducted a wide-ranging inquiry into all aspects of children's health service provision. The Committee published its terms of reference and an appeal for evidence in summer 1995 - in order to give all those organizations working in the field of child health ample opportunity to prepare and submit evidence. The Committee received over 500 submissions from some 400 organizations and individuals. There followed a series of oral hearings, starting in February 1996 and continuing into January 1997 at which the views of professional and voluntary organizations with an interest in child health issues were fully represented. Government Ministers were interviewed, as were the Chief Medical Officer, Chief Nursing Officer and a number of health officials, all working in the administration of health services for children. The Committee appointed a team of specialist advisers in paediatric nursing, paediatric medicine and child mental health to supply information otherwise not readily available, and to elucidate matters of complexity. The Committee also made a series of visits to a number of centres of child health service provision.

8.2.2 The Committee published its findings in four reports,<sup>60</sup> from February 1997 to March 1997, just prior to the Dissolution of Parliament, election and appointment of a new Government. The Committee decided to express its views by highlighting such concerns as it felt necessary and making appropriate recommendations to the incoming Government. A Command Paper setting out the new Government's response to the Health Committee's inquiry into health services for children and young people was published in November 1997.<sup>61</sup> The Government chose to make a single response because of the common themes running through the Committee's four reports.

8.2.3 In their reports, the Committee looked at the health needs of children and adolescents and the extent to which those needs are met by the National Health Service and other agencies. Their reports considered the health needs of healthy children as well as those of acutely ill children, children with chronic illnesses or disability, children with a life threatening or terminal condition and child and adolescent mental health services. The Government welcomed the reports, as they make a substantial contribution to the debate about children's health. The Government appreciated the Committee's view that, while the overall state of children's health is encouraging with a steady fall in childhood mortality rates and significant improvements in both incidence and severity of childhood diseases, there is scope for further progress.

8.2.4 The Government particularly welcomed the Committee's endorsement of the principles set out in the existing guidance documents on children's health services - *The Welfare of Children and Young People in Hospital*,<sup>62</sup> *Child Health in the Community - A Guide to Good Practice*<sup>63</sup> and *A Handbook on Child and Adolescent Mental Health*.<sup>64</sup> These will continue to be important guidelines for the service. In Scotland *At Home in Hospital - A Guide to Care of Children and Young People* and *Caring for Sick Children* provide similar guidance on the provision of care and treatment of children in hospital.<sup>65</sup>

8.2.5 The Government agreed with the Committee that the health needs of children are significantly different from those of adults, that some children may be vulnerable, and that the provision of effective health services for children depends upon a thorough understanding of their special needs. The future strategy for children's services in the National Health Service will be founded on this important understanding and based on the following basic principles which lie at the heart of the Government's health policy:

**promoting fairness**

- with a public health policy which will reduce the inequalities in health status of the population by tackling the fundamental causes of ill health;
- by reducing variations in access to and use of services;
- by working together across government, in the public and private sectors, to ensure the importance of children's needs is recognized.

**improving the quality of services**, especially

- the effectiveness of treatment, in terms of outcome for the patient;
- the skill, care and continuity with which the service is delivered;
- the accessibility of the service in terms of distance, time, physical access, language and understanding;
- the delivery of the service, covering the physical environment of care, and ensuring the service is managed and delivered in an efficient and courteous manner.

**promoting partnership and cooperation**, between all agencies within health, social services and education to deliver a seamless service.

### **8.3 Child health - views of NGOs**

8.3.1 NGOs commented on the existence of evidence for improvements in the status of children's health, as reflected in the independent Health Select Committee's Investigation and subsequent series of reports.

8.3.2 The evidence base for the Health Select Committee's view of improvement is significant and covers a range of morbidity. Cystic fibrosis and cancer treatments offer examples of this, with a substantial improvement in life expectancy over the last 30 years following the introduction of new intensive treatments for cystic fibrosis. Mortality rates for childhood cancer halved between 1970 and 1985. However the Government recognizes a number of areas for development, modernization and improvement. As an example, although rates of infant mortality have fallen significantly, as indicated in the table below, it is recognized that further work needs to be done to reduce rates further.

8.3.3 Infant mortality (death under one year) rates have continued to fall since the United Kingdom's first report to the United Nations, the lowest rate ever recorded for England and Wales is now (1998) at 5.7 deaths per 1,000 live births. One contributory aspect to infant mortality is the incidence of Sudden Infant Death - a condition where babies predominately under the age of one year die without there being apparent cause. The incidence of such deaths has decreased by 60 per cent since 1991, when the Chief Medical Officer's expert advisory group produced guidance on the avoiding risk factors associated with the occurrence of cot death. This work and the publicity campaign "*Back to Sleep*" and "*Reduce the Risk of Cot Death*" to advise new parents on the avoidance of cot death continues in liaison with the voluntary sector, and in particular with the organization the Foundation for the Study of Infant Deaths. The Government also continues to fund the work of the Confidential Enquiry into Stillbirths and Deaths in Infancy (CESDI) which produces an annual report on matters of significance to the health care of children under one year of age.



Article 24

**Figure 2. Infant mortality**

**Infant mortality rates**

**All deaths at ages under one year England and Wales  
(rates per 1,000 live births)**

Year	Rate
1946	42.9
1951	29.7
1956	23.7
1961	21.4
1966	19.0
1971	17.5
1976	14.3
1981	11.1
1986	9.6
1991	7.4
1996	6.1
1997	6.0

**8.4 “Our Healthier Nation”**

Article 24

8.4.1 The Government published a consultation document, *Our Healthier Nation*,<sup>66</sup> in February 1998, with a general consultation period which ran to 30 April 1998. The Green Paper discharges commitments to tackle the root causes of ill-health - poverty, unemployment, poor housing and polluted environment. There are two key aims:

- (a) To improve the health of the population as a whole; and
- (b) To improve the health of the worst off.

8.4.2 The strategy covers the entire population including the health of children, and includes three key settings: schools, workplaces and neighbourhoods, with a focus on joint working at and across all levels. The Paper covers the contribution of a decent education to the capacity to make healthier choices and the link between poor educational achievement and unwanted pregnancy in the early teenage years. It goes on to identify healthy schools as one of three settings offering the opportunity to focus the drive against health inequalities and improve health overall.

8.4.3 The Green Paper consultation process drew over 5,500 responses, of which more than 90 per cent were supportive of the Green Paper proposals. Analysis of the responses will be a key strand in the development of a definitive White Paper, to be published shortly - which will also include the findings of Sir Donald Acheson's Independent Inquiry into Inequalities in Health, the Chief Medical Officer's Project to review the public health function, and an interim review of the Health of the Nation initiative.

8.4.4 One of the Government's 18 interdepartmental neighbourhood renewal Policy Action Teams, set up from September 1998, has highlighted the contribution participation in arts and sport can make to improving physical and mental health. The Government has welcomed the report and intends to complement many of its recommendations.

## **8.5 Health care in Scotland**

### *Article 24*

8.5.1 Similarly, in Scotland the Government's policy is to ensure that all children and their families have equality and ease of access to an appropriate, seamless, comprehensive and coordinated service, which is integrated with services, provided by the local authority, such as education, social work services, housing and the environment.

8.5.2 The Chief Medical Officer in Scotland undertook a comprehensive review of the role of acute hospital services in the network of clinical services in Scotland in 1997-1998. The review paid particular attention to the needs of children, according special recognition to the services for them in the NHS in Scotland. A subgroup of the review considered the treatment services for children, assessing future needs for paediatric nursing, paramedical staff, paediatric surgery, neonatal care, networking, community child health and general paediatrics.

8.5.3 The review recognized the need to deliver a combined service of care separate from adults across a continuum of primary, secondary and tertiary care with appropriate links to maternity and adolescent-adult services. Services should be "child-centred" with provision of in-patient facilities that are separate from those of adults, adolescents having the freedom to choose between child and adult in-patient facilities should special provision for them not be available.

8.5.4 The review endorsed the importance of the continuing development of a integrated service for children in which the work of the NHS in Scotland is integrated with that of Local Authorities, Education and Social Work Services and in the case of non-accidental injury and child abuse, with police forces.

8.5.5 The review suggested retaining local access to services but recognized that certain high technology services will have to be concentrated in order to be sustainable and of high quality. The review also endorsed the recommendation that Health Boards should have a designated commissioner of services for children.

8.5.6 The Department of Health will be taking forward the work of the review.

## 8.6 Towards a Healthier Scotland

### Article 24

8.6.1 A White Paper *Towards a Healthier Scotland*<sup>67</sup> was published in February 1999. It sets out a new strategy for improving public health through a three level approach based on tackling life circumstances, lifestyles and priority health topics. The Paper has the overarching aim of reducing health inequalities. Partnership working between agencies - including the NHS, local authorities, private and voluntary organizations and local communities - is central to the strategy.

8.6.2 Ministers are still considering the White Paper but they have accepted the key principles of the strategy.

8.6.3 The White Paper is concerned with the health of the population as a whole but places particular emphasis on the health of children and young people. Child health is included in the list of priority health topics. A child health resource pack will be produced to assist agencies to plan and implement coordinated programmes to support children and their families in fulfilling their potential.

8.6.4 One of the key initiatives is the establishment of four demonstration projects which will point the way towards integrated working between agencies and encourages the dissemination of best practice. Two of the demonstration projects will concentrate on children. "Starting Well" will focus on the promotion of health and protection from harm in the period leading up to birth and throughout the first five years of life. "Healthy Respect" will foster responsible sexual behaviour on the part of Scotland's young people with emphasis on the avoidance of unwanted teenage pregnancies and sexually transmitted disease.

8.6.5 In addition to the "Healthy Respect" project, funding will be provided for expertise to be made available to many more schools in Scotland in order to promote a more informed and responsible approach to sexual matters on the part of young people.

8.6.6 On diet, the framework of *Eating for Health: A Diet Action Plan for Scotland*<sup>68</sup> is endorsed. The Plan recognizes the need to influence diet from a very young age. The White Paper also announces that a national dietary coordinator will be appointed to give impetus to implementation of the Plan; breastfeeding will be one of the areas on which the coordinator will focus.

8.6.7 Headline targets included in the Paper, as a focus for action, cover a range of topics. Those targets relating to children and young people include smoking, teenage pregnancy and dental health. Relevant second rank targets relate to diet, alcohol misuse and physical activity.

8.6.8 The Oral Health Strategy for Scotland was published in December 1995. This strategy identified that everyone should have the opportunity of a healthy functional mouth throughout life; by adoption of a healthy diet, by sensible use of preventative measures and by access to dental treatment for oral healthcare when required. It added a new target for children that by the year 2005 children aged 12 are to have an average of no more than 1.5 permanent teeth decayed,

missing or filled. The strategy emphasized the need for a multi-disciplinary collaboration at national and local level with Health Boards, the dental profession, the medical and allied professions, local authorities, schools, nursery schools, playgroups, the media, employers, manufacturers and retailers, all being identified as having an important contribution to make to the improvement of oral health. It identified areas of action to achieve national targets - diet, health promotion, fluoridation, the role of the individual and clinical prevention of dental decay. This supports other strategies identified in Scotland including *The Scottish Diet*.<sup>69</sup>

## **8.7 Northern Ireland's agenda for health and well-being**

8.7.1 Northern Ireland's regional strategy for health and social well-being 1997-2002 *Health and Wellbeing into the Next Millennium*<sup>70</sup> identifies family and child health and welfare as a key area for action, and sets the following targets:

(a) By 2002 there should be a 10 per cent reduction in stillbirths and deaths in children under one year old;

(b) By 2002, of the children assessed by Health and Social Services Boards as being in need, those below compulsory school age should receive good quality early years services within their homes or elsewhere, or a combination of both; and those of school age should receive family support services operating out of school hours;

(c) By 2002 there should be a reduction of at least 25 per cent in the total number of acute hospital bed days occupied per annum by children aged 0-15 years;

(d) By 2002 there should be a 50 per cent reduction in the number of children abused or re-abused who are on child protection registers.

8.7.2 In December 1997 the Department of Health and Social Services for Northern Ireland launched *Well Into 2000: a positive Agenda for Health and Wellbeing*<sup>71</sup> which sets out the Government's approach to tackling health and social problems in Northern Ireland.

8.7.3 *Well Into 2000* recognizes the Government's commitment to economic, health and social policies which promote good health and well-being for all on an equitable basis. Its vision is the development of high quality cost-effective care with respect for the rights of the individual, and with strong local communities participating in decisions about needs and services.

## **8.8 "Better Health; Better Wales"**

### *Article 24*

8.8.1 In May 1998, the Welsh Office launched the Public Health Green Paper *Better Health; Better Wales*,<sup>72</sup> which advocates a new approach to improving the health and well-being of the people in Wales by addressing a wide range of social, economic and environmental factors which impact on health.

8.8.2 *Better Health; Better Wales* proposed a new approach to tackling the underlying causes of ill-health which focuses on the concept of sustainable health and well-being - through the encouragement of sustainable communities, a healthy lifestyle and better environment. The aim of the new strategy is to prevent disease and improve the health and well-being of the people in Wales and bring the level of those with the poorest health up to the level of those with the best health.

8.8.3 The Green Paper sought views on a wide range of issues including those relating to lifestyle, schools, housing, environment, transport and organizational structures. It sought to identify how public policy should be developed to protect children and families and how all sectors of the community could develop caring roles. It also raised questions of how education and training can best be used to inform people about health and how a new partnership approach can benefit the health of children in schools.

8.8.4 The consultation exercise is now complete and the responses will provide the basis for an Action Plan. The ensuing strategy is intended to be taken forward by the National Assembly for Wales in 1999.

## **8.9 Health of Children in Wales**

### *Article 24*

8.9.1 The Welsh Office *Report on the Health of Children in Wales*<sup>73</sup> was commended to health and local authorities in Wales in January 1997. It provides a clear policy statement for children's health services, identifying the statutory and policy requirements, and includes good practice guidance for Health Authorities, Local Education Authorities, Social Services Departments and the Voluntary Sector. Implementation of the report's recommendations is being taken forward by these organizations at the local level in the context of local need.

## **8.10 Health in Schools in Wales**

### *Article 24*

8.10.1 Health in Schools in Wales will be a key component of the strategic framework taking forward the *Better Health; Better Wales* Green Paper proposals. This includes the concept of the "health promoting school", in which the whole life of the school has a role to play in promoting the health of young people. In Wales this is taken forward by Health Promotion Wales (HPW). Six primary schools and six secondary schools in Wales took part in the European Network of Health Promoting Schools (ENHPS) project, which is managed by HPW. A major aim of the ENHPS project is to ensure that good classroom teaching is matched by efforts to improve the school environment. Among the initiatives undertaken are health promoting playgrounds, links with local sports centres, healthy tuckshops, drugs education, safety initiatives and No Smoking Day activities.

## **8.11 The National Healthy Schools Award - “Investors in Health”**

*Articles 18, 23, 24*

8.11.1 Health in schools will be a key component of the strategy of *Our Healthier Nation*. The strategy will aim to build on the concept of the healthy school to promote not just excellence in educational achievement, but to foster emotional well-being and enable young people to improve their quality of life and that of the wider community. This does not just mean young people spending more curriculum time on personal, social and health education as a formal subject. The ethos of all school activities should encourage awareness of relationships, responsibility for self and leading on from that responsibility to others.

8.11.2 The first step in development of a National Healthy Schools Award was an expert consultative seminar in February 1998. A key element of the Healthy Schools Award is joint working between Health Authorities and Local Education Authorities. In phase one of the Award, schemes were piloted in each of the eight NHS regions in England. One LEA in each region worked in partnership with its corresponding Health Authority to set up a pilot project which developed models and criteria which can be used by new Health and education partnerships and pump priming support of £150,000 for each project was made available jointly by the Department of Education and Employment and the Department of Health in 1998-1999. Each of the pilot partnerships was independently evaluated by the Thomas Coram Research Unit at the Institute of Education. Government will look to expand involvement in the future so that, ultimately, all schools will have the chance to participate. The National Healthy Schools Scheme will provide an opportunity and support to all schools to encourage them to work towards becoming healthy schools through the criteria and standards emerging from the pilot projects.

8.11.3 The elements of the Healthy Schools initiative are:

- (a) A National Healthy Schools Award and Associated Fund;
- (b) A Healthy Teacher Focus;
- (c) A National Healthy Schools Network within the National Young People’s Network;
- (d) The Wired for Health Website to be accessed through the National Grid for Learning;
- (e) The development of Strategies for Safe Travel to School;
- (f) The development of a “cook’s academy” in schools during school holiday periods.

8.11.4 The “healthy school” or “health promoting school” concept has already been adopted by many schools nationwide, often backed by local initiatives set up between health promotion departments and local education authorities and/or schools. Such schools recognize their role in shaping positive attitudes to health amongst staff, pupils and parents, for example through attention to the effects of environment on mental and physical well-being and the benefits of positive role models from staff. Schools undertake formal personal, social and health education but development of positive health and welfare goes much deeper than that in the “healthy school”.

8.11.5 Healthy Schools will not be the only focus of Government strategy. There are many young people beyond school age or who are not currently within the school system who need help and support. Government funding of the Young People’s Health Network has helped to encourage cooperation and the sharing of experience between those agencies who deal with the various problems young people face and encourage the involvement of the young people themselves. The Government will work with young people to promote the understanding that good health, including mental health is central to the enjoyment of life. The aim is to provide practical support to enable them to adopt healthy behaviours that will benefit them through their life and be passed on to their children.

## **8.12 Child nutrition**

### *Article 24*

8.12.1 The Government commissioned a National Diet and Nutrition Survey (NDNS) covering children between the ages of 4-18. The report of the survey will be published during 1999. It will provide information on the diets of approximately 2,000 young people between the ages of 4 to 18 years. Findings of other recent surveys and studies, although not as comprehensive in coverage as the NDNS, give an indication of the trends in the nutritional status of children aged between 4 and 18 years. These generally indicate that although children are growing taller on average than ever before, they are also getting fatter.

8.12.2 The Government’s new public health strategy *Our Healthier Nation* has identified schools as a setting to focus attention on improving the health of children. The Healthy Schools Initiative aims to improve the health and well-being of children and as part of this it will encourage healthy eating through a whole school approach to food. Also, the Government intends to produce Regulations on compulsory national nutritional standards to school lunches and a consultation paper setting out proposals was published at the end of 1998.

## **8.13 Infant feeding - England and Wales**

8.13.1 The Government has mounted a continuing publicity campaign to increase awareness of the importance of taking folic acid before and during the first twelve weeks of pregnancy to prevent neural tube defects in babies. The latest results show that spontaneous awareness amongst women has risen from 9 percent in 1995 to 49 per cent in 1998 and prompted awareness from 51 per cent to 89 per cent over the same period.

8.13.2 The Government promotes breastfeeding in the following ways. The National Network of Breastfeeding Co-ordinators (NNBC) has been established to promote breastfeeding at a local level and to share ideas nationally with a view to increasing both the number of mothers breastfeeding and the length of time they continue to breastfeed. Each year the four United Kingdom Health Departments support National Breastfeeding Awareness Week to increase public awareness of the benefit of breastfeeding. The Government has also appointed two part-time Infant Feeding Advisers to act as a focus for developing and implementing strategies for promoting breastfeeding. In particular, to increase the incidence of breastfeeding amongst groups where breastfeeding rates are lowest. This is where their expertise lies.

8.13.3 The Department provides financial support to the four main voluntary organizations in this area, the National Childbirth Trust, La Leche League, the Breastfeeding Network, and the Association of Breastfeeding Mothers. Close links are also kept with UNICEF's Baby Friendly Initiative which includes a Department observer sitting on the Steering Committee of the UK BFI. The Department offers support for research into breastfeeding through the Quinquennial Surveys of Infant Feeding Practice - the report of the 1995 survey was published in 1997. This showed that the incidence of breastfeeding had increased significantly between 1990 and 1995 in all countries in the United Kingdom. The Department also receives and publishes expert advice on breastfeeding through its advisory committees, such as COMA's<sup>74</sup> Panel on Child and Maternal Nutrition.

8.13.4 The Government is committed to the promotion and protection of breastfeeding which is universally accepted as the best form of nutrition for infants. The Infant Formula and Follow-on Formula Regulations came into force in March 1995. These regulations implement EC Directive 91/321/EEC, which embraces the principles of the WHO Code of Marketing of Breast-milk Substitutes 1981. The regulations place statutory restrictions on the composition, labelling, advertising and export of infant formulae.

8.13.5 School lunches and, in some areas, drinking milk are provided free to children from families in receipt of income support or an income based jobseeker's allowance. The Welfare Foods Scheme also provides free milk and vitamins to pregnant and breastfeeding mothers and their children up until the age of five who are from families in receipt of income support or an income based jobseekers allowance. The Government provides these benefits as a nutritional safety net for children in low income families.

## **8.14 Breastfeeding - Scotland**

8.14.1 In 1994, a national target was set for breastfeeding in Scotland (50 per cent of mothers still breastfeeding at six weeks by 2005). Health Boards were invited to set local targets and to put in place arrangements to monitor these. Most Boards have now set targets and Scotland's Chief Medical and Chief Nursing Officers have taken steps to encourage professional support for breastfeeding and to improve professional practice. The recent Priorities and Planning Guidance for the NHS in Scotland 1999-2002 reiterated the importance of continuing work towards the national target.



8.14.2 In order to advise on and monitor work in this area, the Scottish Office Department of Health set up, in 1995, the Scottish Breastfeeding Group and appointed a National Breastfeeding Adviser. The Group, which is chaired by the Department's Chief Nursing Officer, is a multi-disciplinary body representing a range of professional and lay organizations with an interest in breastfeeding issues. The National Breastfeeding Adviser's remit is to provide training, advice and support to NHS personnel and lay workers, to act as a facilitator to local breastfeeding initiatives, and to report progress to the Scottish Breastfeeding Group. A dedicated web site "Breastfeeding in Scotland", which includes information on research, statistics, good practice, and other resources, has recently been set up.<sup>75</sup>

8.14.3 The recent White Paper *Towards a Healthier Scotland*<sup>76</sup> identified the health of children as a key area for action. It recognized that breastfeeding and good care in early life can significantly improve a child's chances in life; and it set out proposals for a health demonstration project to focus on the promotion of health from birth and throughout the first five years of childhood. One of the potential aims of this project will be to encourage good nutrition through breastfeeding.

8.14.4 In recent years, breastfeeding has been more closely integrated with mainstream health education campaigns. Integrating breastfeeding in this way helps to establish it as a normal, everyday occurrence and works to encourage a positive shift in attitudes and behaviour towards it.

## **8.15 Health inequalities - England and Wales**

*Articles 23, 27*

8.15.1 *Our Healthier Nation* emphasizes that the Government's priority is to do more to prevent people falling ill in the first place and to ensure early intervention as required. This means tackling the root causes of the avoidable illnesses. In recent times the emphasis has been on trying to get people to live healthy lives, where necessary by changing their lifestyles. The emphasis now is to look for more attention and action concentrated on the things which damage people's health which are beyond the control of the individual.

8.15.2 Ill-health is both a cause and effect of social exclusion: the very worst off in society, facing unemployment, lack of training opportunities and poor housing are much more likely to fall ill, and in turn illness reduces the chances of being able to get a job or go back to college. This circle of deprivation can create serious difficulties for children's health and development. Government policy will therefore be directed to tackling the root causes. As a first and important step the main causes of inequalities in health were addressed by an Independent Inquiry into Inequalities in Health, set up under Sir Donald Acheson (former Chief Medical Officer), which considered issues of social and economic deprivation and social exclusion. The Government asked Sir Donald to report on the main trends in health inequalities and to identify the areas of policy which evidence suggests are most likely to make a difference. Sir Donald's report was published on 26 November 1998 and its findings are being fed into work on the *Our Healthier Nation* White Paper which is due to be published shortly.

8.15.3 In Scotland, health inequalities are being tackled through the White Paper *Towards a Healthier Scotland*, which is described in more detail in section 8.6.

## **8.16 Young People's Health Network (YPHN)**

*Articles 24, 27*

8.16.1 The Network is being coordinated by the Health Education Authority (HEA) and funded by the Department of Health. The HEA won the contract to run the Network after an open tender exercise. The initial contract is for three years (1996-1997, 1997-1998 and 1998-1999) and funding of up to £200,000 per year is available. It is planned that the YPHN will incorporate a schools network as part of the Healthy Schools initiative. Details of this will be settled in the future.

8.16.2 The Network was launched in June 1996. Its aim is to keep those interested in young people's health issues in touch with one another and, through facilitating the exchange of experience and ideas, promote the health of young people. The Network project is overseen by a steering group comprising officials from the Department of Health and the Department for Education and Employment. There is also an advisory group whose membership will include some of the main voluntary organizations active in the youth field such as the British Youth Council and Youth Clubs United Kingdom. Also included on the advisory group are Young Minds. Feedback is positive and the HEA have sent out over 19,000 communiqués.

## **8.17 The Patient's Charter - Health Services for Children and Young People**

*Article 24*

8.17.1 To emphasize the importance which the United Kingdom Government gives to the child's right to health, a booklet was issued in March 1996 supported by implementation guidance to the NHS which amplified and strengthened the rights and standards set out in the Patient's Charter so far as they apply to children and young people. In particular the booklet offers:

In the community

- a child's right to be registered with a doctor;
- a programme of health checks to ensure healthy development;
- provision to care for a sick child at home wherever possible, and support for doing so.

#### In hospital

- the choice for adolescents of being admitted to a children's ward or an adult ward;
- the aim that each child should have a named paediatric nurse to be responsible for the child's nursing care;
- the aim that each child should be under the care of a consultant paediatrician or paediatric specialist;
- opportunities for children to see the ward before admission;
- provision of play and educational facilities.

8.17.2 In accordance with the Government's commitment to "a new Patient's Charter concentrating on the quality and success of treatment", a group of advisers will make recommendations to Ministers about the content and format of a new NHS Charter.

8.17.3 The implementation of the Patient's Charter in Scotland was reviewed in 1997. Consultation on a revised Charter for Scotland will be similar to the action being taken in England.

8.17.4 In Scotland the Priorities and Planning Guidance published on 25 September 1998 will require Health Boards and NHS Trusts to give special attention to children's needs and to plan services for children in the context of the five strategic aims - improving health, reducing inequalities, promoting primary care, promoting community care and reshaping hospital services.

### **8.18 Measures to prevent HIV/AIDS and other sexually transmitted infections (STIs)**

#### *Article 24*

8.18.1 The United Kingdom is a relatively low prevalence country for HIV and other STIs. By the end of March 1999, 37,875 HIV diagnoses and 16,201 AIDS cases had been reported but most were acquired through sex between men. Mother to child transmission is the major infection route for children and accounts for about 85 per cent of paediatric AIDS cases. A total of 232 children aged under 16 years were treated for HIV infection in 1997, 43 per cent were less than 5 years and 46 per cent were between 6 and 8 years. Reported STIs are increasing and data for England and Wales show that the biggest increases have been amongst teenagers and young people. Amongst 16-19 year olds, cases of chlamydia rose by 53 per cent between 1995 and 1997, cases of gonorrhoea by 45 per cent and cases of genital warts by 24 per cent. The reasons for this increase are not clear but the sexual health strategy will consider how to reverse this trend.

8.18.2 New diagnoses of selected conditions by sex, and number of teenage infections for England in 1997 are shown below.

**Figure 3. Number of teenage infections for England 1997**

	Infectious syphilis	Uncomplicated gonorrhoea	Uncomplicated chlamydia	Herpes simple first attack	Genital warts first attack
Males	97	8 358	16 093	5 565	30 041
Females	49	3 945	22 528	9 444	28 342
Total	146	12 303	38 621	15 009	58 383
Males <16	2	47	49	10	96
Female <16	-	140	501	104	438
Male 16-19	1	1 024	1 772	252	2 356
Female 16-19	3	1 411	7 221	1 729	7 825

8.18.3 Nationally funded HIV/AIDS health promotion for the general population in the United Kingdom is focussed mainly on 16-24 year olds and includes information on prevention of other STIs. Work undertaken by the Health Education Authority included the launch in 1999 of a safer sex web site, work with the National Union of Students and with young people's magazines and national and local radio. Messages have included the role of condoms in preventing HIV and STIs, where to go for advice and overcoming peer pressure to have sex. In addition, the Government has recently set up two pilot opportunistic screening programmes on chlamydia to assess the efficacy of this approach and its likely impact on prevalence and long-term sequelae.

8.18.4 The Department of Health is taking forward a number of initiatives aimed at increasing antenatal HIV testing. A leaflet for pregnant women, *Better for your baby*, was launched on World AIDS Day 1998 together with a leaflet for midwives *HIV testing in pregnancy - helping women choose*. This was produced jointly with the Royal College of Midwives and recommends that all women should be given information about HIV testing and offered a test as part of their antenatal care. Other initiatives include developing targets aimed at reducing mother to child transmission.

8.18.5 Over the coming year, the Department of Health will develop a new national HIV/AIDS Strategy which will cover aspects of treatment and care and prevention. The Department will consult on the Strategy before publication.

## **8.19 Child and Adolescent Mental Health Services (CAMHS)**

*Articles 23, 24*

8.19.1 An increase in problems causally related to psychosocial adversity has been reported throughout the Western World. Conduct disorder and depression in young people are two examples. The Parliamentary Select Committee on Health, when inquiring into the state of children and young people's mental health, commended the Government for taking steps to improve coordination between agencies and for making it mandatory that Children's Service Plans be drawn up. The "four tier" approach to service provision was equally commended, as was the importance given to CAMHS and initiatives to raise the profile of this important area of health services. Guidance was issued to health and local authorities in 1995.<sup>77</sup>

8.19.2 All information requirements are kept under regular and rigorous review and there have been a number of improvements in the Central collection of statistics over the last few years. For child and adolescent mental health services this is a complex task and the need for accurate and useful information has to be balanced against the potential bureaucratic burden that may be created. However a number of NHS Regional Offices have undertaken reviews of CAMHS in collaboration with Social Care regional groups and these have provided up-to-date information of services in their region. A number of national projects will also contribute significantly to the information base:

(a) The Audit Commission is due to report shortly following a detailed review of child and adolescent mental health services in order to assess progress in policy implementation.

(b) A voluntary organization, the Mental Health Foundation, has undertaken a wide-ranging inquiry into the factors affecting the mental health and emotional development of children and young people in the United Kingdom and its report is also expected shortly.

(c) A national survey of child mental health morbidity has been commissioned from the Office for National Statistics to provide up-to-date information on the prevalence of mental health disorders in children, the level of impairment and the usage of services (report expected late 1999).

(d) In Wales, the Welsh Office has commissioned consultants to map services and thus identify deficiencies and other problems.

(e) In Wales, the Welsh Office is working with consultants and the voluntary sector to provide guidance for primary school teachers on the signs of emotional and mental health problems in children.

8.19.3 There are differing systems for categorizing children's problems and these differences often reflect the legitimate and specific priorities of the relevant agencies of intervention as well as the range of perspectives that exist amongst the professions concerned and within society at large. The Government's Public Health strategy as outlined in *Our Healthier Nation* aims to establish broader ownership of children's problems across Government Departments and across agencies at local level. A "common language" will take time to develop but the increased cross-departmental activity to explore these issues will help break down the false barriers created by the different categorization systems.

8.19.4 *The Framework for Mental Health Services in Scotland* was published by the Scottish Office in September 1997.<sup>78</sup> It requires every Health Board to lead the development of a joint, comprehensive mental health strategy focusing on the needs of people with a severe and/or enduring mental health problem ensuring that inadequate services for particular groups including children and adolescents are made good.

8.19.5 The Government supports voluntary sector projects through direct grant aid. These projects are awarded for up to three years and organizations are able to apply for new grants on expiry of the current awards. In addition the Government announced in May 1998 the award of £1 million to Home-Start, one of the organizations recognized by the Health Select Committee as valuable in the area of CAMHS.

8.19.6 The mechanisms for funding and commissioning all specialist services are being considered within the context of the implementation of the proposals outlined in the Government's White Paper, *The New NHS*.<sup>79</sup>

8.19.7 The Department of Health is aware of a number of local initiatives to develop child mental health services within primary care. Research has recently been commissioned to provide a comprehensive national picture of the nature, organization and cost-effectiveness of CAMHS within primary care. In addition, a study to explore the role and distribution of in-patient psychiatric care has been commissioned. The information that emerges will assist in the planning of such provision on a more rational and equitable basis. The mechanisms for commissioning specialist services are also being addressed in the context of the implementation of the proposals in the two recent White Papers: *The New NHS* relating to England and Wales, and *Designed to Care - Renewing the National Health Service* in Scotland.<sup>80</sup>

8.19.8 Improving the mental and emotional health of children and young people is vital to reducing social exclusion and increasing life opportunities. Improved CAMH services, provided by the NHS or social services departments, will contribute to wider government programmes including Sure Start, Quality Protects, family policy initiatives, the crime reduction strategy and interventions to assist children with special educational needs.

8.19.9 A new national target on CAMHS for health and social care is being introduced for the first time this year under the National Priorities Guidance, 1999/2002. This will be backed by an additional investment of some £84 million over three years and aims to:

“Improve provision of appropriate, high-quality care and treatment for children and young people by building up locally-based Child and Adolescent Mental Health Services (CAMHS). This should be achieved through improved staffing levels and training provision at all tiers; improved liaison between primary care, specialist CAMHS, social services and other agencies; and should lead to users of the service being able to expect:

- a comprehensive assessment and, where indicated, a plan for treatment without a prolonged wait;
- a range of advice, consultation and care within primary care and Local Authority settings;
- a range of treatments within specialist settings based on the best evidence of effectiveness; and
- in-patient care in a specialist setting, appropriate to their age and clinical need.”

8.19.10 The development money for CAMHS will be made available via the Modernisation Fund (£60 million over three years) and the Mental Health Grant to local authorities (£24 million over three years) with effect from April 1999. The NHS Executive and Social Care Regions are working together to identify priority areas for joint investment. The focus is on building up core services - and reducing inequalities - and promoting innovative practice.

## **8.20 Child mental health - views of NGOs**

8.20.1 Several non-governmental organizations which contributed to preliminary discussion of this report mentioned their concern about the incidence of mental health problems among children and adolescents - they included Young Minds, the Mental Health Foundation, the Faculty of Child and Adolescent Psychiatry, the National Children's Bureau (NCB), the Who Cares? Trust (WCT) and the Trust for the Study of Adolescence (TSA). They pointed out that evidence given to the Health Committee by the National Health Advisory Service claimed that 20 per cent of children and young people suffered from a diagnosable disorder with 40 per cent having mental health problems of some sort.<sup>81</sup>

8.20.2 The Mental Health Training Initiative funded by the Department of Health for three years has recognized the need for raising awareness of the mental health issues of young people, particularly with regard to the high rates of suicide among young men and Asian young women.

8.20.3 The TSA, with the support of the Home Office, has devised and delivered training for prison officers in Male and Female Young Offenders Institutions improving the understanding of the age range and providing opportunities for prison staff to consider their roles and implement "child-oriented" policies within the youth justice system. This work is continuing.

8.20.4 Major funding from the National Lottery has been granted to the TSA with Youth Access to provide accredited training for counsellors of young people and for those who use counselling skills in their work. Within the next three years a range of counselling and counselling skills training will be available for the voluntary and statutory sectors at a nationally accredited standard for those who work with young people in a wide range of services.

8.20.5 The Economic and Social Research Council's Programme of Research on Youth Citizenship and Social Change represents a major, publicly-funded contribution to knowledge about young people in the United Kingdom and Europe. It also aims to address issues concerning young people's empowerment and the right to have their views heard and respected. The research will examine their views on schemes designed to help young people channel their views to local policy makers and service-providers, and will explore and evaluate ways of involving young people in all stages of the research process, from design through to dissemination.

8.20.6 In the last two years the Trust for the Study of Adolescence has been running a Youth Empowerment Project, funded by the National Lottery, which aims to help young people get their views about mental health across to adults in training. Young people have been actively involved in training adults at events in several places in the United Kingdom and their views have been disseminated by newsletter to many more.

