**GOVERNMENT RESPONSE TO CONSULTATION ON ESTABLISHING A NEW OFFICE OF THE CHILDREN’S COMMISSIONER FOR ENGLAND (OCCE)**

**The UNCRC context**

Twenty years ago today, the Government ratified the UN Convention on the Rights of the Child (UNCRC).This is an international treaty that provides a comprehensive set of rights for children and young people under the age of 18. The UK was instrumental in drafting the Convention and it has now been ratified by 193 countries across the world.Importantly, the Convention sets out minimum standards for children that all countries should aspire to and offers special protection for children who are at particular risk of harm, disadvantage or neglect.

Today, the UNCRC is just as important as it ever was. Indeed, it can be argued that the growing interdependence between countries is leading to global economic, social and environmental uncertainty which is potentially putting children at even greater risk and is making the UNCRC more important than ever. In this context, the UK must set itself high standards. Since taking office, this Government has introduced many changes that will have a positive effect on the lives of children and that will strengthen our record on the UNCRC. But our aim is to do even better. We are therefore determined to have a strong Children’s Commissioner who can help to identify emerging concerns and issues that need a national solution and can challenge the Government on aspects of our policy or practice which may not be working well for children.

**Independent review and consultation**

In December 2010, I announced that the Government had accepted, in principle, the recommendations made by John Dunford, following his independent review of the Office of the Children’s Commissioner (OCC). In that announcement, I also said that we would consult on the legislative changes that John Dunford said were needed, in order for the Children’s Commissioner to have greater impact in future.

The consultation was launched on 7 July and closed on 29 September 2011. Around 230 responses were received to the online consultation, of which about 150 were from children and young people. In addition, we received written feedback on a number of consultation events that children’s rights organisations ran for children and young people. These additional submissions have been taken into account and are reflected in this statement. I am extremely grateful to everyone who responded, especially to all the children and young people who took the time to feed in their views. A full analysis of the online responses has been published today on the DfE website, alongside this statement.

In general, there was strong support for the broad approach to our proposals, although there were concerns about some of the detail. We have taken all the consultation responses into account in deciding how to proceed. More information on specific points is given below.

**The role of the Children’s Commissioner**

There was universal agreement that the Children’s Commissioner’s role should, in future, be more explicitly focused on the promotion and protection of children’s rights – and that the framework for the Children’s Commissioner’s role should be the United Nations Convention on the Rights of the Child (UNCRC). We therefore intend to legislate on that basis.

**The remit of the Children’s Commissioner**

There was strong support for John Dunford’s view that the Children’s Commissioner should support all children and young people, but should focus on the most vulnerable. In practice, this will mean the OCCE focusing its inquiries on groups of children and young people who are at greatest risk of their rights being breached. We have concluded that the Children’s Commissioner should be able to determine which groups are most at risk in light of their circumstances at any given time, rather than try to define those vulnerable groups in legislation. This flexibility will help to ensure that the OCCE avoids duplicating the work of other agencies and will allow the Children’s Commissioner to determine his or her priorities independently from Government or Parliament.

**Incorporating the work of the Children’s Rights Director (CRD) within the new OCCE**

Respondents recognised that children in care or who live away from home for significant periods of time are particularly vulnerable to their rights being breached and wanted assurance that they would receive the same level of support currently provided by the Children’s Rights Director. On that basis, we are proposing to legislate in a way that will allow the Children’s Commissioner to undertake all the activities currently provided by the CRD, when the OCCE is established. This will include making special provision for the Children’s Commissioner to provide advice and assistance to individual children who currently fall under the CRD’s remit. In practice this will be a form of light-touch casework. We have considered whether to extend this facility to all, or other specific groups of children – as was suggested by a number of respondents to the consultation – but are concerned that this would lead to the new OCCE being swamped with requests to intervene on behalf of individual children, and would detract from its strategic role. As now, the Children’s Commissioner will be able to undertake an investigation or launch an inquiry based on the case of an individual child, where the case raises issues of wider significance for children’s rights.

**Making the Children’s Commissioner more independent**

John Dunford’s report identified a perceived lack of independence from Government and identified a number of ways in which new legislation could help to address this concern. We agree that it is vital that the Children’s Commissioner can choose which issues to investigate and make the recommendations for change that he or she sees fit, without interference by Government. We are, therefore planning to:

* remove the provision in the existing legislation that requires the Children’s Commissioner to consult the Secretary of State before launching an inquiry;
* remove the provision in the existing legislation that allows the Secretary of State to direct the Children’s Commissioner to carry out an inquiry;
* stipulate that the Children’s Commissioner should be appointed for a single term only;
* give the Children’s Commissioner a new power to carry out child impact assessments on new Government policies and legislation;
* extend the existing power for the Children’s Commissioner to request a written response from the relevant government department or agency within a specified timeframe to recommendations made in light of an impact assessment;
* require the Secretary of State to involve children and young people and Parliament in the process of appointing a new Children’s Commissioner, and to have regard to their views; and
* remove provisions that allow the Secretary of State to amend or decide not to publish reports produced by the Children’s Commissioner in certain circumstances.

There was support for our proposal to appoint the Children’s Commissioner for a single term, but a lack of consensus on the length of the appointment. John Dunford had recommended a seven year term, but some thought this was too long. A range of views were submitted, and in the light of those we have decided that a single, six-year term is the preferable option.

**Status of the OCCE**

Most respondents agreed that the OCCE should be a ‘corporation sole’. This means that the post of the Children’s Commissioner and the OCCE are indivisible, with accountability for all of the OCCE’s activity resting with the Children’s Commissioner. We believe that the sense of isolation and lack of transparency that were identified in John Dunford’s report can be mitigated through other changes that we are introducing, such as the proposal to require the Children’s Commissioner to appoint an advisory board.

**Making the Children’s Commissioner more accountable**

John Dunford’s report said that the Office of the Children’s Commissioner should be more accountable to Parliament and that its business planning processes should be more transparent. These views were supported by respondents to the consultation. We are therefore proposing that the Children’s Commissioner should be required to:

* consult on its strategic priorities for the following year;
* following consultation, publish a business plan setting out its agreed key activities and priorities;
* submit an annual report to Parliament for scrutiny by the appropriate Select Committee; and
* appoint an advisory board.

Although respondents generally accepted the idea of an advisory board in principle, there were mixed views and concerns about the proposals for its composition, how members would be appointed, and that appointing a high profile chair who was not the Children’s Commissioner would create uncertainty about who was in charge.

We believe that an advisory board could play an important role in helping the Children’s Commissioner to have more impact, but recognise the concerns that the consultation has raised. We intend, therefore, to be clear that accountability rests with the Children’s Commissioner and to be much less prescriptive in the legislation – including a requirement on the Children’s Commissioner to appoint an advisory board, but leaving it to the Children’s Commissioner to determine its membership.

There was support for a stronger link between Parliament and the OCCE, both to help Parliament focus on areas of concern that the Children’s Commissioner has highlighted and to monitor and assess the OCCE’s impact. The Department for Education will liaise with the relevant Select Committees to ensure that this happens. We also envisage Parliament having a role in the appointment of the Children’s Commissioner, in line with guidance issued by the Office of the Commissioner for Public Appointments (OCPA).

**Children’s Commissioner’s Title**

We have considered the views expressed through the consultation carefully. Two main alternative titles were suggested: young people argued strongly that the current title did not resonate with teenagers and thought ‘young people’ should be added; and children’s rights stakeholders suggested that the post should be called the ‘Children’s Rights Commissioner’. Although we recognise the reasons behind these suggestions, we accept that ‘Children’s Commissioner’ is the internationally recognised name for posts of this type and propose to retain it in the new legislation. We would, however, look to the Commissioner to ensure that their role spoke to young people as well as to younger children.

**Handling of ‘reserved’ matters in the Devolved Administrations**

Few respondents had concrete examples of where the current arrangements were proving problematic. However, we believe that it is important that children living in Scotland, Wales and Northern Ireland are able to raise a concern with their local Children’s Commissioner, regardless of whether it relates to a devolved or a non-devolved matter, especially as they are unlikely to appreciate the difference in practice and because some cases involve both. This also calls for the four Commissioners to work collectively and coordinate their efforts when investigating UK-wide policy matters. Discussion with the Territorial Departments in Westminster and the Governments of the devolved administrations are continuing with the aim of securing a way forward that is in line with these objectives.

**What more could the Government do to support children’s rights**

The most frequent suggestion was that there should be a duty on Government to have regard to the UNCRC when developing new policy and legislation. The Government’s objective is to continue to make progress against the UNCRC through a mix of legislative and policy initiatives that will bring about real benefits for children. We have already made a firm commitment to give due consideration to the UNCRC when making new policy and legislation. However, we will watch closely the impact of the new duties being introduced by the Welsh Assembly and proposed by the Scottish Government.

There were a number of other helpful suggestions, in particular by children and young people, on: raising awareness of the UNCRC; and involving children and young people more in decision making. We will take account of the many helpful suggestions that people responding to the consultation made, as we move forward.

**Conclusion**

I would like to thank everyone who has contributed views and ideas to the consultation. They have helped us to refine our ideas on how the OCCE legislation should be developed. John Dunford’s report has provided us with an opportunity to create a more effective Children’s Commissioner, able to act independently to give a voice to children and young people and to recommend changes that will improve their lives. We hope to be able to legislate at the earliest opportunity to implement these important changes.

**SARAH TEATHER MP**

**MINISTER FOR CHILDREN & FAMILIES**