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Research report 41

Specialist consultation on the list of central and valuable capabilities for children

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Centre for Analysis of Social Exclusion

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CENTRE FOR ANALYSIS OF SOCIAL EXCLUSION

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List of abbreviations

CASE	Centre for Analysis of Social Exclusion
DCSF	Department for Children, Schools and Families
EMF	Equality Measurement Framework
NSPCC	National Society for the Prevention of Cruelty to Children
UNCRC	UN Convention on the Rights of the Child

Executive summary

The Centre for Analysis of Social Exclusion (CASE) was commissioned by the Equality and Human Rights Commission (the Commission) to hold an event to consult with key stakeholders on the contents of the list of central and valuable capabilities for children, as part of the continuing development of the Equality Measurement Framework (EMF).

At the consultation event, general discussion covered a range of topics, including: selection of appropriate indicators; what age bands should be covered; the need to ensure that vulnerable groups of children are protected by the list, and how data will be collected. Discussions also addressed each of the domains in turn, commenting on and making recommendations of both a general and specific nature. This resulted in a final children's list that will be used in the next stage of this work, developing a set of children's indicators.

1. Introduction

1.1 Aims and objectives of the consultation event

The Centre for Analysis of Social Exclusion (CASE) was commissioned by the Equality and Human Rights Commission (the Commission) to hold an event to consult with key stakeholders on the contents of the list of central and valuable capabilities for children as part of the development of the Equality Measurement Framework (EMF). ‘Road-testing’ the capability list with subject experts was the core objective of the consultation. The CASE research team aimed to develop and strengthen the children’s list through feedback from specialists on:

- the language of the provisional children’s list
- the issues covered and whether any topics or vulnerable groups were missed
- the definition of a child and age thresholds that should be considered for potentially sensitive topics
- the relationship of the EMF with other frameworks
- recommendations for ‘next steps’ in the process for developing and agreeing on a set of indicators.

This document reports the comments and recommendations provided by specialists at the consultation in March 2009. Following the consultation, in light of this feedback, the children’s capability list has been revised. Full details of these revisions and the final children’s capability list are given in Appendix 1.

1.2 Background

This section provides background information on the EMF and the children’s capability list. It gives an overview of the purpose of the EMF, the EMF’s theoretical origins and its core building blocks, as well as its practical application for monitoring inequality. This section also details the process used to compile the provisional children’s capability list that provided the starting point for the consultation.

Equality Measurement Framework

What is it for?

The Commission has a legal duty to monitor and evaluate progress towards equality. The EMF was developed to provide information about individuals and groups from an equality and human rights perspective. It will be used to ‘map’ the extent of inequality between individuals and groups in 21st century Britain and was recommended by the Equalities Review to be ‘used by all public bodies, to agree priorities, set targets, and evaluate progress towards equality’ (Equalities Review 2007).

Where does it come from?

The EMF is based on a new single equality concept that focuses directly on the central and valuable things in life that people can actually *do* and *be*, taking into account the spectrum of equality characteristics (for example, age, disability, ethnicity, gender, etc) as well as the perspective of human rights. The EMF moves away from the traditional definition of equality based solely on opportunities and outcomes.

The EMF was developed from three key inputs: the theoretical underpinning of Amartya Sen's capability approach; the international human rights framework, and extensive consultation with the general public, individuals and groups at risk of discrimination and disadvantage.

What are the EMF's core building blocks?

The EMF has three core building blocks. The first is the concept of inequality based on substantive freedom, which encompasses three aspects of inequality:

- Inequality of outcomes (central and valuable things in life that individuals and groups actually achieve).
- Inequality of autonomy (empowerment, independence in decision-making, choice and control).
- Inequality of processes (unequal treatment, discrimination, lack of dignity and respect).

The second building block is a list of central and valuable freedoms and opportunities organised into 10 domains which arose from a two-stage process. In stage one, the international human rights framework was used to draw up an initial list of capabilities, which was then supplemented and refined through a process of deliberative consultation in stage two – a programme of workshops and interviews with the general public and with individuals and groups at high risk of experiencing discrimination and disadvantage.

This process resulted in the development of detailed lists of central and valuable freedoms or capabilities for adults and for children, grouped together under the 10 domains of: Life; Health; Physical Security; Legal Security; Education and Learning; Standard of Living; Productive and Valued Activities; Individual, Family and Social Life; Identity, Expression and Self-respect; and Participation, Influence and Voice.

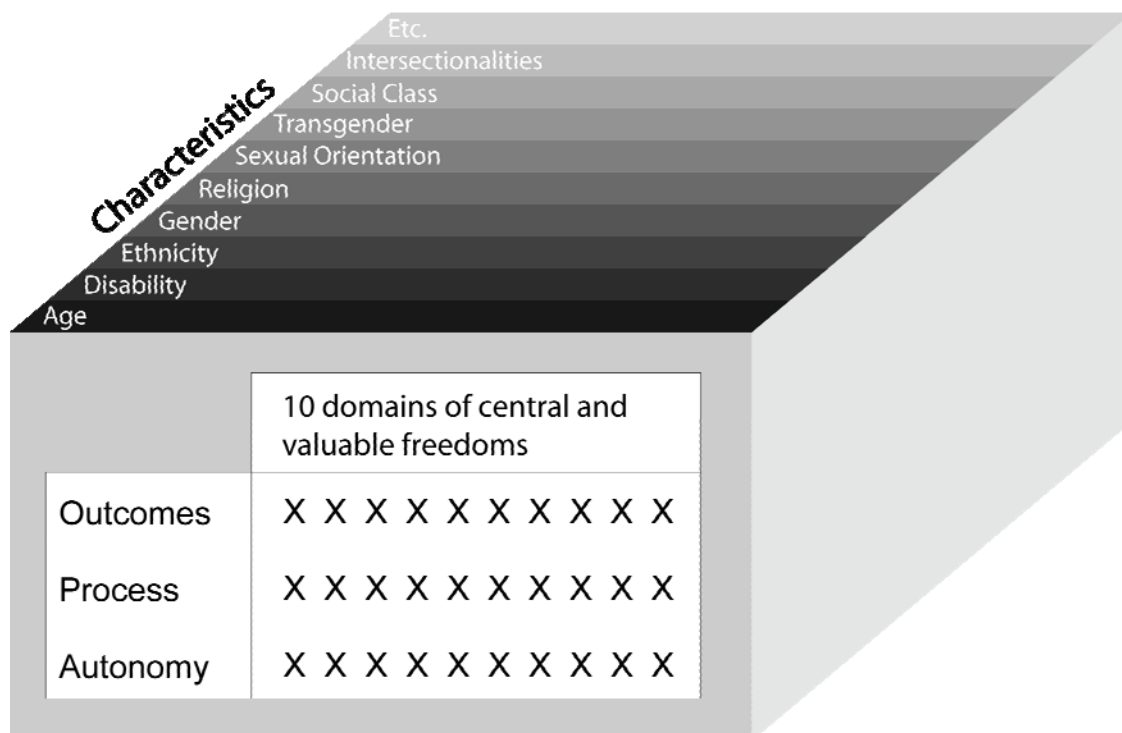
Within each of these 10 domains, inequality can be observed and evaluated under eight highlighted characteristics, which make up the third building block of the EMF. The characteristics include: age; disability; ethnicity; gender; religion or belief; sexual orientation; transgender, and social class.

