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- Barnardo’s
- British Institute of Human Rights
- British Youth Council
- Children Are Unbeatable! Alliance
- Children England
- Coram Children’s Legal Centre
- Kids Company
- National Children’s Bureau
- National Council for Voluntary Youth Services
- NSPCC
- The Children’s Society
- The Howard League for Penal Reform
- Unicef UK
- Youth Access
- Zacchaeus 2000 Trust

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SUPPORTING ORGANISATIONS

This report and its 172 recommendations have been endorsed by the 76 NGOs and civil society groups listed below. Not all of the organisations work across all areas addressed or necessarily support all of the recommendations.

1. Action for Children
2. Action for Prisoners' and Offenders' Families
3. Ambitious About Autism
4. Article 39
5. Association of Breast Feeding Mothers
6. Association of Lawyers for Children
7. Baby Milk Action
8. Bail for Immigration Detainees
9. Barnardo's
10. British Humanist Association
11. British Institute of Human Rights
12. British Youth Council
13. Brook
14. Campaign for State Education
15. Carers Trust
16. Centrepoint
17. Challenging Behaviour Foundation
18. Child Poverty Action Group
19. Child Soldiers International
20. Children Are Unbeatable! Alliance
21. Children England
22. Children North East
23. Children's Rights Alliance for England
24. Colchester & Tendring Women's Refuge
25. Coram Children's Legal Centre
26. Coram Voice
27. Dost
28. Early Childhood Forum
29. ECPAT UK
30. Family and Childcare Trust
31. Family Fund
32. Family Planning Association
33. Family Rights Group
34. Freedom from Torture
35. Friends, Families and Travellers
36. Gender Identity Research and Education Society
37. Home-Start UK
38. Inclusion London
39. INQUEST
40. Just Fair
41. Just for Kids Law
42. JustRights
43. Kids Company
44. La Leche League Great Britain
45. Lactation Consultants of Great Britain
46. Law Centres Network
47. Liberty
48. London Play
49. National Association for Youth Justice
50. National Children's Bureau
51. National Children's Centre
52. National Council for Voluntary Youth Services
53. NSPCC
54. Policy for Play
55. Practical Participation
56. Praxis Community Projects
57. Prison Reform Trust
58. Project 17
59. Refugee Council
60. Roma Support Group
61. Royal College of Nursing
62. Royal College of Paediatrics and Child Health
63. Runnymede
64. Save the Children
65. Sisters of Frida
66. Standing Committee for Youth Justice
67. Suffolk Children's Rights
68. The Children's Society
69. The Howard League for Penal Reform
70. The Who Cares? Trust
71. Unicef UK
72. Women for Refugee Women
73. World Breastfeeding Trends Initiative UK Working Group
74. YoungMinds
75. Youth Access
76. Zacchaeus 2000 Trust

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LIST OF ABBREVIATIONS

AFC	Army Foundation College
AHC	After Housing Costs
B&Bs	Bed and Breakfast accommodation
BHC	Before Housing Costs
BME	Black and Minority Ethnic
CAMHS	Child and Adolescent Mental Health Services
CEOP	Child Exploitation and On-line Protection Centre
CRAE	Children's Rights Alliance for England
CRC	Convention on the Rights of the Child
CRIA	Child Rights Impact Assessment
DCSF	Department for Children, Schools and Families
DfE	Department for Education
ECHR	European Convention on Human Rights
EHRC	Equality and Human Rights Commission
FOI	Freedom of Information
FSM	Free School Meals
GOAD	Good Order and Discipline
JCHR	Joint Committee on Human Rights
LASPO	Legal Aid, Sentencing and Punishment of Offenders Act 2012
LSCB	Local Safeguarding Children's Boards
MCTC	Military Corrective Training Centre
MMPR	Minimising and Managing Physical Restraint
MoJ	Ministry of Justice
NHS	National Health Service
NRM	National Referral Mechanism
NRPF	No Recourse to Public Funds
OCC	Office of the Children's Commissioner for England
OFSTED	Office for Standards in Education, Children's Services and Skills
PHSE	Personal, Health and Social Education
PRU	Pupil Referral Units
SCRs	Serious Case Reviews
SEN	Special Educational Needs
SOCR	State of Children's Rights in England
SRE	Sex and Relationships Education
STC	Secure Training Centre
YOI	Young Offender Institute

GENERAL MEASURES OF IMPLEMENTATION

Articles: [4](#) [42](#) [44.6](#)

Government's report to the UN Committee, May 2014¹

1. We welcome the positive steps the Government has introduced in relation to the General Measures of Implementation (GMIs), for example the reform of the Children's Commissioner, the Ministerial commitment to give '*due consideration*' to the Convention on the Rights of the Child (CRC) and the statutory guidance to Directors of Children's Services, requiring them to have regard to the CRC General Principles and ensure children are involved in the development of local services. The attempt at a child budgetary analysis is also a welcome step forward.
2. However, we are disappointed the Government report fails to fully address the 20 GMI recommendations made by the UN Committee in 2008 which aim to ensure that *all* children have *all* their rights respected with enforceable means of redress.

Reservations and declarations to the CRC and Optional Protocols

3. We welcome the UK's ratification of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography in February 2009. Disappointingly, there has been no progress on signing the Optional Protocol on a Communication Procedure.²
4. Despite removing its reservation to Article 37 (c) on the requirement to detain children separately from adults, the Military Corrective Training Centre (MCTC) in Colchester still accommodates minors and adults together. According to the army, MCTC is not a prison, but it functions as one and is inspected by Her Majesty's Inspectorate of Prisons.³
5. In addition, an inquiry by a cross-party group of Parliamentarians found that many police stations do not have separate cells for children, meaning that children may come into contact with adults.⁴
6. There also has been no movement on removing the declaration to the Optional Protocol on Children in Armed Conflict reserving the right to deployment.

Incorporation of the CRC into domestic law

7. Successive UK governments have failed to take forward the UN Committee's recommendation to expressly incorporate the CRC into domestic law.⁵ While some aspects of the CRC are replicated in UK legislation, this piecemeal approach is not satisfactory. It means rights are dependent on where children are placed or what services they receive, rather than the entitlement of every child without discrimination.
8. We are very concerned by the UK Government's plans to repeal the Human Rights Act 1998 (HRA) and replace it with a "British Bill of Rights" (because, for example the stated policy of the governing party is to restrict protections to certain groups).⁶
9. This is the primary law which protects everyone's fundamental human rights in the UK. It makes rights from the ECHR accessible in the UK, enabling children to enforce some of their CRC rights, for example, the rights to life, freedom of expression, and the right to family life and privacy, including participation in decisions. Importantly for children, who depend heavily on public services, the HRA also places a duty on the public sector to comply with the human rights set out in the Act.

Co-ordinating and monitoring CRC implementation

10. Inadequate political leadership on children's rights has led to an invisibility of children within the machinery of government, the consequences of which are evident throughout this report.
11. The Labour Government established the Department for Children, Schools and Families (DCSF) in 2007 to ensure all *'aspects of children's lives are taken into account and prioritised'* across government. This was the first time a Cabinet Minister was given lead responsibility for key policies affecting children in England and was welcomed by the UN Committee in 2008.⁷ Specific responsibility for the CRC, however, was given to a more junior minister, the Parliamentary Under-Secretary of State.⁸
12. After the 2010 UK General Election, the DCSF was disbanded and replaced with the Department for Education (DfE). The Secretary of State for Education is ultimately accountable for the CRC but direct responsibility now falls under the portfolio of the Minister of State for Children and Families; a more senior minister than under the previous Labour administration but in a Department which does not prioritise children's rights.
13. Day to day, responsibility for implementing the CRC now falls within a small team based in the DfE. This team has little capacity or authority required to do the job effectively.
14. The Parliamentary Education Committee, in a report on governance and leadership at the DfE raised concern that disbanding the DCSF has resulted in greater focus on education at the expense of broader children's issues.⁹

Child rights action plans

15. Following the 2008 Concluding Observations, a UK-wide plan was published in 2009 described by the four UK governments as *'an expression of our continued commitment to make the UNCRC a reality'*.¹⁰ It also commits ministers in England, Northern Ireland, Scotland and Wales to meet to discuss progress on the CRC. It is unclear whether these meetings are still taking place.
16. In November 2009, the Labour administration published a plan¹¹ structured around the CRC clusters, setting out priorities and future plans. Despite flaws, this was the first time a UK Government had developed a specific document in response to the Concluding Observations and was a significant step forward in implementing the CRC. However, six months later, the 2010 UK General Election brought in a new administration and the plan was jettisoned.

Child rights impact assessments

17. In December 2010, the then Minister for Children and Families made a very positive commitment that *'Government will give due consideration to the UNCRC articles when making new policy and legislation'*.¹² Cabinet Office guidelines on making legislation also state that government departments should address the compatibility of government Bills with the CRC in the Bill's explanatory notes.¹³ Unfortunately, neither the Ministerial commitment nor the guidance are statutory obligations.
18. CRAE made a Freedom of Information request to 11 government departments to ask what child rights impact assessments (CRIA) they had produced between April 2013 and August 2014.
19. This revealed that in February 2013, the DfE published a detailed assessment of how different sections of the Children and Families Bill (now Children and Families Act 2014) related to the CRC and ECHR;¹⁴ it also published a series of impact assessments during the passage of the Bill.¹⁵ The Home Office issued a memorandum on the Modern Slavery Bill which addressed ECHR and CRC requirements,¹⁶ but was not a systematic CRIA. Other departments said they consider the interests of children when developing relevant policy, but were unable to provide evidence of systematic CRIA.

20. In its scrutiny of the Criminal Justice and Courts Bill, the Parliamentary Joint Committee on Human Rights (JCHR) criticised the Ministry of Justice's (MoJ) failure to carry out any CRIAs of their proposals for "secure colleges" (see Special Protection Measures).¹⁷
21. In August 2014, the Prime Minister announced the introduction of "the Family Test" for all new policies. This does not include a requirement for a CIA.¹⁸

Children's visibility in budgets

22. In its report to the UN Committee,¹⁹ the Government makes a welcome - though incomplete - attempt at a child budgetary analysis. However, more information on expenditure on children is needed to make this a robust analytical measure.

Review of legislation

23. In 2010, the Government published an analysis of whether key legislation complies with the CRC and committed to update this report annually. Many relevant legal reforms have since occurred but no update has been published.²⁰

Data collection and child rights indicators

24. A wealth of data is collected on children which, though useful, does not always relate to CRC articles making implementation hard to monitor.
25. With regard to Article 12, the Office of National Statistics publishes annual survey results on children's self-reported wellbeing as part of its Measuring Wellbeing programme.²¹ This is welcome but does not cover the full range of children's views on their rights.

National human rights institutions

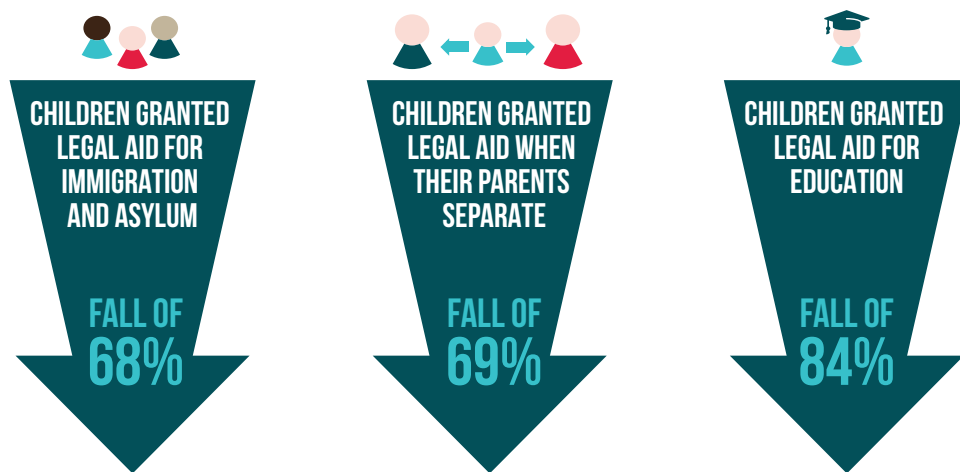
26. Part 6 of the Children and Families Act 2014²² introduced significant and welcome reforms to the Children's Commissioner for England. The Commissioner now has a clearer mandate to promote and protect children's rights, including a power to monitor the implementation of the CRC.
27. However, the Commissioner is still appointed by the Government (which could compromise the independence of the office), and does not have all the powers recommended by the UN Committee, such as the power to consider individual complaints or to take cases to court.
28. The Government has also made significant changes to limit the role, remit and budget of the Equality and Human Rights Commission (EHRC), which is likely to negatively affect children.

Children's access to justice

Legal aid

29. One of the greatest threats to children's rights since the last examination is the drastic reduction in legal aid for those who cannot afford legal help or representation. Changes introduced by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) have resulted in funding cuts to legal aid which adversely affect children. An analysis of the legal aid changes by the Children's Commissioner concludes 'it is likely that a range of rights will be negatively impacted when children do not receive legal support to resolve an ongoing legal problem.'²³
30. For example, children with claims under Article 8 of the ECHR are no longer able to access adequate legal advice and representation. Children's cases in immigration and asylum have subsequently fallen by 68%.²⁴ On top of this, the Government is currently attempting to introduce a 'residence test', denying legal aid to anybody who has not been lawfully resident for a continuous 12 month period. The test has been ruled unlawful but the Government is appealing this decision.²⁵

31. Since April 2013, legal aid changes have also affected the ability of children to be heard when their parents separate. CRAE's Freedom of Information (FOI) request to the MoJ showed that the number of children granted legal aid in this situation fell by 69%. The MoJ information also showed the number of children granted legal aid for education has fallen by 84%.
32. In 2012, the Government told Parliament that "exceptional case funding" would provide a "safety net" for those affected by the legal aid cuts.²⁶ In reality this "safety net" is inaccessible and unfit for purpose.²⁷ The Court of Appeal has held that the scheme is unlawful, ruling the threshold wrongly indicated that legal aid should be granted *'only in rare and extreme cases.'*²⁸
33. The Justice Select Committee's recent report on the changes to civil legal aid recommended that the MoJ review the impact of the legal aid cuts, particularly noting the residence test²⁹ and the impact on trafficked and separated children.³⁰



Judicial review

34. Judicial review is an essential feature of English law, enabling individuals to challenge the lawfulness of decisions or actions of public bodies against which there is no right of appeal. Legislative changes have made it more difficult for children, or adults acting on their behalf, to use judicial review to protect children's human rights.³¹ Recently, the High Court found the funding changes, relating to payments to lawyers, to be unlawful. It expressed *'great concern'* that there had been a 23% decline in applications for legal aid in judicial review claims since the changes came into force.³² In addition to the funding difficulties faced by individual children in bringing judicial reviews, changes introduced by the Criminal Justice and Courts Act 2015 will restrict and deter charities and other organisations bringing claims on behalf of children generally.

Awareness-raising of children's human rights

35. In the 2009 UK-wide CRC action plan Ministers made a commitment to raise awareness of the CRC in their jurisdictions, but there is no evidence this has occurred in England. The Government has minimal information on the CRC on its official gov.uk website.³³
36. Human rights and international law are part of the Key Stage 4 (secondary school) "Citizenship" curriculum.³⁴ However, this only applies to some state funded schools. Private schools (including those for disabled children), free schools and academies are not obliged to teach pupils about the CRC, nor is it part of any primary school curriculum requirement.
37. The CRC rarely features in professional training programmes in England. Levels of awareness of children's rights seem relatively low, though the principle of the child's right to be heard on matters affecting them is now more widely known and promoted.³⁵

International co-operation

38. Please see the report submitted by BOND Child Rights Group.

DEFINITION OF THE CHILD

Article: **1**

Inconsistencies in definition of a child

39. Too often, under-18s are wrongly treated as adults. For example, as detailed below, they may be placed in adult health facilities due to shortages of beds in children's wards, tried in adult courts or recruited to the armed services. There is a welcome development: 17 year-olds are now to be treated as children for the purposes of remand and when arrested, questioned and detained by the police.³⁶

Minimum age of criminal responsibility

40. The minimum age of criminal responsibility in England remains at 10 years old.³⁷ The Government has consistently refused to accept the UN Committee's recommendation to increase this age, which is viewed as *'internationally unacceptable'*.³⁸

41. The low age fails to take account of the harms children experience when exposed to the criminal justice system. It also fails to recognise that alternative, non-criminal processes are available to address childhood offending.³⁹

Sex offences and 16 and 17 year-olds

42. The Sexual Offences Act 2003 says that children can consent to sexual relationships from the age of 16 and offers 16 and 17 year-olds specific protections from sexual offences committed by persons in a position of trust. However, as a high number of young people aged 16-17 are victims of sexual exploitation committed by persons *not* in position of trust, it is important to consider the effectiveness of current measures for their protection. A recent Serious Case Review (SCR) into the sexual exploitation of at least 373 children and young people in Oxfordshire found confusion around the issue of consent was one factor.⁴⁰

43. Studies also found that professionals are reluctant to assess or provide support to older children, particularly 16 and 17 year-olds, because they are believed to be more able to cope with the effects of maltreatment and more likely to remove themselves from abusive situations.⁴¹

Abuse and neglect

44. The Children and Young Persons Act 1933 defines a child as a person under the age of 16 for the purpose of the criminal law on child abuse and neglect. This is not consistent with the UK's civil child protection law, under which any child aged under 18 can be considered "in need".

Recruitment to the armed forces

45. The UK continues to recruit 16 and 17 year-olds into the armed forces (see Special Protection Measures).

GENERAL PRINCIPLES

Articles: **2** **3** **6** **12**

The Government's 2014 report

46. The Government highlights the Equality Act 2010 as key in anti-discrimination reform. Yet this was a missed opportunity for children. The Act fails to extend protection to children from unfair discrimination on the basis of their age, despite widespread support for this from the EHRC, Children's Commissioners, children's charities, equality charities and children and young people themselves.

Protection from discrimination

Negative portrayal of children in the media

47. In 2008, the UN Committee urged the Government to challenge negative media about children and young people. The Government's report refers to the Ofcom Broadcasting Code, but although the Code has a section dedicated to under-18s, it does not address the role the media plays in perpetuating negative stereotypes of children.⁴²

Legislation

48. The Equality Act 2010 explicitly excludes children from its age discrimination provisions, despite substantial evidence that children do experience discrimination on this basis.⁴³ A Public Sector Equality Duty introduced by the Act does include age-based discrimination against children, though not in relation to schools or children's homes.⁴⁴ The Act also protects people of all ages against discrimination on the grounds of gender reassignment, pregnancy and maternity in education settings. Regulations made under the Act exclude those who *'have a tendency to physical or sexual abuse of other persons'* from the definition of disability. This may exclude children who behave violently due to underlying conditions such as ADHD and autism.⁴⁵

Unequal impact of spending cuts

49. Analysis by the Children's Commissioner found that children from particular groups were negatively impacted by changes to tax and welfare benefits.⁴⁶ The largest losses in percentage terms have been felt by families headed by lone parents and families with disabled children.

Gypsy, Roma and Traveller

50. 2014 research revealed that nine out of ten children from Gypsy, Roma and Traveller backgrounds have suffered racial abuse. Nearly two thirds have been bullied or physically attacked, which is the primary reason for non-school attendance of these children.
51. Gypsy, Roma and Traveller children have the lowest proportion of qualifications of any ethnic group in the UK. They are also more likely to experience early death, poor childhood development and have limited access to health services.⁴⁷

Immigration rules

52. The Immigration Rules dealing with family reunion for refugees are discriminatory because the Home Office treats the parents of a refugee child as having a lesser family status or importance than the children of a refugee for the purpose of immigration law and policy.⁴⁸

Respect for the views of the child

Politics, policy and legislation

53. The Government's Youth Voice programme aimed at supporting young people to participate in decision-making is targeted at those over the age of 11. There is no Government-funded provision for younger children to engage in decision-making.⁴⁹
54. Government has repeatedly rejected calls to extend the vote to 16 and 17 year-olds.
55. The Government also declined to include a commitment to take children's views into account in its Open Policy Making initiative in its Open Government Partnership National Action Plan.⁵⁰
56. The Children and Families Act 2014 introduces pilot schemes, giving children with Special Educational Needs (SEN) in test areas the right to appeal themselves to the First-tier Tribunal, in relation to decisions about Education, Health and Care assessments and plans, and disabled children the right to make claims to the Tribunal under Schedule 17 to the Equality Act 2010. The Act enables the Secretary of State to apply these rights to all children.⁵¹

Children in care and care leavers

57. Only 63% of children in care know they have a legal right to have their views taken into account when decisions are made about them.⁵² Anecdotal evidence reveals that children are not allowed to attend care review meetings, or that these are held during school hours, and crucial decisions such as placement moves and "pathway" plans are made without regard to the child's wishes and feelings. Children making complaints are entitled to advocacy support, yet advocacy providers routinely report that children cannot access their services because of local funding restraints or extended waiting lists.⁵³

Children's voices in health care

58. Some progress has been made in giving children a voice in national and local strategic health decisions.⁵⁴ However, a key barrier is England's health complaints and advocacy system, which is complex, inadequately resourced and fragmented.⁵⁵

Disabled children and young people's involvement in decision-making

59. Disabled children and young people continue to report that while progress has been made in their participation in individual or strategic decision-making, this is far from systematic. Disabled children being involved in national policy and disabled children in care, disabled children from black or minority ethnic (BME) backgrounds and those with significant access needs are the least likely to participate in decision-making.⁵⁶ There is also an urgent need to better listen to disabled children who are placed in residential settings.
60. Measures in the Children and Families Act 2014⁵⁷ will hopefully strengthen the rights of disabled children and young people to participate in decision-making about their own care and local services in general (though some provisions only apply to 16 and 17 year-olds).

Education

61. Despite receiving Royal Assent in 2008, the provisions of the Education and Skills Act 2008, which supports children's rights to be heard and taken seriously by school Governing Bodies, have still not been brought into force.⁵⁸

- 62. Pupils have no right to appeal on their own behalf against school exclusions. That right rests with their parents until they are 18.
- 63. In 2010, the 'Tellus Survey' was scrapped. This was a government survey which investigated the extent to which students' right to be heard is respected in school.

