

Local Government and Communities Committee

Call for Views on the Period Products (Free Provision) (Scotland) Bill

Submission from Children and Young People's Commissioner Scotland

Established by the Commissioner for Children and Young People (Scotland) Act 2003, the Commissioner is responsible for promoting and safeguarding the rights of all children and young people in Scotland, giving particular attention to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner has powers to review law, policy and practice and to take action to promote and protect rights.

The Commissioner is fully independent of the Scottish Government and Parliament.

Introduction

We welcome the introduction of Monica Lennon MSP's Period Products (Free Provision) (Scotland) Bill. This evidence builds upon the response we submitted to Ms Lennon's initial consultation on her proposed bill in November 2017¹. We full support this bill.

Human Rights Context

Provision of tampons, sanitary towels and other items for menstrual management available to girls, trans and non-binary young people who need them supports the realisation of a range of rights.

Period poverty should be considered in the context of the full range of human rights treaties, including the Universal Declaration of Human Rights (UDHR)²; European Convention on Human Rights (ECHR)³; the UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)⁴; the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁵; the Convention on the Rights of People with Disabilities (CRDP)⁶ and, in the case of children up to the age of 18, the UN Convention on the Rights of the Child (UNCRC)⁷. The role of the Commissioner is to promote and protection the rights of children up to the age of 18 (or 21 if care experienced) and this evidence therefore concentrates on the rights of children and young people.

¹ <https://www.cypcs.org.uk/ufiles/Period-Poverty-Consultation.pdf>

² <https://www.un.org/en/universal-declaration-human-rights/>

³ https://www.echr.coe.int/Documents/Convention_ENG.pdf

⁴ <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>

⁵ <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

⁶ <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html>

⁷ <https://www.cypcs.org.uk/rights/uncrcarticles>

The right to the fullest attainable standard of physical and mental health is enshrined in the UDHR; ICESCR (article 12) and in the UNCRC (article 24), with that right extending to adequate hygiene. In 2015, the UN General Assembly adopted a resolution on rights to sanitation and water, highlighting the importance of these rights to women⁸. An important aspect of managing periods hygienically is an adequate provision of appropriate period products.

We recommend the Scottish Government devote increased attention to the issue of poverty in the context of gender equality. They must adopt a child rights framework while designing, implementing and evaluating social protection programmes. The issue of period poverty relates closely to economic deprivation, but only looking at it via a 'lack of income' does not take account of the myriad of social and cultural aspects of it and the real impact on the realisation of other children rights, such as education, play and health.

This fundamental recognition is important to reshape our approach to period poverty and poverty in general.

Importantly, the UNCRC (Article 27) recognises the right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. While the provision recognises that parents and guardians have the primary role in providing financially for a child, the State must take appropriate measures to assist parents and guardians according to its means, including the provision of material assistance and support programmes.

The UN Committee on the Rights of the Child has stated that no matter how limited their economic circumstances, States must take steps to uphold the economic, social and cultural rights of children.⁹ Children rights do not only focus on the resources but also on the capabilities, choices, security and power needed for the enjoyment of an adequate standard of living and other fundamental civil, cultural, economic, political and social rights.

Article 8 of the ECHR and Article 16 of the UNCRC define protection of private life to encompass a person's physical and psychological integrity and require States to ensure that provision is made to support that integrity. This can be understood to include the right to manage their periods discreetly and with privacy.

Prevalence of period poverty

Research by Plan International shows that 17% of girls have either struggled to afford period products and almost 20% have changed to a different product for cost reasons. Period poverty particularly impacts already vulnerable groups such as

⁸ https://www.un.org/waterforlifedecade/pdf/human_right_to_water_and_sanitation_media_brief.pdf

⁹ General Comment 19 -

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f19&Lang=en

children from asylum seeking families; unaccompanied asylum seeking children and those who are homeless.

This research also explored how girls felt about talking about their periods – with almost half reporting they were embarrassed by their periods, only a fifth saying they would be comfortable discussing their period with a teacher¹⁰.

Evidence presented to support this bill shows that period poverty has a direct impact on children's right to an education (articles 28 and 29 of the UNCRC), both in terms of attendance and by creating a barrier to accessing a broad education which encourages the development of children's talents and mental and physical abilities to their fullest potential and in the corresponding rights in relation to play and recreation (article 31 of the UNCRC). Plan International's research shows that 49% of girls reported missing a day of school due to their period and 64% had missed a PE or sport lesson.