What is the EMF’s application?

The EMF is being used to ‘map’ inequality between individuals and groups by developing a series of indicators for children and for adults. In practice, the research for children’s indicators will employ a ‘substantive freedom matrix’ – a practical monitoring tool based on the foundations of the EMF to evaluate and compare inequality between individuals and groups. Research for adults’ indicators also utilised the substantive freedom matrix.

The substantive freedom matrix is a 3D matrix (Figure 1) where the rows represent the three aspects of inequality discussed above – outcomes, autonomy and processes – and the columns represent the 10 domains of central and valuable freedoms. The 3D layers of the matrix then represent the different equality characteristics (gender, ethnicity, etc) of the children’s or adults’ groups in question. This matrix can be used to identify concerns and issues that intersect and cut across different equality characteristics.

Figure 1 The substantive freedom matrix



The research for children's indicators, which will utilise the substantive freedom matrix, will be based on the final children's capability list, which has been revised to incorporate comments and recommendations from subject specialists at the one-day consultation event in March 2009.

For further details on the EMF, please see *Developing the Equality Measurement Framework: Selecting the indicators* (Alkire et al. 2009) or refer to the *EHRC Briefing Note: The Equality Measurement Framework* (Burchardt and Vizard. 2008). Links are provided in Appendix 3.

The children's capability list

The children's capability list, which applies to anyone under the age of 18, underwent three broad phases of development.

First, a provisional children's list was compiled based on the adults' list, on an examination of the UN Convention on the Rights of the Child (UNCRC) and on comparisons with other national children's frameworks. The children's list aims to include all of the UNCRC's main provisions and has also been compared to the Every Child Matters Outcomes Framework, to the indicators highlighted by the Welsh Assembly Government's Seven Core Aims for Children and Young People and the Scottish Government's Getting it Right for Every Child wellbeing indicators.

In the second phase, two rounds of deliberative consultation (in the form of workshops) with parents and children from the general public were held to refine the existing provisional list with their suggestions. The first round of consultation was conducted by Ipsos MORI and was for teenagers (ages 13 to 16). The second round included children aged nine to twelve and parents of children aged eight and under.

Finally, through the specialist consultation held in March 2009, the provisional children's list was subjected to scrutiny by experts from children's organisations and other stakeholders. The results of the consultation are presented in this report and the final children's list, based on the consultation's comments and recommendations, can be found in Appendix 1.

1.3 Methodology

The consultation organisers aimed to ensure the involvement of as many stakeholders and subject experts of children's issues in the UK as possible. Government units, non-profits, non-governmental organisations and academics from England, Scotland and Wales with strong specialist knowledge were invited and encouraged to participate.

In order to identify participants, the research team asked for regional-specific recommendations from representatives of the Commission. We also contacted relevant government departments and non-profit organisations that already have a strong presence in working within children's rights and inequalities, asking for their help in identifying additional specialist participants.

The research team also encouraged comments and responses from groups and individuals that were interested in the consultation, but were unable to attend. Comments and recommendations from all participants and non-participants have been incorporated into this report.

Details of the consultation

The first portion of the specialist consultation included two short presentations by the CASE team. Topics covered included: an overview of the EMF; the process used for deriving the capability list for adults; the consultations that had already taken place for children, and the stages used to compile the provisional children's list. Question and answer sessions followed both presentations.

The second portion included break-out group exercises, where the contents of the provisional children's list were discussed in detail. The event ended with plenary feedback, large group discussion and concluding comments from the CASE team on next steps to follow from the specialist consultation. Notes were taken for the event. Comments are recorded on a non-attributable basis and are not verbatim, but are presented with the aim of preserving the sense of what participants said as precisely as possible.

1.4 Report structure

Chapter 2 details general feedback that was received as a result of the consultation, Chapter 3 provides domain-specific comments and recommendations, and Chapter 4 briefly details the next steps in the development of the children's list.

Appendix 1 provides the final children's list along with all of its revisions following the March 2009 consultation. Appendix 2 contains the list of those involved in the consultation and Appendix 3 provides the sources recommended by specialists at the consultation. Appendix 4 provides references for additional reading on the EMF and other background material on the adults' and children's equality monitoring projects.

2. Consultation exercise 1: general feedback

General feedback given during large group discussions that are not domain specific are reported in this section, including comments, suggestions and queries for topics such as: the overall approaches to the project; the indicator selection process; how to strengthen the children's capability list; age bands for the project; availability, language and accessibility of the capability list; data-capturing methodology; discussion on the inclusion of all vulnerable groups of children, and suggestions for the project's next steps.

Overall approaches to the project

Questions arose from the group regarding the theoretical overview of the project. The CASE team confirmed that the EMF combines the equality concept with the children's rights approach. It was also confirmed that the information gathered for the children's project will be used to provide evidence on inequalities so that institutions can be challenged.

Indicator selection

Discussion around indicator selection, the next phase of the children's project, highlighted that indicators should not be constrained by using only existing data. If important data for monitoring inequalities are not currently available, then a recommendation for them to be collected should be made to the official bodies.

It was also pointed out during group discussions that Northern Ireland approached the indicator selection process differently, with the indicators opened up to the wider public (including children) for consultation, not just specialists.

Strengthening the children's capability list

The group discussed ways to strengthen the children's list, which included going back into each domain with specific vulnerable groups in mind to ensure that issues are covered thoroughly. For instance, new concerns may emerge by considering:

- Education and Learning + disabled children
- Education and Learning + refugee children
- Education and Learning + children in the public care system

In addition, it was confirmed by the CASE team that if capabilities can not be measured, but are important to the study, then they will still be included in the final children's list.

Age bands and the children's capability list

The children's list covers children between the ages of 0 and 17 (anyone under 18 years old), as does the UNCRC, and the question of whether the age band needs to be widened was raised.

The group as a whole agreed that the right / ability to access services may become an issue if the children's list limits the definition of a child to only those under 18. The age band issue is particularly crucial for disabled children whose access to social services may be restricted by enforcement of a narrower age definition of a child. Care leavers are another group who may be affected, as they currently may be able to receive support from social services up until the age of 21 (or until age 24 if they are at college or university full time). It was concluded that different policy areas should have different age cut-offs with regards to vulnerable children and young adults accessing important social services.

Availability, language and accessibility

It was agreed by the group that information gathered for this project should be made available to the public, which (as confirmed by the CASE team) will be done through the publication of indicators at the conclusion of the children's project.

Unresolved outstanding questions include which groups we want to target in the dissemination of information (that is, the general public, children and legislators), and what information should be available to children and why. It was strongly felt that children in particular need to be provided with information on what their rights are, how they can access services and entitlements, and how they can make a complaint for themselves, on their own or with support.

Once the groups to target are decided, it was suggested that the Commission creates various versions of the information and pilot the different formats to ensure that they work well with the different groups.

The accessibility of the language of the final report and its various formats for public use was also discussed. It was strongly felt that the final products should use rights terminology and that the different formats of information made available to the public must have a 'plain language' principle. It was also suggested that children have a version of the UNCRC in language that is accessible to them.

Data capturing methodology: overall approach

Recommendations were provided by the group to strengthen the overall approach to the methodology for measuring inequalities. It was suggested that measuring gaps as well as thresholds is important, as well as the possibility of looking at groups of

people who 'have too much' rather than looking only at those who do not have enough. The importance of comparing data across, as well as within, age groups, was another suggestion.

An alternative approach to data development was also considered by the group. It was recommended that focusing on contextual factors (what and how information is used for discrimination) rather than by outcomes (by equality characteristics such as gender, religion, and so on) would be useful, as it may help to enhance our understanding of how to encourage equality and to discourage bullying. For example, a child who is not gay may be bullied because of having LGBT parents, which highlights the importance of asking more contextual questions, such as what a child gets bullied about, rather than just collecting data on specific topics / outcomes, such as a child's sexual orientation.

The point was also raised that the answers we may get from children may not be a true representation of their own views. For instance, asking a young child about his / her religion is, in many cases, a proxy for the parents' religion.

Data capturing methodology: for potentially sensitive topics

When deciding the appropriate age at which to begin asking children about potentially sensitive topics, such as their sexual orientation, the group strongly agreed there was a need to be mindful of parental rights (both legal and intrinsic rights) as well as overall appropriateness in what is asked and how it is asked. The study may be introducing concepts to children that parents may not wish their children to be exposed to. However, while the need for age appropriateness for certain topics was agreed upon, it was counter-argued that it was important to understand the state of discrimination and bullying among all ages and groups of children. There was no concrete resolution on the discussion regarding what exactly can be asked and at what age. For this reason, it was suggested that perhaps for certain sensitive topic areas, the 'context' approach, rather than 'outcomes', may be a more appropriate focus for data collection.

Two suggestions were made in regards to the question on how to effectively and appropriately collect data for sensitive topics. The first recommendation asks that the researchers make a distinction between primary and secondary schools. For primary schools, a more qualitative approach could be taken. For instance, asking, 'Why are you bullied?' may invoke a diverse range of answers that are just as rich in information as quantitative data, but would need to be analysed differently. Answers in primary school may include things like, 'I am bullied because kids say I smell' or 'I am bullied because I don't have the right trainers'. In secondary school, older children can be asked more direct questions, which is where quantitative data can be

obtained. For instance, 16 to 18 year olds could be asked explicitly about their sexual orientation.

The second suggestion on how to manage data collection of sensitive topics is to take age appropriateness out of the equation and focus entirely on a qualitative approach for all age groups. In this method, more open-ended questions such as these could be asked:

- How are you experiencing bullying / discrimination?
- What types of bullying / discrimination are taking place?
- How supported do you feel to develop your own identity?
- Do you feel allowed / able to explore and find yourself?
- Do you feel that you are constrained, that you can't be yourself or that you can't express yourself freely?

Vulnerable groups

It was agreed that the position of all vulnerable groups, including non-household populations of children, should be adequately addressed in this project. It was suggested that we go back through the domains to ensure that the following groups of children are protected by the capability list:

- asylum seekers, refugees
- unaccompanied asylum-seeking children
- children looked after by social services
- children in the criminal justice system
- detained children
- Gypsies and Travellers
- trafficked children
- homeless children
- children from families who have no recourse to public benefits
- disabled children / children with learning difficulties
- young adults (particularly in relation to transitional issues)

Additionally, participants suggested that the capability list should be cross-checked against the 12 vulnerable groups identified by the UNCRC and these groups should be incorporated. The CASE team will be exploring this as the project moves forward.

There was particular concern for children who are asylum seekers, refugees or who have been trafficked into the country. There are currently no formal legal statutes under child protection laws to cover these vulnerable groups. It was suggested that

formal requests could be made to the official legal bodies that statutes covering child protection and that these should extend to all children up to and including 17 years of age.

Suggestions for next steps

There were recommendations for the upcoming phases of the project. First, it was strongly felt that the public needs to have access to the information produced by the project and that recourse should be available to children and parents if institutions are not delivering on the capability list. Second, the legal status of the items on the capability list should be further examined, if necessary in consultation with legal experts. Elements that may be in contravention to, or different from, the law (such as the suggestions to eliminate prison for children and to list detention as a 'last resort' under the Legal Security domain) should be identified and addressed. Finally, there was a suggestion to create a document that clearly shows how the capability list maps onto other documents or areas of related thought (such as other equality frameworks for children, the use of human rights language, the incorporation of deliberative consultations and so on) to better demonstrate how the capability list arose.

3. Consultation exercise 2: domain-specific comments and recommendations

This section reports the domain-specific feedback from experts and stakeholders in the development of the children’s capability list. Feedback within each of the 10 domains is organised into the following sub-sections: comments and recommendations; general comments; and changes to capability list.

Life: the capability to be alive

Comments and recommendations

Listed capability: avoid premature mortality through disease, neglect, injury or suicide, or through lack of antenatal or maternal healthcare:

- Add ‘avoid abuse and neglect’ to the first sub-domain, alongside avoiding premature mortality.
- We should be explicit about infant mortality, including Traveller children and regional differences.
- The idea of ‘premature mortality’ may not be necessary, as all childhood mortality is agreed to be premature.

Life: the capability to be alive

Changes to capability list:

- ‘Avoid abuse and neglect’ are already in the Physical Security domain so not added to Life.
- In the first sub-domain, deleted ‘premature’ and added, ‘including infant mortality’.

Health: the capability to be healthy

Comments and recommendations

Listed capability: access healthcare without discrimination and in a culturally sensitive way, including antenatal and maternal healthcare:

- ‘Age appropriateness’ should be added to this capability. It was agreed to be an important point to help ensure that children are being given healthcare suitable to their age (that is, children must not be placed in adult wards, an issue particularly important for the treatment of mental health).

Listed capability: be treated medically, or take part in an experiment, only with informed consent (or consent of a guardian if you are too young to consent):

- This portion of the listed capability is problematic: 'or take part in an experiment'. There needs to be a process for decision-making, as guardian consent alone is not enough to take part in experiments.

Listed capability: be assured of patient confidentiality and be free from the stigmatisation associated with some health conditions:

- Confidentiality: at what age should children be entitled to confidential advice / information, particularly in relation to healthcare and contraception?
 - Confidentiality can be broken with child abuse, but when else (for example, harm on a mental / emotional level)?
 - It is necessary to look at what the law says about confidentiality. There could be a caveat about access and confidentiality within legal confines.

Listed capability: be protected from emotional abuse or neglect:

- This could be moved to the Individual, Family and Social Life domain.
- Are there some overlaps between domains in terms of abuse and neglect, such as between Health and Physical Security? It was suggested that it may be useful to look at the UNCRC for guidance to prevent possible overlaps.

Listed capability: access timely and impartial information about health and healthcare options, including contraception where appropriate:

- At what age is access to information on sexual health appropriate? There could be a potential conflict with parents on what to expose their children to and when.

General comments

Listed capability: maintain a healthy lifestyle including exercise, sleep and nutrition:

- Children who have lack of exercise and poor diets are often those linked to the poorest families.
- 2008 Human Fertilisation and Embryology Act: there is concern that this statute denies children born through sperm / egg / embryo donation the right to know about their genetic heritage and identity. This may be a violation of the rights of the child in which case there should be some provision (something along the lines of the provision for people who have been adopted) for access to this information.

Health: the capability to be healthy

Changes to capability list:

- Added that access to healthcare should be ‘age appropriate’ (as well as non-discriminatory and culturally sensitive).
- Added that consent from the child to be treated medically, or to partake in an experiment, must be ‘free’ as well as ‘informed’ (consent from guardian must be informed if the child is too young to consent).
- Added that patient confidentiality must be assured, as long as it is in the ‘interests of the child’.
- Added that support be given where necessary to help families provide healthy lifestyles for children, including nutrition (taken from the recommendation that a child should be ‘able to have an evening meal’, from the Individual, Family and Social Life discussions).
- Added ‘access to information on genetic heritage’.

Physical Security: the capability to live in physical security

Comments and recommendations

Listed capability: be protected from physical or sexual abuse (especially by those in positions of authority), including use in, or exposure to, pornography:

- This portion of the listed capability is problematic: ‘especially by those in positions of authority’. This language suggests that physical / sexual abuse by some is worse than by others.
- Protection from pornography should include 18 year olds.

Listed capability: be protected from physical or mental harm by adults (including harmful punishment):

- Smacking versus physical harm: some wanted ‘smacking’ to be included under ‘be protected from physical or mental harm’ as something that was not permitted, but others disagreed.

Listed capability: be subject to discipline at school which is consistent with maintaining your dignity:

- The children’s list should avoid the use of the term ‘discipline’ entirely, not just at school.

- The wording ‘be subject to discipline’ is different to the wording of other items in this domain, which disturbed many of those in the discussions.
- The wording of this listed capability could be turned around so that it refers instead to the need to be treated with respect and dignity if being disciplined, both at school and in other public and private institutions.
- The discipline point could be picked up under Education and Learning instead of Physical Security.
- Residential institutions as well as schools should be included under a ‘discipline, but with dignity’ sub-domain.

- There needs to be structure / authority / boundaries:
 - There is very little in the list on structures that are imposed on children that help and guide them in their lives. Children who do not have a firm structure often suffer.
 - A structural / authority point could also be added to the Standard of Living domain.

- Including ‘right to good parenting’ could be an important sub-domain, but perhaps Individual, Family and Social Life would be a better fit for it?

General comments

- In response to a query, it was confirmed by the CASE team that children in the non-household population are indeed covered in Physical Security and in the rest of the capability list. This will need to be reflected in the indicators selected to monitor the children’s framework.

Physical Security: the capability to live in physical security

Changes to capability list:

- In the listed capability 'be protected from physical or sexual abuse (especially by those in positions of authority), including use in, or exposure to, pornography', wording was changed from 'especially' to 'including'.
- As was suggested, the term 'discipline' was removed by taking out this sub-domain completely: 'be subject to discipline at school which is consistent with maintaining your dignity'.
- The recommendation of the need for 'structure / authority / boundaries' was added to Individual, Family and Social Life instead of in Physical Security or Standard of Living.

Note (a): There was consideration to expand the protection of children from pornography to include 18 year olds, but the Sexual Offences Act 2003 for England and Wales only protects under 18 year olds from forced exposure to pornography, where the purpose of exposure is to obtain sexual gratification. In addition, the Sexual Offences (Scotland) Bill only protects children less than 16 years of age from forced exposure to pornography, where the purpose of exposure is to obtain sexual gratification or to humiliate, to distress or alarm a child. It was also felt that since the overall framework is currently for 0 to 17 year olds, it made sense to leave the sub-domain regarding protection from pornography as it is.

Note (b): The Sexual Offences (Scotland) Bill also contains a clause, separate to those relating to children, that makes it an offence to force someone of *any age* into looking at a sexual image also with the purpose of obtaining sexual gratification or to humiliate, distress or alarm the person.

Legal Security: the capability of knowing you will be protected and treated fairly by the law

Comments and recommendations

Listed capability: have fair conditions of detention, with prison only as a last resort:

- It was suggested that the term ‘prison’ be removed from this sub-domain, as it was strongly felt that children should not be in prison at all. Detention should also only be considered ‘as a last resort’.

