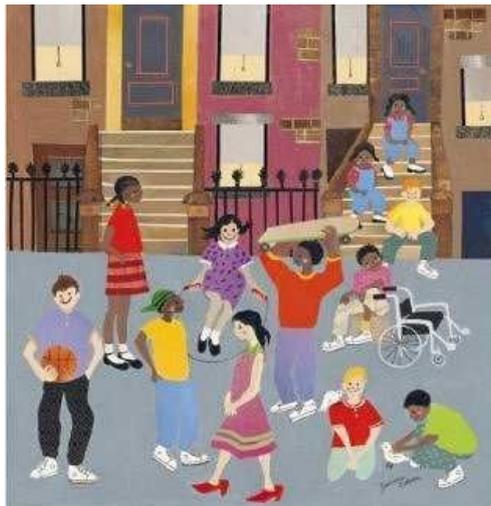


# Alternative Report to the UN Committee on the Rights of the Child

## Re UK Quinquennial Review 2016



### Submitted by the Fair Play for Children Association, UK



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## Forward

**This Report is published by Fair Play for Children as regards the review of the Committee on the Rights of the Child concerning State Party, the United Kingdom.**

**It is concerned with the UK record as regards Article 31 of the Convention, Article 12 and other related Articles and issues.**

Other NGOs will have reported on such issues, but Fair Play for Children has particular emphasis and concern on specific and important matters which we feel will not and have not been covered elsewhere, either in the State Report or other NGO reports

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## Fair Play for Children

We are a national organisation in the UK with over 230 member organisations whose remits cover children's issues.

We were founded in 1972 by **Archbishop Trevor Huddleston CR**, who as then-Bishop of Stepney in London's impoverished East End, spoke boldly in public at the neglect of children in the wake of the drowning of 2 young boys in a canal because they had nowhere safe to play. He remained our Life President until his death and took active interest in our work. It is a proud heritage.

The original constitution of Fair Play was founded on support for Principle 7 of the Declaration of the Rights of the Child, and Article 31 was added in 1989 in the wake of the adoption of the Convention.

Fair Play has always primarily been a campaigning body, and its independent status has enabled it to take up issues where others have not. These are some of its achievements:

- Ran national Play Information Service from 1974 to 1982
- Founded the National Council of Children's Play Organisations in 1986, in the wake of the collapse of the national PlayBoard organisation - the Council evolved to become the Children's Play Council and thence Play England
- Published pioneering reports on playground safety, multicultural arts, rural play, community use of schools, and other topics, also range of Fact Sheets etc
- Offered Advisory Service to play organisations
- Ran Conferences on a range of subjects such as the 1989 Children Act, Child Protection in Play Seminars, Junior Soccer Safeguarding Conference
- Provided many arts and crafts workshops across the country.
- Campaigned to rescue play provision in many instances
- Made major submission to the legislative process when the Coalition Government reviewed and revised safeguarding law in the Protection of Freedoms Act 2012, Part V

- Ran the UK's first umbrella arrangement for criminal records checks from 1994 as part of the Home Office-funded Voluntary Organisations Consultancy Service many lessons from which we were able to incorporate into our CRB Disclosure Service from 2002, and thence into the DBS service which replaced that in recent times.
- Undertook investigations using e.g. Freedom of Information legislation re Local Authority play provision, relative expenditures on same and other leisure provision, Acceptable Behaviour Contracts and other rights-related matters affecting children.

We have run regular journals since inception. In 1998 we introduced Play Action as a national quarterly, this developed as an online service, and its evolution has resulted in our current online paper **Fair Play News** which is daily and which has an aggregate news basis of which we as yet cannot find duplicated anywhere else.

Fair Play for Children has a very devolved management structure, undertaken primarily online. Though it has had staffing in the past for specific periods and programmes, it is essentially run by voluntary effort, by people engaged otherwise professionally or not-paid in children's organisations.

It also is true that, should organisations emerge in areas where we pioneered, we will 'move on' - as with Play England and 4Children (originally the National Out-of-School Alliance which also had its roots in fair Play) likewise children's play safety organisations. It was at a Fair Play meeting in 1992 that the Dutch experience of street play provision, Woonerfs, were introduced to the UK - these developed into an extensive government-funded programme, Home Zones.

In this Report, we are able to draw on our own direct experience and that of our membership over the years.

Our members tend to be front-line local organisations delivering a wide range of services in their communities. They deliver play opportunities, schemes and programmes for those with disabling conditions, youth provision, advisory and support services, arts and sports activities, women's shelter and rights projects, adventure playgrounds, media projects - quite a number are themselves federative [like ourselves] but at local level.

They will all deal with issues of disadvantage and poverty in their communities, they all have safeguarding challenges, and all face financial challenge concerning their ability to fulfil their objectives.

