**Committee on the Rights of the Child**

**Draft General Comment No. 24 replacing General Comment No. 10 (2007)**

**on Children’s Rights in Juvenile Justice**

**Comments of the Government of the United Kingdom**

**of Great Britain and Northern Ireland**

1. The Government of the United Kingdom is grateful to the Committee on the Rights of the Child for its work in revising General Comment No. 10 (2007) on children’s rights in juvenile justice. We welcome this opportunity to provide comments on the present draft of General Comment No. 24 on the same topic. For the avoidance of doubt, we confirm that we have considered the current draft in the light of General Comment No. 10 (2007).
2. In this response, we make a general observation and then specific drafting comments on certain paragraphs of the draft General Comment. For ease of comprehension, paragraph references are underlined and proposed new text is italicised.

General Observation

1. We note that, at paragraph 6, the Committee encourages the trend towards using terms such as “youth justice”, rather than “juvenile justice”, in light of the fact that the former better reinforces the dignity and worth of children who are in conflict with the law. We therefore respectfully suggest that the Committee should adopt the terminology of “*youth justice*” in both the title and substance of General Comment No. 24, in order to set an example and encourage others to move on from using the outdated language of “juveniles”.

Specific Comments

1. To further reinforce the dignity and worth of children in conflict with the law, we propose that in paragraph 8 the term “street children” should be replaced with the term “*children experiencing homelessness*” and “child offenders” should be replaced with “*children who offend*”. In recognition of the fact that children’s behaviour is often a product of circumstance, we prefer not to identify children with their behaviour but rather to use terminology which reflects that it is simply an aspect of their personhood.
2. In paragraph 13, we propose that the term “juvenile delinquency” is replaced with the term “*youth offending*”, again in recognition of the evolution of terminology described by the Committee in paragraph 6 and supported in the general observation above.
3. We welcome the new acknowledgement in paragraph 19 that particular attention should be paid to children who are not in education by government policies to prevent youth offending. We suggest that the fourth sentence could be expanded to read: “In this regard, particular attention should also be given to children who drop out of school or otherwise do not complete their education*; and to reducing the number of children in that category*.”
4. We strongly agree with the view in paragraph 28 that States parties should have arrangements in place to ensure maximum and effective use of measures to minimise the use and duration of deprivation of liberty. However, not all States parties use a probation service for this function so we would like to see the final sentence amended to read “…States parties should have in place a well-trained probation *or social work* service to allow for…”.
5. We understand the reasons set out behind the call to States parties in section C of part V to raise the minimum age of criminal responsibility to a higher global standard. We consider, however, that the recommendation in this draft General Comment to increase it to age 14 is currently unrealistic for many States parties, given that such legal and policy changes are often contingent on political circumstances and public attitudes. Furthermore, to set the bar too high could discourage incremental change. We also observe that some flexibility is appropriate: it would be erroneous to assume that, in every jurisdiction, any child who is alleged to have committed an offence and who is above the minimum age of criminal responsibility will be dealt with through the adult criminal justice system; alternative systems and measures may be applicable. In Scotland, for example, the majority of alleged offences by children over the age of criminal responsibility are addressed through a unique Children’s Hearing system, rather than through the criminal justice system.
6. Similarly, we understand the Committee’s concern about the practice of allowing an exception to a minimum age of criminal responsibility where a child is accused of a particularly serious offence. This approach may be a necessary concession to political and public pressure, however, and enable a higher minimum age of criminal responsibility to be set. We suggest that the final sentence of paragraph 35 is amended as follows: “The Committee strongly recommends that States parties set a minimum age of criminal responsibility that does not *provide for any exceptions, unless the provision of a tightly defined exception allows a higher minimum age of criminal responsibility to apply to the overwhelming majority of children.*”
7. In the final sentence of paragraph 37, we suggest replacing “of the alleged commission of” with “*they are charged with*”.
8. We agree with the view expressed in paragraph 46 that those affected by youth justice measures should not be treated automatically as adults when they reach 18 years of age. We consider that a decision should be taken in every case about the measures, including place of detention, that are best for the young person in question. We therefore suggest that the words “and are not sent to centres for adults” should be deleted from the second sentence. This amendment would also bring paragraph 46 into line with the more nuanced view expressed by the Committee in paragraph 105.
9. In paragraph 77, we recommend that the phrase “*disabilities which affect communication*” rather than “communication disabilities” be used.
10. We agree with the Committee’s view in paragraph 80 that offences committed by persons under the age of 18 are not always relevant once those persons reach the age of majority. We consider, however, that States parties should be allowed some flexibility in how to effect the removal of such offences from criminal records. We therefore propose that this paragraph is amended to read: “…to introduce rules permitting *removal, either automatically or following independent review,* from the criminal records of children who…”.
11. Violence against children is prohibited throughout the UK. With regard to paragraph 88, reasonable chastisement may be appropriate within the boundaries of the law.
12. We agree with the Committee’s view in paragraph 101 that deprivation of liberty should only be used as a measure of last resort and for the shortest period of time, with the child’s best interests as the primary consideration. We consider, however, that the recommendation to limit usage to children over the age of 16 is erroneous: it can be in a child’s best interests to be detained, in light of his or her age, circumstances, the seriousness of the alleged offending and previous offending history. We also consider that any deprivation of liberty should be decided by a court or other independent and impartial authority. We therefore recommend that the first sentence of this paragraph should be amended to read: “The Committee *recommends that* *no child who is in conflict with the law should be deprived of their liberty unless otherwise decided by a court, or other competent, independent and impartial authority, based on the circumstances of the child, the seriousness of the alleged offending, previous offending history and the age of the child.*”
13. We agree with the view, expressed by the Committee in paragraph 102, that a limit should be set on the time within which a court or other competent body must make a final decision on criminal charges against a child. Given that it may not be immediately possible for every State party to pass law to this effect, we suggest that the final sentence should be amended to read: “…urges the States parties to introduce legal *or administrative* provisions…”.

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