Safeguarding

- 64. The failure to hear the voice of the child is highlighted in a number of SCRs , which time and again note that children are not listened to, too often with tragic consequences (see Child Sexual Exploitation in Violence Against Children, below). Unfortunately, the Government's revised statutory guidance on safeguarding removed a section on the "child in focus" and gives less emphasis to the right of the child to be included in safeguarding decisions. For instance, the right to a translator for non-English speaking children has been weakened in the recent guidance on child protection conferences.⁵⁹

Children's Commissioner

- 65. The Children and Families Act 2014 strengthened annual reporting requirements of the Children's Commissioner on how it involved children and young people in its work.⁶⁰

Best interests

- 66. The requirement to treat children's best interests as a primary consideration is not enshrined in all laws relating to children.
- 67. For example, the Children and Families Act 2014 introduced a presumption that both parents would remain involved with the child after parental separation.⁶¹ This could, in practice, focus decision-making away from the interests of the child and place more emphasis on the interests of parents. This is of particular concern for child care arrangements decided out of court (which is the case for the vast majority of these decisions).
- 68. Children's best interests are not systematically considered within the asylum and immigration decision-making process in relation to families⁶² and separated children⁶³ despite the UN Committee's 2008 recommendation.⁶⁴ The Government has committed to *'consider the case for establishing a Best Interests Determination process in the context of the existing immigration and asylum process.'*⁶⁵ Though there has been some limited dialogue between children's advocates and civil servants on how this could be developed, this has not been taken forward.
- 69. Despite significant jurisprudence from the UK Supreme Court⁶⁶ on the consideration of children's best interests in immigration cases, the Home Office has sought to constrain this by setting provisions that do not accord with Article 8 of the ECHR or established case law. This can be seen in the thresholds contained in the Immigration Rules introduced in July 2012 and in the provisions of the Immigration Act 2014 relating to the right to respect for family life under Article 8. For example, under this legislation a parent can be deported without an in-country right to challenge the alleged Home Office's failure to consider the child's best interests.⁶⁷
- 70. The length of leave to remain granted to a child rarely takes into account what is in their best interests. For example, separated children refused asylum are usually granted limited leave for 30 months or until they are 17½, whichever is the shorter period. When these children turn 18, most will find themselves 'unlawfully in the UK'. Refugee children are routinely granted five years leave in the first instance. For children in the care system, this uncertain status can mean the denial of leaving care entitlements⁶⁸ rendering these young people at risk of destitution, homelessness and exploitation.⁶⁹

The right to life

Child mortality

71. In 2013, over 2,600 infants and almost 1,000 one to 14 year-olds died in England and Wales.⁷⁰ Despite falling child mortality rates:
- Reductions in child mortality rates over the last forty years have been slower in the UK than in comparable countries.⁷¹
 - Decreases in the UK stillbirth rate since 2011⁷² follow a decade of stagnation resulting in the UK having poor stillbirth rates compared to other developed countries.
 - The rates of intentional injury deaths among 10 to 18 year-olds have remained about the same for thirty years.⁷³

Child death reviews

72. Local Safeguarding Children's Boards (LSCBs) are under a statutory duty to review the deaths of children normally resident in their area.
73. There were 3,658 reviews completed by Child Death Overview Panels in the year ending 31 March 2014 – a decrease from 4,061 in the year ending 31 March 2011.⁷⁴ Yet there has been an increase (20% in 2011 to 22% in 2014) over this period of the percentage of child deaths identified as having modifiable factors.⁷⁵

Child deaths in custody

74. Since the last Government examination in 2008, three children have committed suicide in prison custody.⁷⁶ The inquests and investigations into these deaths reveal the children who died were *'often very vulnerable and none received the level of support and protection they needed.'*⁷⁷ The Prison and Probation Ombudsman report into these deaths noted that the issues raised – including bullying, mental health issues, weaknesses in assessments of vulnerability and in personal officer schemes – were not unique and had been identified in previous investigations.
75. The death of children in custody reflects systemic failings and a failure to provide proper care, support and appropriate accommodation for children, many of whom have well known and pre-existing vulnerabilities (for example, histories of self-harm, special needs, learning difficulties, or family bereavement).⁷⁸ There has still been no public inquiry into the deaths of children in custody. The Government is currently conducting a review of self-inflicted deaths of 18-24 year-olds in prison but refused to include children in this review.⁷⁹

Since 2008, three children have died in prison custody (Ryan Clarke aged 17; Jake Hardy, aged 17; and Alex Kelly, aged 15). All three deaths were self-inflicted. There have now been a total of 33 child deaths in prison custody since 1990.⁸⁰

Death in mental health detention

76. When children die in mental health detention, there is no independent investigation prior to the inquest (in contrast to deaths in police, prison or immigration detention).⁸¹ Instead, the inquest must rely on internal reviews and investigations conducted by the mental health trust responsible for the child's treatment. Additionally, data is not kept on the number of children who die in mental health settings (statistics do not record details on age).⁸²

CIVIL RIGHTS AND FREEDOMS

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The Government's 2014 report

77. We welcome the Government's recognition that the UK has a long history of promoting civil liberties and note that since the UK's last reporting period, there has been some progress in relation to the stricter regime for the retention of DNA of children involved in the criminal justice system and the availability of lifelong anonymity orders to child victims and witnesses. However, serious concerns remain (detailed below).

Freedom of association and assembly

Mosquito devices

78. Mosquito devices – sound emitting devices audible only to children and young people – continue to be used. Young children and babies experience the unpleasant effects particularly acutely, but are unable to complain. Their use continues despite the UN Committee's recommendation that they should be reconsidered.⁸³ We strongly reject the Government's assertion in its report that it is fulfilling its obligations in relation to mosquito devices by encouraging children themselves to challenge the *'inappropriate and discriminatory'* use of these devices.⁸⁴

Anti-social behaviour provisions

79. In 2008, the Committee asked the Government to reconsider Anti-Social Behaviour Orders – ASBOs. Despite this, in 2013, 21% of all ASBOs were issued to children.⁸⁵ The ASBO has now been replaced by a new civil injunction⁸⁶ which can apply to children from the age of 10 and can last for up to one year. An injunction can be obtained where it is *'just and convenient'* to prevent behaviour *'likely to cause harassment, alarm or distress'* which, as with the ASBO, potentially captures normal childhood behaviour. Unlike the ASBO, however, a breach of the injunction is not a criminal offence. Although this is a welcome change, breach of an injunction can nonetheless result in a youth court making a supervision order or detaining the young person in custody. This replicates one of the main criticisms of the ASBO: that non-criminal behaviour can lead to a custodial sentence.

Dispersal

80. Dispersal orders⁸⁷ have been repealed and replaced by dispersal directions.⁸⁸ Although dispersal directions are more narrowly drawn (limiting the period of exclusion to 48 hours), a person over the age of 10 can be directed to leave an area where s/he has or is believed likely to commit anti-social behaviour; a subjective and vague judgment. Failure to comply with a direction is a criminal offence.⁸⁹

Stop and search

81. A Parliamentary Inquiry into children and the police found that, between 2009 and 2013, more than one million stop and searches were carried out on children and young people in 26 police forces in England and Wales.⁹⁰ 1,136 of these were on children under the age of criminal responsibility (10 years). Although the use of stop and search has fallen overall,⁹¹ it is disproportionately used against BME children (over half of all stop and searches), and in some areas its use against girls is increasing.

There is no requirement on the police to record the age of the subject, making its use against children difficult to monitor. Furthermore, in 2015 Her Majesty's Inspectorate of Constabulary reported that no official records were kept of how many children undergo more intrusive searches (including strip-searches), and whether they are being conducted in a fair and lawful manner.⁹²

Freedom of expression

82. The Queen's Regulations for the Armed Forces restrict children's participation rights set out in Articles 12 and 13. For example, a young person in the armed forces cannot take part in any public discussions which could *'create the possibility of embarrassment for the Government in the conduct of its policies'*.⁹³

Right to privacy

Reporting restrictions

83. Courts in England have powers to restrict the identification of children appearing in court proceedings. For child defendants appearing in the youth court, anonymity must be protected unless the court orders otherwise.⁹⁴ For children appearing in other proceedings (including in the criminal Crown Court and in civil proceedings) the court has a power – but not a duty – to impose reporting restrictions.⁹⁵ This legislation has recently been extended to include online media in addition to press and broadcast media.⁹⁶ However, there are several gaps in the protection. First, the new anti-social civil injunctions presume that children subject to an injunction will be publicly named unless the court orders otherwise.⁹⁷ Second, new powers to impose lifelong reporting restrictions in criminal proceedings to children who are witnesses and victims do not extend to child defendants.⁹⁸ This means a child defendant can be identified when he or she turns 18, contrary to the child's best interests and the requirement for reintegration under Article 40.⁹⁹ Third, recent practice guidance in the family courts¹⁰⁰ requires publication of judgments where it is in the public interest even though research has found that children did not wish the intimate details of their upbringing to be publicised by the media.¹⁰¹

DNA retention

84. The Protection of Freedoms Act 2012, which allows children of all ages to refuse to participate in the gathering of biometric data and requires parental permission before a school can process any data gathered, is welcome. This also introduces legislation to limit the retention of fingerprints and DNA. Although the personal data of innocent children (those arrested or charged but not convicted) will no longer be held indefinitely, the JCHR has expressed concern that under the new provisions their data will be held for three to five years.¹⁰² Furthermore, although children convicted of a first minor offence who receive a custodial sentence of less than five years will have their data retained for five years, children convicted of a more serious first offence which attracts a sentence of longer than five years, or any child convicted of a minor second offence, may have their data retained indefinitely. The JCHR notes that a *'child convicted of two relatively minor offences when very young could have their DNA retained for life'*¹⁰³ and that this fails to take into account human rights jurisprudence¹⁰⁴ and the need for special treatment under Article 40.

VIOLENCE AGAINST CHILDREN

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The Government's 2014 report

85. While we welcome the Government's commitment to protect all children from violence, abuse and neglect, progress in this area has been poor. Serious concerns have been raised throughout the reporting period. There have been a number of high profile child sexual abuse cases and, despite SCRs (conducted when a child dies or is seriously injured) and official enquiries, lessons have failed to be learned.

Abuse

86. Amendments introduced by the Serious Crime Act 2015, mean for the first time emotional abuse likely to cause psychological harm has been clarified as being an offence against children.
87. According to DfE data, around 48,300 children need protection from abuse in England.¹⁰⁵ But the NSPCC estimate that for every child thus identified, another eight are also suffering abuse.¹⁰⁶ Between 2006/07 and 2012/13, contacts to the NSPCC Helpline increased by 49%. The social work profession is hindered by a range of factors: shortage in numbers, high turnover, low morale, burdensome caseloads, excessive paperwork and limited opportunities for promotion at the front-line.¹⁰⁷
88. Disabled children are at significantly greater risk of all types of abuse than non-disabled children. Those at greatest risk include children with behavioural/conduct disorders and children with learning difficulties/disabilities.¹⁰⁸

Sexual abuse

89. Reported child sex abuse has risen by 60% in the last four years.¹⁰⁹ At the same time, the number of arrests for child sexual abuse offences in England and Wales has fallen from 3,511 in 2011 to 3,208 – a drop of 9%. 23,000 child sex offences were recorded in the last year in England and Wales, but less than a quarter were prosecuted.¹¹⁰ The Independent Inquiry into Child Sexual Abuse has been set up in acknowledgment that State and non-State institutions have failed in their duty of care to protect children from sexual abuse and exploitation.



Child sexual exploitation

90. In a 2012 report, the Children's Commissioner found 2,409 known victims of child sexual exploitation in the period from August 2010 to October 2011, and identified 16,500 children as being at high risk of child sexual exploitation. Since the publication of this report several high profile cases of child sexual exploitation have emerged with the evidence showing that these cases are not isolated, or even unusual, and that child sexual exploitation is happening across the country. A common factor is the failure amongst professionals to listen to children or to believe what children are telling them and instead to regard children as "collaborators" in their own abuse.¹¹¹

Ineffective management of sex offenders

91. There is an urgent need to review and improve the system for managing sex offenders. Figures show nearly 400 convicted sex offenders in the UK have "disappeared"¹¹² meaning the Government is unable to effectively manage convicted sex offenders and prevent their re-offending.

Safeguarding online

92. The Child Exploitation and On-line Protection Centre (CEOP) estimate that 50,000 people in the UK look at child abuse images every year; yet there have never been many arrests.¹¹³ It is estimated that there is 55% correlation between the possession of child abuse images and "contact" sexual offence against a child.¹¹⁴ 81% of victims are under the age of 10.¹¹⁵ In 2012 CEOP received 1,145 public reports relating to incidents of online grooming.¹¹⁶ Furthermore, the police lack the resources to ensure the hundreds of thousands of paedophiles downloading child abuse images, many of whom may use technology to groom and exploit children in person, will be convicted.¹¹⁷

93. Last year Childline saw an 87% increase in the number of counselling sessions about cyberbullying. Bullying/cyberbullying is the top concern for children aged 11 and under. 85% of social workers do not feel confident to deal with cases involving online abuse; 62% of professionals working with children do not feel confident about assessing online risks and 54% said they were not confident about their ability to assist those who had been harmed online despite many of them encountering the problem in their work.¹¹⁸

Female genital mutilation

94. It is estimated that 20,000 girls under the age of 15 are at risk of Female Genital Mutilation (FGM) in the UK, though the true figure is likely to be much higher.¹¹⁹ This practice has been illegal since 1985, but only one prosecution has taken place where the two defendants were eventually found not guilty. New measures have been introduced, such as National Health Services (NHS) hospitals recording and providing information on patients who have undergone FGM and an awareness-raising campaign. The impact of these initiatives is yet to be measured.

Neglect

95. Neglect is the most frequent reason for a child protection referral to social services and features in 60% of SCRs into the death or serious injury of a child.

96. At a time of increased pressure on services, more than 40% of social workers have felt powerless to intervene in cases of child neglect.¹²⁰ Nearly a third say they lack the necessary time and resources.¹²¹ The Office for Standards in Education, Children's Services and Skills (Ofsted) has identified barriers to effective responses to neglect, including cases being allowed to drift, too-high thresholds for intervention, and inadequate training in this form of abuse.

Domestic violence

97. Around 750,000 children a year witness domestic violence.¹²² In a recent analysis of 139 SCRs, domestic violence was a factor in 63% of the cases.¹²³ Cuts in services for

specialist domestic violence support, refuge, hostel and long term accommodation are all putting children at risk. Legal aid restrictions (see General Measures of Implementation) have also meant that some victims of domestic violence have to go to court without a lawyer in divorce and child contact cases, sometimes resulting in decisions not in the children's best interests.¹²⁴

Child witnesses and children in court

98. The shocking scale of child sexual exploitation in Rochdale, Oxford, Rotherham and elsewhere has brought the subject of sexual abuse to national attention. It proves the fundamental importance of adequately supporting witnesses, not least so that other children are encouraged to report abuse and seek justice.
99. Some child sex abuse cases have collapsed because children have been denied appropriate support. For example, though The Pigot Report (1989) recommended that no child witness should *'be required to appear in court during a trial unless he or she wishes to do so'*, 25 years later, 99% of children still have to attend court to give their evidence in person.¹²⁵ Pilots allowing pre-recording cross-examination of children are still being trialled.¹²⁶

Corporal punishment

100. Despite the repeated recommendation of the UN Committee and four relevant UN treaty bodies,¹²⁷ the "reasonable punishment" defence remains available to parents and others (e.g. part-time teachers) who assault their children.¹²⁸ Corporal punishment of children is therefore legal in England. The Government's statement to the UN Committee that a *'mild smack does not constitute violence'* is plainly wrong and the argument that *'parents should not be criminalised for a mild smack'*¹²⁹ is scaremongering, since existing thresholds for criminal prosecutions would not permit cases of mild smacks to proceed.

Use of force in detention

101. In July 2012, the Government announced a new system of restraint for use against children in Young Offender Institutions (YOIs) and Secure Training Centres (STCs): 'minimising and managing physical restraint' (MMPR). It is extremely worrying that this still includes three pain distraction techniques. The Restraint Advisory Board raised concerns that a restraint system involving no-pain inducing techniques had not been considered,¹³⁰ and that two techniques (the "head hold" and the "arm hold") raised serious medical risks. The overall number of restraint incidents has increased from 23.8 to 28.4 per 100 children in the last year,^{131,132} despite the clear 2008 UN Committee recommendation that the UK improve its record in this area.¹³³

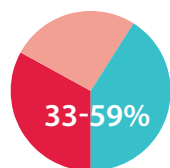
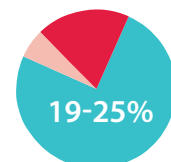
USE OF FORCE IN 4 INSTITUTIONS FROM MARCH 2013 TO MARCH 2014



52 INJURIES

HAVE BEEN SUSTAINED BY CHILDREN AS A RESULT OF FORCE

THE 'HEAD HOLD' ACCOUNTED FOR 19-25% OF ALL INCIDENTS OF THE USE OF FORCE



BETWEEN 33-59% OF ALL FORCE INCIDENTS INVOLVED FORCE THAT WAS NOT MMPR COMPLIANT

CHILDREN WITH AN IDENTIFIED DISABILITY WERE MORE LIKELY TO BE RESTRAINED BY HANDCUFFS



102. Furthermore, restraint can be used in YOIs against children for “good order and discipline” (GOAD), that is, against children who do not do as they are told. The Criminal Justice and Courts Act 2015 established a new type of penal institution for children – “secure colleges” (see Special Protection Measures) – and sections 8(c) and 10 of that Act authorise staff to use ‘reasonable force’ against children for GOAD.¹³⁴ The JCHR has been highly critical of these provisions.¹³⁵

Use of force in removal of children from the UK

103. In 2011 and 2012, the Home Office did not have any published policy on the use of force against children to effect removal from the UK but continued to use force in these circumstances. This practice was widely criticised¹³⁶ and the situation was only changed as a result of litigation.¹³⁷ This led to the Home Office then re-publishing an old policy prohibiting the use of force against children except where absolutely necessary to prevent harm. However, the Government has since indicated that the use of force may resume following a consultation on this issue.¹³⁸

Trafficked children

Legal guardianship/advocacy

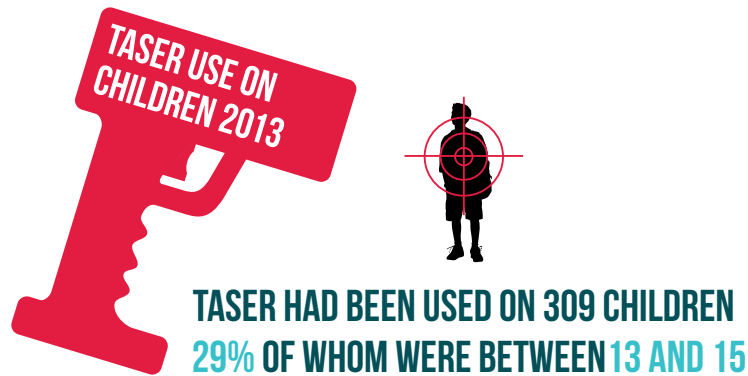
104. No nation-wide system of independent legal guardianship or advocates for all separated migrant children exists in the UK. England has made notable progress where there is a suspicion of child trafficking (though unfortunately not for all separated migrant children) by introducing a pilot scheme under the Modern Slavery Act 2015 for independent child trafficking advocates. This will be implemented nationally following a successful independent evaluation. These advocates may also be given legal powers to instruct a solicitor in the child’s best interests and to require local authorities to pay due regard to the advocates’ functions.

Review of the National Referral Mechanism

105. The Home Office conducted a review of the National Referral Mechanism (NRM), the framework for identification and support of victims of human trafficking. The review recommended the Home Office was removed as a Competent Authority in cases of non-EEA nationals and the introduction of multi-disciplinary panels to undertake this function.¹³⁹ This followed wide criticism of potential conflict of interest.¹⁴⁰ The Home Office is due to pilot a revised NRM in England during 2015, but serious concerns have been raised that the review and the proposals did not take into account the existing statutory child protection framework. The failure to embed identification and safeguarding of trafficked and exploited children into existing processes risks fragmenting the response of professionals to child trafficking and creating a dual system. The review also failed to recommend putting the NRM on a statutory footing in the Modern Slavery Act to ensure consistent referral. A study by the UK Human Trafficking Centre found that 65% of children were not referred to the NRM.¹⁴¹ The review also missed the opportunity to make other improvements, for example introducing a right of appeal for these children. Currently, judicial review is the only mechanism by which children can challenge a decision made on their trafficking claim.

Statutory defence

106. The Modern Slavery Act 2015 introduced a statutory defence for children who are forced to commit crimes as a result of being trafficked. However, England is still not compliant with international and European law stating children should not be prosecuted for crimes related to their trafficking¹⁴² and research shows trafficked children continue to be prosecuted for crimes they have been forced to commit.¹⁴³ This is due, in part, to poor identification and understanding of trafficking among the police, lawyers and Crown Prosecution Service.



Prosecutions and convictions

107. Government data on prosecutions and convictions on trafficking are not disaggregated into whether the victim was a child and there are very few convictions where the victim is under-18.¹⁴⁴ Child sexual exploitation is not a specific offence in English law – it was proposed during the passage of the Modern Slavery Bill but was not accepted by the Government.

Degrading and inhuman treatment

Taser

- 108.** In 2008, the UN Committee expressed concern at the authorisation of Taser for police officers in England and called for them to be classified as weapons. The Independent Police Complaints Commission (IPCC) has said it has *major concerns about the use of Tasers in “drive stun mode” which is purely a means of pain compliance.*¹⁴⁵
- 109.** In 2013, the UN Committee against Torture recommended the UK ban their use on children.¹⁴⁶ Instead, overall use is increasing. Across the 20 police forces that responded to CRAE’s 2013 FOI request, Tasers had been used on 309 children,¹⁴⁷ 29% of whom were between 13 and 15. While in the vast majority of cases Tasers were drawn, aimed or used to “red dot” a child, in 8% of the cases the Tasers were either fired or the “drive stun” technique was used. Figures obtained under FOI requests by the BBC revealed that a child as young as 11 years has had a Taser drawn on him.¹⁴⁸

Strip-searching

- 110.** Children are subject to strip-searching in police stations and in custodial institutions. During most of the reporting period this included routine strip-searching of all children upon arrival at YOIs. This practice was ended in 2014 and replaced by risk-based strip-searching. Despite this welcome change, there are concerns that children are being unnecessarily strip-searched and in some cases without the required safeguards. Of the five police forces that responded to CRAE’s 2013 FOI request, strip-searching of children had almost doubled between 2008 and 2013. The youngest child strip-searched was 12. In almost half the cases, no appropriate adult was present; and almost half were released without charge.¹⁴⁹

In *PD v Chief Constable of Merseyside Police* a 14 year-old girl was strip-searched, ostensibly for her own protection, in the police station without an appropriate adult present. The court was very concerned and questioned how ‘it should have been thought appropriate immediately to remove the clothes of a distressed and vulnerable 14 year-old girl without thought for alternative and less invasive measures to protect her from herself.’¹⁵⁰

FAMILY ENVIRONMENT AND ALTERNATIVE CARE

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The Government's 2014 report

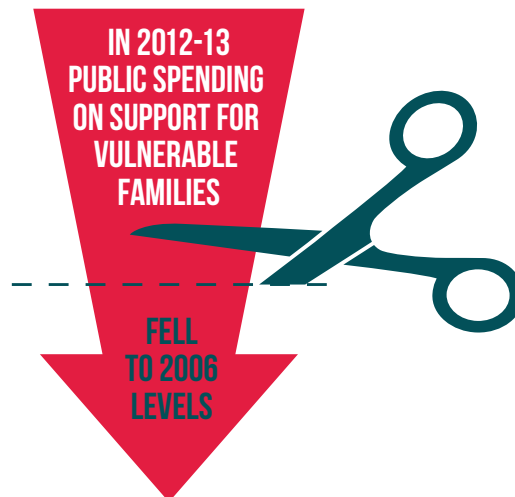
- 111.** The Government highlights efforts to improve access to childcare through an increase in early education and support with childcare costs. We welcome this, along with the continued investment in the 'Troubled Families' programme, providing intensive help for families. We further welcome the requirement on local authorities to make 'Staying Put' arrangements, enabling care leavers to continue to live with their foster carers until they are 21.
- 112.** Regrettably, these initiatives are too piecemeal to counteract the cumulative impact of cuts in service and welfare support. Local authorities have seen a 40% real terms reduction to their funding.¹⁵¹ While most have made great efforts to protect children's services, because the number of children in care has risen dramatically, all services, but particularly preventive services, have been squeezed. We fear this may have led to more children being at risk of significant harm or unnecessarily taken into care.¹⁵²

Reduced support for vulnerable families

- 113.** Although the Government endorses the importance of early intervention, expenditure on family support and early help services has fallen.¹⁵³
- 114.** Research by the NSPCC shows demand is outgrowing expenditure. Public expenditure levels in 2012/13 dropped to the same level as in 2006/07 and are forecast to fall further, even though there has been an extraordinary increase in the demand for services.¹⁵⁴ Between 2002 and 2013, the number of children on a child protection plan rose by 64%¹⁵⁵ and there has been a particularly sharp increase of 12.1% of children subject to a plan between 2012/13 and 2013/14 (43,100 and 48,300 children respectively).¹⁵⁶
- 115.** The number and rate of "looked after" children have increased steadily over the last five years. As of 31 March 2014, there were 68,840 "looked after" children.¹⁵⁷ There were 657,800 referrals to children's social care in 2013/14, an increase of 10.8% compared to the previous year.¹⁵⁸ The population of under-18s has also been increasing year on year so even if the funding had remained constant, the funding available per child would have decreased every year.¹⁵⁹

Early help and short breaks services

- 116.** The Early Intervention Grant has been cut by 48%, from £2.7 billion in 2010/11 to £1.4 billion in 2015/16.¹⁶⁰ Ofsted has found that many local authorities are not taking effective action to support families.¹⁶¹ For example, short break provision for care of disabled children is now under threat. The Council for Disabled Children has found that some local authorities have cut this provision to such a degree they are jeopardising their statutory obligations to disabled children.¹⁶² In the longer term the Government should be moving towards the situation where disabled children and their carers have adequate support on a day to day basis.