Web site: <http://www.fairplayforchildren.org>

## Background

This Reporting cycle comes at the end of the Coalition Government which came to power in 2010 after an indecisive General Election. Two parties which appeared to have little in common formed a partnership whose decisions have had major and often damaging effect in the lives of many millions of people in the United Kingdom. This was achieved on minority representation in terms of the popular vote and, most significantly, by the two parties agreeing a programme that was not put to the electorate prior to polling day.

Given the profound nature of the effects of the policies implemented by the Coalition Government, especially as the lives of children and their families have been concerned, it seems to us that there is real cause to examine the electoral - process. We would observe that it is not ethical for such coalitions to form on such a basis, cobbled together. We believe there should be legislative change to prevent this happening again - coalitions to be enabled ONLY in peacetime if parties announce intent to do so in advance of polling day and with agreed programme. In the situation of an indecisive result, the largest single party should form a minority government relying on parliamentary support to get measures agreed as happened in February 1974. This lasted until October of that year when a majority government was elected.

There are deep divisions as to the cause of the state of the UK economy in 2010 after the 2008 global crisis. We simply will point out that the UK debt/GDP ratio prior to the crash was below that of other EU countries, the US, Japan etc, at around 42%. Much of the growth of the debt to 2010, after the crash, was due to the crash and not government overspending. The debt ratio is now 90% despite 'austerity'.

The Coalition Government embarked upon a programme of public expenditure cuts many of which impacted on lower income families, whilst there have been tax benefits for the better paid. Child poverty increased significantly under this government and policies of the new government, elected on a minority popular vote, have the 'promise' of exacerbating this for many children and their families.

The work that our membership undertaken has been profoundly affected, many organisations have closed altogether, services otherwise reduced/curtailed.

Fair Play operates within a specific remit but we can't escape the fact that the quality for life for many has reduced and looks set to deteriorate still further. Our concerns are seen as trivial rather than as crucial in the lives of children, as expert evidence has attested over decades. Many in government give lip-service

to the importance of play but its neglect has been sustained, and such provision has been amongst the first to be targeted for cuts, often grossly disproportionate in relation to other service reductions, and often despite legislative obligations.

Additionally, we are concerned about the effect on children's rights as regards a number of measures and programmes, and beyond that, at a continuing attack on childhood within our society. The Committee doubtless will hear concern re academic/school pressure at an earlier and earlier age, but we also have concern about the loss of play environment and opportunity across the child age spectrum. These are long-standing, across UK administrations and impact on children and their rights to Play, Assemble etc, (Article 15)

## Children's Rights in the UK

- 1) The UK has acceded to the CRC and the Optional Protocols bar the most recent. It has declined to do so and we were advised it had no intention to do so, claiming some special difference in the way the UK legal system works. We cannot see anything that sustains such a claim, the law is expensive and out-of-reach to many, and the non-incorporation of the CRC into UK domestic law means that, whilst judges can be guided by its provisions, it is not binding or able to provide the basis for judgment.

**RECOMMENDATION 1: The UK Government be advised it should incorporate the CRC into UK domestic law.**

**RECOMMENDATION 2: The UKG should be advised that it should accede to the Third Protocol.**

**RECOMMENDATION 3: The UKG should be advised that, if it proceeds with repealing the Human Rights Act of 1998, which gives effect to Articles 1-12 and 14 of the ECHR, any Bill of Rights adopted in its place should not only provide for standards at least as good as those in the ECHR but also specifically ensure that the rights in the CRC are enabled in such a Bill in such a way as to guarantee access to justice for young people in the UK based on CRC rights.**

- 2) We are deeply concerned at the patchy implementation of the UKG's duty under the CRC to inform children about their rights under the CRC. We have noted over the years a tendency for such education as there has been to be based on the CRC as it applies to children in other countries. We see scant evidence that when it comes to their own rights, there is much appetite to relate the CRC to their lives. Certainly, we shall provide evidence of the CRC not being considered in any sense by lip-service in a wide range of areas of concern.

**RECOMMENDATION 4: The Committee examines in detail the UK's patchy performance re this issue.**

## The Right to Play.

- 3) Article 31 being in 2 parts, we examine A31.1 first. This is a broadly-drawn clause and relates not only to play but to respite from work and access to leisure. Along with other countries, we have seen growth in the UK of increasing educational pressures and expectations at a younger age than before. In the UK, this is seen to be well-pronounced with regimes of testing and academic focus in the early years even. Play/recess has taken a back seat, and successive governments have ignored professional and academic/research opinion and evidence, giving play less prominence in the early years. We are seeing children becoming anxious and tending towards behavioural problems as this tendency strengthens with support from central government.