Young women from GirlGuiding Scotland have emphasised the importance of addressing period poverty through provision of free products as part of their campaign to end period poverty and reduce the stigma surrounding periods. As one of their member's states:

Period poverty is unfair and unnecessary – everyone deserves fair access to this most vital health product. ¹¹

The work of our office and others on children's experiences of poverty shows that children are often acutely aware of their family's financial situation and reluctant to ask for money, in some cases even for essentials. Combined with the embarrassment many children feel about their periods, this results in children being unable to manage their periods adequately, with 12% of respondents to Plan's research saying they had had to improvise period products due to affordability issues.

Although surveys suggest around 80% of children over the age of 8 receive pocket money and the average amount is around £7 a week¹², younger children receive less and increasingly pocket money is given electronically via apps. Many children therefore have no access to cash to purchase period products should they need them in emergencies.

Provision in schools

In our own work with children in relation to school toilets we heard that access to toilets was frequently restricted and that in many cases where a child or young person needed access to period products unexpectedly, they needed to explain why

¹⁰ <https://plan-uk.org/media-centre/plan-international-uks-research-on-period-poverty-and-stigma>

¹¹ <http://www.girlguidingscotland.org.uk/what-we-say/campaigns/ending-period-poverty/consultation-response/>

¹² <https://scottishfinancialnews.com/article/scottish-kids-enjoy-second-highest-pocket-money-in-uk>

to two of three members of staff – their class teacher to be excused, a second member of staff to obtain period products and sometimes a third member of staff to get access to toilets if they were locked. Some young people reported that they felt it was easier to just go home. Availability of products in girls, gender neutral and disabled school toilets, and those toilets being freely accessible throughout the school day will ensure children and young people’s right to manage their periods with dignity and privacy is respected.

Although we have not done any formal research on the current Scottish Government scheme, young people we work with speak positively about the current provision in schools and colleges and we have committed to making period products available at our own events. It is important to ensure primary schools also make provision available, as many children will start their period before they start secondary school.

We would encourage Scottish Government to extend provision to other public facilities used by children, for example recreation centres and other community facilities. This will be particularly important to ensure that needs continue to be met outwith school terms. It is also important that where products are available, they are freely available and children and young people can receive sufficient period products to meet all their needs. We have heard anecdotal evidence of schools issuing only a single pad or tampon for emergency use during the school day. This is stigmatising, requires the child or young person to make repeated requests and defeats the aims of the provision of period products in ensuring children can manage their periods with dignity and privacy. We believe the risk of misuse or abuse of free period products is minimal. Period products do not have any significant alternative use and there is little incentive to use more than necessary.

Universal Period Products Scheme

We support the introduction of a scheme making products available nationally to all who need them and ask that all possible measures are taken to ensure these are available to all children. However, it is inevitable that children, particularly younger children will face additional barriers, due to their age and more limited access to facilities (even if, for example, community pharmacies were included) and as a result of continued stigma about periods, they may be too embarrassed to access this scheme. Access to a postal scheme, particularly with online applications, may address some of these issues. The scheme will include a younger cohort of children than the existing C-Card scheme for access to condoms, so some changes to approach will be needed. We recommend that the Scottish Government include children and young people in the design of the scheme, in line with their rights under Article 12 of the UNCRC to ensure that their needs are met. It is vital that this scheme is seen as complimentary to, not a replacement for, provision of products via schools and other community facilities.

Choice

It is important that a full range of products is available both via the scheme and through other provision, without restriction as to quantity. Whilst environmental concerns around period products are valid, preferences are deeply personal and some products are not suitable for some people. Disposable products allow more privacy than reusable ones, particularly in schools where access to toilets with a sink may be restricted. Light flow tampons, with and without applicators, must be readily available as these are more suitable for children and young people yet are seldom available via existing dispensing machines or in smaller stores or pharmacies. Likewise, there must be a variety of types of pad to suit different menstrual flow and body shapes, including pantyliners for those who experience breakthrough bleeding or leaks from tampons. Flexibility in provision is particularly important to children and young people who are still learning to manage their periods and are more likely to experience irregular bleeding.

Recommendations

- A range of period products must be available in girls, gender neutral and disabled school toilets in schools.
- Primary schools should also make provision available, as many children will start their period before they start secondary school.
- Provision should be extended to other public facilities used by children, for example recreation centres and other community facilities.
- Children and young people should be able to obtain as many products as they need
- Children should have access to the Universal Period Products Scheme via postal delivery
- Children and young people should be involved in the design of the Universal Period Products Scheme to ensure it meets their needs.
- A range of products should be available in schools, community locations and via the Universal Period Products Scheme to accommodate different menstrual flow and body shapes, in particular light flow tampons, a range of pads and pantyliners.