



## Children's Rights Alliance for England

Part of Just for Kids Law

### Responses to our Call for Written Evidence for the Civil Society submission to the UN's List of Issues

This year sees the start of the UK's examination under the UN Convention on the Rights of the Child (CRC) and CRAE is leading the civil society submission informing the List of Issues Prior to Reporting (LOIPR).

The new Simplified Reporting Process (SRP) means governments have to prepare more focused submissions to UN human rights treaty monitoring processes as they are asked to report on fewer and more specific issues. These issues are set out in a document called the List of Issues Prior to Reporting (LOIPR) which is drafted by the relevant UN Committee. For more information about the SRP, download our new [briefing](#).

For the UK's forthcoming examination, the UN Committee will set out in the LOIPR what issues the Government should cover in its State Report. It is therefore crucial that we ensure the UN Committee receives a high-quality submission from civil society, which will help inform the LOIPR and ensure the UK Government is effectively held to account on its child rights obligations.

In order to inform the Civil Society submission, CRAE opened a [call for written evidence](#) for six weeks during August-September 2020. We were pleased to receive 32 written evidence submissions in total. We also held six thematic oral evidence sessions attended by 60 representatives of organisations.

We received [written evidence](#) from the following organisations – their submissions are copied below:

- 5Rights Foundation
- Adoption UK
- Become
- Brighton & Hove Youth Participation Team
- Centre for Analysis of Social Exclusion, LSE
- Child Poverty Action Group (CPAG)
- Coram Children's Legal Centre, Migrant children's project
- ECPAT UK
- Friends, Families and Travellers
- Humanists UK
- Just Fair
- Mermaids
- Michael Seiff Foundation
- Migrant and Refugee Children's Legal Unit (MiCLU)
- Mind
- National Network of Designated Healthcare Professionals for Children (NNDHP)
- NSPCC
- NYAS (National Youth Advocacy Service)
- Project 17

- Royal College of Paediatrics and Child Health (RCPCH)
- The Children's Society (TCS)
- The Traveller Movement

We also received confidential or informal submissions from the following organisations:

- Alliance for Inclusive Education (ALLFIE)
- Article 39
- Barnardo's
- Centrepont
- Child Rights International Network (CRIN)
- Children England
- Coram Family and Childcare
- London Play
- National Children's Bureau (NCB)
- Refugee Council

The [Civil Society submission](#) is based on this evidence from civil society, as well as additional analysis of sources from across civil society, academics and government.

## **Call for Written Evidence: Civil Society Submission to the UN's List of Issues**

5Rights Foundation is writing with regards to the current call for evidence which will inform the List of Issues Prior to Reporting (LOIPR). In lieu of a full response to the call for evidence, 5Rights draws on the UN Committee on the Rights of the Child's General Comment on Children's Rights in relation to the Digital Environment and how this corresponds to upholding existing children's rights in a digital world.

The General Comment on the UNCRC will be an authoritative interpretation of how children's rights should be promoted and upheld in the digital environment and the digital age. This will provide a framework against which the UK Government will be able to report how effectively they have upheld children's rights in relation to the digital environment as a state party to the UNCRC. The draft General Comment can be found [here<sup>1</sup>](#), and is open for consultation until 15<sup>th</sup> November. 5Rights, as supporting the UN Committee to draft the comment, wishes to take this opportunity to share this as it may be of interest in relation to this call for evidence and forming the LOIPR for the purposes of future reporting.

As you will already be aware, children's rights as defined by the UNCRC are routinely undermined in the digital environment. By no means exhaustive (given the comprehensive nature of the General Comment on Children's Rights in relation to the Digital Environment) examples of rights that have not been adequately upheld include the right to privacy, protection from violence against children, pressures from commercial advertising, and the best interest of the child. Correspondingly, in the past year alone, children in the UK have been at risk of being contacted by strangers through smart toys<sup>2</sup>, have been impacted by a sharp uptick of child sexual abuse in the UK<sup>3</sup> – where the Internet Watch Foundation identified more than 8.8million attempts to access CSEA imagery online<sup>4</sup>, have continued to be exposed to age-inappropriate advertising<sup>5</sup> despite being disproportionately susceptible to the *pressures* of online advertising<sup>6</sup>, and most recently, have been devastated by Ofqual's algorithm-based examination results<sup>7</sup>.

5Rights Foundation therefore wishes to draw attention to the relevance of the General Comment for the drafting of the LOIPR, and forthcoming evaluation of the extent to which children's rights are upheld in all contexts.

**For further information please contact 5Rights Policy Officer Victoria Jaynes on [victoria@5rightsfoundation.com](mailto:victoria@5rightsfoundation.com).**

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<sup>1</sup> [General Comment on children's rights in relation to the digital environment](#). OHCHR, 2020.

<sup>2</sup> [Children could be contacted by strangers through cameras and microphones on smart toys, Which? finds](#). The Independent, December 2019.

<sup>3</sup> [Sharp increase in UK child sexual abuse during pandemic](#). The Guardian, July 2020.

<sup>4</sup> [Watchdog reveals 8.8m attempts to access online child abuse in April](#). The Guardian, May 2020.

<sup>5</sup> [Thousands of children exposed to social media gambling adverts, study finds](#). The Independent, August 2019.

<sup>6</sup> [Study on the impact of marketing through social media, online games and mobile applications on children's behaviour](#). European Commission, March 2016

<sup>7</sup> [Ofqual exam results algorithm was unlawful, says Labour](#). The Guardian, August 2020.

## Civil Society LOIPR submission – written evidence submitted by Adoption UK

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### **Who we are and why we are responding**

Adoption UK is the leading charity providing support, awareness and understanding for those parenting or supporting children who cannot live with their birth parents.

Our 6,000-plus members provide us with a strong, supportive community and the largest voice of adopters in the UK.

We are responding at the request of Children's Rights Alliance and in our capacity as experts on adoption and advocates for adoptive families across the UK.

### **Modern-day adoption**

Adoption has changed greatly in recent decades with the overwhelming majority of adopted children being removed from their birth parents and adopted from the care system. Nearly three-quarters of adopted children in England are removed as a result of abuse and/or neglect, with other common reasons for removal including family dysfunction and absent parenting (Department for Education, 2019).

### **The Adoption and Children (Coronavirus) (Amendment) Regulations 2020**

The government's emergency legislation was introduced in April and relaxed the statutory duties placed on local authorities in relation to children's social care. These changes were highly controversial however Adoption UK will only comment on those relevant to adoption. Concerns related to the safeguarding of looked after children are best articulated by those organisations working with this cohort.

In some instances, the changes in relation to adoption were proportionate and rational given the unique circumstances. However, Adoption UK's main concern was around the following regulatory change as set out in the [explanatory memorandum](#) (see 7.12):

*The amendments relax the requirement for adoption reviews (the reviewing of a child's plan for adoption if not placed or a review of placement once placed) for agencies where it is not reasonably practical to do so, unless the agency has concerns about the welfare of the child.*

This regulation conflates a child's plan for adoption before placement and post-placement and potentially absolves local authorities and adoption agencies of their corporate parenting responsibility in the first three months of an adoptive placement. This represents a safeguarding issue and means newly-placed adoptive families could be left without vital support at a uniquely challenging time.

This regulatory change and the majority of those brought in as part of this emergency legislation have now lapsed. One regulatory change specific to adoption has been extended following public consultation. Adoption UK broadly supports this specific extension and it does not have implications for the safeguarding of vulnerable children. However, we share the concerns of others in the children's social care sector regarding the lack of parliamentary scrutiny the emergency legislation was subject to.

## Data Breaches

In July 2019, Adoption UK published the first edition of its *Adoption Barometer* report, a comprehensive stocktake of modern-day adoption across the UK based on families' experiences in 2018.

A disturbing number of respondents report that they had been subject to data breaches at some stage during the matching process or early in their child(ren)'s placement. These breaches were not limited to adoption agencies and in some cases involved the courts and resulted in life-changing consequences for some families.

*"The adoption process was disrupted by the birth parents on the fifth day of placement of the child with us. They arrived at our home address and knew our names. The local authority and social workers of the child were not available (it was Sunday). The police were called resulting in our removal to a safe hostel, causing us and the child a very high level of stress and anxiety."* Adoptive parent, England

*"There was a data breach by the courts so we had continued support from social workers. We have had to change name and move home twice."* Adoptive parent, England

Therefore, as part of the second edition of the *Adoption Barometer* (due to be published on 29<sup>th</sup> September)\*, we asked a specific question about whether, at any point during the process, confidential information had been inappropriately shared with members of their child(ren)'s birth family in 2019. 12% of newly-placed adopters had experienced this. All 67 respondents provided further information about the potential data breach that had occurred.

While 15 of the respondents' comments revealed that their safeguarding concern was actually a 'near miss' or related to information being shared with someone other than a member of the birth family (e.g. lists of adopters' details being shared with all adopters in the area), many of the others revealed avoidable data breaches.

Common causes of breaches included: information being imperfectly redacted on documents and letters and information being sent to the wrong people, thereby revealing details of schools, nurseries, health appointments and the locations and sometimes names of adoptive families.

Where photos had been shared with birth family members after placement, some adopters reported seeing these photographs on social media. One respondent had seen their details posted on a 'forced adoption' Facebook page.

Many of these breaches were a result of human error, although there were two cases where newly-placed adopters reported being asked for information or photographs without realising that this would be passed on to members of birth family, and three respondents reported that their data had been breached more than once.

Two respondents experienced a data breach as a result of direct contact arrangements involved in early permanence, and one had their information revealed to birth family members during their one-off meeting prior to the child being placed with them.

While it is difficult to completely eradicate all possibilities of human error, it is not unreasonable that newly-placed adopters feel concerned when private information is shared with children's birth family members in the early stages.

Although relationships between birth and adoptive families may change over the years, during these first few weeks and months, newly-placed adopters need the assurance that professionals will support them to maintain appropriate confidentiality. Data breaches could have significant negative impacts on adoptive families, both short and long-term.

Where data breaches came from healthcare professionals, too often this was down to a lack of understanding around the status of children on pre-adoptive placement and records not being appropriately updated.

All healthcare services – including primary care, hospitals, etc. – need to have clear protocols for ensuring that the correct procedure is followed. Individuals – including GP receptionists and administrative staff – should receive training in the protocols around working with pre-adoptive and adoptive families. All services must have a zero-tolerance approach to data breaches.

\*this evidence is strictly embargoed, please do not share publicly before Tuesday 29<sup>th</sup> September 2020.

### **Case Study**

*We adopted our son in 2019. He was born with a medical condition which requires ongoing treatment. He had his first round of surgery at his home town hospital and was then transferred over to the medical team in our region.*

*Then our local hospital made a serious error.*

*When his next appointment was made, they sent all the details to our son's birth mother. The letter set out exactly when and where our son would be on that day. We only found out because his birth mother told her social worker that she couldn't attend the appointment. In our case, my son's adoption was uncontested by his birth parents so I think it's unlikely the data breach will have serious repercussions. The hospital was deeply apologetic but so far, they've been unable to get to the bottom of what went wrong, and we don't know if they've officially reported it as a data breach.*

*I know things could have been so much worse. In different circumstances we may have had to move away and change our names.* Adoptive parent, England

### **Recommendation**

- **Protect adopted children by eliminating data breaches**  
All adoption agencies to ensure the anonymity of adoptive families is protected, by reviewing measures to prevent data breaches and providing regular refresher training for all professionals involved.

### **References**

*Adoption Barometer (2019), Adoption UK*

*Adoption Barometer (2020), Adoption UK – unpublished*

Department for Education, *Children looked after in England including adoption: 2018 to 2019*, December 2019.

# BECOME.

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THE CHARITY FOR CHILDREN IN CARE  
AND YOUNG CARE LEAVERS

## **Submission to the call for written evidence for the Civil Society Submission to the UN's List of Issues Prior to Reporting (LOIPR)**

August 2020

Become is the national charity for children in care and young care leavers. We provide help, support and advice to make sure care-experienced young people can unleash their potential and take control of their lives. We help make the care system work better by ensuring that young people's voices and perspectives shape policy and service provision.

# 1. Instability for children in care

**Relevant Articles:** 2, 3, 4, 6, 12, 19, 20, 25, 27, 28, 39, 42

Children in care need stability in order to heal and thrive. Having to change where you live, where you learn or who supports you can be stressful, unsettling and destabilising to children healing from the trauma which led to them being taken into care.

The 2016 set of Concluding Observations and Recommendations noted concern with the frequent instability children in care experienced in their placements and social worker. The 2019 Stability Index, published by the Children's Commissioner, highlights how this continues to be a major concern for children in care today.<sup>1</sup> Collected since 2017, the Index continues to show that most rates of instability have not fallen in this time, with significant unexplained regional variations.

Placement instability has been identified by children in foster care as 'the worst thing about being in care'.<sup>2</sup> Moving placement can mean giving up personal possessions or hobbies, losing contact with friends and family members, as well as losing a sense of familiarity and comfort. Last year, 7 in 10 young people in care experienced a change in where they live, where they go to school or who their social worker was. Just over half of children in care moved home at least once in three years, and 1 in 10 did so four or more times in three years.<sup>3</sup>

School can be the one stable and secure place in the lives of children in care that offers them consistent structure and support. Therefore, it is worrying that disruptive changes in placement and social worker are compounded by current loopholes in the School Admissions Code which allows academies to refuse entry to looked after children. Despite official guidance specifying that children in care should get top priority for school admissions, the Secretary of State for Education has been asked to intervene 72 times in the last three years to ensure children in care could gain access to the school of their choice.<sup>4</sup>

The government established the National Stability Forum for Children's Social Care in 2018, chaired by the Director General for Social Care, Mobility and Disadvantage at the Department for Education, to "promote stability, better life chances and outcomes for children in the care of the state".<sup>5</sup> However, any actions and outputs from the Forum to date remain unclear.

## Questions

1. What steps has the government taken to reduce levels of instability for children in care?
2. What assessment has the government made of the reasons which contribute to varying levels of placement stability across different local authorities?
3. What steps has the government taken to improve the retention of social workers?
4. When does the government plan to review the School Admissions Code to prevent academies refusing admission to children in care?

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<sup>1</sup> Children's Commissioner (2019) *Stability Index 2019: Overview report*. <https://www.childrenscommissioner.gov.uk/report/stability-index-2019>

<sup>2</sup> Children's Commissioner (2018) *Voices of Children in Foster Care*. <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2018/05/VOICE-OF-CHILDREN-AND-YOUNG-PEOPLE-IN-FOSTER-CARE.pdf>

<sup>3</sup> Children's Commissioner (2019) *Stability Index 2019: Overview report*. <https://www.childrenscommissioner.gov.uk/report/stability-index-2019>

<sup>4</sup> Huffington Post (Jan 2020) *Children In Care Repeatedly Rejected By Academies As Admissions 'Scandal' Grows*. [https://www.huffingtonpost.co.uk/entry/children-in-care-face-rigged-system\\_uk\\_5e4d2cd2c5b6eb8e95b5b3a7](https://www.huffingtonpost.co.uk/entry/children-in-care-face-rigged-system_uk_5e4d2cd2c5b6eb8e95b5b3a7)

<sup>5</sup> Department for Education (2018) *Fostering better outcomes*. <https://www.gov.uk/government/publications/fostering-better-outcomes>



5. What actions and outputs does the National Stability Forum for Children’s Social Care intend to deliver to improve stability for children in care?

## 2. Increasing use of out-of-area and unregulated placements

**Relevant Articles:** 2, 3, 4, 6, 12, 19, 20, 25, 27, 39, 42

The numbers of children living in out-of-area placements, including distant placements, has soared in recent years. 64% of children living in children’s homes are now placed outside of their local authority area, up from 48% in 2010.<sup>6</sup> Ofsted report that, as of 31 March 2018, children who were living outside of their home local authority area were on average 53 miles from their home.<sup>7</sup> Young people tell us the experience of being placed far from home can be isolating, dislocating and contribute to poor experiences in care.

Aligned with this problem has been the explosion in the use on unregulated independent and semi-independent placements. As of 31 March 2019, there were over 6000 children in care living in unregulated settings, up by 80% since 2010.<sup>8</sup> These settings often do not provide the level of support young people need to heal from the trauma that they have experienced and make positive starts to early adulthood. Under the government’s proposals for new national standards<sup>9</sup>, these settings would continue to be legally unable to provide care<sup>10</sup>.

Whilst there are genuine reasons why moving a child out of their home area or into a semi-independent setting may be in their best interests, the dramatic increase in recent years reflects an issue of lack of capacity in local placements, particularly in residential care. Unstable experiences in care and the rising number out-of-area and unregulated placements can be traced to the system’s failure to adapt to the changes in who it cares for – increasing older children and teenagers. Between 2015 and 2019, the proportion of children in care aged 10 to 15 increased by 18% and for those aged 16 and over by 21%.<sup>11</sup> Increased use of unregulated and out-of-area placements are a symptom of the lack of locally-controlled residential capacity.

The dominance of the private sector in the ownership of children’s homes and unregulated settings means they are spread unevenly across the country<sup>12</sup>, often where it is cheapest to operate and not where there is the greatest need for safe and secure places for children to live. Despite concerns raised about the lack of planning in children’s residential care by Sir Martin Narey in his 2016 independent review of children’s residential care, by Amanda Spielman as Ofsted Chief Inspector<sup>13</sup>,

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<sup>6</sup> Department for Education (2019): *Children looked after in England including adoption: 2018 to 2019*.

<https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2018-to-2019>

<sup>7</sup> Ofsted (2020) *Ofsted Annual Report 2018/19: education, children’s services and skills*.

<https://www.gov.uk/government/publications/ofsted-annual-report-201819-education-childrens-services-and-skills>

<sup>8</sup> Department for Education (2020) *Looked after children in independent or semi-independent placements*.

<https://www.gov.uk/government/publications/looked-after-children-in-independent-or-semi-independent-placements>

<sup>9</sup> Department for Education (2020) *Reforms to unregulated provision for children in care and care leavers*.

<https://consult.education.gov.uk/unregulated-provision/unregulated-provision-children-in-care/>

<sup>10</sup> Become (2020) Submission to the Department for Education’s consultation on reforms to unregulated provision for children in care and care leavers <https://www.becomecharity.org.uk/for-professionals/resources/response-to-consultation-on-unregulated-accommodation-2020/>

<sup>11</sup> Department for Education (2019): *Children looked after in England including adoption: 2018 to 2019*.

<https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2018-to-2019>

<sup>12</sup> Ofsted (2020) Main findings: children’s social care in England 2020. <https://www.gov.uk/government/publications/childrens-social-care-data-in-england-2020/main-findings-childrens-social-care-in-england-2020#childrens-homes>

<sup>13</sup> Ofsted (2020) *Ofsted Annual Report 2018/19: HMCI Commentary*. <https://www.gov.uk/government/publications/ofsted-annual-report-201819-education-childrens-services-and-skills/ofsted-annual-report-201819-hmci-commentary>

by the Children’s Commissioner<sup>14</sup>, by the Housing, Communities and Local Government Select Committee<sup>15</sup>, by the National Audit Office<sup>16</sup>, and within many recent reports including those from parliamentary groups<sup>17</sup>, no comprehensive action has been taken by the government to deliver a national sufficiency strategy for children’s residential care.

## Questions

1. What steps has the government taken to ensure that fewer children are placed outside of their local area?
2. What assessment has the government made of how many new children’s homes are required to meet demand in each region?
3. What steps has the government taken to ensure there is greater capacity in the regulated children’s homes sector where it is most needed?
4. What steps is the government taking to reduce reliance on unregulated settings and ensure each child has a placement suited to their needs?

## 3. Cuts to children’s services funding exacerbating inequalities

**Relevant Articles:** 2, 3, 4, 6, 9, 18, 19, 20, 39

The 2016 set of Concluding Observations and Recommendations highlighted concern with the rising number of children in care, particularly in cases where little early family support work had been offered, the best interests of the child had not been properly assessed, and engagement with the care system did not consider the impact of the family’s economic situation. These concerns continue to be reflected in the care system today.

Analysis has found that major cuts to the funding of local authority children and young people’s services since 2010, experienced more significantly by areas of high deprivation, will produce a £3 billion funding gap by 2025.<sup>18</sup> This has forced a shift in spending towards late-intervention statutory services and away from the early family support which keeps families together safely; these services have seen a 49% decrease in spending since 2010/11. Against a backdrop of rising child poverty<sup>19</sup>, the number of children in care has continued to increase by 11% since the last UNCRC examination in 2016, with 78,150 children looked after at 31 March 2019<sup>20</sup>.

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<sup>14</sup> Children’s Commissioner (2019): *Pass the parcel: children posted around the care system*.

<https://www.childrenscommissioner.gov.uk/report/pass-the-parcel-children-posted-around-the-care-system/>

<sup>15</sup> Housing, Communities and Local Government Committee (2019) Funding of local authorities’ children’s services.

<https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/1638/163802.htm>

<sup>16</sup> National Audit Office (2019) *Pressures on children’s social care*. <https://www.nao.org.uk/report/pressures-on-childrens-social-care/>

<sup>17</sup> APPG for Runaway and Missing Children and Adults (2019) *No Place at Home* <https://www.childrenssociety.org.uk/what-we-do/resources-and-publications/appg-inquiry-into-children-missing-from-out-of-area-placements>

<sup>18</sup> The Children’s Society, Action for Children, Barnardo’s, NSPCC and the National Children’s Bureau (2019) *Children and young people’s services: Funding and spending 2010/11 to 2017/18*. <https://www.childrenssociety.org.uk/what-we-do/resources-and-publications/children-and-young-people%E2%80%99s-services-funding-and-spending>

<sup>19</sup> Department for Work and Pensions (2020) *Households below average income: 1994/5 to 2018/19*.

<https://www.gov.uk/government/statistics/households-below-average-income-199495-to-201819>

<sup>20</sup> Department for Education (2019): *Children looked after in England including adoption: 2018 to 2019*.

<https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2018-to-2019>

The National Audit Office<sup>21</sup>, Public Accounts Committee<sup>22</sup>, Children's Commissioner<sup>23</sup>, Local Government Association<sup>24</sup>, and the Housing, Communities and Local Government Committee<sup>25</sup> amongst others have expressed significant and immediate concern with overall funding for children's social care services, variations in spending across the country, and the lack of government planning and commitment to addressing this.

The cuts to children's services funding and resultant impact on families and the numbers of children in care is felt unequally across different places and communities, exacerbating existing inequalities in the system. Currently, children in the most deprived 10% of small neighbourhoods in the UK are over 10 times more likely to be in care or on protection plans than children in the least deprived 10%.<sup>26</sup> Recent work has also highlighted significant ethnic inequalities present in child welfare interventions.<sup>27</sup> Although there have been positive developments in poverty-proofing and anti-racist social work practice<sup>28</sup>, government action to consider the impact of reduced children's social care funding and the social injustices it perpetuates in the context of the rights of the child is absent.

## Questions

1. What steps is the government taking to close the funding gap for children's services?
2. What assessment has the government made of the impact on equality and human rights of its decision to reduce funding for local authority children's services?
3. What steps has the government taken to ensure early support work with families continues?
4. What steps has the government taken to ensure kinship carers are supported to provide care for children who are unable to live with their birth parents?

## 4. Separation and lack of contact between siblings in care

**Relevant Articles:** 2, 3, 4, 6, 12, 18, 20, 39, 42

Too many young people in care tell us they were unable to live with their brothers and sisters are not supported to remain in touch with them, particularly where they have had different journeys in and out of the care system. The 2016 set of Concluding Observations and Recommendations recommended that placements should wherever possible facilitate contact with the child's biological parents and siblings; this continues not to be the case for all children in care.

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<sup>21</sup> National Audit Office (2019) *Pressures on children's social care*. <https://www.nao.org.uk/report/pressures-on-childrens-social-care/>

<sup>22</sup> Public Accounts Committee (2019) *Transforming children's services*. <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/1741/174102.htm>

<sup>23</sup> Children's Commissioner (2018) *Public Spending on Children: 2000 to 2020*. <https://www.childrenscommissioner.gov.uk/report/public-spending-on-children/>

<sup>24</sup> Local Government Association (2017) *Bright Futures – getting the best for children, young people and families*. <https://local.gov.uk/bright-futures-getting-best-children-young-people-and-families>

<sup>25</sup> Housing, Communities and Local Government Committee (2019) Funding of local authorities' children's services. <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/1638/163802.htm>

<sup>26</sup> Paul Bywaters and the Child Welfare Inequalities Project Team (2020) *The Child Welfare Inequalities Project: Final Report*. [https://research.hud.ac.uk/institutes-centres/cacs/projects/child\\_welfare\\_inequalities/](https://research.hud.ac.uk/institutes-centres/cacs/projects/child_welfare_inequalities/)

<sup>27</sup> Webb, C, Bywaters, P, Scourfield, J, Davidson, G and Bunting, L (2020) *Cuts both ways: Ethnicity, poverty, and the social gradient in child welfare interventions*. <https://www.sciencedirect.com/science/article/pii/S0190740920304370?dgcid=author>

<sup>28</sup> British Association of Social Workers and Child Welfare Inequalities Project (2019) *Anti-poverty Practice Guide for Social Work*. <https://www.basw.co.uk/what-we-do/policy-and-research/anti-poverty-practice-guide-social-work>

A recent BBC investigation based on over 200 Freedom of Information requests to local authorities revealed that more than 12,000 children in care were not living with at least one of their siblings.<sup>29</sup> In 2015, a report found that 49.5% of sibling groups in local authority care are split up, and only 1% of sibling groups who were all placed together were living in residential care.<sup>30</sup> The most recent data shows that the number of sibling groups not living together remains high, with 450 sibling groups (1,340 individual children) not placed to plan.<sup>31</sup> Given the increasing age profile of children in the care system and resultant additional demand on residential placements – where sibling separation is more common – increasing sufficiency of multi-placement settings nationally must be an urgent focus for the government.

There should be clear expectations around the rights which children in care have for regular contact with their siblings. This helps young people to develop a sense of identity and belonging, and promotes the development of healthy and stable relationships. Many young people believe they have too little contact with the people in their lives who they care about<sup>32</sup>, and evidence suggests that older children within care are particularly concerned about seeing their siblings enough; one survey found that 38% of children in care aged 11-18 years old believe they have too little contact with their brothers and sisters<sup>33</sup>. Contact with family or friends is also recorded as the primary reason for over half of episodes of children going missing from foster care.<sup>34</sup>

Current legislation does not provide the same parity of provision for children in care's contact with their siblings as it does with their birth parents.<sup>35</sup> The government promised in 2017 to review and update the regulations to make explicit reference to contact with siblings who are not in care as well as those who are<sup>36</sup>, but this is yet to happen. In Scotland, recent campaigning efforts have led to a strengthening of siblings' rights in the wording of the Children (Scotland) Bill<sup>37</sup>, and the recent Independent Care Review included a strong focus on supporting the relationships of brothers and sisters in care<sup>38</sup>.

## Questions

1. How many children in care are separated from one or more of their siblings?
2. What steps has the government taken to ensure fewer children in care are separated from their siblings?
3. How many brothers and sisters do not have regular contact with each other but wish to do so?

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<sup>29</sup> BBC News (14 January 2020) *Thousands of siblings split up in care system*. <https://www.bbc.co.uk/news/uk-51095939>

<sup>30</sup> Family Rights Group (2015) *What happens to siblings in the care system?* <https://www.frg.org.uk/images/PDFS/siblings-in-care-final-report-january-2015.pdf>

<sup>31</sup> Ofsted (2020) *Fostering in England 1 April 2018 to 31 March 2019*. <https://www.gov.uk/government/statistics/fostering-in-england-1-april-2018-to-31-march-2019>

<sup>32</sup> Children's Commissioner (2018) *Voices of Children in Foster Care*. <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2018/05/VOICE-OF-CHILDREN-AND-YOUNG-PEOPLE-IN-FOSTER-CARE.pdf>

<sup>33</sup> Coram Voice (2018) *Our Lives, Our Care: Looked after children's views on their well-being in 2017*. <https://coramvoice.org.uk/sites/default/files/1053-CV-Our-Lives-Our-Care-report5.pdf>

<sup>34</sup> Ofsted (2020) *Fostering in England 1 April 2018 to 31 March 2019*. <https://www.gov.uk/government/statistics/fostering-in-england-1-april-2018-to-31-march-2019>

<sup>35</sup> Children Act 1989 c.41 Part IV s.34 *Parental contact etc. with children in care*. <https://www.legislation.gov.uk/ukpga/1989/41/section/34>

<sup>36</sup> Hansard HC Deb Vol 622 Children and Social Work Bill [Lords] 7 March 2017. <https://bit.ly/31GRWcE>

<sup>37</sup> Stand Up For Siblings (26 June 2020) *Stand Up For Siblings successfully lobbies for changes to the Children (Scotland) Bill*.

<https://www.standupforsiblings.co.uk/2020/06/26/stand-up-for-siblings-successfully-lobbies-for-changes-to-the-children-scotland-bill/>

<sup>38</sup> Independent Care Review (2020) *The Promise*. [https://www.carereview.scot/wp-content/uploads/2020/03/The-Promise\\_v7.pdf](https://www.carereview.scot/wp-content/uploads/2020/03/The-Promise_v7.pdf)

## 5. Poor support for young people leaving care

**Relevant Articles:** 2, 3, 4, 6, 12, 20, 39, 42

The care system is designed with too many cliff-edges; this is particularly true for young people leaving the care system, most commonly at age 18. Although they are no longer legally children, the process of ensuring every child is supported to leave care should begin much earlier, and the local authority as their corporate parent has a duty to continue supporting them until early adulthood. Older children often express anxiety about leaving care and report feeling unclear about what will happen to them and uncertain about their rights and entitlements, even years before they are expected to leave care themselves.<sup>39</sup>

The previous set of Concluding Observations and Recommendations noted concern with the level of adequate support for care leavers and their own input into their care planning. There have been positive steps made following the government's 2016 *Keep on Caring* strategy and passing of the Children and Social Work Act 2017, including the extension of Personal Advisor support to all care leavers up to age 25 and the introduction of the duty to publish a Local Offer. The commitment to continued Staying Put funding and forthcoming national rollout of Staying Close opportunities now means that more young people can remain supported by their former carers. The new Care Leaver Covenant Board also provides an opportunity to promote joined-up policymaking across government and to minimise the disparity in support provided to care leavers across housing, education and training, health services and social security.

However, care leavers still continue to experience inadequate levels of support. At age 18, most young people aren't expected to leave their family homes as part of a 'transition to independence', but we demand this of thousands of care leavers each year, at a time when many are only just coming to terms with their childhood experiences. 23% of care leavers report having low wellbeing, and 1 in 5 report feeling lonely often or always.<sup>40</sup> Many fall into debt due to insufficient financial support and education.<sup>41</sup> 1 in 4 young care leavers have sofa-surfed and 14 per cent have slept rough as a result of inflexible and stigmatising housing policy.<sup>42</sup>

There continues to exist a damaging expectation that young people should leave their care settings and move to semi-independent or independent settings at age 18. This is particularly concerning given the recent changes in the demographics of who the care system looks after – increasing older teenagers who enter the care system late with complex needs. The government recently asked local authorities to ensure that no child had to leave care during the COVID-19 crisis, but without any clarity as to when or how this commitment will end safely.<sup>43</sup>

### Questions

1. When does the government plan to review and update statutory guidance around planning transition to adulthood for care leavers?

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<sup>39</sup> Children's Commissioner (2018) *Voices of Children in Foster Care*. <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2018/05/VOICE-OF-CHILDREN-AND-YOUNG-PEOPLE-IN-FOSTER-CARE.pdf>

<sup>40</sup> Coram Voice (2019) *Our Lives Beyond Care: care leavers' views on their well-being in 2018*. <https://coramvoice.org.uk/latest/our-lives-beyond-care-care-leavers-views-on-their-well-being-2018/>

<sup>41</sup> The Children's Society (2016) *The cost of being care free: The impact of poor financial education and removal of support on care leavers*. [http://www.childrenssociety.org.uk/sites/default/files/pcr073\\_care-leavers-financial-exclusion-final.pdf](http://www.childrenssociety.org.uk/sites/default/files/pcr073_care-leavers-financial-exclusion-final.pdf)

<sup>42</sup> Centrepoint (2017) *From care to where?* <https://centrepoint.org.uk/media/2035/from-care-to-where-centrepoint-report.pdf>

<sup>43</sup> Department for Education (2020) *Coronavirus (COVID-19): guidance for children's social care services*. [Present since update on 6 May 2020] <https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-for-childrens-social-care-services/coronavirus-covid-19-guidance-for-local-authorities-on-childrens-social-care>

2. What assessment has the government made of the impact of recent policy changes on care leavers within the Children and Social Work Act 2017?
3. What percentage of care leavers aged 21 or over are in touch with their local authorities?
4. How many local authorities have an accessible Care Leaver Local Offer published online?

## **Contact**

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# Youth Participation Team

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## Children's Rights Alliance for England (CRAE) Call for Written Evidence Civil Society submission to the UN's List of Issues

Brighton & Hove Youth Participation Team put out a survey to young people. 9 questions asked.

NB: Very short turn around to get responses back to CRAE by 2<sup>nd</sup> September & combined with Covid restrictions inevitably not able to gear towards children with disabilities or young people who do not speak English as their first language.

Hence the results need to be looked at in light of these constrictions

### **58.82% respondents under 18**

66% of these had comments to make – reported in full below.

Top 5 issues for Under 18s:

1. Mental Health
2. Education, (Leisure & Cultural activities)
3. Safeguarding children including violence against children – specifically on-line safety
4. Policing & Criminal Justice
5. Immigration, Asylum & Trafficking

**41.18% respondents over 18:** these were either care leavers or professionals working within the looked after children system.

98 % had comments to make

Top 5 issues for over 18s

1. Mental Health
2. Poverty & Homelessness
3. Safeguarding children including violence against children
4. Policing & Criminal Justice
5. Immigration, Asylum & Trafficking

As well as the areas CRAE asked us to look at, we also included a question asking what the most important issue is for them.

What emerged out of the survey were 2 main concerns that we would like the UN committee to ask specific questions about. We have included these at the end of this document.

Survey Questions:

1. ***If you could tell the Government one thing you would like them to change or improve what would it be?***

**Answers:**

**Most important for under 18s reported in full below:**

- I would like to improve my education in school. Help with being behind put in a class with people of same ability and with people who have an EHCP - SEN school for example. I don't feel I have been helped because I'm behind and have been behind since primary school.
- More help with mental health
- The one thing that i would like the government to change/improve is to give more young people support and the help they need. Also to help schools help these young people get the extra help needed
- More social support for youth through community engagement, counselling etc...
- Updated sex, drugs, cycling, green (Recycling!!etc) education in schools

## 2. Safeguarding Children including violence against children

Question:

**Child sexual exploitation, abuse and on-line abuse:** *The UN recommend that the UK Government continue to develop ways to protect children. Do you agree with them?*

Answers:

Yes 94.1%

No 0%

Don't know 5.9%

*Do you have any ideas about what adults can do that might help to keep children safe?*

**Under 18s views reported in full below:**

- Parental controls on devices. Parents teaching children if anything happens online, to come to them and they won't be in any trouble.
- Nice outdoors/indoors activities
- That adults could ask the children to report to a trustworthy adult, block the person doing it and screen shot any text messages or emails. They could also go and report it to the police.
- Immerse themselves into what children are doing and be active in finding supporting them
- U can't restrict social media as it's so helpful for many children as a safe space HOWEVER I think there should be like 5 WELL KNOWN rules for using the Internet to do with sexual exploitation, potential terrorism, pornography, what harassment is, healthy amounts of time to be on it, and tell users EASY ways to deactivate or delete your account WHEN you get it.
- Monitor children when using social media



### 3. Policing & Criminal Justice

Question:

**Children in the criminal justice system:** *The UN has asked the UK Government to raise its age of criminal responsibility from 10 (which it is now) to 12 in line with acceptable international standards. Do you agree that the UK should raise the age of criminal responsibility from 10 to 12?*

Answers:

Yes 76.5%

No 0%

Don't know 23.5%

Under 18s views reported in full below:

- I think they should do this because a 10 years old you may know right from wrong but may still not understand the law. Whereas a 12 year old would have a better understanding and will hopefully follow the law.
- I think it should be on the age they act because some children are young for their age and may have a disability that makes them act young. Teachers, social workers and GP's should advise on the age the child acts because they know the child.
- I think that 12 is more reasonable but definitely the limit as children must learn to take responsibility for their actions no matter their age, I think it's important to be aware that at 10 they are very much still learning what's good and bad so I think 12 would be fine

Question:

**Children in Prison:** *The UN is concerned about the excessive number of children from care and children from Black and Ethnic Minority backgrounds who are in prison and want the UK to reduce these numbers as well as improve the way children in custody are treated, with no solitary confinement or use of painful physical holds. Do you agree?*

Answers:

Yes 94.1%

No 0%

Don't know 5.9%

Under 18s views recorded in full below:

- ***Especially with current affairs –( We think they mean Black Lives Matter statistics on numbers of BAME subjected to stop & search etc.)***
- ***My reasoning for this is that yes they have done bad things but that doesn't make it okay for them to be treated like dirt or get beaten to or very near to death in the children prisons.***
- ***Need to actually support these groups through financial and social help directed towards them***
- ***Yes fund schools encourage education treat them (care kids) as humans with futures and inspire them to do well for themselves , make sure therapy is available if they do have behavioural issues. Cmon it's not that hard just consider context of what creates a good and bad moral person when deciding on sentences and what can be done for the persons best interest to gain a moral understanding again***

#### **4. Immigration, Asylum & Trafficking**

Question:

**Asylum seeking, Refugee & Migrant Children:** Do you feel that all children in care should be entitled to leaving care support, regardless of their immigration status - even if their right to stay in the UK is still being investigated?

Answers:

Yes 64.7%

No 11.8%

Don't know 23.5%

Under 18s views recorded in full below:

- **Should be granted freedom of choice**
- **Uh yh all kids should be required care, the parent that has put a child in there should be considered if money is an issue as if you have a child and then put it for adoption and economically you could pay towards the child then I think a parent should be considered. No child left behind ????? Obviously ???**

Question:

**Child Trafficking:** This means recruiting and transporting (e.g. in a car) a child to exploit them in a criminal way (involving illegal drugs and/or sex for example). New laws in the UK don't guarantee that children will not be prosecuted as criminals. Do you think the law should be updated to make sure that trafficked children are not prosecuted and the law agrees the situation they are in is never their fault?

Answers:

Yes 88.2%  
No 5.9%  
Don't know 5.9%

Under 18s views recorded in full below:

- I think the law should DEFINITELY consider the context of the situation it's ridiculous for an exploited child to get prosecuted, they should get free bloody therapy ahahaha not a sentence imagine

## 5. Education, Leisure & Cultural Activities

Question:

**Disability:** The UN recommended that the UK government 'further develop' inclusive education and ensure that it is given priority...and make mainstream schools fully accessible to children with disabilities. When you think about your school, does it include people with disabilities?

Answers:

Yes 70.6%  
No 11.8%  
Don't know 17.6%

Under 18s views recorded in full below:

- Because some people can't cope with mainstream level of education and they themselves should be given the choice between mainstream and maintained special needs school. My own experience is mainstream do not have the money/teachers to bring someone like myself, who needs to be taught in a different way, to the same level as someone in mainstream.
- My school is very forward thinking and I think other schools should constantly look to better themselves and provide for all
- Yes defo important just a note some kids are raised by ugly parents that are rllly disablist so you need to make sure disabled kids aren't at risks of bullying WITHOUT babying them/ singling them out as the disabled kid, I think normalising disabled people in schools is defo the way to go !! My college has a special needs assistant that travels round with a particularly disabled girl I believe but idk much cause I mind my own business but I think my college does rllly well :))

## 6. Health (including Mental Health) Disability

Question:

**Mental Health:** In your opinion do you think enough support is readily available for young people who are having a difficult time mentally?

Answers:  
Yes 6.2%

No 75%

Don't know 18.8%

Under 18s views recorded in full below:

- **More should be done with this topic, I myself have mental health issues and I need help but recently my therapist from camhs isn't answering for a month and two weeks. This needs to change.**
- **Yes, but I think kids that are really in need might not know how to get it, eg if you're about to commit suicide how likely is it that you're gonna Search and call the right helpline 24 hr number, (maybe make the number more well known or even just include it in some school website / some way of publicising that here's a number to call without shoving it in people's faces :) Brighton's mental health service is rilly good xx**
- **Any support results in long waiting lists and unqualified people**

### **Mental Health for children in care and care leavers**

This is the top concern of our survey's respondents both over and under 18s.

Questions for the Government:

In February 2016 the Department for Education (DfE) minister announced that an Expert Working Group would be created to ensure that the emotional and mental health needs of children and young people in care, adopted from care, under kinship care, under Special Guardianship Orders, as well as care leavers, would be better met. It was proposed that, by October 2017 the following would be developed:

- care pathways: focusing on the young person's journey
- models of care: how services ensure appropriate interventions
- quality principles: measures that set out markers of high-quality care
- implementation products: to support those working in the field.

The charity Social Care Institute for Excellence (SCIE) was contracted by the Department of Health (DH) and the Department for Education to establish the Expert Working Group to support this work.

<https://www.scie.org.uk/children/care/mental-health/recommendations>

1. What steps has NHS England taken to ensure that these recommendations have been adopted?
2. How many local authorities now have a Virtual Mental Health lead like a Virtual School Lead?
3. When is there due to be a review of how well these recommendations have been implemented?

**The main concern for our over 18 care-leavers is Poverty & Homelessness:**

Many children are brought up outside of their home local authority and understandably want to continue living where they grew up.

The Homelessness Reduction Bill 2017 was meant to allow for this:

“All care leavers under the age of 21 will be considered as having a local connection with an area if they were looked after, accommodated or fostered there for a continuous period of at least two years.”  
<http://www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/What%20you%20need%20to%20know%20Homelessness%20Reduction%20Act%202017.pdf>

**Questions for the Government:**

- 1. How many Local Authorities have included this in their Housing Policy?**
- 2. How many Local Authorities are giving all Care Leavers Band A (priority) housing status, not just their own?**
- 3. How have they advertised this to Care-Leavers?**
- 4. How many care-leavers have been able to be housed in long term suitable accommodation since 2017?**

Thank you!

We look forward to hearing the responses in due course.

Best wishes,

*Susy John*

Susy John

Lead Advocate for Children & Young People

On behalf of Brighton & Hove Youth Participation Team

## UK's examination under the UN Convention on the Rights of the Child:

### Call for evidence

#### Coram Children's Legal Centre response – September 2020

Coram Children's Legal Centre (CCLC), part of the Coram group of charities, is an independent charity working in the UK and around the world to protect and promote the rights of children, through the provision of direct legal services; the publication of free legal information online and in guides; research and policy work; law reform; training; and international consultancy on child rights. The Migrant Children's Project at CCLC provides specialist advice and legal representation to migrant and refugee children and young people on a wider variety of issues related to immigration, asylum, care and services. CCLC has undertaken amicus curiae interventions in a number of significant cases, including in the European Court of Human Rights, the Supreme Court and the Court of Appeal, providing assistance to the court on matters of children's rights and best interests.

The Migrant Children's Project at CCLC has worked for over ten years to ensure that young refugees and migrants in the UK receive the support and protection they need. Our main issues of concern are as follows:

#### 1) *Access to justice / legal support*

The Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) significantly reduced the areas of law and types of legal work which legal aid can cover. Since LASPO's measures came into force in April 2013, at least 6,000 children each year have been left without access to free legal advice and representation, even before taking into account children in families (i.e. cases involving children, rather than cases involving child claimants)<sup>1</sup>. The government's review of LASPO in February 2019<sup>2</sup> brought legal aid for immigration matters for unaccompanied migrant children and for children subject to special guardianship orders back into scope, but did not go far enough:

- The government should reinstate legal aid in *all* cases where there is local authority involvement in private law children proceedings (not just SGOs), and should be available in all cases in which a child is at risk of abuse<sup>3</sup>.
- Continued funding should be provided for public legal advice on education law issues<sup>4</sup>.
- The Legal Aid Agency must reform the exceptional case funding (ECF) scheme. In its LASPO review the Government recognised the need for reform, announced that it would consider simplifying the ECF scheme and assessing whether a new urgent case procedure is needed, and committed to improving the speed of ECF decision making. CCLC set out specific recommendations for child

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<sup>1</sup> CCLC report '*Rights without remedies: Legal aid and access to justice for children*' February 2018, p.4  
[https://www.childrenslegalcentre.com/wp-content/uploads/2018/05/Rights-without-remedies\\_Final.pdf](https://www.childrenslegalcentre.com/wp-content/uploads/2018/05/Rights-without-remedies_Final.pdf)

<sup>2</sup> Post-Implementation Review of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/777038/post-implementation-review-of-part-1-of-laspo.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777038/post-implementation-review-of-part-1-of-laspo.pdf)

<sup>3</sup> CCLC report '*Rights without remedies: Legal aid and access to justice for children*' February 2018, pp.9-11

<sup>4</sup> CCLC report '*Rights without remedies: Legal aid and access to justice for children*' February 2018, pp.12-15

focused ECF reform in our evidence for the LASPO review<sup>5</sup>. There has as yet been no action taken to implement any reforms.

- The ECF scheme cannot function effectively unless successful applicants can then access an appropriate legal aid provider. The changes to legal aid funding brought in by LASPO reduced the number of legal aid providers of immigration and asylum work. The LASPO review saw evidence that *“since 2005, 56% of immigration and asylum providers have left the market, and as a consequence geographical gaps in provision have occurred”*<sup>6</sup>. The LASPO review stated that they would consider reviewing provider fees; this recently manifested in widely criticised changes resulting in a real term reduction in fees for complex cases<sup>7</sup> (now withdrawn pending review)<sup>8</sup>. The LASPO review also asserted that the current market is sustainable. This runs the risk of more experienced providers continuing to leave the market if fees are not increased which will further reduce access to advice for those least able to advocate for themselves, such as children.
- One of the primary aims of LASPO was to save costs<sup>9</sup>. It has been estimated that, assuming a local authority only dealt with five children’s cases a year (likely an underestimate) the cost shift onto local authorities from LASPO amounts to £10 million a year. This is significantly more than the Ministry of Justice expenditure for all children’s immigration and asylum cases prior to the changes to legal aid (£5,751,842 in 2012-13). Allowing for inflation, the restoration of legal aid for all migrant children in care would still result in at least an estimated £4 million annual saving<sup>10</sup>. The LASPO review recognised the risk that any legal aid savings were merely costs shifted elsewhere, and committed to *“to improve our collected data on this issue to inform our assessment of this”*<sup>11</sup>. No further information on this has been forthcoming. This information is crucial to assess whether LASPO is achieving its purpose.

**We suggest the following questions to the Government:**

1a) What steps has the government taken to review and reform the ECF scheme (as per the LASPO review)?

1b) Does the government have any intention of reforming the ECF scheme in order to make it easier for children and young people to apply under the scheme, and increase the proportion of children granted funding under the scheme?

1c) Will the government be carrying out a specific impact assessment regarding the effect on children’s access to justice before making any further changes to legal aid funding?

1d) What steps has the government taken to assess the true costs/savings of LASPO (taking into account the likelihood of cost shifting to other branches of government and essential services), and will it publish its data on this issue (as per the LASPO review)?

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<sup>5</sup> Evidence for the LASPO Post-implementation Review Exceptional Case Funding, September 2018

[https://www.childrenslegalcentre.com/wp-content/uploads/2018/11/CCLC\\_LASPOreview\\_ECF\\_Sept2018.pdf](https://www.childrenslegalcentre.com/wp-content/uploads/2018/11/CCLC_LASPOreview_ECF_Sept2018.pdf)

<sup>6</sup> LASPO review, para. 819.

<sup>7</sup> <https://ilpa.org.uk/ilpa-statement-re-new-legal-aid-immigration-and-asylum-fixed-fee/>

<sup>8</sup> <https://www.lawsociety.org.uk/contact-or-visit-us/press-office/press-releases/immigration-appeals-fee-utum>

<sup>9</sup> LASPO review, p.5

<sup>10</sup> [https://www.childrenslegalcentre.com/wp-content/uploads/2018/05/Rights-without-remedies\\_Final.pdf](https://www.childrenslegalcentre.com/wp-content/uploads/2018/05/Rights-without-remedies_Final.pdf) p.19

<sup>11</sup> LASPO review, para. 284.

## 2) The EU Settlement Scheme

With under one year left before the close of the EU settlement scheme, vulnerable children risk falling through the cracks. Proportionally, many fewer children than adults have applied to the EU settlement scheme so far. Not all of those who have not are at risk of becoming undocumented. But those in care, homeless, or with complex needs or family circumstances are disproportionately at risk. There are simple steps the Home Office could take to reduce costs, streamline applications, increase awareness and eliminate unnecessary barriers and bureaucracy. Our detailed concerns are specified in CCLC's report '*Children left out? Securing children's rights to stay in the UK beyond Brexit*' (July 2020). Key areas include:

- By March 2020 just over 400,000 children had applied to the EU settlement scheme, but a great many complex cases remain<sup>12</sup>. The remaining children need more time: the deadline to the settlement scheme must be extended. There is no published guidance on the circumstances in which individuals can apply to the EU settlement scheme beyond the deadline of 30 June 2021.
- If they do not apply in time, children and young people eligible under the EU settlement scheme must not be brought under existing long and expensive routes in the immigration system that are currently failing other children and young people (see below).
- No child or young person with pre-settled status should fall off their route to settled status in the event that they do not make the settled status application at the right time<sup>13</sup>.
- There remains much uncertainty about how applications from children with criminal records are being considered by the Home Office. Guidance for caseworkers on the suitability criteria is heavily redacted and difficult to read, there is very little public-facing information, and what there is remains extremely unclear. It is not evident that any part of government is systematically identifying eligible children in the secure estate, even those who are looked-after, let alone providing access to information or legal advice. In general, suitability cases are complex and we are concerned that children with criminal records are not getting adequate, if any, support<sup>14</sup>.

### **We suggest the following questions to the Government:**

2a) How many EU national children in the UK have not yet applied for status under the EU settlement scheme (and of these, how many are looked after children, and how many are held within the youth secure estate)?

2b) What are the circumstances in which a child or young person could apply to the EU settlement scheme beyond the deadline of 30 June 2021, and what route would a child or young person currently eligible under the EU settlement scheme fall under, should they fail to apply before the deadline has expired?

2c) What steps is the government taking to ensure that children and young people who hold pre-settled status will be supported to apply for settled status at the appropriate time?

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<sup>12</sup> Coram CLC report '*Children left out? Securing children's rights to stay in the UK beyond Brexit*', July 2020, p.5  
[https://www.childrenslegalcentre.com/wp-content/uploads/2020/06/CCLC-Children-left-out\\_July-2020\\_final.pdf](https://www.childrenslegalcentre.com/wp-content/uploads/2020/06/CCLC-Children-left-out_July-2020_final.pdf)

<sup>13</sup> Coram CLC report '*Children left out? Securing children's rights to stay in the UK beyond Brexit*', July 2020, part 3.1

<sup>14</sup> Coram CLC report '*Children left out? Securing children's rights to stay in the UK beyond Brexit*', July 2020, part 6



2d) How long are applications by children and young people that fall under the 'suitability' guidelines taking to be processed (with a breakdown since the start of the scheme)?

2e) How many children have been refused status under the EUSS on 'suitability' grounds?

### **3) Barriers to settlement**

In 2017 it was estimated there were 215,000 undocumented children in the UK, but there is a substantial gap between this and the number of children applying for routes to settlement<sup>15</sup>. This raises questions as to why undocumented children and young people who need to regularise their status and take steps towards permanence are not doing so. CCLC's report "*This is my home: Securing permanent status for long-term resident children and young people in the UK*" (June 2017) specifies our detailed concerns and recommendations. Key areas include:

- Scrapping the prohibitively expensive £1012 citizenship fee currently charged to children, which prevents many children from accessing their rights. As an interim measure, the fee exemption that applies to many immigration applications for children in care should be extended to also cover nationality applications. All such fee exemptions should be extended to care leavers too. This would then enable local authorities to realise a looked-after child's option of registering as a British citizen where the child wishes to and it is in their best interests, as mainstream practice.
- The Home Office should take a proactive approach to helping a child or young person establish their claim to British citizenship<sup>16</sup>. This is a particularly urgent problem for EEA children pending Brexit, many of whom may be British by birth without knowing and/or without being able to prove it by themselves, since they depend on the cooperation of their EEA national parent(s)<sup>17</sup>.
- There should be a shorter route to permanent status for long-resident children and young people with lower application fees. Most non-EEA undocumented children face a ten-year route to indefinite leave to remain (the 'ten year route to settlement'), requiring five applications currently costing a total of £10,521 in fees and charges before they will have secure, permanent status. If the Immigration Health Surcharge is increased as the Government intend, this total cost will increase to £12,771 over ten years<sup>18</sup>. This increases the possibility of children falling back into undocumented status.

#### **We suggest the following questions to the Government:**

3a) What is the Government estimate of how many undocumented children and young people live in the UK?

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<sup>15</sup> Greater London Authority commissioned report '*London's children and young people who are not British Citizens: A profile*', January 2020, p.3

[https://www.london.gov.uk/sites/default/files/final\\_londons\\_children\\_and\\_young\\_people\\_who\\_are\\_not\\_british\\_citizens.pdf](https://www.london.gov.uk/sites/default/files/final_londons_children_and_young_people_who_are_not_british_citizens.pdf)

<sup>16</sup> See CCLC briefing '*Evidence for British Future Citizenship Inquiry, October 2019*' for more on the current process and associated problems. [https://www.childrenslegalcentre.com/wp-content/uploads/2019/10/British-Future-Citizenship-Inquiry\\_CCLCevidence.pdf](https://www.childrenslegalcentre.com/wp-content/uploads/2019/10/British-Future-Citizenship-Inquiry_CCLCevidence.pdf)

<sup>17</sup> Coram CLC report '*Children left out? Securing children's rights to stay in the UK beyond Brexit*', July 2020, part 1

<sup>18</sup> CCLC briefing '*Shorter routes to settlement for long-resident children and young people*', January 2020  
[https://www.childrenslegalcentre.com/wp-content/uploads/2020/01/Shorter-routes-to-settlement\\_Jan2020.pdf](https://www.childrenslegalcentre.com/wp-content/uploads/2020/01/Shorter-routes-to-settlement_Jan2020.pdf)

3b) What is the disaggregated data on numbers of applications and grants made by or for children under the 10 year and citizenship routes<sup>19</sup>?

3c) How many children initially granted leave under the ten year route to settlement fall back into undocumented status (and remain in the UK)?

3d) How many parents applying under the ten year route do not apply for leave for some or all of their children?

3e) What steps has the Government taken to ensure that all children who are British by birth are fully able to exercise their rights as British nationals?

#### **4) Asylum and trafficking**

Children in the asylum process continue to have to deal with a range of challenges, including: too little emphasis on the needs of the child in the asylum process; a “culture of disbelief” when considering the age of the child; the lack of identification and support of many children trafficked into the UK; inadequate consideration of children’s asylum claims, including their best interests; the lack of access to good quality legal advice and legal aid, particularly outside London; and the lack of guardians or consideration of guardians to support children. We are also particularly concerned by the following:

- Serious delays in processing children’s asylum claims<sup>20</sup>. These delays can negatively affect every aspect of children’s lives, including education, access to support services, access to future support as adults, and mental health. A common argument is that the Home Office does not have further resources beyond what is already allocated to child asylum cases, but it should be noted that delayed cases are often subject to pre-action proceedings and judicial review; so costs are shifted to the Home Office’s litigation operations department. The COVID-19 pandemic is likely to cause significant further delays to children’s cases.
- There are a significant number of unaccompanied children in the asylum system who are not granted refugee status but instead are granted a temporary form of leave to remain. It has been widely recognised that granting leave to children with a cut-off point of 18 or 17 ½ undermines the ability of the child, and the local authority supporting them, to make long-term plans for their future, and can have significant negative mental health implications for the child<sup>21</sup>. They should be granted a more lasting form of leave so that their ability to meet their maximum potential as adults is not put into jeopardy by uncertainty and delay.
- The UK has very restrictive rules around family reunion for refugee children. The UK has opted-out of the Family Reunification Directive, which allows for wide discretion for EU member states and provides the right to family reunification for refugee children of the child’s first-degree relatives in the direct ascending line. The current rules do not recognise the refugee child’s right to be reunited

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<sup>19</sup> This data is already captured, and is published in an aggregated form. However, it is insufficient to gauge the number of children in the UK on limited forms of leave. See Chapter 5 of Greater London Authority commissioned report ‘*London’s children and young people who are not British Citizens: A profile*’, January 2020 for information on data gaps and difficulty obtaining data.

<sup>20</sup> Report by Elder Rahimi ‘*Systemic delays in the processing of the claims for asylum made in the UK by unaccompanied asylum seeking children (UASC)*’ (March 2018) [http://www.elderrahimi.co.uk/UserFiles/Files/p\\_nS4kT4.pdf](http://www.elderrahimi.co.uk/UserFiles/Files/p_nS4kT4.pdf)

<sup>21</sup> Refugee and Migrant Consortium Briefing ‘*Best interests leave for unaccompanied migrant children*’, January 2020 [https://www.childrenslegalcentre.com/wp-content/uploads/2020/01/RMCC-briefing\\_best-interests-leave.pdf](https://www.childrenslegalcentre.com/wp-content/uploads/2020/01/RMCC-briefing_best-interests-leave.pdf)

with their parents, and regard it as a matter of discretion to be exercised only when there are compelling circumstances<sup>22</sup>.

**We suggest the following questions to the Government:**

4a) How many applications for asylum by unaccompanied children took longer than 6 months to process in 2019?

4b) What is the 2019 government spend on responding to pre-action and judicial review proceedings brought on the basis that the Home Office has taken an unreasonably long time to process a child's asylum claim?

4c) How many decisions have been made on applications by unaccompanied children since services were closed down at the end of March 2020 due to the COVID-19 pandemic, and what steps is the government taking to reduce the inevitable backlog caused by lockdown?

4d) How many children who were initially granted UASC leave are subsequently granted a different form of leave, over the past 5 years?

4e) How many age disputed children have been held in adult facilities (both detention facilities and adult asylum support accommodation), and subsequently been determined to be/ have been children, over the past 5 years?

**5) Migrant children and young people in the care system**

Migrant children in care can be affected by all of the issues raised above, but we address some additional issues here as the government owes a higher duty to children in its direct care. Our primary concerns are currently:

- The Home Office should introduce a provision to grant settled status to all looked after children and care leavers who apply to the EU settlement scheme, to reduce the risk of them later becoming undocumented should they or their carers fail to apply for settled status<sup>23</sup>. Like all looked after children, approaches to the care of EEA citizens should foreground stability and permanence<sup>24</sup>.
- Many children and young people in the care system who need to apply under EUSS have yet to even be identified<sup>25</sup>. The government must work with local authorities and civil society to make and resource a comprehensive plan to find and support every single child and young person, including those eligible to apply as family members of EEA citizens, to apply as a matter of urgency.
- Many third country national children in care are also not aware of their immigration status or lack thereof, and are often unsupported to secure their status. It is not unusual for care leavers to discover they are undocumented only after they turn eighteen. The government must work with

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<sup>22</sup> Pages 18-19, Home Office, Family reunion: for refugees and those with humanitarian protection, March 2019 <https://www.gov.uk/government/publications/family-reunion-instruction>

<sup>23</sup> Coram CLC report 'Children left out? Securing children's rights to stay in the UK beyond Brexit', July 2020, part 3

<sup>24</sup> 'The permanence and the stability [fostering] can bring to children's lives trumps everything else in its importance. The pursuit of permanence should be moved to the centre ground of policy at the Department for Education.' Foster Care in England: A Review for the Department for Education by Sir Martin Narey and Mark Owers, February 2018, at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/679320/Foster\\_Care\\_in\\_England\\_Review.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/679320/Foster_Care_in_England_Review.pdf)

<sup>25</sup> Coram CLC report 'Children left out? Securing children's rights to stay in the UK beyond Brexit', July 2020, part 2

local authorities and civil society to make and resource a comprehensive plan to identify and support every single child in care, to ensure all children in care have the most secure status possible.

- Published Home Office policy allows for a looked after child to be granted four years limited leave to remain, followed by ILR<sup>26</sup>, stating that “*decisions about the future of children in the care of the local authority should be left primarily in the hands of their social services department as they will be best placed to act in the child's best interests.*” If social services “*advise that it would be appropriate for the child to remain in the United Kingdom, consideration should be given to granting the child leave to remain.*” However, in our experience this form of leave is rarely granted by the Home Office, and even less likely to result in ILR after 4 years. It is not clear why this policy is not being put into practice.

**We suggest the following questions to the Government:**

5a) How many EEA children are currently in the care of local authorities, and of these how many have applied for status under the EUSS?

5b) Can social workers make EUSS applications for children or young people and if so, how is this work regulated and overseen, and how is this information communicated to front line social workers?

5c) How many third country national children are currently in the care of local authorities, and of these how many have a form of permanent immigration status, how many have a more temporary status, and how many are undocumented?

5d) How many looked after children have been granted 4 years limited leave to remain over the past 5 years, and how many have been granted ILR following a 4 year grant under the Home Office policy referred to above?

**For more information, please contact:**

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<sup>26</sup> See Section 8, Home Office, Immigration Directorate Instructions, Ch 8, Section 5A, Annex M: Children, July 2011 at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/263209/children\\_annex\\_m.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/263209/children_annex_m.pdf)

**Call for Written Evidence: Civil Society Submission to the UN's List of Issues**  
**Submission by Ilona Pinter**  
**Doctoral student, Centre for Analysis of Social Exclusion, LSE**

Please find below my submission to the call for evidence. It relates to two areas set out in the call: immigration and asylum, and poverty. The analysis included in the submission is part of my doctoral research which focuses on how financial support and employment restrictions affect children within families living in the Asylum Support system in the UK. For more information please contact me on: [i.pinter@lse.ac.uk](mailto:i.pinter@lse.ac.uk).

**Children in asylum-seeking families**

In its 2015 concluding observations for the UK, the UNCRC Committee raised concerns about the lack of reliable data on asylum-seeking children. This problem continues particularly in relation to publicly available data on children within families affected by immigration and asylum policies.

One example of this is within the context of the Asylum Support system which provides accommodation and subsistence support to children, families and single adults seeking asylum in the UK. Between 2010 and 2019, 55,938 applications were made from children within families as main applicants or dependents – an average of 5,594 children applying with their families each year<sup>1</sup>. Children within families made up almost a fifth (18%) of all asylum applicants and dependents during this time. In addition, the UK received 22,754 applications from Unaccompanied Asylum-Seeking Children between 2010-19 – an average of 2,275 applications per year<sup>2</sup>. A recent report by the Migration Observatory highlighted that as of January 2020, there were 11,375 children whose asylum application was still pending – a number which includes both accompanied and unaccompanied children<sup>3</sup>.

However, there is no publicly available data on how many children are being supported by the Home Office under the Asylum Support system. In March 2020, there were 44,244 individuals in receipt of Section 95 support. Of these, over a third (36% or 15,842) were single adults while the majority - almost two thirds (64% or 28,402) - were members of a family group. In total 8,659 families were supported under this type of provision. In addition, 4,077 individuals including dependents were supported on Section 4 (for refused asylum seekers)<sup>4</sup> and 2,577 were supported under Section 98 (initial accommodation). But this does not tell us how many of the families on asylum support include child dependents or indeed how many child dependents were on any kind of asylum support.

There is also no publicly available data on how long children and families live on asylum support for. In 2014, information provided by the Home Office through litigation highlighted that asylum support is required for an average of almost 18 months, and in a significant number of cases will be needed for a matter of years<sup>5</sup>. Home Office statistics show that at the

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<sup>1</sup> This analysis was conducted using Home Office Quarterly Immigration Statistics: <https://www.gov.uk/government/statistical-data-sets/immigration-statistics-data-tables-year-ending-june-2020#asylum-and-resettlement>

<sup>2</sup> Unaccompanied children are typically supported by local authorities as looked after children. However, some children whose age is disputed may end up on Asylum Support being treated as adults, without the supervision or support from a social worker or other responsible adult, raising serious safeguarding concerns.

<sup>3</sup> <https://migrationobservatory.ox.ac.uk/resources/briefings/children-of-migrants-in-the-uk/>

<sup>4</sup> Some children and families who have been refused asylum will continue to be supported under Section 95 support in recognition that children are in the family and therefore support is not terminated once an applicant is refused as in the case of adults without children.

<sup>5</sup> Refugee Action v SSHD 2014: <https://www.bailii.org/ew/cases/EWHC/Admin/2014/1033.html>

end of 2019, over half (57%) of applicants were waiting more than 6 months for an initial decision.

### **Meeting children's needs during the pandemic**

Although intended to meet 'essential living needs' and prevent a breach of human rights, the support provided to asylum-seeking families with children places them well below the poverty line in the UK<sup>6</sup>.

From 15<sup>th</sup> June 2020, Section 95 and Section 4 support rates were increased to £39.60 temporarily, pending a full internal review<sup>7</sup>. While Universal Credit was increased by £1,000 for 12 months, from 6<sup>th</sup> April 2020, Asylum Support was only increased by £96 for an equivalent period and over two months later.

As parents are prevented from working in most cases, the subsistence provided by the Home Office is the only income that families receive. Some may apply for additional support on a case-by-case basis and in exceptional circumstances under Section 96 provisions<sup>8</sup> and children on Section 95 support can generally access Free School Meals<sup>9</sup>. They can also access other services like NHS care. However, they cannot access other benefits like Disability Living Allowance.

Since 2015, children have received a flat-rate of support the same as adults without additional provision to purchase school uniforms, books, clothes, toys, and other items to support children's needs to learn, grow and develop<sup>10</sup>. The rates of support do not provide for families to purchase IT equipment or WiFi<sup>11</sup> meaning that during the pandemic and lockdown, many children in asylum-seeking families would've struggled to access online learning<sup>12</sup> and may continue to going forward.

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<sup>6</sup> The Children's Society's submission to the Home Office review of asylum support rates in 2018:

<https://www.childrensociety.org.uk/sites/default/files/asylum-support-inquiry-the-childrens-society-response.pdf>

<sup>7</sup> The rates of support were last increased in 2018 and although the review had previously been published annually, the 2019 was never published.

<sup>8</sup> <https://www.gov.uk/government/publications/applications-for-additional-support>

<sup>9</sup> Children on Section 4 support are generally not eligible for Free School Meals though during the pandemic the government extended this provision to Section 4 children temporarily, following litigation:

<https://www.gov.uk/government/publications/covid-19-free-school-meals-guidance/guidance-for-the-temporary-extension-of-free-school-meals-eligibility-to-nrpf-groups>

<sup>10</sup> The introduction of the flat-rate of support for children and adults alike meant a targeted cut affecting children and single parents most: children's support was cut by 30% while single parents' support was reduced by 16%. This policy was upheld in litigation.

<sup>11</sup> The Home Office review in 2018 – the last one published – states that children can rely on schools and local libraries to access internet. It allocates a total of £3 per week per person for all communication needs:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/673545/Report\\_on\\_review\\_of\\_cash\\_allowance\\_paid\\_to\\_asylum\\_seekers\\_-\\_2017\\_-\\_final...pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/673545/Report_on_review_of_cash_allowance_paid_to_asylum_seekers_-_2017_-_final...pdf)

<sup>12</sup> The provision of IT devices and internet access DfE during the lockdown was only provided to children with a social worker, care leavers or Year 10 pupils, so most asylum-seeking children were unlikely to benefit.



## Call for Written Evidence: Civil Society Submission to the UN's List of Issues Submission from the Child Poverty Action Group

September 2020

### About Child Poverty Action Group

Child Poverty Action Group works on behalf of the more than one in four children in the UK growing up in poverty. It doesn't have to be like this. We use our understanding of what causes poverty and the impact it has on children's lives to campaign for policies that will prevent and solve poverty – for good. We provide training, advice and information to make sure hard-up families get the financial support they need. We also carry out high-profile legal work to establish and protect families' rights.

[www.cpag.org.uk](http://www.cpag.org.uk)

### About this submission

Child Poverty Action Group has particular expertise in the policy areas of poverty, social security and education. As a result, we have limited our response to focus on these areas of interest (as outlined in the CRAE guidance for submissions). The first section of our submission tackles the issue of poverty and homelessness, with a focus on the increase in child poverty in the UK since 2016. The second section of our submission focuses on education, with a particular focus on the experiences of children from low income households in the education system in the UK. It is important to note that poverty affects all areas of children's lives, and whilst this submission focuses on the impact on their educational outcomes as this is where our expertise lies, tackling child poverty is an essential first step to realising children's rights in the UK – without it children simply cannot access their full range of human rights.

Finally, it is important to note that this submission focuses on children's rights in England, and we recognise that the picture looks different across the four nations – although some actions taken by the Westminster government are affecting children's rights across the UK. CPAG will be making separate submissions via the civil society reporting processes in Wales and Scotland.

### 1. Poverty and Homelessness: ending child poverty

#### An assessment of where the Government has made/not made progress

#### What has improved or regressed (with reference to concluding observations)

In 2016 the UN Committee on the Rights of the Child (the Committee) made the following recommendations to the UK government:

#### *Standard of living*

*The Committee is seriously concerned that:*

- (a) The rate of child poverty remains high with a disproportionate representation of children with disabilities, children living in a family or*

*household with person(s) with disability, households with many children, and children belonging to ethnic minority groups, and affecting children in Wales and Northern Ireland the most.*

*(b) The Welfare Reform and Work Act (2016), which amends the Child Poverty Act (2010), repealed the statutory target on the eradication of child poverty by 2020 and the statutory obligation of the UK Government and the governments of England, Scotland and Wales to produce child poverty strategies;*

*(c) Recent amendments to the Tax Credits Act (2002), the Welfare Reform Act (2012) and the Welfare Reform and Work Act (2016) have limited the entitlement to child tax credits and social benefits (the “household benefit cap” and the “bedroom tax”), regardless of the needs of the households;*

*The Committee draws the attention of the State party to the Sustainable Development Goal 1, Target 1.2, on poverty reduction and urges the State party to:*

*(a) Set up clear accountability mechanisms for the eradication of child poverty, including by re-establishing concrete targets with a set timeframe and measurable indicators, and continue regular monitoring and reporting on child poverty reduction in all parts of the State party;*

*(b) Ensure clear focus on the child in the State party’s poverty reduction strategies and action plans, including in the new “Life Chances Strategy”, and support production and implementation of child poverty reduction strategies in devolved administrations;*

*(c) Conduct a comprehensive assessment of the cumulative impact of the full range of social security and tax credit reforms introduced between 2010 and 2016 on children, including children with disabilities and children belonging to ethnic minority groups;*

*(d) Where necessary, revise the mentioned reforms in order to fully respect the right of the child to have his or her best interests taken as a primary consideration, taking into account the different impact of the reform on different groups of children, particularly those in vulnerable situations;*

As an organisation that works to end child poverty in the UK, it is our view that not only have these recommendations not been addressed, but the issues that concerned the Committee back in 2016 have worsened in the UK. Below we set out some of our main concerns.

### **Child poverty continues to rise:**

Recent analysis demonstrates that not only is the number of children living in poverty increasing, but families with children who are in poverty are now living, on average, further below the poverty line than they were five years ago.<sup>1</sup> This is a relatively recent trend. In 2010 child poverty in the UK was at a 13-year low, following co-ordinated work across government to end child poverty (see below). This reversal is extremely concerning from a child rights perspective; particularly the fact that more and more children are living in deep poverty. Living further below the poverty line means children are experiencing greater hardship and realising their human rights is more difficult; for example their right to an adequate standard of living, good health, their ability to benefit from healthcare, education, cultural activities, and play are all severely compromised when children are living in deep poverty.

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<sup>1</sup> Lee, T. (2020) [Dragged Deeper: how families are falling further and further below the poverty line](#), Child Poverty Action Group



### **Punitive social security reforms are affecting more and more families:**

In the last examination the Committee rightly focused on recent reforms to the social security system as extremely problematic for the realisation of children's rights in the UK. These reforms are now affecting more and more families and they are one of the primary reasons why child poverty is rising so steadily in the UK. For example, two policies which are particularly worrying - the two-child limit and the benefit cap - are now affecting the lives of hundreds of thousands of children. Both of these policies limit the amount of benefits certain low income households can receive regardless of need – one by limiting support to two children per household<sup>2</sup>, and the other by capping the total amount a household can receive from benefits. Recent research conducted by CPAG estimates that the two-child limit is now affecting 860,000 children (April 2020) and this number is expected to rise to 2 million children by the end of 2024.<sup>3</sup> The benefit cap is also affecting more and more families; recent government statistics show that 154,000 families are now affected by the benefit cap (August 2020) – made worse by the economic impact of Covid-19.<sup>4</sup> CPAG is extremely concerned that there has been very little analysis conducted by the government into the impacts of these policies on child poverty – including the impact on different equality groups, for example children from black and minority ethnic (BME) backgrounds.

### **The abolition of the Child Poverty Act and associated targets is worsening the situation:**

In the last examination, the Committee highlighted the decision to abolish the Child Poverty Act and associated targets, monitoring, and reporting as a worrying development for children's rights in the UK. This decision is continuing to undermine more localised efforts to tackle child poverty in England.<sup>5</sup> A cross-government child poverty strategy provided a framework for co-ordinated action on child poverty across government departments with ambitious targets to cut relative, absolute and persistent poverty. A white paper was promised on a successor policy, the 'Life Chances Strategy', but it never materialised.<sup>6</sup> Instead, policies with a strong focus on workless households and educational attainment were produced. Neither has produced results – evidenced most strongly by the steady rise in child poverty rates seen in recent years (see above).

### **References to new studies, data or reports**

See references in footnotes throughout this submission.

### **Questions that the UN Committee should include in its LOIPR which the UK Government will have to respond to in its State report**

CPAG suggests the following questions on the issue of child poverty:

1. What analysis has the government undertaken to assess the cumulative impact of the Welfare Reform Act 2012 and the Welfare Reform and Work Act 2016 on child poverty in the UK?
2. What analysis has the government undertaken to assess the impact of the two-child limit on child poverty in the UK?

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<sup>2</sup> To be affected by the two-child limit, any third or subsequent children must have been born on or after 6 April 2017 – when the policy came into force.

<sup>3</sup> Sefton, T., Monk-Whinstanley, R. and Howes, S. (2020) *No one knows what the future can hold*, Child Poverty Action Group and the Church of England

<sup>4</sup> There was a 93% increase in the number of capped households between February – May 2020 due to the Coronavirus pandemic. See [Benefit cap: number of households capped to May 2020](#) (2020), Department for Work and Pensions

<sup>5</sup> Governments in the devolved nations have taken action to mitigate the worst impacts of some these reforms, for example the Scottish Parliament passed the Child Poverty (Scotland) Act in 2017. This submission focuses on England, and CPAG will be feeding into civil society reporting processes in Scotland and Wales separately.

<sup>6</sup> Flew L (2020) *Chapter 20. A new child poverty strategy: ending it for good*; in, 2020 Vision: ending child poverty for good; London: CPAG

3. What analysis has the government undertaken to assess the impact of the benefit cap on child poverty in the UK?
4. What analysis has the government undertaken to assess the impact of the two child limit and the benefit cap on different groups of children? E.g. children from BAME backgrounds, disabled children.
5. Can the (Westminster) government provide a list of any targets, monitoring, and reporting that is required within or across government departments on child poverty reduction?
6. What evaluation has been conducted of the Life Chances Strategy and the effectiveness of the strategy in reducing child poverty?

### **Information on issues of special concern to specific or minority groups of children and young people**

CPAG is particularly concerned that black and minority ethnic children are more likely to be living in poverty in the UK, and social security reforms are hitting certain groups particularly hard. For example, 60% of Bangladeshi children, 54% of Pakistani children and 47% of black children are living in poverty in the UK, compared to 30% of children generally.<sup>7</sup> These households are more likely to have certain demographic characteristics, for example having larger numbers of children – so policies like the two child limit and the benefit cap which disproportionately affect larger families are affecting BME children in particularly high numbers. We are extremely disappointed that despite calls from CPAG and other organisations to carry out analysis of the impact of these policies on children and families with protected characteristics, to date the government has done very little to try and understand the impact of these reforms on different groups of children. For further information about the impact of poverty on ethnic minority children’s educational outcomes see below.

Disabled children, and children who live in a household with a disabled person are much more likely to be living in poverty. For example, 40% of households where there is one disabled adult and one disabled child live in poverty, more than twice the rate when compared to households where there is no disability.<sup>8</sup> Households affected by disability face higher costs, and are more reliant on the social security system, so although some rates of disability-related benefits have been protected, these households have been bearing the brunt of many of the social security reforms implemented over the last decade, including the change from Disability Living Allowance to Personal Independence Payment (PIP) with the intention of cutting spending by 20%, cuts to Employment and Support Allowance and the increasingly onerous benefit assessments, such as the work capability assessment and PIP assessments.

### **Brief evidence of the effects or likely impact of Brexit and the COVID-19 pandemic**

#### **Brexit:**

There has been much comment and analysis on the likely economic impact on the UK of leaving the EU, however there is strong evidence that it will have a negative impact on the UK’s economic growth. Slower economic growth will hit families on low incomes hard, unless the government decides to invest in a more generous social security system to help cushion the blow. At the time of writing, there is no indication that the government is planning to make the social security system more generous as a result of Brexit – and if the economy is hit particularly hard we can expect the fiscal envelope to be smaller which may mean less investment in social security, not more.<sup>9</sup> In addition to the impact on the economy, the UK’s withdrawal from the EU also means the UK is withdrawing from a number of key international agreements including human rights agreements – for

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<sup>7</sup> Khan, O (2020) *Understanding and responding to ethnic minority child poverty*, in *2020 Vision: ending child poverty for good*, Child Poverty Action Group

<sup>8</sup> [UK Poverty 2019/20](#) (2020) Joseph Rowntree Foundation

<sup>9</sup> See the following chapter for further analysis on the impact of Brexit - Stewart, K (2020) *Eradicating child poverty: harder yet after Brexit?* in *2020 Vision: ending child poverty for good*, Child Poverty Action Group

example, the Charter of Fundamental Human Rights which is enforced by the Court of Justice of the European Union. Practically, this weakens human rights protections in the UK (including the rights of the child) and symbolically, it is an extremely worrying direction of travel.

### **Coronavirus:**

It is well documented that the Coronavirus pandemic has had a huge impact on children's rights – with every aspect of children and young people's lives disrupted in some way. Children have been deprived of months of education in schools and early years' facilities (see below) as well as suffering a range of health and wellbeing impacts as a result of extended periods of lockdown.<sup>10</sup> The economic impacts of the pandemic are also making it harder for parents to provide their children with an adequate standard of living, with low income workers worst affected.<sup>11</sup> With employment disrupted, more and more families are turning to the social security system to get by, and the ability of the UK government to provide children and families with a safety net at their time of need has been tested at scale during the pandemic - for many it has proved completely inadequate.<sup>12</sup>

## **2. Education, Leisure and Cultural Activities**

### **An assessment of where the Government has made/not made progress**

#### **What has improved or regressed (with reference to concluding observations)**

In 2016, the Committee made the following recommendations to the UK government:

#### ***Education, including vocational training and guidance***

*The Committee welcomes the gradual closing of inequality gaps in education attainment and the decreasing use of exclusion from school. However, the Committee is concerned that:*

- (a) Substantial inequalities persist in educational attainment particularly for boys, children living in poverty, Roma, Gypsy and Traveller children, children with disabilities, children in care and newcomer children;*
- (b) Among children subject to permanent or temporary school exclusions, there is a disproportionate number of boys, Roma, Gypsy and Traveller children, children of Caribbean descendant, children living in poverty and children with disabilities, and with the exception of Scotland, only children with disabilities have the right to appeal against their exclusion.*
- (f) Many children living in poverty, particularly boys, do not meet the expected level of language development at pre-school level, which has a negative impact on their primary education, hindering their development throughout their life.*

*The Committee recommends that the State party:*

- (a) Enhance its efforts to reduce the effects of the social background or disabilities of children on their achievement in school and to guarantee the right of all children to a truly inclusive education in all parts of the State party, including for newcomer children without experiences of formal education. In this regard, closely monitor and if necessary, regulate the establishment and management of academies and free schools in England,*

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<sup>10</sup> See [Poverty in the Pandemic](#) (2020) and [The Cost of Learning in Lockdown](#) (2020), both Child Poverty Action Group

<sup>11</sup> [Supporting families through the Covid-19 pandemic](#) (2020), Child Poverty Action Group

<sup>12</sup> See [Poverty in the Pandemic](#) (2020) for testimonies from families on the inadequacy of the benefit system

*and abolish the practice of unregulated admission tests to post-primary education in Northern Ireland;*

*(f) Taking note of Sustainable Development Goal 4, Target 4.2 on access to quality early childhood development services, allocate sufficient human, technical and financial resources for the development and expansion of early childhood care and education, based on a comprehensive and holistic policy of early childhood development, with special attention to the children in the most vulnerable situations.*

### ***Rest, leisure, recreation and cultural and artistic activities***

*The Committee welcomes the initiative of the government of Wales to adopt a play policy and integrate children's right to play systematically in relevant legislation and other relevant policies. However, the Committee is concerned about:*

*(a) The withdrawal of a play and leisure policy in England, and under-funding of play and leisure policies in Northern Ireland, Scotland and Wales;*

*(b) Insufficient places and facilities for play and leisure for children, in particular those accessible for children with disabilities and children in marginalized and disadvantaged situations, as well as public space for adolescents to socialize.*

*With reference to its general comment No 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts, the Committee recommends that the State party, including the governments of devolved administrations:*

*(a) Strengthen its efforts to guarantee the right of the child to rest and leisure and to engage in play and recreational activities appropriate to the age of the child, including by adopting and implementing play and leisure policies with sufficient and sustainable resources;*

*(b) Provide children, including those with disabilities and children in marginalized and disadvantaged situations, with safe, accessible, inclusive and smoking-free spaces for play and socialization and public transport to access such spaces;*

*(c) Fully involve children in planning, designing and monitoring the implementation of play policies and activities relevant to play and leisure, at community, local and national levels.*

Whilst there are examples of good practice at a local/devolved level, unfortunately there has been very little co-ordinated national action to address these recommendations and ensure that children experiencing disadvantage are able to realise their full potential through access to good quality education, leisure and cultural activities. Below we set out some of our main concerns:

### **The attainment gap is widening:**

Disappointingly, the gradual closing of the attainment gap that the Committee made reference to in the 2016 recommendations has begun to widen again. Despite a continued government focus since 2010 on 'closing the achievement gap' between children in socio-economically deprived families and others, research shows that a failure to look more broadly at the social determinants of education has meant that 'the gap' has stopped closing and there are indications that it started to widen even prior to the Coronavirus pandemic.<sup>13</sup>

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<sup>13</sup> [Education in England: Annual Report 2020](#) (2020), Education Policy Institute

Poverty at home is the strongest statistical predictor of how well a child will achieve in school. Evidence suggests that these outcomes are both a result of direct deprivation (e.g. inadequate housing, difficulties providing healthy food, and less ability to afford books, computers and extracurricular activities) and the effect that coping with poverty has on parents' mental health.<sup>14</sup> By not recognising the causal relationship between family income levels and educational outcomes, the response to educational inequalities from the government in recent years has been lacking.

Government must make education more accessible and equitable for all children, but also address family incomes. A cross-government (DfE, DWP and HMT) approach that looks at the root causes of poorer educational outcomes is vital, and must be addressed as part of a cross-government child poverty strategy (see above).

### **It is increasingly difficult for schools to support low income families:**

Schools must also be adequately funded to support low income families. However, total spending per pupil in England has fallen by 8% in real terms between 2009-10 and 2019-20.<sup>15</sup> In 2019, the government announced a £14 billion investment in schools and education with an aim to increase school spending over and above inflation. However, analysis shows that the investment will only reverse the cuts that have been made since 2009-10, leaving schools to continue to manage with tight budgets.<sup>16</sup>

In many cases, families have had to bear the brunt of the cuts to school budgets, with parents more frequently being asked to contribute to school costs. In 2019, 76% of parents said the cost of sending children to school was increasing and 53% of disadvantaged families believed that pressure on school budgets was negatively impacting their children's education.<sup>17</sup>

'Extended schools' programmes (services delivered by schools that go beyond the core function of the classroom education of children within the normal school day) have been proven to increase educational outcomes, support family finances and tackle child poverty.<sup>18</sup> A previous government evaluation also found that extended schools had significant positive impacts on attainment.<sup>19</sup> These services often support parents to work by providing extended hours of childcare, thus improving family incomes. Central government funding for extended schools programmes ended in 2011, and with no statutory duty to provide these services, continuing to provide extended schools activities in the face of budget cuts can be challenging for schools - despite the proven benefits of these programmes. In order to tackle child poverty and address the systemic issues that lead to poorer education outcomes, government must properly fund schools to deliver extended schools programmes effectively.

### **Early years' education and development needs investment**

Programmes like Sure Start established hundreds of children's centres, providing a wide range of easily accessible activities and support services for young children and their families. This included opportunities for more targeted support where appropriate, through provisions such as health and development advice and parenting support. Despite the evidence of their success more than 500 children's centres have been closed since 2011. This is a similar story across public services accessed

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<sup>14</sup> K Cooper and K Stewart, [\*Does Money Affect Children's Outcomes? An update\*](#), CASEpaper 203, Centre for Analysis of Social Exclusion, London School of Economics, July 2017

<sup>15</sup> [\*2019 annual report on education spending in England\*](#) (2019), Institute for Fiscal Studies

<sup>16</sup> [\*Response to Government announcement on school spending\*](#) (2019), Institute for Fiscal Studies

<sup>17</sup> [\*Annual Parent Survey 2019\*](#) (2019), Parentkind

<sup>18</sup> [\*Extended Schools\*](#) (2018), Child Poverty Action Group

<sup>19</sup> C Cummings and others, *Evaluation of the Full Service Extended Schools Initiative: final report*, Research brief and report (RR852), Department for Education and Skills, 2007

in the earliest years. Schools, early years' settings, libraries, children's services, and early help council teams have all faced budget cuts. These services, many of which were free at the point of access, played a crucial role in mitigating the impact of poverty for many families, providing opportunities for challenges to be identified and addressed early.

The provision of early childhood education and care (ECEC) is also variable across the country. There is a growing body of evidence that in order for ECEC to have an impact on children's education and development outcomes it has to be of a high quality. A mix of private and state-funded provision often makes it hard for families to discern the level of quality of providers, or simply leaves families without a choice if the available options are not suitable or are too expensive. The quality itself is also inconsistent, with multiple barriers for providers to improve their settings such as limitations on funding or opportunities for workforce development. This situation has been made worse by the Coronavirus pandemic, with many private sector providers struggling to re-open their doors after months of closure during lockdown.

### **Free school meals eligibility has been tightened**

Provision of universal free school meals (FSM) in schools have been proven to produce a range of positive outcomes, including boosting attainment and reducing financial pressures on families.<sup>20</sup> These outcomes disproportionately benefit children living in poverty. Since the last CRC examination in 2016, the government have put greater restrictions on which families are eligible for means-tested free school meals. In 2013, when the Universal Credit roll-out began, measures were introduced so that all families in receipt of Universal Credit were eligible for FSM. However, in 2018 a new criterion was set meaning that households receiving Universal Credit would only be eligible for free school meals if their family income was below £7,400 (before benefits are taken into account). Despite certain transitional protections it was estimated that one million children living in poverty would miss out on free school meals.<sup>21</sup> During the Covid-19 pandemic, the government temporarily extended free school meals to children with no recourse to public funds, many of which live in deep, long-term poverty. This is a welcome policy that many agree should be made permanent by government, however the government must also look at reviewing FSM eligibility more broadly.

### **References to new studies, data or reports**

See references in footnotes throughout this submission.

### **Questions that the UN Committee should include in its LOIPR which the UK Government will have to respond to in its State report**

CPAG suggests the following questions on education, leisure and cultural activities:

- Will the government set up a cross departmental inquiry into the reasons behind the widening attainment gap in order to develop a coordinated strategy?
- What does the government plan to do about the financially precarious nature of the early years education sector and the patchy provision available to families?
- How will the government support schools to provide crucial extended schools services that will benefit families who are struggling?
- What analysis has the government undertaken to assess how many children currently living in poverty will miss out on free school meals, once UC is fully rolled out, due to the eligibility threshold?

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<sup>20</sup> [Evaluation of Universal Infant Free School Meals](#) (2018), Education Policy Institute

<sup>21</sup> [Universal credit: One million children in poverty to miss out on free school meals](#) (2017), The Children's Society

- Will the government commit to a review into the impact that local cuts have had on children and youth services, including the impact on educational attainment, attendance and exclusions?
- Would the government consider following the lead of Scotland and ring fencing money for educational grants for families who are struggling financially with the cost of school? (these could be spent on learning resources, uniform, lunch boxes etc.)

### **Information on issues of special concern to specific or minority groups of children and young people**

47 per cent of children from black and minority ethnic groups are now in poverty, compared with 26 per cent of children in white British families.<sup>22</sup> When we break down rates by local authority, whether that is rates of children accessing Free School Meals or child poverty rates, we see constituencies with significant ethnic minority populations positioned at the top of the list. In the 17 local authorities with the highest rates of child poverty, BME children make up half of the young population.

In schools, teachers' expectations of black students and their working class peers tend to be systematically lower than warranted by their performance.<sup>23</sup> An African-Caribbean male student with special needs who receives free school meals is 168 times more likely to be permanently excluded than a white female counterpart.<sup>24</sup> School closures will also have had a big impact on BAME children, as they are disproportionately from lower socioeconomic background, and overcrowded and multigenerational homes.

Children with Special Educational Needs (SEN) are more likely to be eligible for FSMs (36.2% compared with 13.6% of all pupils; Public Health England 2018). Research shows that 78% of permanent exclusions are issued to children special education needs.<sup>25</sup> Many families with children with SEN reported additional challenges during school closures as they weren't provided with appropriate resources or additional support. Families also reported concerns about their children's wellbeing and some felt that children with SEN had been forgotten.<sup>26</sup>

### **Brief evidence of the effects or likely impact of Brexit and the COVID-19 pandemic**

#### **Coronavirus:**

A rapid evidence review by the Education Endowment Foundation (EEF) predicted that school closures are likely to reverse almost a decade's worth of progress in closing the attainment gap between children in poverty and their more affluent peers. The EEF reports that, even with well-designed distance learning programmes, many pupils will experience slower rates of learning at home, with the potential for significant learning loss in some pupils. They conclude that the negative impact of school closures is likely to be worse for pupils who are economically disadvantaged.<sup>27</sup>

So far, the majority of discussions around pupils' returning to school have primarily focused on the attainment gap, gaps in digital access and the impact of school closures on children's mental health. These are all very important, but it is vital to talk explicitly about income. Guidance to support children and young people when they return to school overlooks financial considerations. This year, many parents will have a smaller budget but will be facing even higher costs. Research into the financial impact of Covid-19 on low income families conducted by CPAG<sup>28</sup> found that 8 out of 10 low

<sup>22</sup> AHC. DWP (2019) Households below average income 1994/95 – 2017/18, Table 4.5db, London: DWP

<sup>23</sup> [Open Letter: Predicted grades & BME students](#) (2020), Runnymede Trust

<sup>24</sup> [The never give up on you](#) (2017), School Exclusions Inquiry, Office of the Children's Commissioner

<sup>25</sup> [Timpson review of school exclusion](#) (2019), Review commissioned by the Department for Education

<sup>26</sup> [The Cost of Learning in Lockdown](#) (2020), Child Poverty Action Group

<sup>27</sup> [Rapid evidence assessment examining the potential impact of school closure on the attainment gap](#) (2020), Education Endowment Foundation

<sup>28</sup> See [Poverty in the Pandemic](#) (2020) Child Poverty Action Group

income families reported a significant deterioration in their living standards due to a combination of falling income and rising expenditure. At the national level, guidance from the Department for Education and Ofsted needs to recognise the financial challenges families face, so that schools can support all children as they return to school following the lockdown and in the longer term.

School closures during the pandemic further demonstrated and exasperated the income-related gaps in education with many children unable to access or engage in learning because they didn't have adequate resources or appropriate space at home. CPAG research found that 40% of low-income families were missing at least one essential resource with ICT equipment a particular challenge for many families.<sup>29</sup> Whether learning at home or at school, families and schools should be provided with appropriate equipment and resources necessary to participate fully in the curriculum and consideration needs to be given to the affordability of such materials. Removing financial barriers to education and poverty-related stigma is a crucial part of making education more accessible and equitable for all children.

## Conclusion

As outlined above, children in the UK today face many risks to their human rights. This submission has focused on three key policy areas where CPAG has particularly expertise, child poverty, social security, and education.

Underpinning these different policy issues, and many other issues that affect children's rights, is the looming threat to our domestic human rights protections that has existed in the UK for many years but appears to be growing stronger. Firstly, there is the manifesto commitment from successive conservative governments to repeal the Human Rights Act, the pillar of our domestic human rights law in the UK. The UK government, when asked repeatedly by the Committee to incorporate the rights in the UNCRC into domestic law, points to the HRA as well as other laws and policies to argue that children's rights are effectively provided for in domestic legislation. Whilst CPAG would take a different view to the government regarding whether these protections are sufficient,<sup>30</sup> it is undisputable that the HRA is a key mechanism for protecting children's rights in the UK. CPAG, as an organisation that is familiar with using the law to afford children their rights, can point to numerous examples of cases that simply would not have been possible without the HRA. The UK government has been distracted in recent years, with Brexit, and now the Coronavirus pandemic, but we can expect the issue of the potential repeal of the HRA to become a live issue in UK politics again, signalling a very worrying direction for the progression of children's rights in the UK.

Secondly, the government has recently announced an independent review into whether there is a need to reform judicial review processes in the UK. The context to the review is the now infamous litigation regarding the Prime Minister's decision to prorogue parliament for 5 weeks in 2019 and if this decision was lawful or not. The Supreme Court ruled against the government, and debate regarding the role of judges and whether their role has expanded too far has ensued. The legal community in the UK, of which CPAG is a part, remains extremely concerned that the government has identified judicial review and the judiciary as on their 'hit list', and the only outcome that can be expected from the review is one which limits judicial review processes and makes it more difficult for

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<sup>29</sup> [The Cost of Learning in Lockdown](#) (2020), Child Poverty Action Group

<sup>30</sup> CPAG has experience of litigating on numerous children's rights issues, and because the UNCRC is not directly incorporated into UK law, convoluted legal routes are required to ensure children's rights are protected, and in some situations cases fail because the domestic human rights framework does not provide adequate children's rights protections. For example, to protect children's article 26 rights under the UNCRC, CPAG brought a legal challenge to the two child limit policy using article 14 of the HRA and this challenge has so far failed at High Court and Court of Appeal stages— see the [CPAG website](#) for more information about this case.



organisations working on behalf of children to use the courts to make sure children's rights are protected in the UK.



## **ECPAT UK Written Evidence** **Submission to the UN's List of Issues Prior to Reporting**

### **About ECPAT UK**

*ECPAT UK is a leading UK-based children's rights organisation campaigning and advocating for the rights of children to be protected from exploitation. We have a long history of campaigning against child trafficking in the UK, having produced the first research into trafficking of children in the UK in 2001. An ongoing programme of research, training, youth participation and advocacy informs our campaigning efforts. ECPAT UK has been instrumental in raising awareness of the plight of children trafficked into the UK for all forms of exploitation and advocating for changes in policy and legislation to improve the UK's response to this abuse. We also work directly with young victims of trafficking, which provides insight into the experiences of these children and the processes/systems that they encounter. ECPAT UK is part of the ECPAT International network of 118 organisations across 102 countries working to end child exploitation.*

### **Introduction**

The UK Government has made some progress towards implementing the Convention of the Rights of the Child, amid significant political change and policy developments. The key issues addressed in this submission are the still insufficient measures to implement the best interest general principle, insufficient response to the sexual abuse and exploitation of children, insufficient measures to prevent child trafficking, insufficient measures to support child victims of trafficking, insufficient measures to prevent and investigate child trafficking in the arrangements to exit the European Union and the impact of COVID19 on child exploitation.

### **Insufficient measures to implement the best interest general principle**

Despite the progress achieved, the best interests of child victims are not being assessed thoroughly particularly when decisions on their immigration status are made. Following the previous reporting period, ECPAT UK commended the Government for the implementation of the EU Anti-Trafficking Directive and the Council of Europe Convention Against Trafficking. Unfortunately, the Government has failed to implement a key portion of the Directive, mainly Article 16.2 requiring member states to provide a durable solution for child trafficking victims as defined in the Joint General Comment No.22<sup>1</sup>. This means putting in place a process to ensure that there is a long-term sustainable arrangement<sup>2</sup> for each child. No such process is in place in the UK<sup>3</sup>.

Child trafficking victims who apply for asylum and are refused may be granted limited leave to remain in the UK as unaccompanied children seeking asylum, up until they reach the age of 17 ½. However, as they transition to adulthood, many may face significant periods of

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<sup>1</sup> Committee on the Rights of the Child in Joint General Comment No. 22 (para 32(j)). Previously in General Comment No. 6 (para 84)

<sup>2</sup> Sigona, N, Chase, E, Humphris, R (2017) Becoming Adult Project: protecting the 'best interest' of the child in transition to adulthood: <https://becomingadultproject.files.wordpress.com/2017/12/ba-brief-3-low-res.pdf>

<sup>3</sup> UNICEF UK, (2015). Achieving a durable solution for trafficked children: [https://downloads.unicef.org.uk/wp-content/uploads/2016/01/Unicef\\_DurableSolutions\\_ExecSummary.pdf?\\_ga=2.251870282.279355555.1531214147-375590463.1511369688](https://downloads.unicef.org.uk/wp-content/uploads/2016/01/Unicef_DurableSolutions_ExecSummary.pdf?_ga=2.251870282.279355555.1531214147-375590463.1511369688); ECPAT UK (2017), Lighting the Way: Steps that lawyers, legal guardians and child trafficking advocates in the UK can take to better identify and protect children who may have been trafficked: <https://www.ecpat.org.uk/Handlers/Download.ashx?IDMF=1dcfdd01-44fd-4b0f-90c3-ccbc36649a80>



irregularity, immigration detention and/or return to countries where they have few connections and face serious risks of re-trafficking<sup>4</sup>. Child victims may also be granted Discretionary Leave as victims of trafficking in line with the Government's obligation under the Council of Europe Convention Against Trafficking [ECAT]. A series of Freedom of Information requests issued by BuzzFeed news<sup>5</sup> showed that amongst the individuals who received a conclusive grounds decision between 01 April 2018 and 31 December 2018, a staggeringly low number of children were granted discretionary leave. In that period, fewer than 10 children were granted DL and 223 were refused.

The current system therefore undermines the ability of the child, or those supporting the child, to find an individual durable solution for that child and prevents local authorities making long-term plans for children<sup>6</sup>. In addition, a continuing UK Government strategy to create a so-called 'hostile environment' aimed at deterring irregular migration to the UK has had a detrimental impact on non-UK national child victims of trafficking.

### **Insufficient response to the sexual abuse and exploitation of children**

ECPAT UK significantly welcomed the UK government's long-awaited ratification of the Lanzarote Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse in the UK and abroad on June of 2018. Despite this significant achievement, there are still insufficient responses to the sexual abuse and exploitation of children.

Following the establishment of the Independent Inquiry into Child Sexual Abuse as an acknowledgment of the failures by the State in their duty of care to protect children from sexual abuse and exploitation, ECPAT UK became a core participant to the inquiry in their investigation into the abuse of children abroad by UK nationals and residents. This investigation<sup>7</sup> examined three legislative frameworks in place to reduce the risk of sexual abuse overseas; these were Civil Orders issued under the Sexual Offences Act 2003, the use of Section 72 of the Sexual Offences Act 2003, which allows individuals to be prosecuted in the UK for offenses committed abroad and the Disclosure and Barring Service (DBS).

The Inquiry found that following the drafting of a national action plan to prevent commercial sexual exploitation of children in 2001 at the Yokohama Convention, the Government has yet to revisit or revise this strategy<sup>8</sup>.

#### Civil Orders

The Inquiry found that the number of orders restricting the foreign travel of sex offenders made under the Sexual Offences Act 2003 is significantly low. Of the 5,551 sexual harm prevention orders (SHPO) imposed in England and Wales in 2017/18, foreign travel restrictions were imposed in just 11 cases<sup>9</sup>. Only about 0.2 per cent of registered sex

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<sup>4</sup> Humphris, R, Sigona, N (2017) Outsourcing the 'best interests' of unaccompanied asylum seeking children in the era of austerity, *Journal of Ethnic and Migration Studies*, 45 (2): 312-330; Sigona, N, Chase, E, Humphris, R (2017) Becoming Adult Project: protecting the 'best interest' of the child in transition to adulthood:

<https://becomingadultproject.files.wordpress.com/2017/12/ba-brief-3-low-res.pdf>

<sup>5</sup> Bradley, J and Dugan, E (2019) Hundreds of Child Trafficking Victims Have Been Refused The Right To Stay In The UK:

<https://www.buzzfeed.com/janebradley/child-trafficking-victims-refused-uk>

<sup>6</sup> The Children's Society (2015), Not just a temporary fix: the search for durable solutions for separated migrant children.

[https://www.childrensociety.org.uk/sites/default/files/Durable%20solutions%20draft\\_FINAL%20DRAFT\\_0.pdf](https://www.childrensociety.org.uk/sites/default/files/Durable%20solutions%20draft_FINAL%20DRAFT_0.pdf)

<sup>7</sup> Independent Inquiry Child Sexual Abuse (2020) Children Outside the United Kingdom Investigation Report:

<https://www.iicsa.org.uk/key-documents/17209/view/children-outside-united-kingdom-investigation-report-9-january-2020.pdf>

<sup>8</sup> Independent Inquiry Child Sexual Abuse, hearing transcript: <https://www.iicsa.org.uk/key-documents/9312/view/public-hearing-transcript-11-february-2019.pdf>

<sup>9</sup> Independent Inquiry Child Sexual Abuse (2020) Children Outside the United Kingdom Investigation Report:

<https://www.iicsa.org.uk/key-documents/17209/view/children-outside-united-kingdom-investigation-report-9-january-2020.pdf>



offenders of 58,637 England and Wales on 31 March 2018 had their foreign travel restricted. Shockingly, the Inquiry found that neither the Home Office, the Ministry of Justice nor the Crown Prosecution Service consistently collect data about the number of orders containing foreign travel restrictions that are imposed<sup>10</sup>.

The Inquiry heard evidence that following the decision of R v Smith and Others in 2012, police forces have emphasised the need for evidence insisting on the need to show the underlying sexual behaviour had been committed abroad or of a specific intent to travel in order to secure a travel restriction, despite other cases which show these concerns may be overstated. This is of significant concern to ECPAT UK, particularly as evidence provided by the National Crime Agency regarding a reluctance to seek travel restrictions on cases involving 'non-contact offending' even when these involved the payment to live stream the sexual abuse of children abroad. These training gaps as identified in the Home Office reviews of 2017 and 2019 must be immediately addressed to ensure the protection of children.

#### Prosecutions of offences committed abroad

UK Nationals and residents can be prosecuted in the UK for child sexual offences committed abroad. Obtaining accurate data of the use of Section 72 was significantly challenging. National statistics are not collated by the Ministry of Justice, the National Police Chiefs' Council (NPCC), the Crown Prosecution Service or the Home Office. Data obtained by the Inquiry suggests that between 1997 and 2018 there were seven concluded prosecutions under section 72 in England and Wales, a rate of 0.33 prosecutions per year.

ECPAT UK has, for a number of years, challenged a perceived understanding that Section 72 should only be used as a 'last resort'. This policy position had been denied by various agencies consistently, subsequently the National Crime Agency provided disclosure on February 2018 of the guidance to its International Liaison Officers<sup>11</sup> which stated:

***“Encourage the host country to initiate their own investigations and prosecution against British nationals who commit CSEA141 offences in their host country. Section 72 allows UK individuals who offend overseas to be prosecuted in the UK. However, this should be seen as the last resort or in extremis option due to the complex and resource-intensive nature of these operations.”***

Similarly, the Foreign and Commonwealth Office (FCO) pre-2019 guidance to its staff also discouraged Section 72, stating that prosecutions under section 72 are “rare” due to logistical and diplomatic issues<sup>12</sup>. Following the Inquiry’s examination, the NCA and FCO changed the 'last resort' elements of their guidance documents which is a welcome step, but not redress has been provided to encompass the years where these guidance documents deterred the ability of children to access justice.

#### Disclosure and Barring

The Disclosure and Barring Scheme (DBS) seeks to prevent those who pose a risk to children to work with them. The Inquiry found the DBS does not prevent those abusers from obtaining employment with access to children overseas<sup>13</sup> and various statements made reflected these views including the evidence provided by ACRO, the criminal records office<sup>14</sup>. The inquiry also reviewed the International Child Protection Certificate (ICPC)

<sup>10</sup> Independent Inquiry Child Sexual Abuse, key document: Davison 14 February 2019 117/11; CPS004660 paras 14–17; HOM003000\_005 footnote 1

<sup>11</sup> Independent Inquiry Child Sexual Abuse, key document: <https://www.iicsa.org.uk/key-documents/9373/view/NCA000305.pdf>

<sup>12</sup> Independent Inquiry Child Sexual Abuse, key document: <https://www.iicsa.org.uk/key-documents/9439/view/FCO000146.pdf>

<sup>13</sup> Independent Inquiry Child Sexual Abuse, key document: <https://www.iicsa.org.uk/key-documents/9319/view/ECPO00007.pdf>

<sup>14</sup> Independent Inquiry Child Sexual Abuse, key document: <https://www.iicsa.org.uk/key-documents/9353/view/iicsa130219.pdf>



scheme, which was introduced by National Crime Agency in 2012. Unfortunately, the scheme is non-statutory and sits outside the DBS framework.

Following various high profile reports of charities breaching safeguarding duties abroad, the Department for International Development (DFID) subsequently launched new due diligence standards for its funding, which help gauge a partner's ability to apply safeguarding of children and adults in their work<sup>15</sup>. Given the Government's announcement to merge the FCO and DFID on June 2020, the emphasis to progress the due diligence framework to safeguard children is unclear<sup>16</sup>, particularly the initiatives aimed at improving vetting across the international aid sector.

### Online abuse

There are gaps in the UK's response to online child exploitation and inadequate regulation of Internet companies such as social media platforms frequently used by children.

Opportunities to strengthen protections for children online were missed when the government failed to implement the recommendations of the 2019 Online Harms White Paper and create a robust regulatory framework for Internet providers<sup>17</sup>, failed to implement the Information Commissioners' Office Age Appropriate Design Code which was only belatedly laid before Parliament in June 2020<sup>18</sup> and delayed implementing Part 3 of the Digital Economy Act 2017 which brought into law additional safeguards for children online including age verification processes and protections related to sexual exploitation imagery.<sup>19</sup> These delays or failures to act have created an online environment, which is less regulated and less equipped to protect children from exploitation than they might have been, particularly during the COVID19 pandemic.

In April 2020, the Department for Culture, Media and Sport published new guidance to help Internet users to stay safe online during the coronavirus outbreak, with more detailed information for parents and carers,<sup>20</sup> as well as a joint new government resources page on online child safety. On the 11<sup>th</sup> June 2020, following three months of lockdown measures in which children spent increased time online and agencies reported increased risks of online child exploitation, the Information Commissioner's Office Age Appropriate Design Code was finally laid before parliament; setting out 15 standards to increase protections and privacy for children when using the Internet.<sup>21</sup>

### **Insufficient measures to prevent child trafficking**

#### Prevention

The UK Government is obligated under a range of international conventions to uphold the rights of children and to take action to prevent child trafficking and exploitation<sup>22</sup>. The UK

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<sup>15</sup> DFID (2020) Enhanced Due Diligence: Safeguarding for external partners: <https://www.gov.uk/government/publications/dfid-enhanced-due-diligence-safeguarding-for-external-partners>

<sup>16</sup> <https://www.gov.uk/government/news/prime-minister-announces-merger-of-department-for-international-development-and-foreign-office>

<sup>17</sup> Department for Culture, Media and Sport (2019) Online Harms White Paper: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/793360/Online\\_Harms\\_White\\_Paper.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793360/Online_Harms_White_Paper.pdf)

<sup>18</sup> Information Commissioner's Office (2020) Age Appropriate Design Code: <https://ico.org.uk/media/for-organisations/guide-to-data-protection/key-data-protection-themes/age-appropriate-design-a-code-of-practice-for-online-services-0-0.pdf>

<sup>19</sup> UK Government (2017) Digital Economy Act 2017 <http://www.legislation.gov.uk/ukpga/2017/30/contents>

<sup>20</sup> UK Government (2020) Digital minister urges parents to follow new guidance to keep children safe online during lockdown 23<sup>rd</sup> April 2020: <https://www.gov.uk/government/news/digital-minister-urges-parents-to-follow-new-guidance-to-keep-children-safe-online-during-lockdown>

<sup>21</sup> Information Commissioner's Office (2020) Age Appropriate Design Code is laid before Parliament: <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/06/age-appropriate-design-code-is-laid-before-parliament/>

<sup>22</sup> UN General Assembly, Convention on the Rights of the Child (UNCRC), United Nations Treaty Series, vol. 1577, 20 November 1989, p.3. See: [www.refworld.org/docid/3ae6b38f0.html](http://www.refworld.org/docid/3ae6b38f0.html); UN General Assembly, Protocol to Prevent, Suppress and



Government's Modern Slavery Strategy outlines the approach to prevention primarily as deterring offenders, without much of a child-specific focus<sup>23</sup> and it has not been updated since 2014. In 2018, the Government published a Serious Violence Strategy<sup>24</sup>, which for the first time outlines an approach to exploitation in a form of child criminal exploitation known as 'county lines' through a County Lines Action Plan. In terms of operational policing responses, there is no UK-wide specialist investigation team resourced to work on child trafficking<sup>25</sup>, whereas previously the Child Exploitation and Online Protection command (CEOP) held the national policing responsibility for child trafficking. The NCA's Modern Slavery and Human Trafficking Unit has a preventative remit, but has not publicly outlined any explicit child-specific functions.<sup>26</sup> There has been significant investment in operational approaches regarding child sexual exploitation (CSE), including from a preventative angle through the implementing the National Policing Child Sexual Abuse Action Plan.<sup>27</sup>

Significantly, in the wider framework of children's social care there are significant concerns regarding the continued impact of austerity on statutory services<sup>28</sup> and research has found that funding within Children's Social Care has shifted to late intervention, more often allocated to child protection responses while preventive services have been cut or closed down<sup>29</sup>. As a result, local authorities are often reliant on thresholds to manage demand, leading services to screen more cases out, work with families for shorter periods, and spend less per child in need<sup>30</sup>. These measures have had a significant impact on the ability to implement early intervention to prevent trafficking and adequately support children who have been exploited.

### **Insufficient support for child victims of trafficking**

There has been a gradual improvement in the implementation of the Modern Slavery Act (England and Wales) 2015, the Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 and the Human Trafficking and Exploitation (Scotland) Act 2015. In England and Wales it is unclear whether this legislation is leading to better outcomes for child victims of trafficking.

### **Child criminal exploitation**

In recent years, there has been significant attention to the issue of child trafficking for criminal exploitation<sup>31</sup>, with the establishment of the County Lines Coordination Centre and improved awareness amongst professionals of this particular exploitation type following a report published in 2017 which raised the profile of the issue. The report found that 65% of

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Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000; EU Directive on Human Trafficking.

<sup>23</sup> HM Government (2014) Modern Slavery Strategy:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/383764/Modern\\_Slavery\\_Strategy\\_FINAL\\_DEC2015.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/383764/Modern_Slavery_Strategy_FINAL_DEC2015.pdf)

<sup>24</sup> HM Government (2018) Serious violence strategy:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/698009/serious-violence-strategy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/698009/serious-violence-strategy.pdf)

<sup>25</sup> ATMG (2018) Before the Harm is Done: <https://www.ecpat.org.uk/Handlers/Download.ashx?IDMF=78f97e97-336c-4146-8f43-26b604581dad>

<sup>26</sup> See: <https://www.nationalcrimeagency.gov.uk/what-we-do/crime-threats/modern-slavery-and-human-trafficking>

<sup>27</sup> HM Government (2017) Tackling Child Sexual Exploitation: Progress report:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/592588/Tackling\\_Child\\_Sexual\\_Exploitation\\_-\\_Progress\\_Report\\_web.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/592588/Tackling_Child_Sexual_Exploitation_-_Progress_Report_web.pdf)

<sup>28</sup> Association of Directors of Children's Services (ADCS) (2017) Impact of austerity on children's services:

<https://adcs.org.uk/funding/article/impact-of-austerity-on-childrens-services>

<sup>29</sup> Rick Hood, Allie Goldacre, Sarah Gorin, Paul Bywaters and Calum Webb (2020) Identifying and understanding the link between system conditions and welfare inequalities in children's social care services: [https://www.healthcare.ac.uk/wp-content/uploads/2020/04/System-conditions-and-inequalities\\_Full-report\\_Final\\_March-2020.pdf](https://www.healthcare.ac.uk/wp-content/uploads/2020/04/System-conditions-and-inequalities_Full-report_Final_March-2020.pdf).

<sup>30</sup> Ibid.

<sup>31</sup> Home Office (2020) 'Hundreds of arrests and deal lines closed as police crackdown on county lines gangs', th May 2020

<https://www.gov.uk/government/news/hundreds-of-arrests-and-deal-lines-closed-as-police-crackdown-on-county-lines-gangs>



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<sup>32</sup>. The National Referral Mechanism has recently also improved the national reporting of statistics by disaggregating data on this exploitation type in the final quarter of 2019<sup>33</sup>.

However, the response has focused primarily on law enforcement rather than a national strategy which resources public health approaches to this form of child abuse<sup>34</sup>. Despite evidence highlighting the links between children outside of mainstream education and their vulnerabilities to becoming the victim of criminal exploitation.<sup>35</sup> In the context of COVID-19, the criminal exploitation of children by gangs has not stopped, despite restrictions on public transport.<sup>36</sup> Children exploited to commit criminal offences or those who commit offences in the course of their exploitation continue to be criminalised for these offences<sup>37</sup>.

### Legal Guardianship

International standards<sup>38</sup> state that guardians should be appointed to every separated<sup>39</sup> migrant child to protect their rights, advocate for their best interests and help them access support.<sup>40</sup> This is well established as a measure to assist in the identification and prevention of child trafficking<sup>41</sup>. Despite significant progress in this area, England still lacks the full roll out of guardianship to child victims of trafficking across all areas. Unlike Scotland and Northern Ireland, provision in England and Wales does not extend to all separated and unaccompanied children. This means children receive different standards of protection in each devolved nation.

Following a UK Government-commissioned Independent Review of the Modern Slavery Act and government response in 2019, the government reaffirmed its commitment to fully roll out the scheme across England and Wales,<sup>42</sup> as established in legislation.<sup>43</sup> A second

<sup>32</sup> National Crime Agency (2017) County lines gang violence, exploitation and drug supply:

<https://www.nationalcrimeagency.gov.uk/who-we-are/publications/234-county-lines-violence-exploitation-drug-supply-2017/file>

<sup>33</sup> Home Office (2020) National Referral Mechanism Statistics UK, Quarter 4 2019 – October to December:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/876647/national-referral-mechanism-statistics-uk-quarter-4-2019-october-to-december.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/876647/national-referral-mechanism-statistics-uk-quarter-4-2019-october-to-december.pdf)

<sup>34</sup> Joint report of Ofsted, Care Quality Commission, HMI-CFRS, HMIOP (2018) Protecting children from criminal exploitation, human trafficking and modern slavery: an addendum

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/756031/Protecting\\_children\\_from\\_criminal\\_exploitation\\_human\\_trafficking\\_modern\\_slavery\\_addendum\\_141118.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/756031/Protecting_children_from_criminal_exploitation_human_trafficking_modern_slavery_addendum_141118.pdf)

<sup>35</sup> Just for Kids Law (2020) School exclusions and CCE:

[https://justforkidslaw.org/sites/default/files/fields/download/JfKL%20school%20exclusion%20and%20CCE\\_2.pdf](https://justforkidslaw.org/sites/default/files/fields/download/JfKL%20school%20exclusion%20and%20CCE_2.pdf)

<sup>36</sup> Jamie Grierson and Amy Walker (2020) 'Gangs still forcing children into 'county lines' drug trafficking', in the *The Guardian*,

13<sup>th</sup> April 2020 <https://www.theguardian.com/uk-news/2020/apr/13/gangs-still-forcing-children-into-county-lines-drug-trafficking-police-covid-19-lockdown>

<sup>37</sup> <https://www.theguardian.com/uk-news/2019/sep/17/child-victims-of-human-trafficking-prosecuted-despite-cps-rules>;

<https://www.ecpat.org.uk/Handlers/Download.ashx?IDMF=de66f2c7-64f9-485f-bb45-e3f38b7b4675>

<sup>38</sup> Convention on the Rights of the Child, General Comment 6 (paras 33-38); Directive 2011/36/EU, Article 16; Directive 2001/55 Article 16 (1); Directive 2011/95/EU Article 31 (1)).

<sup>39</sup> The definitions as set out by the UN Committee on the Rights of the Child where separated migrant children are: '*children, as defined in Article 1 of the Convention on the Rights of the Child (i.e. under 18 years), who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other family members.*' While unaccompanied migrant children are: '*children, as defined in Article 1 of the Convention (i.e. under 18 years), who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.*' Source: United Nations Committee on the Rights of the Child (2005) General Comment No. 6 on the Treatment of Unaccompanied and Separated Children Outside their Country of Origin.

<sup>40</sup> Directive 2012/29 victims of crime directive Article 24 (1); and Directive 2011/92 sexual exploitation directive, Article 20(1))

<sup>41</sup> European Union Agency for Fundamental Rights (2015) *Guardianship for Children Deprived of Parental Care: A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking*

<http://fra.europa.eu/en/publication/2015/guardianship-children-deprived-parental-care/>

<sup>42</sup> Home Office (2019) 'UK Government response to the Independent Review of the Modern Slavery Act 2015,' July 2019:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/815410/Government\\_Response\\_to\\_Independent\\_Review\\_of\\_MS\\_Act.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/815410/Government_Response_to_Independent_Review_of_MS_Act.pdf)

<sup>43</sup> UK Government (2015) Modern Slavery Act (England and Wales) 2015

<https://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>



independent evaluation of the service conducted in found it to be an extremely effective intervention for children, who have a consistent, trusted individual to ensure their voices are heard and their best interests are represented in the various processes (immigration, criminal justice proceedings and the National Referral Mechanism) children navigate.<sup>44</sup> Guardianship rollout has the support of the UK's Independent Anti-Slavery Commissioner<sup>45</sup> and 42 cross-party Parliamentarians.<sup>46</sup> However, despite expanding the 'pilot' sites in England the government has yet to provide a timeline for full implementation,<sup>47</sup> leaving children in two thirds of local authorities without guardians.<sup>48</sup> In fact, it has rolled back guardianship provision for children with parental responsibility, including children in care looked after under section 31, where the Local Authority has parental responsibility in July 2019<sup>49</sup>; despite increasing numbers of British national victims identified year-on-year.<sup>50</sup> There are therefore significant inequalities in provision of support for all children across the UK.

Additionally, the scheme remains accessible solely for children formally identified as potential victims of trafficking, despite well-established failings in identification of unaccompanied and separated children who are victims of trafficking, whom comprise significant numbers of potential victims<sup>51</sup>, and the well-established ability of guardians to facilitate children's disclosures of exploitation. Unfortunately, the Independent Review of the Modern Slavery Act determined that guardianship for unaccompanied or separated children was outside the scope of its review,<sup>52</sup> despite research from The Children's Society which found that *"the stress of these experiences – and lack of a trusting adult protecting their best interests – can lead to negative mental health outcomes and even self-harm, or suicide in some cases"*.<sup>53</sup>

### The National Referral Mechanism

The UK has an identification and support mechanism for victims of trafficking. This 'National Referral Mechanism' (NRM) is a two-stage process decided by central government, whereby initially a 'reasonable grounds' decision is made, within five days, if a child is suspected to be a victim of modern slavery. This is followed up by a 'conclusive grounds' decision after up to 45 days. However, there are major concerns the NRM does not provide benefits to children identified as victims of trafficking and therefore does not meet its obligations under

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<sup>44</sup> Ibid.

<sup>45</sup> See UK Independent Anti-Slavery Commissioner interview by *The Independent* (2019)<sup>1st</sup> March 2020: <https://www.independent.co.uk/news/uk/home-news/county-lines-slavery-child-trafficking-drugs-protection-sara-thornton-a9365906.html>

<sup>46</sup> ECPAT UK (2020) '5<sup>th</sup> anniversary of the Modern Slavery Act: 42 MPs urge Home Secretary to act on promises made to children', 26<sup>th</sup> March 2020: <https://www.ecpat.org.uk/news/40-mps-urge-home-secretary-to-act-on-promises-to-children>

<sup>47</sup> ECPAT UK (2020) 'Plans to expand guardianship to more pilot sites, but many children still left behind', 17<sup>th</sup> August 2020, <https://www.ecpat.org.uk/news/guardianship-expands-more-pilot-sites-many-children-left-behind>; Home Office (2020) 'Expression of Interest – Expansion of Independent Child Trafficking Guardians', 23<sup>rd</sup> July 2020

<https://www.contractsfinder.service.gov.uk/Notice/5afba633-a13e-4b39-bb2f-709a2787a940?origin=SearchResults&p=1>

<sup>48</sup> Home Office (2019) 'An evaluation of Independent Child Trafficking Guardians – early adopter sites', July 2019: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/819723/evaluation-independent-child-trafficking-guardians-final-horr111.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819723/evaluation-independent-child-trafficking-guardians-final-horr111.pdf)

<sup>49</sup> Home Office (2019) 'UK Government response to the Independent Review of the Modern Slavery Act 2015,' July 2019: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/815410/Government\\_Response\\_to\\_Independent\\_Review\\_of\\_MS\\_Act.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/815410/Government_Response_to_Independent_Review_of_MS_Act.pdf)

<sup>50</sup> Home Office (2020) National Referral Mechanism Statistics, UK, End of Year Summary, 2019: <https://www.independent.co.uk/news/uk/home-news/child-trafficking-victims-home-office-modern-slavery-reduce-support-victims-surge-a8731321.html>

<sup>51</sup> Europol (2018) Criminal networks involved in the trafficking and exploitation of underage victims in the European Union: [www.europol.europa.eu/publications-documents/criminal-networks-involved-in-trafficking-and-exploitation-of-underage-victims-in-eu](http://www.europol.europa.eu/publications-documents/criminal-networks-involved-in-trafficking-and-exploitation-of-underage-victims-in-eu)

<sup>52</sup> Home Office (2019) Independent Review of the Modern Slavery Act 2015: Final Report: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/803406/Independent\\_review\\_of\\_the\\_Modern\\_Slavery\\_Act\\_-\\_final\\_report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf)

<sup>53</sup> The Children's Society (2018) *Distress signals: Unaccompanied young people's struggle for mental health care* <https://www.childrensociety.org.uk/what-we-do/resources-and-publications/distress-signals>





the international standards. Material benefits for children would relate to care, mental health support, immigration status or criminal justice experience. Yet there is no central funding available nationally for the specialist care of trafficked children who are instead supported by local authority children's services. There is limited availability of specialist provision for migrant children identified as potential victims by local authorities.<sup>54</sup>

Reforms to the NRM<sup>55</sup> include making it 'child friendly', digitising systems, creating a single unit in the Home Office to handle and make decisions on all cases referred from frontline staff and establishing Multi-Agency Assurance Panels (MAAP) -independent panels of experts, to review negative decisions. Apparently separate from immigration control, the single unit remains in the Home Office, far removed from the child. MAAPs introduce welcome scrutiny of NRM decision-making. However panels only review decisions made at the 'conclusive grounds' stage and not the 'reasonable grounds' stage, despite evidence of poor decision-making for children at the first stage. Moreover, panels cannot compel the Single Competent Authority to review decisions and there is lack of transparency around the process. Additionally, the government published Statutory Guidance<sup>56</sup> following criticism from the court that several years after passing legislation, this guidance was still not in place<sup>57</sup>. However, important recommendations, such as deadlines for decision-making, were refused. Shockingly, 76% of all child referrals into the NRM in 2019 were still waiting for a final, 'conclusive grounds' decision from the Home Office by the end of the year, leaving victims in limbo. The Home Office has not provided funding to ensure that NRM decision-makers are trained in child trafficking, so there is currently no child-specific training for decision makers.

Ultimately, the changes do not meet the need for full-scale reform to the system for children,<sup>58</sup> which would entail assessments and decisions about children's needs to be made by trained multi-agency child protection professionals under the existing safeguarding and child protection framework (such as in a Multi-Agency Safeguarding Hub, or equivalent), rather than by central government, and for decisions to lead to tangible support. ECPAT UK and the Independent Anti-Slavery Commissioner reviewed models of good practice for multi-agency decision-making that could be applied to a better model of the NRM for children.<sup>59</sup> Consultations between the Scottish Government and the Home Office are ongoing regarding child-centred reforms to the NRM.<sup>60</sup> The government has announced their intention to pilot this approach in some local authority areas<sup>61</sup>; a welcome development.

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<sup>54</sup> Department for Education & Home Office (2017), *Local authority support for non-EEA migrant child victims of modern slavery*. (Cordis Bright: London) <https://www.ecpat.org.uk/news/report-finds-major-gaps-in-la-support-to-migrant-children>

<sup>55</sup> Home Office, 'Modern Slavery Taskforce agrees new measures to support victims', 17<sup>th</sup> October 2017:

<https://www.gov.uk/government/news/modern-slavery-taskforce-agrees-new-measures-to-support-victims>; Home Office, 'Modern slavery victims to receive longer period of support,' 26<sup>th</sup> October 2017: <https://www.gov.uk/government/news/modern-slavery-victims-to-receive-longer-period-of-support>

<sup>56</sup> Home Office (2020) Modern Slavery Act 2015 – Statutory Guidance for England and Wales:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/896033/July\\_2020\\_-\\_Statutory\\_Guidance\\_under\\_the\\_Modern\\_Slavery\\_Act\\_2015\\_v1.01.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/896033/July_2020_-_Statutory_Guidance_under_the_Modern_Slavery_Act_2015_v1.01.pdf)

<sup>57</sup> K & Anor, R v Secretary of State for the Home Department, [at Paragraph 8], in reference to Modern Slavery Act Section 49 'Guidance about identifying and assisting victims'

<sup>58</sup> ECPAT UK (2017), *Demand specialist support for trafficked children*: <https://www.ecpat.org.uk/demand-specialist-support-for-trafficked-children>

<sup>59</sup> IASC and ECPAT UK (2020) A review of what works in multi-agency decision making and the implications for child victims of trafficking: <https://www.antislaverycommissioner.co.uk/media/1451/iasc-and-ecpat-rapid-evidence-assessment-august-2020.pdf>

<sup>60</sup> Scottish Government, 2019. Trafficking and exploitation strategy: second annual report:

<https://www.gov.scot/binaries/content/documents/govscot/publications/progress-report/2019/06/trafficking-exploitation-strategy-second-annual-progress-report/documents/trafficking-exploitation-strategy-second-annual-progress-report/trafficking-exploitation-strategy-second-annual-progress-report/govscot%3Adocument/trafficking-exploitation-strategy-second-annual-progress-report.pdf>

<sup>61</sup> Announced by the Modern Slavery Unit Newsletter 27<sup>th</sup> of August 2020



In its recent statutory guidance under the Modern Slavery Act 2015,<sup>62</sup> training for many first responders on child trafficking, including social workers is still not mandatory. Without this, many children will continue to fall through the cracks.

### **Insufficient measures to prevent and investigate child trafficking in the arrangements to exit the European Union**

The UK's withdrawal from the European Union is set to potentially weaken children's rights in the UK, as well as specific risks in regards to children at risk of trafficking. The status of the Anti-Trafficking Directive following Brexit is uncertain, and if lost, there are currently significant gaps between the articles of the Directive and provisions in UK domestic legislation, as outlined below. As there has been no indication that the Directive will be transposed into UK domestic law, it is likely that at the end of the transition period (currently the 31<sup>st</sup> December 2020), the Directive will not be retained in UK law and the government will no longer attempt to implement the Directive. Notably, the obligation to provide assistance for child victims of trafficking in finding a durable solution, and ensuring that assistance takes into account the special circumstances of child victims of trafficking.

The government has announced it will not seek membership of Europol or Eurojust, or participation in the European Arrest Warrant, and from the end of 2020 the UK will be unable to access and share information via the Schengen Information System II which creates alerts for missing children.<sup>63</sup> The government is seeking to access similar capabilities through its negotiations, but it remains unclear what those will be. Loss of access to these key mechanisms for combating trafficking and safeguarding children will significantly decrease the UK's ability to identify and safeguard children from trafficking and investigate complex transnational cases. Additionally, children in migration will be more vulnerable to exploitation by traffickers as cross-border cooperation is essential to identify and safeguard these vulnerable children, and investigate and prosecute offenders often operating in transnational organised criminal groups.<sup>64</sup> EU national children, particularly those in the care of the local authority or in youth custody in the UK, who are at risk of trafficking, have yet to be identified or have been identified may become more vulnerable if those who support them fail to regularise their immigration status and they become ineligible following the closure of the EU Settlement Scheme.

### **COVID19**

The Covid-19 crisis has exacerbated pre-existing crises in social care and local authority funding, resulting in failures to meet statutory duties to safeguard and promote the welfare of children and young people in care, and former relevant children, including unaccompanied child survivors of trafficking.

#### **Re-traumatisation caused by isolation**

ECPAT UK and other organisations working with this group of young people have observed that the loss of tangible support and the consequential social isolation, compounded by the significant restrictions on movement, have re-traumatised young people whose experiences of exploitation or journeys to the UK entailed similar experiences of social isolation and physical confinement. In the absence of the emotional and psychosocial support they had

<sup>62</sup> Home Office (2020) Modern slavery: how to identify and support victims:

<https://www.gov.uk/government/publications/modern-slavery-how-to-identify-and-support-victims>.

<sup>63</sup> UK Government (2020) The Future Relationship with the EU: The UK's approach to negotiations:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/868874/The\\_Future\\_Relationship\\_with\\_the\\_EU.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/868874/The_Future_Relationship_with_the_EU.pdf)

<sup>64</sup> ECPAT UK & Missing Children Europe (2019) Interact: Towards a more efficient cooperation across borders for the protection of children in migration from trafficking and exploitation:

<https://www.ecpat.org.uk/Handlers/Download.ashx?IDMF=118849be-152f-40f5-b62e-c186eebae58b>



prior to the pandemic, young people are reporting nightmares, flash backs and panic attacks. Some are struggling to control episodes of depression and suicidal ideation. Their need for mental health support and trauma care is increasing at a time when access to this support is diminished.<sup>65</sup>

#### Insecure accommodation

Many young survivors are housed in unsuitable accommodation where they do not feel safe. The current conditions have exacerbated this as young people cannot adequately self-isolate, nor be part of a coherent 'bubble'. Unaccompanied children and children who have been exploited are already at a higher risk of going missing from care,<sup>66</sup> which can indicate exploitation and re-trafficking. Unaccompanied children, including survivors, are six times more likely to live in unregulated semi-independent accommodation<sup>67</sup>, where there were significant pre-existing concerns around support levels prior to the pandemic.<sup>68</sup> Evidence from ECPAT UK and other organisations providing direct support to young people highlights young people are going missing from statutory support agencies following long periods of no contact with support workers or severe delay to subsistence payments.<sup>69</sup> ECPAT UK and other organisations support survivors have also observed increased risks of homelessness for survivors as statutory accommodation services and other accommodation providers refused entry to new referrals due to concerns around spreading the virus.<sup>70</sup>

#### Lack of access to the Internet and education

Prior to the Covid-19 pandemic, they accessed computers and Wi-Fi at their educational institutions during the week and used public library facilities at weekends. As children across the country access learning online, many survivors are therefore excluded from learning. Moreover, lack of camera phones and Internet connections has prevented some child survivors from accessing support groups taking place online. Lack of Wi-Fi access means some young people are spending as much as £10 per day on credit to remain in contact with support services and may be forgoing food and other essentials.

#### Weakening of legal protections for children in care

The UK Government passed the Adoption and Children (Coronavirus) (Amendment) Regulation 2020 (SI/445/2020) without parliamentary scrutiny or public consultation.<sup>71</sup> It removed or weakened 65 legal safeguards for vulnerable children in care, including victims and survivors of child trafficking. ECPAT UK has observed that the significant dilution of important corporate parenting duties to visit and maintain contact with children, in addition to the lockdown conditions, have contributed to a number of young survivors of trafficking going missing from care, feared re-trafficked.

#### Lack of clear health information

There has been incoherent, unclear public health information during the pandemic, particularly in the languages and child-friendly styles that are accessible to young victims of modern slavery. This leaves victims at risk of misinformation and online financial scams. Furthermore, most of the young people we work with are black and minority ethnic and are

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<sup>65</sup> ECPAT UK (2020) Letter to the Children's Commissioner for England, <https://www.ecpat.org.uk/news/letter-childrens-commissioner-investigate-failings>

<sup>66</sup> ECPAT UK and Missing People (2018) Still in Harm's Way <https://www.ecpat.org.uk/still-in-harms-way>

<sup>67</sup> Article 39 (2020) 'Care for all children in care', 25<sup>th</sup> February 2020 <https://article39.org.uk/2020/02/>

<sup>68</sup> Refugee & Migrant Children's Consortium (2020) Young asylum seekers and unregulated accommodation June 2020 <http://refugeechildrenconsortium.org.uk/young-asylum-seekers-and-unregulated-accommodation/>

<sup>69</sup> Mark Townsend (2020) 'Number of missing vulnerable children soars as safeguarding is cut during pandemic', *The Guardian*, 6<sup>th</sup> June 2020 <https://www.theguardian.com/society/2020/jun/06/alariming-rise-in-cases-of-missing-children-following-safeguarding-cuts>

<sup>70</sup> May Bulman (2020) 'Sex trafficking victim with lung condition refused safe house accommodation during coronavirus lockdown, says lawyer' in *The Independent*, 25<sup>th</sup> March 2020 <https://www.independent.co.uk/news/uk/home-news/coronavirus-lockdown-sex-trafficking-modern-slavery-victim-safe-house-home-office-salvation-army-a9424736.html>

<sup>71</sup> Department for Education (2020) The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 <http://www.legislation.gov.uk/uksi/2020/445/contents/made>



aware of the disproportionate impact of Covid-19 on them<sup>72</sup> without any information about why nor any mitigation of its impact. This has meant that their level of concern and fear are heightened and that they are fearful of seeking medical care if they are symptomatic.

### Increased Exploitation

Lack of contact with key workers has created opportunities for organised criminal groups to target child survivors or at risk children for criminal exploitation such as drug supply during the lockdown.<sup>73</sup> Organised criminal groups have adapted their operations under the lockdown, capitalising on the reduction of staffing of frontline agencies to use children and young people posing as key workers to avoid detection by authorities.<sup>74</sup> Restrictions of movement have therefore not reduced this form of exploitation; rather it has driven changes in patterns of behaviour, with victims less visible than before.<sup>75</sup> Additionally, the increased time children are spending online during the lockdown, particularly for those struggling with isolation, has driven increases in the number of children groomed or sexually exploited online.<sup>76</sup>

Provision of access to recovery and rehabilitation services has been impacted by reduced staffing capacity.<sup>77</sup> There are concerns that already vulnerable people, including migrants and survivors of trafficking with precarious migration status, are at increased risk of labour exploitation as workers lose their jobs and are made destitute.<sup>78</sup> In ECPAT UK's experience of direct support for young survivors, many are vulnerable to these precarious types of employment including those that are exploitative, particularly if their migration status is insecure.

## **SUGGESTED QUESTIONS TO THE GOVERNMENT**

- Home many Sexual Risk Prevention Orders, which include a travel restriction, have been issues since the scheme came into force?
- How many investigations, prosecutions and convictions have been secured using Section 72 of the Sexual Offences Act since it came into force?
- How many individuals have received a positive Conclusive Grounds (CG) decision as victims of modern slavery and human trafficking exploited as children who were subsequently granted/not granted Discretionary Leave (DL) and the duration of the period for which the discretionary leave was granted since 2016?

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<sup>72</sup> Public Health England (2020) Disparities in the risk and outcomes of Covid-19 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/890258/disparities\\_review.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/890258/disparities_review.pdf)

<sup>73</sup> Jamie Grierson and Amy Walker (2020) 'Gangs still forcing children into 'county lines' drug trafficking', in the *The Guardian*, 13<sup>th</sup> April 2020 <https://www.theguardian.com/uk-news/2020/apr/13/gangs-still-forcing-children-into-county-lines-drug-trafficking-police-covid-19-lockdown>

<sup>74</sup> Jason Farrell (2020) Coronavirus: Drugs gangs dress children as key workers to evade police detection, in *Sky News*, 2<sup>nd</sup> June 2020 <https://news.sky.com/story/coronavirus-drugs-gangs-dress-children-as-key-workers-to-evade-police-detection-11999211>

<sup>75</sup> National Youth Agency (2020) Gangs and Exploitation: A youth work response to COVID-19 <https://nya.org.uk/wp-content/uploads/2020/06/NYA-Hidden-in-Plain-Sight-1.pdf>

<sup>76</sup> NSPCC (2020) 'Lonely children are twice as likely to be groomed online', 23<sup>rd</sup> April 2020 <https://www.nspcc.org.uk/about-us/news-opinion/2020/coronavirus-children-groomed-online/>

<sup>77</sup> ECPAT UK (2020) Letter to the Children's Commissioner for England, <https://www.ecpat.org.uk/news/letter-childrens-commissioner-investigate-failings>

<sup>78</sup> Focus on Labour Exploitation (2020) No Worker Left Behind: Protecting Vulnerable Workers from Exploitation During and After the COVID-19 Pandemic <https://www.labourexploitation.org/publications/no-worker-left-behind-protecting-vulnerable-workers-exploitation-during-and-after-covid>



- How many individuals have received a positive Conclusive Grounds (CG) decision as victims of modern slavery and human trafficking exploited as children who were subsequently granted Indefinite Leave to Remain (ILR) on the best interest of children under the Discretionary Leave (DL) policy for victims of modern slavery since 2016?
- How many individuals have received a positive Conclusive Grounds (CG) decision as victims of modern slavery and human trafficking exploited as children who were subsequently granted/not granted asylum since 2016?
- How many individuals have received a positive Conclusive Grounds (CG) decision as victims of modern slavery and human trafficking exploited as children who were subsequently granted/not granted granted/not granted humanitarian protection since 2016?
- How many individuals have received a positive Conclusive Grounds (CG) decision as victims of modern slavery and human trafficking exploited as children who subsequently received a certified refusal to their asylum or humanitarian protection claim since 2016?
- What steps has the Government taken to urgently address the funding gap for children's services and ensure that funding for prevention and early intervention services are maintained to protect child victims of trafficking and prevent children becoming more vulnerable to exploitation and abuse?
- What steps has the Government taken to provide funding for specialist care of trafficked children, including specialist accommodation and access to psychotherapy and counselling, at the local authority level, so that a positive decision in the NRM is linked to specialist support?
- What is the Government's time frame for full national roll-out of the ICTG scheme?
- What steps has the Government taken to provide a comprehensive, rights- based independent legal guardianship service for all separated and trafficked children and young people up to a minimum of 21 years old?
- What steps has the Government taken has the Government taken to put in place a formal best interests determination process to find a long-term solution that enables each child to recover fully and live with security and stability?

**For further details, contact Laura Durán at [l.duran@ecpat.org.uk](mailto:l.duran@ecpat.org.uk)**

Friends Families and Travellers: Health (including Mental Health), Disability

**Issue: Inequalities in access to and outcomes of healthcare services for Gypsy, Roma and Traveller children**

The Committee's concluding observations of the 2016 UK review expressed particular concern at "*the inequality in access to health services and health outcomes, negatively affecting Roma, Gypsy and Traveller children*". It was recommended that the government develop comprehensive and multisectoral strategies on child health, with a particular emphasis on eliminating inequalities.

The government has demonstrated commitment towards this goal, for instance with the introduction of the Health and Wellbeing Starting Well Fund 2020-21, which aims to improve health outcomes for children from preconception to two and a half years old in BAME groups<sup>i</sup>, and with the NHS Long Term Plan commitment that by 2024, 75% of women from BAME communities will receive continuity of care from their midwife throughout pregnancy, labour and the postnatal period.<sup>ii</sup>

Despite this, a gap between policy and practice persists, and Gypsy, Roma and Traveller children continue to face significant inequalities in access to and outcomes of healthcare services. Longstanding barriers to primary healthcare, such as wrongful registration refusal for those with no fixed address or ID<sup>iii</sup>, communication barriers related to low literacy and low levels of English<sup>iv</sup>, and digital exclusion<sup>v</sup>, all result in significant barriers to accessing preventative and early intervention care, including immunisations and screening.<sup>vi</sup> Whilst NHS guidance stipulates that primary healthcare services should be registering patients, in reality there are little or no implications where they do not which means that many Gypsy, Roma and Traveller children remain unable to access the healthcare they are legally entitled to.<sup>vii</sup>

In addition, the creation of a "hostile environment" in recent years as a result of a series of immigration policies brought in by the UK government, has had a detrimental impact on access and outcomes of healthcare services for many migrant Roma children. The introduction and later retraction of data-sharing agreements between National Health Service Digital, the Department of Health and Social Care and the Home Office resulted in significant fear among migrant Roma communities around accessing healthcare services, particularly for patients from outside of the European Economic Area. A subsequent delay in accessing or lack of involvement with healthcare services among Roma communities has a significant impact on the health of Roma children, as well as women's health in the perinatal stages.<sup>viii</sup>

The UK Government's failure to take steps to ensure Gypsy, Roma and Traveller children have equal access to healthcare potentially amounts to a breach of their rights under Articles 2<sup>x</sup> and 24<sup>x</sup> of the Convention on the Rights of the Child. As such, stark health inequalities persist for Gypsy, Roma and Traveller children, and Gypsy and Traveller mothers are 20 times more likely to experience miscarriage and the premature death of offspring than the general population.<sup>xi</sup>

**Questions**

- What steps have the Government taken to deter primary healthcare services from wrongfully refusing to register Gypsy, Roma and Traveller children?

- How will the Government ensure that the best interests and health of the child are considered and protected in immigration policy decision-making?

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<sup>i</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/910659/starting-well-information-pack.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/910659/starting-well-information-pack.pdf)

<sup>ii</sup> <https://www.longtermplan.nhs.uk/wp-content/uploads/2019/08/nhs-long-term-plan-version-1.2.pdf>

<sup>iii</sup> <https://www.gypsy-traveller.org/wp-content/uploads/2019/03/No-room-at-the-inn-findings-from-mystery-shopping-GP-practices.pdf>

<sup>iv</sup> <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/360/full-report.html>

<sup>v</sup> <https://www.gypsy-traveller.org/wp-content/uploads/2018/09/Digital-Inclusion-in-Gypsy-and-Traveller-communities-FINAL-1.pdf>

<sup>vi</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/739985/M\\_easles\\_local\\_authority\\_case\\_study.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/739985/M_easles_local_authority_case_study.pdf)

<sup>vii</sup> <https://www.gypsy-traveller.org/wp-content/uploads/2019/03/No-room-at-the-inn-findings-from-mystery-shopping-GP-practices.pdf>

<sup>viii</sup> <https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3034/rcm-civil-society-monitoring-report-2-uk-2018-eprint.pdf>

<sup>ix</sup> **Article 2** - “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.”

<sup>x</sup> **Article 24** - “States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.” [This includes access to pre-natal and post-natal health care for mothers]

<sup>xi</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2652907/>

Friends Families and Travellers: Poverty and Homelessness

**Issue: Homelessness caused by the lack of adequate and culturally appropriate accommodation for Gypsy and Traveller children in England.**

The Committee's concluding observations of the 2016 UK review recognised the lack of '*adequate and culturally sensitive accommodation for Roma, Gypsy and Traveller children*'. While there is some progress in Scotland and Wales<sup>i</sup>, the homelessness crisis for Gypsy and Traveller families and children in England remains an issue that Westminster have failed to address, indicating a possible breach of Article 27<sup>ii</sup> and 2<sup>iii</sup> of the Convention on the Rights of the Child.

There are approximately 3000 Gypsy and Traveller families in England without a permitted place to stop<sup>iv</sup>, which defines them as statutorily homeless<sup>v</sup>. Families and children living in caravans without a permitted place to stop face constant evictions and live without the very basic of amenities such as water and sanitation<sup>vi</sup>.

This situation must be considered in the light of the chronic national shortage of Gypsy and Traveller sites in the England<sup>vii</sup>, which persists despite the existence of a national policy for site provision<sup>ix</sup>. The combination of a lack of will from local authorities to accommodate Gypsy and Traveller communities and the lack of enforcement from central Government on site provision policies means Gypsy and Traveller children are being failed by the Government's planning policies<sup>xxixii</sup>.

Additionally, Gypsy and Traveller children face the threat being posed by the Government which is currently considering criminalising Gypsy and Traveller camps in England and Wales<sup>xiii</sup>. This would prohibit Gypsies and Travellers from pursuing the right to a nomadic way of life, criminalising the communities for living a life which is integral to Gypsy and Traveller culture, heritage and ethnic identity. Not only are the Government's policies to address homelessness failing Gypsy and Traveller communities, the Home Office are actively attempting to penalise and criminalise families.

**Questions**

- What steps have the Government taken to ensure that local authorities comply with planning policies to identify sufficient land to accommodate Gypsy and Traveller children?
- What steps have the Government taken to ensure the best interest of the child are protected in the Home Office proposals to criminalise trespass or increase enforcement against families living on encampments?



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<sup>i</sup> Housing policy is devolved among UK countries.

<sup>ii</sup> Article 27, 1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. 3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

<sup>iii</sup> Article 2, 1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

<sup>iv</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/848868/TCC\\_November19\\_Stats\\_Release.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/848868/TCC_November19_Stats_Release.pdf)

<sup>v</sup> Section 175 of the Housing Act 1996. A person is homeless if her/his 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'.

<sup>vi</sup> <https://www.equalityhumanrights.com/sites/default/files/pressing-for-progress-womens-rights-and-gender-equality-in-2018-pdf.pdf>

<sup>vii</sup> <https://raceequalityfoundation.org.uk/wp-content/uploads/2018/02/Housing-Briefing-26.pdf>

<sup>viii</sup> <https://www.gypsy-traveller.org/wp-content/uploads/2017/12/Lack-of-increase-in-affordable-pitches-report-Dec-2017-FINAL.pdf>

<sup>ix</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/457420/Final\\_planning\\_and\\_travelers\\_policy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/457420/Final_planning_and_travelers_policy.pdf)

<sup>x</sup> <https://www.gypsy-traveller.org/wp-content/uploads/2016/12/Five-Year-Supply-Research-Findings-Statement-FINAL.pdf>

<sup>xi</sup> <https://www.gypsy-traveller.org/wp-content/uploads/2020/02/Research-on-the-five-year-supply-of-deliverable-Gypsy-and-Traveller-sites-in-the-South-East-of-England.pdf>

<sup>xii</sup> <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2019-01-10/HL12767/>

<sup>xiii</sup> <https://www.gov.uk/government/consultations/strengthening-police-powers-to-tackle-unauthorised-encampments>

# CHILDREN'S RIGHTS ALLIANCE FOR ENGLAND: CALL FOR EVIDENCE ON UNCRC



Response from Humanists UK, AUGUST 2020

## ABOUT HUMANISTS UK

At Humanists UK, we want a tolerant world where rational thinking and kindness prevail. We work to support lasting change for a better society, championing ideas for the one life we have. Our work helps people be happier and more fulfilled, and by bringing non-religious people together we help them develop their own views and an understanding of the world around them. Founded in 1896, we are trusted to promote humanism by over 85,000 members and supporters and over 100 members of the All Party Parliamentary Humanist Group. Through our ceremonies, pastoral support, education services, and campaigning work, we advance free thinking and freedom of choice so everyone can live in a fair and equal society.

We have a long history of work in education, children's rights, and equality, with expertise in the 'religion or belief' strand. We have been involved in policy development around the school and the curriculum for over 60 years. We also provide materials and advice to parents, governors, students, teachers and academics, for example through our Understanding Humanism website<sup>1</sup> and our school speakers programme. We have made detailed responses to all recent reviews of the school curriculum in England, Wales, and Northern Ireland, and submit memoranda of evidence to MPs, civil servants and parliamentary select committees on a range of education issues.

We are an active member of many organisations working in education in the UK, including the Religious Education Council for England and Wales (REC), of which we are a founding member; the Sex Education Forum; the PSHE Association; Rights of the Child UK (ROCK); and the Children's Rights Alliance for England (CRAE).

Our primary interests in children's rights relate to issues relating to education (in particular RE, PSHE/RSE, citizenship, and science), collective worship/school assemblies, state-funded religious schools, and illegal religious schools.

## SUMMARY

In response to the call for evidence, we raise the following issues:

- 1) Legal requirement to conduct Christian collective worship in schools;
- 2) Religiously selective school admissions policies;
- 3) Lack of fully inclusive provision in religious education (RE);
- 4) Religious exemptions in the provision of relationships and sex education (RSE);
- 5) Lack of proper regulation for unregistered/illegal schools.

Issues 1-4 fall primarily under area 5 of the call for evidence, Education, Leisure, and Cultural Activities. However, issue 5 also falls under area 3, Safeguarding Children including Violence against Children.

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<sup>1</sup> Understanding Humanism (2020) <<https://understandinghumanism.org.uk/>> [accessed 18 August 2020].



Each section includes questions for use in the List of Issues Prior to Reporting (LOIPR) that are designed to push the Government to address how it will rectify the existing shortcomings in its response to the Committee.

## 1. LEGAL REQUIREMENT TO CONDUCT CHRISTIAN COLLECTIVE WORSHIP IN SCHOOLS

Despite the UN Committee's recommendation that the requirement be repealed,<sup>2</sup> schools are still legally mandated to carry out a daily act of collective worship that is 'wholly or mainly of a broadly Christian character'.<sup>3</sup> Although schools can opt – through a process called 'determination' – to have worship that aligns with an alternative faith, they are not permitted to opt out of delivering worship altogether.

Parents have a legal right to withdraw their children from collective worship in England, Wales, and Northern Ireland. And, since 2006, sixth-form pupils in England and Wales have been permitted to withdraw themselves from these sessions. However, this ignores the fact that, under both the Human Rights Act 1998 and Article 14 of the United Nations Convention on the Rights of the Child (UNCRC), younger children also have the right to freedom of religion or belief; a right that is not respected when religious worship is imposed upon them. Furthermore, by treating Christian worship as the default, the current system illegitimately favours one faith perspective over other religious and non-religious beliefs and presupposes that children will participate in religious activities unless they or their parents opt-out. This not only risks the freedom of conscience of pupils and families who are not aware of the right to withdraw, but indirectly requires those who do exercise this option to reveal information about what they believe in a way that could risk the right to privacy outlined in Article 16.

By only allowing children to opt out of collective worship at the age of 16, we also do not feel that UK law currently enables children to fully realise their 'Gillick competence' rights in a 'manner that is consistent with' their 'evolving capacities', as established in European case law and reflected in Articles 12 and 14 of the UNCRC. This view has been repeatedly endorsed by the Joint Committee

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<sup>2</sup> UN Convention on the Rights of the Child, Committee on the Rights of the Child, *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland* (July 2016) <<http://docs.tore.ohchr.org/SelfServices/FilesHandler.ashx?enc=60kG1d%2FPPrICAqhKb7yhskH0j6VpDS%2E%2FJqg2Jxb9gncnUyUgbnuttBweOlylfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjxij3uZ0bj0B0LNTNv09fUIE0vA5Ltw0GL>> [accessed 18 August 2020].

<sup>3</sup> School Standards and Framework Act 1998 <<https://www.legislation.gov.uk/ukpga/1998/31/part/II/chapter/VI/crossheading/religious-worship>> [accessed 18 August 2020].



on Human Rights (JCHR), for example in reports in 2006<sup>4</sup>, 2008,<sup>5</sup> and 2010.<sup>6</sup> The issue of withdrawal is particularly pertinent for young people in the latter stages of secondary education who may even have reached the age of 16 but, because they have not yet begun sixth-form, may still not be able to opt out of worship.

What's more, even when parents request an exemption, the process of withdrawal is often difficult (not least because the law is not always well understood by schools). Children who have been removed from worship are rarely given a meaningful alternative of equal educational value during the time their peers are attending worship. Indeed, in 2019 two non-religious parents, Lee and Lizanne Harris (supported by Humanists UK), took a legal challenge against their children's school in England because it refused to provide just such an alternative.<sup>7</sup> When the trust that runs the school eventually backed down after the Harrises won permission to have their case heard at the High Court, the school agreed to provide an inclusive alternative to the Harris children and any other withdrawn children whose parents wished them to receive it.

Although this logically ought to mean that similar arrangements are possible at other schools, the case did not set a legal precedent and, in private correspondence the Department for Education (DfE) explicitly stated that the outcome 'does not require the provision of meaningful alternatives across all schools'. Not every parent who would like to see a meaningful alternative to collective worship in their child's school will be in a position to mount time-consuming legal proceedings. What's more, such action may risk alienating the family from the school. For this reason, this is clearly not the most desirable means by which to ensure that children get the kind of non-discriminatory provision to which they are entitled under article 2 of the UNCRC. Instead, this aim would be far better met by a change to the law.

### Questions for the List of Issues Prior to Reporting:

1. Why has the Government failed to repeal the requirement for schools to provide worship that is 'wholly or mainly of a broadly Christian character' in line with the recommendations of the UN Committee's last set of Concluding Observations?

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<sup>4</sup> Joint Committee on Human Rights, *Legislative Scrutiny: Thirteenth Progress Report, Twenty-fifth Report of Session 2005-06*, paragraphs 2.1-2.6 <<https://publications.parliament.uk/pa/jt200506/jtselect/jtrights/241/241.pdf>> [accessed 19 August 2020].

<sup>5</sup> Joint Committee on Human Rights, *Legislative Scrutiny: Education and Skills Bill, Nineteenth Report of Session 2007-08*, paragraphs 1.40-1.45 <<https://publications.parliament.uk/pa/jt200708/jtselect/jtrights/107/107.pdf>> [accessed 19 August 2020].

<sup>6</sup> Joint Committee on Human Rights, *Legislative Scrutiny: Children, Schools and Families Bill; other Bills, Eighth Report of Session 2009-10*, paragraphs 1.30-1.40 <<http://www.publications.parliament.uk/pa/jt200910/jtselect/jtrights/57/57.pdf>> [accessed 19 August 2020].

<sup>7</sup> Humanists UK, 'School concedes in collective worship case - will provide alternative assemblies' <<https://humanism.org.uk/2019/11/20/school-concedes-in-collective-worship-legal-case-will-provide-alternative-assemblies/>> [accessed 19 August 2020].



2. Why hasn't the Government taken any steps to ensure a meaningful educational alternative is offered to children and young people who have been withdrawn from collective worship so that they are not disadvantaged in terms of their spiritual, moral, social, and cultural development on the grounds of their religion or belief?
3. Given the existing requirement for Christian worship in all schools, how does the Government intend to ensure that the article 14 rights of young people who are not of sixth-form age are respected in line with their 'evolving capacities'?
4. What steps has the Government taken to ensure that children can independently exercise the right to withdraw from religious worship at school?
5. What assessment has the Government made of the numbers of non-religious children and young people for whom worship is an inappropriate activity currently attending English schools that are compelled to provide Christian worship?

## 2. RELIGIOUSLY SELECTIVE SCHOOL ADMISSIONS POLICIES

State-funded schools designated with a religious character enjoy an exemption to the Equality Act which means they are legally permitted to select their pupils on the basis of faith.<sup>8</sup> In the case of voluntary aided (VA) schools and converter academies, up to 100% of pupils may be selected in this way if the school is oversubscribed. However, this is capped at 50% for new academies or 'free schools'.

Following a public outcry and 20 months of sustained campaigning led by Humanists UK, in May 2018 the Government decided to abandon a proposal to remove the 50% cap on religious selection in free schools.<sup>9</sup> However, as a concession to religious groups such as the Catholic Education Service, who had refused to open any new schools if the cap remained in place, it simultaneously proposed a new funding scheme for a wave of fully selective VA schools to open.

The first of these new selective VA schools is set to open in Peterborough in 2022.<sup>10</sup> This decision was taken despite strong local opposition. There was also evidence to suggest that key funding criteria – such as local demand for faith-based places and a plan outlining how the school would promote community cohesion – had not been adequately met. The Government has stated that a new funding round will be launched in due course.

Religious discrimination in school admissions clearly violates Article 2 of the UNCRC, as well as Article 14, since the right and ability of children to be autonomous and hold different beliefs to their

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<sup>8</sup> Equality Act 2010, Schedule 11(5) <<https://www.legislation.gov.uk/ukpga/2010/15/schedule/11>> [accessed 19 August 2020].

<sup>9</sup> Humanists UK, 'Humanists UK wins Government U-turn on 50% cap on faith school admissions' (11 May 2018) <<https://humanism.org.uk/2018/05/11/humanists-uk-wins-government-u-turn-on-50-cap-on-faith-school-admissions/>> [accessed 19 August 2020].

<sup>10</sup> Humanists UK, 'Final approval granted for the most religiously selective state school in a decade' (13 February 2020) <<https://humanism.org.uk/2020/02/13/final-approval-granted-for-most-religiously-selective-state-school-in-a-decade/>> [accessed 19 August 2020].



parents is severely limited by the ability of faith schools to discriminate on the basis of parental belief and practice.

Further, there is a wealth of robust evidence to demonstrate that religious selection not only segregates pupils according to religion, but also along ethnic and socio-economic lines, as well as by prior attainment.<sup>11</sup> As studies that control for pupil background show,<sup>12</sup> it is this, rather than a faith ethos, that accounts for any enhanced levels of attainment or performance in national league tables. However, this data tends to fuel the idea that faith schools are 'better' than other types of school and encourages parents (particularly the highly educated and those from more advantaged socio-economic groups) to use all the means at their disposal to gain a place, and exacerbating existing inequalities.

To put it another way, faith schools are socio-economically selective, because their religious admissions policies enable them to skim the richest, most advantaged pupils from their areas while the rest fail to meet their more complex admissions criteria. Evidence shows that, overall, comprehensive secondaries with no religious character admit 5% more pupils eligible for free school meals than live in their local areas. But comprehensive Church of England secondaries admit 15% fewer; Roman Catholic secondaries 28% fewer; Jewish secondaries 63% fewer; and Muslim secondaries 29% fewer.<sup>13</sup> Research by the Sutton Trust has also established a trend for faith schools to be some of the most socially selective, both at the primary level<sup>14</sup> and among top-performing comprehensive secondaries.<sup>15</sup>

Religious admissions policies have also been demonstrated to segregate along ethnic lines. For example, Catholic schools take 4.4 % fewer Asian pupils than would be expected given the makeup

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<sup>11</sup> For an overview see Accord Coalition, Databank of Independent Evidence on Faith Schools (2020) <<http://accordcoalition.org.uk/research/>> [accessed 13 May 2020] and Fair Admissions Campaign, Research into religiously selective admissions criteria (2017) <<http://fairadmissions.org.uk/wp-content/uploads/2017/08/2017-08-29-FINAL-Religious-Selection-Research-Survey.pdf>> [accessed 14 May 2020].

<sup>12</sup> See Education Policy Institute, *Faith Schools, pupil performance, and social selection* (2016) <<https://epi.org.uk/publications-and-research/faith-schools-pupil-performance-social-selection/>>; or Stephen Gibbons and

Olmo Silva, 'Faith Primary Schools: Better Schools or Better Pupils', *Discussion Paper No. 72* from the Centre for the Economics of Education (CEE) at CEP <<http://cee.lse.ac.uk/cee%20dps/ceedp72.pdf>>; or Humanists UK, 'Secondary league tables unfairly benefit religious schools by ignoring pupil backgrounds say academics' (2019) <<https://humanism.org.uk/2019/01/24/secondary-league-tables-unfairly-benefit-religious-schools-by-ignoring-pupil-backgrounds-say-academics/>> [accessed 12 May 2020].

<sup>13</sup> Fair Admissions Campaign, 'Overview of issues to do with religious selection in schools' (2015) <<http://fairadmissions.org.uk/wp-content/uploads/2015/09/Overview-of-issues-to-do-with-religious-selection-in-school-admissions.pdf>> [accessed 12 May 2020].

<sup>14</sup> Rebecca Allen and Meenakshi Parameshwaran (for The Sutton Trust), *Caught Out: Primary schools, catchment areas and social selection* (2016) <[https://www.suttontrust.com/wp-content/uploads/2019/12/Caught-Out\\_Research-brief\\_April-16-1.pdf](https://www.suttontrust.com/wp-content/uploads/2019/12/Caught-Out_Research-brief_April-16-1.pdf)> [accessed 14 May 2020].

<sup>15</sup> Carl Cullinane, Jude Hillary, Joana Andrade and Stephen McNamara (for The Sutton Trust), *Selective Comprehensives 2017: Admissions to high-attaining non-selective schools for disadvantaged pupils* (2017) <<https://www.suttontrust.com/wp-content/uploads/2019/12/Selective-Comprehensives-2017.pdf>> [accessed 12 May 2020].



of their local areas.<sup>16</sup> There is a well-established relationship between poverty, disadvantage, and being a member of a Black, Asian or Minority Ethnic (BAME) group. Given this, it seems plain that the issue of socio-economic diversity simply cannot be addressed without acknowledging the detrimental impact of religiously selective admissions.

Religiously selective policies clearly do not 'reduce the effects of the social background... on... achievement in school' or 'guarantee the right of all children to a truly inclusive education in all parts of the State party.'<sup>17</sup> Indeed, unlike other schools (which are legally obliged to prioritise looked after and previously looked after children in their admissions policies), faith schools are permitted to prioritise all children who share the faith over looked after and previously looked after children who do not. Forthcoming research from Humanists UK demonstrates that 76% of state-funded Catholic schools and 100% of state-funded Jewish schools do this.<sup>18</sup>

Not only does religious selection involve discrimination that violates Article 2 of UNCRC and contradicts the recommendation, outlined in the 2016 Concluding Observations, that the Government should 'strengthen... preventive activities against discrimination and stigmatization'.<sup>19</sup> But the segregation it perpetuates also means many young people are denied the opportunity to mix with those from differing backgrounds. This robs them of the meaningful interactions necessary to build sustainable inter-communal relationships and fails to properly prepare them for 'a responsible life in a free society' as required by Article 29.

Research from 2017 published on the DfE's own website<sup>20</sup> shows that pupils in ethnically mixed schools are more trusting and have more positive views of children from different backgrounds than do pupils in segregated schools. Elsewhere, the authors of that same study argue that 'faith schools, to the extent that they are segregated, deprive young people of the opportunity to mix across ethnic and religious lines' in a manner that thwarts positive attitudes to members of so-called 'outgroups'.<sup>21</sup> For this reason, religiously selective policies actively work against the Committee's recommendations on tackling bullying in schools by 'building capacities of students

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<sup>16</sup> Fair Admissions Campaign, 'Overview of issues to do with religious selection in schools' (2015) <<http://fairadmissions.org.uk/wp-content/uploads/2015/09/Overview-of-issues-to-do-with-religious-selection-in-school-admissions.pdf>> [accessed 12 May 2020].

<sup>17</sup> UN Committee on the Rights of the Child, *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland*, (2016) para 72(a) <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en)> [accessed 19 August 2020].

<sup>18</sup> Forthcoming report due for publication in Autumn 2020.

<sup>19</sup> Ibid. para 21 (c) <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en)> [accessed 19 August 2020].

<sup>20</sup> Miles Hewstone et al. *Diversity and Social Cohesion in Mixed and Segregated Secondary Schools in Oldham* (2017) <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/634118/Diversity\\_and\\_Social\\_Cohesion\\_in\\_Oldham\\_schools.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/634118/Diversity_and_Social_Cohesion_in_Oldham_schools.pdf)> [accessed 15 May 2020].

<sup>21</sup> Miles Hewstone et al. 'Influence of segregation versus mixing: Intergroup contact and attitudes among White-British and Asian-British students in high schools in Oldham, England' *Theory and Research in Education* (2018) Volume: 16 issue: 2, page(s): 179-203 <<https://journals.sagepub.com/doi/full/10.1177/1477878518779879>> [accessed 15 May 2020].



and staff members to respect diversity.<sup>22</sup>

### Questions for the List of Issues Prior to Reporting:

1. What assessment has the Government made of the impact of religiously selective admissions on access to a good school for a) children from non-religious backgrounds; b) children from ethnic minorities; c) children who are socio-economically disadvantaged; d) looked after and previously looked after children; e) children with special educational needs or disabilities (SEND)?
2. What steps does the Government plan take to minimise the negative impact of religious selection on the school choice and educational attainment of each of these groups?
3. What justification does the Government have for providing funding for new fully religiously selective VA schools given the evidence that this form of selection impacts negatively on social cohesion and attitudes towards diversity among pupils attending such schools?
4. What, if any, steps has the Government made to improve fairness in school admissions since the last set of Concluding Observations?
5. How does the Government plan to ensure that all children attending schools in England have the opportunity to interact with others from a diverse range of backgrounds?

### 3. LACK OF FULLY INCLUSIVE PROVISION IN RELIGIOUS EDUCATION (RE)

In 2015, the High Court found that the Government had made an 'error of law' when it claimed that a school that simply teaches GCSE Religious Studies, the specification for which does not include non-religious worldviews like humanism, would be providing sufficient teaching to meet its mandatory duty to provide religious education (RE). This was because the failure to ensure that Key Stage 4 pupils would receive RE that considered both religious and non-religious perspectives amounted to a breach of the duty, under the European Convention on Human Rights, to 'take care that information or knowledge included in the curriculum is conveyed in an objective, critical and pluralistic manner'.<sup>23</sup>

Despite this ruling RE in many schools still excludes non-religious beliefs. Following the case, the landmark report of the Commission on Religious Education (CoRE) also argued that the subject should be fully inclusive of humanism and renamed Religion and Worldviews to reflect the fact it should cover both religious and non-religious perspectives.<sup>24</sup> Nevertheless, the Government has again chosen not to take further steps to ensure that they do. Indeed, one of the reasons that was given for not implementing the CoRE recommendations was that 'some stakeholders have

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<sup>22</sup> UN Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (2016) para 48 (a) <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en)> [accessed 19 August 2020].

<sup>23</sup> *R (Fox) v Secretary of State for Education* 2015, para 39 <<https://www.judiciary.uk/wp-content/uploads/2015/11/r-fox-v-ssfe.pdf>> [accessed 20 August 2020].

<sup>24</sup> Commission on Religious Education, *Religion and worldviews: the way forward, a national plan for RE* (2018) <<https://www.commissiononre.org.uk/wp-content/uploads/2018/09/Final-Report-of-the-Commission-on-RE.pdf>> [accessed 21 August 2020].





concerns that making statutory the inclusion of “worldviews” risks diluting the teaching of RE,<sup>25</sup> a discriminatory view of non-religious beliefs that has been repeated on several occasions by the Catholic Education Service.<sup>26</sup>

Further, despite repeated requests from Humanists UK, the DfE has refused to instruct local authorities that humanist representatives may participate as full voting members of the bodies that oversee and produce the locally agreed RE syllabuses, saying that this is a decision for LAs. Unfortunately, this means that, contrary to the Human Rights Act 1998 which treats religious and non-religious beliefs equally, many still exclude humanists and that syllabuses are not adequately inclusive as a result. Here it is worth noting that, as part of an overhaul of the curriculum in Wales, the Welsh Government has recently laid a Bill before Senedd that will see humanism and humanist representatives explicitly included in the curriculum and the bodies responsible for it.<sup>27</sup>

According to the most recent British Social Attitudes Survey, more than half of British adults (52%) now identifies as belonging to no religion,<sup>28</sup> a figure that rises to 62.6% amongst those aged 18-24.<sup>29</sup> The failure to include adequate coverage of the beliefs of such a significant proportion of the population is not in keeping with the spirit of Article 13 of the UNCRC, which guarantees the right of the child ‘to seek, receive and impart information and ideas of all kinds,’ as well as with the overall principles of non-discrimination in Article 2, and the freedom of religion or belief enshrined in Article 14. As the changes in Wales illustrate, the failure to adequately include humanism is also inconsistent with the Human Rights Act 1998, which together with case law demands equal treatment of religious and non-religious worldviews.

### Questions for the List of Issues Prior to Reporting:

1. What assessment has the Government made of the proportion of schools that teach about non-religious perspectives like humanism in RE lessons?
2. What steps has the Government taken to ensure that, following the ruling in *R (Fox) v Secretary of State for Education 2015*, all pupils receive their full entitlement to statutory RE

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<sup>25</sup> Letter to the Chair of the Commission on RE from Secretary of State for Education, Damian Hinds, 6 December 2018 <<https://www.religiouseducationcouncil.org.uk/wp-content/uploads/2018/12/Letter-to-The-Very-Reverend-Doctor-John-Hall-from-Rt-Hon-Damian-Hinds-MP...-1.jpg>> and <<https://www.religiouseducationcouncil.org.uk/wp-content/uploads/2018/12/Letter-to-The-Very-Reverend-Doctor-John-Hall-from-Rt-Hon-Damian-Hinds-MP...-2.jpg>> [accessed 20 August 2020].

<sup>26</sup> Catholic Education Service (2019) <<https://www.catholiceducation.org.uk/component/k2/item/1003674-statement-from-the-catholic-education-service-on-the-consultation-to-re-and-rse-in-wales>> [accessed 20 August 2020].

<sup>27</sup> *Curriculum and Assessment (Wales) Bill* (2020) <<https://senedd.wales/laid%20documents/pri-ld13294/pri-ld13294%20-e.pdf>> [accessed 21 August 2020].

<sup>28</sup> Humanists UK, ‘Latest British Social Attitudes Survey shows continuing rise of the non-religious’ (11 July 2019) <<https://humanism.org.uk/2019/07/11/latest-british-social-attitudes-survey-shows-continuing-rise-of-the-non-religious/>> [accessed 20 August 2020].

<sup>29</sup> See British Social Attitudes Information System, 2018 survey with cross-tabs by age <[http://www.britisocat.com/BodyTwoCol\\_rpt.aspx?control=CCFSDMarginals&MapID=REFLIGSUM&SeriesID=12](http://www.britisocat.com/BodyTwoCol_rpt.aspx?control=CCFSDMarginals&MapID=REFLIGSUM&SeriesID=12)> [accessed 20 August 2020].



that is 'objective, critical, and pluralistic' and treats religious and non-religious perspectives equally?

3. Why has the Government failed to issue guidance making it clear to local authorities that, in line with the provisions of the Human Rights Act 1998, humanist representatives may legitimately sit as full voting members on SACREs and ASCs?
4. How does the Government intend to ensure that the RE curriculum fully acknowledges and respects the beliefs of the growing number of non-religious people in the UK?
5. How does the Government justify the decision not to implement the recommendations of the landmark Commission on RE report?

#### 4. RELIGIOUS EXEMPTIONS IN THE PROVISION OF RELATIONSHIPS AND SEX EDUCATION (RSE)

Relationships and Sex Education (RSE) will become mandatory in all state-funded secondary schools from September 2020. From that date, Relationships Education will be similarly mandatory for all primary age pupils attending state schools, and Health Education will become compulsory in all schools (except independent schools, where PSHE is already compulsory). Sex education will not be compulsory in primary schools, although individual primary schools may choose to offer it at their own discretion.

The decision to introduce RSE as a compulsory subject will have a hugely positive impact on the rights and interests of all young people, particularly for those with a range of protected characteristics, including LGBT pupils, women and girls, and people with disabilities. All the best evidence shows that teaching about different types of relationship, including sexual relationships, as well as about consent, sexual health, and the advantages of delaying sex, ensures that young people grow up healthier, happier, and more able to keep themselves, and those around them, safe.

<sup>30</sup> RSE also plays a very important safeguarding role which brings it into line with Article 19 of the UNCRC which requires that 'States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child'.

With that said, the new subject will only go part of the way towards addressing the recommendation set out in paragraph 64(b) of the last set of Concluding Observations, that the Government should 'ensure that meaningful sexual and reproductive health education is part of the mandatory school curriculum for all schools.'<sup>31</sup> This is for three reasons.

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<sup>30</sup> Sex Education Forum, SRE: The Evidence (2015) <<https://www.sexeducationforum.org.uk/sites/default/files/field/attachment/SRE%20-%20the%20evidence%20-%20March%202015.pdf>> [accessed 19 September 2019].

<sup>31</sup> UN Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (2016) para 64(b) <[https://tbinternet.ohchr.org/\\_layouts/15/tr eatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/tr eatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en)> [accessed 19 August 2020].



First, although the subject is becoming compulsory, no particular curriculum content is being made compulsory, so some schools may well choose to teach very little RSE or relationships education at all.

Second, although parents will have no right to remove their children from relationships education, they will retain the right to withdraw children from sex education in all but 'exceptional circumstances'. This is particularly concerning if a parent is subjecting a child to abuse of a sexual nature. In such circumstances, it is alarming to think an abusive parent could simply exercise the right to withdraw a child from sex education and, by so doing, prevent them from receiving adequate safeguarding education.

Pupils who are three terms (or less) from the age of 16 may attend lessons in sex education without parental consent, bringing the policy more closely into line with the law on Gillick competence. However, leaving the option to receive sex education to such a late stage exacerbates the risk that pupils will suffer harms (including the potential contraction of STIs, teenage pregnancy, sexual exploitation, and abuse) that they are ill equipped to understand or to know how and when to seek the advice of someone who could help them.

It is also worth pointing out that the right to withdraw may not just be abused by parents, but by schools themselves. We are mindful that there are a small number of schools in England that may well attempt to use their duty to engage with parents on RSE (outlined in the guidance<sup>32</sup>) as a means of encouraging those parents to exercise the right of withdrawal. Indeed, in the past we have been made aware of schools putting pressure on parents to withdraw,<sup>33</sup> or even cutting out parental consultation altogether by refusing to teach the subject, and stating this is because 'in practice, all parents will exercise their statutory right to withdraw their children from Sex Education'.<sup>34</sup>

Finally, the statutory guidance on RSE explicitly states that **'the religious background of all pupils must be taken into account when planning teaching.'**<sup>35</sup> The impact of this will be felt in the

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<sup>32</sup> Department for Education, *Relationships Education, Relationships and Sex Education (RSE) and Health Education: Statutory guidance for governing bodies, proprietors, head teachers, principals, senior leadership teams, teachers* (2019) p.17 <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/805781/Relationships\\_Education\\_Relationships\\_and\\_Sex\\_Education\\_RSE\\_and\\_Health\\_Education.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805781/Relationships_Education_Relationships_and_Sex_Education_RSE_and_Health_Education.pdf)> [accessed 20 August 2020].

<sup>33</sup> Humanists UK, 'Jewish school caught encouraging mass withdrawal of children from RSE so school can foster 'good religious girls'' (24 July 2019) <<https://humanism.org.uk/2019/07/24/jewish-school-caught-encouraging-mass-withdrawal-of-children-from-rse-so-school-can-foster-good-religious-girls/>> [accessed 20 August 2020].

<sup>34</sup> Humanists UK, 'Yesodey Hatorah says censoring exam questions 'has successfully been in place within the Charedi schools throughout England for many years'' (28 March 2014) <<https://humanism.org.uk/2014/03/28/yesodey-hatorah-says-censoring-exam-questions-successfully-place-within-charedi-schools-throughout-england-many-years/>> [accessed 20 August 2020].

<sup>35</sup> Department for Education, *Relationships Education, Relationships and Sex Education (RSE) and Health Education: Statutory guidance for governing bodies, proprietors, head teachers, principals, senior leadership teams, teachers* (2019) para. 20, p.12 and para. 68, p. 24. <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/805781/Relationships\\_Education\\_Relationships\\_and\\_Sex\\_Education\\_RSE\\_and\\_Health\\_Education.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805781/Relationships_Education_Relationships_and_Sex_Education_RSE_and_Health_Education.pdf)> [accessed 20 August 2020].



teaching of a range of topics, including abortion and contraception, but is perhaps at its most significant when it comes to LGBT-inclusive RSE. The statutory guidance says only that the Government expects 'all pupils to have been taught LGBT content at a timely point'.<sup>36</sup> It leaves schools free to determine when this point is. It also suggests that, on the basis of consultation with 'parents and the local community', schools may require a 'differentiated curriculum',<sup>37</sup> leaving individual schools vulnerable to pressure from a vocal minority who don't want certain topics taught. This clearly means that children in some religious groups will be denied lessons about LGBT and other issues on the grounds of their school's or parents' beliefs. This undermines the right of such children to 'have access to accurate information on their sexuality'<sup>38</sup> in the event that they are LGBT themselves. And it will do nothing to address the issues of stigmatisation and bullying that LGBT children are frequently subject to when their peers do not receive properly inclusive education in this area.<sup>39</sup>

### Questions for the List of Issues Prior to Reporting:

1. Why has the Government retained the right to withdraw from sex education and permitted primary schools to opt out of teaching the subject altogether?
2. What steps will the Government be taking to ensure that parents do not abuse the right to withdraw to prevent children receiving vital safeguarding education?
3. How will the Government prevent schools with a religious character from misusing the right to withdraw so that they can avoid their duty to teach sex education, or avoid teaching certain topics?
4. How will the Government protect the rights of LGBT children and young people from religious backgrounds or who attend schools with a religious character and are offered a 'differentiated curriculum' in RSE on the basis of their parents' faith?
5. How will the Government ensure that older pupils who are entitled to opt-in to sex education are supported to make this choice, especially when it contradicts the views of their parents?

## 5. LACK OF PROPER REGULATION FOR UNREGISTERED/ILLEGAL SCHOOLS

A significant number of unregistered, illegal schools are operating in England, many of which are religious. Since 2014, we have led the campaign for better regulation of these settings and have worked with whistleblowers who attended such institutions to bring public attention to the issue.

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<sup>36</sup> Department for Education, *Relationships Education, Relationships and Sex Education (RSE) and Health Education: Statutory guidance for governing bodies, proprietors, head teachers, principals, senior leadership teams, teachers* (2019) para. 37, p.15. <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/805781/Relationships\\_Education\\_Relationships\\_and\\_Sex\\_Education\\_RSE\\_and\\_Health\\_Education.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805781/Relationships_Education_Relationships_and_Sex_Education_RSE_and_Health_Education.pdf)> [accessed 20 August 2020].

<sup>37</sup> *Ibid.* para. 114, p.41.

<sup>38</sup> UN Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (2016) para 63b <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en)> [accessed 19 August 2020].

<sup>39</sup> Research shows that 45% of LGBT pupils are subject to bullying because of their identity, and the majority hear discriminatory language in school (see Stonewall, *School Report 2017* <<https://www.stonewall.org.uk/school-report-2017>> [accessed 21 August 2020].



Unregistered or illegal faith schools serve a variety of different religious groups – including Muslim, Jewish, and Christian – but all tend to be fundamentalist, extreme, or isolationist in their outlook, and provide their pupils with a narrowly religious curriculum that is unsuitable for children growing up in modern Britain. Many of these schools operate in unsafe, unhygienic conditions, with joint investigations between the BBC and Humanists UK uncovering serious health and safety concerns such as overcrowding,<sup>40</sup> and Ofsted reporting it has found rat traps and exposed electrics in classrooms.<sup>41</sup> There is also evidence of severe failures in safeguarding, with children exposed to physical abuse as well as extremist, homophobic and sexist literature.<sup>42</sup>

In 2019, Ofsted revealed that approximately 6,000 children are being taught in illegal or unregistered schools.<sup>43</sup> Ofsted has investigated nearly 700 (694) suspected illegal schools since the unregistered schools unit was set up in January 2016. Of these, 109 were known to be places of religious instruction. A further 184 were settings providing general education, which may or may not have a faith character but are not broken down by religion in the published data.<sup>44</sup>

Of the 345 unregistered settings Ofsted have physically inspected, 19 were identified as Christian, 20 Jewish, and 46 Muslim. However, because inspectors lack the power to properly examine and seize evidence, it is difficult to ascertain what proportion of the remaining schools are linked to faith groups, so non-faith settings are grouped together with those of unknown religious affiliation.

Clearly then unregistered, illegal schools constitute a huge risk to the health, safety, and education of the pupils attending them. But despite this, loopholes in the existing law relating to independent school registration have made it difficult (in some cases impossible) to close or regulate them. The problem is especially acute when these settings have a religious character because, by law, such institutions only need to register if they provide a curriculum that is 'suitable for children of primary or secondary age'.<sup>45</sup> In other words, it actually benefits these institutions to give children a narrow,

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<sup>40</sup> See YouTube, 'BHA exposé on indoctrination by illegal Jewish schools which are registered as charities' (2016) <<https://www.youtube.com/watch?v=ACgWIZLxhBw>> [accessed 20 August 2020]; Humanists UK, 'Joint BBC/Humanists UK investigation: abuse at illegal religious schools' (26 February 2018) <<https://humanism.org.uk/2018/02/26/joint-bbc-humanists-uk-investigation-abuse-at-illegal-religious-schools/>> [accessed 21 August 2020]; YouTube, 'Jay Harman discusses illegal religious schools on Victoria Derbyshire programme' (16 September 2016) <<https://www.youtube.com/watch?v=Lvsz6Bn29Bo>> [accessed 21 August 2020].

<sup>41</sup> Humanists UK, 'Education pamphlet endorsed by religious community leaders is a manifesto for corporal punishment, Ofsted head tells inquiry' (22 May 2020) <<https://humanism.org.uk/2020/05/22/education-pamphlet-endorsed-by-religious-community-leaders-is-manifesto-for-corporal-punishment-ofsted-head-tells-inquiry/>> [accessed 21 August 2020].

<sup>42</sup> Ofsted, *Unregistered schools: Ofsted advice notes* (2015–2016) <<https://www.gov.uk/government/publications/unregistered-schools-ofsted-advice-note>> [accessed 21 August 2020].

<sup>43</sup> Humanists UK, 'New data on illegal schools reveals grave situation, says Humanists UK' (12 April 2019) <<https://humanism.org.uk/2019/04/12/new-data-on-illegal-schools-reveals-grave-situation-says-humanists-uk/>> [accessed 21 August 2020].

<sup>44</sup> Ofsted, *Statistical data set: Unregistered schools management information* <<https://www.gov.uk/government/statistical-data-sets/unregistered-schools-management-information>> [accessed 21 August 2020].

<sup>45</sup> See *Education Act 1996* section 2 <<https://www.legislation.gov.uk/ukpga/1996/56/section/2>> and section 4 <<https://www.legislation.gov.uk/ukpga/1996/56/section/4>> [accessed 21 August 2020].



unsuitable form of education because then they are not legally required to register even when the children they 'teach' receive all or most of their education in the setting. Former pupils who have worked with us to draw attention to the problem of these schools say they weren't taught secular subjects like science or geography at all, and some left school unable to speak English despite being born and raised in England. One said he had the education level of a 9 or 10-year-old, and when he left the community as an adult found it extremely difficult to find work.

The existence of illegal and unregistered schools clearly undermines a number of key Convention rights, including Article 19 – which requires state parties to 'take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment [and] maltreatment', be that by parents or in school; and Article 28 – the right to education, which also explicitly requires that school discipline should be administered in a manner consistent with the child's human dignity and in conformity with the present Convention. Pupils in unregistered schools with a religious character are also denied their Article 14 freedoms of religion or belief through being forced to study a narrowly religious curriculum that is designed to indoctrinate only one perspective.

However, to date, largely as a result of the flaws in the legal framework, there have been just four successful prosecutions of the providers of illegal schools, three of which involved Muslim schools.<sup>46</sup> And, alongside Humanists UK, Ofsted has repeatedly called for additional powers to tackle the problem<sup>47</sup> which it currently has to do with one arm tied behind its back.

In early 2020, as part of a consultation entitled *Regulating independent educational institutions*, the Government finally proposed three key changes to the law that will make it easier to tackle the problem of unregistered religious settings:

1. Widen the range of educational setting that must register with the Department for Education and establish a legal definition of 'full time' education;
2. Give the Government additional powers to change the law if providers are found to be using legal loopholes to continue to deny pupils a broad and balanced education;
3. Change the way the deregistration process works so that independent schools that continually fail inspections can be tackled more quickly.

We strongly support the proposals, which largely reflect what we have been asking the Government to bring forward for many years. However, the consultation has since been suspended, purportedly because of the Covid-19 crisis, further postponing the point at which action will be taken to protect the rights, interests, and safety of the children at risk in illegal and unregistered schools.

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<sup>46</sup> Humanists UK, 'Humanists UK welcomes successful prosecution for running an illegal school' (5 March 2020) <<https://humanism.org.uk/2020/03/05/humanists-uk-welcomes-successful-prosecution-for-running-an-illegal-school/>> [accessed 21 August 2020].

<sup>47</sup> Humanists UK, "'No real progress" made on illegal schools as Ofsted expresses frustration at lack of regulatory teeth' (21 January 2020) <<https://humanism.org.uk/2020/01/21/no-real-progress-made-on-illegal-schools-as-ofsted-expresses-frustration-at-lack-of-regulatory-teeth/>> [accessed 21 August 2020].



**Questions for the List of Issues Prior to Reporting:**

1. What assessment has the Government made of the number of children currently at risk in illegal or unregistered schools and what proportion of these are known or suspected to attend settings with a religious character?
2. How many additional unregistered settings does the Government estimate could be prosecuted as illegal schools were the registration requirements widened in the manner laid out in the recent 'Regulating independent educational institutions' consultation?
3. When does the Government intend to bring forward the legislative proposals laid out in the 'Regulating independent educational institutions' consultation?
4. When does the Government intend to legislate to strengthen Ofsted's powers to investigate, prosecute, and close unregistered schools?
5. How does the Government intend to monitor and protect the children at risk in illegal and unregistered settings in the period between now and when the proposed legislation is implemented?

**For more details, information and evidence, contact Humanists UK:**

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## **Just Fair’s Response to CRAE’s ‘Call for Written Evidence: Civil Society Submission to the UN’s List of Issues’ on Children’s Rights**

- This submission is written by Just Fair.
- Just Fair is a charity working to realise a fairer and more just society by monitoring and advocating economic and social rights in the UK. We ensure that law, policy and practice comply with the UK’s international human rights obligations. We are committed to increasing public awareness of international human rights law and the capability to use it.
- In this submission Just Fair outlines key children’s economic and social rights breaches under the UN Convention on the Rights of the Child (CRC) since the UK was last examined by the UN Committee on the Rights of the Child (the Committee) in 2016.

### **1. UK Government’s NRPF policy is increasing child poverty**

#### **Area: poverty**

#### **Issue: No Recourse to Public Funds (NRPF)**

A person with no Recourse to Public Funds (NRPF)<sup>1</sup> cannot access most welfare benefits<sup>2</sup> or statutory housing support. NRPF prevents access to local authority support such as homelessness assistance, housing allocation, free school meals and some extended childcare services. People with NRPF can access publicly funded services that are not listed as ‘public funds’ for immigration purposes.<sup>3</sup>

There are no official statistics in the public domain which show the number of people with NRPF in the UK. However, a recent report estimates that there are 142,496 children under 18

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<sup>1</sup> NRPF is a condition in the Immigration Rules, and Section 115 of the Immigration and Asylum Act 1999.

<sup>2</sup> The rule excludes people ‘subject to immigration control’ from a range of state benefits, including: income-based jobseeker’s allowance; income support; child tax credit; universal credit; working tax credit; a social fund payment; child benefit; housing benefit; council tax reduction; domestic rate relief (Northern Ireland); state pension credit; attendance allowance; severe disablement allowance; personal independence payment; carer’s allowance; and disability living allowance.

<sup>3</sup> UK Visas and Immigration, ‘Guidance: Public Funds’ (2014)

[https://www.gov.uk/government/publications/public-funds-- 2/public-funds](https://www.gov.uk/government/publications/public-funds--2/public-funds)



likely to be living with NRPF.<sup>4</sup> Other reports suggest that around 215,000<sup>5</sup> undocumented children in the UK, and over 175,000<sup>6</sup> children have NRPF on their visa.<sup>7</sup>

Research has found that pregnant women and Black and Minority Ethnic (BME) children are disproportionately impacted by NRPF.<sup>8</sup>

Many families with NRPF are living, or end up living, in destitution. Research shows that these families are at high risk of homelessness, exploitation and abuse due to their exclusion from the welfare system.<sup>9</sup> A new report evidences that people with NRPF have struggled to access food, shelter and subsistence support during the COVID-19 pandemic.<sup>10</sup>

The following rights under the CRC are violated: Arts. 2, 3(1), 4, 5, 18, 22, 24(1) and (2), 26, 27, 29(1)(a) and (b), and 36.

In 2016, the Committee observed that the right of the child to have its best interests taken as a primary consideration is still not reflected in all legislative and policy matters especially in the area of child welfare, immigration, asylum and refugee status.<sup>11</sup>

The Committee expressed its concern that children in certain groups, such as migrant, asylum-seeking and refugee children continue to experience discrimination.<sup>12</sup> The Committee

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<sup>4</sup> Eve Dickson, Andy Jolly, Benjamin Morgan, and Fizza Qureshi, Research report: Local Authority Responses to people with NRPF during the pandemic (August 2020)  
[https://www.researchgate.net/publication/343774922\\_Research\\_report\\_Local\\_Authority\\_Responses\\_to\\_people\\_with\\_NRPF\\_during\\_the\\_pandemic](https://www.researchgate.net/publication/343774922_Research_report_Local_Authority_Responses_to_people_with_NRPF_during_the_pandemic)

<sup>5</sup> Mayor of London, 'London's children and young people who are not British citizens: A profile' (January 2020)  
[https://www.london.gov.uk/sites/default/files/final\\_summary\\_londons\\_children\\_and\\_young\\_people\\_who\\_are\\_not\\_british\\_citizens.pdf](https://www.london.gov.uk/sites/default/files/final_summary_londons_children_and_young_people_who_are_not_british_citizens.pdf)

<sup>6</sup> The Migration Observatory, 'Children of migrants in the UK' (14 August 2020)  
<https://migrationobservatory.ox.ac.uk/resources/briefings/children-of-migrants-in-the-uk/>

<sup>7</sup> Nadia Chalabi, 'The free-school meals loophole: Government policy leaves low-income children stranded' (19 August 2020) <https://www.politics.co.uk/comment-analysis/2020/08/19/the-free-school-meals-loophole-government-policy-leaves-low>

<sup>8</sup> Agnes Woolley 'Access Denied: The cost of the "no recourse to public funds" policy' (June 2019)  
<https://static1.squarespace.com/static/590060b0893fc01f949b1c8a/t/5d0bb6100099f70001faad9c/1561048725178/Access+Denied+-+the+cost+of+the+No+Recourse+to+Public+Funds+policy.+The+Unity+Project.+June+2019.pdf>

<sup>9</sup> Sustain, Project 17, CAWR "Sometimes my belly will just hurt": No Recourse to Public Funds and the Right to Food (2019)  
[https://www.sustainweb.org/publications/right\\_to\\_food\\_no\\_recourse\\_to\\_public\\_funds/?section=](https://www.sustainweb.org/publications/right_to_food_no_recourse_to_public_funds/?section=)

<sup>10</sup> Eve Dickson, Andy Jolly, Benjamin Morgan, and Fizza Qureshi, Research report: Local Authority Responses to people with NRPF during the pandemic (August 2020)  
[https://www.researchgate.net/publication/343774922\\_Research\\_report\\_Local\\_Authority\\_Responses\\_to\\_people\\_with\\_NRPF\\_during\\_the\\_pandemic](https://www.researchgate.net/publication/343774922_Research_report_Local_Authority_Responses_to_people_with_NRPF_during_the_pandemic)

<sup>11</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 26.

<sup>12</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 21 (C)

recommended that the UK strengthened preventative activities, including temporary special measures for the benefit of children in vulnerable situations.<sup>13</sup>

The Committee drew attention to the difficulties faced by asylum-seeking, refugee and migrant children and their families in gaining access to basic services and recognised that this group of children are at high risk of destitution.<sup>14</sup> The Committee recommended that the UK provide sufficient support to migrant, refugee and asylum-seeking children to access basic services.<sup>15</sup>

The NRPF policy evidences the UK Government's regression on the Committee's most recent observations and recommendations concerning the rights of the child.

### **Specific questions that the Committee should include in its LOIPR**

- Does the UK Government plan to put in the public domain up-to-date disaggregated data on children and their families with NRPF?
- What are the measures adopted to reduce poverty among children and their families with NRPF?
- Has the UK Government monitored the correlation between children impacted by NRPF and food insecurity?
- Does the UK Government have a monitoring and evaluation mechanism in place to assess how the social and economic rights of the child are impacted by NRPF?
- Will local authorities receive sufficient funding so as to ensure that they can support people with NRPF in their area? Will the UK Government remove ring fencing on support provided to local authorities to ensure that people with NRPF can access it?

## **2. UK Government's Child Tax Credit and Universal Credit system is increasing child poverty**

**Area: poverty**

**Issue: social security system (Universal Credit, 2 Child Limit)**

Significant changes to the UK's social security system, which were introduced through the Tax Credits Act (2002), the Welfare Reform Act (2012) and the Welfare Reform and Work Act (2016), provide limited social and economic protection for children. The changes have had a retrogressive impact on the enjoyment of many of the rights in the CRC and cannot be justified by reasons of economic necessity.

### **2.1 Universal Credit**

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<sup>13</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 22 (c)

<sup>14</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 76 (f)

<sup>15</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 77 (f)

JRF and Save the Children recently polled 3,000 families and found that approximately “7 in 10 families with children claiming Universal Credit or Child Tax Credit are having to cut back on essentials including food, utilities, nappies and activities for children such as books and toys, with around 50% cutting back on food”.<sup>16</sup>

Evidence shows that Universal Credit covers 85% of childcare costs but is capped at £175 a week while the average full-time nursery fees are £240 a week.<sup>17</sup> Parents are unable to work, worsening existing problems that low-income families face.<sup>18</sup>

## **2.2 Limitation of the Child Tax Credit and Universal Credit to Two Children**

The two child limit restricts welfare support provided to families to a maximum of two children and was introduced as part of a series of changes to the welfare system brought through the 2015 Summer Budget and came into force in April of 2017.<sup>19</sup>

As of April 2020, there were 846,000 households that had three or more children who claimed either Child Tax Credit or Universal Credit. Out of this total there were 243,000 households who had children who were born after 2017 and were therefore impacted by the two child limit.<sup>20</sup> Child Poverty Action Group and the Church of England have estimated that an additional 60,000 families will likely be affected due to COVID-19.<sup>21</sup>

The House of Commons Work and Pensions Committee reported after their inquiry into the policy that they “have seen no evidence that the two child limit is working in the way the Government hoped for [...] it is having serious unintended consequences”.<sup>22</sup>

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<sup>16</sup> JRF and Save the Children, ‘A lifeline for our children: Strengthening the social security system for families with children during this pandemic’ (June 2020)

<https://www.savethechildren.org.uk/content/dam/coronahub/stc-jrf-joint-briefing-lifeline-for-children.pdf>

<sup>17</sup> Tracey Warren, ‘The problems faced by low income women in the labour market: Briefing Paper for the Women’s Budget Group’s ‘Commission on a Gender-Equal Economy’’ (22 July 2019)

<https://wbg.org.uk/wp-content/uploads/2019/08/Problems-faced-by-low-income-women-in-the-labour-market.pdf>; Donald Hirsh, ‘A Minimum Income Standard for the United Kingdom in 2019’ (2019) <https://www.jrf.org.uk/report/minimum-income-standard-uk-2019>

<sup>18</sup> TUC, ‘Forced out: The cost of getting childcare wrong’ (4 June 2020)

<https://www.tuc.org.uk/research-analysis/reports/forced-out-cost-getting-childcare-wrong>

<sup>19</sup> Once the two-child limit policy came into force families who had a child born after April of 2017 who already had two siblings were not able to receive welfare support for this child or any subsequent children. There are some limited exceptions to this policy, notably children who are adopted from local authority care and multiple births. Parents of children who are disabled are able to claim the disability element however they are not eligible for the additional child element.

<sup>20</sup> Just Fair, ‘Why is the two-child limit contrary to the UK’s human rights obligations?’ (July 2020) [http://justfair.org.uk/wp-content/uploads/2020/07/Two\\_Child\\_Limit\\_Human\\_Rights-copy.pdf](http://justfair.org.uk/wp-content/uploads/2020/07/Two_Child_Limit_Human_Rights-copy.pdf) [Two\\_children\\_and\\_exceptions\\_in\\_tax\\_credits\\_and\\_Universal\\_Credit\\_April\\_2020.pdf](https://www.justfair.org.uk/wp-content/uploads/2020/07/Two_Child_Limit_Human_Rights-copy.pdf)

<sup>21</sup> Child Poverty Action Group and The Church of England, ‘No One Knows What The Future 4 Can Hold The impact of the two-child limit after three years’ (2020) <https://cpag.org.uk/sites/default/files/files/policypost/No-one-knows-what-the-future-can-hold-FINAL.pdf>

<sup>22</sup> House of Commons Work and Pensions Committee, ‘The two-child limit’ (2019) <https://publications.parliament.uk/pa/cm201919/cmselect/cmworpen/51/51.pdf>

Research has found that children who were in families affected by the two child limit were missing out on basic essentials such as food or clothes, and that many families have been pushed into financial hardship and debt due to this policy.<sup>23</sup> This financial strain impacts families' mental health and wellbeing.<sup>24</sup>

Our research has found that the two child limit is also an anomaly amongst Council of Europe Countries.

The following rights under the CRC are violated: Arts. 2, 3(1), 4, 5, 16, 18, 24(1) and (2), 26, 27, and 29(1)(a) and (b).

The Committee raised concerns about the negative effect of the high cost of childcare on children and their family environment.<sup>25</sup> In particular, the Committee recommended that the UK Government conducts a rigorous child rights impact assessment of the reduction of funding for family support and adjust the family support policy in order to make childcare services available to all those who need it.<sup>26</sup> The UK Government has failed to increase the rates of child benefit and remove the two child limit under Universal Credit or Child Tax Credit.

### **Specific questions that the UN Committee should include in its LOIPR**

- Does the UK Government's two child limit policy comply with the general principles of the CRC, such as the best interests of the child?
- What measures has the UK Government taken to reduce the negative effect of the high cost of childcare on children and their family environment?
- Does the UK Government have a monitoring and evaluation mechanism in place to assess how the social and economic rights of the child (such as access to food and basic essentials) are impacted as a result of the two child limit policy?
- Does the UK Government's two child limit policy make the UK an outlier when the policy compares with similar policies in other State Parties to the CRC?
- Will the UK Government uplift Child Benefit Payments so as to ensure they are in line with the cost of living?

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<sup>23</sup> Child Poverty Action Group and The Church of England, 'No One Knows What The Future 4 Can Hold The impact of the two-child limit after three years' (2020) <https://cpag.org.uk/sites/default/files/files/policypost/No-one-knows-what-the-future-can-hold-FINAL.pdf>

<sup>24</sup> Child Poverty Action Group and The Church of England, 'No One Knows What The Future 4 Can Hold The impact of the two-child limit after three years' (2020) <https://cpag.org.uk/sites/default/files/files/policypost/No-one-knows-what-the-future-can-hold-FINAL.pdf>

<sup>25</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 50

<sup>26</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 51

### **3. UK Government's Benefit Cap rule is increasing child poverty**

**Area: poverty**

**Issue: social security system (Benefit Cap)**

The benefit cap is disproportionately impacting the rights of certain groups, such as single parent families.

As of May 2020, 150,000 households had their benefits capped in the UK; 30,000 had Housing Benefit capped and 120,000 had Universal Credit capped.<sup>27</sup> Data provided by the DWP suggested that 60% of adults on Housing Benefit are female, and 95% of single parents receiving Housing Benefit are female.<sup>28</sup>

Child Benefit and Child Tax Credits are both in scope for the Housing Benefit cap. This means that households in receipt of these benefits are more likely to exceed the cap limit and be capped. As of May 2020, of Housing Benefit capped households 90% (27,000) were claiming Child Tax Credits and 57% (17,000) were claiming Income Support, “a benefit mainly for single parents with young children”.<sup>29</sup> 86% (130,000) of currently capped households include children. Overall 62% (96,000) of households that had their benefits capped are single-parent families; 54% (52,000) of single-parent capped households have at least one child aged under 5 years.<sup>30</sup>

The Work and Pensions Committee reported that two thirds (65%) of claimants reported facing major barriers to moving into work or increasing their hours, including the availability and/or cost of childcare (43%).<sup>31</sup>

The following rights under the CRC are violated: Arts. 2, 3(1), 4, 5, 16, 18, 24(1) and (2), 26, 27, and 29(1)(a) and (b).

The Committee observed that the rate of child poverty remains high, and disproportionately affects disabled people, children living in a family or household with a disabled person or

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<sup>27</sup> DWP, Benefit cap: number of households capped to May 2020 (6 August 2020) <https://www.gov.uk/government/publications/benefit-cap-number-of-households-capped-to-may-2020/benefit-cap-number-of-households-capped-to-may-2020>

<sup>28</sup> DWP, Official Statistics: Housing Benefit caseload statistics - Statistics on numbers of Housing Benefit claimants (May 2018) <https://www.gov.uk/government/statistics/housing-benefit-caseload-statistics#history>

<sup>29</sup> DWP, Benefit cap: number of households capped to May 2020 (6 August 2020) <https://www.gov.uk/government/publications/benefit-cap-number-of-households-capped-to-may-2020/benefit-cap-number-of-households-capped-to-may-2020>; Work and Pensions Committee, The benefit cap (12 March 2019) <https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/1477/full-report.html>

<sup>30</sup> DWP, Benefit cap: number of households capped to May 2020 (6 August 2020) <https://www.gov.uk/government/publications/benefit-cap-number-of-households-capped-to-may-2020/benefit-cap-number-of-households-capped-to-may-2020>

<sup>31</sup> [file:///C:/Users/misha/Downloads/jrf\\_-\\_uk\\_poverty\\_2019-20\\_report\\_4.pdf](file:///C:/Users/misha/Downloads/jrf_-_uk_poverty_2019-20_report_4.pdf)

disabled people, households with many children and children belonging to ethnic minority groups.<sup>32</sup>

The Committee drew attention of the UK to target 1.2 of the Sustainable Development Goals, on poverty reduction. In light of the above evidence, the UK Government has failed meet the Committee's recommendations to:

- set up clear accountability mechanisms for the eradication of child poverty<sup>33</sup>
- ensure clear focus on the child in the UK's poverty reduction strategies and action plans<sup>34</sup>
- conduct a comprehensive assessment of the cumulative impact of the full range of social security and tax credit reforms introduced between 2010 and 2016 on children on children, including children with disabilities and children belonging to ethnic minority groups<sup>35</sup>
- revise the mentioned reforms in order to respect the best interests of the child taken as a primary consideration, taking into account the different impacts of the reform on different groups of children, particularly those in vulnerable situations<sup>36</sup>

### **Specific questions that the UN Committee should include in its LOIPR**

- Does the Benefit Cap discriminate against single-parent families?
- What is the relationship between the Benefit Cap and child poverty?
- How is the UK Government's Benefit Cap rule in line with the implementation and general principles of the CRC?
- How is the poverty line determined in all jurisdictions of the State party, including in the overseas territories and the Crown dependencies, and where does this stand in relation to the cost of living?
- Provide an updated disaggregated data on the poverty rate in the State party and information on measures adopted to reduce poverty, particularly among children.

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<sup>32</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 70 (a)

<sup>33</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 71 (a)

<sup>34</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 71 (b)

<sup>35</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 71 (c)

<sup>36</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 71 (d)

## 4. Increase in child food insecurity and hunger

### Area: health

#### Issue: access to adequate nutritious food and education

In April 2020, a survey by the Food Foundation found that five million people in the UK living in households with children under 18 were experiencing food insecurity<sup>37</sup> and that families with children are some of those particularly vulnerable to experiencing household food insecurity due to COVID-19.<sup>38</sup>

Food insecurity is a result of poverty.<sup>39</sup> As the Chairman of the Select Committee on Food, Poverty, Health and the Environment, Lord Krebs, states, “Many of Britain’s poorest families have little or no choice. They either go without food or buy unhealthy food because that’s what they can afford and get hold of.”<sup>40</sup>

Research shows that around 3 million children are affected by ‘holiday hunger’ every year.<sup>41</sup> Following pressure by campaigners, the UK Government set up the Summer Food Fund which ensures free school meals are provided over the summer holiday period for eligible children.

Data suggest that the UK Government’s free school food voucher system is not meeting the needs of children from low-income families or upholding their right to food and nutrition. Hunger can impact education. Reports discuss the “debilitating physical feelings of hunger to social isolation, and a decreased ability to concentrate or make decisions.”<sup>42</sup> Human Rights

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<sup>37</sup> The Food Foundation, ‘New food foundation survey: five million people living in households with children have experienced food insecurity since lockdown started’ (May 2020) <https://foodfoundation.org.uk/new-food-foundation-survey-five-million-people-living-in-households-with-children-have-experienced-food-insecurity-since-lockdown-started/>

<sup>38</sup> ENUF, Kings College London, Food Foundation, ‘Vulnerability to Food Insecurity Since COVID-19 lockdown. Preliminary report’ (2020) [https://foodfoundation.org.uk/wpcontent/uploads/2020/04/Report\\_COVID19FoodInsecurity-final.pdf](https://foodfoundation.org.uk/wpcontent/uploads/2020/04/Report_COVID19FoodInsecurity-final.pdf)

<sup>39</sup> Select Committee on Food, Poverty, Health and the Environment; Uncorrected oral evidence: Food, Poverty, Health and the Environment (Tuesday 28 October 2020 10.50 am) Child Poverty Action Group and Joseph Rowntree Foundation <https://committees.parliament.uk/oralevidence/138/html/>

<sup>40</sup> Chairman of the Select Committee on Food, Poverty, Health and the Environment, Lord Krebs (2020) <https://www.parliament.uk/business/committees/committees-a-z/lords-select/food-pov-health-enviro-comm/news-parliament-2019/report-publication/>; House of Lords Select Committee on Food, Poverty, Health and the Environment (Report of Session 2019–20 HL Paper 85) ‘Hungry for change: fixing the failures in food’ (23 June 2020) <https://publications.parliament.uk/pa/ld5801/ldselect/ldfphe/85/85.pdf>

<sup>41</sup> Select Committee on Food, Poverty, Health and the Environment; Uncorrected oral evidence: Food, Poverty, Health and the Environment (Tuesday 28 January 2020 11.45 am) (Q 42) (Alysa Remtulla), written evidence from the Food Foundation, London School of Hygiene and Tropical Medicine, and Sustainable and Healthy Food Systems (SHEFS) (ZFP0073) and written evidence from Church Action on Poverty, The Food Foundation, The Independent Food Aid Network, Nourish Scotland, Oxfam GB and Sustain (ZFP0031)

<sup>42</sup> <https://committees.parliament.uk/writtenevidence/291/html/>

Watch reports that in the early stages of the COVID-19 pandemic teachers in poor or disadvantaged areas had expressed fears about children's access to adequate nutritious food.<sup>43</sup>

Issues with the free school national voucher scheme in England are well documented; some schools and families experienced delays in England, and some were unable to access the electronic voucher system. Vicki Ford MP, the Minister responsible for the voucher scheme, admitted that there have been a number of challenges in the roll out. The National Audit Office, a public spending watchdog, launched an investigation into the UK Government's voucher scheme following wide-ranging problems that left parents and children to go hungry.<sup>44</sup>

Before COVID-19, children from families with NRPF were not able to access free school meals after the end of the universal entitlement period.<sup>45</sup> Still, free school meals have been temporarily extended to *some* low-income families with NRPF. Campaigners are calling for an immediate and permanent extension of free school meals to *all* low-income families with NRPF.<sup>46</sup>

The following rights under the CRC are violated: Arts. 2, 3(1), 4, 5, 16, 18, 24(1) and (2), 26, 27, 28(1), and 29(1)(a) and (b).

With regards to nutrition, the Committee expressed concerns about the high prevalence of overweight and obesity among children,<sup>47</sup> and the lack of comprehensive data on child food security.<sup>48</sup> The Committee recommended that the UK systematically collect data on food security and nutrition for children, in order to identify the root causes of child food insecurity and malnutrition.<sup>49</sup> Given the level of food insecurity, the current data gathering by the DWP appears to be ineffective. Moreover, the Committee recommended that the UK Government regularly monitors and assesses the effectiveness of policies and programmes on child food security and nutrition, including school meal programmes and programmes addressing infants

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<sup>43</sup> Human Rights Watch, UK: Children in England Going Hungry with Schools Shut (May 27 2020) <https://www.hrw.org/news/2020/05/27/uk-children-england-going-hungry-schools-shut>

<sup>44</sup> <https://schoolswatch.co.uk/spending-watchdog-opens-inquiry-into-national-free-school-meal-voucher-fiasco/>

<sup>45</sup> <http://www.nrpfnetwork.org.uk/information/Pages/who-has-NRPF.aspx>; <https://www.gov.uk/apply-free-school-meals>; Sustain, 'Sustain Briefing: Right to Food and Universal Free School Meals' (10 February 2020)

[https://www.sustainweb.org/publications/universal\\_free\\_school\\_meals\\_right\\_to\\_food/](https://www.sustainweb.org/publications/universal_free_school_meals_right_to_food/)

<sup>46</sup> Just Fair, 'Urgent changes needed to the temporary extension of free school meals eligibility to some "No Recourse to Public Funds" groups' (2020) <http://justfair.org.uk/urgent-changes-needed-to-the-temporary-extension-of-free-school-meals-eligibility-to-some-no-recourse-to-public-funds-groups/>

<sup>47</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 66 (a)

<sup>48</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 66 (b)

<sup>49</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 67 (a)



and young children.<sup>50</sup> The Government is failing to meet this recommendation, and legal challenges and campaigning has been required to bring about policy u-turns.<sup>51</sup>

In 2016, the Committee expressed its concern that children in certain groups, such as migrant, asylum-seeking and refugee children continue to experience discrimination.<sup>52</sup>

The Committee recommended that the UK strengthened preventative activities, including temporary special measures for the benefit of children in vulnerable situations.<sup>53</sup>

The Committee referenced its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, and recommended that the UK ensures the best interests of the child is appropriately integrated and consistently interpreted and applied in all policies that are relevant to and have an impact on children.<sup>54</sup>

The Committee recommended that the UK develops procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving it due weight as a primary consideration.<sup>55</sup>

### **Specific questions that the UN Committee should include in its LOIPR**

- Does the UK Government plan to extend universal free school meals beyond year 2 so that no child goes hungry during the school day?
- Does the UK Government plan to extend free school meals to all children permanently, irrespective of their immigration status?
- Does the UK Government plan to improve accessibility to adequate and nutritious food in school meal programmes?
- Does the UK Government have a plan to monitor and assess the effectiveness of policies and programmes on child food security and nutrition, including school meal programmes, junk food advertising restrictions, and the social security system?
- Will the UK Government incorporate the right to food into domestic law?

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<sup>50</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 67 (b)

<sup>51</sup> Matthew Gold & Co, 'Government extends free school meals to thousands of children in response to MG&Co' (7 April 2020) letter-before-claim; Government extends free school meals to thousands of children in response to MG&Co letter-before-claim; Sustain, 'Sustain and Good Law Project threaten legal action to secure free school meals over the summer' (5 June 2020)

[https://www.sustainweb.org/news/jun20\\_holidayfood/#:~:text=Right%20to%20Food-,Sustain%20and%20Good%20Law%20Project%20threaten%20legal%20action%20to%20secure,Sustain%20and%20Good%20Law%20Project](https://www.sustainweb.org/news/jun20_holidayfood/#:~:text=Right%20to%20Food-,Sustain%20and%20Good%20Law%20Project%20threaten%20legal%20action%20to%20secure,Sustain%20and%20Good%20Law%20Project)

<sup>52</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 21 (C)

<sup>53</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 22 (c)

<sup>54</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 27 and Para 27(a)

<sup>55</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 27 (b)

## **5. UK Government’s failure to improve security of tenure in the private rental sector is increasing risks to the health and safety of the child**

### **Area: homelessness**

#### **Issue: access to adequate housing and risks to health**

During the period of the Committee’s most recent review of the UK, the number of homeless households with dependent children increased in England and Northern Ireland, as did the number of homeless families, including those with infants, staying in temporary accommodation, in all four jurisdictions.<sup>56</sup>

As of December 2019, Shelter estimated that 135,000 children across England, Scotland, and Wales, were homeless and living in temporary accommodation. This means that the number of children that are homeless and living in temporary accommodation has risen by 51% over the last five years.

In 2019, the UK Government led by the Conservative Party gave a manifesto commitment to “abolish ‘no fault’ evictions” and protect tenants “from revenge evictions and rogue landlords”. However, the UK Government has as of now failed to take steps to permanently improve security of tenure and regulations surrounding s21 evictions, s8 evictions, and s83 evictions have not been amended. Reports show that many insecure tenancies in the private rental sector have high housing costs, and poor and unsafe living conditions.<sup>57</sup>

According to Shelter, over 450,000 parents who rent in the private sector fear ‘Covid-homelessness’.<sup>58</sup> This figure equates to one in five private renting parents. The charity’s recent figures report that 429,000 (15%) of “private renting parents are cutting back on food to help pay their rent since lockdown”.<sup>59</sup> Moreover, 550,000 (20%) are “taking on debt (such as overdrafts, credit cards, payday loans or borrowing money from the bank / family & friends) to help pay their rent since lockdown”.<sup>60</sup>

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<sup>56</sup> Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (July 2016, CRC/C/GBR/CO/5), para 70 (d)

<sup>57</sup> ‘Private-rented housing: what are conditions like?’ (17 January 2018)

<https://commonslibrary.parliament.uk/social-policy/housing/private-rented-housing-what-are-conditions-like/>; Just Fair and Generation Rent, ‘No-fault evictions violate human rights: Section 21 must end’ (September 2018) <http://justfair.org.uk/wp-content/uploads/2018/09/JF-Generation-Rent-End-Section21-Sept2018-FINAL.pdf>

<sup>58</sup> Shelter, ‘Over 450,000 private renting parents fear ‘Covid-homelessness’ (30 July 2020)

[https://england.shelter.org.uk/media/press\\_releases/articles/over\\_450,000\\_private\\_renting\\_parents\\_fear\\_covid-homelessness](https://england.shelter.org.uk/media/press_releases/articles/over_450,000_private_renting_parents_fear_covid-homelessness)

<sup>59</sup> Shelter, ‘Over 450,000 private renting parents fear ‘Covid-homelessness’ (30 July 2020)

[https://england.shelter.org.uk/media/press\\_releases/articles/over\\_450,000\\_private\\_renting\\_parents\\_fear\\_covid-homelessness](https://england.shelter.org.uk/media/press_releases/articles/over_450,000_private_renting_parents_fear_covid-homelessness)

<sup>60</sup> Shelter, ‘Over 450,000 private renting parents fear ‘Covid-homelessness’ (30 July 2020)

[https://england.shelter.org.uk/media/press\\_releases/articles/over\\_450,000\\_private\\_renting\\_parents\\_fear\\_covid-homelessness](https://england.shelter.org.uk/media/press_releases/articles/over_450,000_private_renting_parents_fear_covid-homelessness)

The UK Government's decision to extend<sup>61</sup> the temporary COVID-19-related eviction ban in place (since 18 March 2020)<sup>62</sup> until September 2020 in England is welcome, however, lifting the ban in September will increase homelessness and pose a risk to the health and life of children and their families.<sup>63</sup>

The following rights under the CRC are violated: Arts. 3(1), 5, 16, 18, 24(1) and (2)(c), and 27.

In 2016, the Committee recommended that the UK Government takes necessary measures to reduce homelessness and to progressively guarantee all children stable access to adequate housing that provides physical safety and protection against the threats to health and structural hazard. Levels of increased homelessness evidence the UK Government's failure to meet this recommendation.

### **Specific questions that the UN Committee should include in its LOIPR**

- Does the UK Government plan to incorporate the right to housing into domestic law to protect, respect, and fulfil, the rights of the child?
- Will the UK Government ban evictions completely for the whole period during which the COVID-19 pandemic poses a risk to health and life?
- Will the UK Government ban no fault evictions, in addition to its general temporary ban in place during the COVID-19 pandemic?
- How does the UK Government plan to monitor and evaluate the impact of the private rental market, including security of tenure, on its ability to meet its obligations under the CRC?

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<sup>61</sup> <https://www.gov.uk/government/news/jenrick-extends-ban-on-evictions-and-notice-periods>

<sup>62</sup> <https://www.gov.uk/government/news/complete-ban-on-evictions-and-additional-protection-for-renters>

<sup>63</sup> Just Fair, 'UK Government's Decision to Lift Eviction Ban Breaches Our Economic and Social Rights' (19 August 2020) <http://justfair.org.uk/uk-government-lifting-eviction-ban-breaches-our-economic-and-social-rights/>



## **Call for Written Evidence: Civil Society Submissions to the UN's List of Issues**

### **Introducing The Charity**

Mermaids (Registered Charity Number: 11605750) has been supporting trans and gender-diverse children, young people, and their families since 1995 and has evolved into one of the UK's leading LGBTQ+ charities. Mermaids supports transgender and gender diverse young people up to the age of 19 years old (inclusive) and their families and we write this submission within this context.

Our online support group for parents has over 2000 members, and almost 800 young people in our youth group. We always aim to give a voice to transgender and gender variant young people nationwide with an aim of helping create a future society that young trans and gender variant people can be themselves without fear of discrimination and prejudice.

Our overarching aim is to create a world where transgender and gender-diverse children and young people can be themselves and thrive.

We note the 7 areas however, due to limited capacity, will only focus on the first part of option 7:

### **Health (including mental health)**

#### **Our Submission – Area of Health (incl. Mental Health)**

The key children's rights issue which we will focus on is the right enshrined in Article 24 of the Convention of the Rights of the Child (CRC).

Article 24 of the CRC states:

*1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that **no child is deprived of his or her right of access to such health care services.***

#### **Children's Rights Issue 1 – Under-resourcing of Trans Healthcare for Children and Young People**

With reference to **paragraph 59 (a)** of the Concluding Observations/Recommendations (CO/R) published June 2016, in which the UN Committee on the Rights of the Child ('The Committee') recommends that the State party, we submit that the UK Government has not made sufficient progress on the 'allocation to the maximum extent of available resources and a robust monitoring mechanism'. Rather, transgender and gender-diverse children and young people continue to face inequality in access to health services.

Not only have they continued without any obvious redress, but those inequalities have increased in the last four years:

- We have seen the average waiting times for transgender and gender diverse young people trying to access the specialist medical support pathway increase significantly since 2016. The average waiting time has increased from between 14-18 months (in 2018), to an average of 24 months or more. Further, the waiting times transgender young people are subject to are significantly higher than the maximum waiting times in England.
- Reliance on health care for transgender and gender-diverse children and young people outside of the specialist medical pathway continues to be unsuitable as many medical staff outside of this pathway lack the training to be supportive and inclusive of transgender and gender-diverse children and young people as this training is still not mandatory.
- Many of the transgender and gender-diverse children and young people we support have specifically sought our help, as they have faced discrimination and prejudice in a healthcare setting. Examples of such conduct includes young trans people being misgendered, placed on a ward which does not correlate with their gender identity, and their incorrect name being used. These experiences show a lack of understanding of how to be supportive of transgender and gender-diverse children and young people, and can lead to a population of transgender children and young people feeling unable to seek help for any medical concerns they may have in case they are victim to it, which negatively impacts their access to such healthcare.
- A report published by Stonewall in 2017, [LGBT in Britain – Trans Report](#), found that two in five (41 percent) of trans people said that healthcare staff lacked understanding of specific trans health needs when accessing general healthcare services. This number increases to half of trans people (51 percent) living in Wales.

The inequality faced by transgender and gender-diverse children and young people because of the overlong waiting times, lack of understanding and discrimination showed by some medical staff, has meant that many of these young people who need such support are not receiving the care they need in a timely way.

There are numerous studies which have shown that affirmative medical care and treatment, for example, in the form of hormone blockers (GnRHa treatment), can have a hugely positive impact on a transgender or gender-diverse child or young person (de Vries, 2014; Kreukels, 2011; Kuper, 2014; Pullen Sansfacon, 2019; Turban, 2020; Van der Miesen, 2020). But because of the current inaccessibility, overlong waiting times etc. transgender and gender-diverse young people are forced to suffer long periods of extreme ill mental health, before they receive the medical care some so desperately need<sup>1</sup>.

### ***Suggested Questions to Include in The Committee's LOIPR***

- What is the maximum waiting time experienced by a transgender child or young person before they are seen by GIDS?
- Has the Government ensured appropriate funding is in place to ensure all transgender and gender-diverse children and young people receive the care they need in a timely manner?
- What forms of training have the Government provided to healthcare professionals around the country (not just those within GIDS), in order for them to feel confident in their ability to provide appropriate support to transgender and gender-diverse children and young people?

### ***Impact of COVID-19***

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<sup>1</sup> McNeil, J., Bailey, L., Ellis, S., Morton, J. and Regan, M. (2012) *Trans Mental Health Study 2012*. Available from [https://www.scottishtrans.org/wp-content/uploads/2013/03/trans\\_mh\\_study.pdf](https://www.scottishtrans.org/wp-content/uploads/2013/03/trans_mh_study.pdf) [Accessed 03.09.2020]: "58% of the participants (N=295) felt that this wait had led to their mental health or emotional wellbeing worsening during this time", page 27

There has been a further delay in access to healthcare for transgender and gender-diverse children and young peoples, specifically access to endocrinology services. Moreover, medical professionals around the UK are interpreting the administering of gender-affirmative medical treatment, such as hormone blockers or hormone replacement therapy, as 'non-essential'.

Transgender and gender-diverse children and young people are seeing a further delay and restriction to their access to specialist trans healthcare because of COVID-19, and this has meant that an already strained system, is under even more pressuring, negatively impact the vital healthcare service many transgender and gender-diverse young people rely on.

### **Children's Rights Issue 2 – Mental Ill Health**

In 2017, Stonewall published their [Schools Report: The experiences of lesbian, gay, bi and trans young people in Britain's schools in 2017](#), and in February 2020, LGBT Foundation published their report [Hidden Figures: LGBT Health Inequalities in the UK](#). Some of the key statistics on the mental ill health of transgender and gender-diverse children and young people revealed in these two reports are as follows:

- More than two in five trans young people (**45 per cent**) have attempted to take their own life.
- More than four in five trans young people (**84 per cent**) have deliberately harmed themselves at some point.
- Nine in ten trans young people (**92 per cent**) have thought about taking their own life.

These statistics are devastating and unacceptable. They not only show the contrast in mental ill health between cisgender children and young people and transgender and gender-diverse children and young people<sup>2</sup>, and allude to the inequalities and discrimination faced by transgender and gender-diverse children and young people both in health services as well as wider society. We also believe the government could do more to address the alarmingly high rates of mental ill health amongst this demographic of children and young people.

There is a large evidence base supporting affirmation of transgender and gender-diverse children and young people, which clearly indicates that those who are accepted and supported in their gender identity often have reduced mental ill health (Connolly, 2016; Ehrensaft, 2018; McConnell, 2016; Russell, 2018; Simons, 2013; Wilson, 2016). However, because of numerous factors such as the lack of access to gender-affirming medical care (see Issue 1), hostility from wider society (see Issue 3), transgender and gender-diverse children and young people are not provided with such acceptance and support, and their mental health suffers in consequence.

### ***Suggested Questions to Include in The Committee's LOIPR***

- What steps has the Government taken to address, and reduce, the devastating highly percentage of transgender and gender-diverse children and young people who experience mental ill health?
- Has the Government taken steps to address the negative stigma around transgender and gender-diverse children and young people in wider society?
- What steps has the government taken to ensure that schools, and other educational environments are supportive of transgender and gender-diverse children and young people, to ensure their mental health is protected?

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<sup>2</sup> It should be noted that being transgender is not long considered a mental health disorder, as stated by the World Health Organisation, who in 2019, reclassified gender incongruence stating that it is not a psychological or psychiatric disorder. Therefore, the prevalence of mental ill health amongst transgender children and young people is due to other factors, which have acted to negatively affect the mental health of these children; Veale, J., Peter, T., Travers, R. and Saewyc, E. (2017) Enacted Stigma, Mental Health, and Protective Factors Among Transgender Youth in Canada. *Transgender Health*, 2.1, pp. 207-216.

### ***Impact of COVID-19***

Not only has access to the appropriate healthcare declined during the pandemic, leading to increased mental ill health, many transgender and gender-diverse children and young people are living in unsupportive and hostile households and environments. Many of these young people are dealing with extremely heightened feels of isolation, which has further exacerbated their mental ill health.

### **Children's Rights Issue 3 – Hostility in Media and Wider Society**

There is currently an extremely hostile discourse taking place within the UK media around trans healthcare, specifically in relation to young people. Further, the media focuses negative attention on organisations such as Mermaids who provide support for transgender and gender-diverse youth, such as ourselves.

This hostility in the media and in wider society against transgender and gender-diverse children and young people has exacerbated their mental ill health. The Trevor Project in their [National Survey](#) (2020) has found that "86% of LGBTQ youth said that recent politics have negatively impacted their well-being". A study has shown that transgender and gender-diverse youth who are exposed to discrimination in the form of transphobia often exhibit negative mental health outcomes, and can cause internalised transphobia, which further aggravates such mental ill health<sup>3</sup>.

### ***Suggested Questions to Include in The Committee's LOIPR***

- What steps does the Government plan to take to reduce transphobia and a lack of understanding of trans lives in wider society?

### ***Impact of COVID-19***

During the COVID-19 pandemic young people have been isolated from physical contact, and therefore have interacted with those outside the home over social media. Many transgender and gender-diverse youth have been left feeling scared and hurt, when their access to healthcare has been attacked, and their gender identity, their very existence, has been called into question. This has acted to exacerbate their mental ill health, and has made an already vulnerable demographic of young people feel even more unprotected.

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<sup>3</sup> Chodzen, G., Hidalgo, M., Chen, D. and Garofalo, R. (2018) Minority Stress Factors Associated With Depression and Anxiety Among Transgender and Gender-Nonconforming Youth. *Journal of Adolescent Health*, pp. 1-5.

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# Michael Sieff Foundation/ Carlile Report

Following the 'