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School of Law  
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Coronavirus Research by the European Children's Rights Unit

# *Children's Freedom of Association during COVID-19*



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Coronavirus (COVID-19) #LivUniCOVID  
Research and response

**Briefing Paper #7**

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The rules relating to restrictions on movement in the [Health Protection \(Coronavirus, Restrictions\) \(England\) Regulations 2020](#) have impacted on all sectors of society. The Covid-19 related lock-down has been particularly hard however on many children and young people, who have been forced to stay inside and miss crucial development activities such as education and sport. It is very important that the children's rights implications of this are considered.

## **Children's freedom of assembly and association rights under the UN Convention on the Rights of the Child**

[Article 15 of the UN Convention on the Rights of the Child \(CRC\)](#) refers to 'the rights of the child to freedom of association and to freedom of peaceful assembly.' Article 11 of the [European Convention on Human Rights](#) also protects this right. Children's freedom of assembly rights include the right to gather together with others, for example attending school, meeting with friends, or attending a political protest. Their freedom of association rights - which overlap with assembly rights - include who they meet, and the clubs they might join.<sup>1</sup>

Children's right to freedom of assembly is also interlinked with several other children's rights, including their right to life, survival and development (Article 6 CRC), their right to have decisions made in their best interests (Article 3 CRC), their right to freedom from discrimination (Article 2 CRC), and their right to be heard (Article 12 CRC). Being together with others affects children more than the average adult, as children are more reliant on others for everyday (including emotional) needs. Therefore, their freedom of assembly and association should be seen as a key element of their development. Sweeping lock-down laws which treat

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<sup>1</sup> See further Daly, A. (2016) *A Commentary on the United Nations Convention on the Rights of the Child, Article 15: The Right to Freedom of Association and Peaceful Assembly*. Leiden: Martinus Nijhoff.

everyone as 'equal' ignore the special needs of children regarding association and assembly, for example, around education and relationships (such as those with a parent with whom they do not live).

As with everyone, for public health reasons children have had to forego to some extent their rights in this regard. The 'public health' exception is a common one in human rights law – governments may take restrictive measures for this reason. However these measures have to be proportionate, and therefore should be constantly under review as the situation evolves. Furthermore, the CRC requires that we child-proof (for example through children's rights impact assessments) any measures of the like seen in response to COVID-19. The main issues relating to freedom of assembly and association which appear to have emerged are as follows:

## **1. Mental health implications of a lack of association and assembly**

It is difficult for everyone to be isolated from friends and extended family during lockdown. For children (and particularly adolescents) however they are missing a key time in their psychological development. This interruption in their freedom of association will inevitably have an impact on their mental health.

There has been [little examination](#) of the impact of lock-down on children. However the [Children's Commissioner for England](#) already established in initial consultation that the [most common problem expressed](#) by under-18s is "feeling stressed and/or worried" with a third of 6 to 17-year-olds choosing this as one of their top three worries. Her most recent research

indicated that children are being significantly affected mental health-wise by the crisis, with the virus being their biggest reason for feeling stressed.

The lack of association with friends and family is clearly having an impact on under-18s who have less power as compared with adults to make decisions about how and whether to contact family and friends during lockdown – parents and others are often gatekeepers in this regard.

## 2. Unequal access to online resources

For young people, online communication has replaced face-to-face communication and has been a lifeline for many. There are, however, a number of association rights that are impacted by a lack of access to devices. The [Children's Commissioner for England](#) has shown how this gap is widening: “For those with laptops and smartphones they can connect with friends through social media and use messaging apps to video call friends and family, but for those without, they are more isolated than ever.” This will mean that not only are children with less or no access to online communication falling behind in education, but they will be affected more profoundly by the isolation and resulting mental health issues.

## 3. Criminalisation of children and young people for breaking lock-down

Some news has emerged of confusion over restrictions, [including concerning the culpability](#) of under-18s and their parents. It is hard to tell in the midst of lockdown whether under-18s will be disproportionately affected by criminal measures to enforce restriction of movement. However [history tells us that these types of anti-social behaviour measures commonly target young people more than adults](#). Engaging



with young people and their organisations to communicate effectively with young people about measures, [as some police forces are](#), will be very important to minimise criminalisation of under-18s.

#### **4. The failure to consult children and young people on their confinement and the closure of schools.**

There is much debate between politicians, unions, teachers and parents as to whether it is possible and desirable to open schools so that children can return to education (and of course, parents to work). There has been little consultation with children themselves, however. Children, as with adults, will wish to consider how to balance on the one hand concerns about their health and that of their families, and on the other the loss of education and social activities. Children need to have a voice in their own freedom of assembly and association issues.

#### **Key recommendations:**

1. When deciding on responses relating to lockdown measures, child-specific issues must be carefully considered, particularly how children's development might be disproportionately affected by lockdown measures which impact on their freedom of assembly/association.
2. Children's rights impact assessments should be conducted – [UNICEF outlines how to do this](#), and evidence indicates that such assessments lead to “better decision-making and have wider benefits.” Westminster should take the lead from Holyrood, which carried out a child rights and wellbeing [impact assessment](#) of the Coronavirus (Scotland) Bill.

3. Governments must facilitate schools and other relevant people to make provision for children who need laptops, who may need hard copies of resources posted to them and who may respond better to alternative media than video conferencing.
4. There must be a system for children to be heard, and their experiences taken into account, when decisions are being made about how and whether to implement and deal with COVID-19 responses such as lock-down.

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