8.20.7 NGOs have also drawn attention to the Health Select Committee's reservations over levels of CAMHS provision across the country. The Government acknowledged that there were considerable variations in CAMHS services due to a significant extent to historical factors. This is being addressed in the National Priorities Guidance objectives for CAMHS described above.

8.20.8 Twenty-four innovative CAMHS projects were established in 1998, financed initially from the Mental Illness Specific Grant to Local Authorities. Each three-year project will be evaluated within the terms of the grant and the voluntary organization “Young Minds” has been commissioned to draw together the lessons to be learned from these projects with a view to publishing the results as a stimulus to good practice. Future funding for these projects will be provided under the new Mental Health Grant.

## 8.21 Reducing the rate of teenage conceptions - England and Wales

*Articles 24, 27*

8.21.1 The Government recognizes and is concerned by the high rate of teenage conceptions in the United Kingdom - one of the highest in the developed world.

8.21.2 Under 16 conception rates rose throughout the 1980s reaching a peak in 1990 of 10.1 per 1,000 girls aged 13-15 in England and Wales. Although a slight improvement is apparent from 1996 to 1997, they remain a cause for concern with a rate of 8.9 in 1997. Teenage conception rates (aged 13-19) are similarly worrying. The 1997 rate is 62.3 per thousand, although there was a slight drop in the mid-1990s. The rates of under 16 and teenage conceptions in England over the last 17 years is shown in the table below:

**Figure 4. Teenage conception rates in England**

### Teenage conception rates per thousand teenage girls (England)

	Under 16s	Under 20s
1980	7.2	58.6
1981	7.3	56.9
1982	7.8	56.1
1983	8.3	55.6
1984	8.7	59.5
1985	8.6	61.3
1986	8.8	61.9
1987	9.3	65.8
1988	9.4	66.5
1989	9.4	67.5
1990	10.0	68.8
1991	9.3	64.8
1992	8.4	61.4
1993	8.0	59.3
1994	8.3	58.3
1995	8.5	58.7
1996	9.3	62.5
1997	8.8	61.9



8.21.3 There is a wide regional variation in under 16 conception rates (see annex D). Areas of higher teenage conception tend to be areas of higher social exclusion. The Government believes that teenage pregnancy is all too likely to be a cause as well as a symptom of social deprivation.

8.21.4 The rate of teenage conceptions in Scotland is also at a comparatively high level. Teenage pregnancies rose between 1986 and 1991 from 44.4 to 50.5 per 1,000 women in the 13-19 years age group. Although the rate fell to 43.1 in 1996, it remains a cause for concern. Among 16-19 years olds, the rate peaked in 1991 at 77.8 per 1,000 females in this age group and declined to 69.6 by 1996. Among 13-15 year olds, the rate increased from 7.5 per 1,000 females in 1986 to 9.6 in 1996.

8.21.5 As in other parts of the country, teenage pregnancy in Scotland is more likely among the less well off. Incomplete education, limited educational attainment, poor employment prospects, low income and poor social and environmental circumstances can all contribute to situations where conception is more likely. Teenage pregnancy is clearly related to social deprivation categories. In 1996, the pregnancy rate for 13-19 year olds ranged from 17.2 per thousand in the least deprived areas to 68.6 in the most deprived.

*Articles 24, 27*

8.21.6 Under the umbrella of the public health strategy, the Minister for Public Health nominated in November 1997 four people to work in their respective subject areas towards establishing national priorities as part of a programme aimed at reducing the rate of teenage conceptions. The Social Exclusion Unit published its report on 14 June 1999. The four task areas are:

- (a) Sex and relationships education (where a great deal of “prevention” work can be carried out);
- (b) Vulnerable and hard to reach groups (with the socially excluded - for example, children who are or have been in care);
- (c) Contraceptive and sexual health services; and
- (d) Research.

8.21.7 The report sets out a national programme with two specific goals: to halve the rates of conceptions among under 18 years olds in England by 2010 and to lessen the risks of young parents suffering the consequences of social exclusion by getting more teenage parents back into education, training and employment. The programme will include:

- (a) A new task force of Ministers, led by the Minister for Public Health, to coordinate the policy across Government supported by an implementation unit in the Department of Health;

(b) A national publicity campaign to reinforce the report's key messages - targeting young people and parents with the facts about teenage pregnancy and parenthood, with advice on how to deal with pressures to have sex and with messages that underline the importance of using contraception if they do have sex;

(c) Improved access to NHS contraception and sexual health services for teenagers, including young men;

(d) A new national helpline to give advice to teenagers on sex and relationships;

(e) New guidance to be issued on sex and relationships education in school;

(f) Better support for teenage parents and their children, providing supervised, semi-independent housing with support for 16 and 17 year olds who do not live with their parents, and support to ensure that under 16s who have children will finish their education (in addition to pilots to encourage 16 and 17 year olds to stay in education); and

(g) Special action targeted on prevention for the most vulnerable groups including children looked after by a local authority, those excluded from school and young offenders.

8.21.8 In addition, the Department of Health with the help of an external reference group will be developing, over the next 12 months, a Strategy on Sexual Health. The Government will work in partnership with health services, voluntary and community groups, professionals and others to develop this overarching framework for sexual health. Although the strategy will cover all the groups at high risk, of all ages, it will have a critical role to play in contributing to a national strategy to reduce teenage pregnancy. It will join up current initiatives in sexual health including HIV/AIDS strategy, work on Chlamydia, the Social Exclusion report and the report of the Personal and Social Health Education Advisory Group.

## **8.22 Teenage conception rates - Scotland**

8.22.1 The rate of teenage conceptions in Scotland is also at a comparatively high level. Teenage pregnancies rose between 1986 and 1991 - from 44.4 to 50.5 per 1,000 women in the 13-19 years age group. Although the rate fell to 43.1 in 1996, it remains a cause for concern. Among 16-19 year olds, the rate peaked in 1991 at 77.8 per 1,000 females in this age group and declined to 69.6 by 1996. Among 13-15 year olds, the rate increased from 7.5 per 1,000 females in 1986 to 9.4 in 1996.

8.22.2 As in other parts of the country, teenage pregnancy in Scotland is more likely among the less well off. Incomplete education, limited educational attainment, poor employment prospects, low income and poor social and environmental circumstances can all contribute to situations where conception is more likely. Teenage pregnancy is clearly related to social deprivation categories. In 1996, the pregnancy rate for 13-19 year olds ranged from 17.2 per thousand in the least deprived categories to 68.6 per thousand in the most deprived.

8.22.3 The Government addressed the issue of sexual health and young people in its recently published White Paper, *Towards a Healthier Scotland*.<sup>82</sup> Among other things, this sets a national target of a 20 per cent reduction in the rate of pregnancy among 13-15 year olds for the period 1995 to 2010, and also announces funding for a demonstration project to be called "Healthy Respect". The focus of this project will be to promote sexual health and prevent sexually transmitted diseases as well as reducing unwanted pregnancies. Bids are currently being sought from bodies interested in running the project. We will be looking for bids which can develop measures to nurture self-respect in young people and discourage coercive or manipulative sexual behaviour as well as addressing improved methods of sex education and advice for young people about sexual health and contraception.

### **8.23 Programme to reduce the rate of teenage conceptions - Scotland**

*Articles 24, 27*

8.23.1 Scotland does not have a specific current national target for reducing teenage pregnancies - the general policy has been that targets are best set locally in the light of local circumstances. Local targets have, therefore, been set at Health Board level. Twelve of the 15 Scottish Health Boards have set local targets to reduce the number of pregnancies amongst teenagers. Typically they are expressed in terms of a percentage reduction in conception rates for teenagers or a reduction in the number of teenage abortions.

### **8.24 Programme to reduce the rate of teenage conceptions - Northern Ireland**

8.24.1 In Northern Ireland the Regional Strategy for Health and Personal Social Well-being has set a target to reduce the overall number of births to teenage mothers by 10 per cent by 2002. Northern Ireland is also participating in the national programme to reduce the rate of teenage conceptions.

### **8.25 Measures to reduce accidental death or injury in childhood**

*Articles 18, 24*

8.25.1 The number of children dying or seriously injured each year as a result of accidents has declined steadily since the previous report. The Department of Health mounts or supports financially a number of initiatives to ensure that the downward trend is maintained.

8.25.2 Financial grants are provided by the Department to support the work of specialist organizations such as the Child Accident Prevention Trust and the Royal Society for the Prevention of Accidents. In conjunction with the Department, these organizations have been, or are, involved in the development of standards to improve the safety of children's environment and products, accident prevention programmes to assist health and safety practitioners at regional and local level, and public awareness campaigns to inform parents, teachers and children about effective accident prevention.

8.25.3 The Departments of Health, Education and Employment, Trade and Industry and Environment, Transport and the Regions support “Child Safety Week”, an annual awareness-raising campaign in the summer, which is designed to inform parents, carers and children on how to prevent accidents and injuries. This high profile campaign uses national, regional and local press to maximize the impact of the campaign. The Department has evaluated the success of the campaign over the past three years. Since 1997, the Department has also funded an extension of the campaign so that activities can take place in the winter and the spring.

8.25.4 The Department funds the Child Accident Prevention Trust to develop and conduct trials of a publicly accessible information service on accident prevention. It is expected that this service will enable parents with literacy difficulties to have access to individual advice.

8.25.5 The Department caters for the needs of minority ethnic groups by funding, via the Child Accident Prevention Trust, the translation of safety leaflets into four Asian languages. These leaflets are produced in consultation with the relevant communities.

8.25.6 The Department, working with colleagues in other government departments and the Royal Society for the Prevention of Accidents, has developed a training resource called *Together Safely* which aims to teach children, parents and carers the principles of general risk assessment, including road safety.

8.25.7 The Department has helped to fund a specialist training programme in child pedestrian safety. The package, which includes video training, uses four schools which have adopted the recommended methods. The strength of this approach is the active participation of the children themselves in contributing to their own safety as pedestrians.

8.25.8 In the wider context, the Department is working closely with colleagues in the Department of the Environment, Transport and the Regions to ensure that accidents, including child accident prevention measures, are effectively highlighted in the Government’s new integrated transport policy. A range of proposals are under consideration. These include measures to promote traffic calming, safer cycling, safety training in schools and communities, and greater emphasis on pedestrian safety.

## **8.26 Child road safety - progress since the first United Kingdom report**

### *Articles 18, 24*

8.26.1 The Government’s White Paper on the future of transport *A New Deal for Transport: Better for Everyone*<sup>83</sup> makes clear that improving road safety, especially of children, will continue to be an important objective for the Government. The principal way in which these commitments will be taken forward is a new road safety strategy and target for Great Britain. The main objectives of the new strategy will be the effective enforcement of legislation; publicizing the risks and educating road users (particularly children and young people) about the need to use the roads with thought and care; and promoting better engineering standards for roads and for vehicles. The Government’s new public health strategy<sup>84</sup> announced its intention not only to reduce the number of accidents by a fifth, and to reduce the rate of serious injury from accidents by at least one tenth, by 2010, but also to tackle the pronounced bias towards

childhood accidents in the lower socio-economic groups. Accordingly, the Department of Health has commissioned the Child Accident Prevention Trust to set in motion a series of discussions with children and community development agencies to discuss how these inequalities in the incidence of child accident could be targeted effectively.

## 8.27 Child road safety - progress on existing target

8.27.1 The current road safety target is to reduce casualties by a third by the year 2000 (based on the 1981-1985 annual average). Progress in achieving the target for reducing the number of children killed or seriously injured has been encouraging.

**Figure 5. Road accidents - child casualties in Great Britain, 1997**

Age	0 to 4	5 to 7	8 to 11	12 to 15	Total
Pedestrians	535	734	1 322	1 363	3 954
Cyclists	15	136	354	511	1 016
Car Passengers	262	206	283	520	1 271
Other categories	14	9	44	144	211
Total	826	1 085	2 003	2 538	6 452
1981-1985 baseline	1 380	2 027	3 501	4 773	11 681
Reduction	40%	46%	43%	46%	45%

8.27.2 The 255 children (aged 0-15) killed in road traffic accidents in 1997 was 55 per cent lower than the 1981-1985 annual average of 563. The 44,289 children injured on the roads in 1997 was 11 per cent less than the 1981-1985 average of 49,770.

## 8.28 Child safety in the Government's new transport policy

*Articles 18, 24*

8.28.1 The Government shares the concern of many that pedestrians and communities should be given full consideration in the development of transport policy, so that traffic needs do not necessarily take precedence.

8.28.2 This point has been addressed by the Government. The objective of the policies set out in the White Paper is to improve the safety of more vulnerable road users, including pedestrians (particularly children) and cyclists in a way that is consistent with encouraging more walking and cycling. Children should be able to walk to school in safety and initiatives to provide safer routes to school will support both safety and environmental aims.

8.28.3 The aim is, in particular, to improve road safety education in schools and by parents, by assessing the effectiveness of existing training aids and developing new ones; and to assess local measures to achieve safer routes to school, and in producing a best practice guide. The transition from primary to secondary school marks an important milestone in the development of

children. It coincides with increasing responsibility and independent travel. But it also coincides with the peak in pedestrian and cycling accidents among children, so work is focusing in particular, on preparing children for the transition from primary to secondary school.

8.28.4 Children are more likely to become road traffic casualties when they first get behind the wheel of a car. Drivers aged 17-20 comprise under 5 per cent of licence holders, but 15 per cent of drivers involved in road traffic accidents. When account is taken of their mileage, the risk is even higher. That is probably because of their immaturity and their lack of experience. Young drivers tend to be relatively competent at handling their vehicle but not at anticipating the actions of other road users.

8.28.5 Following a consultation exercise in 1993, various measures have been taken to improve the knowledge, behaviour and perception of risks by new drivers including a separate theory paper in the driving test and a requirement that drivers who commit certain offences within two years of qualifying must retake the driving test. The content and structure of the practical driving test is currently under review.

8.28.6 Traffic calming is one of the most effective ways to reduce the number and severity of accidents involving children. Research has shown that 20 mph zones supported by physical measures such as road humps, pinch points and rumble devices reduce the number of child pedestrian and cyclist casualties by 67 per cent. The Government made £50 million available to local authorities in 1998-1999 for this sort of local road safety scheme. There is now a separate budget for small schemes on trunk roads to deal with specific safety problems and the majority of schemes in the Government's programme of major improvements have safety as a major objective.

## **8.29 Cleaner air**

*Articles 24, 27*

8.29.1 The Government is committed to delivering cleaner air for everyone. The National Air Quality Strategy 1997 set standards and objectives for the main air pollutants to be achieved in the United Kingdom by 2005. These standards are set at levels which represent no or minimal risk to people's health. Action is under way at local, national, and international levels to ensure that those standards and objectives are met. The strategy is being reviewed to see what further measures might be introduced.

8.29.2 Transport is now the main source of urban air pollution. Vehicle emissions and fuel have been subject to increasingly tight controls over the last few years, for example by the introduction of lead-free petrol and compulsory catalytic converters for cars. The Government's taxation policies are designed to promote the use of cleaner fuels and low emission vehicles. Regulations enable local authorities to enforce vehicle emission standards at the roadside. The United Kingdom and its EU partners have recently agreed even tighter fuel and emission standards under the auto oil programme.

8.29.3 The White Paper *A New Deal for Transport: Better for Everyone*<sup>85</sup> published in July 1998 looks at ways of reducing the impact of transport on air pollution. It set out a package of measures to provide a real choice of transport which is environmentally sustainable and not health-threatening. It aims to reduce traffic congestion and cut pollution by improved management of roads, and by promoting the use of less polluting forms of travel such as cycling and walking.

8.29.4 The United Kingdom contributes to the reduction of transboundary air pollution through EU membership and under UNECE protocols for sulphur, persistent organic compounds, and heavy metals. In June 1998, under the EU air quality framework directive, the United Kingdom secured agreement to the first set of “daughter directives” which set new air quality limits for nitrogen dioxide, sulphur dioxide, lead, and small particulates.

### **8.30 Planning - transport and noise**

*Articles 24, 27*

8.30.1 Planning Policy Guidance Note (PPG) 13 on Transport was issued in March 1994. This encourages policies designed to reduce reliance on the private car while maintaining and improving choice for people to walk, cycle or use public transport rather than drive between homes and facilities which they need to visit regularly.

8.30.2 The White Paper *A New Deal for Transport: Better for Everyone* further strengthens this shift in emphasis, and will lead to updated planning guidance on locations for major growth and travel generating uses with the emphasis on accessibility to trip destinations by foot, bicycle and public transport, taking into account the needs of all in society. This emphasis on accessibility will improve the quality of life for children.

8.30.3 This New Deal for Transport will improve the environment in towns and cities and create conditions for people to move around more easily. More road space and priority will be given to pedestrians, cyclists and public transport, through a different approach to traffic management. This should also increase safety and help cut air pollution. Local authorities will be expected to take a strategic view of traffic management when preparing Regional Planning guidance and development plans. Local transport plans will set out how these measures will be delivered at a local level.

8.30.4. PPG 24 on Planning and Noise, issued in September 1994, provides guidance to local planning authorities to minimize the adverse impact of noise. It outlines the considerations to be taken into account in preparing development plan policies and in determining planning applications both for noise-sensitive developments and for those activities which generate noise. It introduces the concept of noise exposure categories for residential development, encourages their use and recommends appropriate levels for exposure to different sources of noise. It also advises on the use of conditions to minimize the impact of noise.

8.30.5 The Government is working with local authorities to set up a number of pilot schemes to assess the viability of Home Zones. These initiatives, adapted from European measures, are aimed at reducing the impact of road traffic in residential areas so that they are better living places for residents, particularly children.

### **8.31 Disabled children - effectiveness of benefits**

#### *Article 23*

8.31.1 Since the United Kingdom's first report, there has been research by the University of York on the needs and circumstances of families caring for disabled children. *Expert opinions: a national survey of parents caring for a severely disabled child* was published in 1995.<sup>86</sup>

8.31.2 There has also been more recent research, funded and published by the Joseph Rowntree Foundation based in York (JRF), on the needs and circumstances of families caring for disabled children.<sup>87</sup> The report examines the benefits system which recognizes that both disabled adults and children incur extra costs because of their disability. The study says that little is known about the nature and extent of these costs, particularly for children. The report describes minimum essential budget standards for children of differing ages and with a range of disabilities. The researchers have documented the experiences of some 300 parents of severely disabled children and drawn up a list of the agreed minimum necessary to enable disabled children to develop to their full potential.

8.31.3 The report details the priorities and experiences that influenced the parents' decisions. It examines the implications of the findings for benefit provision and service delivery. The study concludes that parents of disabled children are still "paying to care" and that the minimum essential cost of raising a severely disabled child is, on average, three times more than for a child without a disability.

### **8.32 Report on the rights of disabled children - independent research by an NGO**

#### *Article 23*

8.32.1 The children's charity Barnardo's recently commissioned and published a research report *Assessing Human Rights: disabled children and the Children Act*.<sup>88</sup> The report acknowledges that a lot of effort, time and resources go into providing social services for disabled children and asks whether disabled children are getting what they really need.

8.32.2 The report details what disabled children need, and what they have a right to, as defined by the United Nations Convention on the Rights of the Child. Against this measure the author points to shortfalls in the Children Act and its implementation with regard to disabled children and shows how they stem from an underdeveloped understanding of inclusions. Dr. Jenny Morris goes on to look at where direct services for disabled children are failing, and offers examples of various approaches developed by individual projects. The report ends with a detailed illustration of delivering a fully inclusive service, demonstrating ways within existing resources to meet previously unsatisfied need.



8.32.3 The Government has confirmed that it is committed to providing special allowances to help with the extra costs which disabled people may incur, and that it intends to maintain Disability Living Allowances as a universal, national benefit for those who meet the conditions of entitlement. Under these arrangements:

(a) Disability Living Allowance is payable for some 196,000 children aged under 16, at the same rates as for adults.

(b) Of these children some 72,500 receive the highest rate care component and some 45,500 receive the higher rate mobility component.

(c) Increases in the child's disability premium, introduced in April 1990, is now helping 61,000 children.

(d) The carer premium, introduced in April 1990, to help those caring for disabled children is now being received by 183,000 carers.

### **8.33 Children with mobility problems**

#### *Article 23*

8.33.1 The Department of the Environment, Transport and the Regions is implementing the transport provisions of the Disability Discrimination Act which will require all new public transport (buses, coaches, trains, trams and licensed taxis) to be fully accessible. The requirements for access to trains and trams came into effect from 31 December 1998. Requirements for new single deck buses are expected to take effect from 1 January 2000; new double deck buses from 1 January 2001; and new taxis from 1 January 2002.

8.33.2 On the specific issue of children with mobility problems, the Department of the Environment, Transport and the Regions has produced a video and supporting literature entitled *It's not my problem*. This is designed to promote better quality special needs transport services for children and young people who need specialized provision to get to school, attend a youth club, or go on holiday, for example.

8.33.3 The Government proposes to extend the mobility component of Disability Living Allowance to three and four year olds.

8.33.4 The Government proposes to introduce a new Disability Income Guarantee for severely disabled people. The guarantee will take the form of a new higher rate of disability premium and a new higher rate of disabled child premium, paid as part of Income Support (IS), income-based Jobseeker's Allowance (JSA), Housing Benefit and Council Tax Benefit, for those who receive the highest rate care component of Disability Living Allowance. The help will benefit over a third of families on IS and JSA (IB) in 2001 with disabled child premium. Approximately two thirds of those helped will be lone parent families.

### **8.34 Social Security and childcare services and facilities**

*Articles 26, 27*

8.34.1 The Government, through the Social Security system, aims to:

- support all families with children, especially poorer families;
- help workless parents into the labour markets by lowering the barriers to work, especially the lack of affordable childcare;
- support working parents; and
- ensure that financial and emotional support from parents continues even after separation.

8.34.2 The Government believes that the best support for children is that provided by parents, ensuring they grow up with as high a standard of living and as high hopes for the future as possible, in a household where work, not benefit dependency, is the norm. Parents will be helped into the labour market through the Working Families Tax Credit (WFTC), by better childcare provision and by the extension of family-friendly working practices. One million children and their parents will be helped over the next five years by the Government's national childcare network.

8.34.3 Child Benefit remains the primary benefit for families, providing a contribution to the cost of bringing up children. It is a universal, non-means tested benefit payable at a flat rate in respect of each child, with a higher rate for the first child. This benefit is normally paid to the mother as the primary carer for the child.

8.34.4 A similar benefit is paid in Northern Ireland as well as England and Wales and Scotland.

8.34.5 Those families who assume the responsibility of caring for an orphan can receive Guardian's Allowance in addition. Recipients of contributory Social Security benefits who have dependent children normally qualify for a child dependency increase, which is paid on top of Child Benefit.

8.34.6 However, for low income families with children, the main source of help is Income Support, an income related benefit payable to people who work less than 16 hours a week. An allowance is paid according to age in respect of each child and a flat rate additional premium is paid for each family. In addition, families receive help with housing and local taxation costs which is also linked to family size and the age of the children.

8.34.7 For low income families working 16 hours or more a week help is provided through Family Credit. This benefit, available to both employed and self-employed, gives extra income to families so that they can move into or remain in work. A means tested benefit, it also takes account of family size and the age of the children. Again, a similar benefit is paid in Northern Ireland.

8.34.8 In October 1994 additional help with childcare costs was introduced into Family Credit improving the level of help available for those families previously prevented from taking up work. The amount of help with childcare costs available in Family Credit was increased from June 1998.

8.34.9 Although the family remains a fundamental building block of society, it is often children and families who bear the brunt of economic change. There is no agreed definition of poverty in the United Kingdom, but:

(a) In 1996/97, almost three in ten children were in families in the bottom fifth of the overall income distribution. Around four in ten children were in families in the top half of the income distribution.

(b) Between 1979 and 1995/96 (where this represents the combined financial years 1995/96 and 1996/97) and including the self-employed, the proportion of children living in families without a full-time worker rose from 18 per cent to 32 per cent.

(c) Between 1979 and 1995/96 the proportion of children below fractions of contemporary average income increased substantially. Excluding the self-employed, in 1979 8 per cent (on the Before Housing Costs (BHC) measure of income) and 9 per cent (on the After Housing Costs (AHC) measure) of children lived in households with less than half 1979 average income; by 1995/96 24 per cent BHC and 34 per cent AHC were in households with less than half 1995/96 average income.

8.34.10 The Government announced in the budget in 1998 their intention to increase support for all families by:

(a) Increasing the Child Personal Allowances for children under 11 years by £2.50 in the income related benefits from November 1998; and

(b) Increasing the standard rate of Child Benefit for the eldest child from April 1999 by £2.60. The same amount will be added to the family premium in Income Support, Jobseeker's Allowance, Housing Benefit and Council Tax Benefit to ensure that the poorest families benefit from the change.

8.34.11 From October 1999 the Working Families Tax Credit will replace Family Credit providing a more generous level of help to those families on the lowest incomes and extending help further up the income scale. There will also be improved help with childcare costs allowing families to receive 70 per cent of their childcare costs, which will be subject to an overall ceiling. Families on lower incomes will be able to receive up to 95 per cent of their childcare costs through the combined effect of the WFTC, Housing Benefit and Council Tax Benefit. The qualifying age for children is currently the September following their twelfth birthday. Under Childcare Tax Credit (CTC) the qualifying age will be increased to cover all children up to age 14 - and in the case of children who are disabled, and who have greater needs, until the school leaving age of 16.

### **8.35 The Sure Start programme for children aged 0 to 3**

*Articles 6, 18, 24*

8.35.1 During 1997-1998 the Government conducted a comprehensive review of the expenditure programmes of all government departments, and this review included a cross-departmental review of services for children aged 0 to 8. The review looked at the multiple causes of social exclusion affecting young children, and considered whether they could be more effectively tackled at the family and community level using a more integrated approach to service provision.

8.35.2 As a result of this review a new programme - Sure Start - was announced in July 1998 which will provide support for 0-3 year olds and their families in deprived areas. This new support will be specifically targeted at tackling the early causes of social exclusion. The new programme will be based on evidence of what works best in preventing social exclusion, building on existing services, and will involve consultation with local parents.

8.35.3 The Government will put in place arrangements to ensure that this new investment is well spent, and will consider ways of improving the coordination and effectiveness of existing services for young children.

### **8.36 The National Childcare Strategy**

*Articles 26, 27*

8.36.1 The United Kingdom Government is committed to supporting families and children. A vital component of this support is the development of a National Childcare Strategy to ensure good quality, affordable childcare for children aged 0-14 in every neighbourhood, including both formal childcare and support for informal arrangements. The Strategy is founded on a commitment to promoting the well being of children, offering equal opportunities for parents, especially women, and to supporting parents in balancing work and family life.

8.36.2 The framework and consultation Green Paper *Meeting the Childcare Challenge*<sup>89</sup> (May 1998) set out proposals to raise quality, make childcare more affordable and make childcare more accessible. This is to be achieved by working in partnership at a local level with local authorities, private and voluntary childcare providers, parents, Training and Education Councils (TECs), and employers. Some 600 responses to the Green Paper were received and the government is considering how to take the Strategy forward. *Guidance to Early Years Development and Childcare Partnerships* was published in October 1998.<sup>90</sup>

8.36.3 Further action is in hand to raise the quality of care - plans include the better integration of early education and childcare and at least 25 new Early Excellence Centres which will provide models of good quality integrated education and childcare; better support for parents and informal carers; a more consistent regulatory regime covering education and childcare; establishing high quality programmes of regular out of school learning activities; new standards for early education and childcare; a new training and qualifications framework for childcare workers; and more opportunities to train as childcare workers.

8.36.4 The Government also aims to make childcare more affordable, as explained at paragraph 8.34.11.

8.36.5 Childcare will be made more accessible by increasing places and improving information -the United Kingdom Government is encouraging a diversity of childcare provision to meet parents' preferences. Funding of £300 million in England will be used to set up new out of school childcare places over the next five years. Plans also include a new national information line which will link parents with local childcare information services which meet national standards.

8.36.6 In Scotland similar structures have been put in place and £91 million is being made available from the Comprehensive Spending Review: £49 million to support the childcare strategy in general and £42 million for support for families with very young children. The New Opportunities Fund will also provide £25 million specifically for out of school care.

### **8.37 Out of school childcare**

#### *Article 27*

8.37.1 Since 1993 the United Kingdom Government's Out of School Childcare Initiative (OSCI) has created 122,745 good quality, affordable out of school childcare places in England. The Initiative offers parents, especially women, the opportunity to participate more fully in the labour market. Before the Initiative there were only 500 after school childcare schemes. Now there are over 4,000 schemes most of which would not have opened without government support. The Initiative was delivered locally by Training and Enterprise Councils (TECs) in England in partnership with local authorities, school, voluntary organizations and employers. (Similar but separate arrangements exist in Wales, Scotland and Northern Ireland.)

8.37.2 As part of the National Childcare Strategy, there will be a massive expansion in out of school childcare places. In its last year of funding places, 1998-1999, increased funding of £22.1 million led to 41,376 extra childcare places in England. From 1999 the Lottery New Opportunities Fund will invest £220 million in supporting the setting up of new out of school childcare provision in the United Kingdom, of which £20 million is for integrated childcare and education projects. The intention is that out of school childcare will become available for every community which needs it, helping up to 1 million children.

### **8.38 Health and housing for Travelling people in England and Wales**

#### *Articles 2, 24, 27*

8.38.1 With regard to health services, regional health authorities in England are required to take account of Travellers' needs in drawing up their plans. The Department of Health funds a number of special schemes aimed at improving access to primary health care for people without permanent accommodation.

8.38.2 There have been changes since the United Kingdom's first report in relation to accommodation for Gypsy and Traveller families. Under Part II of the Caravan Sites Act 1968,

local authorities had a duty to provide caravan sites for Gypsies resorting to or residing in their area. From 1978 to 1994, under the Department of Environment Gypsy sites grant programme, over £128 million was expended on grant-aiding site provision. Permanent sites usually have internal roads, hardstandings, amenity buildings containing bath or shower, toilet, basin, sink, working areas, electricity to each pitch, and street lighting. The sites should be in areas frequented by Gypsies and have reasonable access to shops, schools and essential services. Under the grant programme the number of caravans on local authority sites increased from just under 3,000 to nearly 6,000. Part II of the Act was repealed in November 1994 with 330 sites in existence. The emphasis is now on encouraging Gypsies to provide sites for themselves through the planning process. The Department of the Environment issued advice to local authorities in January 1994 that, when drawing up their development plans, they should address the accommodation needs of Gypsies. There are now some 4,000 Gypsy caravans on private sites compared to just under 3,300 in January 1994. Altogether, in January 1998, 80 per cent of Gypsy caravans were on authorized sites, the highest proportion ever.

### **8.39 Housing for Travelling people - Northern Ireland**

*Articles 2, 26, 27*

8.39.1 The Department of the Environment for Northern Ireland is involved in the provision of accommodation for the travelling community in the form of serviced sites for Travellers. It offers 100 per cent grant-aid to District Councils who provide the sites. On 5 August 1998 the Department of the Environment published as a consultation paper the *Report of the Working Party on Accommodation<sup>91</sup> for Travellers*. This proposed a number of options for Traveller accommodation. The consultation period finished on 31 October 1998 and over 40 responses were received. While they were being considered the Minister for the Environment in the Northern Ireland Office asked the Northern Ireland Housing Executive to carry out pilot exercises on four sites throughout Northern Ireland. The revised policy should issue shortly.

## **9. EDUCATION, LEISURE, CULTURAL ACTIVITY**

**This chapter covers articles:**

- 28** *Right to education*
- 29** *Education to be directed towards development of talents*
- 31** *Right to rest and play, and participate in culture*

### **9.1 Raising standards in schools**

*Article 28*

9.1.1 The Government's aim is to ensure the best possible quality of teaching and learning in every school and to enhance excellence in education. Through its White Paper *Excellence in Schools*,<sup>92</sup> the School Standards and Framework Act and the Teaching and Higher Education

Act, the Government has developed a programme of action in England and Wales designed to raise standards in schools and increase the morale and professionalism of teaching and reducing exclusion from school. The measures planned or under way include those set out in sections 9.2 to 9.8 below.

9.1.2 During 1997-1998 the Government conducted a comprehensive spending review of the expenditure programmes of all government departments. Under this review the proportion of United Kingdom GDP devoted to education will rise from 4.6 per cent in 1998-1999 to 5.0 per cent in 2001-2002. The cash sums for education will rise from £38.2 billion in 1998-1999 to £47.8 billion in 2001-2002.

## **9.2 Local authority education development plans in England**

*Articles 28, 29*

9.2.1 Local Authorities were required to draw up Development Plans (EDPs) by 1 April 1999. Local Education Authorities will work with schools and, in particular, support them in meeting their performance targets on literacy and numeracy and on reducing school exclusions. The Secretary of State for Education and Employment approved all EDPs on 26 March 1999 - 144 for all the full three years, and six with the requirement to re-submit their EDPs within one year.

## **9.3 Class sizes in England, Wales and Scotland**

*Article 28*

9.3.1 Research has shown that by allowing teachers to spend more time with individual children, smaller classes benefit pupils in those vital early years when they need to acquire the basic skills of literacy and numeracy. For that reason, the government has passed legislation to reduce infant class sizes for 5, 6 and 7 year olds to 30 or below by September 2001 at the latest, using money from the Assisted Places Scheme. In 1998 the percentage of pupils leaving primary school with the level expected for their age in English was 65 per cent. For mathematics it was 59 per cent.

9.3.2 The Government wants this target to be achieved early - by September 2000 wherever possible - and has made available £620 million to put this into effect. £217 million has already been invested in additional teachers and new classrooms. The remaining £403 million will be made available over the next two years to provide some 2,400 new classrooms and around 6,000 more teachers.

## **9.4 The National Literacy and Numeracy Strategies in England and Wales**

*Article 28*

9.4.1 The Government is committed to raising standards of literacy and numeracy. These skills are the foundation for future learning, and the key to developing a child's full potential.

The Government has set ambitious national targets for 2002 when it is expected that 80 per cent of all 11 year olds will achieve the standards expected for their age in English and 75 per cent will achieve the standards expected in mathematics.

9.4.2 The National Literacy and National Numeracy Strategies are the top priority for primary schools over the next few years and the Government will provide teachers with practical support to raise standards. Both strategies are supported by substantial resources and an entitlement to a programme of professional development for all primary teachers. The strategies will guarantee training for all primary teachers in the best methods of teaching literacy and numeracy, translating into action the Government's pledge to help teachers do their job well and acquire practical skills for the classroom. The new national curriculum for initial teacher training will help to ensure that new teachers entering the profession are also equipped to teach literacy and numeracy to a high standard.

## **9.5 National Literacy and Numeracy Strategy in Scotland**

### *Article 28*

9.5.1 The Scottish Office Education and Industry Department has embarked on a national strategy for improving their level of achievement in literacy and numeracy, by:

- (a) Expanding the Early Intervention Programme aimed at raising standards of literacy and numeracy in the early years to £60 million over five years;
- (b) Developing a framework for setting targets to raise levels of literacy and numeracy in line with national benchmarks of 80 per cent pupils achieving relevant stages in primary and 75 per cent in S2;
- (c) New guidelines for initial teacher training to emphasize literacy and numeracy;
- (d) £30 million over three years to support in-service training of teachers in literacy and numeracy;
- (e) £15 million over three years to support family literacy schemes;
- (f) Support for the National Year of Reading including £7.8 million to allow every school in Scotland to buy books for their libraries.

## **9.6 New professional requirements for head teachers and teachers in England and Wales**

### *Articles 28, 29*

9.6.1 In order to help raise teaching standards, under the Teaching and Higher Education Act newly appointed head teachers will be required to hold a professional headship qualification and people employed as teachers will be required to complete an induction period satisfactorily.



## **9.7 Specialist Schools in England and Wales**

### *Article 29*

9.7.1 The Specialist Schools programme was established in England in 1993. Specialist schools are maintained secondary schools which, in addition to providing the full National Curriculum, specialize in technology, languages, sport or the arts. A specialist school seeks to bring about school improvement through teaching and learning in its chosen specialism. All such schools must have drawn up a three-year development plan setting out how this will be achieved. Specialist schools are also responsible for raising private sector sponsorship and building on-going links with sponsors. Capital and annual grants are available from the public sector to complement business sponsorship in order to help specialist schools implement their development plan.