Listed capability: have the right to a fair trial including protection by a minimum age of criminal responsibility:

- There may be a need to recognise the different (and changing) ages of criminal responsibility in Scotland, Wales and England.
- There is a need for children to have access to advice and to complaints mechanisms that are specifically designed for use by children.
- There was concern about the situation for asylum seekers. It was felt that they should be explicitly covered under Legal Security or elsewhere in the capability list, perhaps by indicating that their requests / applications for asylum should be suitably considered by the official authorities.

General comments

Listed capability: have freedom of movement:

- ‘Have freedom of movement’ sub-domain was queried and explained / clarified: having freedom of movement means not being restricted, not being banned, not having mosquito devices used against you, and so on.

Legal Security: the capability of knowing you will be protected and treated fairly by the law

Changes to the capability list:

- As suggested, added ‘be detained only as a last resort’ and deleted ‘prison only as a last resort’.
- As suggested, added that there should be access to mechanisms for complaints, as well as access to high-quality information and to advocacy, and that all mechanisms and access be specifically designed for use by children.

Education and Learning: the capability to be knowledgeable, to understand and reason, and to have the skills to participate in society

Comments and recommendations

Listed capability: enjoy high-quality early-years care and education:

- We need to be clear that by ‘care’ we do not mean a care institution or day care – that we are referring to support for children and parents.
- Early-years care should include support for parents to engage them and inform them about their child’s education.

Listed capability: engage in compulsory and free primary and secondary education that meets your individual needs, and education or training at least up to age 18:

- Hidden costs of education:
 - This sub-domain must also allow for participation in the wider range of issues for growth (like in activities that require cost, such as school trips).
 - Cost of school uniforms needs to be factored in as well.
- There should be support for transitions between schooling levels (pre-school to primary; primary to secondary).
 - There will be differences in gender needs for transitional support, for instance, with achievement issues.
- Compulsory education and training up to age 18 years of age is not being adopted in Wales.

Listed capability: acquire the skills for equal participation in a diverse society, including learning English:

- There might be a need to broaden this sub-domain to include the right to access education through another language medium, such as Welsh, not only through English.

Listed capability: learn about a range of present and past cultures and beliefs:

- Your own culture and beliefs / cultural identity should be supported as well.
- Perhaps in this sub-domain, there needs to be a more explicit connection between learning, education and cultural identity.

Listed capability: appreciate the arts:

- Appreciation of ‘public culture’ should be included along with appreciation of the arts.
- ‘Appreciate the arts’ should be changed to ‘access the arts’.
- Children being excluded from schools should have the right to appeal such decisions.

General comments

Listed capability: attain the highest possible standard of knowledge, understanding and reasoning:

- 'Highest possible standard' was identified as being a difficult concept and its inclusion in this sub-domain was discussed. It was confirmed that the concept arises from human rights language.

Education and Learning: the capability to be knowledgeable, to understand and reason, and to have the skills to participate in society

Changes to the capability list:

- Added the suggestion, 'including support for transitions between schooling levels'.
- Added 'learning about healthy (non-violent and non-abusive) relationships', a suggestion from the Individual, Family and Social Life discussions.
- Added that learning English or Welsh is necessary to acquire the skills for equal participation in a diverse society.
- Added 'being able to' appreciate the arts, and 'public culture'.

Standard of Living: the capability to enjoy a comfortable standard of living, with independence and security

Comments and recommendations

Listed capability: enjoy an adequate and secure standard of living which enhances physical, mental, spiritual, moral and social development. This includes nutrition, clothing, toys and entertainment, warmth, utilities, housing, social security, social services and childcare. Adequate housing must include adequate indoor space and access to safe outdoor space in which to play:

- 'Adequate indoor space' might potentially discriminate against Gypsy and Traveller children for whom the indoor space in their trailers may be deemed inadequate.
- Children's budgets (budget allocation): we should be able to identify spending on children across all government levels. It should be one of the concrete measurables.

- There should be quiet space for homework / privacy and the general use of 'quietness' should be available (perhaps this would be better suited under Individual, Family and Social Life domain?).

General comments

Listed capability: have choice and control over where and how you live, at a level appropriate to your stage of development:

- 'Have choice and control over where and how you live': how might this apply to children who become homeless due to the actions of their parents or due to eviction policies of public authorities?

Listed capability: share in the benefits of scientific progress including medical advances and information and technology:

- This should be for everyone and not just the elite.
- There should be equitable sharing in medical advances and medical resources. How are medical resources being prioritised (in other words, it's not children who are taking up the main bulk of these resources)?
- We need to invest in research for children specifically.
- Standard of Living is at the heart of child poverty and inequalities across the board (for example, the right to live in a household with a minimum income). It was suggested that the Scottish and Welsh frameworks should be checked in relation to strengthening this domain.
- Material deprivation is on the adults' list, but how does it relate back to children who are living in poverty and unable to, for instance, have their friends come over to the home, go on school trips, and so on?

Standard of Living: the capability to enjoy a comfortable standard of living, with independence and security

Changes to capability list:

- Added the need for quiet space for homework (kept this in Standard of Living, rather than moving it to Individual, Family and Social Life).

Productive and Valued Activities: the capability to engage in productive and valued activities

Comments and recommendations

Listed capability: have safe, enjoyable, and developmental play:

- Perhaps the term 'safe' needs to be further spelled out. It would be silly for it to encompass something like, 'no running' in a playground, but it would be important to ensure that there were no syringes or broken glass in the play area.
- Taking 'appropriate risk' should be added as another sub-domain. Safe play is important, but learning about assessing risks happens only through [free], child-led play.
- Should 'developmental play' be under Education and Learning instead?
- Suggested rewording:
 - 'Have safe, enjoyable, free and developmental play and leisure opportunities'
 - 'Leisure' would then be deleted from the sub-domain, 'Have rest and leisure including holidays and relaxed time with your family'.
- 'Play Strategy' policies / programmes for Scotland and Wales might be a good reference for this capability.

Listed capability: have rest and leisure including holidays and relaxed time with your family:

- 'Leisure' and 'rest' are distinct and should not be grouped together.

Listed capability: undertake some paid work, as a teenager:

- Some wanted to delete 'as a teenager', arguing that some younger children do work or want to work (for example, doing a paper round). They wanted to acknowledge that opportunities for children younger than 13 years old should be there. However, we can not be seen to condone child labour. Therefore, it was agreed to keep 'as a teenager' in, but this sub-domain was identified as an area that probably requires more work and monitoring.

