



**Children's Rights
Alliance for England**

Part of Just for Kids Law

Written evidence from the Children's Rights Alliance for England to the Human Rights Committee for its examination of the eighth periodic report of the United Kingdom under the International Covenant on Civil and Political Rights

February 2024

About The Children's Rights Alliance for England

The Children's Rights Alliance for England (CRAE) is part of the charity Just for Kids Law and works with over 100 members to promote children's rights and monitor government implementation of the UN Convention on the Rights of the Child and other human rights treaties.

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List of issues as they relate to children

In this submission, we focus on the UK Government's performance of its human rights obligations and commitments under the International Covenant on Civil and Political Rights (ICCPR) as they relate to children. This response to the Human Rights Committee's List of Issues prior to submission of the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland draws on our extensive expertise in monitoring the implementation of children's rights in England and expert evidence we receive from our members and other organisations in the sector working on children's rights issues. We have included the most up to date information and data available at the time of writing.

This submission can be published on the website of the Human Rights Committee.

Article 2

Constitutional and legal framework within which the Covenant is implemented

Threat to the Human Rights Act (HRA)

There is growing anti-rights rhetoric in England. The UK Government had proposed repealing the Human Rights Act (HRA), which would have significantly weakened rights protection for all, including children. The obligation on public authorities and courts to read and give effect to legislation in a way which is compatible with the European Convention on Human Rights (ECHR) would have been removed, resulting in a weakening of rights respecting delivery of public services

for children. Access to rights for certain groups, such as children in prison and in the immigration system would also have been limited, undermining the human rights principle of universality. The proposals to repeal the HRA were only shelved¹ after a joint effort from civil society. However, several pieces of recent legislation dilute the HRA for particular groups. The Illegal Migration Act 2023² and Victim and Prisoners Bill³ include clauses removing Section 3 of the HRA. There are also serious concerns around calls for the UK to withdraw from the ECHR,⁴ including by Cabinet members.⁵

There has been no progress on incorporating the ICCPR or any of the other core UN human rights treaties into domestic law, in contrast to Scotland which has incorporated the UNCRC⁶ and has committed to introducing a Human Rights Bill which would incorporate another four human rights treaties.⁷

Safety of Rwanda (Asylum and Immigration) Bill contravenes children's rights

The Safety of Rwanda (Asylum and Immigration) Bill⁸ - currently going through Parliament - was introduced by the UK Government to enable it to send those arriving to the UK in small boats, and claiming asylum, to have their claim processed in Rwanda. Regulations that rule that an asylum claim is 'inadmissible' if the claim can be made in a 'safe third country'⁹ (the basis for determining removals to Rwanda) also apply to children. Although the inadmissibility process does not apply to unaccompanied asylum-seeking children, it applies to children in families, and to age-disputed children.¹⁰ In November 2023 the UK Supreme Court ruled the Rwanda scheme to be unlawful.¹¹

The Safety of Rwanda Bill has been described by 260 organisations working to protect people's rights as a '*deeply harmful piece of legislation*' which '*threatens the universality of human rights and is likely in breach of international law*'.¹² With the proposed Bill, the UK is at risk of breaching its international obligations under a number human rights treaties, including the European Convention on Human Rights, the 1951 Refugee Convention, the UN Convention against Torture, the International Covenant on Civil and Political Rights and the UN Convention on the Rights of the Child.¹³

Recommendations

¹ [Human Rights Act reforms and the Bill of Rights Bill](#) The Law Society 12 July 2023

² [Illegal Migration Act 2023](#)

³ [Victims and Prisoners Bill - Parliamentary Bills - UK Parliament](#)

⁴ Sagoo R. [The UK must not sleepwalk into leaving the ECHR](#) Chatham House 17 March 2023

⁵ Allegretti A. [Tory MPs criticise Suella Braverman's 'alarmist' speech on migration](#) *The Guardian* 28 September 2023

⁶ [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Bill](#)

⁷ [The Human Rights Bill Consultation](#) Human Rights Consortium Scotland

⁸ [Safety of Rwanda \(Asylum and Immigration\) Bill - Parliamentary Bills - UK Parliament](#)

⁹ Right to Remain (3 February 2021) ['The new asylum inadmissibility rules'](#) Legal Update

¹⁰ FOI data shows that of the 9,622 individuals identified for consideration on inadmissibility grounds in 2021, 920 were children. 777 of these were issued with a 'notice of intent'. However, 422 were subsequently admitted into the UK asylum process. Ilona Pinter, PhD Candidate, Department of Social Policy, London School of Economics and Political Science (2022) [Written Evidence Submission to CRAE's Alternative Report](#).

¹¹ Casciani D., Seddon S. BBC News ['Supreme Court rules Rwanda asylum policy unlawful'](#) 15 November 2023

¹² [Over 260 charities and expert organisations call on House of Lords to reject shameful Rwanda Bill](#) 27 January 2024

¹³ ILPA, Justice, Freedom from Torture [Safety of Rwanda \(Asylum and Immigration\) Bill Joint Briefing for Second Reading in the House of Commons](#) 8 December 2023

- Fully protect the Human Rights Act and ensure all its provisions are available to all groups of people, including those in contact with the immigration system.
- The Safety of Rwanda (Asylum and Immigration) Bill should be scrapped.

Articles 2,3 and 26

Non-discrimination:

Racial discrimination against people of African descent and against members of the Gypsy, Roma, Traveller communities (including in health, housing, education)

Gypsy, Roma, Traveller (GRT) and Black children encounter systematic institutional and community discrimination. They are more likely to suffer poor mental and physical health and face discrimination in school. The UK Government's National Strategy to reduce GRT inequalities¹⁴ did not include clear tangible outcomes, and an action plan.¹⁵

Health:

GRT children continue to experience unequal access to healthcare, facing longstanding barriers to preventative and early intervention care including immunisations and screening.¹⁶ Barriers include wrongful registration refusal for those with no fixed address or identity document¹⁷, communication barriers¹⁸ and digital exclusion.¹⁹

National Health Service charging for maternity care exacerbates poorer health outcomes for women and babies from racialised communities.²⁰ Children – including those born in the UK – are losing National Health Service (NHS) entitlement due to the immigration and financial status of their parents²¹, and experiencing denial of or delayed care due to charging or deportation fears.²²

Funding for services that provide prevention and early intervention support for families with young children – including health visiting, children's centres and early years support – has decreased significantly over the last ten years.²³ Cuts have been most acutely felt by households facing multiple disadvantage, or with disabled children or those with additional needs.²⁴

¹⁴ Ministry of Housing, Communities and Local Government Press Release (6 June 2019) '[New national strategy to tackle Gypsy, Roma and Traveller inequalities](#)'

¹⁵ Gypsy, Roma and Traveller *Civil Society Report to the Committee on the Elimination of Racial Discrimination* July 2021

¹⁶ Public Health England (2018) [Making measles history together: A resource for local government](#)

¹⁷ Sweeney S., Worrall S. (2019) [No room at the inn: How easy is it for nomadic Gypsies and Travellers to access primary care](#) Friends, Families and Travellers

¹⁸ House of Commons Committee report (2019) [Tackling inequalities faced by Gypsy, Roma and Traveller communities](#)

¹⁹ Scadding J., and Sweeney S. (2018) [Digital Exclusion in Gypsy and Traveller communities in the United Kingdom](#) Friends Families and Travellers

²⁰ Public Health England (2020) [Maternity high impact area: Reducing the inequality of outcomes for women from Black, Asian and Minority Ethnic \(BAME\) communities and their babies](#)

²¹ Maternity Action (2022) [Charging for NHS care and vulnerable groups: the limitations of the DHSC Internal Policy Assessment](#)

²² Royal College of Paediatrics and Child Health (2021) [Access to healthcare for migrant and undocumented children - position statement](#)

²³ First 1001 Days Movement (2021) [A Decade of Disinvestment. The loss of services for babies in England](#)

²⁴ Ibid

The Covid 19 pandemic caused an unprecedented increase in demand for Child and Adolescent Mental Health Services (CAMHS). 409,347 children were referred for specialist mental healthcare (including suicidal thoughts and self-harm),²⁵ up from 230,591 in 2019.

The latest data shows that the number of open referrals to CAMHS is at a record high, with 496,897 children referred to services in November 2023.²⁶ Just over one in three children and young people with a mental health condition get access to NHS treatment and care.²⁷

Children face high access thresholds, rejected referrals, and long waiting lists. Children with Special Educational Needs and Disabilities (SEND)²⁸, children in poverty, LGBTQ+, GRT children, care experienced^{29,30} young carers³¹ or asylum seekers³² are disproportionately affected by mental ill-health.³³ Black and mixed-race children accounted for 36% of young people detained in acute mental health services (despite making up 11% of the population) but just 5% of those accessing community based CAMHS.³⁴

Recommendations

- **Scrap the NHS charging regulations hindering migrant children’s right to access healthcare.**
- **Introduce a cross-departmental national strategy to address growing child health inequalities (including underlying causes) with specific targets to address ill-health among children who are vulnerable, in poverty or with protected characteristics. Take urgent steps to increase provision of preventative and early intervention support both within education and community settings to support children’s mental health, including introducing a children’s well-being measurement.**
- **Urgently publish the comprehensive, cross-departmental ten-year Mental Health Plan, addressing underlying factors contributing to children’s mental ill-health and quality and effectiveness of treatment, backed up with adequate and sustainable investment.**
- **Take urgent action so all children can receive mental health treatment and support near their home; prevent unnecessary, prolonged stays in inpatient settings; address racial disproportionality; and ensure high quality treatment within such settings.**

Education:

There is a widening attainment gap in schools. In 2022, by the end of primary school Gypsy/Roma and Irish Traveller children lagged behind White British pupils by 19.2 and 18.2 months,

²⁵ April-October 2021

²⁶ Young Minds [‘Monthly referrals to children’s mental health services reach record high’](#) 11 January 2024

²⁷ Young Minds [Mental Health Statistics](#)

²⁸ Children with SEND are also more likely (56.7%) to have a probable mental disorder than those without (12.5%) House of Commons Library (2021) [Mental health statistics \(England\)](#)

²⁹ Care-experienced children are at higher risk of mental ill-health than their peers, with an estimated 45% of all children in care and 72% of children living in residential care having a diagnosable mental health condition. What Works for Children’s Social Care (2021) [Mental Health of Children and Young People in care - Evidence Summary](#)

³⁰ Children’s Commissioner for England (2022) [What we learnt from Gypsy, Roma, and Traveller children who responded to The Big Ask](#)

³¹ Mentally Healthy Schools [Young Carers](#)

³² 25 civil society organisations (23 December 2021) Directors of Safeguarding institutions [Public letter: Children seeking asylum are at risk](#)

³³ Health and Social Care Committee (2021) [Children and young people’s mental health Eighth Report of Session 2021–22](#)

³⁴ Centre for Mental Health (2022) [Shifting the Dial: Evaluating a community programme to promote young Black men’s mental health](#)

respectively.³⁵ In the 2021-2022 school year, Gypsy or Roma pupils had the lowest average Attainment 8 score (21) followed by Irish Traveller pupils (29.2) and Black Caribbean pupils (41.7).³⁶ School exclusion levels continue to be high, despite a decrease due to school closures during Covid-19.³⁷ GRT and Black Caribbean children are excluded at between almost double to more than three times the national rate. The national rate for permanent exclusions in 2021-2022 was 0.08 (up from 0.05 in 2020-2021).³⁸ The rate for permanent exclusions for each group disproportionately affected was: Gypsy Roma (0.31) Irish Travellers (0.31) Mixed White and Black Caribbean (0.23) and Black Caribbean (0.16).³⁹ This trend also persists in fixed-term exclusions, with these disproportionately affecting children from the same ethnic groups. The national rate for fixed-term exclusions in 2021-2022 was 6.91 (up from 4.25 in 2020-2021).⁴⁰ The rate for each group disproportionately affected is: Gypsy Roma (25.63) Irish Traveller (19.34) Mixed White & Black Caribbean (13.62) and Black Caribbean (11.74).⁴¹

Excluded children's attainment remains very low.⁴² The UK Government has recently published revised Statutory Guidance on Exclusions and Behaviour.⁴³ Worryingly, it removed a crucial paragraph that lists the groups of children disproportionately affected by exclusions such as GRT, Black Caribbean pupils, pupils on free school meals, boys, and children with SEND.⁴⁴

School exclusion and missing education are trigger points for involvement in crime or vulnerability to child criminal exploitation⁴⁵ with sometimes fatal consequences.⁴⁶ Children in the criminal justice system are more likely to have been excluded from school.⁴⁷ Black children are also disproportionately affected by child criminal exploitation (CCE) and more likely to be excluded as a

³⁵ Education Policy Institute [EPI Annual Report 2023](#)

³⁶ [GCSE results \(Attainment 8\)](#) 17 October 2023

³⁷ There were 3,900 permanent exclusions in 2020-2021 compared to 5,057 permanent exclusions in 2019-2020. While these statistics show that permanent exclusions have decreased, 2019-2020 and 2020-2021 were interrupted by national lockdowns due to Covid-19 so caution should be taken when comparing figures across years. In the last full academic year before the pandemic, 2018-2019, there were 7,849 permanent exclusions, and 7,719 and 7,905 permanent exclusions in 2016-2017 and 2017-2018 respectively. Comparing the data pre and post pandemic, in 2019-2020 autumn term (pre-pandemic), there were 3,200 permanent exclusions. This decreased in the 2020-2021 autumn term due to the pandemic (1,700). However, recent data for 2021-2022 autumn term shows that post-pandemic, there were 2,100 permanent exclusions, showing that exclusions are starting to rise again. Department for Education (2020-2021) [Permanent exclusions and suspensions in England](#) and Department for Education (Autumn 2021-2022) [Permanent exclusions and suspensions in England](#)

³⁸ [Suspensions and permanent exclusions in England](#) Department for Education (2021-2022) See [Pupil Characteristics](#)

³⁹ Ibid

⁴⁰ Temporary exclusions or fixed-period/term exclusions are now referred to as 'suspensions'. [Suspensions and permanent exclusions in England](#) Department for Education (2021-2022)

⁴¹ Ibid

⁴² Gill, K. with Quilter-Pinner, H. and Swift, D. (2017) [Making the Difference: Breaking the link between school exclusion and social exclusion](#) IPPR

⁴³ Department for Education (2022) [Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement](#); Department for Education (2022) [Behaviour in schools Advice for headteachers and school staff](#)

⁴⁴ Department for Education (2022) [Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement](#) Paragraph 44

⁴⁵ Graham, J. (2021) [Excluded or missing from education and child exploitation: literature review and stakeholder views on safeguarding practice](#) Tackling Child Exploitation and Commission on Young Lives (2022) [All together now. Inclusion not exclusion: supporting all young people to succeed in school](#)

⁴⁶ Waltham Forest Safeguarding Children Board (2020) [Serious Case Review Child C](#)

⁴⁷ Around one in five (22%) of children that had ever been permanently excluded were also cautioned or sentenced for a serious violent offence. Department for Education and Ministry of Justice (2022) [Education, children's social care and offending](#)

result of ‘adultification’ i.e. situations when notions of innocence and vulnerability are not afforded to certain children due to racial prejudice and other forms of bias.⁴⁸

Police presence in schools is increasing⁴⁹ creating unsafe school environments, particularly for marginalised students,⁵⁰ and increasing criminalisation of children. Police in schools are targeted at areas of ‘high deprivation’ - areas more likely to be inhabited by Black and racialised communities.⁵¹

Recommendations

- **Urgently develop a strategy with associated funding to reduce inequalities faced by children with SEND, in alternative educational provision and from different economic, racialised and migrant backgrounds, both at school and home.**
- **Ensure exclusion is used as a last resort in secondary schools and ended in primary schools;⁵² support schools with the necessary resources to achieve this.**
- **Disproportionality in rates of exclusion must be monitored, including by Ofsted, and the impact of adverse childhood experiences and racism, and the personal circumstances of these groups captured in their inspection framework.**
- **Reintroduce the paragraph in the statutory exclusion guidance which details the groups of pupils with disproportionately high rates of exclusion.**
- **Ensure there are greater protections for victims of child criminal exploitation excluded from school.**
- **Prohibit a police presence in schools.**

Housing:

There is a chronic shortage of GRT sites resulting in approximately 3,000 GRT families without a permitted place to stop.⁵³ This means they face constant evictions and live without adequate access to basic amenities,⁵⁴ with education and healthcare disrupted.⁵⁵ New legislation⁵⁶ actively targets

⁴⁸ Commission on Young Lives (2022) [All together now. Inclusion not exclusion: supporting all young people to succeed in school](#); Davis, J. and Marsh, N. (2020). ‘Boys to men: the cost of ‘adultification’ in safeguarding responses to Black boys’, *Critical and Radical Social Work*, 8(2), pp. 255-259

⁴⁹ Parveen, N. McIntyre, N. and Thomas, T (25 March 2021) ‘[UK police forces deploy 683 officers in schools with some poorer areas targeted](#)’ *The Guardian*

⁵⁰ Joseph-Salisbury, Dr. R. (2020) [Race and Racism in English Secondary Schools](#) The Runnymede Trust and The City & Hackney Safeguarding Children Partnership (2022) [Local Safeguarding Practice Review – Child Q](#)

⁵¹ Joseph-Salisbury, Dr. R. (2020) [Race and Racism in English Secondary Schools](#) The Runnymede Trust and Parveen, N. McIntyre, N. and Thomas, T. (25 March 2021) ‘[UK police forces deploy 683 officers in schools with some poorer areas targeted](#)’ *The Guardian* Under new measures to tackle disproportionality in policing, the Mayor of London has established an initiative to monitor police officers in school to see if they are disproportionately targeting Black children. Dodd, Vikram. (4 December 2020) ‘[Met officers in schools to be checked to see if black children are being targeted](#)’ *The Guardian*

⁵² Southwark Council has introduced an inclusion charter which strives for 100% inclusion of children in education and aims to prevent the use of exclusion in the borough. Southwark Council (18 July 2022) ‘[Southwark launches charter to help every child stay in education](#)’

⁵³ Which defines them as statutorily homeless. Section 175 of the Housing Act 1996. A person is homeless if their accommodation ‘consists of a moveable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted both to place it and to reside in it’; Ministry of Housing, Communities and Local Government (2019) [Count of Traveller Caravans, July 2019 England](#) ;

⁵⁴ Equality and Human Rights Commission (2022) [Pressing for progress: women’s rights and gender equality in 2018 Full report and recommendations](#)

⁵⁵ Written evidence received from Friends, Families and Travellers. September 2022

⁵⁶ Police Crime Sentencing and Courts Act 2022

GRT families by criminalising those without a place to stop. It gives police stronger powers to evict families without the protection of welfare assessments, instantly seize the vehicles/homes of families, issue fines and imprison over-18s, leaving families without a roof over their head and potentially forcing GRT children into care.

Most asylum-seeking families are destitute due to low levels of asylum financial support. Despite eligibility for additional support, pregnant asylum-seeking women and/or with children are housed in poor-quality accommodation (including hostels and hotels), with related ill-health, stress and poor nutrition affecting them and their children.⁵⁷

Recommendations

- **Fully implement the cross-departmental strategy to tackle entrenched inequality and improve the lives of Gypsy, Roma and Traveller communities.**
- **Switch from an enforcement to provision approach towards GRT encampments.**
- **Ensure asylum-seeking families are housed in safe and adequate accommodation to meet children's essential and developmental needs. End the practice of using hotels and hostels for families.**

Households with No Recourse to Public Funds (NRPF):

Those with NRPF cannot access mainstream benefits or, in some cases, the labour market. This is either because they are undocumented and have an unresolved immigration status, or because they have a legal right to remain in the country but have an attached NRPF condition on their leave to remain.

Despite a High Court decision finding the NRPF policy to have negative impacts on children,⁵⁸ the policy continues and prevents access to benefits including Universal Credit and Child Benefits.⁵⁹ Most support and emergency funding made available during the pandemic was inaccessible to NRPF families.⁶⁰ The UK Government does not know how many families are living with NRPF but there is widespread evidence that it puts children and families at greater risk of destitution, exploitation and abuse.⁶¹ Many children with NRPF experience homelessness or live in overcrowded, unsafe and inappropriate housing,⁶² with severe food insecurity⁶³ and negative

⁵⁷ Maternity Action (2022) *Maternal health. Exploring the lived experiences of pregnant women seeking asylum* Refugees from Ukraine are supported outside of the existing asylum system, with British host families often shouldering the burden of support Barnardo's (2022) *Written Evidence Submission to CRAE's Alternative Report*

⁵⁸ AB V the Secretary of State for the Home Department (2022) [AB v SSHD \[2022\] EWHC 1524 \(Admin\)](#); Deighton Pierce Glynn [Briefing Note on High Court judgment in AB v SSHD \[2022\] EWHC 1524 \(Admin\)](#) 20 June 2022

⁵⁹ House of Commons Work and Pensions Committee (2022) [Children in poverty: No recourse to public funds Seventh Report of Session 2021–22](#)

⁶⁰ The Children's Society, Project 17, The Unity Project (2020) [Support for children and families with No Recourse to Public Funds during the pandemic Parliamentary Briefing](#)

⁶¹ Coventry University, Project 17, Sustain, University of Wolverhampton, We Belong (2021) [Immigration Policies: Enforcing Borders, Driving Hunger and Creating Destitution](#)

⁶² House of Commons Work and Pensions Committee (2022) [Children in poverty: No recourse to public funds Seventh Report of Session 2021–22](#)

⁶³ Coventry University, Project 17, Sustain, University of Wolverhampton, We Belong (2021) [Immigration Policies: Enforcing Borders, Driving Hunger and Creating Destitution](#)

impacts on their mental and physical health.⁶⁴ NRPF disproportionately affects children from racialised communities.⁶⁵

Recommendations

- **Abolish the NRPF policy. At the very minimum, ensure it is not applied to families with children.**

Racial discrimination and disproportionality in policing and in the criminal justice system, and in counter-terrorism measures

Despite some progress,⁶⁶ urgent reform of the child justice system is needed to ensure it respects children's rights. Use of force by police on children continues to increase and racial discrimination is stark within children's interaction with the police⁶⁷ and across the youth justice system.⁶⁸ The Government's Prevent programme - part of the UK's counter-terrorism strategy – disproportionately affects children and continues to profile specific groups of children.

Policing:

There continues to be significant racial disparity in relation to children's interaction with the police and how they are treated.

During Covid-19, children felt unfairly targeted by police based on their age, class and race.⁶⁹ Tensions continue to be exacerbated by police practices, and there is significant racial disproportionality in use of force on children, including use of Tasers and spit-hoods.