Childcare

117. Whilst entitlements to childcare have been extended, gaps in provision prevent some families from accessing these entitlements. The costs of childcare are increasing significantly faster than inflation and the threshold for receiving Tax Credit or Universal Credit help with childcare costs excludes many working families on low incomes. Just 43% of local government areas in England had enough childcare for working families, despite the legal obligations in the Childcare Act 2006. Gaps are most acute for disabled children and those of school-age.¹⁶³ A Parliamentary Inquiry revealed 86% of parents or carers of disabled children pay £5 or more per hour, with 5% paying more than £20. This compares to the national averages of around £3.50 – £4.50 per hour.¹⁶⁴

Young carers

118. The last Census identified 166,363 young carers in England (under 18 years old), though other research suggests the actual number is four times higher.¹⁶⁵ Young carers aged between 16 and 18 years are twice as likely as their peers not to be in education, employment, or training (NEET). Many opportunities are inaccessible to this group, due to the demands of their caring role. The law changed recently¹⁶⁶ to improve support, but funding for this remains uncertain.

Parents in prison

119. It is estimated that 200,000 children are affected by parental imprisonment.¹⁶⁷ The NSPCC estimates that 11,800 0-2 year-olds had a parent in prison in England and Wales in 2009.¹⁶⁸ There is no system in place to identify these children and separation from a parent can be abrupt and the impact immediate.¹⁶⁹ Often, family members who step in to offer care receive no help or support looking after these vulnerable children.

Right to family life

Children in care/adopted

120. The total number of “looked after” children has risen dramatically since 2010. As at 31 March 2014, there were 68,840 “looked after” children - an increase of 7% compared to March 2010.¹⁷⁰ This statistic is double edged. Though the increase in some instances means more children cared for safely, it also means that in other cases, early intervention to avoid care has been non-existent or insufficient.

- 121.** The Government has speeded up the adoption process in recent years. Adoption must only be made when it is in the best interests of the child and if there is no other realistic option for the long term care of the child. This acceleration has raised concerns about the quality of some of the decisions being made, in particular, when more could have been done to support the birth family to remain together or for the child to be cared for by wider family members. Moreover, the Children and Families Act 2014¹⁷¹ repealed the requirement for local authorities and adoption agencies to give due consideration to a child's religious persuasion, racial origin and cultural and linguistic background, notwithstanding the CRC requirement.
- 122.** Under the Children and Families Act 2014, when local authorities are deciding how to accommodate a child for whom adoption is the long term plan, they must consider placing the child with a foster carer who is also approved as a prospective adopter. Lack of legal aid to families at these crucial early stages of adoption planning means opportunities for alternative solutions are lost, such as whether it would be possible for a member of the wider family to be approved as the foster carer and prospective adopter.¹⁷²

Family and friends care

- 123.** Although the proportion of children being placed with foster carers has remained broadly constant, the proportion being placed with family and friends through the care system has fallen significantly.¹⁷³ Case law stipulates there must be a proper assessment of family and friends as potential carers,¹⁷⁴ but there is currently no national standard assessment tool or guidance. Additionally, it is often difficult both for parents to obtain legal advice in time and for family and friends carers to be identified and assessed early enough to make such placements viable.
- 124.** Many family and friends carers face severe financial hardship due to raising a child in their family. Nearly half have to leave their job or cut their hours when the child comes to live with them.¹⁷⁵ They often receive little or no support from local authorities, with those caring for children with the highest levels of emotional and behavioural difficulties receiving the least support.

Siblings in care

- 125.** Half of sibling groups in local authority care are split up.¹⁷⁶ Most children who are living with their siblings are in foster care, with only 1% of sibling groups placed together in residential care.¹⁷⁷ Currently, children have poor experiences with sibling contact, including lengthy waits, cancellation at short notice (often with no explanation) and no assistance to restart contact where it has stopped.¹⁷⁸

The quality and stability of children's placements

- 126.** The number of times a child is moved during a year in care has shown no real improvement since 2008/09.¹⁷⁹ 11% of children in care in England (7,520 children) had three or more placements in the year 2013/14. Sometimes moves are made for financial reasons even though remaining with the current carer would have been in the child's best interests.¹⁸⁰ Local authorities often have to look to other boroughs, regions and even other countries to find placements because of a shortage of appropriate local provision.¹⁸¹

- 127.** Such out of authority placements make family rehabilitation less likely and multiple placements contribute to deteriorating mental health and lower educational attainment.¹⁸²
- 128.** The quality of care and safety in children's homes has been called into question following high profile sexual exploitation cases like Rotherham where some of the victims were in care. New regulations and standards are being put in place but the impact of this is yet to be measured.¹⁸³

Mental health in care

- 129.** The majority of children in care have been severely abused or neglected, physically, emotionally or sexually. Around 60% of "looked after" children have some mental health issue¹⁸⁴ and 45% of the 68,000 children in care in England have a diagnosable mental health disorder.¹⁸⁵ Yet there are significant gaps in support with many "looked after" children not meeting thresholds for Child and Adolescent Mental Health Services (CAMHS) with an insufficient focus on promoting resilience and wellbeing. Others face long waiting times for urgent treatment. There is a 'clinical gap' between leaving children's services and entering adult services meaning that many care leavers are no longer eligible for mental health services when they turn 18, despite urgently needing support.¹⁸⁶

Support for care leavers

- 130.** While 39% of care leavers aged 19–21 live independently,¹⁸⁷ the transition to adulthood is 'accelerated and compressed',¹⁸⁸ with many facing 'instant adulthood'.¹⁸⁹ 49% say they have been prepared badly or very badly for living independently.¹⁹⁰ The Who Cares? Trust reports a lack of independent living skills in care leavers, such as budgeting, cooking and cleaning. There is also little preparation for the emotional side of leaving care, for example loneliness and ensuring support networks are in place.¹⁹¹ Suitable accommodation is essential, yet research suggests that 73% of local authorities placed care leavers in bed and breakfast accommodation (B&Bs) between 2013 and 2014.¹⁹²

DISABILITY AND BASIC HEALTH AND WELFARE

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The Government's 2014 report

- 131.** The Government's report identifies positive developments in children's health, including evidence of better outcomes and efforts to raise the profile of children's needs within the NHS. For example, the proportion of children drinking alcohol, smoking and taking drugs has significantly reduced since 2008, and the number of teenage conceptions has also fallen. However, even these achievements must be qualified. The quantity of alcohol consumed by those who do drink is increasing¹⁹³ and the UK still has one of the highest rates of births to mothers age 15-19 in the European Union.¹⁹⁴ There is also much regional variation.
- 132.** We are extremely concerned there has been no meaningful progress towards reducing child poverty in England. For example, the National Minimum Wage remains inadequate for families with children to live on and there is no detail on how rising housing costs are being tackled. We welcome the introduction of Free School Meals (FSM) for all children in the first three years of primary school.

Public health

- 133.** The UN Committee has emphasised the need for States to address the underlying determinants of children's health. While there has been progress in this regard, there continue to be challenges.¹⁹⁵ The Government has made progress in securing an additional 4,200 health visitors since 2011.¹⁹⁶ However, in the context of funding cuts, the transfer of responsibility for these services to local authorities in October 2015 poses a serious risk to their sustainability.

Maternal health and breastfeeding¹⁹⁷

- 134.** In 2012/13, 47.2% of mothers in England were breastfeeding after 6-8 weeks, an improvement on 2008/09 rates (44.5%). However, only 1% of mothers in the UK continue to breastfeed exclusively at six months,¹⁹⁸ hospital admissions for infant feeding difficulties are increasing,¹⁹⁹ and mothers from lower socio-economic backgrounds are less likely to breastfeed. Only 38% of hospitals in England have achieved Unicef UK's baby-friendly accreditation.²⁰⁰
- 135.** Despite the Committee's 2008 recommendations, the Government has not strengthened legislation relating to the marketing of breastmilk substitutes,²⁰¹ and violations of the International Code of Marketing of Breastmilk Substitutes continue without sanction. In 2014, the Government stopped collating infant feeding data through the UK National Infant Feeding Survey. Although the Equality Act 2010 did clarify that it is unlawful for an employer to discriminate against a woman because she is breastfeeding a child, breastfeeding mothers are not entitled in law to breastfeeding/expressing breaks or reduced hours. Government partnerships with formula manufacturers and retailers on health promotion programmes present a conflict of interest.

136. Rates of women smoking during pregnancy – linked to premature birth and low birth weight – are falling.²⁰² However, it is unlikely that the Government will meet its ambition to reduce prevalence to 11% or less. The proportion of women who smoke at the time of delivery varies across the country,²⁰³ and social inequalities persist²⁰⁴ (See Health Inequalities below).

Midwives

137. With the increasing number of babies being born and increasing complexity of cases,²⁰⁵ there is a need for more midwives. Despite the Government investing in training, there was an estimated shortfall of 4,800 midwives in 2012.²⁰⁶

Obesity, diet and exercise

138. The most recent figures for 2013/14 indicate that levels of obesity have risen among children aged 4-5 (9.5%), following a downward trend last year. Levels of obesity continue to rise for children aged 10-11 (19.1%).²⁰⁷ The proportion of children aged 5-15 eating five portions of fruit and vegetables per day peaked in 2006 and has been falling since.²⁰⁸ Children's participation in physical activity has decreased significantly since 2008.²⁰⁹

Health inequalities

139. The UN Committee recommended that the UK tackle inequalities in access to health services through a coordinated approach across departments and better coordination with poverty and income inequality policies. In 2013, new legislation introduced a duty on government, national and local health bodies and local authorities to reduce health inequalities. However, this has not led to the development of a strategic approach because, for example, non-health policies (such as welfare or criminal justice) are not assessed for their potential impact on childhood health inequalities.

Poverty

140. Poor children and those from low socio-economic backgrounds are still more likely than their wealthy peers to suffer ill health or die in childhood.²¹⁰ Women from lower socio-economic groups are more likely to smoke during pregnancy,²¹¹ and women living in deprived areas are less likely to breastfeed.²¹² Children living in the most deprived areas are almost twice as likely to be obese than children living in the least deprived areas, and this gap is widening.²¹³

Geography

141. Geographical inequalities persist, with disparities around the country in service provision, care and outcomes.²¹⁴

Ethnicity

142. In England, children of mothers born in the Caribbean and mothers born in Central Africa are more likely to die in infancy than children from other ethnic backgrounds.²¹⁵

Children in care

143. "Looked after" children are more likely to suffer from poor health.²¹⁶ There is wide variation across the country in terms of children's access to services.²¹⁷ Reductions in services have resulted in poor quality health assessments and a lack of targeted services. Children placed outside their local authority area are at an additional disadvantage.²¹⁸

LGBT

144. Lesbian, gay and bisexual children are more likely than their peers to suffer from mental health conditions – nearly one in four (23%) had attempted to take their own life, much higher than the national average (7%). 85% have never been taught in school about the physical aspects of same-sex relationships.²¹⁹

Children in custody

145. Children in custody, despite having significant health needs (particularly in relation to their mental health), are often 'overlooked or let down' by health and social care services.²²⁰

Migrant families

146. Legislation passed in 2014 allows the state to introduce charging for primary health care based on immigration status. Many migrant children and pregnant women already pay for some secondary healthcare.²²¹ There is evidence that charging for NHS maternity services acts as a deterrent to migrant women accessing timely antenatal care, putting them and their babies at increased risk.²²²

Access to health services

147. Due to reductions in public funding and a lack of coordination across services, many children are not receiving care where they need it and in an age-appropriate manner. Insufficient early intervention and community-based services have resulted in children receiving care in inappropriate settings far from home. This is reflected in increased rates of children and young people attending accident and emergency departments – 40% higher in 2011/12 than 2007/08.²²³

Children with mental health conditions²²⁴

148. Evidence shows that the mental health of children is worsening.²²⁵ For example, the number of young people aged 0-25 being hospitalised because of self-harm increased by a staggering 68% between 2001 and 2011.²²⁶ Despite this, CAMHS and preventative services have not been prioritised.²²⁷ Waiting times for specialist outpatient care have increased,²²⁸ and a national shortage of inpatient beds has led to children being admitted to adult wards.²²⁹ Children as young as 11 have been held in police cells during mental health crisis, in the absence of age-appropriate places of safety.²³⁰ These shortcomings sometimes have fatal consequences (see box). Recent reports suggest that requirements introduced by NHS England in 2013 for all mental health inpatient units to be open seven days a week have, in the context of insufficient resources, resulted in local services closing so that children and their families have to travel long distances for care.²³¹ In many areas, provision is now worse than it was in 2008, when the UN Committee recommended additional resources and improvements.²³²

In April 2015, the Coroner in the inquest into the death of Sara Green concluded that the lack of a placement in a specialist mental health unit near her home in the months preceding her death was a contributory factor in her self-inflicted death.

Sara Green was a 17 year-old patient at the Orchard Unit of the Priory Group Cheadle Royal Hospital in Stockport from July 2013, where she had been admitted because of a history of self-harming since the age of 13. She was admitted to the privately run Priory Hospital, having previously been in an adult ward in Scunthorpe, because there were no local NHS beds. The hospital was 100 miles from her home despite the fact she benefitted from close family ties and her anxiety was worsened by not being in a placement closer to her home. On admission to the Priory it had been Sara's and her family's expectation that she would be there for six to eight weeks. Sara in fact remained there for nine months due to a combination of the failure to manage her discharge and the shortage of NHS beds.²³³

149. Progress on addressing these challenges has been slow. However, in March 2015, the Government committed £1.25 billion over five years for children's mental health services, and a government taskforce made recommendations for improving the way services are commissioned and provided.²³⁴

Mental health treatment of children without their consent

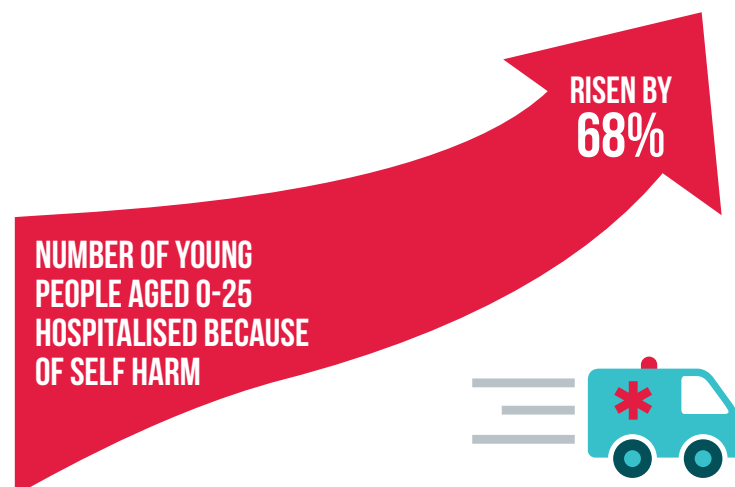
150. Following a ruling by the European Court of Human Rights,²³⁵ the UK introduced new protections for non-competent people and medical care. The Mental Capacity Act 2005 and the Mental Health Act 2007 ensure that even people without mental capacity, including 16 and 17 year-olds, cannot be deprived of their liberty without right of access to a legal review. However, the law was not changed in respect of under-16 year-olds deemed to lack capacity and an unknown number of teenagers are detained in closed wards and compulsorily treated against their wishes, solely under the consent of their parents.²³⁶

Accountability

151. Following reorganisation of England's health system, it is unclear how the new bodies commissioning local health care services (clinical commissioning groups) are held to account or how concerns about gaps in local services or quality healthcare can be raised and addressed.²³⁷ There is also insufficient data and indicators on children's health outcomes and experiences.

Poor services for disabled children and children with behaviours that challenge

152. Nearly a third of families with disabled children lack specialist equipment, adaptations or therapies, and over one in five say their child's condition has worsened as a result of going without basics such as food and heating,²³⁸ reflecting the impact of poverty on children's health. Paediatricians working with disabled children have reported longer waiting times for paediatric and therapy appointments; and higher thresholds for making referrals to therapies, CAMHS, educational psychology, and social care services.²³⁹
153. Despite a BBC television investigation into one Assessment and Treatment Unit for people with learning difficulties whose behaviours challenge²⁴⁰ (revealing poor care, high levels of abuse, and individuals placed inappropriately in such settings)²⁴¹ and a Government commitment to improvement, in September 2013, there were still 236 young people aged 18 or under in these units. This included 31 children aged 10 or under. Over 64 children had been in the unit for over a year, and almost a third were being treated 100km or more from home. Children were more likely than adult in-patients to have experienced self-harm, hands-on restraint and seclusion.²⁴²



Integration of services and transition between services

- 154.** The introduction of integrated education, health and social care plans for children with significant special educational needs, including severely disabled children, is welcome.²⁴³ However, children with complex health needs and their families and disabled children without “significant” special educational needs, still experience a lack of coordination across these services.
- 155.** Transition from paediatric to adult care for young adults with chronic diseases and long term disabilities is poorly coordinated and often delayed. Some children’s services stop care before adult services take over, families feel confused and distressed by the lack of information and support given to them, and good practice guidance is not followed.²⁴⁴

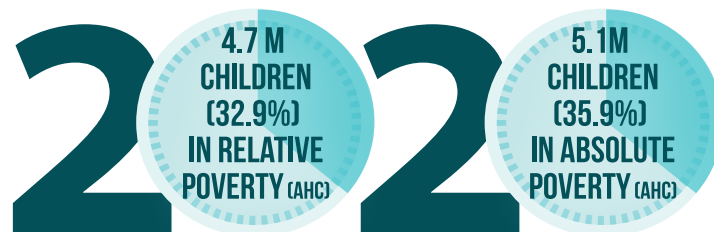
Children and young people’s health workforce

- 156.** Hospital-based paediatrics is not mandatory in General Practitioner (GP) training, posing a barrier to GPs learning how to identify and care for sick children. Only around 5% of nurses are trained to look after children.²⁴⁵ Government is yet to set out a strategy for developing the children and young people’s health workforce.

Standard of living

- 157.** In line with the UN Committee’s 2008 recommendation, the Child Poverty Act 2010 was passed into law. It sets out the Government’s intention to substantively end child poverty by 2020. Despite this legislation, priority has not been given to those families whose children are most in need of support and there has been little focus on efforts to enhance material assistance with housing and clothing. Most importantly, child poverty is projected to remain in the millions by 2020 (see box).

PROJECTED UK CHILD POVERTY IN



The independent Institute for Fiscal Studies predicts that by 2020, instead of child poverty having been eradicated, we will see:

- 3.4 million children (23.5%) living in relative poverty Before Housing Costs (BHC) rising to 4.7 million children After Housing Costs (AHC) (32.9%);
- 3.9 million children (27.2 %) living in absolute poverty (BHC), rising to 5.1 million AHC (35.9%).²⁴⁶

In-work poverty

- 158.** The Government’s most recent child poverty strategy focuses on breaking the cycle of poverty through behavioural change and increased employment. Its core message is that *families can work themselves out of poverty.*²⁴⁷ However, there are now growing levels of in-work poverty in England.²⁴⁸
- 159.** Nearly two-thirds of poor children now live in working households.²⁴⁹ Research for the Child Poverty Action Group has shown that a family with two parents both working full time on minimum wage would be 18% short of sufficient income to meet the minimum costs of raising a child.²⁵⁰ Increasingly, families in low paid work have become reliant on means-tested Housing Benefit to help meet the high costs of rents in the private sector and Council Tax Benefit/Support to pay local Council Tax.

160. The Government's own Social Mobility and Child Poverty Commission concluded that, *'Increasing levels of parental employment does not automatically lead to a reduction in poverty . . . In too many cases, it simply moves children from low income workless households to low income working households.'*²⁵¹

Welfare changes and benefit cuts

161. Since 2010, the Government has cut many benefits and tax credits, undermining both in-work and out-of-work support for families with children.

Key Cuts impacting on children since 2010

- **Benefits such as Child Tax Credits are being uprated by just 1% a year, less than the rate of inflation.**
- **£500 Sure Start Maternity Grant is restricted to the first child only.**
- **Child Benefit rates were frozen until April 2015, after which they are being uprated by only 1% a year.**
- **Childcare costs covered by Working Tax Credit reduced from 80% to 70%.**
- **A new Household Benefit Cap of £500 a week has been introduced for families with children irrespective of the size of the family or the cost of accommodation.**
- **The "Bedroom Tax" on tenants in social housing means families with one spare bedroom lose 14% of their Housing Benefit; those with two spare rooms lose 25%.**
- **Local Housing Allowance (LHA) for tenants renting in the private sector is capped at the 30th percentile of local rents and in most areas is only uprated by 1% a year.**
- **Council Tax Benefit has been abolished and responsibility for new Council Tax Support schemes devolved to local authorities, along with a 10% funding cut.**

Social security

162. Cuts to social security have had a disproportionate impact on children, in part because the system is designed to provide support for periods of life which accrue additional costs, such as raising children. However, some changes particularly target children. Save the Children has shown, for example, that of families on tax credits and benefit, the poorest families lose 5-6 % of their income, compared to 1% for those in higher deciles.²⁵²

Caps in benefits

163. The Welfare Benefit Up-rating Act 2013 introduced an annual cap of 1% in rises in most benefits and tax credits for 2013-2016. The Children's Society has shown that, whilst only 30% of UK households were affected by this legislation, 87% of families with children are affected, including 95% of lone parents. Lone parents also have the highest average loss for those affected by the Act – losing £261 per year by 2015/16.²⁵³ The failure to uprate benefits in line with inflation is one of the drivers of projected increases in child poverty rates over this decade and must be reversed.

164. The Household Benefit Cap, is causing even greater hardship. Previously set at £26,000, in May 2015, the Government announced the cap would be lowered to £23,000. Leaked government documents suggest that an additional 40,000 children will now be forced below the official poverty line.²⁵⁴ Government reports show that 53,300 households in England have been affected since the Cap's introduction in April 2013 of which 94% had dependent children.²⁵⁵ At least 150,000 children have been affected by the Benefit Cap thus far. By its very nature, the Benefit Cap discriminates against larger families.