9.7.2 The White Paper *Excellence in Schools* included an announcement on the relaunch of the Specialist Schools programme. In order to spread the benefits of the programme, specialist schools are required to set objectives and related targets for sharing good practice and their facilities with other schools and the wider community. Specialist schools can also be a focal point for revitalizing education in Education Action Zones, working with other partners to help bring about school improvement. The Government has stated its commitment to extending the programme, which it believes will promote diversity and excellence in secondary education. In September 1998 there were 300 designated specialist schools in England.

## **9.8 Education Action Zones in England and Wales**

### *Articles 28, 29*

9.8.1 The Government is determined to ensure that all pupils have the opportunity to gain the qualifications and skills they will need to participate in society and work, and will have the confidence to continue learning throughout life. To achieve this aim in areas facing particular challenges requires a partnership approach and a willingness to innovate.

9.8.2 For this reason, the Government launched the Education Action Zones programme in the White Paper *Excellence in Schools* in summer 1997. Since then, 25 zones have been established and are in operation. Another 47 zones have been shortlisted in the first stage of the second round process and are awaiting final approval.

9.8.3 Education Action Zones are groups of schools working in partnership with local and national partners typically including the local education authority, parents, businesses, community organizations and other statutory agencies to drive up standards of education in areas of social challenge. They are testbeds for innovative ideas. For example, some zones are using cutting edge IT programmes for accelerated learning, tackling disaffection, and improving links between home and classrooms and between primary and secondary schools. Another zone, through a one-stop shop bringing together education and social services, is providing a complete family support service within the schools.

9.8.4 Funding for zones in the first round comprises £250,000 per zone per year from businesses and up to £750,000 from Government per zone each year. Twelve zones started in September 1998; a further 13 will start in January 1999. However, funding for zones in the second round comprises up to £750,000 a year. £500,000 will be guaranteed; and up to £250,000 more will be available to match pound per pound funds the zone can raise from its business and other partners. Each zone can therefore receive up to £1 million per year.

## **9.9 Raising standards in Scottish schools**

*Articles 28, 29*

9.9.1 In Scotland, all the Government's initiatives in school education are part of a major agenda to improve standards and achievement. In particular, starting from the 1998/99 school year, the Government have developed with schools and education authorities a framework for setting targets and measuring achievement in relation to those targets. This enables schools to focus on improving standards. It will also provide a much more meaningful measure of school achievement than examination results alone and allow more, better and clearer information to be provided for parents - enabling them to participate as active partners in the drive for improvement.

9.9.2 The targets are set by schools themselves in agreement with their education authority, taking into account the individual starting point of each school and the particular local circumstances which they face. The targets set are stretching but realistic.

9.9.3 Targets are being introduced and set, initially, in the four key areas of literacy, numeracy, examination attainment and attendance. It is open to schools to set targets in other areas such as ethos, learning and teaching and other subject areas. The approach is to challenge schools to do as well as better performing schools with similar characteristics - and to challenge the top performing schools to continue to improve.

## **9.10 New Community Schools in Scotland**

*Article 28*

9.10.1 New Community Schools are central to the Government's strategy to modernize schools, to raise attainment and to promote social inclusion.

9.10.2 New Community Schools bring together in a single team professionals from a range of services. This will enable action to be taken early to address the needs of vulnerable children and to meet those needs in the round. The focus is firmly on the pupil and his or her family. New Community Schools will ensure integrated provision of school education, social work and health education and promotion services. These are the core services but authorities are encouraged to consider other services and be innovative and flexible in their approach. Services in New Community Schools will be integrated and management structures will include a single reporting and accountability framework.

9.10.3 New Community Schools will set targets for raised attainment, raised attendance and reduced inclusion; improved service integration; improved social welfare; and improved health.

9.10.4 At present the Government is funding five development projects which build on previously existing activity in relation to integrated approaches and illustrate some of the practical aspects of the New Community Schools model. The New Community Schools Prospectus, which gives authorities details of how to apply for funding for pilot projects, was published in November 1998. Pilot projects will begin from 1 April 1999. Over the three years from April 1999, the Government will invest £26 million from The Scottish Office Excellence Fund to support at least two projects in the area of each local authority.

9.10.5 Over the three years from April 1999, the Government will invest £26 million from The Scottish Office Excellence Fund to support at least two pilot projects in the area of each local authority. In the first phase, from April 1999, there are 37 pilots, involving single schools or clusters of schools arranged in a number of ways (e.g. groups of primary schools or a secondary school with the primary schools associated with it).

## **9.11 Education, leisure and cultural activities in Scotland**

*Articles 28, 29, 31*

9.11.1 The Scottish Office Education and Industry Department administers a grant scheme - the Further Education (Approved Associations) (Scotland) Grant Regulations 1989 - which supports national community education voluntary organizations.

9.11.2 The grant scheme assists national voluntary organizations working in the field of youth work, adult basic education and community development with the cost of maintaining a headquarters presence in Scotland (in 1998-1999, grants totalling over £1.5 million). This helps organizations to coordinate and develop their contribution to informal education. There is a diverse range of voluntary activity in the informal education sector and voluntary organizations make a significant contribution to the economic, social and environmental life of Scotland. Included in the scheme's aims are: to complement and influence statutory educational provision and to encourage participation by all members of the community including children and young people in the processes of personal and social development and education, both individually and collectively.

9.11.3 At present, local authorities provide community education as part of their duty, under section 1 of the Education (Scotland) Act 1980, to secure the adequate and efficient provision of further education (allocation in 1998-1999 £101.5 million). That includes social, cultural and recreational activities and physical education and training either as voluntary organized activities designed to promote the educational development of persons taking part or as part of a course of instruction. The functions of community education provided by authorities are adult education, educational support for community development and work with children and young people. In all these fields, authorities are able to make provision themselves or through or in partnership with other organizations, particularly voluntary bodies.

9.11.4 In particular youth work is concerned with the personal and social development of young people, who through their participation in youth work programmes will grow and develop as individuals having particular knowledge, skills and the confidence to participate fully in their organizations, projects, communities and society in general. Statutory and voluntary community education organizations offer a wide range of leisure and recreational activities and initiatives for young people which stimulate personal and social development and decision-making and independent living skills. Peer education is particularly successful with young people, for example in health education programmes. These skills not only assist young people in their personal development and growth to maturity but encourage the development of self-esteem giving them the confidence to participate in formal education and training programmes.

9.11.5 Community Learning Scotland (CLS), the Government's advisory body on community learning (building community capacity, investing in community learning and promoting personal development) has a Youth Work Forum which brings together a cross-section of organizations associated with youth work to provide information and advice to local authorities and facilitate collaborative youth work developments. The "Connect Youth" network aims to involve young people between the ages of 13 and 19, particularly those with little or no previous experience of formal youth activities. A number of councils have established forums and encouraged representatives of a wide range of service departments to attend meetings. CLS is involved in the design and delivery of the training provision and in networking between the various groups. There is widespread interest in the establishment of a national forum which would facilitate collaborative approaches, provide a national resources unit as well as a platform for debating and taking forward issues of national importance to young people. A National Voice for Youth - a Youth Parliament - is receiving support to establish links with the Scottish Parliament. Such a Youth Parliament will help young people gain experience of politics, establish partnerships and make links with young people across Europe. Empowerment of young people to have an informed and active role in determining the decision and conditions that affect their lives does much to promote active citizenship in individuals and communities.

9.11.6 Community education is also involved with the pre-school sector in stimulating adult learning to help parents understand child development and improve parent's self esteem to the benefit of the child. This provision is part of the wide-ranging adult education programmes available throughout Scotland and will be integral in the development of adult basic education policy. Increasingly other agencies such as further education colleges and training providers are developing literacy and numeracy support programmes.

## **9.12 Spiritual, moral, social and cultural development and citizenship in England and Wales**

*Articles 28, 29, 31*

9.12.1 Many schools offer education for citizenship as part of their provision for preparing pupils for responsible life in a free society. The Government recognizes that whilst there is good practice in some schools it is by no means universal. It established a National Advisory Group on Education for Citizenship and the Teaching of Democracy in Schools to build on and extend current good practice and to give greater coherence to this work in all schools in England and Wales.

9.12.2 The final report of the Advisory Group on Education for Citizenship Education and the Teaching of Democracy in Schools was published in September 1998. It recommended ways in which schools can develop in young people the knowledge, skills and aptitudes to make their voices heard and play a positive role in their communities.

9.12.3 The Secretary of State for Education and Employment has accepted the recommendations of the Citizenship Advisory Group that, while there is much good practice in schools, citizenship education needs to have greater coherence. He has also accepted the recommendation of an interdepartmental neighbourhood renewal team, Policy Action Team 10, that the Government should “*encourage schools, through the use of creative and sporting activity as part of Personal and Social and Health Education to build pupils’ confidence and self-esteem*”.

9.12.4 The Secretary of State for Education and Employment announced his proposals<sup>93</sup> for the review of the National Curriculum on 13 May 1999. The Government asked the Qualifications and Curriculum Authority to consult on the proposals to enhance the teaching of citizenship and democracy in schools - at Key Stages 1 and 2 as part of a non-statutory framework including personal, social and health matters, and at Key Stages 3 and 4 as a distinct statutory entitlement. The Government intends that this will be a light touch approach, with a programme of study based on learning outcomes to allow scope for schools to develop their own approaches for delivering teaching in citizenship, and to be innovative, for example by drawing on knowledge and understanding gained across other subjects in the curriculum, and encouraging political activities in the community. In order to allow schools time to build good practice in this area, we propose to implement the statutory order in September 2002. The Government will also develop proposals for supporting the training of teachers, and provision of guidance and resource materials.

9.12.5 The proposals for PSHE and citizenship are designed to build on and extend current good practice, establish coherence and secure consistency and continuity and progression of learning. They set out a learning framework across the Key Stages to enable schools to:

- (a) Promote their pupils’ personal and social development, including their health and well-being effectively;
- (b) Develop pupils’ knowledge and understanding of their role and responsibilities as active citizens in a modern democracy; and
- (c) Equip them with the values, skills and knowledge to deal with the difficult moral and social questions they face.

9.12.6 The framework consists of:

- (a) Joint non-statutory framework for personal, social and health education and citizenship at Key Stages 1 and 2; and personal, social and health education at Key Stages 3 and 4; plus
- (b) A statutory Order for a foundation subject in the national curriculum for citizenship at Key Stages 3 and 4.

9.12.7 The Government believes that for citizenship at Key Stages 3 and 4, where provision is not so well established, it is important for young people to have a clear statutory entitlement to learning about their duties, responsibilities and rights as citizens, the nature of democratic government and the skills needed to play an active part in their school, neighbourhood, communities and society.

9.12.8 The proposals for PSHE and citizenship are designed to be a basic framework within which schools can develop their own approaches. They include opportunities for active learning through community involvement and the practical development of the key skills of communication, working with others, the application of number, information technology, improving own learning and performance, and problem solving. They recognize the contribution which personal, social and health education and citizenship can make to combating racism and promoting equal opportunities through teaching about fairness, justice, rights and responsibilities and through developing an understanding and appreciation of diversity.

9.12.9 Citizenship is complementary to and not a substitute for history, spiritual and personal social and health education. Together with these subjects it will help develop the citizens of the future. For example, the framework proposes that by the end of Key Stage 4, to develop knowledge and understanding, pupils should understand the legal and human rights and responsibilities underpinning society, and how they relate to citizens, including the role and operation of the criminal and civil justice system. There will, therefore, be opportunities for schools to teach about the main human rights charters and conventions, including the United Nations Convention on the Rights of the Child.

9.12.10 NGOs have expressed concern that the Citizenship Education Advisory Group's report argues against any statutory requirement to introduce mechanisms directed to ensuring that children are provided with opportunities to express their views on the running of schools and their education.

9.12.11 In a survey for the Institute of Citizenship Studies - *Citizenship Education in Primary Schools* (Kerr 1996), 14 per cent of the 144 schools responding said they had a school council; some 75 per cent said they involved pupils in negotiating rules on behaviour. In a similar survey of secondary schools - *Citizenship Education in Secondary Schools - a national survey* (Fogelman 1991) - around 60 per cent of the 455 schools surveyed said they had school councils.

9.12.12 Many schools, therefore, already have school councils or involve their pupils in decision-making in other ways. We expect this will spread when citizenship has a higher profile in schools. The Government will encourage schools to involve their pupils in these ways but does not wish to overburden them at this time of change in the education sector by introducing statutory requirements.

9.12.13 The Government recognizes the importance of continuing citizenship education after the end of compulsory schooling, including in FE colleges. Many colleges and schools already offer a wide range of opportunities, both formal and informal, for 16-19 year old students to enhance their knowledge and understanding of their rights and responsibilities as citizens. Ministers will be considering how best to encourage institutions to develop those opportunities further as part of their consideration of the Government's overall strategy for citizenship education.

9.12.14 The Deputy Prime Minister and the Secretary of State for Education and Employment announced a national Children's Parliament on the Environment, to build on the interest that young people have in this area and to stimulate them to think about what can be done - in particular what they can do themselves - to secure a healthy future for everyone. The initiative provided children with the opportunity to develop an understanding of, and take an active role in, the democratic process and help them to understand their duties, responsibilities and rights as citizens. The competition had two strands: a debating competition and an essay competition. It culminated with the winners presenting an action plan to the Prime Minister. The Government will now respond to the issues raised by the children during the Parliament.

### **9.13 Spiritual, moral, social and cultural development and citizenship in Scotland**

*Articles 28, 29, 31*

9.13.1 In Scotland, the 5-14 Curriculum Programme for pupils between those ages offers a number of opportunities for pupils to learn about spiritual, moral, social and cultural development and citizenship under the national guidelines on Personal and Social Development, Religious and Moral education and Environmental Studies.

### **9.14 Citizenship education, and other developments in the National Curriculum - views of NGOs**

9.14.1 The National Children's Bureau (NCB) believes that dissemination of the Convention remains piecemeal. They would like to see copies of it more widely available in schools, more reference to it in teacher training, and that of others who work with children, and a wider range of material including Internet sites, age-appropriate printed material, and library resources related to the Convention.

9.14.2 The Government supports the widest dissemination of the principles of the Convention, although for many children that can more appropriately be achieved by referring to the Convention in the course of other work, and in language more suited to children than the inevitably legalistic tone of the Convention itself. These views of NGOs on dissemination of the Convention therefore link closely with the issues related to citizenship education described above.

9.14.3 There have been other suggestions from NGOs for widening of the National Curriculum, for example to include sex and relationship education. They noted with approval that the QCA consultation report on citizenship education<sup>94</sup> specifically asks about its relationship with personal and social education: and that the DfEE has appointed a national advisory group on personal and social education.

9.14.4 The Social Exclusion Unit published its report on teenage pregnancy on 14 June 1999. Following the report the DfEE will issue new draft guidance on sex and relationships education by the end of the year which will underline how vital it is that pupils are taught sex education which is appropriate for their age. The Government wants teachers to be better trained to teach children about sex and relationships. The Teacher Training Agency will shortly produce proposals for the accreditation of specialist sex and relationships education teachers. In addition,

the Government wants all Ofsted inspections to cover sex and relationships education and to make sure their inspectors are properly trained to do so. Parents will continue to have a major say in the sex and relationships education offered at schools and will work in partnership with staff and governors on the development of school sex education policies. They will also retain their right to withdraw their children from all or part of sex education, but as now the Government expects that very few will choose to do so.

9.14.5 The Personal, Social and Health Education Advisory Group's report was also published on 14 June 1999. It makes a strong educational case for PSHE and suggests how the best practice in our most successful schools can be built on to develop a coherent approach within and beyond the curriculum. Good Personal, Social and Health Education is a major means by which schools promote their pupils' personal and social development, health and well-being.

## **9.15 Personal Learning Plans - Scotland**

### *Article 29*

9.15.1 The Government believes that children need to be recognized as individuals and given the personal support and encouragement they require. They are therefore introducing personal learning plans, to be piloted in new Community Schools. The plans will set out a programme of learning for each child, taking into account their individual needs, experience and progress. Key features will include an assessment of children soon after entry into education, forming the starting point of the plan; an agreed programme, including targets for achievement which will be regularly reviewed and updated to ensure that it remains relevant to the pupil's needs throughout his or her time at school; and an outline of the main responsibilities of the school, parent and pupil in relation to the learning plan. The plan will initially be agreed with parents, with the pupil taking increasing responsibility for the plan as they move through school.

## **9.16 Peer Education and Peer Counselling**

9.16.1 Through the National Mentoring Network (NMN), the Department promotes mentoring, including peer tutoring opportunities for pupils in schools, to help motivate, inspire and raise aspirations and achievement. DfEE is currently funding a cross-age tutoring project in Birmingham (Secondary School pupils acting as tutors in local primary schools), and another in Bedfordshire, in which post-16 students act as "buddies" to incoming Middle school pupils.

9.16.2 The DfEE has recently undertaken a survey of Secondary Schools to establish the extent of different types of mentoring being used, including peer tutoring.

## **9.17 Improving attendance at school in England**

### *Article 28*

9.17.1 Improving school attendance of registered pupils of compulsory school age (5-16) is a key element in the Government's drive to raise educational standards. The price young people pay for irregular attendance is all too apparent: only 8 per cent of persistent truants obtain five



or more GCSEs at grades A-C, compared with 54 per cent of those who have never truanted in year 11. In addition the Youth Cohort Study shows that young people who truant are less likely to have a good job offering training and more likely to be unemployed or inactive than those who attend regularly. There are also wide social consequences. The 1996 Audit Commission report "Misspent Youth" indicated that 65 per cent of school-age offenders sentenced in court were persistent truants or had been excluded from school.

9.17.2 Each year in England almost a million registered pupils miss at least one half day without the school's authority. About 50,000 are absent on any one day. The 1998 National Pupil Absence Tables published by the DfEE on 1 December 1998 indicate a slight increase in the time lost to unauthorized absence in maintained schools - 1.1 per cent compared to 1.0 per cent in 1997. In primary schools, levels of unauthorized absence have remained at 0.5 per cent of scheduled schooling missed.

9.17.3 The Government has therefore set an ambitious goal of reducing the learning time lost due to unauthorized absence by one third by year 2002. To assist schools and local education authorities to meet this target, a new major grant programme has been introduced. £500 million over three years is being made available to cut truancy, unruly classroom behaviour and unnecessary exclusions. The programme will involve cooperation between schools, local councils and police in a package of measures including computerized registration facilities to monitor attendance, additional staff to follow up unexplained absences and support for initiatives such as truancy watch schemes.

## **9.18 Improving attendance at school in Scotland**

### *Article 28*

9.18.1 In 1995 the Scottish Initiative on Attendance, Absence and Attainment (SIAAA) was set up jointly between HM Inspectorate of Schools and the University of Strathclyde. Its aims were:

- (a) To raise awareness of the importance of attendance and attainment;
- (b) To highlight and disseminate examples of good practice;
- (c) To encourage schools, School Boards and parents to improve their skills and knowledge on attendance matters; and
- (d) To highlight disruption caused to a pupil's learning by high levels of authorized and unauthorized absence.

9.18.2 It offered a national programme of staff development courses on attendance policy, monitoring and evaluating attendance, working with parents and School Boards and raising pupil and teacher expectations. A regular newsletter *The School Supporter* was issued to all schools.

9.18.3 Many innovative approaches to combat truancy have been developed and publicized by individual schools. These include the preparation of absence and lateness notification slips to

overcome the reluctance of parents to provide notes to explain absence smart card systems for senior pupils, mailshots to all parents including a newsletter and an attendance print-out for all pupils, positive letters home for good attendance and incentive schemes based on attendance. The work of schools has been brought together in *Close to the Mark*,<sup>95</sup> a publication of good practice launched in December 1997. It has been produced by the SIAAA and presents a wide range of examples on good practice, as well as examples to help a school evaluate and develop its own practice.

9.18.4 As part of the Government's initiative to raise standards in schools, a national objective to minimize levels of levels of absence in Scotland has been announced. Within that it will be for schools and education authorities to set detailed targets and develop strategies for improving performance on attendance.

## **9.19 Improving attendance at school in Wales**

### *Article 28*

9.19.1 The Welsh Office has accepted targets recommended by the Social Exclusion Unit, in its report on school exclusion and truancy, for a reduction in the level of exclusions and truancy by one third by the year 2001. The Department will issue guidance on school attendance and related matters *later in 1998*.

## **9.20 Nursery education in England and Wales**

### *Articles 28, 29*

9.20.1 The Government is committed to high quality early education integrated with childcare and family support where needed; and to cooperation and partnership between the state, private and voluntary sectors in the planning and provision of services.

9.20.2 The nursery voucher scheme established by the previous Government was discontinued at the end of the summer term 1997. This was replaced by a new planning approach in which representative partnerships work with local education authorities to produce Early Years Development Plans (EYDPs) for their areas.

9.20.3 The first EYDPs were approved in March 1998. These guarantee nursery education places from September 1998 for all four year olds whose parents want such facilities for their child. This means free places for up to 650,000 four year olds in England, and requires LEAs to work closely with approximately 16,000 voluntary groups and private nurseries. For the longer term, EYDPs will show how childcare and education will be integrated, and how provision will be extended to include three year olds.

9.20.4 In July 1998, the Government announced:

(a) The launch of the Sure Start programme, an interdepartmental approach to integrated service provision for vulnerable children aged 0-3 (see section 8.35); and

(b) A doubling of nursery education places for three year olds by 2002, entailing 190,000 extra free places.

9.20.5 Early Years Development Plans have also been prepared for 22 Welsh local authority areas. From 1 September 1998 all four year olds are entitled to at least a part-time early years education place. Welsh plans also take account of the need to plan for the provision of early years education through the medium of the Welsh language.

9.20.6 The Government has also introduced a pilot programme of Early Excellence Centres (EECs) to help develop and test high quality, integrated, family-oriented early years services. The immediate target is to establish 25 over three years and, at the time of writing, 11 had been approved. As “beacons of excellence”, EECs will work with other agencies and providers to develop integrated services and raise standards.

## **9.21 Pre-school education in Scotland**

*Articles 28, 29*

9.21.1 The Government are committed to an ambitious programme of expansion. By the winter of 1998, all parents in Scotland with children in the pre-school year had access to a high quality, part-time pre-school education place for their child. At present over 90 per cent of eligible children undertake pre-school education. Local authorities have responsibility for planning, coordinating and delivering places in their area. They may do so through their own managed centres, or by commissioning places in the private and voluntary sectors. Local authorities are funded by direct grant.

9.21.2 The Government are also committed to extending universal provision to all three year olds, from the term after their third birthday, by 2002. With their partners local authorities expect to educate around 60 per cent of three year olds in school year 1999-2000, which represents good progress towards the target. An additional £138 million has been allocated to early education over the period 1999 to 2002 to fund this expansion. This brings the total budget for pre-school provision for this period to £382 million.

9.21.3 At present, pre-school education and day care of children are regulated under differing streams of regulation. Local Authority nursery schools and classes are regulated under Education legislation, whereas pre-school outside school sites and day care for children 0-8 is regulated under “Children’s” legislation. This has resulted in differing staffing and other standards being applicable in different settings, where the same type of activity is being conducted. The Scottish Office has recently issued a consultation paper on this issue, *Regulation of Early Education and Childcare*,<sup>96</sup> which discusses the possibilities of harmonizing the regulatory standards which apply in pre-school education and childcare settings. Responses to this consultation paper are due by 30 June 1999 and Scottish Ministers will then consider appropriate methods of progress.

## **9.22 Access to pre-school education in Northern Ireland**

*Articles 28, 29*

9.22.1 In Northern Ireland the Government has established a Pre-school Education Advisory Group (PEAG) in each Education and Library Board area to prepare and assist with the delivery of a pre-school education expansion programme beginning in September 1998. The expansion programme is designed to provide a full year of pre-school education to all children in the year before they enter compulsory education, and will be delivered through partnership between the statutory, voluntary and private sectors. The phasing of the programme will be dependent on the available resources. The PEAGs will work closely with existing Area Early Years Committees in coordinating the planning of pre-school education with other early years services.

## **9.23 Education and academic attainment of boys**

*Article 28*

9.23.1 The Government is concerned at the gap in some areas of the curriculum between the performance of boys and girls at school. A report by the Government Office for Standards in Education ("Recent Research on Gender and Educational Performance", Ofsted (1998)) has analysed recent research on the causes of this gap. It shows there are many complex reasons and that there is no simple, single solution.

9.23.2 The Government has taken action in a number of areas to address this issue. Local Education Authorities are now required to demonstrate in their Education Development Plans what action they will take, where relevant. Trainee teachers are being made aware of the need to set high standards, regardless of gender. The Government is encouraging and enabling schools to analyse the performance of groups of pupils by gender. The Government is also funding projects which address boys' underachievement, particularly in literacy.

## **9.24 Discrimination in school exclusions - views of NGOs and the Government's response**

*Articles 28, 2*

9.24.1 Some NGOs commented that there was evidence that children of ethnic minorities were disproportionately represented among those excluded from school. The Churches' Commission for Racial Justice pointed out, for example, that a report of September 1996 by the Office for Standards in Education found that African/Caribbean pupils were up to six times more likely to be excluded than white children. Some 150 African/Caribbean children in every thousand were excluded (1993-1994 figures). The Children's Society argued for ethnic monitoring to inform policy in this area, and to enable the possibility of discrimination to be systematically guarded against.

9.24.2 The Government has taken action on these points. The Government's White Paper on Education *Excellence in Schools*<sup>97</sup> made clear the Government's commitment to raising educational standards and to equality of opportunity for all pupils. It recognized that children

from ethnic minority backgrounds now form a tenth of the pupil population in British schools. These children bring with them cultural richness and diversity, but some are particularly at risk of under-achieving. The Government is determined that all must have a full opportunity to succeed and has introduced many policies which will benefit ethnic minority pupils alongside other children, for example a new focus on literacy and numeracy, and other measures to raise standards and effectiveness, such as smaller class sizes, especially at the infant stage, enabling more attention to be given to children needing particular support.

9.24.3 The Department for Education and Employment has set up an advisory group on raising ethnic minority achievement to help forge a new partnership at national and local level, and to take action to:

(a) Spread the successful methods of schools that have been most effective in raising ethnic minority pupils' achievement;

(b) Consult on how best to monitor ethnic minority pupils' performance at national, local and school level, and how to create and implement effective plans of action where monitoring reveals under-performance;

(c) Provide guidance on best practice in raising awareness of important ethnic considerations, in tackling racial harassment and stereotyping, in promoting attendance and reducing exclusion of ethnic minority pupils, and in creating a harmonious environment in which learning can flourish; and

(d) Review the level and delivery of specialist support in schools for raising the participation and achievements of ethnic minority pupils to ensure that the support meets continuing needs.

9.24.4 In the light of the Social Exclusion Unit report on Truancy and School Exclusion (published in May 1998), the Government will be pursuing the following initiatives aimed specifically at reducing ethnic minority exclusion in England and Wales:

(a) Publishing full data on exclusions including a breakdown by ethnic minority group;

(b) Requiring OFSTED to conduct special inspections of high-excluding schools, including those disproportionately excluding ethnic minority pupils;

(c) Promoting community mentoring in ethnic minority communities.

9.24.5 In Scotland forms for recording exclusions from schools have recently been changed to include details of ethnicity in order that this can be monitored.

**9.25 Children's right to be heard with respect to their exclusion from school - England and Wales**

*Articles 12, 28*

9.25.1 The Government accepts that it will often be appropriate for the child to address the governors' discipline committee or the appeal panel about his or her exclusion from school. The Government's statutory guidance, "Social Inclusion: Pupil Support" (Circular 10/99 issued by the Department for Education and Employment in July 1999), states that exclusion panels should allow the pupil to attend the hearing and speak on his or her behalf, if he/she and his/her parents so request, unless there is good reason to refuse.

**9.26 Children's right to appeal against school exclusion - Northern Ireland**

*Articles 12, 28*

9.26.1 Under article 124 of the Education Reform (Northern Ireland) Order 1989, a principal must determine measures for promoting self-discipline and good behaviour on the part of pupils and for their enforcement. In determining these measures a principal must have regard to any guidance provided by the Board of Governors: in a number of secondary schools mechanisms are in place to allow the views of pupils to be expressed.

9.26.2 Article 39 of the Education and Libraries (Northern Ireland) Order 1993 requires school authorities to prepare schemes specifying the procedures relating to the suspension and expulsion of pupils from school. The Regulations made by the Department of Education for Northern Ireland to specify the matters to be included in the schemes require the schemes to provide for the parent or the pupil himself where he has attained the age of 18 to be advised of his right of appeal against a decision to expel the pupil from school.

**9.27 Exclusions from school in Scotland**

*Articles 12, 28*

9.27.1 The Scottish Office commissioned a major research project into exclusions from school from Moray House Institute of Education in 1994, which was complete in 1997.<sup>98</sup> The study found that while there was a general agreement that exclusion from school was a severe sanction which should be used as a last resort in reaction to serious or criminal misbehaviour, there were differences in practice across the country and within authorities. The Government therefore issued draft national guidance on exclusions for consultation and issued a final version in April 1998. In encouraging consistency in handling exclusions from school, the guidelines emphasize a multi-agency, inclusive approach and highlight good practice.

9.27.2 The Committee criticized the fact that children do not have the right to express their opinion when decisions are made to exclude them from school. As in England, for the same reasons, the legal right to appeal rests with the parent, or with the pupil if he is over school

leaving age. However, the national guidance launched by the Government in Scotland in April 1998 highlights the need to take account of the provisions of the United Nations Convention on the Rights of the Child, stressing in particular articles 3.1 and 12.

9.27.3 Schools and authorities are setting targets to reduce exclusions in order to achieve the Government's target of a reduction of a third by 2002. The Government recognizes that additional resources will be necessary and has therefore committed £23 million in additional funds to support children at risk of exclusion or who have been excluded. The funds will also be used to provide, by 2002, a full timetable for every pupil excluded for over three weeks. The Government has stressed in providing these funds that reducing the need for and incidence of exclusion should be addressed in an inclusive manner; treating all pupils equally and offering them all an educational experience of value.

9.27.4 The funds are in addition to those provided from 1997-2000 to pilot projects offering alternatives to exclusion. The projects being supported under this programme include those which offer personal learning or behaviour plans to pupils; work placements which meet the needs of individual children better than the standard curriculum; and multi-disciplinary teams focusing on the whole needs of the child. They are being evaluated by HM Inspectors of Schools.

## **9.28 Training for work: The New Deal for Young People - views of NGOs and the Government's position**

*Articles 26, 29*

9.28.1 Non-government organizations support the New Deal, the Government's programme to tackle youth unemployment. This is a major programme based on novel methods of long-term funding for the life of the present Parliament, and involving new partnerships with employers in the private and public sector, and with the voluntary sector.

9.28.2 Some NGOs have expressed concern at the lower age limit of the scheme, which is available to 18-24-year-olds. They fear that 16 and 17-year-olds who are neither in education, training nor employment - and ineligible for social security benefits - might suffer by their exclusion. They also raise concerns about the level of benefit and whether the amount payable is adequate.

9.28.3 The Government believes that this point raised by NGOs is not well-founded. Although 16 and 17-year-olds are not eligible for the New Deal, they already have access to education and training programmes which will help them achieve recognized qualifications and also help them to achieve work skills. The Government believes that 16 and 17-year-olds should be in education, training or work involving some kind of learning, rather than dependent on the benefits system. That is why young people who leave full-time education are guaranteed the offer of a work-based training place with an allowance - though in some cases the training will give those concerned employed status with a wage. The Government's aim is that every young person should be on the road to achieving a proper qualification.

9.28.4 The Government is firmly committed to tackling poverty and improving the living standards of the poorest households. But the Government believes that the best way out of poverty is by helping people into work and giving them the opportunity to improve their lifestyle for themselves, where they are able, and by providing extra help where they are not. There is no objective way of deciding what are adequate benefit rates. Levels of benefit need to take account of the competing demands on public expenditure and work incentives.

9.28.5 For those who cannot work the Government has devoted an extra £1.2 billion a year to supporting children and tackling child poverty. The Government has also increased the child personal allowance for children under 11 in Income Support, Income-based Jobseeker's Allowance, Family Credit, Disability Working Allowance, Housing Benefit and Council Tax Benefit by £2.50 per week, per child from 9 November. And, from April 1999, child benefit will be increased by £2.95 for the eldest child for this group. The Government has also announced a disability income guarantee for the most severely disabled people.

9.28.6 The Secretary of State for Education and Employment launched the Investing in Young People Strategy in December 1997. In July 1999 he announced an enhanced strategy - called *Connexions* - for making sure that far more young people continue in education and training until at least 19. This will build on current initiatives including:

(a) Ensuring young people have the help, support and guidance that will raise their aspirations and tackle any personal and family problems standing in the way.

(b) Encouraging employees aged 16-17, who did not receive good qualifications at school, to take advantage of the new right to study or train for approved qualifications with the support of their employer.

(c) Ensuring that the range of qualifications and courses is attractive and motivating, both to individuals and to employers.

(d) Building on the best work being done in schools, in colleges and in work based training to drive up quality and standards of delivery across all models of learning; and

(e) Tackling barriers to learning; including financial barriers.

9.28.7 Increasing the number of young people who want to learn - and improving their success in getting the skills and qualifications - will make the difference for individuals between a lifetime of low skills and low wages, and making a real contribution to society and gaining proper reward for it. All young people need access to high quality, comprehensive and impartial careers information, advice and guidance.

9.28.8 New Start is a key strand of *Connexions*. This initiative, announced on 24 November 1997, aims to motivate and re-engage 14-17 year olds who have dropped out of learning or are at risk of doing so. It is not a new programme replacing existing provision but a strategy to tackle disaffection amongst this age group.



9.28.9 An important part of New Start is the development of multi-agency partnerships working at local level building on and drawing together existing initiatives. DfEE is currently funding 17 projects. All projects were asked to identify the scale and nature of disaffection in their area; the effectiveness of local learning provision; the scope to strengthen existing or introduce new provision and to develop a strategy and an action plan based on this research.

## **9.29 A new Learning Gateway for 16 and 17-year-olds**

*Articles 26, 29*

9.29.1 As part of *Connexions* the Government is committed to providing better opportunities for all young people to participate in learning and to achieve the highest level possible. It is particularly concerned to engage in learning those 16 and 17-years-olds who lack the basic skills, qualifications and attitudes to enter education and training opportunities at NVQ level 2 or who have become detached from learning altogether.

9.29.2 A learning Gateway for this group of 16 and 17-years-olds will be introduced from this September 1999. Building on the lessons learned from New Start partnerships projects and other similar initiatives the Learning Gateway will provide a client centre approach to support young people who have drifted away from learning and need additional help to enter mainstream learning opportunities.

## **9.30 Modern Apprenticeships and National Traineeships**

9.30.1 Modern Apprenticeships were introduced in 1995 as a challenge from Government to industry to increase radically the supply of skills of young entrants to the work force at craft and technician level, NVQ3. National Traineeships were introduced in 1997 engaging young people in training to NVQ2 level.

9.30.2 MAs and NTrs are available throughout the United Kingdom, albeit in slightly different form in Scotland and Northern Ireland to reflect the particular features of their education and training systems. In England and Wales training frameworks are available in 82 sectors, with another 15 under development, extending industry approved Apprenticeship training to new sectors vital for competitiveness including IT and Telecommunications. There are 47 frameworks for National Traineeships. The top five sectors in terms of starts are business administration, engineering, manufacturing, retailing, motor industry and hotel catering. Training frameworks must include an NVQ level 2 or 3, Key Skills, and the underpinning knowledge and skills required by employers.

9.30.3 MA is open to young people aged 16 to 24 and is the main work based training option for those aged 19 plus. NTr is open to young people aged 16-24, but for the priority group aged 16 to 18 mainly. Over 250,000 young people have embarked on MA since its national introduction, with substantial year-on-year increases for young people in training, now 133,000, which represents 45 per cent of all work-based training for young people. There have been 30,000 starts on National Traineeships since its introduction.