Police custody is completely unsuitable and traumatic for children, yet many continue to be detained overnight. In the year ending March 2023, 17% of children detained overnight were Black, 5% were Asian and 8% of mixed heritage.⁷⁰

Strip searches of children carried out by the police under stop and search powers disproportionately affect Black children in England and Wales. They are up to 6 times more likely to be strip searched, compared to White children who are around half as likely to be searched.⁷¹

There has been a worrying increase in use of Taser against children (See section on *Articles 2, 4, 7, 9, 10, 14 and 19*, below). In 2023, the Independent Office for Police Conduct highlighted its concern on

⁶⁴ House of Commons Work and Pensions Committee (2022) [Children in poverty: No recourse to public funds Seventh Report of Session 2021–22](#)

⁶⁵ Coventry University, Project 17, Sustain, University of Wolverhampton, We Belong (2021) [Immigration Policies: Enforcing Borders, Driving Hunger and Creating Destitution](#)

⁶⁶ Ministry of Justice and Youth Justice Board (2019) [Standards for children in the youth justice system 2019](#); Ministry of Justice (2020) [A smarter approach to sentencing](#)

⁶⁷ Children's Rights Alliance for England (2022) [UK implementation of the UN Convention on the Rights of the Child Civil society alternative report 2022 to the UN Committee – England](#)

⁶⁸ Lammy, D. (2017) *An independent review into the treatment of, and outcomes for Black, Asian and Minority Ethnic individuals in the criminal justice system*

⁶⁹ Leaders Unlocked (2021) [Policing the Pandemic: Exploring young people's experiences and recommendations. Final report](#)

⁷⁰ Home Office (2023) [Police powers and procedures: Other PACE powers. England and Wales, year ending 31 March 2023](#)

⁷¹ [Strip search of children in England and Wales – Analysis by the Children's Commissioner for England](#) March 2023

the high proportion of Tasers used on Black children, finding that over a quarter (27.5%) of Taser discharge on under-18s was on Black children.⁷²

There has been a rise in the use of spit-hoods on children, in England and Wales, with racialised children accounting for 34% of spit-hood use nationally⁷³ and 72% of use by the London Metropolitan Police.⁷⁴

Criminal justice system:

Racial discrimination is stark across the whole of the criminal justice system and was the biggest concern of an independent review commissioned by the UK Government in 2017.⁷⁵ Despite this, the Government's action plan⁷⁶ makes no reference to addressing racial disparity in access to diversion⁷⁷ or to Black children receiving harsher sentences.⁷⁸

In the year ending March 2023, racialised children made up 51% of those imprisoned.⁷⁹ 26% were Black⁸⁰ and accounted for 33% of those on remand.⁸¹ Of those remanded in custody, the majority were male⁸² and from a racialised group (57%).⁸³ Children from a Mixed ethnic background accounted for 15% of those remanded in youth custody in the last year, and the proportion of children from an Asian or Other background slightly decreased from 12% to 11%.⁸⁴ Despite GRT people accounting for an estimated 0.1% of the British population, GRT children comprised 15% of those in Secure Training Centres (STCs)⁸⁵ and 8% of children in Young Offender Institutions (YOIs).⁸⁶

High number of Gypsy, Roma and Traveller (GRT) children in secure training centres

Most children are held in prison-like STCs or YOIs, with only 16% in welfare-based Secure Children's Homes.⁸⁷ The Independent Review of Children's Social Care concluded that YOIs and STCs are 'wholly unsuitable' for children, and 'should be phased out within the next ten years.'⁸⁸ Despite GRT people accounting for an estimated 0.1% of the British population, GRT children comprised 15% of the STC population⁸⁹ and 8% of children in YOIs.⁹⁰ In both STCs and YOIs, GRT children are

⁷² [IOPC statement on review of Taser discharges on children under 18](#) Independent Office for Police Conduct August 2023

⁷³ Responses to FOI requests made by the Children's Rights Alliance for England across the whole of 2017 and the first nine months of 2018 responses from 21 police forces.

⁷⁴ Children's Rights Alliance for England (2019) '[State of Children's Rights 2018: Policing and Criminal Justice](#)'

⁷⁵ Lammy, D. (2017) [An independent review into the treatment of, and outcomes for Black, Asian and Minority Ethnic individuals in the criminal justice system](#)

⁷⁶ Department for Levelling Up, Housing and Communities Race Equality Unit (2022) [Inclusive Britain: government response to the Commission on Race and Ethnic Disparities](#)

⁷⁷ Centre for Justice Innovation (2021) [Equal Diversion? Racial disproportionality in youth diversion](#)

⁷⁸ Youth Justice Board for England and Wales (2021) [Ethnic disproportionality in remand and sentencing in the youth justice system Analysis of administrative data](#)

⁷⁹ [Youth Justice Board Statistics 2022-2023](#)

⁸⁰ Ibid

⁸¹ Ibid

⁸² Ibid

⁸³ Ibid

⁸⁴ Ibid

⁸⁵ In 2020.

⁸⁶ Traveller Movement (2022) [Overlooked and Overrepresented: 5 Years on A briefing paper by the Traveller Movement](#)

⁸⁷ Ministry of Justice and Youth Justice Board (2023) [Youth Justice statistics England and Wales April 2021-March 2022](#)

⁸⁸ The Independent Review of Children's Social Care (2022) [The independent review of children's social care: final report](#)

⁸⁹ In 2020.

⁹⁰ Traveller Movement (2022) [Overlooked and Overrepresented: 5 Years on A briefing paper by the Traveller Movement](#)

significantly more likely to report they had either been victimised or felt unsafe whilst in custody.⁹¹ Restraint and isolation is disproportionately used on Black and other racialised children,⁹² including GRT children.⁹³

Recommendations

- **Take immediate steps to address racial disparity in the policing of children and across the Youth Justice System as a whole, including clarifying who is responsible for addressing it within the UK Government, and how progress on explaining or reforming racial inequalities is monitored.**

Profiling in counter-terrorism measures

Children are disproportionately affected by Prevent. Between 2015-2016 and 2020-2021, under-18s accounted for 47%⁹⁴ of all Prevent referrals, despite making up only 21% of the UK population. In recent years, the UK Government has rejected requests to provide data on the ethnicity and religion of children referred to Prevent,⁹⁵ preventing scrutiny of implementation of the 2016 Concluding Observations of the UN Committee on the Rights of the Child.⁹⁶ The latest data available shows 39% of children referred to Prevent were recorded as Muslim and 38% as Asian.⁹⁷ The UK Government's Independent Review of Prevent has been boycotted by human rights organisations due to concerns over the reviewer.⁹⁸ A report has also found that Prevent is not compatible with children's rights and puts national security and policing priorities above safeguarding children.⁹⁹

Recommendations

- **Repeal the Prevent duty and replace it with a policy which takes children's best interest as a primary consideration.**
- **Ensure statistics on all counter-terrorism policies impacting children are fully disaggregated by ethnicity and religion, and routinely published.**

Regression in non-discrimination after Brexit

Brexit continues to pose a threat to children's rights. The EU Withdrawal Act 2018 excluded the EU Charter of Fundamental Rights - which gave specific rights to children that are not in domestic law - from being transposed into UK law. The Retained EU Law (Revocation and Reform) Act 2023

⁹¹ Written evidence received from Friends, Families and Travellers, September 2022.

⁹² HM Inspectorate of Prisons (2021) [Children in Custody 2019-2020: An analysis of 12-18 year olds' perceptions of their experiences in secure training centres and young offender institutions](#) and House of Commons, House of Lords, [Joint Committee on Human Rights \(2019\) Youth detention: solitary confinement and restraint. Nineteenth Report of Session 2017-19](#) - HC 994 HL Paper 343

⁹³ Friends, Families and Travellers (2022) *Written Evidence Submission to CRAE's Alternative Report*

⁹⁴ Child Rights International Network (2022) [Preventing Safeguarding: The prevent strategy and children's rights](#)

⁹⁵ See, for example, Home Office (3 June 2021) Response to Freedom of Information Request Ref. 62693

⁹⁶ 'To ensure that counter-terrorism and counter-extremism measures, including the Prevent strategy (2011) do not have a discriminatory, racial or stigmatising impact on any group of children'. UN Committee on the Rights of the Child (2016) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*, Paragraph 29 (b)

⁹⁷ Figures obtained through FOI request – March 2014-March 2016, Cited in Child Rights International Network (2018) [Caught in the crossfire? An international survey of anti-terrorism legislation and its impact on children](#)

⁹⁸ Grierson, J., (16 February 2021) 'Human rights groups boycott government's Prevent review' *The Guardian*

⁹⁹ Child Rights International Network (2022), [Preventing Safeguarding: The Prevent Strategy and children's rights](#)

enables the revocation of hundreds of pieces of retained EU law,¹⁰⁰ potentially removing children's rights enshrined in retained EU law without adequate parliamentary scrutiny.¹⁰¹

Hate crimes against minorities

Children continue to experience bullying (including online) due to certain characteristics (real or perceived). 22% were bullied for being considered gay/lesbian, 7% because of a disability and 8% because of attitudes towards low-income households.¹⁰² Nearly half of LGBT children – 64% of trans pupils – are bullied for being LGBT at school.¹⁰³

Recommendations

- **Provide further funding to schools to combat bullying focusing on root causes not punitive measures.**

Articles 2, 4, 7, 9, 10, 14 and 19

Prohibition of torture and cruel, inhuman or degrading treatment or punishment, right to liberty and security of person, and counter-terrorism measures:

Children in police custody - use of force, Tasers, overnight detention, strip-searching

Overnight detention

Police custody is traumatic for children yet in the year ending March 2023, 54,875 children were detained in police stations¹⁰⁴ (up from 35,114 in the previous year¹⁰⁵), and 42% were detained overnight (the majority of whom, 79%, were detained pre-charge).¹⁰⁶ In 2019, 244 children aged 12 and under were held overnight and nine were just 10 years old.¹⁰⁷

Use of force

Police use of force on children continues to increase. For the year ending March 2023, there were 74,470 use of force incidents involving children (11% of all recorded incidents), and 763 involved children aged under 11.¹⁰⁸ Types of force include limb and body restraints, batons, irritant spray, Taser and spit-hoods. The UK Government states all officers receive comprehensive training in

¹⁰⁰ [‘Which retained EU laws will be revoked at the end of 2023’](#) House of Commons Library November 2023

¹⁰¹ The Hansard Society (2022) [Five problems with the Retained EU Law \(Revocation and Reform\) Bill](#)

¹⁰² Ditch the label (2020) [The Anti-bullying survey 2020: The annual benchmarking of bullying in the United Kingdom](#)

¹⁰³ Stonewall (2017) [Schools Report: The experiences of lesbian, gay, bi and trans young people in Britain's schools in 2017](#)

The impact of compulsory relationships and sex education (RSE) on this issue is likely to be restricted because statutory guidance permits religious schools to teach their ‘distinctive faith perspective on relationships’, which may include the view that same-sex relationships are morally impermissible. Primary schools are permitted to avoid teaching about LGBT issues if they deem this is not ‘age-appropriate’. Department for Education (2019) [Relationships Education, Relationships and Sex Education \(RSE\) and Health Education: Statutory guidance](#)

¹⁰⁴ Home Office (2023) [Police powers and procedures: Other PACE powers, England and Wales, year ending 31 March 2023](#)

¹⁰⁵ Home Office (2022) [Police powers and procedures: Other PACE powers, England and Wales, year ending 31 March 2022](#)

¹⁰⁶ Home Office (2023) [Police powers and procedures: Other PACE powers, England and Wales, year ending 31 March 2023](#)

¹⁰⁷ Responses to FOI requests by Just for Kids Law from 32 police forces for the year 2019, cited in Just for Kids Law (2022) [“It’s Horrible when they keep you there at night” Ending the overnight detention of children in police custody](#)

¹⁰⁸ Home Office [Police use of force statistics, England and Wales: April 2022 to March 2023](#)

assessing vulnerabilities, including children, when using force. However, the high number of incidents involving children demonstrates this isn't sufficient. There is significant racial disproportionality in use of force on children¹⁰⁹ (see section above, *Articles 2,3 and 26*).

In England and Wales, in 2022-23 Tasers were used¹¹⁰ on children 3,056 times¹¹¹ (up from 2,585 the previous year).¹¹² Of this number, 88 were discharged. These figures show a worrying increase in use of Taser against children. In 2017-18, Tasers were used on children 938 times.¹¹³ The UN CRC Committee's 2016¹¹⁴ and 2023¹¹⁵ Concluding Observations called for Taser use on children to be banned yet use increases. The £10 million funding for Taser uplift is increasing the number of officers carrying the devices¹¹⁶ and increasing use on children.

In England and Wales, in 2022-2023, spit-hoods were used on children 753 times.¹¹⁷ This shows a huge increase in use since 2016 when they were used 27 times.¹¹⁸ Despite evidence of dangers of asphyxiation and potential for trauma,¹¹⁹ there has been no assessment of how safe they are to use on those under 18 and no national guidance for use on children.

Strip searching

Children's rights are being violated through strip searching, including in schools, without the presence of an appropriate adult, as required by law.¹²⁰ Based on data from 39 (out of 43) police forces in England and Wales, 2,847 children aged 8-17 were strip searched between 2018 and mid-2022.¹²¹ 52% of strip searches were carried out without an appropriate adult present and 24% were carried out on children aged 10-15.¹²² The Children's Commissioner for England found cases of strip-searching by the London Metropolitan Police Service on children as young as 10.¹²³ She has highlighted systemic problems with child safeguarding compliance in relation to strip searching of children, as well as inadequate and incomplete national data on the practice, across police forces.¹²⁴ Strip searches of children carried out by the police disproportionately affect Black children in England and Wales.

¹⁰⁹ Children's Rights Alliance for England, part of Just for Kids Law (2023) [Civil society alternative report 2022 to the UN Committee on the Rights of the Child - England](#)

¹¹⁰ The way a Taser is used by police officers is categorised into a range of escalating actions from drawing the device, through to it being discharged (i.e. fired, drive stunned or angled drive-stunned). Any one of these actions is categorised as a use.