**RECOMMENDATION 5: UKG be advised that early years education should have play in a prominent position, that throughout education, recess is of huge value to the child and necessary for its good health, mental and physical.**

- 4) There is too little regard for the fact that the school day is the child's working day, and that there should be, as in any workplace situation, adequate time for leisure and respite after work. Homework schedules can mean children, especially the older ones, are hugely burdened in a way no adult worker would tolerate!
- 5) On the issue of the general play environment, we have undertaken a study to examine the impact of the loss of play space in recent decades and to correlate this with the observed reduction in time children are able to play out compared to previous generations. We have looked at studies by people like Meyer Hillman and the UCL Transport Dept. The latter undertook a study in N. Bedfordshire to examine the relative calorific use by children in different modes of activity. Unorganised free play and walking to school rated the most likely to achieve high calorific use.
- 6) We have published in the past couple of years '**Stolen Streets, Stolen Childhood**'.  
<http://www.fairplayforchildren.org/pdf/1319380454.pdf>  
This started from an attempt to ascertain the mileage of residential street space in England. This was not at all easy to determine, the best estimate being that it was up to 3/4 million acres. We reasoned that in past decades the majority of children being urban dwellers in the UK, were able to play in their home streets safely, under broad supervision by parents and neighbours. The work force

pattern also aided this. Simply by examining photos from previous and current times, it is clear that a massive change has taken place whereby the parked residential car (more than the moving) has supplanted children in such street space so that children now play far less than they did in their streets, the main obstacle being adult car owners anxious to prevent damage to their cars. We would not want the Committee to under-estimate the effect this has had on access to play environments across the UK. Many streets are now deserted of children playing.

- 7) Given choice, various studies, including by Play England, show that children want to be outdoors with their friends as opposed to playing on ipads, computers etc. They do like gadgets, as children have throughout the years but being with their mates free from school pressures and adult oversight is what most of them want.
- 8) Pressure for parking space continues to grow and in many areas it would seem that at some stage not too far in the future, saturation will be reached. We believe that there has to be foresight and planning and we want to see local authorities obliged to undertake parking capacity audits so they can examine different pressures for residential street space.
- 9) There are now a number of Play Street projects across the UK. Play Streets were originally Street Playgrounds, a term coined in a 1938 transport legislation which enabled appropriate councils to designate streets in this way so that car access would be restricted between certain hours to enable play. Up to 750 were created, but as the car grew in ascendancy, many were de-designated so that well under a hundred were left a few years back. New projects have come into place but we observe that many of them are highly conditional and restrictive in not being daily.
- 10) In 1992 a Fair Play meeting saw the first discussion in the UK re Home Zones, based on low cost engineering approaches to the Dutch woonerf system of traffic management. A government programme operated under the Labour administration, it had some success but cost meant that it was slow to roll out. Indeed, one of our members calculated that at present rate of progress it would take 500 years for all of London's residential streets to be so altered. There are also issues around how Home Zones were implemented - they are meant to be aimed at children's needs but there has been concern that e.g. property prices figured in deciding how a HZ might be implemented. Children playing outside might not enhance such an aim whereas neat planting and superior parking arrangements might.

11) During recent years, Fair Play looked for any literature or evidence re the provision of play equipment by local authorities outside of schools - we had seen such figures for the early 1990's but the Audit Commission, where we had located them a) couldn't find that item of literature in their own records and b) had no follow up. There was no departmental evidence/stats (Education, Culture etc).

12) On this basis Fair Play undertook a widespread Freedom of Information exercise with English local authorities re playground provision. The report is here: <http://www.fairplayforchildren.net/survey1.htm>

This revealed for the first time the extent of such provision. From the 330 councils 300 responded and we calculated that there were 16,135 fixed equipment play areas covering 14,833 acres. This enabled us to calculate that provision was 1 acre of such space for 752 children aged 15 and under. There is additional school provision, often not available out of school, and parish councils also provide, mainly in rural areas.

13) Central government appears not to have any regular statement of this situation, we have found it necessary to undertake this single survey as a very small NGO. It seems clear also to us that in subsequent years, the picture has not changed for the better.

14) We also projected how many extra play areas would need to be built, how many acres of land near to where they live would be needed, in order to produce enough such fixed-equipment space for 100 children per acre. The figures are 95,866 extra playgrounds, 88,136 acres of land close to where children live and the cost we very roughly estimated as being £6.5 billion build, plus annual maintenance costs. We found it ironic to give another statistic that there is about one acre of golf course in the UK for every 18 players .... anecdotal, however, we do question the sense of priorities in our society.

15) The Committee will no doubt appreciate that Fair Play is not advocating this but we did this really to show this approach is not a main 'cure' much though we value such provision. It merely demonstrates that the answer has to lie back in the residential streets in which the children live. That necessitates a major shift. Nor do we want to see over-emphasis on the back-to-nature approach will we suspect many NGOs will focus upon. We are dealing with large numbers of children, love of nature is great but for many families access to countryside is limited by income and transport. We're sure that Fields in Trust, formerly the National Playing Fields Association, will be underlining the crucial importance of such recreational fields and the threat to them from school and residential

building pressures.