### **9.31 Time for Study or Training Legislation**

9.31.1 From 1 September 1999, young employees aged 16 or 17 who have not attained a certain “standard of achievement” in their previous education or training will have the right to reasonable paid time off to study or train. The “standard of achievement” is an essence level 2, i.e.: 5 GCSEs grades A\*-C, and NVQ level 2, Intermediate GNVQ, or certain other qualifications set out in regulations. Study or training can be undertaken in the workplace, in college, through open or distance learning or elsewhere. Employees who are aged 18 will have the right to time off to complete the study or training they have already begun. There is no exemption for small firms and no qualifying period of employment for the young employee.

9.31.2 There will be new arrangements for support for FE students and pupils in schools posts - 16 from September 1999. These arrangements, which include a means-tested Education Maintenance Allowance (EMA) for young people who stay on in learning, will be reviewed by DfEE after about three years of operation, and the Government will then decide the shape of longer term provision. The EMA pilots will operate in selected areas to July 2002.

9.31.3 The Government does recognize that certain groups of vulnerable young people should be eligible for benefits. Those in certain vulnerable groups (for example those leaving local authority care) or those at risk of severe hardship are able to claim Jobseeker’s Allowance (JSA). The vast majority of 16 and 17-year-olds applying for assistance under the JSA severe hardship provisions are successful. There is no evidence to suggest that young people in need are being wrongly denied benefit. Young people who are not available for work, for example those with disabilities or certain lone parents, are entitled to Income Support.

9.31.4 DfEE is closely monitoring the impact of the New Deal on the availability of work based training opportunities for young people. Initial evidence in Pathfinder areas suggests that opportunities for 16-17-year-olds have not been significantly affected.

9.31.5 In Northern Ireland the Employment Rights (Time Off for Study or Training) (NI) Order 1998 replicates those sections of the Teaching and Higher Education Act 1998 (ss 32 and 33) which give young persons the right to paid time off work for study or training, by amending the Employment Rights (NI) Order 1996.

9.31.6 In addition to right to time off, the Order enables an employee to seek a remedy by taking a complaint to an industrial tribunal if he or she claims to have been unreasonably refused permission to take time off work or to have been denied payment for time taken off to study. By doing so it keeps Northern Ireland employment rights legislation in line with Great Britain.

### **9.32 New Deal for Lone Parents**

*Articles 26, 29*

9.32.1 The Government is concerned that the children of lone parents should not live a life of poverty and social exclusion. The key to this is to ensure that lone parents enjoy the same choice as parents in couples to avoid that social exclusion by obtaining work. The New Deal for Lone Parents has been introduced to provide tailored advice and assistance to individual lone

parents to help them overcome the barriers they face as they seek to improve the lives of their families through obtaining paid employment. It is a voluntary programme targeted principally at lone parents on Income Support whose youngest child is of school age, but those with younger children are welcome to take advantage of the service.

9.32.2 The New Deal for Lone Parents was introduced in eight prototype areas in July 1997. The programme was extended nationally to lone parents making a new Income Support claim from April 1998 and was extended further to all lone parents already on Income Support from October 1998.

### **9.33 Bullying in school - England and Wales**

*Articles 28, 19*

9.33.1 Research undertaken for the former Department for Education by Sheffield University between 1991 and 1993 showed that 10 per cent of primary and 4 per cent of secondary pupils were bullied at least once a week; and 27 per cent and 10 per cent of primary and secondary pupils respectively were bullied at least sometimes. Subsequent surveys have broadly confirmed these findings. It is clear that bullying is widespread and no school is immune from it.

9.33.2 The Government attaches a high priority to helping schools prevent and combat bullying. Since 1994, the Department for Education and Employment has taken a number of measures to provide schools with guidance so that they can tackle the problem of bullying themselves. These have included:

(a) Releasing two short public information films on the theme *Don't Suffer in Silence* which were shown widely on television;

(b) Publishing leaflets giving practical advice to parents and children;

(c) Publishing an anti-bullying pack, made available free on request to all maintained schools in England; and

(d) Publishing research on the pack which showed that schools just starting out on their anti-bullying work found the pack invaluable; although most schools had a policy on bullying, either separately or as part of a wider behaviour and discipline policy, some still did not and most schools thought there had been a reduction in the number of bullying incidents since using the pack.

9.33.3 In July 1997 the White Paper in England *Excellence in Schools*,<sup>99</sup> and in Wales the White Paper *Building Excellent Schools Together*,<sup>100</sup> reminded schools that effective strategies to deal with bullying should form a central part of their behaviour policies. Section 61 (4) (b) of the School Standards and Framework Act 1998 now requires the head teacher to determine measures to prevent all forms of bullying among pupils. This will come into force on 1 September 1999. The Government will also be taking more active steps to spread information on good practice in combating the problem.

9.33.4 The Government recognizes that it is important to involve pupils when drawing up a school's discipline policy. It is good practice which is already recommended in the DfEE's guidance on pupil behaviour and discipline. And the Government is reinforcing the point in new integrated guidance on "Social Inclusion: Pupil Support" which is to be issued for consultation shortly. However, Ministers rejected amendments to the School Standards and Framework Bill to require the governing body and the head teacher to consult pupils in the development of the school's discipline policy.

9.33.5 The Government believes it is important to determine when pupils could best make a contribution to drawing up the school's discipline policy. But that should be for individual schools to decide in the light of their particular circumstances. In some cases that may be before the governing body makes its statement of general principles; in others, head teachers may decide that it is best to consult pupils when determining the school's rules and codes of conduct. Schools need flexibility over who and when to consult; that is best left to be covered in guidance.

### **9.34 Bullying - Scotland**

#### *Articles 28, 19*

9.34.1 In 1994 The Scottish Office issued to all schools a leaflet aimed directly at children entitled *Let's Stop Bullying: Advice for Young People*.<sup>101</sup> In August 1995, the Department issued a further leaflet providing advice for parents and families entitled *Let's Stop Bullying: Advice for Parents and Families*.<sup>102</sup> In autumn 1995, the Scottish Schools Ethos Network was set up in response to the demand from schools to share information, ideas and ways of improving school ethos. The Network is sponsored jointly by Moray House Institute of Education and The Scottish Office and now has over 750 members. Last year, the Government asked local authorities for information on progress in implementing their anti-bullying policies. The review revealed that while there were a number of examples of good practice in tackling bullying, overall awareness of the problem and effective strategies to tackle it were variable.

9.34.2 In October 1998 the Government announced its intention to set up a network to disseminate good practice in tackling bullying and to make advice and support available to schools across Scotland. Expressions of interest in running the network have been invited; the network should be up and running in early 1999.

9.34.3 Information on good practice in anti-bullying policies was also included in *Close to the Mark*<sup>103</sup> published in 1997. In February 1998 the Government pledged £34,000 in financial assistance to ensure that the ChildLine Scotland dedicated Bullying Helpline continues.

### **9.35 Teacher training**

#### *Article 29*

9.35.1 The United Kingdom Government has introduced new standards for the award of qualified teacher status and a national curriculum for initial teacher training covering the core subjects of English, mathematics, science and information and communications technology.

9.35.2 Whilst the new standards do not explicitly mention the United Nations Convention on the Rights of the Child they fall within the spirit and philosophy of the recommendation in article 29. They do this by expecting all trainee teachers to meet all the standards including:

- (a) Establishing and maintaining a purposeful working atmosphere;
- (b) Setting high expectations for pupils' behaviour, establishing and maintaining a good standard of discipline through well focused teaching and through positive and productive relationships;
- (c) Establishing a safe environment which supports learning and in which pupils feel secure and confident;
- (d) Using teaching methods which sustain the momentum of pupils' work and keep all pupils engaged;
- (e) Exploiting opportunities to improve pupils' basic skills in literacy, numeracy and IT, and the individual and collaborative study skills needed for effective learning, including information retrieval from libraries, texts and other sources;
- (f) Exploiting opportunities to contribute to the quality of pupils' wider educational development, including their personal, spiritual, moral, social and cultural development;
- (g) Setting high expectations for all pupils notwithstanding individual differences, including gender, and cultural and linguistic backgrounds;
- (h) Providing opportunities to develop pupils' wider understanding by relating their learning to real and work-related examples.

9.35.3 Additional elements in the training of teachers of pupils aged 3-11 are:

- (a) Providing structured learning opportunities which advance pupils' personal and social development, communication skills, knowledge and understanding of the world physical development and creative development;
- (b) Understanding their responsibilities in relation to school policies and practices, including those concerned with pastoral and personal safety matters, including bullying;
- (c) Recognizing that learning takes place inside and outside the school context;
- (d) Understanding the need to liaise effectively with parents and carers; and
- (e) Having a working knowledge and understanding of teachers' legal liabilities relating to the Race Relations Act 1976, the Sex Discrimination Act and section 3 (5) of the Children Act 1989.

9.35.4 The Government will consider including explicit mention of the United Nations Convention on the Rights of the Child in the Standards for Qualified Teacher Status when the Teacher Training Agency reports and advises Ministers on the standards. The TTA is due to report by December 2000 taking account of OFSTED evidence and the review of the pupils' National Curriculum. The Government does not propose to revise the standards, which took effect in May 1998, at the present time.

9.35.5 The standards for the award of Qualified Teacher Status set out above only took effect in May 1998. Therefore, we do not propose to revise them at this time. The Teacher Training Agency is due to report and advice Ministers on the standards for QTS by December 2000, taking account of OFSTED evidence and the review of the pupils' National Curriculum.

### **9.36 Teacher training in Wales**

#### *Article 28*

9.36.1 The Welsh Office has introduced new criteria which all courses of initial teacher training must meet, and has specified the English, Mathematics and Welsh curricula which must be taught to all trainees on all courses of primary initial teacher training. The criteria set out the standard of knowledge, understanding and skills all trainees must demonstrate in order successfully to complete a course of initial teacher training and be eligible for Qualified Teacher Status.

9.36.2 In addition, the Welsh Office is consulting on the content of the national curriculum for initial teacher training for Primary Science, Secondary Science, Secondary English, Secondary Welsh, Secondary Mathematics and the use of information and communications technology in subject teaching.

### **9.37 Teacher training in Scotland**

#### *Article 28*

9.37.1 There are separate arrangements in Scotland for teacher training. All courses of initial teacher education must comply with guidelines issued by the Scottish Office Education and Industry Department. These guidelines have recently been reviewed and revised guidelines, which come into operation from academic session 1999-2000 were issued on 5 November 1998.

9.37.2 The guidelines make clear that new teachers must be committed to promoting pupil achievement and raising pupils' expectations of themselves and others, in collaboration with colleagues, parents and other members of the community. They must value and promote equality of opportunity and fairness, and adopt non-discriminatory practices, in respect of age, disability, gender, race or religion. The guidelines set out the skills to be attained by beginner teachers. These include:

(a) Being able, whether at pre-school, primary or secondary level, to play a full part in developing pupils' skills in literacy and numeracy;

- (b) Demonstrating a knowledge of, and ability to play a part in, personal and social education, health education, enterprise and, when appropriate, vocational education;
- (c) Motivating and sustaining the interest of all pupils in a class;
- (d) Setting expectations and pace of work which make appropriate demands on all pupils and ensure that more able pupils are effectively challenged;
- (e) Identifying and responding appropriately to pupils with difficulties in, or barriers to, learning and recognizing when to seek further advice in relation to their special educational needs;
- (f) Responding appropriately to gender, social, cultural, linguistic and religious differences among pupils;
- (g) Encouraging pupils to take initiatives in, and become responsible for, their own learning;
- (h) Demonstrating that he or she knows about and is able to apply the principles and practices which promote positive behaviour and underlie good discipline;
- (i) Being able to create and maintain a stimulating, purposeful, orderly and safe learning environment for all pupils, including those with special educational and health needs;
- (j) Demonstrating a knowledge of, and being able to contribute to, strategies to prevent bullying;
- (k) Demonstrating a working knowledge of his or her contractual, pastoral and legal responsibilities;
- (l) Demonstrating an understanding of the roles of, and how to communicate and cooperate with teachers in other schools; members of other professions and agencies concerned with pupils' learning, welfare and career development; and members of the community served by the school;
- (m) Being able to report to parents about their children's progress and discuss with them in a sensitive and productive way matters related to their children's personal, social and emotional development; and
- (n) Demonstrating an understanding of international, national and local guidelines on child protection and teachers' roles and responsibilities in this area.

**9.38 The needs of disabled children - views of NGOs**

*Articles 28, 29, 23*

9.38.1 Mencap commented, during the preparation of this report, on the increasing recognition among professionals of the rights of disabled children to express their views in respect of Care Plans made with the provisions of the Children Act. But they were worried that there might be a need for new ways of translating this awareness into everyday practice. Research by Minkes et al. 1994 and Morris 1997 detail the rarity of consultation with disabled young people about plans to accommodate them away from their family.

9.39.2 This links with the need, in Mencap's view, to equip field and residential social workers with the necessary skills in attending to the messages given by disabled children. There is an urgent need to develop both guidance and a range of multi-media materials to assist staff in consulting disabled young people about their wishes and feelings. There is also a need to develop the parental awareness of children's rights and the value of involving disabled children in plans and especially in their own Transition Plans. The Department of Health have recognized these risks, and commissioned independent research, recently published, as a contribution to improving the abilities of professionals in ascertaining the wishes and feelings of disabled children.<sup>104</sup>

9.38.3 Mencap and other organizations have noted the efforts in the United Kingdom to re-focus Social Services from protection towards prevention. In the case of disabled children, they are concerned to ensure that this does not harm the progress being made in protecting disabled children from abuse. The emphasis on neglect and emotional abuse contained in the recent Consultation Paper Working Together<sup>105</sup> is very much welcomed as these forms of abuse are particularly prevalent among children with learning disabilities.

9.38.4 The United Kingdom Government maintains its efforts to ensure that disabled children have access to education tailored to their needs. Mencap have warned that the emphasis on the National Curriculum and on league tables must not be allowed to have a negative impact on the educational opportunities available to disabled children. They are concerned about the need to provide adequate training for Learning Support Assistants, and that so far as possible disabled children and their parents should have the same degree of choice of school as other children. A particular concern, which the Government recognizes, is the risk that disabled young people, and particularly those with challenging behaviour, are vulnerable to exclusion. Mencap feel that there is a small and largely hidden group of children with complex health needs who are excluded from school by a failure at national and local levels to develop inter-agency protocols to meet health needs in educational settings.

9.38.5 These comments were echoed by the Children's Society, who noted with approval the establishment of the Disability Commission, but pressed for continued progress on including disabled children and children with special needs in mainstream education.



### **9.39 Government action on the education of disabled children**

*Articles 28, 29, 23*

9.39.1 The Government has taken action which already addresses these points. From September 1998, all schools are required to set annual targets for school improvement. In addition, to the statutory core of performance targets, schools will be encouraged to set additional targets that reflect their needs and local priorities. This will take account of children with special education needs including children with disability. The Government has funded research into target setting within special schools and guidance was published in November 1998. This guidance included assessment criteria designed to help with whole-school target setting.

9.39.2 The Government, in its November 1998 document *Meeting Special Educational Needs: A programme for action*,<sup>106</sup> addressed the issue raised by Mencap of the need to provide adequate training for Learning Support Assistants (LSAs). DfEE has commissioned research to look at both existing training available and good practice in the deployment and training of LSAs.

9.39.3 The Government recognizes the importance of inclusion and choice and asked in the Green Paper “What priority measures should we take to include more pupils with special educational needs in mainstream schools?”. In response the SEN Action Programme announced the intention to review the statutory framework for inclusion. In addition, the Disability Rights Task Force (DRTF) has been reviewing the present exclusion of education from provisions of the Disability Discrimination Act. If the Government’s review or that of the DRTF confirm a need for changes, the Government will make them.

### **9.40 Special Educational Needs**

*Articles 28, 29, 23*

9.40.1 The *Code of Practice on the Identification and Assessment of Special Educational Needs (SEN)*<sup>107</sup> was published in 1994 to provide guidance for schools and Local Education Authorities (LEA) on their responsibilities towards all children with special educational needs. Local Education Authorities and schools have now accepted the Code as the principal guide for improving the quality of education for pupils with SEN. The Code continues to have a positive impact on schools, it has led to an improvement in provision for pupils with SEN, and the procedures recommended in the Code are becoming increasingly embedded in schools’ policies and practice.

9.40.2 The Green Paper, *Excellence for All Children: Meeting Special Educational Needs*, published in October 1997 set out proposals for raising the standards of provision with SEN. Practical steps for implementing this vision were set out in *Meeting Special Educational Needs: A Programme of Action*,<sup>108</sup> published on 5 November 1998. Key aspects of the three-year programme include:

- (a) Developing a more inclusive system, e.g. by requiring LEAs to publish their policies on inclusion of children with SEN in their Education Development Plans, providing support through the Standards Fund for promoting inclusion and developing links between mainstream and special schools, increasing the Schools Access Initiative and reviewing the statutory framework for inclusion;
- (b) Providing financial support for projects to improve provision and raise achievements of children with emotional and behavioural difficulties;
- (c) A clear expectation that all LEAs should provide access for all parents and carers of children with SEN to parent partnership and mediation services, with a commitment to legislate if necessary;
- (d) Greater emphasis on listening to and taking account of the views of the child;
- (e) Developing the role of special schools in an increasingly inclusive education system;
- (f) Developing the knowledge and skills of all staff working with children with SEN; and
- (g) Promoting partnership between LEAs and with other local agencies to support children with SEN.

9.40.3 The Welsh Office issued a separate Green Paper in Wales *The BEST for Special Education*.<sup>109</sup> The Welsh Advisory Group on Special Education has been set up with a similar remit to that of the National Advisory Group. It will work to the same timetable.

9.40.4 There is a number of collaborative initiatives being undertaken by the Department for Education and Employment and the Department of Health. These include the development of Behaviour Support Plans and proposals for addressing the needs of children who have Special Educational needs as a result of emotional and behavioural difficulties. Children's rights organizations, including the NCB, were involved in preparing guidance for LEAs on Behavioural Support Plans. These initiatives have been considered by the National Advisory Group for Special Educational Needs. The Government's Social Exclusion Unit is also specifically focusing on truancy and exclusion from school.

9.40.5 Welsh local education authorities have to prepare Behaviour Support Plans in line with guidance issued by the Welsh Office in June 1998.<sup>110</sup>

## **9.41 Special Educational Needs (Scotland): update**

*Articles 28, 29, 23*

9.41.1 In March 1996 The Scottish Office published a circular *Children and Young Persons with Special Educational Needs: Assessment and Recording*.<sup>111</sup> The main purpose of this circular is to advise education authorities, and to inform others, about the statutory arrangements

in Scotland for providing for children and young persons with special educational needs and, particularly, for the undertaking of assessments and the opening of Records of Needs. Education authorities throughout Scotland adhere to the principles and practices contained in it.

9.41.2 In May 1998 The Scottish Office issued A Discussion Paper *Special Educational Needs in Scotland*<sup>112</sup> which invited views on how existing educational arrangements may be improved and made even more responsive to the needs of children and young people with special educational needs and their families. In November 1998 the Government announced a number of measures, worth £8 million per year, including the establishment of a national SEN information and advice service for children and families, additional resources for staff development and training, and increased support for organizations working in the area of special educational needs.

9.41.3 The Discussion Paper also announced the formation of an Advisory Committee to undertake a strategic review and make recommendations on the coordination and provision of education for severe low incidence disabilities. This committee will submit recommendations to Ministers in early 1999.

9.41.4 The Scottish Social Inclusion Network has been established to assist the Government develop a social inclusion strategy for Scotland, a key element of which will be to focus on promoting inclusion among children and young people.

#### **9.42 Children belonging to a minority or indigenous group**

*Articles 28, 29, 31, 2*

9.42.1 It is a fundamental objective of the United Kingdom Government to enable members of ethnic minorities to participate freely in the economic, social and public life of the nation, with all the benefits and responsibilities which that entails, while still being able to maintain their own culture, traditions, language and values. Government action is directed towards addressing problems of discrimination and disadvantage which prevent members of ethnic minorities from fulfilling their potential with the same opportunities as other members of the community.

9.42.2 The Race Relations Act 1976, which applies to the whole of Great Britain but not to Northern Ireland, makes racial discrimination unlawful in employment, training and related matters, in education, in the provision of goods, facilities and services, and in the disposal and management of premises. The Act gives individuals a right of direct access to the civil courts and industrial tribunals for legal remedies for unlawful discrimination.

9.42.3 The Race Relations (Northern Ireland) Order 1997 came into operation on 4 August 1997. The legislation follows the general lines of the Race Relations Act 1976. It gives individuals a right of access to the courts and industrial tribunals for legal redress. The Order also established the Commission for Racial Equality for Northern Ireland to help enforce the legislation and promote equality of opportunity between people of different racial groups. The traditional Irish Traveller community is defined as a racial group for the purposes of the legislation.

### **9.43 Development of respect for the natural environment**

9.43.1 Environmental education provides opportunities for pupils to develop respect for the natural environment. The National Curriculum provides a range of opportunities and requirements for children aged 5 to 16 to study environmental matters. In particular, secondary school pupils must be taught about living things in their environment, ecosystems, population and resources, settlements and their effect on land use, economic development, and the managing and sustaining of environments. The current review of the National Curriculum will be informed by, amongst other things, the recommendations of the Sustainable Development Education Panel, and external panel of education, business and environmental experts. The Panel is considering developing a variety of initiatives to reach all sectors of the population, including the young, with appropriate messages about sustainable development.

### **9.44 Welsh language education in Wales**

*Articles 28, 29, 31*

9.44.1 The Government is committed to a strong system of Welsh medium education: the 1997 Education White Paper *Building Excellent Schools Together*<sup>113</sup> gave a clear undertaking that parents who want their children to be educated in Welsh should have every opportunity to exercise that choice; and that all pupils in Wales should be given the opportunity to learn Welsh at whatever school they attend.

9.44.2 In Wales, Welsh is taught to all pupils between the ages of 5-14 either as a first or second language. Schools also use Welsh as the medium of teaching. Some 27 per cent of primary schools use Welsh as the sole or main medium of instruction and a further 6 per cent use it for part of the curriculum. Nearly 21 per cent of secondary schools use Welsh as the medium of instruction for at least half their foundation subjects (such as history, geography, design and technology and music).

### **9.45 Wales Youth Agency**

*Articles 28, 31*

9.45.1 The Wales Youth Agency was established in 1992 to assist the development of provision of informal education for young people aged 11 to 25 in Wales, across all sectors. It distributes grant to national voluntary youth organizations operating in Wales to support the local services which they provide.

9.45.2 The Agency, in association with the Wales Youth Forum, has worked with a range of young people across Wales and from different organizations to create a voluntary Charter of Entitlement for Young People. The Charter is based on young people's views of services they consider should be available to them.

9.45.3 At a meeting on 14 July 1998, the elected member working group on Youth Issues at the City and County of Swansea formally adopted the Charter as a Pledge for Young People. This pledge will form the basis of a corporate approach to developing services for young people.

9.45.4 The Agency is currently working with the Welsh Office, local authorities and voluntary groups to develop new collaborative programmes to tackle exclusion from secondary school, and to promote greater coordination of services for young people in line with the Government's agenda for lifelong learning.

#### **9.46 Gaelic education in Scotland**

*Articles 28, 31*

9.46.1 The Government in Scotland makes available specific funding for Gaelic-medium education where there are sufficient numbers of children whose parents request it. In 1997-1998, 1,736 children attended Gaelic-medium units in 55 primary schools. Cultural activities related to the Gaelic language are organized by a number of organizations some of which receive Government funding, for instance An Comunn Gaidhealach organize the annual Royal National Mod.

#### **9.47 Irish medium education in Northern Ireland**

*Articles 28, 31*

9.47.1 There have been a number of significant developments since 1994 in the arrangements for funding and supporting the development of Irish medium education in Northern Ireland. In the past three years a total of five schools providing teaching in the Irish language - four primary and one secondary - have been given grant-aided status. This means that of the overall enrolment of 1,375 pupils in Irish-medium schools over 90 per cent are in schools which receive 100 per cent grant-aid.

9.47.2 Provision is now available for GCSE examinations in the medium of Irish, and a unit has been established recently to provide curriculum materials for use in Irish medium schools.

9.47.3 Under the Education (NI) Order 1998 the Department of Education will have a duty to encourage and facilitate the development of Irish medium education. This will place the sector on a footing similar to the integrated education sector.

#### **9.48 Integrated education in Northern Ireland**

*Articles 28, 31*

9.48.1 There has been significant expansion of, and investment in, the integrated schools sector since 1994: total enrolments have increased from just under 4,000 to over 11,000 at October 1998.

9.48.2 In addition, following the issue in 1997 of policy guidelines to all schools in Northern Ireland about the procedures for transforming to integrated status, 12 existing schools have been given approval to become integrated. As a result the integrated pupil population has increased by over 25 per cent since the introduction of the guidelines, from 8,100 to over 11,000.

9.48.3 Between 1994-1995 and 1998-1999 capital investment in new integrated schools has totalled £30 million and a further \$16 million is already planned over the next two years.

9.48.4 The Government has established a Working Group initially chaired by the Minister of Education in the Northern Ireland Office, to examine ways of enhancing the contribution of all schools to the promotion of a Culture of Tolerance, as outlined in the Belfast Agreement. The Group issued to all interested parties a progress report in December 1998 - *Towards a Culture of Tolerance - Integrating Education*. The consultation period closed on 26 February 1999 and the responses are being considered in determining how best to implement some of the recommendations of the working party.

9.48.5 The Education (NI) Order 1998 provides for the recognition and grant-aid of integrated nursery provision for the first time.

#### **9.49 Education for Gypsy and Traveller children in England and Wales**

*Articles 28, 29, 31, 2*

9.49.1 Gypsy and Traveller children are entitled to have access to schools in the same way as other children. The Government provides funding under Section 488 of the Education Act 1996 to meet the additional educational needs of Gypsy and Traveller children in England. This specific grant programme is supporting Traveller Education Services in some 120 Local Education Authorities in England improving access, attendance and achievement for these children. There is a separate programme in Wales.

9.49.2 The Department for Education and Employment has recently produced a video for Gypsy and Traveller parents aimed to improve attendance and achievement at secondary school level.

#### **9.50 Education of Travelling people - Scotland**

*Articles 28, 29, 31, 2*

9.50.1 The Secretary of State's Advisory Committee on Scotland's Travelling People placed considerable emphasis on the consideration of the education of Traveller Children during its 1995-1997 term of office. The Committee recognized that Traveller Children suffer from problems of interrupted learning. It has recommended that local authorities should support the regular attendance of Traveller Children at school and should monitor this. They also recommended that local authorities should seek to educate the settled community in the way of life and culture of Travelling People and promote mutual understanding.

9.50.2 The Scottish Office Education and Industry Department regard the question of the access of Traveller children to education as an equal opportunities issue. The issuing of detailed guidance on the promotion of equal opportunities in education is, however, a matter for education authorities and similarly the responsibility for providing an education for Traveller children falls to schools and education authorities.

9.50.3 In order to assist in this the Scottish Office support with funding the work of the Scottish Traveller Education Programme (STEP). The remit of STEP includes advising schools and education authorities on the needs of Traveller communities and how to improve educational provision for these groups.

## **9.51 Traveller education in Northern Ireland**

*Articles 28, 29 31, 2*

9.51.1 The Education Reform (Northern Ireland) Order 1989 requires that all pupils of compulsory school age in grant-aided schools should have access to a balanced and broadly based curriculum, with their progress regularly assessed and reported to their parents. These provisions apply to all children including Traveller children. The legislation provides parents with the statutory right to express a preference about the school they wish their children to attend.

9.51.2 The policy of the Department of Education for Northern Ireland is that Traveller children can only be effectively provided for in schools which provide a non-discriminatory environment which is understanding of, and sympathetic to, the way of life of Traveller families, which respects and values the uniqueness of Traveller culture and which positively welcomes Traveller children.

## **9.52 The National Lottery**

*Article 31*

9.52.1 The United Kingdom's National Lottery was established in 1993 by Parliament to raise money for worthwhile causes. It was launched in November 1994 and by 31 December 1998 had raised over £6.3 billion for the six good causes, and supported over 34,000 projects nationwide.

9.52.2 The distributors of lottery funds in the United Kingdom (the four national Arts Councils, the four national Sports Councils, the Heritage Lottery Fund, the National Lottery Charities Board (NLCB), the New Opportunities Fund and the Millennium Commission) are already funding many thousands of projects which, either directly or indirectly, benefit children. The Arts Councils aim to help people across the United Kingdom enjoy, and take part in, the broadest possible range of arts activities. *Their Arts 4 Everyone* scheme has placed a particular emphasis on young people and projects which support and develop their talents. The National Lottery Charities Board gives grants to help those at greater disadvantage and to improve the quality of life in the community. The first three grant programmes included "youth issues and low income". The Heritage Lottery Fund preserves, restores or acquires the nation's most treasured heritage, which makes up the fabric of the nation's history and culture. The Millennium Commission aims to fund projects which will make a substantial contribution to the community and will be seen by future generations as marking a significant moment in their history. The Sports Councils distribute lottery funds to encourage and enhance sport for all.

9.52.3 Schools have received 1,769 awards worth £123.9 million, playgroups have received 255 awards worth £2.9 million, and youth organizations have received 271 awards worth £8.4 million. In total the youth sector has received 1,328 awards worth £174.1 million.

9.52.4 Specific examples include:

(a) A grant of £80,000 by the Arts Council of England to Bingham Infants Self-Help Group in Nottinghamshire towards development of a multi-purpose hall for arts usage. The hall will benefit both school pupils and the wider community in an area which has suffered from recent pit closures;

(b) A grant of £48,986 by the Sports Council for Wales to Vale of Glamorgan County Borough Council for the provision of skateboarding facilities in a safe environment for a large number of youngsters in the Vale of Glamorgan;

(c) A grant of £7,000 by the Heritage Lottery Fund towards the development of a play centre in Battersea Park, London under its Urban Parks Programme;

(d) A grant of £382,375 by the Scottish Arts Council to the Scottish Library Association to donate specially selected sets of 36 Scottish books to every one of Scotland's 400 secondary schools.

9.52.5 Information from the National Lottery Charities Board (Wales) shows that pre-school education in Wales received 218 grants, totalling £1,394,908; whilst play projects received 228 grants, totalling some £1.75 million, 294 grants totalling £1,768,572 have been targeted specifically at the 0-5 age range, and 422 grants totalling £5,240,021 have been targeted at the under 18s.

9.52.6 Ministers want to build on the contribution that the lottery has already made to the quality of life of children. A leaflet, which heightens the availability of lottery funding for children's play, was published by the Department for Culture, Media and Sport (DCMS) in June 1998.<sup>114</sup> This leaflet emphasizes the role of lottery distribution in opening up opportunities for children and young people. It also emphasizes the importance of the lottery for reducing economic and social deprivation, which will help children living in areas of deprivation.

9.52.7 This Government and its predecessor have made clear that money raised by the National Lottery must be additional to any money which would have been spent by local or national government. There are strict conditions about young people buying lottery tickets - no one under 16 years old may purchase a National Lottery ticket, and the Government requires the lottery organizer vigorously to enforce this provision, with retailers being refused permission to sell National Lottery tickets if they breach this requirement.



### **9.53 The New Opportunities Fund**

#### *Article 31*

9.53.1 The National Lottery Act, which received Royal Assent on 2 July 1998, established a new distributor, the New Opportunities Fund, financed by the extra £1 billion which the lottery is generating. The Fund will support one-off initiatives in health, education and the environment. The first of these will be training and support in the use of information and communications technology for serving teachers and librarians; out of school hours activities, including childcare; and a network of healthy living centres.

9.53.2 Education initiatives will be wide-ranging and will include training and the provision of activities for children. The New Opportunities Fund will receive 13 per cent of lottery proceeds for good causes. This will increase to 20 per cent from October 1999.

9.53.3 The New Opportunities Fund is considering with the Welsh Office, the Scottish Office, the Department of Education in Northern Ireland, and other bodies, how best to manage the grant regimes in those parts of the United Kingdom. The impact of the initiatives for children and young people will be of significant and wide-ranging benefit.

### **9.54 Children and the arts: funding**

#### *Article 31*

9.54.1 The Government believes that the performing and visual arts have a vital role to play in the development of children and young people. They have the power to initiate and sustain an awareness of creative potential and a sense of self, and enable young people to develop analytical and cognitive skills. The arts not only help to broaden understanding of artistic practice, but can also make an integral contribution to the development of a child's all-round education. The Government seeks to raise awareness of the importance of, and contribution the arts can make to, children's lives. Departments with responsibilities in this area work in close cooperation and continue dialogue with other key players in the arts and education field.

9.54.2 Creating access to the arts is a cornerstone of the Government's arts policy. The 1998 National Lottery Act established the New Opportunities Fund, a sixth good cause to be supported by the Lottery. NOF will channel £205 million into out-of-schools hours education activities designed to raise educational standards. These activities may include projects in areas such as music, dance, drama, film and the full range of the arts. In addition, the New Audiences programme, administered by the Arts Council of England, provides up to £5 million per annum for pilot projects aimed at broadening audiences and at finding new ways of encouraging young people to participate in the arts.

9.54.3 Since the publication of Leading Through Learning (1997) - the Arts Council of England's Education and Training Policy document, the Arts Council continues to lead on a number of key initiatives in relation to developing high quality arts learning opportunities for young people. These include an Education Action Zone research initiative investigating the

impact of the arts as a means of combating social exclusion and enhancing personal growth and learning development; and careers information for the arts sector aimed at helping young people make informed decisions about career opportunities within the cultural industries.

9.54.4 The National Lottery is an important funding opportunity for arts education activities. Awards under the capital programme have provided resources and improved facilities for schools and colleges, arts organizations and venues. The Arts Council recognizes in its Lottery Strategy Plan (June 1999) that education is often the way in which people come to the arts for the first time, through activities at school and colleges.

9.54.5 On 24 June 1999 the Prime Minister launched the National Foundation for Youth Music, a new independent body, to give every child the opportunity to access music-making. Drawing on £30 million of Arts Council Lottery Funds over three years, and working to complement the DFEE's £150 million Music Standards Funds measures, it will seek to increase and improve access, breadth, coverage and the quality of music making. It will deliver its objectives by attracting and distributing funds; providing strategic advice and guidance; as the National advocate, raising the profile of the debate on music education.

9.54.6 The Arts Council's Arts for Everyone (A4E) programme continues to fund opportunities for innovative and experimental initiatives in arts education across a spectrum of youth groups, community groups and the voluntary sector. A total of £50 million was awarded to 425 organizations as a result of the four rounds of A4E applications. Significant awards include:

(a) £350,000 to CAPE, an organization which promotes and develops creative arts learning in schools or other educational establishments for pupils, teachers and others involved in education;

(b) £31,000 to First Movement, which develops drama, dance, music and visual arts projects for people with severe and profound learning disabilities;

(c) £93,500 to Get Art, a collaboration between the special schools in the London Borough of Tower Hamlets and Chisenhale Gallery which will enable the pupils and teachers from schools to work with professional artists and participate in a three-year programme of gallery visits, art workshops, discussions and exhibitions of their own work at Chisenhale Gallery;

(d) £88,000 to Education Extra, additional funds to enable the organization, which already works in partnership with schools to extend and enhance the curriculum by providing out of hours activities, to develop and deliver a programme of extra-curricular arts learning opportunities;

(e) £69,000 to Play Train, a leading playwork training agency which uses article 31 as its guiding principle to develop and implement policy in relation to young people and opportunities to experience fully and participate in the arts and culture.

9.54.7 There are no further A4E application rounds. A cross-distributor programme, Awards for All, is being launched during summer 1999, and the new Regional Lottery Programme will provide funding for new arts education projects via the 10 Regional Arts Boards.

## **9.55 Provision of broadcast programmes for children**

### *Article 31*

9.55.1 Currently the main United Kingdom terrestrial television channels are all required to provide a proportion of high quality children's programming in their schedules, and they all include really identifiable children's programme strands, including "Children's BBC" and "Children's ITV". Programmes cater for a range of age groups from pre-school to teenagers and cover various genres including drama, factual and knowledge-building programmes, news and current affairs for children. Additionally, the BBC, Channel 4 and S4C, provide a range of schools programming to complement the national curriculum.

9.55.2 The BBC has produced a Children's Television Charter and its Statement of Promises to Listeners and Viewers promises to maintain the range of children's programmes.