¹¹¹ Home Office (April 2022 - March 2023) [Police use of force statistics, England and Wales](#)

¹¹² Home Office (April 2020 to March 2021) [Police use of force statistics, England and Wales](#)

¹¹³ Ibid

¹¹⁴ [Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland](#) UN Committee on the Rights of the Child, CRC/C/GBR/CO/5, 2016

¹¹⁵ [Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland](#) UN Committee on the Rights of the Child CRC/C/GB/RCO/6-7 June 2023

¹¹⁶ Home Office (27 September 2019) ['Home Office announces £10 million for Taser uplift'](#) News Story

¹¹⁷ Home Office (April 2022 - March 2023) [Police use of force statistics, England and Wales](#)

¹¹⁸ Children's Rights Alliance for England (2019) ['State of Children's Rights 2018: Policing and Criminal Justice'](#)

¹¹⁹ See the case study of Sophie, a disabled 11 year old girl, in CRAE (2016) [State of children's rights in England: Policing and criminal justice](#)

¹²⁰ Children's Commissioner for England (2023) [Strip search of children in England and Wales – Analysis by the Children's Commissioner for England](#)

¹²¹ Ibid

¹²² Ibid

¹²³ Children's Commissioner for England (2022) [Strip search of children by the Metropolitan Police Service - new analysis by the Children's Commissioner for England](#)

¹²⁴ Children's Commissioner for England (2023) [Strip search of children in England and Wales – Analysis by the Children's Commissioner for England](#)

Recommendations

- Review the National Strategy for the Policing of Children & Young People to assess the extent it is being applied in practice.
- Set a much-reduced statutory limit on how long children can be detained in police custody.
- Eliminate the use of Taser on children. As an immediate step, significantly improve regulations, training and guidance around the use of Taser on children; amend legislation so there is a mandatory duty for the police to refer themselves to the Independent Office of Police Conduct when a Taser is fired at a child.
- Prohibit use of all harmful devices on children by police, including spit-hoods.
- Ensure the roll-out of alternative technologies so that children are not subject to strip-searching and more intimate searches. As an immediate step, urgent action must be taken to significantly strengthen legislation and guidance around strip searching.
- Improve local and national mechanisms for scrutinising use of force and strip searching on children including routinely publishing disaggregated data, including by age and ethnicity, and reasons for use.

Articles 6, 9, 10 and 14

Right to life and conditions of detention

While the number of children deprived of their liberty has fallen sharply over the last 10 years, custody is still not used in line with article 37.¹²⁵

While children remain in prison, their safety and welfare are at risk. Most children are held in prison-like STCs or YOIs, with only 58 (10%) in welfare-based Secure Children's Homes.¹²⁶ The Independent Review of Children's Social Care concluded that YOIs and STCs are '*wholly unsuitable*' for children, and '*should be phased out within the next ten years*.'¹²⁷ In both STCs and YOIs, GRT children are significantly more likely to report they had either been victimised or felt unsafe whilst in custody.¹²⁸ HM Prison and Probation Service considers all STCs to have failed to meet good standards of safety and care since 2017.¹²⁹

In 2021-2022 there were an average of 450 children in prison at any one time.¹³⁰ 40% of all children in prison are on remand¹³¹ and almost 74% of remanded children did not subsequently receive a custodial sentence.¹³² The average custodial sentence length for all offences has increased from 11.4 months to 16.8 months over the last ten years.¹³³ The UK Government predicts the number of

¹²⁵ Standing Committee for Youth Justice (2020) [Ensuring custody is the last resort for children in England and Wales](#)

¹²⁶ Ministry of Justice (2020) [A smarter approach to sentencing](#)

¹²⁷ The Independent Review of Children's Social Care (2022) [The independent review of children's social care: final report](#)

¹²⁸ Written evidence received from Friends, Families and Travellers, September 2022.

¹²⁹ National Audit Office (2022) [Children in custody: secure training centres and secure schools](#)

¹³⁰ Ministry of Justice and Youth Justice Board for England and Wales (2022) [Youth Justice Statistics 2020-2021](#)

¹³¹ Children spent an average of over two weeks longer on remand than the previous year. This is likely due to limits on court activity, including pauses to jury trials and the subsequent backlog of cases. Ministry of Justice and Youth Justice Board (2020-2021) [Youth Justice Statistics](#)

¹³² Ministry of Justice and Youth Justice Board for England and Wales (2022) [Youth Justice Statistics 2020-2021](#)

¹³³ Ministry of Justice and Youth Justice Board for England and Wales (2022) [Youth Justice Statistics 2020-2021](#)

children in custody will increase sharply, more than doubling by September 2024¹³⁴ but has no preventative strategy.¹³⁵

Suicide and self-harm in custody

A report by the HM Inspectorate of Prisons, based on a survey of children living in YOIs and STCs in England and Wales, highlighted the continuing increase in self-harm –to 250 self-harm incidents per 100 children in 2021–22. There were higher rates of self-harm in STCs than in YOIs (770 incidents per 100 children in 2021–22 compared to 185 in YOIs).¹³⁶ In the year ending March 2022, the rate of incidents of self-harm in the youth secure estate increased by 29% to around 290 incidents per 100 children in 2021-22.¹³⁷

Mental health and protection in custody

Conditions in custody during the pandemic were appalling, with most children being confined to their cells for lengthy periods amounting to solitary confinement.¹³⁸ Education was limited, meals were eaten alone in cells and there were no out-of-cell activities or therapies.¹³⁹

Due to closure of some STCs because of serious failings,¹⁴⁰ children have been moved to places previously judged as less suitable for their needs, including the adult estate.¹⁴¹ A thematic review found that often girls with the highest level of need were placed in institutions with the least resources, and were remanded to custody because of a lack of other available options such as alternative provision or intervention.¹⁴² More positively, the UK Government tightened the tests the courts must satisfy to remand children.¹⁴³ The new rules will require the court to record their rationale for remand decisions affecting children, but this could have gone further.¹⁴⁴

Use of violence, isolation and restraint in custody

Serious concerns¹⁴⁵ about the safety and unlawful treatment of children in prison remain, including the use of solitary confinement, and practices that put children at risk of serious harm. In the year ending March 2022, the monthly average rate of use of force incidents in STCs and YOIs was 80

¹³⁴ [Children in custody: secure training centres and secure schools](#) Ministry of Justice, Her Majesty's Prison & Probation Service, National Audit Office, April 2022

¹³⁵ [Crises and crossroads for the children's secure estate: Resisting child imprisonment and rethinking youth custody post-pandemic](#) Alliance for Youth Justice 2022

¹³⁶ HM Inspectorate of Prisons (2023) [Children in custody 2022–23 An analysis of 12–18-year-olds' perceptions of their experiences in secure training centres and young offender institutions](#)

¹³⁷ Youth Justice Board [Youth Justice Statistics 2021-2022](#)

¹³⁸ Harris, M and Goodfellow, P. (2022) [Crises and crossroads for the children's secure estate: Resisting child imprisonment and rethinking youth custody post-pandemic](#). Alliance for Youth Justice

¹³⁹ Howard League for Penal Reform (2020) [Children in prison during the Covid-19 pandemic A briefing from the Howard League for Penal Reform'](#)

¹⁴⁰ Medway STC closed in March 2020 due to concerns about safety and abuse; in December 2021 Rainsbrook STC followed suit due to significant concerns about safeguarding and care of children. Oakhill STC was placed under special measures in October 2021 due to significant concerns about safety and welfare.

¹⁴¹ National Audit Office (28 April 2022) ['Children in custody: secure training centres and secure schools'](#) Press Release

¹⁴² HM Chief Inspector of Prisons (20220) [A thematic review of Outcomes for girls in custody](#)

¹⁴³ HM Government (2022) [The UK's Response to the UN Committee's List of Issues on the Rights of the Child](#), Paragraph 302

¹⁴⁴ Alliance for Youth Justice (2020) [Response to the Sentencing White Paper Reducing the number of children remanded to custody](#)

¹⁴⁵ [Open letter calls for urgent Government action to prevent crises in the children's secure estate](#) July 2023

incidents per 100 children and young adults¹⁴⁶ - an increase of 27% from the previous year and the second highest since the first implementation of Managing and Minimising Physical Restraint in 2013.¹⁴⁷

In addition to the use of isolation and restraint in custody, the use of ‘flash-bangs’ and dogs on children in YOIs has recently been revealed, alongside proposals to roll out the use of PAVA irritant spray. The Chief Inspector of Prisons recently concluded: “levels of violence remained much too high” in almost all YOIs and STCs.¹⁴⁸ The Youth Justice Board has expressed deep concern about the high levels of violence, separation and Restrictive Physical Interventions in child prisons.

Despite decreasing numbers, children continue to be placed in isolation in custody. There were 2,100 isolation incidents in SCHs and STCs in the year ending March 2022 – a 22% increase from the previous year and the first increase since 2018 (but still 46% lower than that year).¹⁴⁹ There are no official figures published on the use of separation in YOIs.¹⁵⁰ A 2018 report found segregation had increased in the previous four years despite the decrease in the overall number of children in detention.¹⁵¹ In some cases, children are in their cells all day and are only allowed out to shower or to exercise for 30-60 minutes.¹⁵² The rate of separation in custody is higher for children aged 10-14 compared to 15–18-year-olds.¹⁵³

In 2021-2022, there were just over 4,000 Restrictive Physical Interventions, down by 6% from the previous year.¹⁵⁴ However, with the reduction in the custodial population, the average yearly rate of Restrictive Physical Interventions per 100 children and young adults in has increased to 770 per 100 children and young adults in the youth secure estate, compared to 660 the previous year (660).

In 2020-2021 there were 4,298 restrictive physical interventions. While this was down 42% compared with the previous year,¹⁵⁵ it is likely due to Covid-19 when children were held in cells for long periods of time. There had previously been an increase from 4,527 incidents in 2016-2017 to 7,470 in 2020.¹⁵⁶ The average yearly rate of Restrictive Physical Interventions is higher for children aged 10-14 - an average of around 1,240 per 100 children compared to 750 for children and young adults aged 15 to 18.¹⁵⁷

Restraint continues to cause injury to children, including serious injuries requiring hospital treatment. In the year ending March 2022 there were 44 Restrictive Physical Interventions that resulted in an injury requiring medical treatment, of which most (40) were minor injuries requiring

¹⁴⁶ When the terms ‘child or young adult’ or ‘children and young adults’ are used, it means that 18 year olds may be included in the data. There are also concerns that due to overcrowding in the adult estate, young adults are now being held in the youth estate past their 18th birthday

¹⁴⁷ Youth Justice Board [Youth Justice Statistics 2021-2022](#)

¹⁴⁸ [HM Chief Inspector of Prisons for England and Wales Annual Report 2022–23](#)

¹⁴⁹ Youth Justice Board [Youth Justice Statistics 2021-2022](#)

¹⁵⁰ Data are only published for SCHs and STCs. Comparable data are not held for public YOIs.

¹⁵¹ Children’s Commissioner for England (2018) [A report on the use of segregation in youth custody in England](#)

¹⁵² Ibid

¹⁵³ Ministry of Justice and Youth Justice Board (2020-2021) [Youth Justice Statistics](#)

¹⁵⁴ The second consecutive annual decrease after four consecutive increases, and the lowest number since March 2016. Youth Justice Board [Youth Justice Statistics 2021-2022](#)

¹⁵⁵ Ministry of Justice and Youth Justice Board (2020-2021) [Youth Justice Statistics](#)

¹⁵⁶ Ibid; see table 8.2 in supplementary table: ‘Behaviour management in the youth secure estate’ for figures from 2015 – 2021.