In a recent UK Supreme Court judgment, the majority of the court said that the Benefit Cap was not compatible with the UN Convention on the Rights of the Child by failing to give the best interests of the child primary consideration. The Deputy President of the Supreme Court, Lady Hale, said that *'The prejudicial effect of the cap is obvious and stark. It breaks the link between benefit and need. Claimants affected by the cap will, by definition, not receive the sums of money which the state deems necessary for them to adequately house, feed, clothe and warm themselves and their children.'*²⁵⁶

The Spare Room Subsidy ("Bedroom Tax")

165. The "Bedroom Tax" on Housing Benefit causes many families problems if they are deemed to have an extra bedroom. Families with one spare bedroom lose 14% of their Housing Benefit; those with two spare rooms lose 25%. This highly controversial policy was intended to encourage people to move into smaller properties, but this has proved very difficult for families living in areas where there are shortages of such properties. According to the Government's own analysis, only 4% of tenants have moved as a result of this policy, sending many of those who stayed put into deeper poverty.²⁵⁷

Universal Credit

166. Universal Credit seeks to streamline the benefits system and incentivise people back into employment. Some aspects of Universal Credit are welcome, but there are important gaps: Free School Meals are not available to all children of families on Universal Credit, not enough childcare costs are met up front (increasing the risk of parents going into debt to pay) and online access is required though many families do not have computers or easy internet access.

Early Intervention

167. Other than welcome extra support from the Government for childcare for disadvantaged two year-olds, funding for all other local authority provision for early intervention is being decreased. The Children's Society has calculated there has been a reduction of almost 50% to the Early Intervention Grant during the course of the last Parliament, a reduction of £1.4 billion in annual budgets since 2010. The loss of local services such as Sure Start children's centres, playgroups and parenting classes will negatively affect children's overall wellbeing.

Problem debt

168. Levels of personal debt have risen since 2008. Research has found that 2.5 million children are living in families that are behind on £4.8 billion of household bills and loan repayments.²⁵⁸ Families were twice as likely to have borrowed from a high interest money lender as from a credit union, and nine out of ten families in problem debt say they cut back on essentials like food, clothing or heating in order to keep up repayments. Separately, hundreds of thousands of low income families are struggling with Council Tax bills since the abolition of Council Tax Benefit, sometimes facing enforcement action by bailiffs.²⁵⁹

Food poverty

169. Food is the third largest item of expenditure for low income households after housing, fuel and power costs. In recent research, Oxfam, Church Action on Poverty and the Trussell Trust calculate that food prices have increased by 43.5% in the eight years to 2013 and that more than half a million children are now living in families unable to afford a minimally acceptable diet.²⁶⁰ They estimate that over 20 million meals were given to people in food poverty in 2013/14 – a 50% increase on the previous year.



170. Government Ministers have suggested that the rise in food bank use is simply because there are more of them. We disagree. The combination of changes to the social security system, including a more punitive sanctions regime, lack of work paid at a decent rate and rising living costs are the primary causes of food poverty.

Housing and homelessness

171. The state of a child's home – in terms of its fitness for habitation, size, stability and location – affects a child's health, education and wellbeing. While some progress has been made since 2008 in improving housing conditions, hundreds of thousands of children are still growing up in cold, damp or overcrowded homes. However, those who are homeless are suffering most in England's crisis.

Homeless families

172. Homeless children are three to four times more likely to have mental health issues and two to three times more likely to be absent from school and have lower academic achievement.²⁶¹ Local authorities are required to accommodate homeless families with children and 16 and 17 year-olds who cannot live with their parents. The Localism Act 2013 has eroded local authorities' duty to give these people "reasonable preference" for social housing. Homelessness applications have risen and because of the shortage of social housing, families with children are increasingly placed in temporary accommodation, from a total of 36,230 families in 2010 to 46,700 in 2014.²⁶² The proportion of those in temporary accommodation from ethnic minorities has risen from 44% in 2006 to 55% in 2014.²⁶³

Bed and Breakfast accommodation

173. Disappointingly, despite a legal prohibition on local authorities accommodating homeless families or pregnant women in B&B accommodation for longer than six weeks, official statistics show that 2,040 homeless families were placed in B&Bs on 31 December 2014 – an increase of 31% on the previous year.²⁶⁴ Of these, 780 families had been in B&B for longer than the six week legal limit. A growing number of homeless families are also accommodated in "annexes," technically outside the strict definition of B&B but sharing many of their harmful characteristics. The situation has not been helped by the cuts in the benefit subsidy for self-contained temporary accommodation.

Homeless children

174. Progress has been made in reducing the number of homeless 16 and 17 year-olds placed in B&Bs: just 30 were in B&B accommodation on 31 December 2014, compared to 340 in 2009.²⁶⁵ However, research shows that every year, almost half of the 12,000 homeless 16 and 17 years-old who ask the local authority for help are turned away.²⁶⁶

175. Research by Coram Voice found that homeless children are refused support by some Children's Services departments, some without having been properly assessed or safeguarded even when they are at risk.²⁶⁷

Discharge to the private sector

176. The Localism Act 2013 has empowered local authorities to discharge their duty to homeless families through the offer of accommodation in the private rented sector, although this is often neither secure nor affordable. In the three months to 31 December 2014, 460 households were made such an offer.²⁶⁸ However, no record is kept of those families discouraged from making a formal application because they are told they will just end up in the private rented sector anyway.

EDUCATION, LEISURE AND CULTURAL ACTIVITIES

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The Government's 2014 report

- 177.** Since 2008 there have been significant changes in education policy, the effect of which is not yet entirely clear. In particular the extension of the 'Academy' schools programme, including the introduction of 'Free Schools' (allowing parents or interest groups to use public funds to establish their own Academy schools), has led to greater inequity between the direct powers and rights for different types of school, with the local authority role in education – often the strongest advocate for more disadvantaged groups – being increasingly marginalised in favour of school autonomy.
- 178.** Access to nursery education has been extended although concerns remain that increased attention on recording the attainment of very young children is inhibiting their ability to learn through free play. Despite an effort to professionalise early years education, the sector is still characterised by a poorly qualified, low-paid workforce. Extension of Free School Meals, measures to improve support to children in care (including the Virtual School Head system) and the introduction in 2011 of the Pupil Premium²⁶⁹ (allocating additional funds for the most disadvantaged children) are very welcome. However initial analysis suggests the attainment gap between the poorest children and their peers at GCSE has continued to widen, though the Pupil Premium may reduce this over time.²⁷⁰

Access to education

- 179.** Statutory education provision has been extended at both ends of the age spectrum. In 2013 the 20% most disadvantaged children two year-olds were granted an entitlement to fifteen hours a week of free education, extended to 40% in 2015. Take-up is improving but non-participants are more likely to be from low-income families or without their own transport or from a minority ethnic group. Legislation to raise the age for compulsory participation in education or training from 16 to 18 years came into force during 2013-15.²⁷¹ However, there remain significant concerns about levels of take-up due to lack of resources.²⁷²
- 180.** Concerns about equality of access for school-aged children (5-16) remain, particularly in relation to increased immigration and the Academies programme. Although Academy schools are required to comply with the Admissions Code, there are some exceptions regarding admission of vulnerable children such as looked-after children, those with SEN, or refugee children.²⁷³
- 181.** Significant amounts of schooling are being lost, with 20,000 children remaining unplaced after a full school term.²⁷⁴ There is also concern that resources to build new schools are being redirected to fund Free Schools, sometimes in places where demand is already met, reducing the ability of local authorities to plan school places, exacerbating difficulties at a time when they are already struggling to respond to unexpectedly high birth rates. Sixteen % of places at state schools are allocated on the basis of religion,²⁷⁵ despite evidence that religious selection criteria may lead to discriminatory selection of pupils and curtail children's ability to make their own choices over religious beliefs.²⁷⁶

Educational outcomes

182. Since 2008, education in England has continued to enjoy significant investment, with higher spending than comparative OECD countries.²⁷⁷ However, to date this has largely not translated into higher than average performance against comparative nations.²⁷⁸ There is greater range between each end of the performance spectrum in England than in other OECD countries. Inequalities in educational attainment appear to be shifting both demographically and geographically. While encouraging progress has been made in disadvantaged urban areas, particularly London, this appears to have been at the cost of England's deprived coastal towns and more remote rural areas. Attainment has risen among England's ethnic minority populations to such an extent that the lowest performing ethnic group is now indigenous white children from poorer families.²⁷⁹ Thus, although a higher proportion of young people entered higher education in 2014 than ever before and disadvantaged young people are a third more likely to access university than in 2009 (although still more likely to attend less prestigious institutions), young white people are the least likely group to enter university. This is particularly true of males - 18 year-old women are a third more likely to go to university than their male counterparts.

Sex and relationships education

183. A 2014 survey found that 80% of young people felt it was too easy to access pornography online, with 72% saying this is leading to unrealistic views about sex – particularly among boys.²⁸⁰ There is an urgent need for schools to provide sex education on wider issues around relationships and respect between the genders. In 2013 the Government regulator Ofsted concluded that Personal, Health and Social Education (PHSE) requires improvement in 40% of schools.²⁸¹ A recent parliamentary report²⁸² concluded that '*young people consistently report that the sex and relationships education (SRE) they receive is inadequate,*' recommending that PHSE be made statutory, with SRE as a core component. The Government has yet to respond.

Religious education

184. The Free School programme has been particularly used by religions or education ideologies (e.g. Steiner) as a means to fund their own schools. There is some emerging evidence of narrow or religiously-based curricula being taught in some places, including constrained curricula, religious proselytization, unequal treatment and gender segregation.²⁸³ This may violate children's rights to a broad and tolerant education under Article 29.

Social and cultural development

185. School success is increasingly measured by academic attainment, with non-academic subjects such as music, sport and the arts being undervalued and little attention paid to children's social and emotional development.²⁸⁴ The ambitious 'Extended School' vision of the 2000s to make schools community hubs with a wide menu of functions has been quietly abandoned. Funding for youth services outside mainstream education has suffered significant reductions in recent years and more are forecast.²⁸⁵

Disabled children and children with special educational needs (SEN)

186. Fundamental changes were made by the Children and Families Act 2014 and the revised SEND Code of Practice. These aim to improve links between education, health and social care services from birth to 25 years and for greater involvement by children, young people and their parents in decision-making at both individual and strategic levels. The Act also includes a presumption that a child will be educated in a mainstream setting.²⁸⁶ Government figures show an increase in the proportion of children with statements of SEN attending special (rather than mainstream) schools.²⁸⁷ While the reforms introduced by the Act have been broadly welcomed there are concerns that wider changes to the education system and local authority funding could restrict their impact.

187. There is concern that the removal of the School Action and School Action Plus system will mean that children without an Education Health and Care Plan will not receive the support they would have received had it remained.²⁸⁸

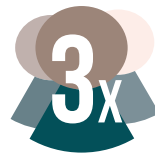
Exclusions and alternative provision

188. Arrangements for the education of children outside mainstream schooling have changed, including devolving the management of Pupil Referral Units (PRUs)²⁸⁹ from local authorities to management boards and promoting the role of Academy school providers in this area. Exclusions can still be appealed but a review board can only recommend, not order, reinstatement of the pupil. Mainstream schools have a new power to direct that pupils be taught off-site in order to improve their behaviour, raising concerns that vulnerable children with complex behavioural conditions – for example, autism – could more easily be informally excluded from mainstream school in order to avoid expensive specialist support.²⁹⁰ This may explain apparent falls in the number of school exclusions in recent years. Full-time education for excluded children must commence by the sixth day after exclusion, but there are no statutory time limits for children needing out of school education for other reasons, such as illness. The Children's Commissioner has highlighted these concerns.²⁹¹

GROUPS OF CHILDREN MORE LIKELY TO BE EXCLUDED



BOYS



**CARIBBEAN
ETHNIC GROUPS**

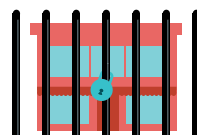


**FREE SCHOOL
MEALS**

7/10



Pupils with special educational needs account for **seven in ten** of all permanent exclusions



Pupils of **Gypsy/Roma and Traveller of Irish Heritage** ethnic groups have the highest rates of exclusion

Bullying

189. Children with SEN are more likely to experience bullying at school, for example those in primary schools in England were found to be twice as likely as others to endure persistent bullying.²⁹² A survey commissioned by the Anti-Bullying Alliance found that more than half of teachers (55%) heard children directing insulting or discriminatory language at a child with SEN.²⁹³ Despite a decline in homophobic bullying since 2007, homophobia in schools remains widespread with 55% of lesbian, gay and bisexual pupils experiencing direct homophobic bullying.²⁹⁴ Cyberbullying is recognised as a major and growing problem that urgently needs to be addressed.

Rest, leisure and play

190. Rest, leisure and play have been a casualty of the austerity drive. In the absence of a national play policy, many councils have disproportionately targeted play services for cuts²⁹⁵ with many long-standing services and projects closed and the land redeveloped.

Since 2010 the Government undermined children's rights under Article 31 by:

- **Abandoning a ten-year national play strategy for England with eight years still to run;**
- **Cancelling all national play contracts;**
- **Removing responsibility for play from the education Ministerial portfolio without reassigning it elsewhere;**
- **Breaking a public commitment²⁹⁶ to develop an alternative cabinet-led approach to play policy;**
- **Excluding all mention of children's need for play space from a revised framework document on national planning policy;²⁹⁷ and**
- **Withdrawing recognition of playwork in out-of-school care, leaving many children supervised under the same arrangements as during the school day.**

SPECIAL PROTECTION MEASURES

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The Government's 2014 report

- 191.** The Government report notes some important achievements in relation to asylum seeking and migrant children. We welcome the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings in 2009 and the European Directive on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Human Trafficking in 2011.
- 192.** We also welcome other improvements; most notably, the reduction in the number of children detained for immigration purposes, the piloting of a system of advocates for trafficked children and some progress with the development of age assessment practice guidance. However, in each of these areas, there are still concerns.
- 193.** In terms of deprivation of liberty and juvenile justice, we welcome the significant reduction in the numbers of children entering the criminal justice system and being placed in detention. However, England still has the highest child custody rate in Western Europe, the treatment of detained children has not improved and detention is not used as a last resort. Other positive reforms to the administration of juvenile justice – including the extension to 17 year-olds detained by the police of the special protections enjoyed by other children – have been achieved only after legal action has been brought against the Government.
- 194.** In relation to the involvement of children in armed conflict, the UK Government continues to affirm that its declaration to OPAC is not inconsistent with its obligations under the CRC or the Optional Protocol. However, the Declaration's broad formulation leaves children at risk of taking direct part in hostilities. The purpose of OPAC is to raise the age of possible recruitment and to protect all children from involvement in armed conflict, including in the circumstances envisaged in the UK's Declaration. The UK Government has made some progress in relation to the right of discharge.

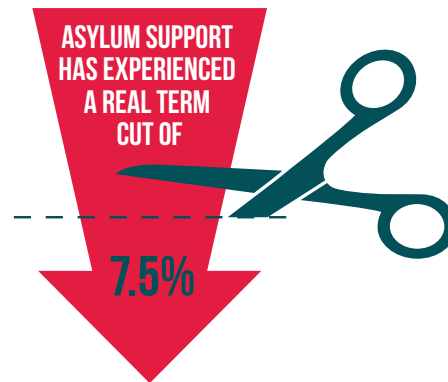
Immigration and migration

- 195.** In 2008, the Government lifted its general reservation to the CRC on immigration and citizenship and as a result Section 55 of the Borders, Citizenship and Immigration Act 2009 was introduced. This places a duty on the Secretary of State to have regard to the need to safeguard and promote the welfare of children in the UK who are subject to immigration control.²⁹⁸ However, progress since this achievement has, for the most part, been limited.
- 196.** A number of measures taken by the Government have had a detrimental effect on migrant children. This includes a failure to increase asylum support levels in line with inflation, the removal of free legal advice and representation for almost all immigration cases, the tightening of the Immigration Rules on long residence and restrictions on access to secondary healthcare for migrants. This has meant the burden of responsibility and cost is falling more and more on local authorities and the overall impact has been a regression of migrant children's rights. This presents a situation of grave concern.

197. Progress on the 2008 recommendations has been poor. For example, regarding giving the benefit of the doubt in age-disputed cases of separated children seeking asylum and in providing guardians for all separated children.

Returns

198. The best interests of children are not being assessed thoroughly when decisions on returns are made in relation to children. The JCHR has expressed concern that the need for immigration control is given priority over the child's best interests.²⁹⁹ The Home Office recently initiated a pilot scheme attempting to return unaccompanied children to Albania. The pilot is raising serious concerns about the level and quality of family assessments, the adequacy of legal representation and whether children are giving informed consent for the sharing of confidential information.
199. Other return programmes have been halted. In 2010, the UK became one of four states participating in the European Return Platform for Unaccompanied Minors (ERPUM) project to explore returning separated children to Afghanistan. Concerns were raised that Afghanistan was an on-going armed conflict, which could put the children at serious risk if they were returned. No children were returned and the scheme ended in 2014. The Government was also forced to end a "gentleman's agreement" with France, uncovered by research in 2012,³⁰⁰ which resulted in non-asylum seeking children arriving from France being sent to Children's Services in the UK rather than being bounced back without an assessment of their needs.
200. The Government introduced a new Family Returns Process in 2011 with the aim of managing the return of families who have no legal right to remain. The purpose of this is to increase Assisted Voluntary Return (AVR) without the need for detention or deportation. Families are given a minimum of two weeks to consider voluntary return, but this is often found to be inadequate, for example to allow for them to seek legal advice.³⁰¹ In some cases families are removed under 'limited notice' removals, whereby they are not informed of the date of their removal in advance, posing barriers to obtaining legal advice.³⁰²



Asylum support

201. Asylum seeking families with dependent children are entitled to support under Section 95 of the Immigration and Asylum Act 1999. Levels of asylum support have been frozen since 2011, representing a 7.5% cut in real terms.³⁰³ A cross-party Parliamentary inquiry emphasised the serious implications of the inadequate support system on children's health, wellbeing and development. The inquiry questioned whether the Home Secretary is meeting her duty to safeguard and promote the welfare of children subject to immigration control.³⁰⁴ In addition, a recent landmark High Court judgment found the Home Secretary had acted unlawfully in deciding rates of support to asylum seekers.³⁰⁵ She has since reviewed the rates and concluded that they were sufficient to meet essential living needs. Worryingly, the Government has suggested that rates of support are going to be cut further. Moreover, if a child is born after an asylum claim has been refused the parents are only eligible for

what is known as Section 4 support (short-term voucher based support) which is considerably lower than support provided under Section 95 and is manifestly inadequate.

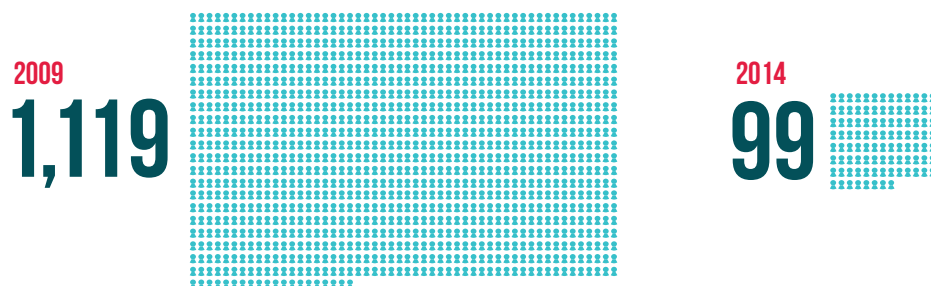
Undocumented migrant children

- 202. It is estimated that there are 120,000 undocumented migrant children in the UK with over half born in the UK.³⁰⁶ These children may have been here lawfully but either did not apply to extend their leave to remain or had their applications refused, or were born in the UK to parents who are not “settled”. These children’s parents often have a ‘no recourse to public funds’ (NRPF) condition imposed on them by the Home Office which means they have no entitlement to mainstream welfare benefits and public housing. As a result children in these families can face a life of destitution and are at high risk of abuse and exploitation. Under Section 17 of the Children Act 1989 local authorities have a duty to safeguard and promote the welfare of children in need in their area, including by provision of accommodation and financial support. However, rates of support under Section 17 are often inadequate, there is no national guidance on how the duty should be exercised and many local authorities have no written policy. Families are sometimes unable even to access an assessment for Section 17 support.³⁰⁷
- 203. Some children may not be able to return because they are unable to obtain the appropriate documentation. Many others have a legitimate fear of return or they have spent so long in the UK it is the only home they recognise. However, even when they have strong claims for remaining in the UK they may be unable to make these due to inadequate legal advice or prohibitive Home Office application fees.³⁰⁸
- 204. The Immigration Act 2014³⁰⁹ introduced a pilot scheme requiring private landlords to check the immigration status of new tenants. The Act also paved the way for charging for primary NHS care based on immigration status. These policies are likely to further exacerbate the rights violations experienced by undocumented children.³¹⁰

Children of EU Migrants (and migrants from Switzerland and EEA countries)

- 205. Poor knowledge of European human rights law among professionals coupled with a lack of entitlement to legal aid for immigration cases means many parents from the EU, or separated children, face considerable barriers to accessing support. For example, their housing benefit can be stopped, leading to eviction, or the spouse of an EU/EEA national fleeing domestic abuse may be denied emergency housing.³¹¹ Roma are particularly affected by these issues because of prejudice and discrimination.

CHILDREN HELD IN DETENTION FOR IMMIGRATION PURPOSES



Detention

- 206. Commendably, in 2010, the Government said it would end the detention of children for immigration purposes.³¹² However, while the number of children held prior to removal has reduced significantly, 99 children were still detained in 2014.³¹³ As 39 of these children were subsequently released it is hard to see how their detention could be claimed to be a measure of last resort. A recent Home Office-commissioned

evaluation of the Family Returns Process found that in some cases families were being detained in order to enable them to access state-funded child welfare support and counselling, which is not available to non-detained families.³¹⁴

Age disputes

207. Research shows migrant (and trafficked) children are regularly disbelieved about how old they are and face harmful, protracted age disputes.³¹⁵ In 2013, the Refugee Council found more than 40 children in the adult detention estate were wrongly assessed as adults.³¹⁶ Some progress may be made with the forthcoming publication of practice guidance for social workers.³¹⁷

Children involved in armed conflict

208. There remain serious concerns in relation to the implementation of OPAC and the Government's failure to take forward many of the UN Committee's 2008 recommendations.³¹⁸ Of these, the UK has made progress on only one, namely the partial expansion of the right of discharge for child recruits.³¹⁹ For more detail on the UK's compliance with OPAC see the report submitted to the UN Committee by Child Soldiers International.

Age of recruitment

209. The UK is one of a small number of 20 states still recruiting 16 year-olds and is the only state in Europe, the only major military power and the only Permanent Member of the Security Council to do this.

210. The policy has been challenged by the JCHR,³²⁰ the Commons Defence Committee,³²¹ the EHRC,³²² the four UK Children's Commissioners,³²³ and major children and human rights organisations.³²⁴ Despite this, the Government has refused to conduct a review of the minimum age for recruitment.

211. In 2013/14, the armed forces recruited 2,120 children (870 aged 16 and 1,250 aged 17), who made up 20% of the entire intake.³²⁵ More than 80% of child recruits are in the army,³²⁶ normally deployed in non-technical frontline combat roles.³²⁷

212. Marketing for the armed forces targets children by glamorising "big guns", "awesome armour" and "big boys' toys".³²⁸ The army's main brochure does not mention the terms of service or its risks.³²⁹

213. Recruitment of children for the army is concentrated in the north of England, a socio-economically deprived region, where the main training establishment for child recruits, the Army Foundation College (AFC) is also based. 74% of AFC's intake for non-technical roles in March 2015 were assessed during recruitment as having a reading age of below 12 years, with 7% as low as five years³³⁰ (below the army's minimum entry standard).³³¹

214. A Freedom of Information Act request also revealed that ten recruits were identified as self-harming, five as at risk at home, and five were under a Care or Supervision Order.³³²



215. The Supervisory Care Directive of AFC characterises child trainees as “*the Army’s most sensitive recruits*” but also acknowledges that the majority of staff “*arrive without the necessary training*” to work with them.³³³

Deployment

216. The UK no longer routinely deploys children to war zones, although it has done so “in error” on at least 22 occasions since 2003.³³⁴ In most cases the child was returned to the UK within days, although one remained in theatre for three months.³³⁵
217. The UK’s OPAC Declaration reserves the right to deploy children for reasons that include “the successful completion of the military mission” and “operational effectiveness,” thus prioritising military requirements above the best interests of the child.

Elevated risk

218. The youngest recruits face substantially elevated risks during their military career, despite the prohibition on their routine deployment to war zones until aged 18.
219. A report by ForcesWatch in 2013 found that, compared with their civilian counterparts, the youngest recruits from the most deprived backgrounds face a substantially higher risk of mental health problems, heavy drinking, violent behaviour, self-harm and suicide.³³⁶ Child recruits are trained in live weapon handling and bayonet drill and 17 year-olds are posted on armed guard duty. The army has said that child recruits are twice as likely as adults to be medically discharged due to injury during training.³³⁷

Administration of juvenile justice

Child imprisonment

220. Over the last six years the rate of incarceration for under-18s has decreased from 3,029 in 2008 to 1,177 in March 2014.³³⁸ Although this is welcome, it should be noted that the high point in 2009 was 795% higher than the rate in 1989 and England and Wales still has the highest child custody rate in Western Europe.³³⁹ Furthermore, children from BME backgrounds have not benefitted from the reduction to the same extent as white children.³⁴⁰ Moreover, for those children who are sentenced to custody, the average time spent in prison has increased.³⁴¹
221. Detention is still not used as a last resort in England. Children continue to be sentenced to custody for breaching community orders, for minor offences and for failing to comply with civil orders where the behaviour itself is not a criminal offence (the ASBO and the replacement civil injunction, see Civil Rights and Freedoms), as well as in immigration detention. Unlike adults, children are subject to a minimum term of four months imprisonment for minor offences.
222. LASPO introduced changes designed to reduce the use of remand to custody for children. However, in 2013/14, 1,930 children were remanded to custody (21% of average custodial population), and of these 62% were not given a custodial sentence (including 25% who were acquitted).³⁴²

Diversion and out of court disposals

223. Since 2008/09, the number of out-of-court disposals has fallen, but not as quickly as the rate at which children enter the criminal justice system. This suggests that a higher proportion of children are dealt with via pre-court disposals.³⁴³
224. Before April 2013 the number of formal pre-court disposals a child could receive was limited to two. Under LASPO an unlimited number of cautions can be issued.³⁴⁴ This is to be welcomed if it reduces the number of children being prosecuted. However, there is no requirement that a child agree to the use of a caution³⁴⁵ (as required under the Convention) and there remains the possibility that they may be given unjustly or on a discriminatory basis.

225. LASPO also introduces conditional cautions, allowing the attachment of conditions which, if breached, may result in prosecution for the original offence.³⁴⁶ Children must agree to these in writing but there is no prosecutorial or legal oversight³⁴⁷ thus increasing the penal powers of the police. The conditional caution will form part of the child's criminal record and may have to be disclosed, for example, to future employers.³⁴⁸ As of April 2015, 17 year-olds are included in the requirement that the conditional caution be issued only in the presence of an Appropriate Adult.³⁴⁹

Treatment of children when arrested, questioned and detained by the police

Seventeen year-olds in police detention

226. The Government has shown great reluctance to extend to 17 year-olds the protections afforded to children in conflict with the law. In 2013, following the suicides of two 17 year-olds (both of whom had been arrested and charged without their parents' knowledge and without the support of an Appropriate Adult) a judicial review was brought challenging these procedures.³⁵⁰ The High Court, using the definition of the child under the UNCRC, held that the exclusion of 17 year-olds from the right to an appropriate adult and to have a parent notified of their arrest was contrary to Article 8 of the ECHR. It took the death of another 17 year-old and the threat of further legal action before the duty on custody officers to move children to local authority accommodation rather than police detention overnight was extended to 17 year-olds.³⁵¹

86,034
CHILDREN
DETAINED OVERNIGHT
IN 2010 AND 2011

Children kept in police cells overnight

227. A 2011 report by the Howard League for Penal Reform found that in 2010 and 2011 86,034 children were detained overnight in police custody, including some for minor misdemeanors, despite the duty on custody officers to transfer them to local authority accommodation.³⁵²

228. A joint criminal justice inspection in 2011 found that in two-thirds of the cases reviewed where a child was charged and denied bail, no local authority accommodation was requested. Sixty seven percent of these children could have been placed in non-secure accommodation. Instead, the children were held overnight in police cells.³⁵³

The three 17 year-olds who committed suicide following police detention were Joe Lawton, Edward Thornber and Kesia Leatherbarrow

Children in court

229. When children appear in court in England charged with a criminal offence, the court must have regard to the welfare of the child.³⁵⁴ However, contrary to Article 3 CRC, the best interests of the child are not a primary consideration.

Use of adult courts

- 230.** A system of specialist youth courts exists in England and yet children charged with the most serious offences or who have an adult co-defendant can be tried in the adult Crown Court.³⁵⁵ This exposes children to proceedings less well equipped to secure their effective participation. The courts are open to the public and the presumption of anonymity that applies in the youth courts is reversed.³⁵⁶ Recent legislative reforms mean children charged with serious offences can now be tried in the youth court, even where they fall to be sentenced in adult Crown Courts.³⁵⁷ This should reduce the number of children tried in adult Crown Courts. All children should be tried and sentenced in specialist youth courts where their rights are better respected.
- 231.** Because the decrease in numbers of children in the criminal justice system has led to fewer youth court sittings, more children are also now more likely to appear in adult Magistrate courts, where Magistrates lack appropriate training.³⁵⁸ Furthermore, this will increase the likelihood that children will come into contact with adult defendants.³⁵⁹

Support for participating effectively: use of Registered Intermediaries

- 232.** The Criminal Justice and Criminal Evidence Act 1999 provides for special measures for “vulnerable witnesses”. However, children are not “vulnerable witnesses” for the purposes of the Act when they are witnesses in their own defence. This discrepancy could be partially remedied if section 104 of the Coroners and Justice Act 2009 – which provides for intermediaries for child defendants where it is necessary for a fair trial - is brought into force. The Government has not so far done so, and therefore child defendants must rely on the court to use its inherent powers to order special measures such as an intermediary.

Lack of specially accredited lawyers

- 233.** No specialist training or accreditation is required for lawyers representing children in criminal proceedings, contrary to UN Committee recommendations.³⁶⁰ This means that children are often represented by inexperienced lawyers who are unfamiliar with the juvenile justice system and children’s rights.

Vulnerable children in custody

Conditions

- 234.** Children who are deprived of their liberty suffer a number of violations of their rights, including the right not to be subject to degrading and inhuman treatment. Reports show that children in YOIs experience high levels of bullying, assaults, little time outside of their cell and poor quality of care, including inadequate food.³⁶¹ Incidents of self-harm are high across all types of locked accommodation.³⁶² In addition, until May 2014, children in certain types of custodial institutions were subject to routine strip-searching.³⁶³ This mistreatment compounds the existing vulnerabilities and disadvantages experienced by this group of children.³⁶⁴ New duties have been introduced to assess and meet the special educational needs of children in custody.³⁶⁵

Solitary confinement

- 235.** No central data is kept on the numbers of children placed in segregation units in YOIs.³⁶⁶ However, there is evidence that some institutions increasingly rely on segregation, despite the decline in the use of custody.³⁶⁷ An answer to a Parliamentary Question revealed that between October 2013 and September 2014, children spent 7,979 days in segregation units.³⁶⁸ Children are also kept in de facto solitary confinement; for example, the latest report on Feltham YOI found that 26% of children were on restricted regimes or “keep apart” lists and were locked in their cells for 23 hours a day.³⁶⁹



Secure colleges

236. The Government has introduced a new type of custodial institution in England: the “secure colleges”.³⁷⁰ Although “secure colleges” are supposed to move towards education and away from “bars on windows” institutions, the Government has not assessed – contrary to its own commitment in 2010 – the impact of “secure colleges” on the rights of the child. The JCHR has criticised the proposals.³⁷¹ If introduced, “secure colleges” will be large institutions housing up to 320 children. Many children will therefore be placed a long way from home, making family visits difficult and impeding children’s reintegration into their community upon release. No details have been given as to the staff-child ratio in the proposed colleges, but it is difficult to envisage close, care-based relationships - necessary for the best interests of the child – being fostered in large “super-prisons”.³⁷² The use of reasonable force against children for purposes of good order and behaviour is also authorised by the primary legislation, contrary to a child’s right not to be subject to degrading or inhuman treatment and the recommendations of the UN Committee, and the UN Committee Against Torture.³⁷³

Legal status of children in custody

237. Children deprived of their liberty and placed in custodial institutions are necessarily separated from their parents or carers. In 2012, the Government partially recognised the vulnerability of children deprived of their liberty and their need for additional support from local authorities’ Children’s Services departments by changing the law so that children who are remanded to custody acquire the status of “looked after” child and are therefore entitled to certain protections.³⁷⁴ However, children sentenced to custody are not attributed the status of “looked after” child.³⁷⁵

238. If children sentenced to custody were treated as “looked after” children, they could also become entitled to support upon leaving custody as ‘care-leavers’. This would facilitate the reintegration into society of such children by creating a clear legal duty on local authorities to provide support during their resettlement (for example to suitable accommodation and education and training).³⁷⁶

ANNEX: RECOMMENDATIONS 2015

GENERAL MEASURES OF IMPLEMENTATION

1. The Declaration on OPAC should be amended to ensure that child recruits cannot take a direct part in hostilities in any circumstance.
2. The Human Rights Act 1998 must be retained and the vital role it plays in protecting children's universal human rights, including key provisions of the CRC, should be recognised.
3. The CRC should be expressly incorporated into UK law at the earliest opportunity.
4. Structures should be established which ensure effective co-ordination and monitoring of CRC implementation across government, for example: a Cabinet Minister for Children, a Children's Cabinet Committee and a cross-cutting children's rights unit with adequate authority and resources. The children's rights unit should ensure adequate mechanisms are in place to enable civil society and children to work effectively and systematically with government in monitoring CRC implementation.
5. A Cabinet Minister for Children should be appointed, with responsibility for developing, in consultation with stakeholders, a child rights action plan. This should set out how it will address the recommendations made in the forthcoming Concluding Observations. The action plan should include clear, resourced, time-bound actions and a monitoring framework. Progress should be reviewed on an annual basis.
6. A mandatory, transparent system of child rights impact assessment for all policy, legislation and spending decisions should be introduced.
7. A clear set of child rights indicators should be developed alongside the collection and publication of disaggregated data, which cover the full range of children's rights, and includes data on how well children believe their rights are being realised. Such data should be used as a means of monitoring the resourcing and implementation of the CRC.
8. Transparent and participatory budgetary decision-making processes should be established and disaggregated budgets showing spending on children should be published regularly.
9. A national strategy for increasing awareness, knowledge and understanding of the CRC should be delivered.
10. The Office of the Children's Commissioner for England should have adequate funds to enable it to carry out its functions effectively.
11. All professionals working with and for children should receive statutory, pre and post qualifying comprehensive and ongoing training on the CRC.
12. Resources should be developed on the CRC for a range of audiences especially parents and specific groups of children, including younger children and disabled children.

13. All types of schools should be required to teach children about the CRC.
14. Aspects of the legal aid budget should urgently be restored to ensure that children can access justice and challenge decisions which affect their lives, welfare and rights.

Specifically:

Private family law:

15. Legal aid for an initial legal consultation (legal help fixed fee stage) for private family law cases concerning arrangements for children should be reinstated so that families can get preliminary legal advice on the process and their position, including on the possibility of mediation.
16. In private family law proceedings affecting children, there should be wider discretion to grant legal aid to victims of domestic violence. This should include discretion to allow evidence of domestic violence from more than 24 months prior to the date of the application for legal aid and greater flexibility as to what type of evidence is required.

Public family law:

17. Non-means-tested legal aid for parents should be available at an earlier stage of the child protection process (before the issue of a “letter before proceedings”) to enable families to obtain legal advice where there is a possibility that a local authority may contemplate care proceedings. In any court proceedings which consider the separation of a child from her/his birth parent(s), non-means-tested legal aid should be available.

Immigration:

18. Legal aid should be immediately reinstated for all children with immigration claims, and, on a means-tested basis, parents of under-18s bringing immigration claims. There should be an effective accessible process to apply for legal aid in all immigration cases affecting children’s welfare and best interests and legal aid should be granted to ensure effective access to justice for children.
19. Legal representatives should be paid to make Exceptional Case Funding applications, including in cases where the Ministry of Justice refuses the application.

Education:

20. Legal aid (including legal advice, assistance and, where necessary, representation) should be available for all education law matters involving children. This should include all matters in which parents hold legal rights relating to their child’s education.

Juvenile justice:

21. The availability to children in prisons of legal aid for treatment and sentencing issues should be restored.
22. Restrictions on judicial review under the Criminal Justice and Courts Act 2015 should be repealed.

DEFINITION OF A CHILD

23. The UK Government should undertake a review of age based legislation to ensure that all of the protective rights in the CRC apply to all those aged under 18 years of age.

GENERAL PRINCIPLES

24. A national strategy should be developed to end all forms of discrimination against children.
25. The Equality Act 2010 should be amended to extend protection from unfair age discrimination to under-18s. The law should also be amended so that the age element of the Public Sector Equality Duty applies to schools and children's homes.
26. The regulations made under the Equality Act 2010 should be amended to make clear that the exclusion of children who behave violently from the definition of disability does not apply to those whose behaviour is related to an underlying condition such as autism.
27. The requirement to treat children's best interests as a primary consideration should be enshrined in all laws relating to children, including in relation to juvenile justice.
28. Immigration law, policy and practice should reflect the UK's legal obligations under the CRC. The Home Office should ensure that the best interests principle is a primary consideration in every action affecting children.
29. A holistic and multi-agency Best Interests Determination process should be introduced to identify and implement a durable solution as early as possible for children subject to immigration control.
30. Courts should be expressly required in statute to have due regard to the best interests of children when sentencing parents.
31. Children's right to express their views, and to have these views given due weight according to age and maturity, should be enshrined in all laws relating to children and apply to all children, including those in the armed forces.
32. Children should be informed of their right to be heard and taken seriously, and training and support should be provided on an ongoing basis to all professionals working with children, including the judiciary. Any consultative methods should be fully assessable and of good practice standard.
33. Independent and confidential advocacy should be widely available to ensure children can actively take part in decisions about their lives and future. Where a child is the subject of administrative proceedings, including statutory reviews for children in care, care planning, child protection conferences and reviews, school exclusions, special educational need assessments and tribunals, and hospital admission processes (including mental health settings), there should be a statutory right to an independent and confidential advocate.
34. Accessible, well publicised and effective complaints procedures with an independent element should be guaranteed for all children living away from home.
35. The right to vote and stand in public elections should be extended to 16 and 17 year-olds.
36. The "Tellus" Survey, or an equivalent, should be reinstated, and extended to children in "special schools" and those in secure treatment and assessment centres and residential settings. Government should set out actions it plans to take as a result of surveying children's views and experiences.
37. Section 29B of the Education Act 2002, which provides students with a mechanism for dialogue with school governing bodies, should be commenced as soon as possible.
38. The Government's Youth Voice programme should be extended to include children under the age of 10.
39. The consideration of children's views in policy making should be included within its Open Government Partnership agenda.

40. Public funding should be made available for children's rights groups and organisations run by and for children.
41. There should be an independent and public inquiry into the unexpected death of any child who is looked after or held in custody.
42. Comprehensive data on child deaths (preventable and non-preventable) in all institutional settings spanning education, health, care, custody and the military should be published by the Government on an annual basis.
43. Disaggregated data should be collected, and made available, on children who self-harm or attempt suicide, including those in care, custody and immigration detention.
44. All available resources should be used to protect the child's right to life. The use of prison-like institutions (Young Offender Institutions; Secure Training Centres; and the proposed "secure colleges") should be ended for children and replaced with care-based homes. An independent inquiry into the deaths of children in such institutions should be commissioned by the Government.
45. Following a death in a mental health setting, an independent investigation should be carried out prior to an inquest and proper data (such as the cause of a death as well as demographic information like age and ethnicity) needs to be kept on children.

CIVIL RIGHTS AND FREEDOMS

46. The use of Mosquito devices in public spaces should be banned.
47. The law should be changed so that the range of injunctions to prevent nuisance and annoyance and dispersal directions cannot be issued in response to normal childhood behaviour, or behaviour that results from unmet SEN needs, and breach does not result in a custodial sentence.
48. Police forces should be required to collect the age of those they stop and search, and the Home Office annual review of stop and search should assess the proportionality of age alongside other protected characteristics.
49. The law should be changed so there is no "naming and shaming" of children in conflict with the law or who are subject to anti-social behaviour provisions. The law should be changed: to protect the identity of a child in receipt of the new anti-social civil injunction; to include a presumption that the privacy of children involved in criminal proceedings will be protected; and to extend the power of the courts to protect the identity of child defendants after they reach the age of 18.
50. The law should be changed so that children are treated distinctly from adults in relation to the retention of their DNA and fingerprints.

VIOLENCE AGAINST CHILDREN

51. The law should be changed to remove the defence of "reasonable punishment" and to prohibit all corporal punishment of children.
52. Restraint against children should only be used when the child poses an imminent threat of injury to himself or others, and it should never be used to deliberately inflict pain. All methods of physical restraint for disciplinary and immigration purposes should be abolished.
53. All institutional settings, whether run by the State or by a private or voluntary organisations, should be open and transparent about their approaches to discipline and behaviour management.
54. There should be consistency in safeguarding law and policy across all children's settings.

55. A national strategy on child neglect should be produced to create a unified system to ensure neglected children receive the help they need. The strategy should also include early help to avoid crisis intervention and reflect the complex nature of child neglect.
56. The system of managing sex offenders should be urgently reviewed to improve monitoring and prevent re-offending by individuals who pose immediate harm to children.
57. Increased resources should be made available to police to enable them to tackle online abuse images of children and increase convictions.
58. The age of victim under Section 1 of the Children and Young Persons Act 1933 should be raised from 16 to 18 to ensure all children can be protected as victims of child abuse and neglect.
59. A new offence of “child exploitation” covering victims up to the age of 18 should be introduced to better protect young people. Such an offence should stipulate that a child under the age of 18 cannot consent to their own exploitation.
60. The UK Government, police and prosecuting authorities should develop robust and reliable data collection on crimes committed against children up to the age of 18. This should include data on how many crimes have been reported to the police, the number of those that were investigated and prosecuted and conviction rates for different offences committed against children.
61. Data on abuse and neglect allegations made in respect of children in institutional settings - spanning education, health care, custodial and the military – should be published annually. This should identify the number of allegations that led to investigations and the outcomes of such investigations.
62. Child Abduction Warning Notices (served under Section 2 of the Child Abduction Act 1984 or Section 49 of the Children Act 1989) should be extended to all children up to the age of 18.
63. A reformed National Referral Mechanism for identifying trafficked and exploited children and embedded in existing child protection procedures should be introduced. This should be a multi-agency model requiring mandatory, accredited and specialist training for all social workers, police and front line professionals and rights of appeal to children.
64. A non-prosecution provision in statute should be introduced to prevent victims of trafficking from being prosecuted for crimes directly connected to their trafficking situation.
65. Safe accommodation, including specialist foster care, should be made available for child victims of trafficking based on a detailed assessment of their welfare and protection needs and should be guaranteed until the age of 21.
66. A durable solution for children who have been trafficked to the UK should be sought at the earliest opportunity following a formal Best Interests Determination process.
67. The use of Taser on children should be banned and, in the meantime, the regulations, training, guidance and transparency around the use of Taser on children should be improved, including the regular publication of fully disaggregated national data on this.
68. The use of all harmful devices on children by prison, police and immigration staff, including ratchet handcuffs and chains, should be prohibited.
69. Children should not be subject to strip-searching unless absolutely necessary, and then only in the presence of an appropriate adult.

FAMILY, ALTERNATIVE CARE AND EXPLOITATION

70. Public money should be invested in preventative early intervention, acting early to avoid crisis and to reduce the cost of late intervention.
71. An annual progress report on early support should be produced, which is presented and scrutinised by Parliament through the Public Accounts Committee.
72. The Government should monitor the level and quality of short break provision (providing support for disabled children and their carers). This should be monitored to ensure adequate funding is available to sustain provision. In the longer term the Government should be moving towards the situation where disabled children and their carers have adequate support on a day to day basis.
73. Universal Credit support for childcare with a tax-free childcare scheme should be introduced to create a single and fair system.
74. All local authorities should guarantee acceptable rates for subsistence under Section 17 of the Children Act 1989 taking into account the cost of meeting a child's basic needs. This could be set by linking this support rate to an existing benefit level.
75. The UK Government should be working towards providing adequate support to ensure that children do not have to care for a relative. In the meantime, there should be a commitment to identifying and providing adequate funding to support young carers.
76. Children with parents in prison should be identified at the point of sentencing, triggering an inquiry as to whether adequate care arrangements are in place, including assessments for kinship care support.
77. A lead Minister should be identified with responsibility for children with parents in prison and a National Action Plan should be developed to improve the experiences of such children.
78. There should be a statement in law that the principle aim of the care system for children and young people who spend significant time in care is to achieve recovery and healing from past harm, and promote resilience and emotional wellbeing. Alongside such a principle a new child-led outcomes framework for looked after children should be introduced.
79. Children whose parents have voluntarily placed them in foster care should not be put in a "fostering for adoption" placement without the parents first having access to legal advice or judicial oversight of the placement.
80. A legal presumption that it is in the interests of siblings to be placed together, unless contrary to an individual child's welfare needs, should be introduced. All local authorities should undertake an audit of the needs of looked after siblings and regularly publish data on sibling placements so as to ensure contact for separated siblings in care and support for older siblings acting as carers.
81. A new duty on local authorities should be introduced to ensure that potential placements with family and friends carers are always explored and assessed for suitability in preference to unrelated carers.
82. Statutory guidance on assessing family and friends carers should be issued, which includes an assessment tool for both viability and full assessments.
83. There should be a statutory presumption that a child placed away from home lives as close as possible to his or her family, unless this contradicts their wishes and feelings or would be demonstrably not in the child's best interests.
84. A nationwide 0-25 child and adolescent mental health service should be developed which meets the specific needs of children in care and care leavers, including access to appropriate placements and therapeutic services and continuity of care during important transition points.

85. All children in care and care leavers should have an automatic right to an assessment of their mental health needs.
86. All young people leaving care and preparing to live independently should be offered substantial independence skills training under a new framework. For young people who wish to leave care before their eighteenth birthday, this training should be mandatory. Preparation for leaving care should prioritise the importance of positive attachments, with the aim of ensuring no young person leaves care isolated and without familial and/or social support.
87. Local authorities should be prevented from placing care leavers in bed and breakfast accommodation.
88. There should be an entitlement for young people to remain in residential care until the age of 21 and urgent steps to ensure that arrangements for children to remain in all forms of care meet the needs of the most vulnerable.
89. Young people and their families should be given better support when they return home from care. In particular, continuing services which address the reasons why the children were removed, such as domestic violence, mental ill health or drug and alcohol misuse, should be provided.
90. Access to independent and effective advocacy services for children in care should be improved so that they are available to every child who wants them.
91. Each separated child should have meaningful access to an Independent Reviewing Officer within each local authority.
92. Separated children looked after by the local authority should be guaranteed mental and physical health assessments to address their health needs.
93. The Government should create a national database for missing children to improve data collection and intelligence sharing.

DISABILITY AND BASIC HEALTH AND WELFARE

94. An overarching strategy for promoting children's physical and mental health, outlining clear goals and accountability mechanisms - for the full range of services for children, from health promotion to acute care - should be developed. It should include measures to address health inequalities affecting children, in relation to poverty as well as the specific health challenges affecting groups of children particularly at risk of poor health or who face barriers to accessing services.
95. Children should be included in all relevant indicators in the NHS Outcomes Framework, to ensure the NHS is held to account for child health outcomes.
96. Children should be included in all relevant patient surveys or other mechanisms for recording patient experience, to ensure their voices inform commissioning and service development. All such mechanisms should be fully accessible for all children (including for disabled children).
97. The health complaints and complaints advocacy system should be reformed to ensure it is accessible for all children (including disabled children) and families, and that it helps drive service improvement. In particular, the Government should clarify where complaints about the lack of a particular service should be made.
98. Childhood mortality figures and steps taken to reduce child deaths should be reported on annually.
99. A sufficient number of midwives should be secured to address the current shortage and match the projected birthrate and clinical need.
100. An analysis of health system models should be commissioned to identify opportunities for improvement in the care of children, including examination of

standards of care in neonatal care settings, examination of the prevention and management of non-communicable diseases and consideration of the differences between the UK health system and that of our better performing European neighbours.

- 101.** The International Code of Marketing of Breastmilk Substitutes (and subsequent relevant Resolutions of the World Health Assembly) should be made statutory and mechanisms should be introduced to avoid conflicts of interest arising from public health programmes and partnerships. The quinquennial UK National Infant Feeding Survey should be reintroduced, alongside the appointment of National Infant Feeding Coordinators and the requirement for all hospitals, maternity, health visiting and neonatal services to work towards Baby-Friendly accreditation.
- 102.** There should be investment in smoking cessation in pregnancy services, and new national and local targets for reducing smoking rates across all stages of pregnancy and early parenthood should be set.
- 103.** Local authorities should be held to account by the UK Government for their teenage pregnancy rates through an annual audit of measures taken and their affect in high rate areas.
- 104.** The UK Government should ensure that local authorities continue to secure effective health visiting services for families - when they take over responsibility for their delivery - to promote healthy pregnancy and childhoods.
- 105.** A cross-sectoral National Physical Activity Plan should be implemented to reduce the number of inactive children and increase the number who meet World Health Organisation recommendations.
- 106.** Measures to tackle the effects of poverty and social inequality on children's health should be included in future national and local child poverty strategies.
- 107.** Local authorities and health bodies should be provided with evidence-based information and guidance on reducing health inequalities. Trends in geographical and social health inequalities should also be monitored.
- 108.** No child should be charged for NHS services on the basis of their immigration status and no one should be charged for NHS maternity services based on their immigration status.
- 109.** The development of high quality mental health services for children and young people in custody should be prioritised by NHS England.
- 110.** The UK Government should ensure all local authorities and local health commissioners are following guidelines on promoting the health of looked after children.
- 111.** All the proposals of the children's mental health taskforce should be implemented and progress and impact should be reported on annually. In particular, government should ensure that all local health commissioners produce Transformation Plans for Children and Young People's Mental Health and Wellbeing, and hold them to account for delivering those plans.
- 112.** The commitment to legislate to ensure that no child or young person under-18 is detained in a police cell under mental health legislation should be delivered upon as soon as possible. The number of health-based and alternative places of safety should be increased to ensure sufficient places are available.
- 113.** As a matter of urgency, the commitments to ensure that no child with learning disabilities and behaviours that challenge is placed inappropriately in an in-patient assessment and treatment unit should be fulfilled. Future admissions should be prevented by securing both evidence-based support, close to home, and early intervention services.

114. A programme of action to ensure better integration across children's health (including in-patient and community), social care and education services should be developed. For example, a Children and Young People's Social Care Outcomes Framework should be developed, to sit alongside the public health, NHS and adult social care outcomes frameworks, to support better joined up accountability and approaches across children's health and social care services.
115. Children's transition between different health services, and especially into adult services, should be well supported.
116. The child health nursing workforce should be increased and developed and all GPs should have training in hospital-based paediatrics.
117. The law should be reformed to ensure that all children under-16 who are "voluntarily" admitted to mental health hospital under the consent of their parents are given the same right of access to legal review that all those over 16 years, deemed to lack capacity, already enjoy.
118. Urgent action should be taken to reduce the unacceptable and increasing levels of child poverty.
119. Child Benefit and Child Tax Credit – the principal financial state support for children – should be given the same protection as the basic state pension, that is, a "triple lock" guarantee that they rise in line with inflation, earnings, or by 2.5% – whichever is the highest.
120. The Benefit Cap should be removed to allow families in poverty to receive the social security benefits to which they are entitled.
121. Progress in eradicating child poverty should continue to be measured against the indicators set out in the 2010 Act.
122. The Spare Room Subsidy (the "Bedroom Tax") should be ended to ensure that tenants are not left facing Housing Benefit shortfalls that are likely to result in rent arrears and eviction.
123. A strategy for improving access to affordable credit for families should be developed, including developing a 'Breathing Space' scheme giving struggling families an extended period of protection from default charges, mounting interest, collections and enforcement action.
124. Current levels of investment in the Early Intervention Grant should be maintained, as the planned changes will compromise local authorities' ability to meet the needs of vulnerable children and their families.
125. A fully-funded national system of Council Tax support should be reinstated.
126. Free School Meals should be extended to all children living in poverty, including those from low income working families.
127. Universal Credit should be reformed to ensure that Free School Meals are available to all children whose families are on it, support with childcare costs are made up front (rather than reimbursed); and access is made available off line.
128. Further support should be provided to local authorities to help them reduce the use of "B&B" accommodation for homeless families. Action should be taken against those that continue to use it beyond the six week legal limit.
129. Action should be taken against local authorities who do not comply with law and statutory guidance, by accommodating under section 20 of the Children Act 1989 all children who present as homeless, or at risk of immediate homelessness, pending a full assessment of need.
130. The Education Committee's recommendation that there be a total ban of B&B accommodation for 16/17 year-olds, alongside a strengthened requirement for local authorities to commission sufficient alternative emergency facilities, should be adopted into law.

EDUCATION, LEISURE AND CULTURAL ACTIVITIES

- 131.** The entitlement to early education should continue to be extended, particularly ensuring it is taken up among under-represented or disadvantaged groups.
- 132.** The professionalism of early years' education should be increased by, for example, requiring that each setting should have at least one member of staff who is a graduate.
- 133.** Further education should be resourced appropriately to meet the duty of ensuring all 16 and 17 year-olds have access to education, training or employment (with specified training).
- 134.** Policies should be adapted to respond to recent changes in demographics to ensure all children receive the highest quality education regardless of particular characteristics, for example ethnicity, gender, disability, etc.
- 135.** All children should have access to independent face to face careers advice.
- 136.** Policy and strategy for children's play and recreation should be reinstated as a ministerial responsibility, and sufficient provision for play should be made a statutory duty for local authorities in England.
- 137.** Personal, Social, Health and Economic education should be given statutory status, securing for all pupils a legal entitlement to health education, to strengthen the quality of provision. This should cover statutory sex and relationships education, and should be inclusive (for example covering same-sex families and health and relationships issues for lesbian, gay, bisexual and transgender young people) with no opt outs for 'faith' schools and Academies and no right of withdrawal for parents.
- 138.** All children should have the right to access a broad religious studies curriculum, including a non-religious world-view, and the degree to which state schools can religiously select should be gradually reduced.
- 139.** Children should have a separate statutory right to appeal against school admission and exclusion decisions and, where they are granted these rights, all children should have access to legal aid when they wish to make an appeal.
- 140.** All children without an Education, Health and Care Plan, who would have previously received additional support under the School Action and School Action Plus system, should receive the necessary provision they require in a timely manner.
- 141.** Permanent or temporary exclusion from school should only be used as a last resort, the number of exclusions should be reduced, and the over-representation of particular groups of children, which are currently more likely to be affected by exclusion, should be addressed.
- 142.** The quality of alternative provision should be monitored and improved.
- 143.** All teachers should be trained to tackle bullying, including cyberbullying, and should be able to support specific groups, such as disabled children, including those with SEN and LGBT young people.

SPECIAL PROTECTION MEASURES

- 144.** Children should never be separated from their parents for the purposes of immigration control.
- 145.** The Home Office should ensure that children's long-term legal status and stability is resolved as soon as possible. Every immigration case should include a case-specific consideration of the welfare of the child concerned and, where it would be in the child's best interests, they should be granted indefinite leave to remain, rather than automatically granted limited leave.

146. Where a parent with a child in the UK is appealing their deportation, and Section 17(3) of the Immigration Act 2014 applies, the appeal should be brought from within the UK if this is in the best interests of the child.
147. Children should not be detained for the purposes of immigration control and authorities should ensure that alternative enforcement measures do not harm children's health and welfare.
148. A consistent system of legal, independent guardianship should be introduced for all separated children across the UK.
149. A specialist, multi-agency, holistic approach to age assessments should be developed, which ensures participation from a range of professionals such as doctors, teachers, foster carers and children's advocates. When undertaking age assessments, intrusive medical procedures should not be used like x-rays or dental assessments.
150. A separated child should only be returned to their country of origin on a voluntary basis to family, not to institutionalised care, following a formal Best Interests Determination process.
151. The Immigration Rules and statute should be revised to reflect the UK's legal obligations under domestic, regional and international instruments. Children's rights under Article 8 of the European Convention on Human Rights and best interests should be respected in line with established domestic and regional jurisprudence.
152. A cost of living increase to asylum support rates should be implemented so that they reflect at least 70% of mainstream support rates - this should be increased annually in line with inflation.
153. The minimum age for recruitment into the armed forces should be raised to 18. The best interests of the child should be paramount in all policies relating to the armed forces. For as long as the UK continues to recruit children into its armed forces, the following recommendations apply:
 154. The minimum service period that applies to child recruits should be no greater than that applied to adult recruits.
 155. Children who do not meet the minimum entry criteria should not be enlisted, without exception.
 156. The youngest recruits should be enlisted into all roles that carry a lower risk than frontline combat roles and child recruits should not be over-represented in frontline combat roles, particularly in the infantry.
 157. Educational provision for child recruits should be improved so that GCSEs in core subjects are included, which provide a necessary step towards further and higher education and improve lifelong employment prospects.
 158. As a minimum, it should be a requirement for armed forces recruiters to meet in person with the parents/guardians of child recruits at an early stage in the process and before enlistment may proceed.
 159. Parents/guardians should be given the right to withdraw consent to enlistment until their child turns 18.
 160. A description of the terms of service should be included in the primary armed forces recruitment materials and brochures. The text should present the legal obligations of enlistment in clear and consistent terms, and in language accessible to a potential recruit who meets the minimum entry criterion for literacy.
 161. Legislation to increase the minimum age of criminal responsibility should be introduced.

- 162.** Legislation should be introduced to require a child's consent before issuing a caution, in line with the Beijing Rules – this should ensure any consent is fully informed. The Youth Conditional Caution should be repealed unless prosecutorial oversight is required.
- 163.** Custody officers should be sufficiently well trained in the legal obligations under the Police and Criminal Evidence Act 1984; overnight police detention should only be used as a last resort; and there should be sufficient local authority accommodation to ensure that no child spends the night in police cells.
- 164.** Section 44(1) of the Children and Young Persons' Act 1933 should be amended so that the child's best interest is a primary consideration in criminal proceedings against the child.
- 165.** Section 104 of the Coroners and Justice Act 2009 should come into force as soon as practicable so that child defendants have the right to an intermediary in court where it is necessary for a fair trial.
- 166.** Lawyers representing children in the police station and in all other criminal proceedings should be required to receive specialist training and be accredited.
- 167.** The commitment to deprive children of their liberty as a last resort should be embedded in legislation. Prison-like detention should be abolished and where children do need to be detained, they should be placed in appropriate, care-based homes.
- 168.** Solitary confinement, or any conditions that amount to solitary confinement, should be abolished.
- 169.** "Secure colleges" should be abolished or at the least the provisions which authorise the use of reasonable force against children in secure colleges for the purposes of good order and behaviour should be repealed.
- 170.** The status of "looked after" child should be extended to all children deprived of their liberty.
- 171.** There should be more investment in mental health services to divert vulnerable groups away from the criminal justice system.
- 172.** A statutory safeguard should be introduced to ensure that children are only detained as a last resort and for the shortest time possible. Where detention is necessary, this should only be in care-based homes: the threshold for the use of custodial sentences should be increased; imprisonment for breach of community orders and civil orders prohibited; and children should never be detained for immigration purposes.

REFERENCES

1. HM Government (2014) *The fifth periodic report to the UN Committee on the Rights of the Child*
2. HM Government (2014) *The fifth periodic report to the UN Committee on the Rights of the Child*
3. Its purpose is to hold military personnel on remand or serving sentences imposed at court martial; detainees may not leave; it is inspected by Her Majesty's Inspectorate of Prisons; and detainees' pay is stopped until their sentence is served
4. All Party Parliamentary Group for Children (2014) *"It's All about Trust": Building good relationships between children and the police*. National Children's Bureau
5. Department for Children, Schools and Families (March 2010) *The United Nations Convention on the Rights of the Child: How legislation underpins implementation in England*, page 15, and HM Government (2014) *The fifth periodic report to the UN Committee on the Rights of the Child*
6. Conservative Party (2015) *The Conservative Party Manifesto 2015*
7. UN Committee on the Rights of the Child (2008) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*, para 12
8. Children's Rights Alliance for England (2009) *State of Children's Rights in England (SOCR) Special United Nations Convention on the Rights of the Child Twentieth Anniversary Edition*
9. Education Committee (2012) *Governance and Leadership of the Department for Education*
10. Department for Children, Schools and Families, Welsh Government, Scottish Government, Northern Ireland Executive (2009) *Working Together, Achieving More*
11. Department for Children, Schools and Families (2009) *The UN Convention on the Rights of the Child: Priorities for Action*
12. HC Deb 6 December 2010, col 17WS
13. Cabinet Office (2014) *Guide to Making Legislation*, page 98
14. Department for Education (2013) *Consideration of the Children and Families Bill provisions in light of the European Convention on Human Rights and the United Nations Convention on the Rights of the Child*
15. Department for Education (2013) *Consideration of the Children and Families Bill provisions in light of the European Convention on Human Rights and the United Nations Convention on the Rights of the Child*
 Department for Education (2013) *Evidence packs to Children and Families Bill*
 Department for Education (2013) *Evidence Pack Adoption Reform: Children and Families Bill 2013*
 Department for Education (2013) *Evidence Pack Childcare: Children and Families Bill 2013*
 Department for Education (2013) *Evidence Pack Family Justice: Children and Families Bill 2013*
16. Home Office (2014) *Modern Slavery Bill: European Convention on Human Rights; United Nations Convention on the Rights of the Child – memorandum*
17. Joint Committee on Human Rights (2014) *Legislative scrutiny (1) Criminal Justice and Courts Bill, and (2) Deregulation Bill. Fourteenth report of session 2013-14*, para 1.57
18. See: <https://www.gov.uk/government/speeches/david-cameron-on-families>
19. HM Government (2014) *The fifth periodic report to the UN Committee on the Rights of the Child*
20. Zaman, S.(2010) *The United Nations Convention on the Rights of the Child: how legislation underpins implementation in England*. Department for Children, Schools and Families
21. Office for National Statistics (2014) *Measuring National Well-being: Exploring the well-being of children in the UK, 2014*
22. Children and Families Act 2014
23. Office of the Children's Commissioner (2014) *Legal Changes since April 2013: Child rights impact assessment*, page 30
24. JustRights (2015) *Justice for the young: A snapshot*
25. Public Law Project (2014) *PLP wins residence test case. Proposals to introduce legal aid residence test are unlawful and discriminatory*. Press Release
26. HC Deb, 8 September 2011, c419
27. Spurrier, M., (2013) *Exceptional funding: a fig leaf, not a safeguard*. Public Law Project

28. *Gudanaviciene & Ors v Director of Legal Aid Casework & Anor* [2014] EWHC 1840 (Admin) (13 June 2014), paras 45 - 46 & 56
29. House of Commons Justice Committee (2015) *Eighth Report of Session 2014-15 Impact of changes to civil legal aid under Part 1 of Legal Aid, Sentencing and Punishment of Offenders Act 2012*. HM Government
30. The Committee said, 'We are particularly concerned by evidence that trafficked and separated children are struggling to access immigration advice and assistance.' House of Commons Justice Committee (2015) *Eighth Report of Session 2014-15 Impact of changes to civil legal aid under Part 1 of Legal Aid, Sentencing and Punishment of Offenders Act 2012*. HM Government, para 62
31. See Part 4 of the Criminal Justice and Courts Act 2015
32. *Ben Hoare Bell Solicitors & Ors, R (On the Application Of) v The Lord Chancellor* [2015] EWHC 523 (Admin), paragraph 69
33. The United Nations Convention on the Rights of the Child
34. Department for Education (2014) *The National Curriculum in England: Key Stage 3 and 4 framework document*
35. Davey, C. (2010) *Children's participation in decision-making: a summary report on progress made up to 2010*. National Children's Bureau for Participation Works
36. See section 42 of the Criminal Justice and Courts Act 2015, amending the definition of an 'arrested juvenile' in Police and Criminal Evidence Act 1984, s. 37(15). This amendment came into force in October 2015. See also *R (on the application of HC) v Secretary of State for Home Department* [2013] EWHC 982 (Admin)
37. This is in contrast to the position of the Scottish Parliament which increased the age of prosecution to 12
38. See UN Committee on the Rights of the Child (2007) *General Comment No 10: Children's Rights in Juvenile Justice* (CRC/C/GC/10), para 32
39. For example, using care and protection processes under the Children Act 1989, and alternatives – such as "family group conferences" – could be developed
40. Oxfordshire Safeguarding Children Board (2015) *Serious case review into children sexual exploitation in Oxfordshire*
41. Rees, G. et al (2009) *Safeguarding Young People*, Children's Society, NSPCC and the University of York
42. The Ofcom Broadcasting Code does address the participation of under 18s in programmes - one of the UN Committee's recommendations - and calls on broadcasters to consider the impact/consequences of participation on the individual child. See OFCOM (2015) *Guidance Notes Section One: Protecting the under 18s*, rules 1.28 – 1.30
43. See for example, Children's Rights Alliance for England (2009) *Making the Case: Why children should be protected from age discrimination and how it can be done Proposals for the Equality Bill*
44. The Public Sector Equality Duty came under threat by the Coalition Government as part of its "Red Tape Challenge" – an attempt to reduce regulation and bureaucracy. The review of the Duty, such a short time after its implementation was widely condemned. Although the Duty was not, ultimately, scrapped, fears remain about the level of Government commitment to the Duty and its requirements
45. In *X v The Governing Body of a School (SEN)* [2015] UKUT 0007 (AAC), the Upper Tribunal held that regulation 4 (1) of the Equality Act 2010 (Disability) regulations meant that a six year-old girl with autism who had behaved aggressively at her primary school could not challenge her exclusion on the grounds of disability discrimination
46. Office of the Children's Commissioner (June 2013) *A Child Rights Impact Assessment of Budget Decisions: Including the 2013 Budget, and the Cumulative Impact of Tax-Benefit Reforms and Reductions in Spending on Public Services 2010-2015*
47. Lane, P., Spencer, S. and Jones, J. (2014) *Gypsy, Traveller and Roma: Experts by Experience. Reviewing UK progress on the European Union Framework for National Roma Integration Strategies*. Anglia Ruskin University
48. See: UK Visas and Immigration (2012) *Guidance: Family Reunion SET10*, section 1.5
49. In 2013, Government introduced changes to Consultation Principles which reduce opportunities for engagement in policy and legislation. The House of Lords Secondary Legislation Scrutiny Select Committee criticised this move: 'there is a risk that the resulting statute will be less robust because rushed consultation processes make it too difficult for external critique at the right time' House of Lords Secondary Legislation Scrutiny Select Committee (January 2013) *The Government's New Approach to Consultation 'Work in Progress'*
50. Cabinet Office (2013) *Open Government Partnership UK National Action Plan 2013-2015*
51. Children and Families Act 2014, s58 – 60. The pilot schemes in relation to Education Health and Care assessments and plans relate to children with SEN (s58 (1)(a)). The pilots relating to the Equality Act 2010 (s58 (1)(b)) relate to disabled children. There is some overlap in these groups but they are not coterminous.
52. The All-Party Parliamentary Group for looked after children and care leavers (2013) *The Entitlements Inquiry*
53. Coram Children's Legal Centre, *Anecdotal evidence provided to CRAE via email of 16/3/2015*
54. Blades, R., et al (2013) *We would like to make a change: Children and young people's participation in strategic health decision-making*. Office of the Children's Commissioner
55. House of Commons Health Select Committee (2015) *Complaints and Raising Concerns Fourth Report of Session 2014-15* The Stationery Office Limited. Many children and families do not know where to turn when they want to complain, particularly where they are wishing to complain about the lack of a particular service.

Children and young people's circumstances are not reflected in the NHS Constitution, they are unaware of their rights when using the NHS, and it is not clear how professionals promote these rights (National Children's Bureau/Council for Disabled Children - forthcoming)

56. VIPER (February 2013) *Hear Us Out!*
57. Children and Families Act 2014, Part 3
58. Section 157 of the Education and Skills Act 2008 introduced new Section 29B of the Education Act 2002
59. HM Government (March 2013) *Working Together to Safeguard Children: A Guide to Inter-Agency Working to Safeguard and Promote the Welfare of Children*
60. Children and Families Act 2014, s113
61. Children and Families Act 2014, s11
62. Greater Manchester Immigration Aid Unit (2013) *Children's Best Interests: A Primary Consideration*
63. Matthews, A., (2012) *Landing in Dover: The Immigration Process undergone by unaccompanied children arriving in Kent Office of the Children's Commissioner*
64. UN Committee on the Rights of the Child (2008) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*, para 27
65. Joint Committee on Human Rights (2013) *Human Rights of Unaccompanied migrant children and young people in the UK First Report of Session 2013–14*
66. *ZH (Tanzania) v Secretary of State for the Home Department* [2011] UKSC 4 and *HH (Appellant) v Deputy Prosecutor of the Italian Republic, Genoa (Respondent)* [2012] UKSC 25
67. Bail for Immigration Detainees (2013) *Fractured Childhoods: the separation of families by immigration detention*, Bail for Immigration Detainees (2013) *Justice Select Committee Inquiry: Impact of changes to civil legal aid under the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Written evidence submitted by Bail for Immigration Detainees, 30th April 2013*, Barnardo's (2014) *Cedars: two years on*
68. Under Schedule 3 to the Nationality, Immigration and Asylum Act 2002
69. Pinter, I. (2012) *I don't feel human: Experiences of destitution among young refugees and migrants*. The Children's Society
70. Office for National Statistics (2015) *Child Mortality Statistics: Childhood, Infant and Perinatal, 2013*
71. Wolfe, I. et al (2014) *Why children die: death in infants, children and young people in the UK. Part A*. Royal College of Paediatrics and Child Health; National Children's Bureau. The UK shows particularly poor performance on child deaths from non-communicable diseases amenable to treatment, for example asthma, diabetes and epilepsy. Cheung, R., Duncan, H., and Viner, R. (2015) *Report of the Children and Young People's Health Outcomes Forum 2014-15 – Health Outcomes Theme Group*
72. 4.6 stillbirths in every 1000 births. *Office for National Statistics (2015) Child Mortality Statistics: Childhood, Infant and Perinatal, 2013*
73. Wolfe, I. et al (2014) *Why children die: death in infants, children and young people in the UK. Part A*. Royal College of Paediatrics and Child Health
74. Department for Education (July 2014) *Child Death Reviews – Year ending 2014*
75. A modifiable factor is the term given to a death where nationally or locally achievable interventions could reduce the risk of future child deaths
76. Prison Reform Trust/INQUEST (2012) *Fatally Flawed: Has the state learned lessons from the deaths of children and young people in prison*; Youth Justice Board (2014) *Deaths of children in custody: action taken, lessons learnt*; and INQUEST (undated) *Child Deaths in Penal Custody 1990-date*
77. INQUEST (2015) *Stolen Lives and Missed Opportunities: The deaths of young adults and children in prison*
78. Prison Reform Trust/INQUEST (2012) *Fatally Flawed: Has the state learned lessons from the deaths of children and young people in prison* and INQUEST (2015) *Stolen Lives and Missed Opportunities: The deaths of young adults and children in prison*
79. See: <http://iapdeathsincustody.independent.gov.uk/>
80. INQUEST (2015) *Stolen Lives and Missed Opportunities: The deaths of young adults and children in prison*
81. INQUEST (2015) *Deaths in Mental Health Detention: An investigation framework fit for purpose?*
82. *The Independent Advisory Panel on Deaths in Custody* keeps data on those aged 11-20 but not on those specifically under 18
83. UN Committee on the Rights of the Child (2008) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*, para 35
84. HM Government (2014) *The fifth periodic report to the UN Committee on the Rights of the Child*, chapter III, para 3.
85. Home Office (2014) *Statistical Notice: Anti-Social Behaviour Order (ASBO) Statistics – England and Wales 2013*
86. Part 1 of the Anti-Social Behaviour, Crime and Policing Act 2014, in force since April 2015
87. Dispersal orders gave police the power to disperse two or more people from areas where persistent anti-social behaviour occurred, and to take home between 9pm and 6am any unaccompanied child under the age of 16
88. Anti-Social Behaviour, Crime and Policing Act 2014

89. Anti-Social Behaviour, Policing and Crime Act 2014, section 39
90. All Party Parliamentary Group for Children (2014) *All Party Parliamentary Group for Children Inquiry into 'children and the police': Initial analysis of information request to police forces*
91. See *Children's Rights Alliance for England (2014) State of Children's Rights in England 2014*, page 5. CRAE submitted an FOI request to 40 police forces in England about the number and characteristics of children stopped and searched in their area in 2008-09 and in 2013-14. Ten police forces responded
92. Her Majesty's Inspectorate of Constabulary (2015) *Stop and search powers 2: Are the police using them effectively and fairly?*
93. Queen's Regulations for the Armed Forces set out the conditions in which the state restricts the right of freedom of expression: QR J12.019
94. Children and Young Persons Act 1933, s. 49
95. Youth Justice and Criminal Evidence Act 1999, s. 45 and Children and Young Persons Act 1933, s. 39
96. Criminal Justice and Courts Act 2015, s. 80 and associated amendments
97. By dis-applying the Children and Young Persons Act 1933, s. 49. See Anti-Social Behaviour, Policing and Crime Act 2014, s. 17
98. Criminal Justice and Courts Act 2015, s. 78
99. See *R (on the application of JC) v Central Criminal Court* [2014] EWHC 1041 (Admin)
100. Including child protection, care proceedings, adoption placements and orders, secure accommodation orders and applications relating to medical treatment
101. Brophy, J and et al (2014) *Safeguarding, privacy and respect for children and young people & the next steps in media access to family courts*. NYAS and the Association of Lawyers for Children
102. House of Lords House of Commons Joint Committee on Human Rights (2011) *Legislative Scrutiny: Protection of Freedoms Bill*, para 62
103. House of Lords House of Commons Joint Committee on Human Rights (2011) *Legislative Scrutiny: Protection of Freedoms Bill*
104. The differential impact of retention on DNA of children was highlighted in *S and Marper v United Kingdom* (30562/04) European Court of Human Rights (Grand Chamber), 4 December 2008
105. Department for Education (2015) *Characteristics of children in need in England, 2013-14*. Table A5
106. Harker, L., et al (2013) *How safe are our children?* NSPCC
107. Holmes, E., Miscampbell, G., & Robin, B. (2013). *Reforming Social Work: Improving social worker recruitment, training and retention*. London: Policy Exchange
108. Miller, D and Brown, J (2014) *We have the right to be safe: Protecting disabled children from abuse*, NSPCC. See also Equality and Human Rights Commission (2014) *Out in the open. Tackling disability related harassment. A manifesto for change*
109. Travis, A. (9 April 2015) 'Reported child sexual abuse has risen 60% in last four years, figures show'. *The Guardian*. <http://www.theguardian.com/society/2015/apr/09/reported-child-sexual-abuse-has-risen-60-in-last-four-years-figures-show>
110. Figures obtained by the NSPCC using the Freedom of Information Act in 2013
111. Home Affairs Select Committee (2013) *Child sexual exploitation and the response to localised grooming. Second report of session 2013-14*
112. Topping, A (10 March 2015) 'Hundreds of convicted sex offenders are missing, new figures show'. *The Guardian*. <http://www.theguardian.com/society/2015/mar/10/hundreds-of-convicted-sex-offenders-are-missing-new-figures-show>
113. CEOP (2013) *Alarming new trend in online sexual abuse. Deadly combination of factors leads to children's vulnerability*. Press Release, 4 February 2013
114. Seto, Michael C., R. Karl Hanson, and Kelly M. Babchishin (2011) *Sexual Abuse: A Journal of Research and Treatment* 23.1 (2011): 124-145; *Contact sexual offending by men with online sexual offenses*
115. CEOP (June 2013) *Threat Assessment of Child Sexual Exploitation and Abuse*
116. CEOP (June 2013) *Threat Assessment of Child Sexual Exploitation and Abuse*
117. BBC News (20 October 2014) 'Paedophiles who download images 'won't all be charged'' <http://www.bbc.co.uk/news/uk-29692685>
118. Marie Collins Foundation (2014) *The Children's Workforce across England is ill-equipped to meet the needs of child victims of online abuse*. Press Release, 28 January 2014
119. See: NHS (2014) *Female Genital Mutilation*. Available at: <http://www.nhs.uk/conditions/female-genital-mutilation/pages/introduction.aspx>
120. Action for Children (2015) *Overstretched and overloaded: social workers feel powerless to help neglected children*. Press release, 11 March 2015
121. Action for Children (2015) *Overstretched and overloaded: social workers feel powerless to help neglected children*. Press release, 11 March 2015

122. See: Women's Aid Topic: Children. Available at: http://www.womensaid.org.uk/domestic_violence_topic.asp?section=0001000100220002
12% of under 11s, 17.5 % of 11–17s and 23.7 % 18–24s had been exposed to domestic violence between adults in their homes during childhood, Radford L, Corral S, Bradley C, Fisher (2011) *Child abuse and neglect in the UK today*, London: NSPCC
123. Brandon, M. et al (2012) *New learning from serious case reviews: a two year report for 2009-2011*. Department for Education
124. Rights of Women (2015) *Court deals blow to rights of domestic violence survivors to access justice*. Press release, 22 January 2015
125. The 1989 Pigot Report said that no young witness should 'be required to appear in court during a trial unless he or she wishes to do so' and that 'children should give evidence in surroundings and circumstances which do not intimidate or overawe them.' To make this a reality children would give evidence from a secure 'remote site' with video links to the court. Home Office (1989) Report of the Advisory Group on Video Evidence
126. In 2014 the Government launched a pilot of the outstanding "special measure" to be implemented from the Youth Justice and Criminal Evidence Act 1999. The s.28 pilots allow the pre-recording of a child's cross examination in advance of the trial. The pilots have taken place in three courts in England and the Government have announced an intention to roll out subject to the evaluation findings
127. UN Committee on the Elimination of Discrimination Against Women (2008) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*; The UN Committee on the Elimination of Discrimination Against Women (2013) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*; UN Committee on Economic, Social and Cultural Rights (2002 *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*) UN Committee on Economic, Social and Cultural Rights (2009) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland* UN Committee Against Torture (2013) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*; UN Human Rights Committee (2014) *List of issues in relation to the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland* NB The UK will be examined in July 2015
128. Children Act 2004, s. 58
129. HM Government (2014) *The fifth periodic report to the UN Committee on the Rights of the Child*, Chapter II, para 3
130. Restraint Advisory Board (2011) *Assessment of Minimising and Managing Physical Restraint (MMPR) for Children in the Secure Estate: Report to the Restraint Management Board*
131. Ministry of Justice, Youth Justice Board and National Statistics (2015) *Youth Justice Statistics 2013/14 England and Wales*. Youth Justice Board / Ministry of Justice Statistics bulletin
132. Youth Justice Board (2014) *Statistical Notice Minimising and Managing Physical Restraint (MMPR) Data Collection March 2013 – March 2014*
133. UN Committee on the Rights of the Child (2008) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*. Para 39
134. In 2008, the Court of Appeal held that the use of painful restraint in Secure Training Centres was unlawful where it was used for the purposes of GOAD. It was held to be a breach of Article 3 of the European Convention on Human Rights (as interpreted using the UN Convention on the Rights of the Child, R (*on the application of C*) v Secretary of State for Justice [2008] EWCA Civ 882
135. House of Lords House of Commons Joint Committee on Human Rights (2014) *Second Report of Session 2014-15 Legislative Scrutiny: (1) Serious Crime Bill, (2) Criminal Justice and Courts Bill (second Report) and (3) Armed Forces (Service Complaints and Financial Assistance) Bill*
136. Her Majesty's Inspector of Prisons (2012) *Report on an announced inspection of Cedars Pre-Departure Accommodation*; Home Affairs Select Committee (2012) *The work of the UK Border Agency (April–June 2012) Eighth Report of Session 2012–13*
137. R (*on the application of Yiyu Chen and Ors*) v Secretary of State for the Home Department CO/1119/2013
138. HL Deb, 10 April 2013, c313W
139. Home Office (2014) *Review of the National Referral Mechanism for victims of human trafficking*
140. The Anti-Trafficking Monitoring Group (2014) *The National Referral Mechanism A Five Year Review A report by the Anti-Trafficking Monitoring Group for the Joint Committee on the Modern Slavery Bill*
141. United Kingdom Human Trafficking Centre (2013) *A Strategic Assessment on the Nature and Scale of Human Trafficking in 2012*. SOCA
142. Including Article 8, EU Trafficking Directive (2011); Article 26, Council of Europe Convention on Action Against Trafficking in Human Beings; Article 3, UN Convention on the Rights of the Child; Article 24, EU Charter of Fundamental Rights
143. Anti-Slavery International (2014), *Trafficking for forced criminal activities and begging in Europe: Exploratory Study and Good Practice Examples*
144. HL Deb, 7 July 2014, c4W
145. Independent Police Complaints Commission (2014) *Independent Police Complaints Commission review of Tasers use and complaints published*
146. Committee against Torture (2013) *Concluding observations on the fifth periodic report of the United Kingdom*, para 26

147. Children's Rights Alliance for England (2014) *State of Children's Rights in England 2014*, page 6
148. Bridge, R (25 February 2015) "Tasers drawn on 400 children in 2013" BBC News <http://www.bbc.co.uk/news/uk-31608320> NB The BBC figure is for England and Wales
149. Children's Rights Alliance for England (2014) *State of Children's Rights in England 2014*, pages 18-19
150. [2015] EWCA 114 at para 44
151. Local Government Association (2014) *Under pressure: how councils are planning for future cuts*
152. Ofsted (2015) Early help: whose responsibility?
153. Office of the Children's Commissioner (2013) *A Child Rights Impact Assessment of Budget Decisions: including the 2013 Budget, and the cumulative impact of tax-benefit reforms and reductions in spending on public services 2010 – 2015*
154. NSPCC (2014) *How safe are our children?*
155. NSPCC (2014) *How safe are our children?*
156. Department for Education (2015) *Characteristics of children in need: 2013 to 2014*
157. Department for Education (2014) *Statistical First Release Children looked after in England (including adoption and care leavers) year ending 31 March 2014*
158. Department for Education (2015) *Characteristics of children in need: 2013 to 2014*
159. NSPCC (2014) *How safe are our children?*
160. Local Government Association (2015) *The LGA's Budget 2015 submission*
161. Ofsted (2015) *The report of Her Majesty's Chief Inspector of Education, Children's Services and Skills 2013–14*
162. One particularly striking example is Hampshire, which has consulted on reducing its short breaks budget for 2015/16 by £1.85 million, a reduction of nearly two thirds from its current budget of £3 million. Many other Local Authorities are also proposing significant cuts to the funding available for short break services. Broach, S., and Rook, A (2015) *Challenging cuts to short break services*. Every Disabled Child Matters/Irwin Mitchell
163. Rutter, J. (2015) *Annual Childcare Costs Survey 2015*. Family and Childcare Trust
164. Parliamentary Inquiry into childcare for disabled children (2014) *Levelling the playing field for families with disabled children and young people*
165. The BBC, with assistance from The Princess Royal Trust for Carers, surveyed 4,029 pupils in ten secondary schools and found 337 had caring responsibilities. Howard, D (16 November 2010) "Number of child carers 'four times previous estimate'" BBC online <http://www.bbc.co.uk/news/education-11757907>
166. Children and Families Act 2014
167. Ministry of Justice (2012) *Prisoners' childhood and family backgrounds: Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners*.
168. Galloway, S. et al (2015) *An unfair sentence. All babies count: Spotlight on the criminal justice system*. NSPCC
169. Barnardo's (2014) *Just Visiting: Experiences of children visiting prisons*
170. Department for Education (2014) *Statistical First Release Children looked after in England (including adoption and care leavers) year ending 31 March 2014*
171. Children and Families Act, s3
172. Where the child has been placed in local authority care with the consent of the parents, there is no right to legal aid for the parents before the placement is made and there will be no judicial oversight of the decision to place the child with prospective adopters. This may threaten the child's right to live with their birth parents as the parents may not be fully informed of their rights to remove the child from care, they may not be aware of the risk that by the time the court is asked to consider whether adoption is in the child's best interests, the child has already established a relationship with the adoptive parents
173. Department for Education (2013) *Children looked after in England (including adoption and care leavers) year ending 31 March 2013, includes data for 2008/9*.
Department for Education (2014) *Children looked after in England (including adoption and care leavers) year ending 31 March 2014*. SFR 36/014. <https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption--2>
Children's Rights Alliance England (2014) *State of Children's Rights in England 2014*, page 39
174. (Re B-S [2013])
175. Ashley C Ed. Authors Aziz R, Roth D and Lindley B (2012) *Understanding family and friends care: The largest UK survey* (Family Rights Group)
176. Family Rights Group (2015) *What happens to siblings in the care system?*
177. Family Rights Group (2015) *What happens to siblings in the care system?*
178. The Who Cares? Trust (2015) Anecdotal evidence via email 17 March 2015
179. Department for Education (2013) *Children looked after in England (including adoption and care leavers) year ending 31 March 2013, includes data for 2008/9*.
Department for Education (2014) *Children looked after in England (including adoption and care leavers) year ending 31 March 2014*. SFR 36/014

- Department for Education (2013) *Children looked after in England (including adoption and care leavers) year ending 31 March 2013, includes data for 2008/9*
180. Department for Education (2014) *Children looked after in England (including adoption and care leavers) year ending 31 March 2014. SFR 36/014*
 181. Department for Education (2014) *Children looked after in England (including adoption and care leavers) year ending 31 March 2014. SFR 36/014*
 182. Department for Education (2014) 'Children looked after in England, including adoption', *National Tables: SFR36/2014, Table A3*
 183. Children's Rights Alliance England (2014) *State of Children's Rights in England 2014, page 38*
 184. Young Minds (2015) *Improving the mental health of looked after young people; an exploration of mental health stigma*
 185. Meltzer, H., Gatward, R., Corbin, T., Goodman, R., & Ford, T. (2003). *The mental health of young people looked after by local authorities in England.*
 186. Action for Children (2014) *Too much, too young*
 187. Department for Education (2014) *Children looked after by local authorities in England, including adoption.*
 188. Stein, M. (2006). Research review: young people leaving care. *Child & Family Social Work*, 11(2), pages 273-279
 189. The Fostering Network et al (2013) *Still our children: case for reforming the leaving care system in England*
 190. Ofsted (2012) young people's views on leaving care
 191. Who Cares? Trust Evidence to CRAE 17 March 2015
 192. Barnardo's (2014) *Barnardo's goes undercover after research shows children leaving care are placed repeatedly in unsafe accommodation.* Press release, 7 September 2014
 193. Alcohol Concern (2011) *Factsheet: Young People and Alcohol*
 194. Office for National Statistics (2014) *International comparisons of teenage births* ONS: London
 195. Trauma relating to adverse childhood experiences should be acknowledged as an urgent national public health issue impacting upon physical and mental health, education and employment prospects of individuals, families, and communities that are experiencing trauma
 196. Health visitors are trained nurses or midwives with specialist training in family and community health)
 197. Content on breastfeeding draws on expert evidence from Baby Milk Action (email evidence to CRAE, 16 March 2015), The Association of Breastfeeding Mothers (email evidence to CRAE, 7 March 2015), La Leche League GB (email evidence to CRAE, 16 March 2015) and Unicef UK (email evidence to CRAE, 16 March 2015)
 198. Office for National Statistics (2012) *Infant feeding survey – UK, 2010* ONS
 199. Cheung R, Duncan H and Viner R (2015) *Report of the Children and Young People's Health Outcomes Forum 2014-15 – Health Outcomes Theme Group*
 200. Compared to 84% in Scotland, 73% in Northern Ireland and 71% in Wales Unicef UK (2014) *Baby friendly statistics 2014*
 201. Legislation still allows for the marketing of 'follow-on formula', bottles and teats
 202. From 14.6% in 2008-9 to 12% in 2013-14. Health and Social Care Information Centre (2014) *Statistics on women's smoking status at time of delivery: England.* Quarter 4: April 2013 to March 2014. Final Report
 203. Ranging 2.9% to 29.7%. RCPCH (2015) *UNCRC 2015 Civil Society Submission Written evidence submitted by the Royal College of Paediatrics and Child Health*
 204. Cheung R, Duncan H and Viner R (2015) *Report of the Children and Young People's Health Outcomes Forum 2014-15 – Health Outcomes Theme Group*
 205. For example due to maternal obesity and more women over the age of 40 giving birth
 206. Royal College of Midwives (2013) *State of Maternity Services Report 2013*
 207. NHS Information Centre (2013) *National Child Measurement Programme, England, 2012-13 school year*
 208. In 2013, 17% of girls and 16% of boys ate five portions of fruit and vegetables per day, compared to 20% and 19% respectively in 2008. NatCen (2014) *Health survey for England 2013*
 209. In 2013, only 21% of boys and 16% of girls engaged in at least one hour of moderate to vigorous physical activity per day, down from 28% and 19% respectively in 2008. NatCen (2013) *Health survey for England 2012*
 210. Office for National Statistics (2014) *Childhood, infant and perinatal mortality in England and Wales, 2012* ONS
 211. Children's Rights Alliance for England (2014) *State of Children's Rights in England 2014, page 48*
 212. 76% in the most deprived areas vs 89% in the least deprived areas. Health and Social Care Information Centre (2012) *Infant Feeding Survey*
 213. Ages 4-5: 12.1% in most deprived vs. 6.4% in least deprived; ages 10-11: 24.2% in most deprived vs. 13% in least deprived. NHS Information Centre (2013) *National Child Measurement Programme, England, 2012-13 school year.* See also Cheung R, Duncan H and Viner R (2015) *Report of the Children and Young People's Health Outcomes Forum 2014-15 – Health Outcomes Theme Group*

214. For example, the emergency hospital admission rate for children with asthma ranges across the country, from 25.9 to 641.9 per 100,000 – a 25-fold difference Department of Health (2013) *Annual report of the Chief Medical Officer 2012, Our Children Deserve Better: Prevention Pays (Annex 9: Atlas of Variation in Healthcare for Children and Young People)* HM Stationery Office
215. Office for National Statistics (2015) *Childhood, Infant and Perinatal Mortality in England and Wales, 2013* ONS
216. Expert evidence from The Who Cares? Trust and British Association for Adoption & Fostering (emails, 17 March 2015), Department for Education/Department of Health (2015) *Promoting the health and well-being of looked-after children: Statutory guidance for local authorities, clinical commissioning groups and NHS England*
217. Department of Health (2013) *Annual report of the Chief Medical Officer 2012, Our Children Deserve Better: Prevention Pays (Annex 9: Atlas of Variation in Healthcare for Children and Young People)* HM Stationery Office
218. Expert evidence from the British Association of Adoption and Fostering (email, 17 March 2015)
219. University of Cambridge research for Stonewall in The School Report 2012, a survey of 1600 lesbian, gay and bisexual young people http://www.stonewall.org.uk/at_school/education_for_all/quick_links/education_resources/4003.asp
220. British Medical Association (2014) *Young Lives Behind Bars: The health and human rights of children and young people detained in the criminal justice system*
221. Including antenatal services, although regulations state that these services should not be denied on the basis of ability to pay. And see The Children's Society (2015) *JCHR Inquiry - The UK's compliance with the UN Convention on the Rights of the Child Further submission – written evidence from The Children's Society*, Immigration Act 2014; and Department of Health (2015) *Guidance on implementing the overseas visitor hospital charging regulations 2015*
222. Shortall, C. et al. (2015) *Experiences of Pregnant Migrant Women receiving Ante/Peri and Postnatal Care in the UK: A Doctors of the World Report on the Experiences of attendees at their London Drop-In Clinic*
223. Cheung R, Duncan H and Viner R (2015) *Report of the Children and Young People's Health Outcomes Forum 2014-15 – Health Outcomes Theme Group*
224. Only 6% of total NHS spending on mental health was spent on children and young people in 2012-13 Department of Health/NHS England (2015) *Future in mind: promoting, protecting and improving our children and young people's mental health and wellbeing*
225. Official statistics on the prevalence of mental health problems among children date back to 2004, when one in ten children aged 5 to 16 suffered from a diagnosable mental health disorder (Green, H., McGinnity, A., Meltzer, H., et al. (2005). *Mental health of children and young people in Great Britain 2004*. Palgrave). Government has commissioned a new prevalence study
226. *Hansard House of Commons Official Report*, 28 Nov 2011, Vol. 536 No. 231, Column 780W
227. In 2014-15, 77% of clinical commissioning groups (newly established bodies responsible for securing local health services) had frozen or cut their child and adolescent mental health budget, and 55% of local authorities had frozen, cut or made below-inflation increases in their child mental health budgets. Young Minds (2014) *Devastating cuts to leading to children's mental health crisis*. Press release, 21 June 2014
228. 15 weeks maximum average in 2012-13, up from 14 weeks in 2011-12. House of Commons Health Select Committee (2014) *Children's and adolescents' mental health and CAMHS Third Report of Session 2014-15*
229. 236 children were placed in adult wards 2012-13 up from 88 in 2009-10. Care Quality Commission (2010) *Mental Health Act annual report 2009/10*. Figure 6, and Health and Social Care Information Centre (2014) *Monthly Mental Health Minimum Data Set (MHMDS) Reports, England - Final November 2013*, Key facts
230. Care Quality Commission (2014) *Monitoring the Mental Health Act in 2012/13*
231. Gentleman, A (9 April 2015) 'Children's mental health: a mother's campaign to be by her daughter's side', *The Guardian*
232. UN Committee on the Rights of the Child (2008) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*. Para 57
233. INQUEST (2015) *Coroner concludes lack of mental health beds a contributory factor in death of 17 year old Sara Green who died whilst an inpatient in a Priory Group hospital*. Press Release, 29 April 2015
234. Department of Health/NHS England (2015) *Future in mind: promoting, protecting and improving our children and young people's mental health and wellbeing*
235. (HL v UK 2004) <http://www.bailii.org/eu/cases/ECHR/2004/720.html>
236. See for example *Re D (A Child; deprivation of liberty)* [2015] EWHC 922 (Fam) confirming that parents can consent to secure accommodation for disabled children which would otherwise constitute a deprivation of liberty
237. For example, an investigation into the deaths of babies and mothers in childbirth at one hospital, between 2004 and 2013, found that changes to, and the complexity of, oversight and scrutiny arrangements result in 'missed opportunities' and undermine the ability of the system to identify and act upon poor quality care – in the hospital in question and potentially in all hospitals across the country. Kirkup, B (2015) *The Report of the Morecambe Bay Investigation*. See also Children and Young People's Health Outcomes Forum (2014) *Report of the Children and Young People's Health Outcomes Forum 2013/14*