9.55.3 The proliferation of cable and satellite services in recent years has allowed specialist channels to address themselves to particular audiences and the Independent Television Commission has issued licences for several channels aimed at children, such as The Children's Channel (TCC). As new digital services develop there will be further scope for and interest in developing more choices for children.

## **9.56 Protection of children from unsuitable broadcast material**

### *Articles 17, 19*

9.56.1 All broadcasters are required to ensure that they do not broadcast material which "offends against good taste or decency or is likely to encourage or incite to crime or lead to disorder or to be offensive to public feeling". There are specific arrangements to ensure the protection of minors, including the operation of a watershed which requires that programmes suitable only for adult viewing cannot be shown before a certain time.

## **9.57 Advertising and children**

### *Articles 17, 19*

9.57.1 Commercial broadcasters have specific guidelines which they must observe in advertising to children. At times when children are likely to be viewing no product or service may be advertised, and no method of advertising may be used, which might result in harm to them physically, mentally or morally, and no method of advertising may be employed which takes advantage of the natural credulity and sense of loyalty of children.

## **9.58 Broadcasting for minorities**

### *Article 31*

9.58.1 The Radio Authority Licences 10 local radio services licences which provide programmes catering for the tastes and interests of ethnic minority audiences. Additionally, cable and satellite licences have been granted to 16 Asian and 7 Afro-Caribbean broadcasters.

9.58.2 The Welsh Fourth Channel (S4C) caters for the estimated 500,000 speakers of the Welsh language. S4C transmits an average of 30 hours of Welsh language programming a week. The Gaelic Television Fund provides for approximately 350 hours of television programmes in Gaelic in Scotland each year.

## **9.59 The National Endowment for Science, Technology and the Arts (NESTA)**

### *Article 31*

9.59.1 The National Lottery Act 1998 established a new United Kingdom-wide Non-Departmental Public Body, the National Endowment for Science, Technology and the Arts (NESTA). NESTA will help to promote educational and cultural opportunities for children, young people and adults. It will have three broad objectives to help talented individuals in the fields of science, technology and the arts to achieve their full potential, to help turn inventions or ideas into products or services and to help promote public knowledge and appreciation of science, technology and the arts. It will receive an endowment of £200 million from the National Lottery and it will use the income generated by the endowment to fund its programmes.

## **9.60 Libraries**

### *Article 31*

9.60.1 There are 4,500 branch libraries around the United Kingdom providing an essentially free service. Under the Public Libraries and Museums Act 1964, local authorities have a duty to provide books and other material to satisfy the recreational, educational, cultural and information needs of all members of the population, including children and young people. Public libraries also provide access for children after school as well as during the day, homework space, trained specialist staff and activities designed to encourage them to use the library and to read regularly. The development of a public libraries IT network, which the Government announced in April 1998, will enable the wealth of public libraries' resources to be brought to an even wider audience in new and exciting ways.

## **9.61 Museums and galleries**

### *Article 31*

9.61.1 Education is a central activity for museums and galleries and one of the prime reasons for the establishment of many. They have much to offer schools in reinforcing classroom lessons and helping children to learn in attractive and enjoyable ways. Being able to see and

handle real objects provides a much greater degree of understanding. The Government is particularly keen to encourage museums and galleries to develop their educational role. Hundreds of thousands of school children visit museums every year for study which supports and enriches the National Curriculum. Almost a third of the 76 million visitors to the United Kingdom's 2,500 museums are children either in school visits or independently.

9.61.2 In January 1997 the Department for Culture, Media and Sport (DCMS) published a report on museum education *A Common Wealth: Museums and Learning in the United Kingdom*<sup>115</sup> written by David Anderson of the Victoria and Albert Museum (one of central government's sponsored museums). The report has been widely distributed free of charge to encourage museums and other relevant bodies to consider afresh their educational role.

9.61.3 Many museums and galleries operate generous concessions for children offering discounts for school-age children and families, and free admission periods. All pre-booked educational groups are free to the national institutions and many others also offer concessions for children who are not members of school groups, either as part of a family ticket or if they visit alone. Admission is free for all children at all national museums and galleries in England. The Heritage Lottery Fund has recently set up a Museums and Galleries Access Fund of \$7 million, to help museums and galleries to promote access to their collections. This might be through major touring exhibitions, or might mean more selective work i.e. funding transport costs or attracting wider audiences to museums. This should include work with school children or with socially disadvantaged groups.

9.61.4 In July 1997 the Museums and Galleries Commission published a report *Children as an Audience*<sup>116</sup> for museums and galleries aimed at increasing informal visits by children. It included the views of children aged 7 to 11. This suggested ways in which exhibitions and marketing could be developed to attract children. The findings have been widely disseminated.

9.61.5 The National Museums and Galleries of Wales (NMGW) help to enhance the education process through the relevance and scope of their collections and through the environment they present. Handling real objects is a vital element in the learning process and NMGW operate a loan service to schools which can call on a loan collection of some 15,000 objects. Their service to Wales and Welsh schools is significant in its size and scope and adds value to learning in schools. Around 120,000 pupils a year in Wales have access to objects in their schools via the loans service. School visits are also important. The proportion of these varies in the different locations of NMGW, but across the organization some 20 per cent of visitors are pre-booked school groups. When this figure is added to family and ad hoc visits, then over a third of visitor figures are accounted for by children. NMGW do not, at present operate free admission for pre-booked educational groups.

9.61.6 As a result of the report *A Common Wealth: Museums and Learning in the United Kingdom* NMGW cooperated with the Campaign for Learning in Museums in running a conference for educationalists and education authority officers. Additionally, NMGW hosted the Group for Education in Museums Conference which considered the report and its implications.

9.61.7 As well as working to attract young people, NMGW subscribe to the support of lifelong learning. A particular aspect of their work is supporting the learning and use of the Welsh language through the bilingual annotation and explanation practice.

## **9.62 Cadw: Welsh Historic Monuments**

### *Article 31*

9.62.1 Cadw: Welsh Historic Monuments is the Agency within the Welsh Office responsible for the conservation, protection and promotion of the built heritage of Wales. One of Cadw's roles is to educate the public about the built heritage and to encourage their participation in advancing the understanding and enjoyment of it.

9.62.2 Schools and educational establishments are encouraged to make full use of the 130 monuments in State care in Wales. Cadw encourages this through the provision of free visits for organized educational groups in term time, provision of education rooms at some sites; the funding of an Education Officer jointly with the National Museums and Galleries of Wales at Roman Caerleon; and the provision of resource materials such as Teachers' Packs, worksheets and videos.

9.62.3 Cadw attracts around 120,000 educational visitors a year to staffed sites with almost one fifth of that number making a visit to the Roman sites at Caerleon and Caerwent.

## **9.63 Heritage**

### *Article 31*

9.63.1 English Heritage (the Historic Buildings and Monuments Commission) is a non-departmental public body whose Chairman and Board of Trustees are appointed by the Secretary of State for Culture, Media and Sport. It has an income of about £130 million a year. A statutory role of English Heritage is to educate the public about the nation's historic environment and encourage their participation in advancing the understanding and enjoyment of it.

9.63.2 The English Heritage Education Service encourages schools and other educational establishments to make full use of the historic environment. This is accomplished at both national and regional levels. Regional work is led by locally-based education officers who work with schools, colleges and local education authorities to give help and advice on the educational use of sites in the custody of English Heritage and of the wider historic environment. The *History at Home* programme seeks to encourage and help parents educate their children about their local surroundings and English Heritage actively supports broader initiatives such as the European Union's *Schools Adopt a Monument* scheme. Nationally English Heritage offers a support service to teachers through a wide-range of resources whilst collaborating with agencies such as the Qualifications and Curriculum Authority to formulate educational policy in the teaching of history and the use of the historic environment across the curriculum and at all levels of education.

9.63.3 In 1997-1998 staffed properties in the custody of English Heritage received 494,000 educational visitors, 1 in 12 of all the visitors to English Heritage properties, and they aim to increase this to 525,000 in 1998-1999. Free admission is granted to educational groups on the condition that the visit is properly organized and is part of planned curriculum work based around the study of the site. A growing number of properties have Education Centres specifically designed to meet the needs of these groups and to encourage other visitors to spend time considering the fun and formal educational aspects of their visit.

9.63.4 English Heritage education officers run a varied programme of courses for teachers and events for children to encourage the use of the historic environment as an educational resource. In 1996 English Heritage launched a membership scheme for teachers, *Windows on the Past*, which allows teachers unlimited access to sites to plan their school visits.

9.63.5 English Heritage produces a wide-range of publications, audio-visual materials, posters and CD-ROMS, including:

(a) Individual teachers' handbooks to guide teachers in maximizing the benefits of visits to major sites;

(b) An *Education on Site* series which includes national curriculum titles (such as *Geography and the Historic Environment*, *Mathematics*), and generic themes (such as *Using Castles*);

(c) Over 50 videos whose subject matters include training for teachers in the use of sites for National Curriculum work, a *History Trail* series aimed directly at the classroom, and awareness-raising videos such as *Archaeology at work*;

(d) *Heritage Learning* a free magazine sent to schools on a termly basis;

(e) Free information sheets at each site;

(f) *Visiting Historic Sites*, a free gazetteer of sites and advice on how to use them.

## **9.64 Scottish Natural Heritage**

9.64.1 Scottish Natural Heritage is a non-departmental public body whose Chairman and Board are appointed by the First Minister of the Scottish Parliament. It has an income of about £40 million a year of which some £38 million is grant aided by The Scottish Executive. The primary purposes of SNH are to secure the conservation and enhancement of Scotland's wildlife and landscape, to foster understanding and facilitate enjoyment of the natural heritage, and to promote its sustainable use.

9.64.2 SNH considers that environmental education is fundamental to improving people's sense of responsibility for, as well as awareness and enjoyment of, the natural heritage. SNH has an educational programme targeted on key groups. The main effort has been directed at schools

with advice on changes to the curriculum, changes to teacher training programmes, the provision of resource packs for use in the classroom and a very successful grant-aid scheme for wildlife in school grounds (Grounds for Learning). In addition, resources have been targeted on improving the awareness and practice of professionals and volunteers working in education and the environment, through our “Getting to Grips with Learning” programme which offers opportunities to share good practice and develop new ideas.

9.64.3 However, the major effort, in resource terms, is through the sponsorship and financial support for some 90 ranger services in Scotland, employing approximately 300 Rangers. Their primary task is environmental education at key sites such as country parks and in the wider countryside, including liaison with local communities and with schools. More than £2 million per annum is provided by SNH to this activity. Rangers can be employed by local authorities, voluntary organizations and private estates. In order to ensure high standards and consistency of approach, SNH also supports the coordination and delivery of a national Ranger Training Course programme.

9.64.4 SNH owns and manages a number of key nature conservation sites within Scotland as National Nature Reserves (NNR). While their primary purpose is nature conservation, they offer opportunities to increase public understanding and enjoyment. Most NNRs have interpretative material on site, and a number also have visitor centres. Those near to population centres receive regular educational visits from schools and colleges, but no records of numbers are kept.

9.64.5 Scottish Natural Heritage produces a wide range of publications, audio-visual materials and posters, including a range of education and teachers’ resources:

- (a) Collection of the best environmental education resource material in the form of “community chests”, “sea chests” and “tree trunks”;
- (b) A pack of learning resources, “Investigating the Environment - a Practical Guide”, including a teachers’ guide and students’ handbook;
- (c) Several poster series on topics such as sustainability, biodiversity, geology, weathering processes and land cover in Scotland;
- (d) Fact sheets and posters on Scotland’s best loved species;
- (e) The Pine and the Eagle, a video of a musical drama to help youth leaders and teachers explore the value of the natural heritage to contemporary life.

## **9.65 Play and sport**

### *Article 31*

9.65.1 The Government recognizes the value of play in children’s development and sees play opportunities as an important area of work. The Department for Culture, Media and Sport has lead responsibility for children’s play in England. Since 1996 this has been channelled through a



contract with the National Playing Fields Association (NPFA) which carries out a programme of work in the areas of information dissemination, playwork education and training and play safety on behalf of the Department.

9.65.2 As part of the remit for education and training the NPFA grant funds for four National Centres for Playwork Education. These are based in Birmingham, Cheltenham, London and Newcastle. Each centre develops high quality training programmes for play workers which support the principle that play is the province of the child and the child must have autonomy over it. Inherent in this child-centred play work training is the child's right to take part in freely chosen play activities. All participants in training developed by the Centres are aware that the child must be at the centre of the play process.

9.65.3 In addition, all playwork training programmes are underpinned by the principles of equal opportunities and support the right of the disabled child to play in inclusive play settings.

9.65.4 Under the information dissemination remit of the work, the NPFA manages the National Play Information Centre (NPIC), the world's largest specialist resource on children's play. The Centre runs a variety of information service covering a range of aspects of children's play. Recent research undertaken by the NPFA about the difficulties play workers have in locating information has shown that the information services provided are highly valued. The underpinning value of the centre's work is based in the child's right to play.

9.65.5 Under the safety remit of the work, the NPFA established a Play Safety Forum, consisting of key national organizations which deal with the provision of children's services and/or their safety. The Forum recognizes the child's right to play and that a degree of risk is necessary for children in their play. Risk in play promotes the child's ability to analyse danger and, as a consequence, keep themselves and their peer group safe. The Forum is investigating a definition of the balance between safety, and risk to advise service providers. The NPFA has disseminated information about safety aspects of fixed equipment playgrounds. It has also revised "Playground Safety Guidelines", the country's leading publication on playground safety.

9.65.6 The NPFA launched *Play Today*, a free-by-monthly newspaper to cover all aspects of its Agreement with the DCMS. It has received acclaim from all parts of the play sector and a recent reader survey has indicated that the majority of readers feel it has improved their practice.

9.65.7 The new Government established a Youth Sports Unit within the Department for Culture, Media and Sport in May 1997. The Unit works closely with the Department for Education and Employment and Sport England (formerly the English Sports Council), which undertakes a number of initiatives which aim to raise the profile and quality of physical education (PE) and sport in schools and for young people. A number of these come under the umbrella of Sport England's Active Schools Programme.

9.65.8 This major programme was launched in March 1996 and provides a framework within which schools, local authorities, governing bodies of sport, sports clubs and youth organizations can work together to provide quality sporting opportunities for 4 to 18 year olds in a planned and

coordinated way. Developments within the programme include the production of curriculum resources and in-service training for teachers and a series of nationally produced resources to be delivered locally.

9.65.9 Initiatives include the TOP programme. TOP Play, BT TOP Sport and TOP Club have been developed and delivered jointly by the English Sports Council and the Youth Sport Trust. TOP Play involves teaching core skills and fun sport to 4-9 year olds, while BT TOP Sport introduces sport and games to 7-11 year olds. TOP Club is a sport-specific initiative, allowing governing bodies to customize sports to suit and promote particular club structures and needs. TOP Play and BT TOP Sport have also been recognized as a valuable resource to enhance the games element of the physical education curriculum.

9.65.10 Developments of the TOP programme have included the introduction of training for individuals to work with children with disabilities and the establishment of a framework to extend the application of TOP Play and BT TOP sport into after school clubs and wider community activities involving local authorities and governing bodies. There are currently 78 schemes being delivered in the community covering nine sports.

9.65.11 Champion Coaching aims to improve performance and develop coaching for 11-14 year olds. After an initial five-year commitment from the English Sports Council and the National Coaching Foundation, local authorities' involvement in Champion Coaching is recognized by an established accreditation scheme. The scheme offers benefits such as scholarships for coaches, assistance in coach development strategies and links with sports development networks.

9.65.12 Champion Coaching is now fully integrated within the National Junior Sport Programme. The scheme has been delivered to 126 local authorities by the end of 1996-1997. Over 3,000 coaches are deployed within the programme with plans to cover over 20 sports.

9.65.13 Sports Fair promotes sporting activity in youth groups. Developed jointly with Youth Clubs UK, it includes Sports Train education and training materials for youth workers.

9.65.14 The Sportsmark and Sportsmark Gold awards were developed to recognize quality physical education and school sport. The secondary school scheme was launched in October 1996 and over 600 applications for the schemes were received. Schools were required to test their eligibility for the awards against a number of basic criteria. Of the 412 successful schools, 30 achieved special recognition by gaining the Sportsmark Gold award, a mark of special distinction for schools whose sports policies exceeded the basic criteria across a number of important requirements. Applications for the next round of awards have now been received. The English Sports Council (ESC) are now working up proposals for an Activity award for primary schools.

9.65.15 The Foundation for Sport and the Arts (FSA), which is funded by a reduction in the Pool Betting Duty, is a grant aiding a variety of sports projects for young people across the country as is the Government's Business Sponsorship Incentive Scheme for Sport, Sportsmatch, which operates in England, Wales and Scotland.

9.65.16 The Government announced in January 1998 how it will control the disposal and change of use of school playing fields in England, which schools and their local communities need. Two key measures were announced in a coordinated Departmental approach: the introduction of new legislation requiring the prior consent of the Secretary of State before the disposal, or change of use, of State school playing fields; and tighter planning controls over the development of playing fields owned by local authorities and other playing fields used by educational institutions. Together, these measures will ensure that schools' own needs, and those of the wider community, are taken into account. The Government will review the effectiveness of these measures after the first 12 months of their operation.

## **9.66 Sport in Wales**

### *Article 31*

9.66.1 The Welsh Office has responsibility for sports policy in Wales. One of the main aims of the Department is to increase participation in sports and physical activity in Wales, particularly among young people. This is pursued mainly through the work of the Sports Council for Wales.

9.66.2 Much of the Council's work has been towards providing a range of sporting opportunities for young people at all levels of ability, from recreationally-based extra-curricular activity in local communities, to the development of excellence at national level. This has involved working with partners to set up strong community networks and a national action programme.

## **9.67 Sport in Scotland**

### *Article 31*

9.67.1 Within the Scottish Office responsibility for sports policy rests with the Sports Policy Unit of the Education and Industry Department. One of the main objectives of the Department is to increase participation in sports and physical activity in Scotland, particularly among young people. This is pursued mainly through the work of the Scottish Sports Council (SSC).

9.67.2 The SSC is the Government's main advisory body on sport in Scotland. Youth sport is one of its main priorities and in May 1996 it launched the National Youth Sports Strategy. The key elements of the Strategy are coaching, clubs, equality, physical activity and school sports. While this strategy will benefit children of all ages, it also includes a framework for physical activity which focuses particularly on young children through the Start Young Stay Active programme.

9.67.3 The SSC is also involved in promoting the Top Play scheme in primary schools. The scheme aims to provide physical activities, including tuition for teachers, within the framework of the 5-14 national curriculum guidelines. Top Play is aimed at younger primary school pupils between the ages of 4 and 9.

9.67.4 In January 1998 the Government announced that School Sports Coordinators would be provided in every Scottish secondary school with the help of National Lottery Funding. The scheme has been developed by the SSC and builds on a number of pilot projects currently under way throughout Scotland. The programme is designed to promote sport to young people as an intrinsic part of their school life, to encourage them to build an active lifestyle into every day. Local authorities will be able to apply for funding in support of Coordinator appointments in all Scottish secondary schools. National Lottery Funding is also supporting the activities of junior sports groups.

## **9.68 The Sporting Ambassadors Scheme**

### *Article 31*

9.68.1 The Sporting Ambassadors Scheme is a new scheme established by the English Sports Council, which was successfully piloted during 1997-1998 in four English Sports Council regions. The scheme will provide opportunities for successful sports men and women of all ages to visit schools to enthuse young people about the benefits of physical activity and a healthy lifestyle.

9.68.2 The objectives of the scheme are:

(a) To encourage and provide opportunities for sporting ambassadors to visit schools to make pupils, teachers, parents and governors aware of the benefits of a wide range of sport and physical activities;

(b) To encourage positive and continuing links between schools and local sports clubs and centres;

(c) To promote the value of sport and physical activity as a essential element of every young person's lifestyle;

(d) To promoting the concept of fair play and good sporting behaviour; to help motivate young people to realize their full potential in competitive sport;

(e) To involve, in particular, women ambassadors to motivate girls to participate in sport; and

(f) To offer role models to young people from a range of ethnic backgrounds, and to those with disabilities.

## **9.69 Sports and regeneration**

### *Article 33*

9.69.1 The Department of the Environment, Transport and the Regions supports local play and sporting provision for young people as part of its regeneration policy. Projects of this sort in England's deprived areas are supported through the Department's Single Regeneration Budget and New Deal for Communities.

9.69.2 In 1998 the Social Exclusion Unit published a report on neighbourhood renewal which showed that in the 44 local authority districts with the highest concentration of deprivation in England almost a third of children were growing up in families on Income Support, against less than a quarter in the rest of England. Following the report, 18 interdepartmental neighbourhood renewal Policy Action Teams were set up to look at complementary aspects of neighbourhood renewal.

9.69.3 Policy Action Team 10 reported to the Social Exclusion Unit in April 1998 on the contribution arts and sport could make to neighbourhood renewal. The team found that arts and sport can contribute to action to reduce crime and unemployment, improve health and increase educational attainment. The Government has welcomed the report of PAT 10 and intends to implement many of its recommendations.

## **10. SPECIAL PROTECTION MEASURES**

**This chapter covers articles:**

- 11** *Measures against abduction and non-return from abroad*
- 22** *Refugee children*
- 32** *Economic exploitation*
- 33** *Misuse of drugs*
- 34** *Sexual exploitation*
- 35** *Slavery*
- 36** *Exploitation prejudicial to welfare*
- 37b-d** *Unlawful imprisonment and Maltreatment when detained*
- 38** *Protection during armed conflict including prohibition on armed service for those under 15*
- 39** *Protection of child victims of neglect and abuse*
- 40** *Treatment of children under the criminal law*

### **10.1 Drug misuse**

#### *Article 33*

10.1.1 United Kingdom drugs legislation is based on the United Nations Single Convention on Narcotic Drugs 1961 (as amended by the 1972 Protocol), the Convention on Psychotropic Substances 1971 and the Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988.

10.1.2 In May 1995 the Government introduced as a White Paper, *Tackling Drugs Together*,<sup>117</sup> a strategy for the period 1995-1998 to tackle drug misuse in England. Separate strategies were developed for Scotland, Wales and Northern Ireland.

10.1.3 Focusing on crime, young people and public health, *Tackling Drugs Together* recognized the need for stronger action on reducing the demand for illegal drugs whilst maintaining the emphasis on law enforcement and reducing supply. Coordination between Government departments was improved at national level and 106 Drug Action Teams, made up of senior representatives from health and local authorities and criminal justice agencies, were established across England to coordinate action in delivering the strategy at the local level. Each Team also set up a Drug Reference Group or Groups to provide a source of local expertise and to harness local communities in action to tackle drug misuse. Membership includes voluntary and statutory service providers, community groups, doctors, social governors and local business interests.

10.1.4 One of the three main aims driving the strategy was to reduce the acceptability and availability of drugs to young people. Overall it was recognized that the strategy was a step in the right direction but that a fresh long-term approach was needed.

10.1.5 A United Kingdom Anti-Drugs Coordinator was appointed by the Government as a special adviser on drugs issues with effect from 5 January 1998.

10.1.6 In April 1998 the United Kingdom Government published a new 10-year national strategy to tackle the problems of drug misuse. *Tackling Drugs To Build a Better Britain*<sup>118</sup> focuses on England but is relevant to Scotland, Wales and Northern Ireland and highlights the United Kingdom's international responsibilities. Local Drug Action Teams continue to be the mechanism by which the national objectives are delivered at local level and for involving communities.

10.1.7 The Government's vision is of a healthy and confident society, increasingly free from the harm caused by the misuse of drugs. The new strategy is long-term, evidence-based and positive in its approach. It sets out four overarching aims:

- (a) **young people:** to help young people resist drug misuse in order to achieve their full potential in society;
- (b) **communities:** to protect communities from drug related anti-social and criminal behaviour;
- (c) **treatment:** to enable people with drug problems to overcome them and live healthy and crime-free lives;
- (d) **availability:** to stifle the availability of drugs to young people (under 25).

10.1.8 Challenging targets have been set in respect of the strategy's key objectives. It is hoped to put a comprehensive survey in place to provide drug misuse data on young people from age five upwards.

10.1.9 Some children are involved with their peers in supplying small quantities of drugs to each other for their own use, but there is very limited evidence of their active participation in the wide-scale production or trafficking of drugs. The occasional case is reported of young people being involved in the carrying of small quantities of drugs for delivery across a city, but these reports are sporadic.

10.1.10 The United Kingdom Government recognizes that the drug problem cannot be tackled in isolation. It is linked to other socio-economic issues and needs to be tackled in conjunction with social exclusion and regeneration initiatives. Drugs affect individuals and communities. The strategy aims to tackle both the supply of, and demand for, drugs through a detailed programme of action, supported by research.

10.1.11 Research is revealing a great deal about the relationship between drugs and young people. Many never take drugs at all, many who do experiment grow out of it quickly, but a small hard core develop very serious problems. The strategy sets out a programme of action involving young people which includes:

(a) Informing young people, parents, and those who advise them or work with them about the risks and consequences of drug misuse;

(b) Teaching young people from the age of five upwards both in and out of formal education settings the skills needed to resist pressure to misuse drugs;

(c) Helping make the misuse of drugs less culturally acceptable to young people, including the use of effective and targeted national and local publicity and information;

(d) Promoting healthy lifestyles and positive activities not involving drugs and other substance misuse;

(e) Ensuring that the groups of young people most at risk of developing serious drug problems receive appropriate and specific interventions;

(f) Ensuring that young people from all backgrounds, whatever their culture, gender or race, have access to appropriate programmes; and

(g) Building on and disseminating good practice in identifying what works best in prevention and education activity.

## **10.2 Drugs and health**

### *Article 33*

10.2.1 The Department of Health and the Health Education Authority began a national drug prevention campaign in 1995. The campaign has been based on the provision of accurate information for young people about the risks of drug misuse. The principal elements of the campaign are:

- (a) A programme of research into the use of the media to help drug prevention;
- (b) Radio and magazine advertisements about the risks of drug misuse;
- (c) Written information materials provided free for young people and their parents;
- (d) Use of new media including CD-ROM and the Internet;
- (e) Providing information to young people in clubs and at events, such as major music festivals;
- (f) Partnership with major “blue chip” companies to encourage them to participate in drug prevention activity and to help them channel their efforts.

10.2.2 In addition, since 1995 the Health Departments of England, Northern Ireland, Scotland and Wales have invested in a National Drugs Helpline. This is a freephone information service for anyone who is concerned about drugs. It is now used by hundreds of thousands of people each year.

### **10.3 Drugs: education and employment**

#### *Article 33*

10.3.1 The Department for Education issued Circular 4/95 as guidance to all schools in England in May 1995. The Circular sets out the statutory position of drug education in schools, and offers guidance to help schools develop and implement programmes of drug education and deal effectively and consistently with drug-related incidents. To support and underpin the Government’s strategy, in autumn 1998 the DfEE issued further guidance to teachers, youth workers and other professionals which built on the messages within the DfEE’s earlier circular. The guidance encouraged Local Education Authorities and individual schools to take note of best practice in drug education.

### **10.4 Home Office drugs prevention work**

#### *Article 33*

10.4.1 The Home Office Drugs Prevention Initiative (DPI) has continued to test a wide range of community-based approaches to the prevention of drug misuse by young people. Following the United Kingdom’s first report in 1994, the DPI was reorganized to give a sharper focus to its work. Twelve larger drugs prevention teams were created in 1995, covering larger areas in England. The DPI managed a programme of over 70 local projects in partnership with bodies such as schools, local authorities, criminal justice agencies and the voluntary sector. This work had aimed to find out which approaches had a positive impact on young people, their families, and the wider community in which they lived. Much of the work was developed in consultation with the young people themselves. It included not only programmes aimed at the majority of young people, but also schemes which targeted those who might be at higher risk of drug misuse, such as children who had been excluded from school, those who were being looked after by local authorities, and young offenders.



10.4.2 The DPI's work was underpinned by a robust body of research harnessed to a national programme of learning. A key aim of the DPI was to spread good practice to policy makers and practitioners nationwide. In particular, guidance disseminated by the DPI helped the national network of Drug Action Teams to plan and implement effective local drugs prevention strategies aimed at young people and others as part of the national drugs strategy.

10.4.3 From April 1999, the Drugs Prevention Initiative was replaced by a new body, the Drugs Prevention Advisory Service (DPAS), established on an England-wide basis. Its support for work with young people includes:

- (a) Helping Drug Action Teams to develop prevention strategies locally and regionally, based on good practice findings;
- (b) Development of demonstration programmes to provide further evidence of effective prevention;
- (c) Ensuring that prevention programmes are linked with relevant government policies such as action to tackle social exclusion;
- (d) Contributing to consistent and coherent prevention policy across government.

10.4.4 DPAS will publish the remaining research findings from the DPI programme and further information about its own developing programme of work.<sup>119</sup>

## **10.5 Legislative measures related to drug and alcohol and misuse**

### *Article 33*

10.5.1 Measures to prevent harm to young people caused by drug and alcohol misuse include:

- The Public Entertainments Licences (Drugs Misuse) Act 1997,<sup>120</sup> which came into effect on 1 May 1998. The provisions of the Act give local authorities the power to close with immediate effect those clubs found to have a serious problem relating to the supply or use of controlled drugs at the premises, or at any place nearby which is controlled by the holder of the public entertainments licence.
- Under the Intoxicating Substances (Supply) Act 1985<sup>121</sup> it is an offence to supply any substance to someone under 18 knowing or believing that the substance is, or its fumes are, likely to be inhaled for the purpose of intoxication. As an additional measure, the Government is considering the introduction of a minimum age limit on the sales of butane lighter fuels, in view of their implication in a high proportion of volatile substance abuse deaths.
- The Confiscation of Alcohol (Young Persons) Act 1997<sup>122</sup> allows the police to confiscate alcohol from drinkers under the age of 18 in a public place, or from someone whom the police suspect is likely to pass alcohol to a person under the age of 18 for consumption in a public place. The police are able to use these powers in conjunction with other initiatives to combat underage drinking, including notifying the parents of those who have come to the police's attention in these circumstances.

- The Crime and Disorder Act 1998 introduced a new community sentence, the Drug Treatment and Testing Order. This is designed for seriously addicted offenders aged 16 or over with the aim of breaking the link between their drug addiction and acquisitive crime. Offenders must be susceptible to treatment and consent to the Order. The progress of the offender is reviewed periodically by the court and regular and random drug testing is used to check that the offender is staying off drugs. Breach of the Order could result in revocation of the Order and re-sentencing. However sentencers will have several options. Pilots began in October 1998 in three probation service areas in England, with a view to implementation nationwide from April 2000. The Action Plan Order, also introduced in the Crime and Disorder Act 1998, could be available for younger offenders and include treatment for those with drug misuse problems.

### Figure 6. Drugs offences by children in England and Wales

#### Young people cautioned, prosecuted at Youth Courts and convicted at all courts for indictable drug offences by age and offence, 1994-1997

England and Wales		1994		1995		1996		1997	
		Age 10-13	Age 14-17	Age 10-13	Age 14-17	Age 10-13	Age 14-17	Age 10-13	Age 14-17
Offence and Disposal									
Drug Trafficking									
	Cautions	74	504	38	508	38	407	43	371
	Prosecutions	4	417	2	533	8	589	11	585
	Convictions	2	261	-	328	3	362	2	380
of which									
Unlawful importation/exportation of a controlled drug									
	Cautions	-	2	-	1	-	2	-	1
	Prosecutions	-	16	-	14	-	10	-	15
	Convictions	-	7	-	4	-	8	-	8
Production or being concerned in the production of a controlled drug									
	Cautions	7	128	4	165	8	106	6	79
	Prosecutions	-	52	-	70	2	49	-	39
	Convictions	-	39	-	55	1	37	-	29
Supplying or offering to supply a controlled drug									
	Cautions	48	238	21	203	19	164	25	173
	Prosecutions	1	154	-	199	4	237	7	249
	Convictions	1	107	-	119	1	124	2	146
Having possession of a controlled drug with intent to supply									
	Cautions	19	136	13	139	11	135	12	118
	Prosecutions	3	195	2	250	2	293	4	282
	Convictions	1	108	-	150	1	193	-	197

## 10.6 Combating drug and alcohol misuse in Wales

### Article 33

10.6.1 The current five-year Welsh drug and alcohol strategy *Forward Together*<sup>123</sup> was launched in May 1996 with an emphasis on preventing the misuse of drugs and alcohol, particularly among young people; and providing treatment, support and rehabilitation for those misusing drugs and alcohol. At a national level the Welsh Drug and Alcohol Unit has been established to provide practical and administrative support to those involved in combating drug and alcohol misuse. A Welsh Advisory Committee on Drug and Alcohol Misuse, whose members were chosen to reflect the wide spectrum of those who tackle misuse, has also been established. At a local level the strategy is implemented by Drug and Alcohol Action Teams.

10.6.2 Action is in hand to review *Forward Together* in the light of the new United Kingdom strategy and to provide a report to the United Kingdom Anti-Drugs Coordinator on relevant developments.

## 10.7 Drug education in Scotland

### Article 33

10.7.1 It is the policy of the Government to encourage education authorities in Scotland to address health education, including drug education, within a comprehensive programme of personal and social education. This approach is designed to ensure that information about drugs is given, not in isolation, but as a part of a programme that considers a number of issues relating to sound moral choices and healthy living. Guidelines on health education have been issued by the Scottish Office as part of the 5-14 programme on Environmental Studies. This gives health education a firm place in the curriculum and highlights drugs education as a key feature.

10.7.2 In 1995, a curriculum framework for health education was jointly developed by the Scottish Office Education and Industry Department (SOEID) and Strathclyde Region. The framework is called the Health Education for Living Project (HELP) and it was offered free of charge to all schools in Scotland. HELP covers the span from pre-5 to S5/S6 and although it covers the full range of health education it gives particular focus to drug education. HELP is currently being updated to take account of recent developments in drug and nutrition education and will be available in its revised form in summer 1998.

10.7.3 In addition, good quality health education resources are available for schools both for use with pupils and for staff development purposes. The Scottish Office Department of Health has funded the development of three support packages in drug education for schools. Two of these packages are aimed at secondary pupils; *Drugwise Too* for pupils aged 10-14 and *Drugwise Drug Free* for older pupils. *Drugwise First* was for primary pupils. These packages were offered free of charge to all schools in Scotland. The Health Education Board for Scotland (HEBS) has also produced a range of helpful resources.

**Figure 7. Drugs offences by children in Scotland**

Offence		1994		1995		1996		1997	
		Age of accused							
		10-13	14-17	10-13	14-17	10-13	14-17	10-13	14-17
Production, manufactured or cultivation	Prosecuted	0	3	0	1	0	4	0	1
	Charge Proved	0	3	0	1	0	4	0	1
Supply, possession with intent to supply	Prosecuted	0	52	1	51	0	4	0	72
	Charge Proved	0	42	0	29	0	55	0	56
Possession of Drugs	Prosecuted	0	268	0	293	0	285	0	276
	Charge proved	0	252	0	273	0	250	0	248

10.7.4 The table above summarizes statistics relating to drug offences by children in Scotland.

## 10.8 Increase in asylum applications

### Article 22

10.8.1 Since the previous report was published, the number of asylum applications overall has risen dramatically, stretching further the resources of the Home Office Immigration and Nationality Directorate as well as other government and non-government bodies dealing with asylum-seekers.

10.8.2 The number of unaccompanied children seeking asylum in the United Kingdom has also risen dramatically from 400 in 1994 to over 2,800 in 1998.

10.8.3 In the light of the increase in asylum applications, an interdepartmental study of the asylum process was undertaken. The results of that review contributed to the White Paper referred to in section 10.16. An Immigration and Asylum Bill which will deliver key elements of the strategy set out in the White Paper is now before Parliament.

## 10.9 Refugee children

10.9.1 The Asylum and Immigration Appeals Act 1993, the Asylum and Immigration Act 1996 and HC395<sup>124</sup> (as amended) now regulate the handling of all asylum applications including those made by children. When considering asylum applications from children, whether accompanied or not, close attention is given to the welfare of the child at all times.