Listed capability: if you work, to work in just and favourable conditions, including health and safety, fair pay, reasonable hours and freedom from harassment or discrimination:

- Equal pay is better / more important than 'fair pay', as age discrimination must end.
- We do not want to encourage 17 year olds to move out and set up house on Housing Benefit, but we do not want to financially penalise those who need the equal pay.

Productive and Valued Activities: the capability to engage in productive and valued activities

Changes to capability list:

- Added the suggestion, 'being able to explore and negotiate risk' as an additional sub-domain.
- Added the idea of 'free play' to 'safe, enjoyable and developmental play'.
- 'Rest' and 'leisure' split into two separate sub-domains.

Individual, Family and Social Life: the capability to enjoy individual, family and social life

Comments and recommendations

Listed capability: develop and maintain self-respect, self-esteem and self-confidence:

- This idea is repeated in Identity, Expression and Self-respect, so consider taking it out of this domain.

Listed capability: formulate and pursue aspirations, goals and objectives for yourself, including what you want to do when you grow up:

- Add that 'the potential of the child should be safe-guarded and developed'.

Listed capability: enjoy special support and care during childhood, including security and stability:

- Take out or clarify what we mean by 'special support' so that it is not interpreted as meaning childcare or childminding.

Listed capability: know that someone will look out for you:

- Consider adding to this sub-domain that there should also be someone you can confide in.

Listed capability: have peace of mind:

- The group agreed that this sub-domain is very important to keep, as it implies the opportunity for strong emotional development.

Listed capability: be cared for wherever possible by own parents, and where this is not possible, to maintain contact with parents:

- To the 'maintain contact with parents' segment of this sub-domain, add 'if it is in the best interests of the child' and exclude children who are adopted.

Listed capability: have a private life, including protection of information about you, having your own space, and sometimes being able to do your own thing:

- 'Having your own space': if this equates to physical space, then it may not be welcomed by a range of families, including low-income families, some ethnic minority families and others whose children share a bedroom.

Listed capability: spend time with, and care for, others, including wider family:

- It is important to emphasise the importance of developing the opportunity to be able to do this.

Listed capability: form intimate relationships, including having a boy/girlfriend:

- What do we mean by intimate? Sexual Offences Act - what if child is younger but boy/girlfriend is older than the legal age of consent?

Listed capability: enjoy independence and equality in significant relationships:

- This needs to be reworded, as equality in relationships is not necessarily applicable in family situations, such as between a parent and child.

Listed capability: celebrate on special occasions:

- Clarification is needed: this sub-domain's applicability to Individual, Family and Social Life is in its relationship to being able to participate in group functions, to feel like you can belong and be a member of the community by participating in special occasions, like birthday parties. Poverty can often restrict the celebration of special occasions, so it may be important to include that point here in this sub-domain.

Listed capability: for 16 and 17 year olds, be free in matters of sexual relationships and reproduction, and enjoy special support during pregnancy, maternity and paternity:

- This sub-domain needs to be broken down into two points, as children under 16 years old do get pregnant. Have 'enjoy special support during pregnancy, maternity and paternity' as a separate point.
- Being able to care for others, learn empathy and bond with others: three sub-domains (listed below this point) might be overlapping. They all relate to the issues of 'bonding' and 'attachment', as well as the ability to empathise and relate with others, also known as emotional intelligence. There is clear research that in

the absence of these three combined sub-domains, emotional problems including giving up on others and feeling detached will emerge:

- sub-domain 1: enjoy special support and care during childhood, including security and stability.
 - sub-domain 2: be nurtured, loved, and protected, reassured and encouraged.
 - sub-domain 3: know that someone will look out for you.
- Consider adding as a sub-domain, 'the right to be educated about healthy relationships (learning about what non-abusive, non-violent relationships are)', either in this domain or in Education and Learning.
 - Consider adding as a sub-domain, 'have a sense of socialisation (interpersonal relationships) as well as have opportunities to develop responsibilities and life-skills within the family (be taught to cook for yourself, be taught financial skills, etc)'.
 - Consider adding 'being able to have an evening meal'.

General comments

- As 'fun' and 'enjoyment' are fundamental elements of childhood, it was recommended that these ideas be incorporated into the children's list for measurement.

Individual, Family and Social Life: the capability to enjoy individual, family and social life

Changes to capability list:

- Added 'have structure, authority and boundaries', a suggestion from the Physical Security discussions.
- As suggested, 'develop and maintain self-respect, self-esteem and self-confidence' was taken out of Individual, Family and Social Life. It was moved to Identity, Expression and Self-respect.
- Added the suggestion that a child's potential be developed and safeguarded.
- Added as an additional sub-domain, 'be able to relate to, care for, form attachments and bond with others, as well as be able to learn empathy'. Considered combining the existing three sub-domains pertaining to 'bonding and attachment', as discussed during the consultation event, but this was not possible without having to cut out essential elements.
- After 'be cared for wherever possible by own parents, and where this is not possible, to maintain contact with parents' added 'if it is in the best interests of the child'.
- After 'form intimate relationships, including having a boy/girlfriend' added 'consistent with your stage of development' to address legal and parental concerns regarding age, relationships and sex.
- The capability to 'enjoy independence and equality in significant relationships' was taken out of Individual, Family and Social Life due to the discussion that equality is not necessarily applicable in family relationships, particularly one between a parent and child.
- Split up the last listed sub-domain into two separate points, as children under 16 do get pregnant and persons at all ages should be able to enjoy special support during pregnancy, maternity and paternity.
- 'Learning about what non-abusive, non-violent relationships' was added to the Education and Learning domain, rather than placed in this domain.
- 'Being able to have an evening meal' was addressed by adding under the Health domain, 'with support where necessary' to the end of the sub-domain, 'maintain a healthy lifestyle including exercise, sleep and nutrition'.

Identity, Expression and Self-respect: the capability of being and expressing yourself, and having self-respect

Comments and recommendations

Listed capability: engage in cultural practices, in community with other members of your chosen group or groups, and across communities:

- This may fit better in another domain.

Listed capability: have self-respect:

- 'Respect' term (in self-respect) is too political; perhaps use of the term 'self-esteem' or 'confidence' would be a better way of explaining this idea, to avoid certain connotations.
- Accessibility of the concept and use of language must be clear: how would you explain self-respect to children?
- 'Self-respect': is this language compatible with that of the UNCRC?
- How can we frame 'self-respect' in a way so that it can be measured?
(Response: there wasn't a shortage of ways to measure this for the adults' list.)

Listed capability: be confident that you will be treated with dignity, equality and respect, especially by adults in positions of authority:

- This would be particularly relevant with meetings with General Practitioners.
- Important to define 'dignity', as what this entails is not immediately clear.