¹⁵⁷ Youth Justice Board [Youth Justice Statistics 2021-2022](#)

medical treatment on site and 4 incidents were serious injuries requiring hospital treatment.¹⁵⁸ Data collection on restraint remains inadequate.¹⁵⁹ Restraint and isolation is disproportionately used on Black and other racialised children,¹⁶⁰ including GRT children.¹⁶¹ The treatment and experiences of girls in custody has worsened, with the average rates of separation in custody, Restrictive Physical Interventions, self-harm and assault being higher for girls than boys.¹⁶²

More positively, a new Ministry of Justice policy document¹⁶³, now instructs staff working in child prisons that they are not allowed to use restraint techniques which deliberately cause pain.¹⁶⁴ However, they will still be available to officers as a last resort to prevent serious harm¹⁶⁵ despite the conclusion by the Independent Inquiry into Child Sexual Abuse that pain compliance techniques should be seen as a form of child abuse.¹⁶⁶

Suicide rates in mental health inpatient units

There have been at least 16 recorded suicides in child mental health inpatient units since 2016.¹⁶⁷ There is no systematic data collection, but investigations have found failures to provide adequate support, including unsafe discharge practices.¹⁶⁸ In the last five years coroners highlighted failings in the deaths of 14 children accessing CAMHS.¹⁶⁹

Recommendations

- **Urgently develop a national strategy which includes:**
 - **Steps to prevent the predicted doubling of children in prison in coming years, and to address racial disproportionality.**
 - **How it will repair the harms to children who were in prison during Covid-19**
 - **A plan, with clear timescales, for closing YOIs and STCs and for improving them in the interim.**
- **Introduce legislation that significantly narrows when a child can be sentenced to custody.**
- **Ensure restraint against children is only used when the child poses an imminent threat of injury to themselves or others and is never used to deliberately inflict pain. Abolish all methods of physical restraint for disciplinary and immigration purposes.**

¹⁵⁸ Youth Justice Board [Youth Justice Statistics 2021-2022](#)

¹⁵⁹ Inadequate data collection means that effective monitoring and scrutiny of the use of restraint is fundamentally lacking. See Article 39 (7 August 2020) '[No to pain inducing restraint](#)'

¹⁶⁰ HM Inspectorate of Prisons (2021) [Children in Custody 2019-2020: An analysis of 12-18 year olds' perceptions of their experiences in secure training centres and young offender institutions](#) and House of Commons, House of Lords, [Joint Committee on Human Rights \(2019\) Youth detention: solitary confinement and restraint. Nineteenth Report of Session 2017-19](#) - HC 994 HL Paper 343

¹⁶¹ Friends, Families and Travellers (2022) [Written Evidence Submission to CRAE's Alternative Report](#)

¹⁶² In this publication, the words 'child' or 'children' are used to describe those aged 10 to 17. When the terms 'child or young adult' or 'children and young adults' are used, it means that 18 year olds may be included in the data. Youth Justice Board [Youth Justice Statistics 2021-2022](#)

¹⁶³ [Guidance Use of force, restraint and restrictive practices in the children and young people secure estate](#) Youth Custody Service, Ministry of Justice, HM Prison and Probation Service 7 August 2023

¹⁶⁴ [Article 39 Our successful action to end pain-inducing restraint in child prisons](#) August 2023

¹⁶⁵ Ibid

¹⁶⁶ Independent Inquiry into Child Sexual Abuse (2019) [Sexual Abuse of Children in Custodial Institutions: 2009-2017](#)

¹⁶⁷ Article 39 (2020) [A safe space? The rights of children in mental health inpatient care](#)

¹⁶⁸ Eley, A. (9 August 2022) '[Camhs deaths expose child mental health unit pressures](#)' *BBC News*

¹⁶⁹ Marsh S., McMahon P. (3 February 2022) '[Warnings over NHS mental health care issued in 14 young deaths in five years](#)' *The Guardian*

- **Abolish solitary confinement (or any conditions that amount to solitary confinement) for children in prison.**
- **Systematically collect and publish fully disaggregated data on use of Restrictive Physical Interventions, solitary confinement, and isolation on children in all settings.**
- **Collect and publish fully disaggregated data on children who self-harm or attempt suicide, including those in care, custody and immigration detention.**
- **The Department for Health and Social Care and Care Quality Commission must assume responsibility for monitoring the deaths of all children receiving inpatient mental health care, with an automatic trigger for an independent investigation following a child's death. There must be collection of robust data, including cause of death and demographic information.**

Article 21

Right to peaceful assembly

There has been regression on the right to peaceful assembly, with measures to curtail the right to protest. The Police Crime Sentencing and Courts Act 2022 introduced sweeping changes to public order legislation by giving the police greater powers to impose conditions on protests, removing limits on what these conditions are, and creating a new basis for restricting protests if they are too noisy.¹⁷⁰ Concerningly, restrictions are now also included in the Public Order Act 2023,¹⁷¹ many of which were originally rejected by parliamentarians during the passage of the Police Crime Sentencing and Courts Bill. Measures include new criminal offences of locking on (a technique used by protesters to make it difficult to remove them from their place of protest) and being equipped to lock on (eg carrying a bicycle lock or glue), and new and expanded use of protest-related stop and search powers.¹⁷²

The parliamentary Joint Committee on Human Rights concluded the proposals will have a 'chilling effect' on the right to peaceful protest.¹⁷³ These measures will negatively impact on children's freedom of association rights, and will lead to further criminalisation of children, particularly those already over-policed.

Recommendations

- **Repeal measures in the Police Crime Sentencing and Courts Act 2022 and in the Public Order Act 2023, which limit protest rights.**

Articles 2, 7, 8, 24 and 26

Elimination of slavery, servitude and trafficking in persons

Trafficking, Modern Slavery and the National Referral Mechanism

¹⁷⁰ Liberty (2022) *Liberty's submission to the thematic report to the Special Rapporteur on the rights to freedom of peaceful assembly and association*

¹⁷¹ [Public Order Act: new protest offences & 'serious disruption'](#) Liberty

¹⁷² Ibid

¹⁷³ House of Lords and House of Commons Joint Committee on Human Rights (2022) *Legislative Scrutiny: Public Order Bill. First Report of Session 22-23* HC 351 HL Paper 16

Many children continue to be at risk of trafficking and going missing, and there continues to be inadequate support for victims of trafficking, exploitation and modern slavery. These include Children Looked After (Children who have been in the care of their local authority for more than 24 hours), separated children and unaccompanied asylum-seeking children. The child protection system is ineffective in helping to safeguard vulnerable teenagers, particularly from extra-familial harm.¹⁷⁴ Referrals to children's services involving gangs and trafficking have increased by 70% and 45% respectively over the past two years.¹⁷⁵

The numbers of potential child victims of exploitation referred to the NRM has continued to rise since 2016, to 7,019 in 2022 (41% of all victims).¹⁷⁶ UK national children are the fastest growing and largest group referred to the NRM¹⁷⁷, driven by child criminal exploitation (CCE). From July-September 2023, there were 209 'county lines' referrals and 154 (74%) were for male children.¹⁷⁸ Trafficked and separated children are among those at greatest risk of going missing.¹⁷⁹

The UK Government's new Devolved Child Decision-Making NRM Pilots and extension of the pilot sites is welcome¹⁸⁰ in line with the UN Committee's previous Concluding Observations,¹⁸¹ as these establish whether a child is a victim of modern slavery within existing safeguarding structures. However, the independent evaluation of the pilot's efficacy must be published publicly. Regrettably, the Government has not committed to a roll of the pilot and has excluded children 100 days from their 18th birthday or whose age is uncertain at the point of referral. In 2019, 76% of all child referrals to the NRM were still waiting for a final decision by the end of the year, leaving many in limbo¹⁸² and increasing risk of trafficking.¹⁸³

Concerningly, the Nationality and Borders Act 2022 also contains provisions to raise the legal threshold for the first decisions victims receive after being identified as potential victims.¹⁸⁴ This change has led to a significant increase in negative decisions for children. Following its introduction on 30 January 2023 there has been an increase in negative child decisions from 7% in April to June 2022 to 26% in the same period in 2023.¹⁸⁵ The Home Office did withdraw the most extreme end of this policy following a judicial review challenge yet it remains to be seen how the guidance will be

¹⁷⁴ For example, gangs or exploitation. The Independent Review of Children's Social Care (2022) [The independent review of children's social care: final report](#)

¹⁷⁵ The Association of Directors of Children's Services (2021) [Research Report: safeguarding pressures phase 7](#)

¹⁷⁶ [Modern Slavery: National Referral Mechanism and Duty to Notify Statistics UK, end of year summary 2022](#) Home Office 2 March 2023

¹⁷⁷ Ibid

¹⁷⁷ Home Office [National Referral Mechanism statistics](#)

¹⁷⁸ [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, Quarter 3 2023 - July to September](#) Home Office 3 November 2023

¹⁷⁹ Missing People, ECPAT UK (2022) [When Harm Remains. an update report on trafficked and unaccompanied children going missing from care in the UK](#)

¹⁸⁰ Home Office (July 2022) [Guidance: Devolving child decision-making pilot programme: general guidance](#)

¹⁸¹ Point 82b. Committee on the Rights of the Child (2016) [Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland](#)

¹⁸² ECPAT UK (2020) [Child trafficking in the UK 2020: A snapshot](#)

¹⁸³ Beddoe, C. (2021) [Into the arms of traffickers: An examination of how delays in asylum and trafficking decision-making increase the risks of trafficking for young asylum-seekers](#)

¹⁸⁴ Section 59 Nationality and Borders Act and HM Government (March 2021) [New plan for immigration: Policy statement](#)

¹⁸⁵ Lenegan (2023) [More delays, more refusals, no 'bad faith': the latest trafficking statistics](#)

applied in practice to children's cases with the July to September 2023 figures showing a slight decrease in negative decisions.¹⁸⁶

The expansion of ICTGs to two thirds of Local Authorities is welcome yet the guardians remain unavailable to children in one third of Local Authorities in England and Wales.¹⁸⁷ Additionally, it is only for children identified as potential victims of modern slavery¹⁸⁸ and not all separated migrant children like in Scotland and Northern Ireland. There is no publicly confirmed timeline for full national rollout (legislation passed in 2015).¹⁸⁹

Child victims of trafficking are entitled to a permanent form of leave,¹⁹⁰ however only 2% of those found to be child victims received a grant of modern slavery immigration leave and most were not a long-term form of leave.¹⁹¹ 74% were granted refugee status, leaving 26% in limbo. Grants for over-18s are much lower,¹⁹² contradictory to a best interests approach. Over a quarter of child refugees were identified as potential victims of trafficking and modern slavery.¹⁹³ The UK Government can now issue negative asylum decisions for a child before a NRM decision has been made, contrary to best interests. The Nationality and Borders Act 2022 also creates a grant leave to victims of trafficking in statute, but does not recognise the specific standard for children, thus making leave contingent on requirements contravening international law by requiring evidence of the leave being necessary due to personal circumstances, for seeking compensation or because they are cooperating with a law enforcement investigation.¹⁹⁴

Recommendations

- **Ensure children's rights and best interests are upheld as reforms to asylum and modern slavery processes are implemented.**
- **Subject to a successful independent evaluation ascertaining the impact on children, roll out the Devolved Child Decision-Making Pilots to the NRM.**
- **Roll out its ICTG service across the whole of England and extend to all separated children.**

Child Sexual Exploitation (CSE)/Child Criminal Exploitation (CCE) and missing children

CSA remains hidden and underreported; however, it has steadily increased since 2016, affecting an estimated 1 in 20 children in the UK.¹⁹⁵ According to recent research, 86,962 sexual offences against

¹⁸⁶ Home Office (2023) [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, Quarter 3 2023 – July to September: data tables](#)

¹⁸⁷ Home Office (2021) [Interim Guidance for Independent Child Trafficking Guardians](#)

¹⁸⁸ ICTGs are only provided to children without parental responsibility; regional practice co-ordinators support children with parent responsibility.

¹⁸⁹ Modern Slavery Act 2015

¹⁹⁰ In line with the UK Government's obligation under the Council of Europe Convention Against Trafficking, residence permits for child victims should be: 'issued in accordance with the best interests of the child and, where appropriate, renewed under the same conditions.' Article 14 Paragraph 2 Council of Europe Convention on Action against Trafficking in Human Beings (2005) The UK offers Discretionary Leave and then Indefinite Leave to Remain (ILR).

¹⁹¹ ECPAT UK (February 2022) ['Nationality and Borders Bill: immigration outcomes for child victims of trafficking'](#)

¹⁹² There is significant variation in asylum outcomes by country of origin. Ibid

¹⁹³ Yeomans, E., and Dathan, M. (2022) 'Traffickers are sending of child refugees to Britain' *The Times*

¹⁹⁴ Section 64 of the Nationality and Borders Act 2022. The standard for children is clearly set at the level of best interests' precedence as set out in ECAT Article 14 (2)77 and the explanatory report to ECAT78.

¹⁹⁵ NSPCC (2021) [Statistics briefing: child sexual abuse](#); In 2021, calls to the NSPCC helpline about child sexual abuse and exploitation reached record highs of 4,735 reports, a 36% increase in the first six months of 2021/22 when compared to the

children were recorded by police in 2022-2023, across the UK.¹⁹⁶ CSA victims face an inconsistent network of services and mental health support.¹⁹⁷ Despite the Child House model (a multi-agency response to supporting CSA victims) being recognised by the UK Government as best practice, there remains only one service in England.¹⁹⁸

Children in poverty, those with learning difficulties, those who have been excluded from school, migrant children and Children Looked After are particularly at risk of CCE,¹⁹⁹ with children as young as seven being targeted.²⁰⁰ Huge cuts to Local Authority early intervention budgets, to youth services and policing – as well as a lack of inter-agency collaboration – have contributed to a rise in CCE. CCE increased further during the pandemic²⁰¹ as children were more vulnerable being out of school, had less contact with social services, and organised crime gangs moved to online forms of grooming and recruitment.²⁰² Higher numbers of children are missing school than pre-2020, with no safeguards for child victims or those at risk of exploitation who are excluded from school.²⁰³

Children continue to be exploited by criminal gangs. The County Lines Coordination Centre was set up due to improved awareness of this exploitation, following a report which found that 65% of police forces in the UK reported “county lines” activity linked to exploitation of children, with 42% of forces specifically reporting children “running” (moving drugs/money) on behalf of drug lines.²⁰⁴ Despite increasing attention on this issue, and a statutory defence,²⁰⁵ victims of CCE continue to be seen as offenders rather than victims by the police and children’s health and education services. This contributes to inconsistent safeguarding responses²⁰⁶ in contrast to progress made for victims of CSE. CCE is absent from the draft Victims and Prisoners Bill.²⁰⁷

There is still no statutory CCE definition for criminal law purposes – there have only been 186 prosecutions under the Modern Slavery Act 2015 where children were victims, and only half of them were successful.²⁰⁸ There have also been a number of developments which undermine the

same six months of the previous year. NSPCC (22 November 2021) [‘Latest figures show NSPCC helpline has reached record levels of reports about child sexual exploitation and abuse’](#) Press Release

¹⁹⁶ NSPCC [‘Almost 87,000 sexual offences against children were recorded by police in the past year’](#) 10 January 2024

¹⁹⁷ Barnardo’s (2017) [Journey to Justice](#)

¹⁹⁸ [The Lighthouse](#) is a pilot initiative based on the Nordic ‘Barnahus’ (‘Child House’) model for children and young people in Barnet, Camden, Enfield, Haringey and Islington (5 London boroughs) Home Office (2021) [Tackling Child Sexual Abuse Strategy](#)

¹⁹⁹ Her Majesty’s Inspectorate of Constabulary and Fire and Rescue Services, HM Inspectorate of Probation, Care Quality Commission, Ofsted (2018) [Protecting children from criminal exploitation, human trafficking and modern slavery: an addendum](#)

²⁰⁰ The Children’s Society (2019) [Counting lives: Responding to children who are criminally exploited](#)

²⁰¹ Barnardo’s (21 October 2021) [‘Urgent action needed as organised crime gangs take advantage of pandemic to target vulnerable children’](#) and Brewster, B. et al (2021) [‘Covid-19 and child criminal exploitation in the UK: implications of the pandemic for county lines’](#) Trends in Organized Crime Nottingham University

²⁰² Commission on Young Lives (2022) [All Together Now Inclusion not exclusion: supporting all young people to succeed in school](#)

²⁰³ Graham, J. (2021) [Excluded or missing from education and child exploitation: literature review and stakeholder views on safeguarding practice](#) Tackling Child Exploitation

²⁰⁴ National Crime Agency (2017) [County lines gang violence, exploitation and drug supply](#). This has now been expanded through [The County Lines Programme](#) launched by the Home Office.

²⁰⁵ Section 45 Modern Slavery Act 2015

²⁰⁶ Ofsted, Care Quality Commission, HMICFRS, and HMIOP (2018) [Protecting children from criminal exploitation, human trafficking and modern slavery: an addendum](#); Child Safeguarding Practice Review Panel (2020) [It was hard to escape: Safeguarding children at risk from criminal exploitation](#); The Children’s Society (2019) [Counting lives: Responding to children who are criminally exploited](#)

²⁰⁷ [Victims and Prisoners Bill - Parliamentary Bills - UK Parliament](#)

²⁰⁸ Office for National Statistics (2022) [Child victims of modern slavery in the UK: March 2022](#)

ability of victims of CCE to use the statutory defence. A 2021 court judgment²⁰⁹ ruled that NRM Conclusive Grounds Decisions are no longer admissible as expert evidence in criminal proceedings.²¹⁰ Measures introduced in the Nationality and Borders Act 2022 to disqualify those who have served custodial sentences of over a year from protection, as well as those prosecuted for particular offences,²¹¹ were withdrawn by the Home Office after a successful challenge in the High Court.²¹²

Recommendations

- **Urgently publish a response to the recommendations by the Independent Inquiry into Child Sexual Abuse and expand the Child House model, to better prevent and support victims of CSA.**
- **Introduce a statutory definition of CCE to ensure children who commit criminal offences as a result of exploitation receive help as victims, and those who exploit children are prosecuted.**
- **Create a national database for missing children to improve data collection and intelligence sharing.**
- **Improve data collection on CSA and CSE by providing data on all victims under-18; disaggregating sexual offending data against 16-and-17-year-olds; and collecting and publishing data on the outcomes of investigation and law enforcement responses.**

Articles 2, 9, 10, 13, 14 and 26

Treatment of aliens, including migrants, refugees and asylum seekers

Statelessness (undocumented children, hostile environment, routes to UK citizenship, children in care and care leavers with unresolved immigration/citizenship status)

Difficulties in regularising status and statelessness

The ‘Hostile Environment’ for undocumented migrants, implemented under the Immigration Acts 2014 and 2016, substantively remains. There could be as many as 215,000 undocumented children²¹³ who remain subject to policies that limit their families’ access to work and the welfare safety net. Hurdles to securing status remain, including legal complexities, lack of legal aid for immigration, high application fees and an immigration health surcharge. The latter significantly

²⁰⁹ R v Breconi [2021] EWCA Crim 731

²¹⁰ This will have a disproportionate impact on the most vulnerable victims of exploitation and trafficking – those unwilling or unable to speak out against the individuals and/or networks that caused them to be victimised. Without this key piece of information, overcoming the defence of modern slavery will likely be easier. ‘[R v Breconi: A major setback for victims of child criminal exploitation](#)’ Youth Justice Legal Centre. NB. The Court in the case of *R v AAD, AAH, and AAI* [2022] EWCA Crim 106 upheld the decision in *R v Breconi* that a conclusive grounds decision of the Single Competent Authority is not admissible in a criminal trial, but did provide guidance on the sort of matters that a suitably qualified expert in trafficking can address instead.

²¹¹ Section 62 of the Nationality and Borders Act 2022. This will leave children without the possibility to access support or challenge their offences on appeal. There is also a real risk that removing support will limit engagement in prosecutions and significantly undermine the ability of law enforcement to bring traffickers to justice. ECPAT UK (29 April 2022) ‘[Harmful Nationality and Borders Act passes](#)’. Joint Committee on Human Rights (2021) [Legislative Scrutiny: Nationality and Borders Bill \(Part 5\)—Modern slavery Eleventh Report of Session 2021–22](#)

²¹² Taylor D. ‘[Home Office U-turns on policy to restrict help for trafficking victims](#)’ *The Guardian* 24 January 2024

²¹³ Greater London Authority (2020) [London’s children and young people who are not British citizens: A profile](#)

increased in February 2024, from £624 to £1,035 per year of the visa.²¹⁴ The UK Government has taken steps to simplify the process for children who were born or grew up in the UK, reducing the ten-year route to a five-year route for some.²¹⁵ However, difficulties remain for children in families where parents or carers remain on the costly ten-year route to settlement. The UK Supreme Court acknowledged that the high child citizenship fee is unaffordable for many children.²¹⁶ Concerns persist regarding the Home Office practice of setting fees for the registration of British citizenship rights above administrative costs. In June 2022, the UK Government introduced the possibility of applying for a fee waiver.²¹⁷

There are serious concerns that more children could be deprived of British citizenship due to changes in Nationality and Borders Act 2022,²¹⁸ numbers have gone up in the past decade but no data is available for children.²¹⁹

Children looked after with irregular immigration status

There are at least 19,000 children in care and care-leavers in England with unresolved immigration or citizenship status.²²⁰ A lack of permanent status or citizenship can affect children's sense of identity and belonging, affect their mental health and put them at risk of destitution, exploitation and removal from the UK when leaving care. Positively, the UK Government has allowed children and care-leavers to apply late to the EU Settlement Scheme, following Brexit.²²¹ However, until then, they are undocumented. Children who have received pre-settled status will face yet another cliff edge when they must re-apply to secure settled status.²²²

Local Authorities are not adequately equipped to identify and address immigration issues and often fail in duties to resolve issues.²²³ There is also limited availability of legal aid.²²⁴ However, the new fee waiver for all Children Looked After will hopefully lead to greater resolution of nationality issues.²²⁵ Concerns persist that there is no systematic identification and support of children in prison needing to secure immigration status', leaving them at risk of deportation, and there is no public data on how many non-British children are currently held in custody.²²⁶

²¹⁴ [The immigration health surcharge](#) Research Briefing House of Commons Library 31 January 2024

²¹⁵ We Belong (31 March 2022) '[An update on the Home Office Rules re: 5 year route to settlement](#)'

²¹⁶ [R \(on the application of the Project for the Registration of Children as British Citizens\) \(Appellant\) v Secretary of State for the Home Department\) \(Respondent\) \(Expedited\) 2021/0063](#)

²¹⁷ The fee waiver applies to: children applying to register as British citizens if they or their parents/guardians can show that they cannot afford the fee; children who are looked after by a Local Authority; children outside the UK and in a similar situation to being looked after by a Local Authority; and children supported under Section 17 of The Children Act 1989 if the fee is unaffordable. Project for the Registration of Children as British citizens (30 May 2022) *Frequently Asked Questions (FAQs) Home Office fee for children to register as British citizens*

²¹⁸ HM Government (2022) The UK's Response to the UN Committee's List of Issues on the Rights of the Child, Paragraph 129.

²¹⁹ McKinney, CJ. (10 January 2022) '[How many people have been stripped of their British citizenship?](#)' *Free Movement*

²²⁰ In 2021. This includes unaccompanied asylum-seeking children, victims of trafficking, those with a non-asylum immigration issue who are not EU citizens, and young EU citizens. South London Refugee Association, Coram Children's Legal Centre (2021) *Taking Care: How local authorities can best address immigration issues of children in care*

²²¹ Home Office (2022) [EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members](#)

²²² Home Office (2020) [EU Settlement Scheme Looked-after children and care leavers: local authority and health and social care trust guidance](#)

²²³ South London Refugee Association, Coram Children's Legal Centre (2021) [Taking Care: How local authorities can best address immigration issues of children in care](#)

²²⁴ Refugee and Migrant Children's Consortium (2019) [Legal aid and care leavers with immigration cases August 2019](#)

²²⁵ South London Refugee Association, Coram Children's Legal Centre (2021) *Taking Care: How local authorities can best address immigration issues of children in care*

²²⁶ Coram Children's Legal Centre (2020) [Children left out? Securing children's rights to stay in the UK beyond Brexit](#)

Recommendations

- **Ensure a simpler, shorter, and more affordable route to immigration status for all undocumented children and their families.**
- **Ensure all children and young people in the care of the state, including Children Looked After, care-leavers and children in prison, are supported to receive secure immigration status or British citizenship.**

Inadequate routes for safety and resettlement

Routes to the UK for unaccompanied children and families seeking protection are severely and increasingly limited. The end of the EU-era Dublin regulations (after Brexit) has reduced the possibilities for children to apply to join family members in the UK, and the UK has also not renewed the 'Dubs scheme'.²²⁷ People seeking asylum are thereby forced to make dangerous journeys to the UK, with an increase in people crossing the Channel²²⁸ in small boats,²²⁹ including children and families with infants, leading to a number of child deaths.²³⁰ Between 2018-2021, 6,103 children arrived in the UK after crossing the Channel, making up 16% of all 'small boat arrivals' (39,134) recorded during that time.²³¹

The recent legal changes introduced through the Nationality and Borders Act 2022 and the Illegal Migration Act 2023, are extremely regressive as they deny equal protection to all children, regardless of immigration status or mode of arrival to the UK.

The Illegal Migration Act 2023, places a duty on the Home Secretary to return those arriving in this way to their home country or to a safe third country, leaving some children at risk of being removed without access to independent advice, support, and in the absence of safeguards, including children who are wrongly assessed as an adult. (See section on *Article 2*).

The UK Government has not exempted children from most of the restrictive provisions in the Nationality and Borders Act 2022, including the creation of a new category of refugees who will receive shorter, more vulnerable periods of leave and have fewer rights while resident in the UK,

²²⁷ The Dubs scheme committed to transferring 480 unaccompanied asylum-seeking children to mainland Europe to the UK for a limited period. UK Government (27 July 2020) [Factsheet: section 67 of the Immigration Act 2016 \('Dubs amendment'\)](#)

²²⁸ Joint Council for the Welfare of Immigrants *A safe and legal route from France to the UK through a humanitarian visa scheme* 15 January 2021

²²⁹ Home Office (25 August 2022) [Official Statistics Irregular Migration to the UK, year ending June 2022](#)

²³⁰ Refugee Council (2022) *Safe Routes Save Futures* and Harding L. Mando N., Chulov M. (27 November 2021) ['Death in the Channel: My wife and children said they were getting on a boat. I didn't hear from them again'](#) *The Observer*

²³¹ This data is taken from the Home Office quarterly irregular migration data tables published in August 2022 for the year ending June 2022. These define 'small boat arrivals' as those involving any migrant who is either (a) detected on arrival to the UK, or (b) detected in the Channel by UK authorities and subsequently brought to the UK, having travelled across the English channel in a small boat. Home Office (2022) [Irregular migration to the UK, year ending June 2022. Statistics on irregular migration to the UK, including small boats](#)

depending on *how* they entered the country.²³² The UNHCR has stated that the Nationality and Borders Act 2022 undermines the 1951 Refugee Convention.²³³

The UK's current resettlement schemes only serve particular groups, including the Afghan Citizens' Resettlement Scheme, the Afghan Relocations and Assistance Policy, and the Homes for Ukraine scheme. Other children have no safe and legal routes to seek protection in the UK.²³⁴ Two resettlement schemes established in response to the 'refugee crisis' in 2014 ended in February 2021, having resettled only 1,838 children.²³⁵

Recommendations

- **Scrap asylum reforms of the Nationality and Borders Act. If they are retained, all children should have their asylum claims decided within the UK, and be afforded full rights in the UK as refugees if their claim is accepted.**
- **Create new, adequate, safe and legal routes for children seeking protection to enter the UK.**
- **Ensure child refugees in the UK have the right to sponsor their close family to join them.**

Age disputes

Age disputes remain an issue of significant concern. These increased by 195% in 2021²³⁶ and many unaccompanied asylum-seeking children are increasingly wrongly assessed as adults. Between 2016-2021, there were 6,177 age disputes and just under half (42%) were subsequently determined to be children.²³⁷ In 2021, 94% of the 233 children who had been determined to be 'certainly' adults were later found to be children.²³⁸ In over half of cases, the Home Office claimed the children were at least 25 years old.

A recent report uncovered that at least 1,300 refugee children were placed in unsupervised adult accommodation and detention in an 18-month period (January 2022-June 2023), after being wrongly age-assessed on arrival in the UK.²³⁹ The real numbers are likely to be much higher as data is incomplete despite Government having data sets available, but refusing to release them. Children as young as 14 have been forced to share rooms with unrelated adults, with no safeguards in place.²⁴⁰ 15 cases children were wrongly treated as adults and charged with offences under the Nationality and Borders Act 2022, with 14 spending time in custody, in adult prisons. 14 children spent periods of time in custody with adults in adult prisons.²⁴¹

²³² As a result of the Nationality and Borders Act 2022, those arriving through third countries via irregular routes (e.g. crossing the Channel in small boats) will have reduced temporary protection (30 months instead of five years' permission to stay), with limited rights to welfare benefits and family reunion, and a long and uncertain route to settlement. Refugee Council (2022) ['What is the National and Borders Bill?'](#)

²³³ UNHCR UK [The Nationality and Borders Bill](#)

²³⁴ Safe Passage, KRAN, Hummingbird Refugee Project [Safe routes from the perspective of young refugees. Our response to the new plan for immigration](#)

²³⁵ UK Government [Vulnerable Persons and Vulnerable Children's Resettlement Schemes Factsheet March 2021](#)

²³⁶ Refugee Council (2022) [Children in the Asylum System February 2022](#)

²³⁷ Refugee and Migrant Children's Consortium (2022) [Briefing on government plans to send people seeking asylum to Rwanda](#)

²³⁸ Refugee Council (2022) [Identity Crisis. How the age dispute process puts refugee children at risk](#)

²³⁹ [Forced Adulthood. The Home Office's incorrect determination of age and how this leaves child refugees at risk](#). Helen Bamber Foundation, Humans for Rights Network, Refugee Council, January 2024

²⁴⁰ Ibid

²⁴¹ Ibid

The Nationality and Borders Act 2022 introduced a National Age Assessment Board, which has been criticised for lacking independence from the Home Office and removing power and responsibility from child protection experts. The Act also establishes powers to use ‘scientific methods’ to determine age, which have been widely condemned by medical bodies²⁴² and NGOs²⁴³ as being inaccurate, unethical, potentially harmful and creating a culture of disbelief. Children will face unnecessary and traumatic assessments, as well as undergoing procedures that are not reliable and not in their best interests.²⁴⁴

The Justification Decision (Scientific Age Imaging) Regulations 2023²⁴⁵ and The Immigration (Age Assessments) Regulations 2023²⁴⁶, tabled by the Ministry of Justice and the Home Office in September 2023 would authorise the use of electromagnetic radiation (X-rays) and Magnetic Resonance Imaging (MRIs) to carry out age assessments of children, with a roll-out expected in 2024. Associations of medical practitioners have expressed deep concern that these measures expose children to inappropriate and unnecessary radiation and to ‘unnecessary, harmful, and potentially traumatic medical procedures, which often produce inaccurate results’, as well as concerns about children’s ability to provide consent.²⁴⁷

Widespread concerns persist that under the Nationality and Borders Act 2022, children disbelieved about their age are at risk of being sent to Rwanda.²⁴⁸ These changes come as it is becoming increasingly difficult to secure legal aid representation.²⁴⁹

Recommendations

- **Scrap powers to determine children’s ages through unreliable and invasive ‘scientific’ means. Ensure holistic, impartial multi-agency approaches are used when an age assessment is conducted, and sufficient safeguards are built into the process to ensure that no-one claiming to be a child is erroneously treated as an adult and detained or deported.**

Deportations

We don’t know if there are measures in place to monitor what happens to children who are returned, either on their own or in a family unit, after their asylum claims are refused. If monitoring is taking place, it is not clear whether there is any independent oversight of findings and there is a lack of information about the status of children and young people who are returned. Although the UK Government has stated that separated children will not be returned to Rwanda, there are real

²⁴² Royal College of Paediatrics and Child Health (RCPCH) (2022) [Refugee and asylum seeking children and young people - guidance for paediatricians](#)

²⁴³ Dorling, K. (4 February 2022) ‘[Refugee and Migrant Children's Consortium briefings on Part 4 \(age assessments\) of the Nationality and Borders Bill](#)’

²⁴⁴ Refugee Council (2022) [Identity Crisis: How the age dispute process puts refugee children at risk](#)

²⁴⁵ [The Justification Decision \(Scientific Age Imaging\) Regulations 2023](#)

²⁴⁶ [The Immigration \(Age Assessments\) Regulations 2023](#)

²⁴⁷ Royal College of Paediatrics and Child Health, British Association of Social Workers, British Dental Association *Joint letter to the Secretary of State for the Home Department* November 2023

²⁴⁸ Refugee and Migrant Children’s Consortium (July 2022) [Briefing on Government plans to send people seeking asylum to Rwanda](#)

²⁴⁹ Wilding, J. [New Freedom of Information data indicates half of asylum applicants are unable to access legal aid representation](#) Refugee Law Initiative 4 November 2022

concerns that, de-facto, age-disputed children could be subject to removals. Section 14 of the Illegal Migration Act disapplies the requirement to consult the Independent Family Returns Panel to assess the impact on the child and their best interest when they face removal or deportation from the UK.²⁵⁰

A number of children have already been returned to Albania - 74 children were returned in the year ending September 2024,²⁵¹ with secondary legislation passed by the UK Parliament, deeming Albania a safe country.²⁵² This is concerning in light of the high numbers of children and young people from Albania who seek protection in the UK, escaping the risk of trafficking and modern slavery.²⁵³ It is unclear what steps the Government is taking to monitor what happens to these children and young people after they are sent back to Albania.²⁵⁴

Immigration detention, including detention of parents with young children

The number of children held in immigration detention had fallen considerably in recent years until 2021. In 2021, 515 children were detained, an almost 500% rise from the 87 detained in 2020.²⁵⁵ Children as young as 14 are placed in immigration detention or alone in adult accommodation (due to disputes about their age) at significant risk.²⁵⁶ UK Government data does not make clear how many children are treated as adults nor how many are subsequently placed in immigration detention. However, data collected by NGOs from 55 Local Authorities showed that in 2021, over 450 young people were referred to children's services having been sent to adult accommodation, including detention centres. Three quarters were found to be children.²⁵⁷

Since 2014, unaccompanied children could only be detained for 24 hours and children in families for a maximum of 72 hours, but the Illegal Migration Act reversed this position.²⁵⁸ Children in families can be detained indefinitely, and only a small group of unaccompanied children can apply for bail after eight days.

Although officially the UK Government remains committed to developing alternatives to detention, there has been no meaningful progress and it is not clear the extent to which alternatives will apply to refugees under the Illegal Immigration Act 2023, including children. De-facto, refugee children and families continue to be placed in adult detention centres.²⁵⁹

Unaccompanied children placed in asylum hotels and going missing

²⁵⁰ [Explanatory Notes. Illegal Migration Act 2023. Chapter 37](#)

²⁵¹ Home Office [Irregular migration detailed datasets and summary tables](#) 23 November 2023

²⁵² Home Office [Joint UK Albania communique' in relation to trafficking](#) 13 December 2022

²⁵³ Neale D. [Albanian children come to Britain for safety. Instead, they get Home Office cruelty](#) The Guardian 8 February 2023

²⁵⁴ House of Commons Home Affairs Committee [Asylum and migration: Albania Second Report of Session 2022–23](#) 12 June 2023

²⁵⁵ Refugee Council [Detention of Children August 2022](#)

²⁵⁶ Refugee and Migrant Children's Consortium (2022) [Briefing for debate on age disputes and removals to Rwanda](#)

²⁵⁷ Initial data relating to 2022 indicates that this issue continues. Ibid

²⁵⁸ [Parliament must keep meaningful limits on child detention](#) Coram Children's Legal Centre

²⁵⁹ [The UK asylum backlog and increased use of immigration detention are negatively impacting children's welfare](#) Ilona Pinter, doctoral student in Department of Social Policy and linked to the Centre for Analysis of Social Exclusion, London School of Economics 21 November 2022

Increasing numbers of unaccompanied asylum-seeking children are being unlawfully placed in unsuitable accommodation, including hotels.²⁶⁰ 3,256 children were placed in hotels between 2021-2022 outside of the child protection system, denying them rights associated with the care system.²⁶¹ Children are being accommodated in some cases for as long as ten months, despite Government policy stating a maximum of six weeks. Children as young as 11 have been put at greater risk of exploitation and trafficking.²⁶²

According to the Government, 132 children were still missing at the end of 2023, after more than 400 unaccompanied migrant children had gone missing at the beginning of the year from hotels run by the Home Office,²⁶³ including children as young as 12 and 14.²⁶⁴

The High Court found the Secretary of State for the Home Department to have acted unlawfully in routinely accommodating unaccompanied children in hotels, outside Local Authority protection and their obligations under The Children Act 1989.²⁶⁵ However, the Illegal Migration Act 2023 gives the Home Office the power to accommodate unaccompanied children,²⁶⁶ which is deeply concerning.²⁶⁷

Restrictions on family reunification

The rights of children to family reunification have regressed. Unaccompanied asylum-seeking children continue to be ineligible for the refugee family reunion policy that applies to adults. The Nationality and Borders Act 2022 further restricts family reunion, including for children, thereby removing one of the main legal safe routes for separated children and leaving them more likely to take dangerous journeys.²⁶⁸ Children separated from their families are more vulnerable to exploitation and abuse, anxiety and mental health problems.²⁶⁹

Separated children in the immigration system

In the year ending September 2023, there were 4,656 asylum claims made by unaccompanied asylum-seeking children in the UK – 6% of total asylum applications.²⁷⁰ Positively, an increasing proportion are now being recognised as refugees since 2017 (85% in 2021).²⁷¹ However, there are significant delays in the processing of their asylum claims²⁷² despite the UK Government's intention to improve this. Numbers of children waiting for more than a year increased from 563 children in 2010 to 6,887 in 2020. Almost 500 had been waiting for more than three years and 55 more than

²⁶⁰ Refugee Council (2022) [Lives on hold: Experiences of people living in hotel asylum accommodation. A follow-up report](#)

²⁶¹ House of Commons written answer (11 October 2022) [HC 61091](#)

²⁶² ECPAT UK (2022) [Outside the frame: Unaccompanied children denied care and protection](#)

²⁶³ Hunter R. [‘More than 130 children remain missing from Home Office accommodation’](#) *The National Scot*, 13 December 2023

²⁶⁴ Taylor D. [‘Routine’ use of hotels for lone child asylum seekers is unlawful, UK court rules](#) *The Guardian* 27 July 2023

²⁶⁵ [ECPAT UK wins legal challenge on the unlawful accommodation of unaccompanied children](#) July 2023

²⁶⁶ Home Office [Illegal Migration Bill: children factsheet](#) July 2023

²⁶⁷ [Statement from the Children’s Commissioner on the Illegal Migration Bill](#) July 2023

²⁶⁸ Refugee Council (5 January 2022) [‘Government plans will ‘all but destroy’ main safe route out of conflict for women and children at risk, warns Refugee Council’](#)

²⁶⁹ Amnesty International UK, Refugee Council, Save the Children (2019) [Without my family. The impact of family separation on child refugees in the UK](#)

²⁷⁰ Home Office [How many people do we grant protection to?](#) December 2023

²⁷¹ Home Office [Immigration statistics, year ending December 2021](#), 91% in 2020 (where the decision was made whilst the child was under 18) and 82% (where the decision made after turning 18). Refugee Council [Children in the Asylum System June 2022](#)

²⁷² Independent Chief Inspector of Borders and Immigration (2021) [An inspection of asylum casework \(August 2020- May 2021\)](#)

five years.²⁷³ Children struggle to access support and services while waiting for a decision, with impacts on their mental health and increased risk of exploitation.²⁷⁴

Many unaccompanied asylum-seeking children do not get the correct support from social services to resolve their immigration status before they turn 18 and some support ceases.²⁷⁵ Children who are not granted refugee status before turning 18 face fear of detention or removal, risk having their support from social services removed and disruption to further education.²⁷⁶ On turning 18, those whose asylum claim was refused have also been returned to countries considered unsafe, including countries affected by war (e.g. Iraq, Afghanistan, Somalia)²⁷⁷ or where they risk being re-trafficked. Separated children turning 18 in the criminal justice system are at risk of the ‘double punishment’ of having their immigration or refugee status revoked after serving even a short sentence and facing administrative removal or deportation at the end of that sentence.

Articles 2 and 14

Access to justice, independence of the judiciary, and fair trials

Legal aid

Legal aid is unavailable for many children and the Exceptional Case Funding (ECF) scheme is woefully inadequate.²⁷⁸ The scheme is intended to provide legal aid funding to people whose cases are otherwise outside any area of qualifying law, and is only available in cases where failing to provide funding would cause an individual’s human rights to be breached.

Since 2013, at least 6,000 children each year (potentially as many as 15,000) have been denied free legal advice and representation.²⁷⁹ This affects many children, including those unlawfully excluded from schools, and legal aid is hard to access in SEND appeals.²⁸⁰ Following judicial review, immigration matters for separated children were brought back into scope of legal aid,²⁸¹ but care-leavers are excluded from its remit, as are immigration cases for children in families and separated children once they are 18.

Recommendations

- **Urgently restore aspects of the legal aid budget to ensure children can access justice.**

²⁷³ Refugee Council (2021) [Living in Limbo: A decade of delays in the UK asylum system](#)

²⁷⁴ Migrant and Refugee Children’s Legal Unit (2021) [Into the arms of Traffickers](#)

²⁷⁵ Meloni F. and Chase E. (2017) [Transitions into institutional adulthood. Becoming Adult Research Brief no. 4](#)

²⁷⁶ Devenney, K. (6 February 2019) [‘When unaccompanied young asylum seekers turn 18, many face an immigration cliff edge’](#) *The Conversation*

²⁷⁷ Barnes, T. (12 April 2019) [‘Hundreds of children seeking refuge in UK deported to ‘unsafe’ countries at age 18’](#) *The Independent*

²⁷⁸ [The Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (LASPO) overhauled the legal aid system: from April 2013 legal aid was no longer available for employment, education (except for cases of special educational needs), non-asylum immigration, private family law, many debt and housing cases, and most welfare benefits cases.

²⁷⁹ Coram Children’s Legal Centre (2018) [Rights without remedies: Legal aid and access to justice for children](#)

²⁸⁰ A person can appeal against a local authority’s decisions in relation to EHCPs. This includes the refusal of a request to assess a child to establish whether they need an EHCP; refusal to prepare an EHCP following assessment; and challenging the contents of an EHCP plan including whether the child will attend a mainstream or special school. The type of legal assistance available for SEND appeals is “legal help”: a restricted type of support that allows families to take early advice and prepare a case, but not to be represented in hearings.

²⁸¹ Lucy Frazer MP, Parliamentary Under-Secretary of State for Justice (12 July 2018) [Justice Update](#) HCWS853

Articles 7, 24 and 26 Rights of the Child

Corporal punishment

Despite progress in Scotland and Wales,²⁸² physical punishment of children remains legal in England in the home²⁸³ and in private foster care.²⁸⁴ There is consistent evidence that physical punishment is ineffective in improving children’s behaviour and has adverse impacts on children’s well-being.²⁸⁵ The UK Government have said they have no plans to repeal the legal defence of reasonable punishment despite numerous Concluding Observations on the issue.²⁸⁶

Recommendations

- **Repeal the defence of “reasonable punishment” to prohibit physical punishment in all settings, including the home.**

Age of criminal responsibility

Despite repeated calls from the UN Committee on the Rights of the Child and parliamentarians,²⁸⁷ the age of criminal responsibility in England and Wales remains extremely low at just 10 years old. Moves were made by parliamentarians during the passage of the Police Crime Sentencing and Courts Act 2022 to increase the age of criminal responsibility. Despite cross-party support, amendments were rejected by the UK Government, which continues to fail to acknowledge the harm caused by criminalising such young children and refuses to carry out a review.²⁸⁸

Recommendations

- **Significantly increase the age of criminal responsibility.**

Children recruited to the armed forces

²⁸² [The Children \(Equal Protection from Assault\) \(Scotland\) Act \(2019\)](#) came into force in November 2020; the [Children \(Abolition of Defence of Reasonable Punishment\) \(Wales\) Act \(2020\)](#) came into force in March 2022.

²⁸³ Section 58 of the Children Act (2004) allows for “reasonable punishment” of children by parents. Until May 2018, this was interpreted by the Crown Prosecution Service (CPS) as allowing bruises, cuts or weals. As of today, CPS guidance has reverted to “temporary reddening the skin” as the upper threshold for the defence. Global Initiative to End All Corporal Punishment of Children (2022) [Corporal punishment of children in the United Kingdom](#); The Government has confirmed that staff acting in loco parentis in health settings would be able to invoke the defence. House of Commons written answer (4 May 2018) [HC 138474](#)

²⁸⁴ Corporal punishment is explicitly prohibited in other kinds of foster care in schedule five of the Fostering Services (England) Regulations (2011) but no such ban exists for private foster care. Schedule 5, [The Fostering Services \(England\) Regulations 2011](#)

²⁸⁵ End Violence Against Children (28 June 2021) [‘Evidence shows physical punishment makes children’s behaviour worse over time’](#) Press Release

²⁸⁶ Department for Education (2022) [The UK’s Response to the UN Committee’s List of Issues on the Rights of the Child](#)

²⁸⁷ Moves were made by parliamentarians during the passage of the PCSC Act 2022 to increase the age of criminal responsibility, but despite cross-party support amendments were rejected by UK Government.

²⁸⁸ House of Commons Justice Select Committee (2021) [Children and Young People in Custody \(Part 1\): Entry into the youth justice system: Government Response to Committee’s Twelfth Report of Session 2019–21](#), Ninth Special Report of Session 2019–21, HC 1185

The UK continues to recruit under-18s to the armed forces, drawn mostly from deprived neighbourhoods.²⁸⁹ Since 2016, the proportion of under-18s recruited to UK armed forces has increased. In 2021-2022, 2,800 16-and-17-year-olds were recruited, and under-18s made up 23% of the total intake, the highest proportion since 2010-2011. In the British army, those under 18 made up 30% of new recruits in the last year, with more soldiers recruited at 16 than at any other age.

There is clear evidence²⁹⁰ of a high rate of suicide and associated mental health problems in those who join the British armed forces at a young age, particularly those who enlist under the age of 18. Data has also revealed shocking levels of sexual violence²⁹¹ towards young recruits, particularly girls. In 2021, 37 girls serving in the armed forces were victims in a sexual offence investigation, more than one in every ten girls in the forces.²⁹² The UK Government is failing to sufficiently protect child recruits from abuse, violence and harassment.

In 2021, the UK Government resisted legislative attempts²⁹³ to end the discrimination in the army terms of service which means that under-18s can be made to serve a longer minimum period than adult recruits. An under-18 recruit who joins and doesn't leave before their 18th birthday still has to serve up to two years longer than a recruit who joins aged 18 or above. The UK State party report says that recruits aged under 18 *'have the right to claim discharge when they enlist'*²⁹⁴ but omits the fact that this right is subject to restrictions. Child recruits have no right to leave the armed forces during the first six weeks (the most intense phase of training), after which a 14-day notice period applies. After the first six months, a notice period of up to three months applies until the age of 18, at which point the discharge window closes until the age of 22.5. Former child recruits and their parents have also reported that, in practice, they were not made aware of their rights of discharge, it was denied, or pressure was applied on them to not exercise it.²⁹⁵

Recommendations

- **Raise the minimum age for armed forces enlistment to 18.**
- **So long as recruitment of under-18s persists:**
 - **Ensure that army recruits who enlist under the age of 18 cannot be made to serve a longer minimum period than those who enlist as adults;**
 - **Ensure that under-18 recruits have the right to leave the armed forces at will, with no notice period.**

²⁸⁹ Cooper, C. and Gee, D. (2019). [Youngest British army recruits come disproportionately from England's most deprived constituencies.](#)

²⁹⁰ [The Pressure Cooker. Child Recruitment and Suicide in the British armed forces](#) Child Rights International Network (CRIN) August 2023

²⁹¹ [Murder, manslaughter and sexual offences in the Service Justice System: 2021](#), Ministry of Defence, UK Government 16 December 2022

²⁹² Ministry of Defence (2022) [Murder, Manslaughter, and sexual offenses in the Service Justice system](#); House of Commons written answer (14 April 2022) [HC 154397](#)

²⁹³ During the passage of the Armed Forces Bill

²⁹⁴ Paragraph 315 [Combined sixth and seventh periodic reports submitted by the United Kingdom of Great Britain and Northern Ireland under article 44 of the Convention, due in 2022](#) CRC/C/GBR/6-7, November 2022

²⁹⁵ Child Rights International Network (2022) [Testimonies: abuse of children in armed forces training](#)