10.9.2 Under the Immigration Rules applications from unaccompanied children receive priority and because of their potential vulnerability particular care is given to their cases. As an additional safeguard, the Government has made a commitment that no unaccompanied children under the age of 18 will be removed from the United Kingdom unless there are adequate reception and care arrangements for them in their country of origin. The Home Office passes details of every unaccompanied child who claims asylum to the British Red Cross which has

established a register of unaccompanied children who are in the United Kingdom. The purpose of this register is to facilitate the restoration of family contacts and the tracing of parents.

10.9.3 All asylum-seeking children and all asylum-seekers who claim to be minors are referred as a matter of routine to the Children's Panel of the Refugee Council.

#### **10.10 Panel of advisers for unaccompanied refugee children**

##### *Article 22*

10.10.1 The United Kingdom's first report under the Convention, in 1994, outlined the decision to fund the establishment of a non-statutory Panel of Advisers to assist unaccompanied children who are seeking asylum. The Refugee Council were subsequently asked to set up what became known as the Panel of Advisers for Unaccompanied Refugee Children. A Memorandum of Understanding has been established between the Home Office and the Refugee Council setting out the purpose of the Panel, the services provided by the Panel, the performance indicators to be used and monitoring and reporting procedures. The service to be provided by the Panel is consistent with article 3 (4) of the EU Council Resolution on unaccompanied minors who are nationals of third countries, agreed at the Justice and Home Affairs Council in May 1997, which states that member states should provide "necessary representation" for minors.

#### **10.11 Welfare of refugee children**

##### *Article 22*

10.11.1 The Immigration and Nationality Directorate Public Caller Units based in Croydon have established a close working relationship with the Social Services Department of Croydon Borough Council. A meeting took place in autumn 1997 to set out the relationship between the two departments in order that an efficient safety net was in place to care for unaccompanied minors or those considered to be vulnerable. Similar arrangements, modified dependent on the area, have been put in place with most local authorities in the vicinity of the major sea and airports. Unaccompanied minors of compulsory school age have access to education on the same basis as other children. Additional English language teaching is provided for children whose first language is not English.

10.11.2 A list has now been prepared, by the Department of Health, of child mental health professionals who can be contacted in situations where there is particular concern for a refugee child or adolescent. This list has been passed to the Refugee Council.

#### **10.12 Family reunion for refugees**

10.12.1 Those people recognized as refugees are immediately eligible to be joined by their pre-existing spouse and minor dependant children. The maintenance and accommodation criteria which are applied under the Rules to other immigration cases are waived for refugees.

10.12.2 Those refused refugee status may be granted exceptional leave to remain (ELR) if it is considered that there are compelling reasons why they should not be expected to return to the country of origin. This is a discretionary and temporary status and family reunion is not

normally permitted until the sponsor has completed four years' exceptional leave to remain in the United Kingdom, by which time it has usually become clear that the sponsor's stay in the United Kingdom will be permanent. Sponsors with ELR must show that they are able to support and accommodate their dependants in the United Kingdom.

10.12.3 Family reunion does not apply to applicants who marry after leaving their country of nationality to seek asylum. In such cases, applicants must satisfy the normal requirements of the Immigration Rules.

### **10.13 Immigration staff training for work involving refugee children**

#### *Article 22*

10.13.1 All caseworkers dealing with applications from unaccompanied children receive special training which broadly follows the guidelines set by UNHCR and the Red Cross. In accordance with the Immigration Rules, a child will not be interviewed about the substance of his or her claim if it is possible to obtain from written enquiries the information needed to consider the application fully. However, where an interview is necessary it must be conducted by a specially trained officer, in a language the child understands, and in the presence of a parent, guardian, representative or other adult who, for the time being, takes responsibility for the child. In practice, it is rarely necessary for an interview of this kind to be conducted. Most children are interviewed only briefly, for the purpose of establishing their identity.

### **10.14 The integrated casework programme for immigration**

10.14.1 During 1999, a computerized caseworking system will be introduced within the Immigration and Nationality Directorate. It will increase caseworking performance to benefit all applicants. Within the Integrated Casework Directorate, two Casework Management Units (CMU) have been set up to take over the work formerly undertaken by the Unaccompanied Children's Module (UCM). The number of caseworkers within these new units will increase from 6 caseworkers to 32, and while they may not deal solely with applications from unaccompanied children, such applications will continue to be dealt with as a matter of priority by staff who have received special training.

### **10.15 Detention under immigration procedures**

#### *Article 37*

10.15.1 In the majority of borderline cases where an applicant claims to be under 18, and the documentary or other evidence is not conclusive, he or she is usually given the benefit of the doubt.

10.15.2 There are circumstances, however, where a short period of detention in such cases is inevitable, usually when an unaccompanied child arrives at a port in the United Kingdom, often late at night, in circumstances where the local Social Services are unable to make an immediate

response to the Immigration Service's request for assistance. Such cases are rare and the child is usually released the following day. Accompanied children are detained very much as a last resort, where there are compelling reasons for keeping a family together or where such detention would facilitate arrangements for the removal of a family unit from the United Kingdom.

10.15.3 The detention of a minor is notified as a matter of course to the official Visiting Committees, and exceptional risk status may be afforded to any vulnerable immigration detainee, whatever the cause of concern may be. Exceptional risk status requires the provision of one or more chaperons and frequent monitoring by contractor staff.

10.15.4 In the majority of cases where an applicant claims to be under 18, he or she is usually given the benefit of the doubt. However, there are circumstances where there is no conclusive evidence to show that a particular applicant is a minor. Whilst medical reports provided by the individual or his representatives can be a helpful indicator, they are not necessarily conclusive. Whenever someone claims to be under 18 the case is referred to the panel of advisers of the Refugee Council at the earliest opportunity. The Immigration Service also has leaflets which provide details of how to contact this organization and these are available in 15 different languages.

10.15.5 On occasions children not liable to be detained are housed in detention accommodation with a detained parent or parents. However, this is done only with the agreement of the parents and in order to avoid separating family members. Such detention is normally for only a very short period prior to removal.

## **10.16 Benefits for asylum-seekers**

*Articles 22, 24, 26*

10.16.1 Under the Social Security (Persons from Abroad) Miscellaneous Amendment Regulations 1996, which were subsequently confirmed by the Asylum and Immigration Act 1996 after a court judgement, social security benefits for asylum-seekers have been restricted to those who claim asylum at the port of entry. The Act also confirmed that no persons from abroad, irrespective of whether they claim asylum, can claim child benefit. Under the Children Act 1989 however, where a child is found to be in need of care and support, Local Authorities are bound to provide all that is necessary to preserve the welfare of that child and any relative or carer who looks after the child.

10.16.2 Under new proposals set out in the White Paper on immigration and asylum (see below) responsibility for supporting families with children will be removed from local authorities and passed to a new central body, which will be responsible for providing accommodation and support for asylum-seekers, except unaccompanied children, the responsibility for whom will remain with local authorities.

10.16.3 The Government published a White Paper on 27 July 1998 entitled *Fairer, faster, firmer - a modern approach to immigration and asylum*<sup>125</sup> which proposes new arrangements for supporting asylum-seekers. These arrangements will ensure that the needs of children are fully

respected and their welfare and rights safeguarded. Appropriate access to education will continue to be afforded to the children of asylum-seekers. Provision will continue to be made under the Children Act 1989 and the Children (Scotland) Act 1995 for unaccompanied children claiming asylum, but local authority social services departments will no longer be expected to provide for asylum-seeking families in the absence of needs requiring a social services response. Where the need can be demonstrated, families will be provided with support under the same arrangements as for other asylum-seekers. The Government is fully aware of the need to ensure that accommodation and support must be suitable to meet the needs of families in order to comply fully with Article 8 of the European Convention on Human Rights and Section 20 (1) of the Children Act 1989.

## **10.17 Immigration and the treatment of refugees - views of NGOs**

### *Article 22*

10.17.1 This is a sensitive area which presents great problems for the Government in dealing fairly with those who seek to come to the United Kingdom, consistently with our international obligations. The Government must take account of economic pressures and the need to avoid the unfairness which would result if those who have abided by the controls were to see others obtaining advantage by ignoring the controls.

10.17.2 This is a difficult balance to strike, and not surprisingly the Government's efforts to do so are closely scrutinized. The Churches' Commission for Racial Justice, for example, have expressed concern about children of families where either or both of the parents face deportation, especially where the children have been born in the United Kingdom or lived a substantial proportion of their lives here. They also express concern about the children of asylum-seekers, who face difficulties resulting from the more limited social security benefits now available to such families; and about the separation of families which may result when asylum-seekers may have to wait many years for a decision, during which time they cannot be reunited with their families. This latter point is supported by the Medical Foundation for Victims of Torture, who urge that cases involving children need speedy consideration, within a time limit of, say, 12 weeks, so that the period of uncertainty would be short, the stress on the child would be reduced, and the statutory authorities would have a better basis for discharging their responsibilities to the child whether its future was abroad (in which case consideration would need to be given to reception facilities) or in the United Kingdom.

## **10.18 Child witnesses: England and Wales**

### *Articles 34, 39, 40*

10.18.1 The United Kingdom's First Report set out (in paras. 1.29 to 1.32) the existing measures available to protect child witnesses in court proceedings. Those included abolition of the presumption that children are incompetent witnesses; the transfer of child witness cases direct to the Crown Court; in the case of sexual offences and offences of violence, cruelty and neglect, the use of live TV links in court; video recorded interviews; and a ban on a defendant



himself cross-examining a child witness. That report indicated that the effect of these reforms was being monitored with a view to assessing the need for further reform, and a number of developments have taken place since 1994.

10.18.2 The Steering Group on Child Evidence (SGCE), comprising representatives from relevant Government Departments and the police, monitors and evaluates the implementation of the child evidence provisions and takes forward and resolves any issues arising. Since the end of 1997 the group has included a number of associate members from non-government organizations such as the NSPCC and Childline. Developments in which the SGCE has been involved include a video, *A Case for Balance*, produced by the NSPCC in January 1997 as a result of cooperation between and funding by both government and non-government organizations. This provides guidance on good practice for the judiciary and lawyers in cases involving child witnesses. The video has been endorsed by the Judicial Studies Board, and has been well received by its target audience of judges and advocates who deal with children's cases and Crown Court staff.

10.18.3 Revision of the child witness pack has also been completed - it was re-issued as *The Young Witness Pack*<sup>126</sup> produced by the NSPCC in conjunction with the Government in June 1998. The thrust of this initiative, which consists of a range of age-related booklets and leaflets for children, their parents and carers, is the belief that careful familiarization with the court process can improve the quality of evidence given by children, without prejudicing the rights of the defendant. A Handbook has been produced to accompany the Pack, designed as a reference and training resource for child witness supporters.

10.18.4 Other issues which are being taken forward include fast tracking of child abuse cases in the criminal justice system; preparation of the child for court; and the development of guidance on pre-trial therapy by a multidisciplinary group coordinated by the Crown Prosecution Service.

10.18.5 All Crown Courts have Child Witness Officers who are responsible for ensuring the smooth running of the arrangements for child witnesses, including pre-trial familiarization visits. There is a Crown Court Witness Service (CCWS) run by Victim Support in every Crown Court, providing help to all victims and witnesses attending court including children. Arrangements made in 1997 with the Crown Prosecution Service enable the CCWS to receive advance copies of the lists of witnesses attending court so that children can be identified and arrangements made for their reception.

10.18.6 On 10 June 1998 the Government published *Speaking Up for Justice*, the report of a Government Working Group.<sup>127</sup> This makes over 70 recommendations to improve the treatment of vulnerable or intimidated witnesses - including children - in the criminal justice system. Approximately 26 of these will require legislation. Those recommendations relating specifically to child witnesses include:

(a) The existing child evidence measures (video recorded statements and live TV links) should be available for all witnesses under 17 years;

(b) The new special measures should be available to all witnesses under 17 years, regardless of the nature of the offence; these special measures include:

- video-recorded pre-trial cross-examination;
- assistance with communication where necessary, including the use of an intermediary;
- power for the judge to clear the public gallery in cases involving sexual offences or intimidation so the witness can give evidence in private;
- screening the witness from the defendant;
- removal of formal court dress;

(c) There should be a presumption that child witnesses giving live evidence to the courts should do so by live TV link;

(d) All measures should be available in the magistrates' courts, youth courts and the Crown Court;

(e) The scope of the ban on defendants cross-examining child witnesses in person should be increased by extending the categories of offences to include false imprisonment, kidnapping and child abduction.

10.18.7 The Government has indicated its broad support for these recommendations and is consulting on the detail before reaching any final conclusions. The consultation exercise ended on 31 August 1998.

10.18.8 The Government has included legislative provision in the Youth Justice and Criminal Evidence Bill, currently before Parliament, to extend reporting restrictions over the identification of young people alleged to have committed criminal offences back to the point when the official investigation of the offence begins.

10.18.9 Concerns have been addressed about the confidentiality and security of record and privacy rights of children who have been the victims of sexual exploitation, particularly where the child's evidence is given on video. Under the Sexual Offences (Amendment) Act 1976, where an allegation has been made that a person has been the victim of a rape offence, neither the name nor the address of that person nor a photograph of them can be published or broadcast during their lifetime if it is likely to lead to members of the public identifying that person as an alleged victim of such an offence. The Sexual Offences (Amendment) Act 1992 also extended the anonymity of the alleged victim to certain other sexual offences, for example incest. The *Memorandum of Good Practice*<sup>128</sup> contains practical guidance on the storage, custody and destruction of such videotapes and all police records are confidential. There is, however, an obligation to disclose a copy to the defence.

## **10.19 Child witnesses in Northern Ireland**

*Articles 34, 39, 40*

10.19.1 The Children's Evidence (Northern Ireland) Order 1995 allowed video evidence to be admitted in the Crown Court and juvenile court to help reduce the trauma of children who are victims of, or witness to, violent or sexual offences. Provision was made in the Criminal Justice (Children) (NI) Order 1998 to amend the Police and Criminal Evidence (NI) Order 1989 to allow magistrates' courts to admit children's evidence in chief by video recording.

10.19.2 The Vulnerable or Intimidated Witnesses (NI) Working Group was established in April 1998 to examine the proposals for England and Wales in the Northern Ireland context. The group held two consultation exercises and plans to submit its final report to Ministers by the end of June 1999. It has already been agreed that the provisions in the Youth Justice and Criminal Evidence Bill relating to vulnerable or intimidated witnesses will be extended to Northern Ireland by Order in Council.

## **10.20 Child Witnesses: Scotland**

*Articles 34, 39, 40*

10.20.1 In Scotland arrangements were brought into effect in 1993 whereby children could give evidence by live television link through closed circuit television, by the use of pre-trial commission evidence sometimes recorded on video, or shielded from the accused person by a screen in the court. Those arrangements have been developed and are now more widely available in all parts of the country. In civil cases these special arrangements can apply where there is a referral to the children's hearing and the matter is then taken to the sheriff and a child has to give evidence. Other changes to the law of evidence in Scotland have meant that certain hearsay statements are admissible in both civil and criminal cases although there has been a limited use of these provisions and their use may be further curtailed by the incorporation of the European Convention on Human Rights into domestic legislation.

10.20.2 There has been published recently a Report and Consultation Document - *Towards a Just Conclusion*<sup>129</sup> - in which the Government makes further proposals with regard to the way in which all witnesses and in particular children should be supported and protected. In addition a Working Group dealing with support for child witnesses published its report and research findings in April 1999, detailing arrangements which have been in place in the Scottish courts and amongst the participants in the Scottish criminal justice system to make the giving of evidence by children a less daunting experience. The recommendations from both these reports will form the foundation for further developments in this area.

10.20.3 Furthermore, the Government has consulted on the proposal to remove the test of competency for child witnesses in Scotland in both criminal and civil proceedings and is likely to bring forward proposals to this effect along with other proposals to extend the use of closed-circuit television, commission and screens to other types of civil proceedings. All these

developments reinforce the support which children can expect from the Court Service, from the Procurators Fiscal Service and the Crown Office, and from other participants in the criminal and civil justice systems.

10.20.4 The Crown Office has also undertaken a thematic review of how prosecutors view and deal with sexual offenders.

## **10.21 Police procedures for child witnesses in England and Wales**

*Articles 34, 39, 40*

10.21.1 Improvements to the way child victims are treated by the police include the following:

(a) Police forces have specialist units of fully trained officers to undertake child protection investigations and deal with related issues. The police have stringent powers to protect children which include powers to take pre-emptive action for the welfare of the child under the Children Act 1989. These include powers to take into protective custody children who are at risk of significant harm. The underlying principle of the Act is that the welfare of the child must come first;

(b) The Home Office have issued guidance to chief officers of police on joint training for police officers and social workers and the importance of inter-agency working. In addition to training by their employers, police officers and social workers now receive joint training known as the CAMAT course (Child Abuse Management and Training). Advice on interviewing child witnesses and victims is now incorporated in mainstream police training.

## **10.22 Privacy: identification of children in court proceedings**

10.22.1 In the Access to Justice Bill, currently before Parliament, the Government has introduced an amendment to the Children Act 1989 so as to extend the prohibition on publishing material intended or likely to identify a child involved in proceedings under or related to the Children Act 1989 to proceedings in the High Court and county court. The prohibition already applies in the magistrates' court.

## **10.23 Juvenile offenders: summary of developments in England and Wales since 1994**

*Article 40*

10.23.1 This section summarizes the substantial changes which have been made in this area since the United Kingdom's First Report. These changes, and further developments which are in progress, are set out in more detail in section 10.27.

10.23.2 Following the General Election in May 1997, the new administration began to put into effect its plans for a radical overhaul of the youth justice system. The Crime and Disorder Act 1998 was enacted on 31 July 1998 and governs the first phase of these reforms.

The far-reaching changes which seek to reduce offending and reoffending by young people are being piloted from 30 September 1998, for 18 months, with full implementation likely from April 2000.

10.23.3 The reform programme aims to provide:

- (a) A clear strategy to prevent offending and reoffending;
- (b) That offenders, and their parents or guardians, face up to their offending behaviour and take responsibility for it;
- (c) Earlier, more effective intervention when young people first offend;
- (d) Faster, more efficient procedures from arrest to sentence;
- (e) Partnership between all youth justice agencies to deliver a better, faster system.

10.23.4 The Government also sees a need for more fundamental reform to change the culture of the youth court, making it more open and accessible and engaging offenders and their families more closely.

10.23.5 There is a clear focus on preventing offending by children and young people, and this has been established in statute as the aim of the youth justice system in England and Wales. There is a statutory duty on agencies and individuals working in the youth justice system to have regard to that aim.

## **10.24 New legislation on young offenders in England and Wales**

### *Article 40*

10.24.1 Legislation in the Crime and Disorder Act has:

- (a) Abolished the rebuttable presumption of *doli incapax*, thereby ensuring that courts will be able to address offending behaviour by children between the ages of 10 and 14 at the earliest possible opportunity, and so nip that offending behaviour in the bud;
- (b) Allowed courts to draw inferences from the failure of an accused child to give evidence or answer questions at trial, thereby ensuring that all juveniles are treated in the same way in court;
- (c) Introduced a new reparation order, which will allow young offenders to understand the consequences of what they have done and make reparation to their victim;
- (d) Acknowledged the crucial role of parents and guardians in shaping and influencing a child or young person's development, and helped them to fulfil that role successfully by means of a parenting order;

(e) Enabled local authorities, the police and the courts to protect young children from being drawn into criminal and anti-social behaviour by introducing the child safety order and the local child curfew;

(f) Replaced the old system of cautioning young offenders with a new final warning, which initiates community intervention programmes for young offenders designed to address offending behaviour and turn young people away from crime before they end up in court;

(g) Introduced a new community sentence, the action plan order, which combines punishment with rehabilitation and reparation;

(h) Introduced a new detention and training order which will combine custody and community supervision to rehabilitate youngsters whose crimes require secure detention;

(i) Introduced new measures to speed up youth justice;

(j) Established a new Youth Justice Board for England and Wales, which advises Ministers on standards for service delivery and promotes and monitors good practice among local agencies involved with young offenders and young people at risk;

(k) Placed a new duty on local authorities to ensure the provision of inter-agency youth offending teams in their areas, in partnership with police, probation services and health authorities.

10.24.2 Proposals for a further element of reform of the youth court are contained in the Youth Justice and Criminal Evidence Bill, currently before Parliament. The Bill contains provision for a new style of disposal for first time defendants pleading guilty. The young offender will be sentenced to referral to a youth offending panel which will consider, with the young offender, his or her parent or guardian and others, a programme of activity to include some reparation to the victim or to the community at large, and to address the causes of the offending behaviour. The length of the referral will be set by the court. The young offender will meet the panel, without legal representation, to participate in a group conference and to agree a contract which will set out a programme of activity for the duration of the order. Where a contract cannot be agreed, or is breached, the young offender may be returned to court for re-sentencing. This will ensure a positive response to offending by young people, helping to encourage positive discussion and action by youth justice practitioners, the young person and his or her family.

## **10.25 Reforming the youth court in England and Wales**

### *Article 40*

10.25.1 The Government is in the process of a programme of reform of the youth court, following proposals set out in the White Paper *No More Excuses: a new approach to tackling youth crime in England and Wales*.<sup>130</sup> This includes both legislative and non-legislative measures to achieve long-term improvements. New legislative measures will streamline the way in which those appearing before the court for the first time are dealt with by introducing a new disposal in the form of a referral to a youth offending panel. The panel will work with the young

offender and his or her parent or guardian - and other influential adults as appropriate - to draw up a contract to cover a package of measures designed to address his or her offending behaviour. The contract will also normally include an element of reparation. At the same time, non-legislative measures will encourage a system which is more open and accessible, and develop processes which engage young offenders and their parent or guardian more effectively, to help them to focus on their offending behaviour and how to change it.

## **10.26 Statutory time limits in England and Wales**

10.26.1 The Government is introducing a range of legislative measures, including statutory time limits for all cases involving young offenders. Statutory time limits will cover the whole youth justice process from arrest to sentence, save for the trial itself. A number of other practical measures have been introduced, or are currently being piloted, to enable the courts to deal more speedily with young offenders.

## **10.27 The Government's programme for young offenders in England and Wales**

### *Article 40*

10.27.1 The new measures summarized above will be effective in further implementing the United Nations Convention on the Rights of the Child. They will make the juvenile justice process swifter, better coordinated and less stressful for all those involved with it. They will also ensure that all juveniles in England and Wales have equal access to an efficient court system, and programmes of intervention designed to address their offending behaviour and prevent reoffending.

## **10.28 Youth Justice Board for England and Wales**

### *Article 40*

10.28.1 The Crime and Disorder Act 1998 provides a clearer national framework for local action to deal with youth offending. It establishes a Youth Justice Board for England and Wales, which will promote good practice and monitor the performance of the youth justice system as a whole and advise the Secretary of State on this and on national standards for work with young offenders.

## **10.29 Youth offending teams**

### *Article 40*

10.29.1 The Government wishes to improve inter-agency working between those agencies most closely involved in work with young offenders in the community. The Crime and Disorder Act places a duty on local authorities with education and social services responsibilities, in partnership with the police, probation service and health authorities, to establish a multi-agency youth offending team or teams for their areas.

10.29.2 Youth offending teams will include social workers, probation officers, police officers and education and health staff. They may also include individuals from other agencies and organizations, including in the voluntary sector. Youth offending teams will plan and undertake the supervision of young offenders under community sentences and following release from custody. They will also carry out assessment and intervention work in support of a new final warning scheme, which will replace police cautions. The teams will be able to draw on programmes and services, such as bail support and intervention programmes, provided outside the team by relevant local agencies themselves and the voluntary sector.

10.29.3 The focus of the work of youth offending teams will be on preventing offending by children and young people. This will involve tackling offending behaviour and addressing problems which may underlie that behaviour, such as truancy or exclusion from school; poor behaviour or performance at school, or drug or alcohol misuse.

### **10.30 *Doli incapax* and the drawing of inferences at trial**

10.30.1 The abolition of the presumption of *doli incapax* and the decision to allow courts to draw inferences from the failure of an accused child to give evidence or answer questions at trial both have the same purpose, namely, to ensure that, if a child has begun to offend, he or she is entitled to the earliest possible intervention to address that offending behaviour and eliminate its causes. The changes will also have the result of putting all juveniles on the same footing as far as courts are concerned, and will contribute to the right of children appearing there to develop responsibility for themselves.

10.30.2 In today's sophisticated society, it is not unjust or unreasonable to assume that a child aged 10 or older can understand the difference between serious wrong and simple naughtiness, and is therefore able to respond to intervention designed to tackle offending behaviour. If for some reason a child is lacking in this most basic moral understanding, it is all the more imperative that appropriate intervention and rehabilitation should begin as soon as possible. Similarly, it is common sense to expect a child who has an innocent explanation for his or her conduct to provide that explanation, rather than to deprive him or her of that responsibility. Children will continue to be protected by the court's discretion not to draw inferences from silence if it considers that the child's mental or physical state makes this undesirable.

10.30.3 It is important to stress that these changes will not have the effect of treating children in the same way as adults as far as the criminal justice system is concerned. The emphasis is firmly placed not on criminalizing children, but on helping them to recognize and accept responsibility for their actions where this is appropriate, and on enabling them to receive help to change their offending behaviour. The criminal justice system provides for an entirely different set of sentences, graduated by age, for juvenile offenders. A court is therefore able appropriately to reflect a young offender's age and level of maturity at the point of sentence. There is no intention that children or young people will be treated as if they are adults.

10.30.4 It is also important to emphasize that the abolition of the presumption of *doli incapax* does not affect the age of criminal responsibility in England and Wales, which remains at 10 years. The Government considers that this is an appropriate level, reflecting the need to protect the welfare of the youngest. However if children aged 10 or older start to behave



in a criminal or anti-social way, the Government considers that we do them no favours to overlook this behaviour. It is in the interests of children and young people themselves to recognize and accept responsibility, and to receive assistance in tackling criminal behaviour.

### **10.31 Pilot projects for new developments in England and Wales**

#### *Article 40*

10.31.1 Pilots of youth offending teams and the new powers for the police and courts contained in the Crime and Disorder Act - the final warning scheme, the reparation order, the action plan order, the parenting order and the child safety order - began on 30 September 1998 and will run for 18 months in total. The purpose of the pilots is to help to identify good practice in the operation of the youth offending teams, the delivery of youth justice services, and the effectiveness of the new orders; this good practice will then inform guidelines which will be issued prior to nationwide roll-out. The pilots will also allow the costs and savings involved in nationwide implementation to be assessed. The pilots to introduce statutory time limits in the youth justice system will run for 18 months from November 1999.

### **10.32 Reparation orders**

#### *Article 40*

10.32.1 The reparation order is a new court disposal which requires the young person to make specific reparation either to the individual victim of his crime, where the victim desires that, or to the community which he has harmed. The intention is that the reparation should be in a kind rather than financial, as courts may use the compensation order if they wish the offender to make financial recompense. Reparation activities might include writing a letter of apology or apologizing to the victim in person, weeding a garden, collecting litter, or doing other work to help the community. The purpose of this new order is to enable the young person to understand the consequences of what he has done and the effect of his actions upon his victim, and to enhance his right to develop responsibility for himself. By giving him a chance to apologize and make amends, the young offender will be better able to reintegrate into society.

### **10.33 Child safety orders**

#### *Articles 40, 39*

10.33.1 The child safety order is an early intervention measure designed to prevent children being drawn into crime. The order provides an early opportunity to intervene positively in an appropriate and proportionate way to protect the welfare of the child. The order supplements the existing welfare provisions currently available under the Children Act 1989. Child safety orders may be made in respect of children under the age of 10, and can be made by a family proceedings court following an application by the local authority social services department. Such an order may be applied for when a child below the age of criminal responsibility appears to be at risk of becoming involved in crime, or has already started to behave in an anti-social or criminal manner. Under a child safety order, a Family Proceedings Court will be able to require

a child, for example, to be at home at specified times or to stay away from certain people or places. The court could also prohibit certain conduct, such as playing truant from school. If the requirements of an order are not complied with, it will be open to the local authority to commence care proceedings.

### **10.34 Parenting Orders**

*Articles 5, 40*

10.34.1 The parenting order is designed specifically to help and support the parent or guardian in addressing a child's offending behaviour. Parent is taken to mean the child's or young person's biological parent. Guardian is defined as a person who in the opinion of the court has for the time being the care of the child (section 107 of the Children and Young Persons Act 1933).

10.34.2 At the centre of the parenting order is the need to restore a proper relationship between the child and its parent or guardian. The main element of the order will be a requirement for the parent or guardian to attend counselling or guidance sessions to learn, for example, how to set and enforce acceptable standards of behaviour. It is, therefore, consistent with the aims of the Government's overall policy on supporting families and should be seen in that context. In the area of youth justice reform, it is not the only measure where there is parental involvement. The parent or guardian could, in appropriate cases, be required to exercise a measure of control over their child. This might include ensuring that the child attends school regularly or that the child avoids certain places or certain individuals who might have exerted a disruptive influence on the child. Failure to comply with requirements of an order without reasonable excuse will be a criminal offence. If convicted, the parent or guardian could be liable to a fine of up to £1,000.

### **10.35 Local child curfews**

*Articles 40, 39*

10.35.1 Problems can often be caused by unsupervised young children gathered in public places at night, who are too young to be out alone at night, and who can cause alarm and misery to local communities and encourage one another into anti-social and criminal habits. To protect both the young people themselves and their local communities, the Government is giving powers to local authorities, after consultation with the police and local community, to impose local child curfews on children under the age of 10. These provide local authorities with another option in addressing community safety problems, and they should be seen within the context of existing community safety practices and future developments.

10.35.2 The power to impose a local child curfew will be a permissive one. The decision as to whether or not a local child curfew is appropriate will be one which must be made locally following appropriate discussion with the police, the local community and other such bodies as the local authority considers it appropriate to consult. The support of the police and the local community will be crucial to the success of the scheme.

10.35.3 Once the local authority has established that there is a consensus for a local child curfew scheme, it will be required to draw up an outline scheme and submit its proposals to the Home Secretary for his agreement. The scheme will need to specify arrangements for consulting the police and local residents in the area to which the curfew is to be applied, and arrangements for making local residents and others aware of the curfew notice when it is brought into force. Each curfew notice under the scheme may last for up to 90 days. If the authority seeks an extension beyond that, it will have to consult the police and local community again. As part of its application for confirmation by the Home Secretary, the authority will need to signify how it proposes to do this.

10.35.4 Local child curfew schemes will be enforced by the police. Because of the child welfare issues involved, the social services will also have an important role to play. Although enforcement of the curfew will be carried out as part of normal duties, the police and social services may well decide that this will be best achieved as part of a multi-agency response to the problem involving a number of other agencies.

10.35.5 Similar schemes, under their different legislation, are under way in Scotland - see section 10.44.

### **10.36 Final warning scheme**

#### *Article 40*

10.36.1 The current arrangements for the cautioning of young offenders in England and Wales have resulted in inconsistencies across the country in the way in which young people are dealt with by the police. Whilst some areas operate “caution plus” schemes designed to turn young people away from crime, in other areas young people may be cautioned repeatedly with no follow up action to address their offending behaviour. These arrangements are being replaced with a new Final Warning scheme, which will prevent repeat cautions and will be operated consistently across the country. The issue of a final warning to a young offender will trigger referral to a rehabilitation programme which will be aimed at encouraging young offenders to face up to the effects of their behaviour, and will work with them on the factors which influence the offending behaviour. Intervention programmes will be prepared by the new local Youth offending Teams, described in section 10.29.

### **10.37 Action plan orders**

#### *Article 40*

10.37.1 The action plan order is a new community sentence available for a child or young person convicted of an offence other than one for which the sentence is fixed by law, where the court considers that it will help to prevent further offending. A child for this purpose is a person under the age of 14; a young person is a person who has attained the age of 14, and is under the age of 18. It is a highly focused three-month order which will involve the young offender in an intensively supervised programme of education and activities, and ensure that his parent or guardian are fully involved. The action plan order comprises a series of requirements specifically tailored to the circumstances of each individual offender. Before making such an

order, the court will look at the circumstances which have contributed to the young person's offending behaviour, and will ensure that the subsequent action plan addresses those circumstances with a view to preventing re-offending. Where the young offender is under the age of 16, the court is also specifically required to take into account information about his family circumstances and the likely effect of the order on those circumstances, in order to ensure that no requirements of the order will cause stress or difficulty in the family situation. If abuse of drugs has contributed to the offending, the action plan may include an element to assist the young person in dealing with this problem; if truancing has been a contributory factor, the action plan may require the young person to comply with educational requirements. These action plans will be supervised by members of the new youth offending teams, and provide an individual response to the needs of each young offender.

### **10.38 Secure training orders**

#### *Article 40*

10.38.1 A new sentence of detention, the Secure Training Order, came into effect on 1 March 1998. The legislation which introduced the Secure Training Order was contained in the Criminal Justice and Public Order Act 1994, and was referred to by the committee in their observations on the first United Kingdom report. The Secure Training Order is for children aged 12 to 14 who persistently offend and who have failed to respond to community sentences. Before passing this sentence, the court must also be satisfied that the offence is so serious that only a custodial sentence is appropriate. The sentence may last from six months to two years, with half spent in custody and half under close supervision within the community. The custodial part of the sentence is served in a secure training centre, the first of which opened on 17 April 1998 at Medway in Kent. Plans are proceeding for provision of several further centres elsewhere in England and Wales.

10.38.2 It seems possible, from comments in the Committee's observations on the United Kingdom's first report, made some time before the first STC opened, that the committee may have misunderstood the purpose and ethos of these institutions, and the circumstances in which young people might be sent there.

10.38.3 The primary purpose of STCs is not penal. STCs provide a positive regime with training programmes geared to individual needs. They also provide a high standard of education, and structured programmes designed to encourage the young people to address their offending behaviour, and to face up to the consequences of their crimes. Although the centres are privately managed, they operate under contract to the Government, it determines their regime and there are statutory rules governing their operation. The management of the centres is closely monitored by a Home Office official based at the STC, and staff recruitment, vetting and training have to comply with the recommendations made in the Warner and Utting reports.<sup>131</sup> The underlying principles of the Children Act apply. There is provision for the appointment of independent persons to whom representation may be made by young offenders detained in secure training centres. An organization with experience in representing young people in secure accommodation has been appointed to provide the Independent Person Service at Medway.

An Independent Person visits within 24 hours of a request and assists formal representation or complaint. Family links are encouraged, and an assisted visits scheme is funded by the Home Office.

10.38.4 The centres are subject to inspection by independent inspectors. A supervising officer from the young person's home area is closely involved in designing his or her training programme during custody and on release to ensure a consistent and positive approach.

### **10.39 Detention and training orders**

#### *Article 40*

10.39.1 The Crime and Disorder Act introduces a Detention and Training Order to replace the Secure Training Order and the sentence of Detention in a Young Offender Institution for 15-17 year olds. The Detention and Training Order will meet the requirement that the ... "arrest, detention or imprisonment of a child ... shall be used only as a measure of last resort", as the offence or offences in question must be of such a level of seriousness that only custody is justified. If the young person is under 15 years of age, then it must be shown that he is a persistent offender.

10.39.2 There exists a provision to extend the detention and training order to 10 and 11-year-olds, but there are no current plans to use it.

10.39.3 The Order itself will last for 4, 6, 8, 10, 12, 18 or 24 months. Half of it will be served in custody, and half under supervision in the community. The young offender will be supervised by a probation officer, social worker or a member of the youth offending team. They will help the young offender to build on the progress made in detention, and facilitate reintegration into society. The Order is due to be implemented in April 2000 for juveniles. It will replace the present sentences of Detention in a Young Offender Institution and the Secure Training Order.

### **10.40 Arrest and detention by the police in England and Wales**

#### *Articles 40, 37*

10.40.1 Paragraph 8.41 of the United Kingdom's First Report may have given rise to misunderstanding. A juvenile should not be placed in police cells unless:

- (a) No other secure accommodation is available; and
- (b) The custody officer considers that it is not practicable to supervise him if he is not placed in a cell; or
- (c) A custody officer considers that a cell provides more comfortable accommodation than other secure accommodation in the police station.