General comments

Listed capability: have freedom of expression:

- What is this sub-domain's application to children?
- This sub-domain must not impinge on the rights of other groups (for example, Neo-Nazi groups would be unacceptable even under the freedom of expression idea).
- There is a high need to ensure there are resources and opportunities to realise all of the rights indicated in this domain and in the capability list as a whole.
- Sometimes the parents are the ones who are restricting some of these freedoms (such as making children go to church when they do not want to go):
 - The law is often on the side of parents for many issues.
 - We need to be clear what the links are between the freedoms listed in the capability list and to legality. For instance, at six years old, they do not, and should not, have the right to say that they are not going to go to the Mosque or Church with their parents.

Identity, Expression and Self-respect: the capability of being and expressing yourself, and having self-respect

Changes to capability list:

- Took onboard the discussion points about the need to clarify the term 'self-respect'. Deleted the capability to 'have self-respect' and changed it to: 'develop and maintain self-respect, self-esteem and self-confidence', which was taken from the Individual, Family and Social Life domain.

Participation, Influence and Voice: the capability to participate in decision-making, have a voice and influence

Comments and recommendations

Listed capability: get together with others, peacefully, without being moved on or accused of being a nuisance:

- It is important to remember that one group's rights must not put at risk another group's rights (for example, large groups of children gathering could be an impediment to enjoying public space by the elderly). As a result, it may not be appropriate to have 'right to assembly' notion on the children's framework.
- Importance of including the right to advocacy: there must be someone representing the child's rights, advocating on their behalf. It is important that children's voices are heard.
- Importance of including communication aides: there must be avenues available to facilitate communication on a practical level (such as the use of translators) or on a more general level (such as the use of counsellors and teachers) to encourage conversation and expression of children's needs and concerns.
- There is a need to include on the list that children's views are taken on board. Ongoing participation by children and engagement with children should be embedded in processes and it should begin as young as possible. Very young children can have views and opinions that are just as valid as the opinions of adults (medical example: a child will know more and often be able to better express what is ailing them than their parents).

General comments

Listed capability: participate in local community:

- It is important to think about what this sub-domain means in practice; how best can we implement this? There should be flexible structures put in place to allow for children to actually participate in local community.
- There is often the danger of not seeing the child as a citizen.

Participation, Influence and Voice: the capability to participate in decision-making, have a voice and influence

Changes to capability list:

- To the first sub-domain, to 'be encouraged and supported to participate in decision-making' and 'having access to advocacy' was added.

4. Next steps

Following the specialist consultation in March 2009, full-day consultation events in England, Scotland and Wales for the selection of indicators for the children's capability list are being coordinated for Winter 2009. Briefing papers for each of the 10 domains containing the short-listed spot-light indicators, as well as an overall briefing paper, will be prepared and circulated in advance of the one-day consultation events. Web-based consultation for children's indicators will also be organised for those who cannot participate at the day events, but who wish to contribute to the indicator selection process.

Appendix 1 Final children's list

This list applies to people aged 0 to 17 years.

Life: the capability to be alive

including to:

- avoid mortality including infant mortality, through disease, neglect, injury or suicide, or through lack of antenatal or maternal healthcare
- be protected from being killed or murdered

Health: the capability to be healthy

including to:

- attain the highest possible standard of physical and mental health, including sexual and reproductive health
- access healthcare without discrimination and in an age-appropriate, culturally sensitive way, including antenatal and maternal healthcare
- be treated medically, or take part in an experiment, only with free and informed consent (or informed consent of a guardian if you are too young to consent)
- be assured of patient confidentiality, where this is in the interests of the child, and be free from the stigmatisation associated with some health conditions
- live in a healthy and safe environment where pollution, traffic and other hazards are minimised
- be protected from emotional abuse or neglect
- be protected from use, production or selling of illegal drugs
- maintain a healthy lifestyle including exercise, sleep and nutrition, with support where necessary
- access timely and impartial information about health and healthcare options, including contraception where appropriate
- learn about how to remain healthy and safe, including the effects of alcohol, smoking and illegal drugs
- access to information about genetic heritages

Physical Security: the capability to live in physical security

including to:

- be free from violence including sexual and domestic violence, and violence based on who you are
- be free from torture, cruel, inhuman or degrading treatment or punishment, including capital punishment

- be protected from physical or sexual abuse (including by those in positions of authority), including use in, or exposure to, pornography
- be protected from physical or mental harm by adults (including harmful punishment)
- be protected from physical or mental harm by other children (including bullying)
- go out and to use public spaces, including school, safely and securely without fear
- be supported and rehabilitated if you have experienced neglect, exploitation or abuse

Legal Security: the capability of knowing you will be protected and treated fairly by the law

including to:

- know you will be treated with equality and non-discrimination before the law
- be secure that the law will protect you from intolerant behaviour, and from reprisals if you make a complaint
- be free from arbitrary arrest and detention
- be detained only as a last resort and to have fair conditions of detention
- have the right to a fair trial including protection by a minimum age of criminal responsibility
- be able to access high-quality information, mechanisms for complaints and advocacy as necessary, which are all specifically designed for children
- have freedom of movement
- have the right to name and nationality, and to registration of birth
- have some financial independence and respect for your property, as appropriate to your age
- for 16 and 17 year olds, own property and financial products including insurance, social security and pensions in your own right
- know your privacy will be respected and personal data protected
- have your own interests as a child the primary consideration in legal proceedings concerning parents

Education and Learning: the capability to be knowledgeable, to understand and reason, and to have the skills to participate in society

including to:

- attain the highest possible standard of knowledge, understanding and reasoning
- enjoy high-quality early-years care and education

- engage in compulsory and free primary and secondary education that meets your individual needs, and education or training at least up to age 18, including support for transitions between schooling levels
- access further and higher education on the basis of your capacity
- access educational and vocational information and guidance
- develop the skills for full participation in productive and valued activities, including parenting and learning about healthy (non-violent and non-abusive) relationships
- use information and technology necessary to participate in society
- be protected from information and material which is harmful to your wellbeing
- acquire the skills for equal participation in a diverse society, including learning English or Welsh
- learn about a range of present and past cultures and beliefs
- understand the natural environment
- be fulfilled and stimulated intellectually, including being creative if you so wish
- pursue independent interests
- be able to appreciate the arts and public culture

Standard of Living: the capability to enjoy a comfortable standard of living, with independence and security

including to:

- enjoy an adequate and secure standard of living which enhances physical, mental, spiritual, moral and social development. This includes nutrition, clothing, toys and entertainment, warmth, utilities, housing, social security, social services and childcare. Adequate housing must include adequate indoor space, including quiet space for homework and access to safe outdoor space in which to play
- get around inside and outside the home, and access transport and public places
- live with dignity and self-respect
- be supported to promote your future independence
- have choice and control over where and how you live, at a level appropriate to your stage of development
- enjoy your home in peace and security, within the wider community
- access green spaces, parks and the natural world
- share in the benefits of scientific progress including medical advances and information and technology

Productive and Valued Activities: the capability to engage in productive and valued activities

including to:

- be able to explore and negotiate risk

- have safe, enjoyable, developmental and free play
- have rest
- have leisure including holidays and relaxed time with your family
- be protected from performing any work which interferes with your education or development
- undertake some paid work, as a teenager
- if you work, to work in just and favourable conditions, including health and safety, fair pay, reasonable hours and freedom from harassment or discrimination

Individual, Family and Social Life: the capability to enjoy individual, family and social life

including to:

- grow and develop as a person
- have structure, authority and boundaries
- develop your sense of values and other beliefs
- formulate and pursue aspirations, goals and objectives for yourself, including what you want to do when you grow up, so that your potential is developed and safeguarded
- have hope for the future
- enjoy special support and care during childhood, including security and stability
- be nurtured, loved, and protected, reassured and encouraged
- access emotional support and avoid loneliness
- know that someone will look out for you
- be able to relate to, care for, form attachments and bond with others, as well as be able to learn empathy
- have peace of mind
- be cared for wherever possible by own parents, and where this is not possible, to maintain contact with parents if it is in the best interests of the child
- have a private life, including protection of information about you, having your own space, and sometimes being able to do your own thing
- spend time with, and care for, others, including wider family
- develop and maintain close friendships and relationships
- form intimate relationships, including having a boy/girlfriend, consistent with your stage of development
- know that your significant relationships will be treated with dignity and respect
- celebrate on special occasions
- for 16 and 17 year olds, be free in matters of sexual relationships and reproduction
- enjoy special support during pregnancy, maternity and paternity

Identity, Expression and Self-respect: the capability of being and expressing yourself, and having self-respect

including to:

- have freedom of conscience, belief and religion
- have freedom of cultural identity, including being able to reject parental and/or peer group culture
- have freedom of expression
- communicate, including using information technology, and use your own language
- engage in cultural practices, in community with other members of your chosen group or groups, and across communities
- develop and maintain self-respect, self-esteem and self-confidence
- live without fear of humiliation, harassment, or abuse based on who you are
- be confident that you will be treated with dignity, equality and respect, especially by adults in positions of authority
- access and use public spaces freely
- be protected from bullying and intolerant behaviour

Participation, Influence and Voice: the capability to participate in decision-making, have a voice and influence

including, as appropriate to the child's stage of development, to:

- be encouraged and supported to participate in decision-making, which includes having access to advocacy, especially in decisions which directly affect your own life
- participate in the formulation of government policy, locally and nationally
- participate in non-governmental organisations concerned with public and political life
- be listened to with respect
- get together with others, peacefully, without being moved on or accused of being a nuisance
- form and join clubs, groups and organisations, including trade unions if you work
- participate in the local community

Appendix 2 Attendance and participation list

(*) those who provided comments and suggestions, but who could not attend the consultation

Apps, Joanna (Family and Parenting Institute)
Clutton, Samantha (Barnardo's Cymru)
Davey, Ciara (Children's Rights Alliance for England)
Dodd, Diana (Children and Families Department, City of Edinburgh Council)*
Durr, Patricia (The Children's Society)
Evans, Gwion (Children's Commissioner for Wales)
Garde, Rica (Save the Children UK)
Hebenton, Angus (Department for Children, Schools and Families [DCSF])
Henricson, Clem (Family and Parenting Institute)
John, Amelia (EHRC Wales)
Macleod, Marion (Children in Scotland)
Mason, Danielle (Child Poverty Unit)
McCluskey, Jacqui (11 Million – Children's Commissioner for England)
Robinson, Lorriann (National Society for the Prevention of Cruelty to
Children [NSPCC])
Speed, Liz (EHRC)
Wyeth, Kit (Scottish Government Children's Rights)

Appendix 3 Recommended sources

Source	Suggested by
Good Childhood Enquiry	Large Group Discussion
Play Strategy for Scotland	Marion Macleod (Children in Scotland)
Play Strategy for Wales	Gwion Evans (Children's Commissioner for Wales)
Scottish Government's Early Years Framework	Marion Macleod (Children in Scotland)
Scottish Government's Early Years Policy Briefing	Marion Macleod (Children in Scotland)
Tell Us Survey	Angus Heberton (DCSF)

Appendix 4 References for further reading

Alkire, S., Bastagli, F., Burchardt, T., Clark, D., Holder, H., Ibrahim, S., Munoz, M., Terrazas, P., Tsang, T. and Vizard, P. (2009) *Developing the Equality Measurement Framework: Selecting the indicators*. Manchester: Equality and Human Rights Commission. Available from: <http://www.equalityhumanrights.com/fairer-britain/equality-measurement-framework/>

Burchardt, T and Vizard, P. (2009) *Developing an Equality Measurement Framework: A list of substantive freedoms for adults and children*. Research report: 18. United Kingdom: Equality and Human Rights Commission. Available from: http://www.equalityhumanrights.com/uploaded_files/research/18_substantive-freedoms-for-adults-and-children.pdf

Burchardt, T. and Vizard, P. (2008) *EHRC Briefing Note: The Equality Measurement Framework*. Available from: http://sticerd.lse.ac.uk/textonly/case/research/equality/Briefing_Equality_Measurement_Framework.pdf

Equalities Review (2007) *Fairness and Freedom: The Final Report of the Equalities Review*. Available from: <http://archive.cabinetoffice.gov.uk/equalitiesreview/>

Contacts

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Wales

Equality and Human Rights Commission Helpline
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www.equalityhumanrights.com

This report contributes towards the development of the Equality Measurement Framework (EMF). It reports on an event with key stakeholders to refine the list of central and valuable freedoms or capabilities for children. Discussion at the event covered a range of topics, including: selection of appropriate indicators; what age bands should be covered; how data will be collected, and the need to ensure that vulnerable groups of children are protected by the list. This resulted in a final children's list that will be used in the next stage of this work, developing a set of children's indicators.