238. Contact a Family (2014) *Counting the Costs 2014*
239. British Academy of Childhood Disability and British Association for Community Child Health (2014) BACCH and BACD Survey: *Impact of austerity measures on families with disabled children November 2014*
240. Challenging behaviours may include aggression, destruction, self-injury, and other behaviours (for example running away) which pose a risk to themselves and to those around them or which have a significant impact on everyday life
241. BBC Panorama – Undercover Care: The Abuse Exposed, BBC One, Tuesday 31 May 2011
242. Challenging Behaviour Foundation/Council for Disabled Children (2014) *Children with learning disabilities whose behaviours challenge – What do we know from national data?*
243. Children and Families Act 2014
244. Care Quality Commission (2014) *From the Pond into the Sea: children's transition to adult health services CQC*
245. Nursing and Midwifery Council (NMC) Register
246. See: <http://www.poverty.ac.uk/editorial/1-4-children-poverty-2020-%E2%80%93-ifs-forecast> and Browne, J., Hood, A., and Joyce, R., (2013) *Child and Working-Age Poverty in Northern Ireland from 2010 to 2020, IFS Report 78*, Institute of Fiscal Studies
247. HM Government (2014) *Child Poverty Strategy 2014-17*
248. "In-work" poverty refers to children in families where at least one of the parents is working but the household income is below the poverty line
249. In- work poverty is a function of stagnant wages and limited hours. The OECD has found that the UK has one of the highest rates of low pay in the developed world with 20 % of employees now classified as low paid
Save the Children (2014) *A Fair Start for Every Child. Why we must act now to tackle child poverty in the UK.*
Average earnings fell in real terms in the years after 2009/10 and have only very recently caught up with their pre-economic crisis levels. The cost of living has increased by 27-28 % since 2008. Average earnings rose 9 % during this period
250. Hirsch, D. (2014) *The Cost of a Child*. CPAG
251. Social Mobility and Child Poverty Commission (2014) *Response to the consultation on the Child Poverty Strategy 2014 to 2017*, para 9
252. Save the Children (2014) *A Fair Start for Every Child. Why we must act now to tackle child poverty in the UK*
253. Written evidence to CRAE submitted by The Children's Society 17 March 2015
254. Butler, P., & Malik, S. (2015) 'Benefit cap could drop 40,000 children into poverty, leaked memo warns'. *The Guardian*. <http://www.theguardian.com/politics/2015/may/29/household-benefit-cap-plunge-40000-kids-poverty-memo>
255. Of those, 29,099 were single parent families and 19,446 were couples with dependent children. Department for Work and Pensions (2015) *Benefit Cap Quarterly Statistics: GB households capped to November 2014*
256. *R (on the application of SG and others (previously JS and others)) (Appellants) v Secretary of State for Work and Pensions (Respondent)*, para 179
257. Department for Work and Pensions/Government Social Research (July 2014) *Evaluation of Removal of the Spare Room Subsidy. Interim report*
258. The Children's Society & StepChange, (2014) *The Debt Trap: Exposing the Impact of Problem Debt on Children*
259. Ashton, S (2014) *A new poll tax? The impact of the abolition of council tax benefit in London*. Z2K/CPAG
260. Cooper, N., & Dumbleton, S. (2013) *Walking the Breadline: The scandal of food poverty in 21st-century Britain*. Oxfam GB and Church Action on Poverty
261. *Chance of a Lifetime – The impact of bad housing on children's lives*, Shelter, 2006
262. Department for Communities and Local Government (2015) *Live tables on homelessness Table 775: households in temporary accommodation by type of accommodation, and cases where duty owed but no accommodation has been secured at the end of each quarter, England, London and Rest of England 1998 to 2014*
263. Department for Communities and Local Government (2015) *Live tables on homelessness Table 782 household types in temporary accommodation, England 2006 to 2014*
264. Department for Communities and Local Government (2015) *Live tables on homelessness Table 775: households in temporary accommodation by type of accommodation, and cases where duty owed but no accommodation has been secured at the end of each quarter, England, London and Rest of England 1998 to 2014*
265. Department for Communities and Local Government (2015) *Live tables on homelessness Table 775: households in temporary accommodation by type of accommodation, and cases where duty owed but no accommodation has been secured at the end of each quarter, England, London and Rest of England 1998 to 2014*
266. Pona, I., & Crellin, R. (2015) *Getting the house in order. Keeping homeless older teenagers safe*. The Children's Society
267. Coram Voice (2014) *The Door is Closed. A report on children who are homeless because they are failed by the system which is supposed to protect them*

268. Department for Communities and Local Government (2015) *Live tables on homelessness Table 778 households leaving temporary accommodation (or no longer recorded 'duty owed, no accommodation secured'), by outcome, England 1998 to 2014*
269. The Department for Education does not explicitly include Gypsy, Roma and Traveller children within the criteria for the Pupil Premium – they are only covered if they have registered as eligible for free school meals, though this does not reach all of these children in need of this support
270. Whybron, I. (2015) *Mind the Gap: 2015. Demos*
271. Legislation came into force for 16 year-olds from September 2013 and for 17 year-olds from September 2015
272. This lack of resources at local level to facilitate participation – includes the reduction of direct financial support for poorer students from c£650m p.a. to c£180m in 2011
273. The Secretary of State has power to vary these requirements where there is 'demonstrable need'. Applications made after the admissions cycle ('in-year' applications) are at the discretion of an Academy itself, which (unlike maintained schools) cannot be directed to take a child by a local authority. This raises concerns, given the disproportionate number of in-year admissions from vulnerable children such as looked-after children, those with SEN, or refugee children
274. Rodda, M. with Hallgarten J. and Freeman, J. (2013) *Between the Cracks: Exploring in-year admissions in schools in England. RSA*
275. Where places at a school are oversubscribed and allocated according to 'tiebreak' criteria
276. Fair Admissions (2013) *Map of English secondary schools by religious and socio-economic selection*
277. Wheeler, R., Ager, R., Burge, B. & Sizmur, J., National Foundation for Educational Research (2014) *Achievement of 15-Year-Olds in England: PISA 2012 National Report (OECD Programme for International Student Assessment)* Department for Education
278. In the 2012 PISA survey, England's 15 year-olds performed around average in mathematics and reading, but significantly higher than average in science, similarly to past performance
279. Excluding traveller, Gypsy and Romany children which present very specific challenges for the education system, particularly around attendance
280. IPPR (2014) *Online pornography is worrying Britain's 18 year olds*. Press Release, 20 August 2014
281. Ofsted (2013) *Not yet good enough: personal, social, health and economic education in schools*
282. House of Commons Education Committee (2015) *Life lessons: PSHE and SRE in schools: Fifth Report of Session 2014–15 Report, together with formal minutes relating to the report*
283. Clark, P. (2014) *Report into allegations concerning Birmingham schools arising from the 'Trojan Horse' letter HC 576* House of Commons
284. For example 2013 evidence from the Department of Culture, Media and Sport suggests a decline in the proportion of children involved in sporting activities across some age groups in the previous five years.
285. Spending on youth services declined 22.3% over 2011/12 to 2013/14 (http://www.cypnow.co.uk/digital_assets/502/Youth-Service-Expenditure-in-England.pdf) with further cuts predicted (Cabinet Office (2014) Local authority youth services survey 2013)
286. Children and Families Act 2014, s33
287. Official figures show that in 2010 - 38.2% pupils with SEN statements were in maintained special schools while in 2014 - 40.5% pupils with SEN statements were in maintained special schools. Department for Education (2014) *Statistical First Release Special Educational Needs in England: January 2014*
288. Education Committee (2012) *Sixth Report Pre-legislative scrutiny: Special Educational Needs*
289. PRUs provide education to children unable to attend mainstream school, including excluded children, those with behavioural difficulties, illness, or without a mainstream school place
290. Research shows 4 out of 10 children with autism have been excluded from school informally and therefore illegally and 20% have been formally excluded. Ambitious About Autism (2013) *Are schools delivering for young people with autism?*
291. Office of the Children's Commissioner (2012) *They Never Give Up On You*
292. Chatzitheochari, S., Parsons, S. and Platt, L. (2014) *Bullying and victimisation among disabled children and young people: Evidence from two British longitudinal studies* Institute of Education
293. Anti Bullying Alliance (2014) *1 in 10 adults have used abusive language towards a disabled person*. Press release
294. University of Cambridge research for Stonewall in *The School Report 2012*
295. A survey in 2014 by CYPN magazine found overall spending by local authorities on play services down from £67.9m in 2010/11 to £41.5m in 2013/4 (a 39% cut)
296. On 13 June 2010, Deputy PM Nick Clegg announced a Children and Families Ministerial Taskforce whose agenda would include a new approach to play policy. It has never reported
297. Department for Communities and Local Government (2012) *National Policy Planning Framework*
298. UK Border Agency (2009) *Every Child Matters, Change for Children: Statutory guidance to the UK Border Agency on making arrangements to safeguard and promote the welfare of children*. para 2.7
299. Joint Committee on Human Rights (2013) *Human Rights of Unaccompanied migrant children and young people in the UK* First Report of Session 2013–14 <http://www.publications.parliament.uk/pa/jt201314/jtselect/jtrights/9/9.pdf>

300. Matthews, A., (2012) *Landing in Dover: The Immigration Process undergone by unaccompanied children arriving in Kent*. Office of the Children's Commissioner for England
301. Refugee Children's Consortium (2011) *Briefing on Immigration Detention of Children*
302. Bail for Immigration Detainees and The Children's Society (2010) *Response to UKBA plans for pilots to remove families with limited notice and through open accommodation*
303. The Children's Society (2014) *From persecution to destitution: Section 95 asylum support*
304. Parliamentary inquiry into asylum support for children and young people (2012)
305. Refugee Action, *R (On the Application Of) v The Secretary of State for the Home Department* [2014] EWHC 1033 (Admin)
306. Sigona, N and Hughes, V (2012) *No Way Out, No Way in, Irregular migrant children and families in the UK*
307. Lewisham Public Accounts Select Committee (2015) *No Recourse to Public Funds Review* Public Accounts Select Committee
308. Coram Children's Legal Centre, (2013) *Growing Up In a Hostile Environment: The rights of undocumented migrant children in the UK*
309. Immigration Act 2014 Part 3 – Access to Services
310. The Children's Society (2013) *Submission to 'Tackling illegal immigration in privately rented accommodation' consultation* ; The Refugee Children's Consortium (2013) *Response to 'Sustaining services, ensuring fairness: A consultation on migrant access and their financial contribution to NHS provision in England'* – Department of Health
311. The AIRE Centre (2014), *'Written Evidence to the Joint Committee on Human Rights on Violence against Women and Girls'* 5 March 2014
312. UKBA (2010) *Review into ending the detention of children for immigration purposes*
313. Home Office Immigration statistics (2015) October to December 2014 – this number includes Border cases; age dispute cases; children of Foreign National Offenders (FNO) under Early Release Scheme; Family Returns Panel advised cases including FNOs
314. Home Office (2013) *Evaluation of the new family returns process*, page 36
315. Coram Children's Legal Centre (2013) *Happy birthday – disputing the age of children in the immigration system*
316. Dugan, E (9 January 2014) 'Children are still held in adult detention centres despite Coalition pledges to end the practice', *The Independent*. <http://www.independent.co.uk/news/uk/politics/exclusive-children-are-still-held-in-adult-detention-centres-despite-coalition-pledges-to-end-the-practice-9050170.html>
317. By the Association of Directors of Children's Services (ACDS) developed by a multi-disciplinary group which included the Home Office, Department for Education, NGOs and social workers
318. UN Committee on the Rights of the Child (2008) *Consideration of Reports Submitted by States Parties under Article 8 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict: Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*
319. This change, made in 2011 means that child recruits may now leave the armed forces at up to three months' notice, provided that the first six weeks' training have been completed and notice to leave has been given before the recruit's 18th birthday. Thereafter, recruits are automatically locked into their employment with the armed forces for four years (in the army) or less (in the navy and air force). The right to leave is delayed if a child recruit is sentenced to detention
320. Joint Committee on Human Rights (2009) *Children's Rights: Twenty-fifth Report of Session 2008-09* The Stationery Office
321. House of Commons Defence Committee (2005) *Duty of Care* (Third Report of Session 2004-5) The Stationery Office; House of Commons Defence Committee (2013) *The Armed forces Covenant in Action? Part 4: Education of Service Personnel* (Fifth Report of Session 2013-14). The Stationery Office
322. Equality and Human Rights Commission (2010) *UK Government UPR Mid-term Report: Report from the Equality and Human Rights Commission*
323. Commissioners for Children and Young People for Scotland, Wales and Northern Ireland, joint statement communicated to Child Soldiers International, 28 January 2015: *'The UK is the only state in Europe to recruit 16 year-olds into the armed forces. We support the growing global consensus that the minimum age for entry into the armed forces in the UK, should be raised to 18 as children should not be involved in hostilities, either directly or indirectly and to protect their mental health, education and long-term life chances, especially those in our most disadvantaged communities who – evidence shows – tend to be those being recruited at the youngest ages.'* See also Hellen, N. (2015) 'UK soldiers of 16 "too young"', *Sunday Times*, 11 January 2015
324. Amnesty International (2003) *United Kingdom: Army Barracks Deaths: Families Demand Justice*; UNICEF (2003) *UNICEF questions UK's right to deploy child soldiers in cases of "genuine military need"* http://www.essex.ac.uk/armedcon/story_id/000085.html
 In addition, Children in Scotland, the Children's Society, and the National Union Teachers have communicated their criticism of the policy directly to Child Soldiers International
325. Ministry of Defence (2014) *UK Armed Forces Annual Personnel Report. Table 7*
326. Ministry of Defence (2014) *UK Armed Forces Annual Personnel Report. Table 7*

327. For details of the over-representation of children in frontline combat roles, please refer to the shadow report submitted by Child Soldiers International
328. British Army (2015) *This is Camouflage*; News Letter (2015), 'Big boys' toy show' with more than 4,000 jobs on offer', 24 April 2015. Online at <http://www.newsletter.co.uk/news/regional/big-boys-toy-show-with-more-than-4-000-jobs-on-offer-1-6709060>
329. British Army (Army Training and Recruiting Group) (2014, in use March 2015), *Your guide to army life*
330. 74% of recruits were assessed to have literacy skills at Entry Level 3 (equivalent to a reading age of a 9-11 year-old); 7% were assessed at Entry Level 1 (equivalent to a 5-7 year-old). Information obtained under the Freedom of Information Act, Ref. FOI2015/03426, 21 April 2015. http://child-soldiers.org/research_report_reader.php?id=822
331. The army's minimum standard is Entry Level 2 (equivalent to a 7-8 year-old). British Army (Recruiting Group: Army Recruiting and Training Division) (2013) *Recruiting Group Instructions*, Chapter 11, para 11.172
332. Totals have been rounded to the nearest 5 in accordance with Defence Statistics policy. Information obtained under the Freedom of Information Act, Ref: FOI2015/04273, 27 May 2015 http://childsoldiers.org/research_report_reader.php?id=830
333. Army Foundation College (British Army) (2014) *Supervisory Care Directive*, para 82
334. For sources and detail, see Child Soldiers International (April 2015), *Letter from UK Ministry of Defence regarding deployment of under-18s on combat operations*. http://child-soldiers.org/research_report_reader.php?id=821
335. Child Soldiers International (April 2015) *Letter from UK Ministry of Defence regarding deployment of under-18s on combat operations*. http://child-soldiers.org/research_report_reader.php?id=821
336. Gee, D (2013) *The Last Ambush: Aspects of mental health in the British armed forces*. ForcesWatch <http://www.forceswatch.net/content/last-ambush>
337. British Army (2013) *Initial Training Group Policy Document: Care for the Under-18s*, page 5
338. Ministry of Justice (2014) *Youth Custody Report* March 2014
339. See House of Commons Justice Committee (2013) *Youth Justice: Seventh Report 2012-13*, para 54 and the Howard League for Penal Reform (2013) *Submission to the UN Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: 5th Periodic Review of the United Kingdom of Great Britain and Northern Ireland*
340. The custody rate for children whose ethnic identity is black is still two-thirds the rate of 2005 (dropping from 373 to 266 in 2013) whilst for white children it is just over a third (dropping from 2189 in 2005 to 747 in 2013)
341. House of Lords House of Commons Joint Committee on Human Rights (2015) *The UK's compliance with the UN Convention on the Rights of the Child, Eighth Report of Session 2014-2015*, para 119
342. Ministry of Justice (2015) *Youth Justice Statistics 2013/14 England and Wales*
343. Children's Rights Alliance for England (2014) *State of Children's Rights in England 2014*, page 92
344. Legal Aid, Sentencing and Punishment of Offenders Act 2012, s. 135
345. See Ministry of Justice/YJB (2013) Youth cautions: Guidance for police and youth offending teams, para 4.7
346. Crime and Disorder Act 1998, s. 66A as amended
347. Legal Aid, Sentencing and Prosecution of Offenders Act 2012, s. 138
348. Ministry of Justice, Code of Practice for Youth Conditional Cautions: Crime and Disorder Act (as amended by the Criminal Justice and Immigration Act 2008 and the Legal Aid, Sentencing and Punishment of Offenders Act 2012)
349. Criminal Justice and Courts Act 2015, s 41 which amends Crime and Disorder Act 1998, s.66B(5)
350. *R (on the application of HC) v Secretary of State for Home Department* [2013] EWHC 982 (Admin)
351. See section 42 of the Criminal Justice and Courts Act 2015, amending the definition of an 'arrested juvenile' in Police and Criminal Evidence Act 1984, s. 37(15). This amendment comes into force in October 2015.
352. Howard League for Penal Reform (2011) *Overnight Detention of Children in Police Custody, 2010-11: Research Briefing*
353. HM Inspectorate of Constabulary (HMIC), HM Inspectorate of Probation, HM Inspectorate of Prisons, the Care Quality Commission, Healthcare Inspectorate Wales and the Care and Social Services Inspectorate Wales, (2011) *Who's looking out for the children? A joint inspection of appropriate adult provision and children in detention after charge*
- See also a letter from the Home Office and the Department for Education to Local Authorities on 20th January 2015: https://owa.ncl.ac.uk/owa/redir.aspx?C=_PbJgj3Lg0Sj8PZJp60HqwIPD7rSSNII_85VYNmWHd4sg4BCo3zjoWxuVytXGngl12J9p_YnM-Q.&URL=http%3a%2f%2fyjlc.us9.list-manage1.com%2ftrack%2fclick%3fu%3d00ff1c103a99a8f2654eb6828%26id%3d41f4d5577c%26e%3d82ba65aa6b
354. Children and Young Persons Act 1933, s.44 (1)
355. In 2011, 2900 children were tried in the Crown Court. See Hollingsworth, K (2013) 'Children and the Criminal Law' in Bainham, A and Gilmore, S (eds) *Children: The Modern Law*, Jordans: London, p 823
356. See Children and Young Persons Act 1933, section 39

357. Prior to this change, the Youth Court could only commit for sentence if s/he pleaded guilty at the outset. Criminal Justice and Courts Act 2015, s.53
358. Lord Carlile of Berriew, Chair, and others (2014) *Independent Parliamentarians' Inquiry into the Operation and Effectiveness of the Youth Court*. National Children's Bureau
359. See for example, *R (T) v Secretary of State for Justice* [2013] EWHC 1119 (Admin) and Lord Carlile, of Berriew, Chair, and others (2014) *Independent Parliamentarians' Inquiry into the Operation and Effectiveness of the Youth Court*. National Children's Bureau
360. UN Committee on the Rights of the Child (2007), *General Comment No 10: Children's Rights in Juvenile Justice* (CRC/C/GC/10), para 49
361. As well as individual inspections reports <https://www.justiceinspectorates.gov.uk/hmiprison/inspections/#.VRgsYmYhyp4> see Prisons and Probation Ombudsman for England and Wales (2013) *Learning lessons bulletin: Fatal incidents investigation issue 3: Child Deaths* and Kennedy, E. (2013) *Children and young people in custody 2012–13: An analysis of 15–18-year-olds' perceptions of their experiences in Young Offender Institutions*
362. There were 1791 incidents of self-harm in 2011-12; down 35% from 2008 but up 21% from the year before. The rate for girls is especially high (at 26%). See Youth Justice Board/Ministry of Justice, *Youth Justice Statistics 2012-13 (2014)*
363. Figures obtained by the Howard League show that between September 2011 and August 2012 there were 11,713 full strip-searches for children upon reception (see http://www.howardleague.org/fileadmin/howard_league/user/pdf/Letters/Letter_to_Jeremy_Wright.pdf), Strip-searches are now be risk based across the secure estate: see Lord Faulks, HL Deb, 6 May 2014, c338W and the revised PSI 16/2014 (available at <http://www.justice.gov.uk/offenders/psis>, last visited 27 May 2014)
364. For data on the disadvantages suffered prior to incarceration see Jacobson, J, Bhadwa, B Gyateng, T, Hunter, G and Hough, M (2010) *Punishing Disadvantage: A Profile of Children in Custody* and Kennedy, E. (2013) *Children and young people in custody 2012–13: An analysis of 15–18-year-olds' perceptions of their experiences in Young Offender Institutions*
365. Part 3 Children and Families Act 2014
366. On how children experience segregation, see Howard League for Penal Reform (2010) *Life inside 2010: A unique insight into the day to day experiences of 15-17 year-old males in prison* 20 <http://www.howardleague.org/publications-youngpeople/>
367. In Ashfield YOI, there were 188 incidents of segregation in 2008 compared to 377 in 2011 HC Deb, 12 March 2012, c100W
368. HC Deb, 7 November 2014, cW)
369. <https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2015/01/Feltham-A-CYP-web-2014.pdf>
370. Criminal Justice and Courts Act 2015
371. House of Lords and House of Commons Joint Committee on Human Rights (2014) *Legislative Scrutiny: (1) Criminal Justice and Courts Bill and (2) Deregulation Bill*
372. Contrary to the UN Rules for the Protection of Juveniles Deprived of their Liberty, Rule 30. (A/RES/45/113, 1990)
373. Committee Against Torture (May 2013) *Concluding Observations on the Fifth Periodic Report of the United Kingdom, adopted by the Committee at its Fiftieth Session*
374. Legal Aid, Punishment and Sentencing of Offenders Act 2012, s.104
375. This is unless, prior to incarceration, the child had been subject to a compulsory care order under section 31 of the Children Act 1989; children voluntarily accommodated under the Children Act prior to incarceration become 'former looked after' children and local authorities retain some duties towards them
376. Hollingsworth, K (2013) Securing Responsibility, Achieving Parity? The Legal Support for Children Leaving Custody, *Legal Studies* pp.22–45



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