10.40.2 A child may not be placed in a police cell with a detained adult.

10.40.3 An intimate or a strip search of a juvenile may only take place in the presence of an appropriate adult of the same sex, subject to the wishes of the juvenile. An intimate search is one involving the physical examination of body orifices; a strip search is one involving a visual examination of intimate parts of the body.

#### **10.41 Minor changes in secure accommodation arrangements in England and Wales**

*Articles 40, 37*

10.41.1 Since the United Kingdom's First Report, there has been one minor change in relation to the provision of secure accommodation for children in care. The Children (Secure Accommodation) Amendment Regulations 1995<sup>132</sup> extended the provision of secure accommodation, to permit such accommodation to be made available by the private and voluntary sectors. Secure accommodation can now be provided by community homes, voluntary homes and registered children's homes to restrict the freedom, when necessary, of children looked after by a local authority. This category may include children remanded by the courts to local authority care, or following criminal proceedings.

#### **10.42 Secure accommodation in Scotland**

10.42.1 In Scotland, there are now two main routes into secure accommodation. If the child is waiting to go to court or has been convicted of a serious offence, he/she may be sent to a secure unit under the Criminal Procedure (Scotland) Act 1995. The more common route, however, following the Children (Scotland) Act 1995, is through the Children's Hearing system under the Social Work (Scotland) Act 1968. There are also emergency procedures. No child can be kept in secure accommodation for more than seven days in a row or for seven days in a month, without the authority of a Children's Hearing or a Sheriff.

#### **10.43 Administration of juvenile justice in Northern Ireland**

*Article 40*

10.43.1 The Criminal Justice (Children) (NI) Order 1998<sup>133</sup> provides that where a court makes a juvenile justice centre order, half the sentence will be served in custody and half under supervision in the community. The aim of the order is to plan from the first day for successful rehabilitation and to that end an individual plan should be drawn up for each child. The objective of the disposal is to reduce offending behaviour and to re-integrate the child successfully into the community.

10.43.2 The principles underpinning the Government's juvenile justice strategy for Northern Ireland are as follows:

(a) The key aim for any juvenile justice system must be to prevent children from committing offences in the first place;

(b) Statutory and other agencies with relevant responsibilities should focus on diverting children away from criminal behaviour and on reducing the need to bring criminal proceedings against children;

(c) Effective inter-agency cooperation and coordination, on a partnership basis, is an essential part of an effective strategy for diverting children away from crime and from the criminal justice process, and for addressing the needs of those who come into contact with it.

10.43.3 In setting out the guiding principles to be observed by all courts in dealing with children in relation to criminal proceedings, Article 4 of the Criminal Justice (Children) (NI) Order 1998 requires courts to have regard to the welfare of the child brought before it and of any delay. Articles 12 and 13 include a presumption of bail, and require a court to give its reasons openly if it decides not to release a child on bail, and if it extends beyond three months the total time for which the child has been remanded in custody.

10.43.4 Schedule 1 to the Criminal Justice (NI) Order 1996<sup>134</sup> provides for offenders, including those who are children, who are dependent on or misuse drugs or alcohol where this is associated with the offending behaviour, to be required to undergo treatment for their condition as an additional requirement of a probation order.

10.43.5 Under Article 33 of the Criminal Justice (Children) (NI) Order 1998 a court has power where a child is acquitted, or is found guilty but is not given a custodial sentence or a community sentence, and the court considers that the child's welfare requires it, to notify social services of such matters as it thinks fit. The relevant Health and Social Services Trust will be able to consider whether it should exercise any of its powers and duties, for example to provide accommodation, or to provide various forms of family support, or to seek a care or supervision order through the Family Proceedings Court.

10.43.6 The range of programmes to which children can be sent has been developed and extended. Furthermore, there are now multi-agency arrangements for diverting young people from the criminal justice system and interventions of a restorative nature are being actively explored and evaluated. The emphasis, supported by the two-part custodial/supervision order, is now very much on maintaining young people in the community and using custody, in particular, as a measure of last resort and for the minimum period commensurate with the offence.

10.43.7 The Government's juvenile justice strategy is underpinned by principles to prevent children from committing offences in the first place. Health and Social Services Trusts are now required under the Children (NI) Order 1995 to take reasonable steps to encourage children not to commit offences and to reduce the need to bring criminal proceedings against them.

10.43.8 Health and Social Services Boards are now required to develop Children's Services Plans which will demonstrate how Health and Social Services Boards and other agencies in the voluntary and statutory sectors plan to provide services for children in need, including children who are at risk of offending. The first plans to cover the period 1 April 1999 to 31 March 2002 have been completed.

10.43.9 Work is in hand to develop and extend the Juvenile Liaison Bureaux. This will enable education, social services and other bodies, including those in the voluntary sector, to have an input into police cautioning decisions, and to develop, with others, programmes which tackle offending behaviour more effectively. Relevant agencies are already cooperating to develop schemes which support cautioning by an appropriate intervention, which may well be of a restorative nature in which the offender faces the consequences of his actions. It is expected that Juvenile Liaison Bureaux will be available throughout Northern Ireland by June 1999.

10.43.10 The Government believed that there was no reason for the law on *doli incapax* to be any different in Northern Ireland from that in England and Wales, and the rebuttable presumption of *doli incapax* was abolished in Northern Ireland in December 1998.

10.43.11 Until commencement of the Criminal Justice (Children) (NI) Order on 31 January 1999 arrangements for the detention of the small number of serious or persistent young offenders were made by a training school order under the Children and Young Persons Act (NI) 1968. A training school order was authority for the detention for up to two years in custody followed by two years after-care in the community. The period of detention was determined not by the courts but by management of the training schools. No account was taken of the time a young person may have spent on remand. The period of detention may not have been proportionate to the offence for which it was given.

10.43.12 Those arrangements have been changed. Under the Criminal Justice (Children) (NI) Order 1998, custodial orders are limited to the most serious or persistent offenders and if such an order is imposed the court determines the length of sentence taking account only of the seriousness of the offence. The period of the sentence is reduced by the time spent on remand. The maximum period of detention is one year, but a standard three-month period is stated to be appropriate in all but the most serious cases.

10.43.13 Because of the serious nature of the offending for which this sentence will be reserved, the accommodation needs to be secure in most cases. But the regime is positive with increasing emphasis on education and training, with the supervision period of the sentence being used to support the child for a period after release to help him reintegrate back into society.

10.43.14 The Criminal Justice (Children) (NI) Order 1998 provides that where a court makes a juvenile justice centre order, half the sentence will be served in custody and half in the community. The aim of the order is to plan from the first day for successful rehabilitation and to that end an individual plan should be drawn up for each child. The objective of the disposal is to reduce offending behaviour and to reintegrate the child successfully into the community. The new provisions are strictly limited to exceptional cases.

10.43.15 The original proposal for a draft Criminal Justice (Children) Order would have removed the provisions in the Children and Young Persons Act (NI) 1968 allowing the court to transfer children aged 15 or over held in a training school to the young offenders centre. However, as there is no secure accommodation for girls in Northern Ireland it became apparent that exceptional cases could arise where a 15-year-old could not be held safely, or could be a



danger to others, in a training school. It was therefore decided not to remove the power to transfer such children to the young offenders centre. The new provisions are strictly limited to exceptional cases.

#### **10.44 The child safety initiative in Scotland**

##### *Article 40*

10.44.1 The Child Safety Initiative was launched in Scotland by Strathclyde Police and South Lanarkshire Council in October 1997 to protect the safety of young people, cut down youth disorder, and reduce crime concerns following pressure from local communities for action to tackle in dealing with groups of youngsters disturbing the peace, and frightening residents.

10.44.2 A key element of the Initiative is high-profile, weekend and evening street patrols, undertaken by a pool of community police officers selected for their experience, skill and empathy in dealing with young people. The police patrol the streets of the housing estates and approach young people who are considered to be causing a nuisance or are unsupervised and in vulnerable situations. Their task is to ensure that unsupervised children in the street at an inappropriately late hour, and thought to be at risk, are returned home to their parents. If there is no adult supervision at home, the children are taken to a safe room at a police office until their parents or carers collect them.

10.44.3 The pilot is being evaluated by the Scottish Office and Strathclyde Police Research and Development Unit.

#### **10.45 Prisons - separation of young offenders**

##### *Article 40*

10.45.1 The United Kingdom has previously entered a reservation relating to article 37 (c) because of its policy of mixing certain young offenders with adults. The United Kingdom must retain this reservation for the present time to permit the mixing of young offenders and adults where there is, at any time, a lack of suitable accommodation or adequate facilities for a particular individual in any institution.

10.45.2 The United Kingdom has determined its plans for the initial composition of an under 18 estate. The new estate will comprise juvenile-only establishments and juvenile units in other establishments. This is supplemented by a strategy for securing further improvements to the estate over the next three years. A major programme of capital development work, totalling £15 million, is now under way to deliver the estate by April 2000. There may continue to be a small number of juvenile prisoners whose particular circumstances mean that they are best temporarily held in local prisons, for example because of distance from court or for medical reasons. New regime standards for boys under 18 have also been developed. The standards are founded upon research into "what works" with offenders and draw upon good practices in young offender institutions as well as other settings.

10.45.3 The United Kingdom decided that 15 and 16-year-old girls should be placed in non-Prison Service accommodation with the introduction of the Detention and Training Order (DTO) in April 2000. As spaces become available, 17-year-old girls will also be placed outside the Prison Service. In the interim they will be held with other young women under 21 in enhanced Young Offender Units.

#### **10.46 Separation of young offenders - views of NGOs**

##### *Article 40*

10.46.1 The National Children's Bureau, and some other NGOs, have supported the Review of the Juvenile Secure Estate. They hope that it may result in changes in the practice of mixed placement of young offenders and children with welfare needs in local authority secure accommodation - though they acknowledge that all such children may require welfare provision. The same issues apply to young people on remand in adult prisons.

10.46.2 It is Government policy to move to a position where no 15 and 16-year-olds have to be remanded to Prison Service custody, but there is currently insufficient provision elsewhere. However, under the Crime and Disorder Act 1998, from 1 June 1999 all girls at that age, and vulnerable boys for whom a place is available, who need custody can be remanded to local authority secure accommodation.

#### **10.47 Treatment of young offenders while in custody**

##### *Articles 40, 37*

10.47.1 It is the duty of the Prison Service to hold in custody those young offenders sentenced into their care by the courts. While in custody, it is the Prison Service's duty to look after such young offenders with humanity and help them lead constructive lives while in custody and prepare them for a law abiding life on release. The Youth Justice Board, which came into operation on 30 September 1998, will monitor the operation of the youth justice system as a whole and will help set and monitor standards for secure accommodation for children and young people on remand or under sentence. The United Kingdom has also decided, in principle, that the Board will from April 2000 become the commissioning and purchasing body for all forms of juvenile secure accommodation - central government, local authority and private sector. This will help to ensure that juveniles in custody are held in accommodation appropriate to their needs.

10.47.2 It is the duty of the Prison Service to hold in custody those young offenders sentenced into their care by the courts. While in custody, it is the Prison Service's duty to look after such young offenders with humanity and help them lead constructive lives while in custody and prepare them for a law abiding life on release.

10.47.3 Education is compulsory for young people under school leaving age in Prison Service custody. Prison education focuses on the core curriculum of basic educational skills, life and social skills, and IT skills. The Prison Service is also developing a broader educational curriculum for those under 18, which can be tailored to individual needs. This will include an action plan and timetable for each juvenile, based on an in-depth assessment.

10.47.4 The Prison Service is very aware of the importance of sustaining prisoners' relationships with close relatives, partners and friends, and is committed to promoting close and meaningful family ties between prisoners and their families. It is currently working on improving regimes for those under 18 in its care, and developing regime standards for juveniles which will highlight the need to involve families in sentence planning and review, where appropriate.

10.47.5 Young offenders have a right of access to a request and complaints procedure and may also communicate with whomever they wish in the outside community, including legal advisers and Parliamentarians. Health Care is also available on a regular basis and it is intended to meet the standards of the health service in the community. A periodic review of each young offender takes place as part of each person's individual sentence plan, which charts the subject's progress through the system and highlights areas of need for each young offender.

10.47.6 The Trust for the Study of Adolescence began in May 1998 an 18-month evaluation of the effectiveness of the parenthood courses running in young offender institutions (currently such courses run in half of the young offender institutions).

10.47.7 The Prison Service has initiated an extensive programme designed to secure improvements in the accommodation and regimes available for juveniles in its care. Principal features of this work include:

(a) The development of new regimes standards for juveniles, which focus on the specific needs of this group;

(b) Proposals for the creation of a distinct juvenile estate for male 15-17-year-olds remanded or sentenced to custody;

(c) The establishment of three enhanced regime units for those under 18 sentenced under section 53 of the Children and Young Persons Act 1933;

(d) The investment, in this financial year, of additional funds in two establishments holding juveniles to establish enhanced regimes.

#### **10.48 Detention as a last resort - Scotland**

*Articles 40, 37*

10.48.1 In view of the Committee's comment on the United Kingdom's First Report regarding detention as a last resort, the Government points out that sections 207 and 208 of the

Criminal Procedure (Scotland) Act 1995 prevent detention being imposed on a person aged under 21 years unless the court is of the opinion that no other method of dealing with the defendant is appropriate.

10.48.2 Underpinning the legislation affecting children in Scotland is the principle that the State should intervene in the life of the child only where such action is in the best interests of the child. Before making a supervision requirement, a children's hearing must be satisfied that compulsory measures of supervision are necessary (section 70 (1) of the 1995 Act). Section 73 stipulates that no child shall continue to be subject to a supervision requirement for any period longer than is necessary in the interests of promoting or safeguarding his welfare. Any child sent to residential or secure care from the children's hearings system is subject to a supervision requirement, which may last for a period of no more than one year and the child or his parents have the right to apply for a review after three months. In certain circumstances a review may be held earlier than three months.

10.48.3 Where a child is to be brought to a hearing or the hearing is unable to reach a decision, a warrant may be issued for the detention of the child in certain circumstances and for maximum periods of time, set out in sections 66 and 67 of the 1995 Act. No child may be kept in a place of safety for more than 22 days after the grant of the warrant. The warrant may be extended subject to an overall limit of 66 days.

#### **10.49 Custody as a last resort in Northern Ireland**

*Articles 40, 37*

10.49.1 The Criminal Justice (Children) (Northern Ireland) Order 1998 introduced a number of important changes relating to the administration of juvenile justice in Northern Ireland which meet the Convention's recommendations that custody should be used only as a method of last resort and for the minimum period necessary. The Order replaced the semi-determinate two-year training school order with a more focused, determinate disposal known as a juvenile justice centre order. Article 39 of the Order puts beyond doubt the requirement on the courts that a custodial sentence should be imposed only where the seriousness of the offence, or the failure of non-custodial sentences in cases of persistent offenders, makes a non-custodial sentence wholly inappropriate. The juvenile justice centre order lasts between six months and two years. Where a court makes a juvenile justice centre order for a period longer than six months it is required to state in open court the reasons for doing so. Half the sentence will be served in custody and half under supervision in the community.

10.49.2 Another important change, which should reduce the average period of detention in a juvenile justice centre, is that time spent on remand in custody will count in full to reduce the custodial element of the sentence.

10.49.3 The Order also seeks to reduce to a minimum the number of children remanded in custody. It provides for the child's release unless the offence with which the child is charged is of a violent or sexual nature, or is one which in the case of an adult is punishable with imprisonment for a term of 14 years or more, or is an arrestable offence alleged to have been committed while the defendant was on bail or within two years of having previously been convicted of an

arrestable offence. This article is subject to section 3 of the Northern Ireland (Emergency Provisions) Act 1996 which provides for a limitation of the power to grant bail in the case of offences specified in Part I or Part III of Schedule 1 to that Act.

## **10.50 Sexual exploitation and sexual abuse - further developments in law and practice**

### *Article 34*

10.50.1 The Government of the United Kingdom regards the protection of children as one of its highest priorities. The Government utterly condemns all forms of coercion and sexual exploitation and is committed to achieving measures to make children safe from exploitation and abuse.

10.50.2 The United Kingdom's first report set out the wide range of measures then in force to prevent sexual exploitation and to deal with offenders. (It should be noted that Part II of the Sex Offenders Act extended the jurisdiction of United Kingdom courts to cover certain offences committed abroad.) This report is confined to the additional measures which have since been taken to add to the network of measures in force.

10.50.3 Part I of the Sex Offenders Act 1997 obliges offenders who have been convicted of sex offences against children and other serious sex offences to notify the police of their name and address. Offenders have to notify the police of any changes of name, and address if they are living there for 14 days or more. Failure to notify the police is a criminal offence subject to a fine of up to £5,000, and or imprisonment of up to six months.

10.50.4 Offenders who have been sentenced to 30 months or more imprisonment for a specified offence will have to register for life - shorter periods of registration apply to those awarded shorter sentences. Using information about registered persons, the police can be made aware when a sex offender moves into their area, and can use this information to identify potential suspects in any future offence. It is hoped that the obligation to register will act as a deterrent to potential re-offenders.

10.50.5 The register established under Part I of the Sex Offenders Act is a valuable tool which enables the police to keep track of convicted sex offenders. The police attach a very high priority to maintaining it. Recent information suggests that almost 96 per cent of offenders who are required to register have done so. Where an offender fails to register this is followed up by the police.

10.50.6 The United Kingdom Government understands the concern about sex offenders being able to go abroad without notifying the authorities and that British citizens who have a conviction for a sex offence abroad do not have to register. However, simply imposing a requirement to register in such circumstances would not be effective unless there were practical solutions to the problem of tracking offenders once they leave the United Kingdom.

10.50.7 The United Kingdom Government considers that significant benefits in protecting children in the United Kingdom and across the world would be achieved by the effective exchange of information between police forces on the movement of known sex offenders who

pose a continuing risk. There are already systems in place via Interpol and work is being carried out to improve the exchange of information. A review of the effectiveness of the Sex Offenders Act is currently under way to assess how it is achieving its aims and whether changes are necessary. It is expected to report later in 1999.

10.50.8 In England and Wales all sex offenders sentenced to at least a year in custody, and those under 21, are subject to a period of statutory supervision by the probation service since 1992. In Scotland 1993 legislation allows courts to impose additional supervision on offenders where necessary to protect the public. In both jurisdictions, prisoners serving over four years in custody are automatically supervised on release. An additional period of supervision is provided in the Crime and Disorder Act which will enable courts to extend the existing period of supervision by up to 10 years when sentencing an offender.

10.50.9 Articles 26 to 28 of the Criminal Justice (NI) Order 1996, which came into operation on 1 January 1998, introduced arrangements which gave courts the option of requiring sex offenders to be supervised on licence from the date of release until expiry of their full sentence. An offender who breaches the terms of his licence or commits a further imprisonable offence while on licence could face a fine or a return to prison.

## **10.51 Penalties for offences against children**

### *Article 34*

10.51.1 The Crime (Sentences) Act 1997 provides for a mandatory life sentence for a second serious sexual or violent offence, including offences against children. The Act also increased the maximum penalty for indecent conduct towards a child under 14 from 2 years to 10 years. Similar legislation in Scotland increased the maximum penalty for unlawful sexual intercourse with girls under 16 and indecent behaviour towards a girl between 12 and 16, to 10 years.

## **10.52 Role of the criminal law and the police service in preventing the exploitative use of children in prostitution or other unlawful sexual practices**

### *Article 34*

10.52.1 Prostitution is not in itself an illegal activity in the United Kingdom but if the prostitute concerned is below the legal age of consent (16 for girls) then an adult who engages in sexual activity with her will be guilty of an offence.

10.52.2 There is a range of offences to deal with those who abuse children involved in prostitution. However, the United Kingdom Government recognizes the widespread concern that children involved in prostitution have been inappropriately regarded as consenting adults by the police and others. The United Kingdom Government's aim is to prevent and deter children from entering or staying in prostitution and the Government believes that the best way forward is a multi-agency approach with children's welfare as the prime concern. It is a tragedy for any child to become involved in prostitution.

10.52.3 In December 1998 the Home Office and the Department of Health issued joint draft guidance for consultation on children involved in prostitution. The consultation period closed on 29 March 1999. This guidance was prepared within the existing criminal law: it does not decriminalize soliciting, loitering and importuning by children but emphasizes that children in prostitution are primarily the victims of coercion and abuse and that therefore the emphasis should be on the care and protection of young people. Those adults who exploit them, whether by pimping them or as clients, are child abusers. The draft guidance encourages the use of the full range of criminal offences against those who corrupt and abuse children.

10.52.4 The guidance should be a practical guide, the purpose of which is to enable all agencies to develop effective local arrangements to work together to:

- (a) Recognize the problem;
- (b) Treat the child primarily as a victim of abuse;
- (c) Safeguard children and promote their welfare; and
- (d) Work together to provide children with strategies to exit prostitution.

10.52.5 The draft guidance was drawn up by officials and representatives from across government and the others such as the police, the Association of Directors of Social Services (ADSS) and the Local Government Association. It builds on guidelines developed by the Association of Chief Police Officers, with the help of the ADSS, the children's charities and government departments, for the police, social services and voluntary agencies to work together to treat the children as victims of abuse and the pimps and abusers as the real criminals.

10.52.6 These guidelines were piloted in Wolverhampton and Nottingham where they have worked well. Police and social services have worked closely together and with other services to help children found to be in prostitution leave that way of life. Many pimps and abusers have been charged with serious crimes in the pilot areas. ACPO have adopted the guidelines as a national policy.

10.52.7 The Government's draft guidance works within the existing legal framework. The United Kingdom Government is not convinced that decriminalizing prostitution for children is the best way to protect children who are at risk. The Government believes that the criminal law can play an important role in combating the commercial sexual exploitation of children. The Government is therefore opposed to decriminalization because:

- (a) The existence of the criminal offence sends out a clear message - that society does not condone child prostitution;
- (b) Decriminalization would send all the wrong signals - it might appear that society was condoning child prostitution rather than condemning it;
- (c) The offence may act as a deterrent;

(d) The police can use the offence as a lever to help divert girls from staying in prostitution; and

(e) Restricting the offence of soliciting to those of 18 or over would put those of 16 and 17, who could legally solicit, at greater risk of coercion into prostitution, so putting more, not fewer, girls at risk from pimps and exploitations.

10.52.8 The United Kingdom Government has also recognized that the criminal law on sexual offences, while comprehensive, may not offer children the best possible protection from abuse. The Government is undertaking a comprehensive review of the sexual offences and penalties in which the protection of children is a major theme. The terms of reference of this review were announced in January 1999. These include requirements to provide coherent and clear sex offences which protect individuals, particularly children and the more vulnerable, from abuse and exploitation, and enable abusers to be appropriately punished.

10.52.9 The review has published a leaflet seeking views on how the criminal law should apply in this area to protect people, especially children and the more vulnerable, from abuse and exploitation. Initial consultation will inform the work of the review which is being led by a Steering Group, advised by a separate External Reference Group of Individuals and organizations with strong interests and views on issues relating to sex offences. Their conclusions are expected at the end of 1999 and will form the basis of a consultation document.

10.52.10 The principle of extra-territoriality has been incorporated in Part II of the Sex Offenders Act 1997 which makes it an offence in England, Wales and Northern Ireland to commit specified sexual offences (including rape, sexual intercourse with a girl under the age of 16, buggery and indecent assault on a child) in a country or territory outside the United Kingdom. In addition, the child pornography offences will also be covered. The Act makes equivalent provision for Scotland.

10.52.11 The jurisdiction of the courts will be extended in this way only where the conduct concerned would be a criminal offence both in the United Kingdom's jurisdiction and in the territory of the state where it was committed. This is the so-called dual-criminality test. These provisions will not alter the United Kingdom's existing ability to extradite a person for trial to the country in which he is alleged to have committed an offence. In fact, extradition will always be the preferred option. However, where that is not possible for any reason, there is the alternative of prosecution here. Mounting a prosecution in this country will not be easy, but the United Kingdom will not be deterred where it is right and proper to do so.

10.52.12 Legislation has also been passed to extend the jurisdiction of our courts over conspiracies entered into in this country to commit crimes abroad. Under the Criminal Justice (Terrorism and Conspiracy) Act 1998 it is an offence for a person to conspire to commit an offence outside the United Kingdom, provided the substantive offence constitutes an offence both under the law in the United Kingdom and under the law of the country in which the act is to be committed. This enables courts in the United Kingdom to deal with conspiracies in this country to commit sexual offences against children abroad. Tour operators who knowingly organize travel abroad for paedophiles for the purpose of engaging in sexual acts against children, or groups of individuals who might organize a trip for that purpose, can therefore be



prosecuted, with the consent of the Attorney-General, for such activities. This replaces section 1 of the Sexual Offences (Conspiracy and Incitement) Act 1996. Under the remaining parts of the 1996 Act it is still an offence to incite people to commit certain sexual offences against children abroad.

### **10.53 Reducing child prostitution - views of NGOs**

#### *Article 34*

10.53.1 Barnardo's drew attention, while this report was being prepared, to their particular concern for children who are abused by involvement in prostitution. Barnardo's has been working with young women so abused for some years now. On the basis of their experience they would like to see changes in the law to result in the conviction of men who abuse, and provide more appropriate support to the young people who are victims of such abuse. This point was echoed by others who contributed: they would like to see the law ensuring that it is the client of the child prostitute who is seen and treated as the offender, with the child prostitute being treated as the victim.

### **10.54 The exploitative use of children in pornographic performances and materials**

#### *Article 34*

10.54.1 The United Kingdom has an absolute prohibition on the production, circulation, and possession of child pornography, carrying a sentence of three years' imprisonment. The Obscene Publications Act 1959 applies to material published via the Internet. The criminal law also applies to child pornography on the Internet: under the Protection of Children Act 1978, it is an offence to take, permit to take, distribute, show or possess with a view to distribution or showing an indecent photograph, film or video of a child under 16 - the maximum penalty is three years' imprisonment and an unlimited fine. It is also an offence under Section 160 of the Criminal Justice Act 1988 for a person to have an indecent photograph or film or video of a child under 16 in their possession - this offence attracts a maximum penalty of six months' imprisonment and a £5,000 fine.

10.54.2 Under English law all are responsible for their own conscious acts or omissions. Thus service and access providers and telecommunications companies are responsible for material to the extent that they are aware of it. It follows that they are not responsible until they are aware of it. This situation provides a strong incentive for service providers to act to remove potentially illegal material from their servers. This element of enlightened self-interest underpins the success of the Internet Watch Foundation (see section 10.55).

10.54.3 The Criminal Justice and Public Order Act 1994 amended the definition of "photograph" to include data stored on a computer disc or by other electronic means which is capable of conversion into a photograph. The 1994 Act amended the law to introduce the concept of "pseudo-photograph" which means an image, whether generated by computer graphics or otherwise, which appears to be a photograph. It also increased the penalty under section 160 of the Criminal Justice Act 1988 to include a term of imprisonment.

## **10.55 Cooperation with NGOs to counter exploitation of children - the Internet Watch Foundation**

### *Article 34*

10.55.1 In response to concerns about the availability of child pornography and other potentially illegal material on the Internet, the Internet Watch Foundation (IWF) was established in September 1996. It is a self-regulatory organization, financed by voluntary contributions from the United Kingdom Internet Industry. It was set up by the Internet Service Providers (ISPs) following discussions between service providers, the Metropolitan Police, and officials from the Home Office and the Department of Trade and Industry. The aims of the Foundation are to determine whether particular newsgroups carry potential illegal material, to trace the originator and to ask Internet Service Providers to remove it from their servers, and to send details of child pornography to the police, or to the enforcement agency concerned via the National Criminal Intelligence Service (NCIS) if the originator is abroad. Attention is now being given to ways of improving the operational interface between the police and ISPs across the country.

10.55.2 In December 1996, the Foundation established a "hotline" to enable users to report the presence of potentially illegal material in a newsgroup or web site. The Foundation determines whether the reported newsgroup or web site carries illegal material and takes steps to have access denied to that site. Statistics for the first year of operation of the hotline show that 781 reports were received referring to over 4,300 items. Reports on which action was taken were predominantly about child pornography (85 per cent) mostly from news groups. Only a small proportion of reported items originated from the United Kingdom (6 per cent); the majority were from the United States of America (63 per cent) and Japan (19 per cent).

10.55.3. In March 1998, the Government announced a review of the work of the Foundation which will look at the structure of the IWF, progress on the removal of illegal material, and the possibility of extending its remit to focus on other types of illegal pornography. The intention is to report in spring 1999.

10.55.4 Building on the work of the Recreational Software Advisory Council (RSAC), which produced a rating system for Internet sites - self-rated by the content provider - which covers nudity, violence, sex and language, the IWF has been looking to devise a rating system for legal material and also to apply the ratings to newsgroups. This will be compatible with filtering software packages which have been developed to enable schools and parents to restrict the types of web sites to which children have access. A Working Group of representatives of ISPs and the Foundation has been devising a common ratings system suitable for United Kingdom Internet users.

10.55.5 In Scotland, the Scottish Office has set up a working group including representatives from local authorities, police and NGOs to prepare advice for parents and agencies on child safety and use of the Internet.

## **10.56 United Kingdom participation in international agreements**

*Articles 34, 35*

10.56.1. The United Kingdom has played a crucial role in relevant international agreements to prevent all forms of sexual abuse and exploitation of children. It took a leading role in the *Stockholm World Congress Against the Commercial Sexual Exploitation of Children* and has reported on progress under the agreed agenda for action. The United Kingdom is also active in taking forward measures referred to in international instruments such as the Joint Action on Combating Child Sex Exploitation and the Sexual Trafficking of Persons (the STOP programme).

10.56.2 In August 1997 the Government of the United Kingdom and the Philippines Government signed a memorandum of understanding to cooperate to combat the sexual exploitation of children. This was followed by a major new ASEM child welfare initiative to share good practice and develop dialogue between Europe and Asia in combating the commercial sexual exploitation of children. This initiative is co-sponsored by the United Kingdom Government and the Government of the Philippines and was announced at the Asia-Europe Summit (ASEM 2) in April 1998. A preliminary meeting was held in Manila in June 1998 to prepare for a meeting of experts from Governments and NGOs from ASEM countries in London in October 1998.

10.56.3 The National Criminal Intelligence Service (NCIS) has developed a database of people involved in or connected with paedophilia and child pornography. They provide assistance to a variety of national and international agencies, and have contributed to the work of the Interpol Standing Working Party on Offences Against Minors, which coordinates action to combat sex tourism.

10.56.4 The police have had a number of successful operations against child pornography including those using the Internet. *Operation Starbust* involved cooperation with the police in six countries and 40 individuals were arrested.

10.56.5 Several United Kingdom police forces have run training courses in the Philippines, Thailand and Sri Lanka to develop expertise and share good practice.

## **10.57 Statistics on sexual abuse of children**

*Article 34*

10.57.1 Statistics relating to sexual offences in England and Wales against children of 16 years and under are at Annex B.

## **10.58 Sale, trafficking and abduction of children**

*Articles 34, 35*

10.58.1 The United Kingdom is fully committed to opposing the sale, trafficking and abduction of children and associated activities.

10.58.2 The United Kingdom has comprehensive laws to deal with those who engage in activities associated with trafficking. It is also possible for the courts to confiscate the assets of those found guilty of trafficking. The most serious of offences attract severe penalties of up to life imprisonment (see section 10.52). In particular under section 22 of the Sexual Offences Act 1956 it is an offence in England and Wales to procure a woman to become a prostitute in any part of the world, and the courts have held that the English courts have jurisdiction to try if any part of the offence occurs in England and Wales.<sup>135</sup> Under section 23 of the same Act, it is an offence for a person to procure a girl under the age of 21 to have unlawful sexual intercourse in any part of the world with a third person. It is also an offence to detain a woman in a brothel under section 24. The maximum penalty for these offences is two years' imprisonment. Living on immoral earnings is an offence that carries a maximum penalty of seven years. Anyone who takes a child from those who have lawful control of that child commits an offence under the Child Abduction Act 1984. Those who traffic women may also be liable to other charges relating to illegal immigration as well as procurement and prostitution offences.

10.58.3 Kidnapping is a common law offence defined as "the taking away of one person by another by force or fraud without the consent of the person so taken or carried away and without lawful excuse". There is no limit to the penalty which can be imposed by the higher courts on convictions for this offence.

10.58.4 Under United Kingdom immigration legislation a child or adult who wishes to enter the United Kingdom needs to qualify for entry in the same way as an adult. Particular care is taken with applications from unaccompanied minors. Where it is considered that a person's purpose for entry does not qualify for leave to enter under the Immigration Rules, such as prostitution, the application would be refused. The rules require that consideration be given to the removal of those found to be in the United Kingdom illegally but the United Kingdom will not seek to remove a child under the age of 18 unless it is possible to put in place acceptable reception and welfare arrangements in the country of origin.

10.58.5 The measures described under article 34 on the sexual exploitation of children and sexual abuse of children also apply to the sale, trafficking and abduction of children, as the sexual exploitation of children is one of the main reasons why children are sold or trafficked.

10.58.6 Social service provide facilities for the protection and assistance of the victims of trafficking.

## **10.59 Individuals unsuitable to work with children**

### *Article 5*

10.59.1 The Protection of Children Act - July 1999 - requires regulated organizations to refer for inclusion on a new Department of Health list of names of individuals considered unsuitable to work with children, and not to offer work for any posts involving regular contact with children in a childcare capacity - to anyone so listed. It also introduces rights of appeal to an independent tribunal against inclusion on both this list and a similar Department of Education and Employment list. Finally, it paves the way for the introduction of a Criminal Records Bureau to act as a single point of access for information from criminal records and both the Departmental lists on those wanting to work with children.

## **10.60 Passport policy and child abduction**

### *Article 11*

10.60.1. The Government changed its passport policy in October 1998 so that all children not already on the passport of one of their parents must have a separate passport for travel abroad. Children already on a parent's passport will remain on it only until the passport expires, or the validity of the entry relating to the child requires amendment, or the child becomes 16. Thereafter the child will need a separate passport. This change should reduce the risk of international parental child abduction, forgery and impersonation, thus providing additional safeguards for vulnerable children.

## **10.61 Current action to prevent sexual exploitation and sexual abuse of children in England and Wales**

### *Article 34*

10.61.1. In addition to the extensive changes which are already in force, further new measures are being introduced. Sex Offender orders, introduced in the Crime and Disorder Act, enable the civil courts to make an order against someone previously convicted of a sex offence against a child and whose subsequent behaviour causes concern such that an order is necessary to protect the public from serious harm from him. The order will ban specific acts, such as loitering near school playgrounds. Breach of an order is a criminal offence carrying a serious penalty.

10.61.2 The Police Act 1997 will enable the creation of a new system of access to criminal records. When the new arrangements are introduced all organizations working with children will be able to obtain information on criminal records of employees and volunteers if they will regularly care for, train, supervise or be in sole charge of children.

10.61.3 The Government has also set up an interdepartmental working group on preventing sex offenders from working with children. Its main report was made public on 25 January 1999 and copies were placed in the libraries of both Houses of Parliament and are on the Internet.<sup>136</sup> It examined a range of issues and made recommendations on:

(a) The establishment of a new integrated system for identifying those unsuitable to work with children, building on and drawing together existing safeguards;

(b) A possible new criminal offence for a person identified under the new system is unsuitable, to apply for work, accept work or continue work with children;

(c) The establishment of a central access point to the integrated system, or “one stop shop”, to check who might be unsuitable to work with children.

10.61.4 The Group also made recommendations in its interim report in November 1998 that a new criminal offence should be created where a person aged 18 or over has sexual intercourse or engages in any other sexual activity with or directed towards a person under that age, if the person aged 18 or over is in a position of trust in relation to the younger person in specified circumstances.

10.61.5 New initiatives are being taken to ensure that cases of child abuse come to court quickly, including fast-tracking schemes for such cases. A national monitoring scheme of child witness cases is currently under way.

## **10.62 Research into the abuse of children**

### *Article 34*

10.62.1 An extensive programme of research into a wide range of issues involving children who are physically and sexually abused is under way. Issues include evidential matters; police training and procedures; repeat victimization of children; the links between domestic violence and sex abuse; and assessing the risks posed by sex offenders.

