

UK Exit from the European Union

Just Fair submission to the Call for Written Evidence: Civil Society Alternative Report to the UN Committee on the Rights of the Child 2022 August 2022

Relevant sections from the List of issues prior to submission of the combined sixth and seventh reports of the United Kingdom of Great Britain and Northern Ireland

I. New developments

(c) Information on measures taken to ensure that the State party's withdrawal from the European Union, and the loss of related funding, do not have an adverse impact on children's rights, and to ensure that the principle of the best interests of the child is reflected in all legislative and policy matters and judicial decisions affecting children.

UK exit from the European Union

1. On 31 January 2020 the United Kingdom exited the European Union (EU). This is already having an impact on the rights and equalities standards that children and young people across the UK enjoy.
2. The protection of the Charter of Fundamental Rights has already been lost, it was drawn as a red line by the UK in its White Paper on the Repeal Bill in March 2017 and not carried over into retained EU law.¹
3. As noted in the England Civil Society Submission to the List of Issues² in 2020 by the Children's Rights Alliance for England (CRAE), Brexit poses considerable risks to children's rights and is predicted to further increase child poverty. The lack of consultation with children throughout the UK's withdrawal from the EU was also highlighted.
4. We are now in a more perilous situation in relation to rights and equalities protections, and the analysis from [Murray, O'Donoghue and Warwick](#) is pertinent, "The UK Parliament will be able post Brexit to alter any retained EU law by standard processes of law making, and thereby diminish rights protections."
5. On 16 September 2021, the then Minister of State at the Cabinet Office (with responsibility for Brexit), Baron David Frost [announced a review](#) of retained EU law

¹ The Charter brings together the fundamental rights of everyone living in the EU, including the rights protected by the [European Convention on Human Rights](#) (Article 52(3)), the constitutional traditions of the Member States, and the rights contained in other international conventions to which the EU or its Member States are parties. Unlike the ECHR, the Charter reflects the indivisibility of civil, political, economic and social rights. The Charter protects a number of rights that has particular relevance to children and young people, including the right to education (Article 14), a free-standing right to non-discrimination – including on the basis of age (Article 21), cultural, religious and linguistic diversity (Article 22) and a specific article on the rights of the child (Article 24).

² England Civil Society Submission to the United Nations Committee on the Rights of the Child to inform its List of Issues Prior to Reporting (LOIPR), 2020, available here: https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/GBR/INT_CRC_NGO_GBR_44022_E.pdf

(REUL).³ In January 2022 some more clarity was given in the '[Benefits of Brexit](#)' paper where it was proposed that new powers be created to amend REUL law by way of domestic secondary legislation. This would put the power to amend REUL in the hands of UK Government ministers, without the oversight of the UK Parliament.

6. The laws of the EU have done much to realise the rights of children and young people, for issues as varied as the contents of baby food,⁴ the protection of young people at work,⁵ to the enforcement of cross-border child maintenance decisions.⁶
7. Given the ways in which REUL protects rights, the proposal to remove consultation with the UK Parliament before changes are made to standards which underpin how rights are realised in the UK is seriously concerning. This proposal could further undermine rights protections post-Brexit.
8. Instead of diminishing rights, the UK Government has an opportunity to build upon our current rights frameworks for children and young people across the UK. Concern about actions of the UK post-Brexit have been raised by various human rights experts at the United Nations (UN) including The UN Special Rapporteur on Extreme Poverty,⁷ the Committee on the Elimination of Discrimination against Women (CEDAW)⁸ and the Committee on the Rights of Persons with Disabilities' also known by some as the Convention on the Rights of Disabled People (CRPD).⁹

We ask the Committee to recommend that the UK ensures the human rights and equality standards of children and young people are built upon rather than regressed following the UK's departure from the European Union.

³ [As noted by Professor Banard](#), "To ensure continuity of the legal system before and after Brexit, a 'snapshot' was taken of all EU law on Brexit day and converted into UK law under the [European Union \(Withdrawal\) Act 2018](#) (EUWA). All EU law (except the Charter of Fundamental Rights), together with principles of interpretation (known as 'general principles of law') and the pre-Brexit case law of the ECJ, was 'onshored' into UK law as '[retained EU Law](#)' (REUL) on 31 December 2020."

⁴ See for example Regulation (EU) No 609/2013 of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control: <https://www.legislation.gov.uk/eur/2013/609/chapter/>

⁵ See for example Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work: <https://www.legislation.gov.uk/eudr/1994/33/section/1#>

⁶ See for example The Parental Responsibility and Measures for the Protection of Children (International Obligations) (England and Wales and Northern Ireland) Regulations 2010: <https://www.legislation.gov.uk/ukxi/2010/1898/introduction/made>

⁷ 'Brexit presents an opportunity to reimagine what the United Kingdom stands for. Legislative recognition of social rights should be a central part of that reimagining. And social inclusion, rather than increasing marginalization of the working poor and those unable to work, should be the guiding principle of social policy.' [UN Special Rapporteur on Extreme Poverty](#), April 2019

⁸ "Ensure that any future change in legal provisions does not constitute a retrogression in the protection of women's rights and adopt measures to ensure that its national legislation keeps pace with progress made with regard to women's rights in the European Union." [Committee on the Elimination of Discrimination against Women](#), March 2019

⁹ 'Prevent any negative consequences for persons with disabilities resulting from the decision to trigger article 50 of the Treaty on European Union, in close consultation with organizations of persons with disabilities.' [Committee on the Rights of Persons with Disabilities](#), October 2017