16) Indeed, the issue of numbers of children is one we want to highlight because there is a perception that because of lower birth rates in the UK, there are less children. The facts are far from this - yes the proportion of children is lower in the population, but the population has grown. In 1901 census figures for England and Wales showed just over 11 million children, the First World War's depredations meant this did not rise by 1931, and a peak was reached in the 1970's where it was over 14 million. However, by 2011, it was again just over 11 million and is projected to grow to 13.5 million by 2026. Though there are more streets, this has not provided the residential play space as of before. In the view of Fair Play, this country faces a major and important challenge which must greatly impact upon children's developmental and health prospects.

**RECOMMENDATION 6: that UKG be urged to consider the deep importance of the above issues so as to develop sustainable and adequate strategies to plan for the future, to ensure access to play environments on a daily basis within home communities.**

17) We now turn to Article 31.2 which is about public authorities duties re access in ways that are fair and age-developmental appropriate to the nation's cultural and recreational resources and opportunities. We would see in the phrase "equal and appropriate" a requirement to relate as being not just between children but as regards children in the wider society. There may well be scope, e.g. re Opera for children and so forth, but the principal cultural and recreational pursuits of children are play-based.

18) There is scant material re this aspect and so we, again, have undertaken studies using e.g. Freedom of Information. We undertook a study, again FoI-based, re cuts to local authority expenditure in the wake of the 2008 global crisis. We examined a number of areas such as comparisons over a period of years of main expenditure, adult leisure expenditure, fixed equipment capital and maintenance, staffed council schemes, voluntary sector schemes and youth provision.

19) The Report, '**Unfair Play for Children**', is shown at this link:

<http://www.fairplayforchildren.net/councils.htm>

It reveals that over a three-year period from 2009, the local authorities made cuts in almost every area of expenditure. However, the level of financial cuts were, in our view, highly disproportionate as regards children's play and youth provision, the worst-affected being grants to voluntary sector organisations providing organised play provision. Our study showed that e.g. adult leisure

appeared to have suffered in line with the cuts in general local authority expenditure, but that provision for children was often the first to be cut. This demonstrates to us a lack of priority for play and youth provision. The only area not to have suffered was in fixed-equipment maintenance, no doubt as a result of statutory requirements.

- 20) At national level, the picture has been no better. Under the Labour administration up to 2010, there had been, for the first time, a funding stream from central government, to encourage development of play facilities. It followed a stream of lottery funding with similar aims. The government-funded 'Fair Play' programme achieved modest results though we do feel it was an error to have distributed all of it via local councils. The Fair Play programme was not extended by the Coalition Government and indeed, it was axed and many councils had to adjust to this by abandoning plans based on its availability.
- 21) Play England, a lead national body based then at the National Children's Bureau, was funded to give support to authorities etc re this Programme. The new government made their funding an early area for cuts even ahead of its 'bonfire of quangos', that is, weeding down the number of non-governmental bodies being supported in key areas.
- 22) Responsibility for youth provision has always been at the Department of education as the relevant legislation lies in Education Acts of various years, principally the Education Act 1996, s508. During the recent Coalition administration the Secretary of State for Education made it perfectly clear that he was not interested in youth provision, and as a consequence responsibility shifted to the Cabinet Office. Yet Ministerial responsibility lies with the Education Secretary of State under the 1996 Act.
- 23) We also have found that there is little machinery for central monitoring of local authority activity and commitment, or performance.
- 24) As regards Play, mainly for under 13s, the responsibility at government level has never been as clear-cut, or so it might seem. Up to 1982, there was no Minister responsible for such matters, then after the National Playing Fields withdrew its involvement in a funded programme based in a Home Office Unit, the responsibility was given to the Secretary of State for Environment. Since then, it has variously shifted and now the situation is confused with shared responsibility in Education and in Culture and Media. To be fair, this does perhaps reflect the nature of play which involves education, physical and cultural aspects.
- 25) There is also a total confusion as regards the legislative status of play and youth provision, amongst legislators, government officials and delivery agencies. For

example, many of the last-named do not understand that there is already statutory requirement for Local Education Authorities to provide youth services, many believe that this is discretionary in nature. The picture is by no means as simple. S508 mandates LEAs as regards youth provision and the amendments occasioned by the Education and Training Act 2006 to the 1996 Act, namely the addition of s507a (under-13 years) and s507b (13+ years) make very specific demands on LEAs. Fair Play has provided a document for general information on this:

<http://www.fairplayforchildren.org/pdf/1363944956.pdf>

- 26) It will be seen that this provision contains elements which are both mandatory and enabling. We believe that virtually no attention has been paid in central and local government to this legislation, there appears to be no monitoring at the Department of Education, and this has resulted, for example, in such provision being regarded as discretionary and thus easier to justify disproportionate cuts.
- 27) The legislation is clearly universal in scope, but we also have seen many LEAs target the resources they have. The result has been mixed across the country but many hundreds of youth projects have had support withdrawn and have closed or drastically reduced their activities, at a time when young people face increased pressures in their lives. In one county, 58 projects had been supported, mostly voluntary sector. Over 4-5 years, reviews have reduced the supported total to 16, most of them LEA. Most not open-access or even recreational. Expenditure down from over £16 million a year to under £6 million. Groups closed, many after decades of work, voluntary effort ended, scant consultation. This picture varies greatly across the country.
- 28) In this situation, scant disregard for s508(3) which mandates consideration of working through such bodies. If LEAs have looked at s507b at all, we feel they may have used the phrase 'as far as is practicable' to justify cuts on grounds of reduced resources. This would not justify singling out such provision for the disproportionate level of funding reduction.
- 29) It is interesting to note that s507b has been the subject of Statutory Guidance issued by DoE, but s507a has not occasioned such SG.
- 30) There remains the issue of central government funding support for play and youth work. As regards adult leisure and recreation, the existence of quasi-official national Sports and Arts Councils, funded by Government subvention, has been long-term. We have no evidence either way as to whether these bodies demonstrate evidence of an "appropriate and equal" approach à la Article 31.2 in terms of deployment of their resources. However, we would doubt this.
- 31) As far back as 1986, Fair Play for Children, in the wake of the enforced closure of PlayBoard, a precursor of Play England, identified the need for such a funding and support body for children's play - we would see no reason at all to go back on this. The adult models above show strong evidence of the leadership, partnership and enabling potential of such an agency. They are able to apply a

leverage principle re funding, promotion of excellence and innovation, support for neglected areas. The 'appropriate and equal' principle of A31.2 would suggest that its government subvention annually would be proportionate both to numbers in the population and also re the special and developmental nature of childhood.

**32) RECOMMENDATION 7: that the UKG be urged to place full departmental responsibility for all A31 issues with the Department of Education, based on the obligations of the 1996 Education Act as amended. This would embrace play and youth provision which we feel, in line with the above Act's approach, should be seen as parts of a continuum. We also draw attention to Principle 7 of the Declaration, that play and education have closely-related aims.**

**RECOMMENDATION 8: that UKG should examine the current Statutory Guidance under s507b and the need for similar re s507a, and that this review be based firmly upon General Comment17 re Article 31 which ought to form the basis for all such statutory guidance published apropos A31**

**RECOMMENDATION 9: that UKG ensure adequate monitoring within the Department of Education for all A31-related provision by local authorities and LEAs**

**RECOMMENDATION 10: that UKG explore the justice and potential of establishing a national resourcing agency by annual government subvention along the lines of the adult Sports and Arts Councils models and based in an "equal and appropriate" basis reflecting the numbers of children, their developmental needs.**

**RECOMMENDATION 11: that UKG reviews the extent of disproportionate cuts against s508/507, A31.2 and other relevant criteria and considers an urgent remedial programme based on close consultation, in line with A12, re their needs and wishes. Such action is urgent given the impact of austerity on the quality of life of many children and their families.**

**RECOMMENDATION 12: That UKG examines urgently the role of the voluntary sector in line with s508(3) and considers whether this could be made more prescriptive on LEA's That is, a presumption to work via such agencies and the requisite support, training and funding resources.**

**RECOMMENDATION 13: that the for national children's commissioners covering the UK be asked to place these issues high on their agendas in the next five year period**

## Article 12 and Article 31

- 33) This is another key area of concern. As regards cuts to children's play, we see almost no evidence that UKG, its departments and local government/LEAs undertake any consultation with children, on issues which may affect their play environments and provision. The general attitude is "they are too young". Either that or token consultation. For example, a local authority wanted to take a large play area (neglected by them) for car parking. The children were to be offered a small age-restricted area, and the consultation asked what colour they would like the swing seats. Adults called a parish poll (non-binding), children asked a mobile voluntary play project why they could not vote and, when explained, asked to call their own poll and to devise their own questions. Children from 6 years old voted and showed they wanted the old area preserved and improved. This was not considered by the local authority.
- 34) Fair Play believes that such issues ought to be "bread and butter" re A12 consultation, and that UKG does very little to encourage this within local authorities. As regards youth cuts, there is a clear requirement of s507b re consultation and in recent years a young person was able to prevail in an action against an LEA regarding cuts in his provision over a period of years, the cuts being declared unlawful because of non-consultation, though as the cuts had taken place already, the court gave no remedy.