10.62.2 Research projects on the way in which boys who have been abused may go on to be abusers, on therapeutic treatment for children who have been sexually abused, and on “What works in child sexual abuse” are also under way.

10.62.3 Her Majesty’s Inspectorate of Constabulary has completed a thematic inspection of child protection issues. It is an examination of the wide range of responsibilities which the police service has in safeguarding the welfare and rights of children. The report was published in January 1999.<sup>137</sup>

## **10.63 Social care initiatives relevant to sexual abuse of children**

### *Article 34*

10.63.1 In addition to the Utting report (see section 7.8 above) the Government is building on experience gained in inter-agency working since the Children Act 1989 and is consulting on a revision of the key guidance on inter-agency and cooperation in child protection work. The joint Department of Health and Welsh Office consultation paper *Working Together to Safeguard*

*Children: new proposals for inter-agency co-operation* includes a section on the commercial sexual exploitation of children, inviting views on how best to address the problem. Corresponding guidance is being issued in Scotland.

10.63.2 In Scotland the Chief Inspector of Social Work has completed the first part of a major review of the supervision of sex offenders in the community. The recommendations of his report *A Commitment to Protect*<sup>138</sup> which was published in December 1997 have been accepted by Scottish Office Ministers and are being taken forward by a high-level multi-agency group chaired by a High Court judge. The second phase of the review deals with empowering and involving communities in reducing risk from sex offenders, and accommodations of sex offenders, to improve community safety. The review is due to be completed later this year.

10.63.3 The ASEM2 child welfare initiative (described in section 10.56) will promote good practice examples from European and Asian countries in all the four areas of action identified in the Stockholm World Congress: prevention, protection, recovery and rehabilitation and cooperation, as well as encouraging dialogue and information sharing on all aspects of combating the commercial sexual exploitation of children.

## **10.64 Protection against sexual exploitation and abuse in Scotland**

### *Article 34*

10.64.1 The Sex Offenders Act 1997, discussed at section 10.50, applies in Scotland. Higher penalties for various sexual offences against children were included in the Crime and Punishment (Scotland) Act 1997. Under the Sexual Offences (Conspiracy and Incitement) Act 1996, it is now an offence in Scotland to conspire in or incite the commission of a sexual offence abroad. The Crime and Disorder Act 1998 also contains provision for Sex Offenders Orders to control the behaviour of sex offenders on release and for extended post-release supervision of sex and violent offenders.

10.64.2 As a means of further improving safeguards for children in Scotland, the Government is developing a fully comprehensive approach to information held about those unsuitable to work with children and young people. As part of that strategy it is intended that a statutory Consultancy Services Index will be introduced for Scotland. The Consultancy Services Index will be introduced for Scotland. The Consultancy Services Index will hold, within carefully prescribed parameters, information provided by employers about staff (including volunteers) whom they consider "unsuitable to work with children and young people.

## **10.65 Young people in the armed services**

### *Article 38*

10.65.1 The United Kingdom's policies on the recruitment and deployment of those under the age of 18 remain substantially unchanged from those set out in the First Report. However, personnel aged under 17 are no longer deployed by the Naval Service. Those policies are in accordance with the provisions of international humanitarian law, namely article 77 of the First Additional Protocol to the Geneva Conventions 1949.

10.65.2 The Armed Forces policies on recruitment, deployment and terms of service for those under the age of 18 were addressed by the Armed Forces Bill Select Committee in 1991. It recommended, among other things, that the Ministry of Defence should examine the terms of enlistment of those under 18. The Ministry considered those findings, and decided not to make any changes. In 1996 the Armed Forces Bill Select Committee concluded that, on balance, it believed that it would be impractical, and unpopular with all concerned to place further restrictions on the ability of those under 18 to serve on active duty. It again recommended that careful consideration be given to requiring minors to commit themselves to a period of service no longer than that of adults.

10.65.3 As a result, a working group was set up to examine how this anomaly might be removed, and to see whether common terms of service might be introduced across the three services - the Royal Navy, the Army and the Royal Air Force. Work is now under way to draft revised terms of service for personnel under 18.

## **10.66 Health and safety of children at work**

*Articles 32, 36*

10.66.1 The United Kingdom has comprehensive health and safety legislation which generally is not age specific and is enforced irrespective of the age of the employee. However, in implementing the EC Directive on the protection of young people at work, regulations were introduced requiring employers when conducting any assessment of health and safety risks to young people (under 18 years) to have particular regard to possible inexperience, immaturity, and lack of awareness of risks. There are some specific health risks. For instance from toxic substances such as lead, where young people under the age of 18 are prohibited from doing the activity. In addition, regulations implementing the EU Directive on the organization of working time contain requirements relating to working hours of young workers, entitlements to periods of rest and annual leave, and health and capacities assessments for work at night.

## **10.67 Prevention of the economic exploitation of children, and control of child labour**

*Articles 32, 36*

10.67.1 The convention defines a child as a person below 18 years of age (except where relevant legislation provides for an earlier age of majority). In the United Kingdom, in common with adult workers, those aged above the minimum school leaving age (around the child's 16th birthday) were generally free to negotiate their hours and other conditions of employment with the employer. This aspect of our legal provision for young people between the ages of 16 to 18 made it necessary for the United Kingdom, when acceding to the Convention, to enter a reservation on this point.

10.67.2 However, since the first report, the United Kingdom has implemented the EC Directives on the protection of young people at work and on the Organization of Working Time. These Directives require EC member States to bring their domestic law into



compliance with certain standards in relation to the employment of young people. These standards include restrictions on the working conditions and hours of work of all young people under age 18. Those changes to our law have now been made.

#### **10.68 Withdrawal of the United Kingdom reservation relating to article 32**

*Articles 32, 36*

10.68.1 As a consequence of the developments reported above, the United Kingdom is now able to lift the reservation previously entered on this article.

10.68.2 The law on children's employment, that is those under the minimum school leaving age, can now be outlined as follows.

10.68.3 Children between age 13 and the minimum school leaving age may work:

- (a) For a maximum of 2 hours on schooldays;
- (b) For a maximum of 2 hours on Sundays;
- (c) For a maximum of 5 hours (if aged under 15) or 8 hours (if 15 or over) on Saturdays and weekdays during the school holidays, subject to an overall limit of 25 hours (under 15) or 35 hours (15 and over) a week in the school holidays.

10.68.4 Children may not:

- (a) Do anything other than light work;
- (b) Work before they are 13 years of age;
- (c) Work for more than one hour before the start of school;
- (d) Work during school hours;
- (e) Work before 7.00 a.m. or after 7.00 p.m.;
- (f) Work for more than four hours without a break of at least one hour;
- (g) Work throughout the summer holidays; they must have a break of at least two weeks;
- (h) Work without an employment card issued by the local authority;
- (i) Work in any industrial undertaking, e.g. factory, building site, etc.;

(j) Work in many occupations prohibited by local by-laws or in other legislation, e.g. in pubs or betting shops, or in any work which is likely to be harmful to their health, well-being or education;

(k) Take part in certain theatrical or other performances or in professional sport or modelling without a licence issued by the local authority.

10.68.5 These restrictions are enforced by local authorities, in general through the education welfare service.

10.68.6 In the case of adolescents (i.e. those over the minimum school leaving age but under 18) there is a limit of 48 hours on the average number of weekly working hours they can work and an average limit of 8 hours per 24 hour period when working at night. These limits are enforced through the health and safety enforcing authorities.

10.68.7 Adolescents are also entitled to two days off per week, 12 hours rest between each working day and a minimum of 30 minutes rest if they work for longer than 4 hours per day. They are also entitled to minimum periods of paid annual leave. These entitlements are enforced through the Employment Tribunals.

#### Notes

<sup>1</sup> ISBN 0 11 321715 3, published by HMSO.

<sup>2</sup> Directive 94/33/EC on the protection of young people (under 18 years) at work, which came into effect on 3 March 1997; and Directive 93/104/EC concerning certain aspects of the organization of working time, which came into effect as regards young workers on 1 October 1998. In the latter case, a young worker is defined as one who has reached the age of 15 years, is above compulsory school leaving age, and is below the age of 18.

<sup>3</sup> The Children (Scotland) Act 1995: c 36 HMSO: ISBN 0 11 805978-5.

<sup>4</sup> The reservation was in respect of article 37 (d) of the United Nations Convention, which ensures that 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 liberty.

<sup>5</sup> SI 1996/3262 (S.252).

<sup>6</sup> *Valuing Diversity: Having regard to the racial, religious, cultural and linguistic needs of Scotland's Children*, The Stationery Office ISBN 0 1149 5903 X.

<sup>7</sup> c 50: HMSO ISBN 0 10 545091-X.

- <sup>8</sup> *Scotland's Children*, The Children (Scotland) Act 1995, Regulations and Guidance, The Stationery Office ISBN 0 ISBN 0 7480 5821 4, ISBN 0 7480 5822 2, ISBN 0 7480 5823 and ISBN 0 7480 5845.
- <sup>9</sup> Published by the Scottish Office Home Department and Scottish Courts Administration.
- <sup>10</sup> Published by the Scottish Office Home Department, October 1998.
- <sup>11</sup> *The Code of Guidance on Homelessness* - The Scottish Office Development Department - September 1997 (updated December 1998).
- <sup>12</sup> SI 1997/3049.
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- <sup>120</sup> ISBN 0 10 544997 0 published by The Stationery Office.
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<sup>135</sup> In Scotland, similar offences are to be found in the Criminal Law (Consolidation) (Scotland) Act 1995.

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## ANNEX A

### Text of the Committee's observations on the first United Kingdom report

UNITED NATIONS CRC

Convention on the Rights of the Child

GENERAL

CRC/C/15/Add.34

15 February 1995

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Eighth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION

#### **Concluding observations of the Committee on the Rights of the Child: United Kingdom of Great Britain and Northern Ireland**

1. The Committee considered the initial report of the United Kingdom of Great Britain and Northern Ireland (CRC/C/11/Add.1) at its 204th, 205th and 206th meetings (CRC/C/SR.204-206), held on 24 and 25 January 1995, and adopted\* the following concluding observations.

#### **A. Introduction**

2. The Committee appreciates the opportunity to engage in a constructive dialogue with the State party and welcomes the timely submission by the Government of the written responses to the Committee's list of issues (see CRC/C.7/WP.1). The Committee welcomes the additional oral information provided by the delegation of the State party which greatly assisted in clarifying many of the issues raised by the Committee. The additional oral information was particularly useful, in view of the Committee's observation that the initial report of the State party lacked sufficient information on the factors and difficulties impeding the implementation of various rights provided for in the Convention.

#### **B. Positive aspects**

3. The Committee takes note of the adoption by the State party of a Children's Act applicable to England and Wales. The Committee also observes that the State party has extended the application of the Convention to many of its dependent territories. The Committee

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\* At the 208th meeting, held on 26 January 1995.

welcomes the intention of the State party to consider withdrawing the reservation it made to article 37 of the Convention as it relates to the procedures governing children's hearings in Scotland.

4. Moreover, the Committee welcomes the initiatives being taken by the State party to reduce the incidence of Sudden Infant Death Syndrome and to combat the problem of bullying in school. In addition, the Committee is encouraged by the steps taken to address the issue of the sexual abuse of children, including through the development of the "Working Together" initiative which advocates and promotes an interdisciplinary approach to addressing this serious problem.

5. The Committee welcomes the information it received concerning the commitment of the Government to review its legislation in the area of the employment of children and to present new legislation in matters relating to the family, domestic violence and disability. Likewise, the Committee welcomes the measures being taken to pass further legislation in the area of adoption, including the intention of the Government to ratify the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. The Committee takes note of the Code of Practice for Children with Special Educational Needs which has statutory force and has been developed within the framework of the 1993 Education Act.

6. The Committee takes note of the Government's commitment to extend the provision of pre-school education. The Committee is equally appreciative of the recent initiative taken by the State party to require local authorities, in conjunction with health authorities and non-governmental organizations, to draw up Children's Service Plans.

### **C. Principal subjects of concern**

7. The Committee is concerned about the broad nature of the reservations made to the Convention by the State party which raise concern as to their compatibility with the object and purpose of the Convention. In particular, the reservation relating to the application of the Nationality and Immigration Act does not appear to be compatible with the principles and provisions of the Convention, including those of its articles 2, 3, 9 and 10.

8. The Committee remains unclear about the extent to which an effective coordinating mechanism exists for the implementation of the Convention on the Rights of the Child. It is concerned whether sufficient consideration has been given to the establishment of mechanisms, including of an independent nature, to coordinate and monitor the implementation of the rights of the child.

9. With respect to article 4 of the Convention, the Committee is concerned about the adequacy of measures taken to ensure the implementation of economic, social and cultural rights to the maximum extent of available resources. It appears to the Committee that insufficient expenditure is allocated to the social sector both within the State party and within the context of international development aid; the Committee wonders whether sufficient consideration has been given to the enjoyment of fundamental rights by children belonging to the most vulnerable groups in society.

10. The Committee notes that the initial report of the State party contains little information on the difficulties experienced by children living in Northern Ireland and the effect on children of the operation of emergency legislation there. The Committee is concerned about the absence of effective safeguards to prevent the ill-treatment of children under the emergency legislation. In this connection, the Committee observes that under the same legislation it is possible to hold children as young as 10 for 7 days without charge. It is also noted that the emergency legislation which gives the police and the army the power to stop, question and search people on the street has led to complaints of children being badly treated. The Committee is concerned about this situation which may lead to a lack of confidence in the system of investigation and action on such complaints.

11. The Committee is concerned about the apparent insufficiency of measures taken to ensure the implementation of the general principles of the Convention, namely the provisions of its articles 2, 3, 6 and 12. In this connection, the Committee observes in particular that the principle of the best interests of the child appears not to be reflected in legislation in such areas as health, education and social security which have a bearing on the respect for the rights of the child.

12. With regard to article 2 of the Convention relating to non-discrimination, the Committee expresses its concern at the insufficient measures undertaken to ensure its implementation. In particular, it is concerned about the possible adverse effects on children of the restrictions applied to unmarried fathers in transmitting citizenship to their children, in contradiction of the provisions of articles 7 and 8 of the Convention. In addition, the Committee is concerned that children of certain ethnic minorities appear to be more likely to be placed in care.

13. Furthermore, in the light of article 6 of the Convention, the Committee expresses its concern at the health status of children of different socio-economic groups and those belonging to ethnic minorities.

14. In relation to the implementation of article 12, the Committee is concerned that insufficient attention has been given to the right of the child to express his/her opinion, including in cases where parents in England and Wales have the possibility of withdrawing their children from parts of the sex education programmes in schools. In this as in other decisions, including exclusion from school, the child is not systematically invited to express his/her opinion and those opinions may not be given due weight, as required under article 12 of the Convention.

15. The Committee notes with concern the increasing number of children living in poverty. The Committee is aware that the phenomenon of children begging and sleeping on the streets has become more visible. The Committee is concerned that the changed regulations regarding benefit entitlements to young people may have contributed to the increase in the number of young homeless people. The rate of divorce and the number of single-parent families and teenage pregnancies in the State party are noted with concern. These phenomena raise a number of issues, including as regards the adequacy of benefit allowances and the availability and effectiveness of family education.

16. The Committee is disturbed about the reports it has received on the physical and sexual abuse of children. In this connection, the Committee is worried about the national legal provisions dealing with reasonable chastisement within the family. The imprecise nature of the expression of reasonable chastisement as contained in these legal provisions may pave the way for it to be interpreted in a subjective and arbitrary manner. Thus, the Committee is concerned that legislative and other measures relating to the physical integrity of children do not appear to be compatible with the provisions and principles of the Convention, including those of its articles 3, 19 and 37. The Committee is equally concerned that privately funded and managed schools are still permitted to administer corporal punishment to children in attendance there which does not appear to be compatible with the provisions of the Convention, including those of its article 28, paragraph 2.

17. The administration of the juvenile justice system in the State party is a matter of general concern to the Committee. The low age of criminal responsibility and the national legislation relating to the administration of juvenile justice seem not to be compatible with the provisions of the Convention, namely articles 37 and 40.

18. The Committee remains concerned about certain of the provisions of the Criminal Justice and Public Order Act 1994. The Committee notes that its provisions provide, inter alia, for the possibility of applying "secure training orders" on children aged 12 to 14 in England and Wales. The Committee is concerned about the compatibility of the application of such secure training orders on young children with the principles and provisions of the Convention in relation to the administration of juvenile justice, particularly its articles 3, 37, 39 and 40. In particular, the Committee is concerned that the ethos of the guidelines for the administration and establishment of Secure Training Centres in England and Wales and the Training Schools in Northern Ireland appears to lay emphasis on imprisonment and punishment.

19. The Committee is equally concerned that children placed in care under the social welfare system may be held in Training Schools in Northern Ireland and may be placed in the future in Secure Training Centres in England and Wales.

20. The Committee is also concerned that the Criminal Evidence (NI) Order 1988 appears to be incompatible with article 40 of the Convention, in particular with the right to presumption of innocence and the right not to be compelled to give testimony or confess guilt. It is noted that silence in response to police questioning can be used to support a finding of guilt against a child over 10 years of age in Northern Ireland. Silence at trial can be similarly used against children over 14 years of age.

21. The situation of Gypsy and Traveller children is a matter of concern to the Committee, especially with regard to their access to basic services and the provision of caravan sites.

#### **D. Suggestions and recommendations**

22. The Committee wishes to encourage the State party to consider reviewing its reservations to the Convention with a view to withdrawing them, particularly in light of the agreements made in this regard at the World Conference on Human Rights and incorporated in the Vienna Declaration and Programme of Action.

23. The Committee would like to suggest that the State party consider establishing a national mechanism for the purpose of coordinating the implementation of the Convention, including between governmental departments and between central and local governmental authorities. Furthermore, the Committee suggests that the State party establish a permanent mechanism for the monitoring of the Children's Act and the Convention on the Rights of the Child throughout the United Kingdom. It is further suggested that ways and means be established to facilitate regular and closer cooperation between the Government and the non-governmental community, particularly with those non-governmental organizations closely involved in monitoring the respect for the rights of the child in the State party.

24. With regard to the implementation of article 4 of the Convention, the Committee would like to suggest that the general principles of the Convention, particularly the provisions of its article 3, relating to the best interests of the child, should guide the determination of policy-making at both the central and local levels of government. This approach is of relevance to decisions taken about the allocation of resources to the social sector at the central and local government levels, including with regard to the allocation of benefits to children who have completed compulsory schooling and have no full-time employment. The Committee notes the importance of additional efforts to overcome the problems of growing social and economic inequality and increased poverty.

25. With regard to matters relating to the health, welfare and standard of living of children in the United Kingdom, the Committee recommends additional measures to address, as a matter of priority, problems affecting the health status of children of different socio-economic groups and of children belonging to ethnic minorities and to the problems of homelessness affecting children and their families.

26. The Committee recommends that in line with the provisions of article 42 of the Convention, the State party should undertake measures to make the provisions and principles of the Convention widely known to adults and children alike. It is also suggested that teaching about children's rights should be incorporated into the training curricula of professionals working with or for children, such as teachers, the police, judges, social workers, health workers and personnel in care and detention institutions.

27. The Committee would like to suggest that greater priority be given to incorporating the general principles of the Convention, especially the provisions of its article 3, relating to the best interests of the child, and article 12, concerning the child's right to make their views known and to have these views given due weight, in the legislative and administrative measures and in policies undertaken to implement the rights of the child. It is suggested that the State party consider the possibility of establishing further mechanisms to facilitate the participation of children in decisions affecting them, including within the family and the community.

28. The Committee recommends that race relations legislation be introduced in Northern Ireland as a matter of urgency and is encouraged by the information presented by the delegation of the State party regarding the Government's intention to follow up on this matter.



29. The Committee would also like to suggest that a review be undertaken of the nationality and immigration laws and procedures to ensure their conformity with the principles and provisions of the Convention.
30. The Committee recommends that further measures be undertaken to educate parents about their responsibilities towards their children, including through the provision of family education which should emphasize the equal responsibilities of both parents. While recognizing that the Government views the problem of teenage pregnancies as a serious one, the Committee suggests that additional efforts, in the form of prevention-oriented programmes which could be part of an educational campaign, are required to reduce the number of teenage pregnancies.
31. The Committee is also of the opinion that additional efforts are required to overcome the problem of violence in society. The Committee recommends that physical punishment of children in families be prohibited in the light of the provisions set out in articles 3 and 19 of the Convention. In connection with the child's right to physical integrity, as recognized by the Convention, namely in its articles 19, 28, 29 and 37, and in the light of the best interests of the child, the Committee suggests that the State party consider the possibility of undertaking additional education campaigns. Such measures would help to change societal attitudes towards the use of physical punishment in the family and foster the acceptance of the legal prohibition of the physical punishment of children.
32. With regard to matters relating to education, the Committee suggests that children's right to appeal against expulsion from school be effectively ensured. It is also suggested that procedures be introduced to ensure that children are provided with the opportunity to express their views on the running of the schools in matters of concern to them. Further, the Committee recommends that the training curricula of teachers should incorporate education about the Convention on the Rights of the Child. It is recommended that teaching methods should be inspired by and reflect the spirit and philosophy of the Convention, in the light of the general principles of the Convention and the provisions of its article 29. The Committee would also like to suggest that the State party consider the possibility of introducing education about the Convention on the Rights of the Child into school curricula. Legislative measures are recommended to prohibit the use of corporal punishment in privately funded and managed schools.
33. The Committee also suggests that the State party provide further support to the teaching of the Irish language in schools in Northern Ireland and to integrated education schooling.
34. The Committee recommends that the emergency and other legislation, including in relation to the system of administration of juvenile justice, at present in operation in Northern Ireland should be reviewed to ensure its consistency with the principles and provisions of the Convention.
35. The Committee recommends that law reform be pursued in order to ensure that the system of the administration of juvenile justice is child-oriented. The Committee also wishes to recommend that the State party take the necessary measures to prevent juvenile delinquency as set down in the Convention and complemented by the Riyadh Guidelines.

36. More specifically, the Committee recommends that serious consideration be given to raising the age of criminal responsibility throughout the areas of the United Kingdom. The Committee also recommends the introduction of careful monitoring of the new Criminal Justice and Public Order Act 1994 with a view to ensuring full respect for the Convention on the Rights of the Child. In particular, the provisions of the Act which allow for, inter alia, placement of secure training orders on children aged between 12 and 14, indeterminate detention, and the doubling of sentences which may be imposed on 15 to 17-year-old children should be reviewed with respect to their compatibility with the principles and provisions of the Convention.

37. Within the context of the law reform being considered with regard to matters relating to the employment of children, the Committee expresses the hope that the State party will consider reviewing its reservation with a view to its withdrawal. Similarly, the Committee expresses the hope that the Government may consider the possibility of becoming a party to ILO Convention No. 138.

38. The issues of sexual exploitation and drug abuse as they affect children.

ANNEX B

Offences against children of 16 years and under - 1994-1996

Offenders cautioned and defendants prosecuted at magistrates' courts  
and convicted<sup>1</sup> at all courts for sexual offences against children aged  
16 years and under, 1994-1996

Figure 8. Offences against children in England and Wales

England and Wales Offences	Number of persons								
	Cautions			Prosecutions			Convictions <sup>1</sup>		
	1994	1995	1996	1994	1995	1996	1994	1995	1996
Buggery with a boy under the age of 16 or with a woman or an animal	41	8	5	345	125	16	135	86	5
Attempt to commit buggery with a boy under the age of 16 <sup>2</sup> or with a woman or an animal	6	1	1	21	6	3	16	14	2
Buggery by a male of a male under 16 <sup>2</sup>	-	2	5	-	48	66	-	29	66
Buggery by a male aged 21 or over with a male aged 16 or 17 <sup>2</sup>	-	1	-	-	1	2	-	2	3
Buggery by a male aged 18-20 with a male aged 16 or 17 <sup>2</sup>	-	-	-	-	-	-	-	-	-
Buggery by a male with a female under 16 <sup>2</sup>	-	1	1	-	25	26	-	7	17
Buggery by a male aged 21 or over with a female aged 16 or 17 <sup>2</sup>	-	-	-	-	2	-	-	2	2
Buggery by a male aged 18-20 with a female aged 16 or 17 <sup>2</sup>	-	-	-	-	-	-	-	1	-
Indecent assault on male person under 16 years	176	137	120	449	400	325	324	339	355
Gross indecency by a male aged 21 or over with male aged under 18 <sup>3</sup>	-	-	-	-	-	1	-	-	-

**Figure 8 (continued)**

England and Wales	Number of persons								
	Cautions			Prosecutions			Convictions <sup>1</sup>		
	1994	1995	1996	1994	1995	1996	1994	1995	1996
Rape of a female aged under 16 <sup>4</sup>	-	5	11	-	336	477	-	113	210
Rape of a male aged under 16 <sup>4</sup>	-	-	-	-	18	20	-	2	13
Attempted rape of a female aged under 16 <sup>4</sup>	-	2	4	-	32	44	-	21	35
Attempted rape of a male aged under 16 <sup>4</sup>	-	-	-	-	-	4	-	2	2
Indecent assault on a female under 16	849	670	664	2 036	1 797	1 604	1 355	1 446	1 597
Unlawful sexual intercourse with girl under 13	45	41	40	88	77	40	64	81	54
Unlawful sexual intercourse with girl under 16	500	400	369	202	165	164	205	203	207
Incest with a girl under 13	11	8	4	41	22	26	35	21	19
Inciting girl under 16 to have incestuous sexual intercourse	-	-	1	5	3	2	4	5	-
Householder permitting unlawful sexual intercourse with girl under 16	2	-	-	-	4	4	2	3	-
Person responsible for girl under 16 causing or encouraging her prostitution etc.	-	1	-	1	-	2	-	3	1
Male aged 21 or over procuring or attempting to procure a male under 18 of gross indecency with another male <sup>3</sup>	-	-	3	-	1	-	-	2	3

**Figure 8 (continued)**

England and Wales	Number of persons								
	Cautions			Prosecutions			Convictions <sup>1</sup>		
	1994	1995	1996	1994	1995	1996	1994	1995	1996
Abduction of unmarried girl under 16	5	2	2	27	11	9	9	6	3
Gross indecency with boys aged 14 and under	49	28	21	87	62	61	77	56	53
Gross indecency with girls aged 14 and under	36	30	33	129	109	97	112	99	109

Source: Criminal statistics England and Wales.

<sup>1</sup> Includes persons proceeded against in earlier years or for other offences.

<sup>2</sup> Buggery and attempted buggery offences under the Sexual Offences Act 1956, Section 12 as amended by the Criminal Justice and Public Order Act 1994, Section 143.

<sup>3</sup> Indecency between males offences under the Sexual Offences Act 1956, Section 12 as amended by the Criminal Justice and Public Order Act 1994, Section 144.

<sup>4</sup> Rape and attempted rape offences under the Sexual Offences Act 1956, Section 12 as amended by the Criminal Justice and Public Order Act 1994, Section 142.

## ANNEX C

### Consultation with children in Scotland

#### “Our Lives - Children’s Rights in Scotland”

In recognition of the importance of taking the views of children, The Children’s Issues Unit of The Scottish Office commissioned the *Our Lives* Project. This was a Scotland wide consultation exercise which gathered the views of young people in relation to children’s rights. The project was carried out by Save the Children Scotland and was jointly funded by both parties. The *Our Lives* consultation process reflected the principle of article 12 - the right of young people to be listened to in matters which affect them.

Over a three month period Save the Children consulted 43 groups of children and young people (326 in total), between the ages of 12 and 18, from 20 local authorities, representing schools and youth groups from urban and rural Scotland and a wide spectrum of interest groups. The groups of young people were invited to discuss one of five themes: education, family life, health, protection from harm and participation; and their views were sought on how successful the implementation of the United Nations Convention on the Rights of the Child has been so far in Scotland. Findings were gathered from audio recordings of structured and facilitated discussions and group exercises.

The consultation process was taken forward with the *Our Lives* young people’s conference on 29 January 1999. Representatives of each group consulted were invited to discuss the main issues which emerged from the consultation process and to explore further how their views can be listened to and acted on when addressing the issues which are of greatest concern to young people in Scotland. The Minister for children’s issues addressed the conference and took the opportunity, through a question and answer session, to hear at first hand the views of young people in Scotland.

Save the Children Scotland produced a summary report of the “Our Lives” consultation in November 1998. They aim to publish an extended report in June 1999 which will present an in-depth and comprehensive analysis of the views of young people as well as an evaluation of the whole process of consulting young people.

Of the 326 young people consulted, 271 completed questionnaires on the United Nations Convention on the Rights of the Child. Of those who completed the exercise 66 per cent said that they had never heard of the UNCRC before the *Our Lives* Consultation. In his address to the *Our Lives* conference, the Minister for Children’s issues highlighted the lack of awareness of the United Nations Convention among young people as a gap in the Government’s implementation of the Convention and announced that a leaflet for young people would be produced to tackle this deficiency.

The leaflet for young people on the United Nations Convention was produced by the Scottish Child Law Centre and funded by the Children's Issues Unit. It describes in easily understandable terms what the Convention is, what it says and what that means for young people in Scotland. The text and design of the leaflet were prepared, with the target audience having a reading age of about 11-13 years. The leaflet has been positively received by young people involved in the production process and has been designed so that it can also be used as a poster on a young person's or classroom wall. To ensure that the leaflet reached its target audience, sufficient copies of the leaflet have been made available to schools throughout Scotland.

**ANNEX D**

**Inequalities in conception rates below age 16**

**By Health Authority - 20 Highest and 20 Lowest rates HA's (1994-1996)**

Conception rate per 1,000  
females aged 13-15 years

**20 Highest**

17.6	Lambeth, Southwark and Lewisham
15.9	Sunderland
15.9	Sandwell
15.4	Wolverhampton
14.5	Manchester
14.3	Barnsley
14.3	South Humber
13.9	Tees
13.6	Doncaster
13.3	Walsall
12.5	County Durham
12.2	Dudley
12.1	North Staffordshire
11.9	Nottingham
11.7	Newcastle and North Tyneside
11.7	Wakefield
11.7	Rotherham
11.4	West Pennine
11.2	East London and the City
11.0	Bury and Rochdale

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8.8

**ENGLAND**

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**20 Lowest**

6.5	North and East Devon
6.5	North Yorkshire
6.4	Sefton
6.3	Cornwall and Isles of Scilly
6.2	Suffolk
6.1	Buckinghamshire



Conception rate per 1,000  
females aged 13-15 years

**20 Lowest**

6.0	Kensington, Chelsea and Westminster
5.9	Dorset
5.9	North Essex
5.7	Oxfordshire
5.5	West Sussex
5.5	West Hertfordshire
5.2	Kingston and Richmond
5.2	Bromley
5.1	East and North Hertfordshire
4.7	North and Mid Hampshire
4.7	Cambridge and Huntingdon
4.4	Barnet
4.1	West Surrey
3.5	East Surrey

Source: ONS.

## ANNEX E

### Glossary of abbreviations

Abbreviation	Explanation
ABCD	Access for Black Children with Disabilities
ACE	Advisory Centre for Education
ACPC	Area Child Protection Committee
ACPO	Association of Chief Police Officers
ACTIONAID	A British based overseas development charity
ADSS	Association of Directors of Social Services
AHC	After housing costs - a statistical measure of poverty
AIDS	Acquired Immunodeficiency Syndrome
ASEM	Asia Europe Summit Meeting
BAAF	British Association for Adoption and Fostering
BBC	British Broadcasting Corporation
BFI	UNICEF's Baby Friendly Initiative
BHC	Before housing costs - see AHC
BT	British Telecom
CAMHS	Child and Adolescent Mental Health Services
CCS	Regional Commissions for Care Standards
CCWS	Crown Court Witness Service
CD	Compact Disc
CESDI	Confidential Enquiry into Stillbirths and Deaths in Infancy
CMU	Casework Management Unit
COMA	Committee on Medical Aspects of Food and Nutrition Policy
COSLA	Convention of Scottish Local Authorities
CTC	Childcare Tax Credit
DCMS	Department for Culture, Media and Sport
DETR	Department of the Environment, Transport and the Regions
DFEE	Department for Education and Employment
DFID	Department for International Development
DH	Department of Health
DHSS	Department of Health and Social Services (in Northern Ireland)
DPAS	Drugs Prevention Advisory Service
DRTF	Disability Rights Task Force
EC	European Community
ECCO	Extra-Curricular Creative Opportunities
ECHR	European Convention on Human Rights

Abbreviation	Explanation
EEC	European Economic Community (now the EU)
ELR	Exceptional leave to remain
ENHPS	European Network of Health Promoting Schools
ESC	English Sports Council
EU	The European Union
EYDP	Early Years Development plans
FE	Further Education
FSA	Foundation for Sport and the Arts
GCSE	General Certificate of Secondary Education
GEST	Grants for Education, Support and Training
HA	Health Authority
HC	House of Commons
HEA	The Health Education Agency
HEBS	Health Education Board for Scotland
HIV	Human Immunodeficiency Virus
HMSO	HM Stationery Office (former publisher of United Kingdom Government documents - now see SO)
HO	Home Office
HPW	Health Promotion Wales
ICRC	International Committee of the Red Cross
IS	Income Support
ISBN	International Standard Book Number
ISP	Internet Service Provider
IT	Information Technology
ITV	Independent Television
IWF	Internet Watch Foundation
JRF	Joseph Rowntree Foundation - a charitable trust which funds academic research
JSA and JSA (IB)	Jobseeker's Allowance & JSA (income based)
LAC	Looking After Children (specialist material published by DH)
LCD	The Lord Chancellor's Department
LEA	Local Education Authority
LSA	Learning Support Assistant
LTI	Life threatening and life limiting illness
MAP	Management Action Plan
MP	Member of Parliament

Abbreviation	Explanation
NCB	National Children's Bureau
NCIS	National Criminal Intelligence Service
NDNS	National Diet and Nutrition Survey
NESTA	National Endowment for Science, Technology and the Arts
NGO	Non-Government Organization
NHS	National Health Service
NI	Northern Ireland
NJSP	National Junior Sports Programme
NLCB	National Lotteries Charities Board
NMGW	National Museums and Galleries of Wales
NNBC	National Network of Breastfeeding coordinators
NPFA	National Playing Fields Association
NPIC	National Play Information Centre
NSPCC	National Society for the Prevention of Cruelty to Children
NVQ	National Vocational Qualification
NWCAT	North Wales Child Abuse Tribunal
NWC CET	North Wales Child Care Examination Team
OFSTED	Office for Standards in Education (the school inspection authority for England and Wales)
OHCHR	Office of the United Nations High Commissioner for Refugees
OSCI	Out of School Childcare Initiative
PACE	The Police and Criminal Evidence Act
PAFT	Policy Appraisal and Fair Treatment
PE	Physical education
PEAG	Pre-School Education Advisory Group
PPG	Planning Policy Guidance
PSI	Promoting Social Inclusion
QCA	Qualifications and Curriculum Authority
ROM	Read only memory
RSAC	Recreational Software Advisory Council
SACHR	The Standing Advisory Commission for Human Rights (in NI)
SCEC	Scottish Community Education Council
SEN	Special educational needs
SGCE	Steering Group on Child Evidence
SIAAA	Scottish Initiative on Attendance, Absence and Attainment
SID	Sudden Infant death (also known as cot death)
SO	Stationery Office, publisher of United Kingdom Government documents

Abbreviation	Explanation
SOEID	Scottish Office Education and Industry Department
SOHD	Scottish Office Home Department
SSC	Scottish Sports Council
SSD	Social services departments (of local authorities)
SSI	The Social Services Inspectorate (in England)
SSIW	The Social Services Inspectorate for Wales
STC	Secure Training Centre
STEP	Scottish Traveller Education Programme
STOP	Join Action on Combating Child Sex Exploitation and the Sexual Trafficking of Persons - the STOP programme
TCC	The Children's Channel
TEC	Training and Education Council
TSA	Trust for the Study of Adolescence
TSN	Targeting Social Need
UCM	Unaccompanied Children's Module
UK	United Kingdom
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
UNECE	United Nations Economic commission for Europe
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
USA	United State of America
WFTC	Working Families Tax Credit
WHO	World Health Organization
WLGA	Welsh Local Government Association
WO	Welsh Office
YPHN	Young People's Health Network

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