**RECOMMENDATION 14: That UKG be advised it must ensure better compliance with A12 as regards the provision of A31 facilities. This also must apply to issues such as Play Streets, planning matters, academic demands etc. We will return to A12 issues.**

## Civil and human rights

- 35) Over its history, Fair Play for Children has not been afraid to tackle issues that some might feel are beyond the scope of an A31-based organisation. However, we always apply a test - will given actions, lack of these etc have an effect upon A31 enjoyment. Clearly, this means that A31 cannot be viewed in isolation from other CRC Articles, they are closely inter-dependent - example, as above A12, but also the CRC Articles regarding freedom of assembly, the right to receive and impart information and indeed, A18, re the nature of child care, an issue that has come to the fore in this country in recent years.
- 36) In 2002, we were approached by a parent in London Borough of Islington re a measure called an Acceptable Behaviour Contract which the police and local housing authority sought to get her two sons to sign. This Borough pioneered

such an approach, to engage children and parents in addressing alleged behavioural issues. These were stated to be voluntary agreements. In due course, we undertook FoI research with local authorities and police forces in England, and we made a report which is at :

<http://www.fairplayforchildren.org/pdf/1325042991.pdf>

37) It will be seen that, whilst there is a case for informal intervention to prevent involvement in the criminal justice system, the extent and use of ABCs across the country must give cause to real concerns:

a. the sheer number of such "contracts" to date, possibly in excess of 55,000, mainly young people

b. the use of pressure, such as threatened eviction of parents from social housing, for non-signing

c. the linking of ABCs with further and criminal law actions up to and including imprisonment

d. the lack of any clarity, or indeed understanding, by councils and police as to the legal status of such 'contracts' - and the tendency we have noted to believe adult complainants without evidence

e. the potential for ABCs to be used in the new civil injunction process without clarification of that status

f. the fact that central government also appears unclear re their status, and has not monitored their use, yet has endorsed their use with local authorities. An FoI revealed that, in making such endorsement, the Home Office took no legal advice.

38) We also were contacted by a professional worker in LB Tower Hamlets re use of ABCs in a particular situation of 5 young people, the report is here:

<http://www.fairplayforchildren.org/pdf/1337828432.pdf>

This revealed an oppressive approach by police and housing association, with 'presumption of guilt' throughout

39) There has been no consideration of basic human rights requirements, reference to CRC obligations and principles re the use and spread of ABCs, they appear to us to run the risk of real injustice, they often relate to young people and children in outdoor situations out-of-school. There also appears to be no consideration of the implications of ABCs as regards the European Convention of Human Rights. We have asked ourselves, what exactly is an ABC? Given the involvement of large statutory bodies with children, seeking to get them to sign behavioural agreements whose breach can have criminal law consequences, we are highly dubious, to say the least, that these can be voluntary. Simply, can a child give consent? It has been argued that parents counter-signing answers

that point, but we have clear instances where parents have been faced with eviction and tenancy loss.

40) Fair Play's analysis is that the action of a statutory body seeking behavioural change by a child is not outside any legal framework. There are clear CRC implications, but also we would conclude that such a process is covered by A6.1 of the ECHR which provides for not only criminal law situations but also as regards determination of civil rights and responsibilities, ABCs dealing with the last aspect. Therefore the requirements of A6.1 must apply, yet in all ABC situations we have seen, there is no evidence at all of any tribunal approach, its independence and other key aspects of the rule of law. Many children seem to find the process arbitrary, guilt assumed and stated from the outset, and no proper representation. Frankly, from a former Home Secretary onwards, the whole approach of UKG has been that it's politically convenient. We do not state there is no place for informal intervention, but we are clear that ABCs require a clear legislative definition.

**RECOMMENDATION 15: UKG be advised that ABCs must be defined within the obligations of the CRC, and the ECHR, and that their use must be regulated and monitored.**

41) Similar considerations surely must apply to the use of Mosquito electronic devices. These are manufactured and promoted as being able to distress teenagers who are gathering in public places. They have been purchased in large numbers by e.g. shop-keepers, local authorities and even domestic householders.

42) The device works by emitting a high frequency sound alleged to be undetectable by those aged 25 and over. This is in itself a false claim as the ability to detect such frequencies is hugely variable amongst the population. What we do know is that young people who are congregating in public spaces have suffered distress to the point of discomfort and have moved away. That being the required result. This is electronic vigilanteism and it is wholly unmonitored. We have seen it deployed by a resident objecting to children playing in their garden next door, by schools after hours (so no use of recreational land attached), by shops and even mounted on a van by police.

43) We were wholly unimpressed when a former Home Secretary declined to act and made a comment in Parliament when in office sympathising with its use. We give the analogy of someone objecting to a group of pensioners gathering in an area and turning a hose on them. We contacted the local authority trading standards office of the area where it is manufactured on the grounds that the product incited purchasers to discomfort young people, they declined to be involved.

44) The principle of the Mosquito is wholly odious and deeply discriminatory in practice. There is no regulation of the device (even its inventor called for this). Our researcher can find little data as to current use. The manufacturer makes

use of data alleging no harm to hearing. That is not the point - there may be no data which might show much risk from turning a hose on people to get them to move away. The point is that individuals should not have such power at whim, and statutory authorities should have to justify and be accountable for their use.

45) We also are concerned that the emphasis has been upon teenagers but it is patently clear that such devices will have equal or even more impact on young children and babies. No attention has been paid to this aspect at all. So the child in a pushchair being wheeled past a shop will be very distressed yet may not be able to express why, but the mother may not hear the sound. We feel that the underlying sentiment driving use of such devices may stem as much from intolerance of the young as from anything else in too many cases.

46) These devices must be monitored and regulated.

**RECOMMENDATION 16: that UKG regulate and monitor Mosquito use, and that their use be banned unless justified by accountable public order processes, and that research be commenced re effect upon the very young and also how variable is the upper age limit as regards detection by individuals.**

## School Rules

47) In recent months, we have been made aware of issues around school rules and as to how these are defined and through what processes. It is clear to us that there needs to be a thorough review at national level and that there is cause for concern as to non-consultation of students and parents and as regards oppressive and overly-rigid approaches.

48) We attach a report by Dot Gill for one of our member projects re school rules in their area, served by a number of secondary education establishments. Our concern is that sanctions are being imposed for very low level 'offences', many of them uniform-related (which will impact more on those from low income families) and that 'Isolation' is being employed which means that a student is removed from class and put into a space, often very small (cubicle) for whole lesson periods and longer. Children may be denied considerable periods of teaching. We are concerned that such a draconian approach is oppressive and likely to foster resentment and be wholly disproportionate. The following recent report in The Daily Mail is relevant:  
<http://www.dailymail.co.uk/news/article-2821999/School-sends-home-152-pupils-one-day-wore-incorrect-uniform.html>

49) We had a report of a child being made to stand for 40 minutes on a chair in a school dining room because she spoke during dinner break in the hall. She

collapsed, falling from the chair. The reason for the rule? it was because the dining hall was next to the staff room and the staff wanted quiet in their dinner break.

- 50) What emerges from this is concern that children are not being engaged in consultation re their school rules. We have found over many years that, in play settings, engagement with children in setting rules and boundaries is wholly positive and helps lay a foundation for civic engagement. We hope the Committee will share with us the understanding that, if schools impose unreasonable and oppressive rules whose need children do not see, efforts to encourage later civic engagement (e.g. in local democracy) will be more likely to founder.

**RECOMMENDATION 17: This issue be drawn to the attention of UKG, with advice that A12 principles and processes should be applied to the creation of school rules and that also, as with ABCs, ECHR principles re civil obligation, form the bedrock of all school rule-making, and that this be legislated.**

## Safeguarding in play/youth settings

- 51) Fair Play for Children has been active in this issue of safeguarding in institutional settings, from the time a member organisation was provided with a play worker via a local government employment project in 1986. The worker turned out to have a serious conviction for an offence against a boy, was barred from working with children as a result, and the authority had not undertaken criminal records checks because it was a programme for unemployed people. Voluntary groups could not at that time get such checks.
- 52) Fair Play works very much on a networking/ exchange basis and similar concerns began to be shared. In 1994, a Home Office funded pilot, VOCS, enabled a number of national children's organisations to access such checks. Fair Play was the only one which had a federative membership basis so we pioneered an umbrella organisation approach in what was ground breaking work. After the Dunblane School massacre, the Government developed a scheme, the Criminal Records Bureau, which Fair Play joined at its outset in 2002, using its VOCS experience of 8 years to good effect as an umbrella body.
- 53) Following the murder of 2 children by a school caretaker, and the Bichard Inquiry, the Protection of Vulnerable Groups Act 2006 established a new system of barring and of vetting which added to the existing CRB mechanism, the author of this report served on the DoE/DFES implementation group. In 2010, the Coalition Government decided to scale back the scheme, but in our view, as the original scheme has not been implemented in full, we believe that this was motivated more by political point-scoring and pressure from organisations hostile

to proper criminal records checks than by good child safeguarding practice.

54) We worked with Lord Bichard as the 2012 Bill was scrutinised in the upper chamber, and we felt that the new scheme held greater risk of circumvention than the original 2006 scheme. For example, the CRB and 2006 schemes issued certificates directly to employers, the DBS scheme now implemented sends only one certificate, to the applicant, enabling possible fraudulent production of certificates. Also, where volunteers were deemed to be supervised, the certificate would list offences but not whether the person was barred from working with children. As 20% or so of barrings are for non-criminal reasons, which nonetheless might be serious and proportionate, this opens a risk.

55) We continue to monitor this issue closely.

**RECOMMENDATION 18: that UKG is urged to review the DBS scheme as regards fraudulent certification and the issue of revealing of barring status as above at para 54.**

56) Fair Play also is concerned at misapprehension as to the scale of abuse in institutional settings. Simply put, there is no sound bedrock of data and this concern is not helped by claims that the issue is overblown because most abuse happens in domestic, non-institutional settings. It may be true that around 93% of abusers are in such settings. What is not considered is the relative child victim rate so that in institutional settings there may well be and often has been far more scope for abuse of multiple child victims over periods of years.

57) Our observations are at:

<http://www.fairplayforchildren.org/pdf/1291866015.pdf>

A critique by a trustee of the Lucy Faithful Foundation is at:

<http://www.fairplayforchildren.org/pdf/1292155602.pdf>

Whatever basis one accepts, it is clear that institutional settings may account for far more victims than is supposed.

58) A series of scandals involving e.g. high profile entertainers, politicians, children's institutions, British security services etc has rocked British society, such that the government has had to accept calls for a high-level national inquiry with wide powers. This applies to England and Wales, another inquiry has been set up re Scotland, there is one being undertaken re the States of Jersey, and still another re Northern Ireland.

59) What is deeply concerning is the possible involvement of British security services, their cover-up of such activities, the links across the above national areas, and even possibly re undermining of constitutional and democratic processes. If true, and children have been used and abused, and their suffering suppressed and ignored, then we need full accountability. It may well be that the very fabric of the rule of law and democratic accountability has been undermined and

that vulnerable children have been at the cutting edge of this, suffering years of abuse including and up to murder.

**RECOMMENDATION 19: that UKG undertakes that where there are safeguarding issues which cross boundaries within the UK nations, the Inquiry affecting England and Wales should be able to examine those issues. We speak in particular of the Kincora Boys home in Northern Ireland allegations where it is claimed that UK security forces knew of trafficking of boys from the home to be abused by high-level individuals on the UK mainland.**

**RECOMMENDATION 20: that UKG commissions research to establish the scale of such institutional abuse and why it may have been permitted to flourish. In particular to establish whether the allegations were ignored, covered up or explained away, and what access victims had to means of report and discovery.**

**In case it is assumed that such institutional abuse is somehow peculiar to the United Kingdom, we would observe that the UK compared to many countries has been much more proactive and that evidence of similar concerns is emerging in other states and yet others may well be highly complacent.**

## **The four nations within the UK**

60) Regarding Article 31 and other CRC standards we would note that the four nations within the UK have seen devolution to national authorities in 3 of them and that in each case the national authority has adopted different implementations of A31 standards. The only problem we can see with this, and not disregarding positive benefits is re A.31.2, again "appropriate and equal". This has to be a matter for the relevant Secretary of State, for Education, and that liaison takes place with the national authorities in this regard. The same consideration must apply to devolution in and within England.

## CONCLUSION

This NGO report by Fair Play for Children is a response in the main to the UK Government's observations and claims, especially as regards Article 31.

The recent publication of General Comment 17 on A31 has created a hugely welcome and detailed basis on which UKG should now base forward progress re better implementation of the Article.

**RECOMMENDATION 21: that UKG's attention be drawn to the detail and purpose of GC 17 and that it be considered as the proper basis for future action and monitoring re A31 by UKG and promoted to relevant statutory agencies also.**

We do not see the need for new legislation re A31, but there is serious and urgent need to ensure compliance by LEAs with s507a, 507b and 508 of the Education Act 1996, as amended.

**RECOMMENDATION 21: UKG to consider amendment of or improved statutory guidance re s507b especially as regards removal of the clause which may have been used, wrongly, to justify cuts and non-universal targeting. The Act remains wholly in force, there is urgent need for remedial work to roll back cuts which have no statutory basis and which indeed have made LEAs unable to fulfil their obligations.**

**RECOMMENDATION 22: that the statutory guidance re s507b be revised and similar guidance published re s507a, both based on CG17.**

UKG needs to be encouraged to become much more A31 conscious and to recognise and enable its role as a crucial aspect of the upbringing of every child. The record of recent decades seems to us to have been quite often negative in this regard, lip-service paid to the importance of play, but the actual practice and result hostile to the child in its own community, the child's interests sacrificed to adult agendas.

**Fair Play for Children regards Article 31 as the most child-orientated and relevant issue, the one most expressive of the unique nature and scope of childhood. UKG needs to get its act together so that there is a halt to the serious deterioration of the play environments of far too many children. If this does not start to happen, then we foresee our children having a very damaged future.**

We haven't dealt with many issues such as exercise, diet, educational regimes and objectives etc. That is because others may well do so more adequately than can Fair Play for Children.

We will be happy to engage with the Committee in the issues highlighted in this

Report, we are not at all convinced that UKG has any cause for satisfaction re its commitments under Article 31 and the evidence we have, which we have shared, suggests very much to us of the low priority accorded by the UK Government to this most characteristically childlike right.

Jan Cosgrove  
National Secretary  
June 2015

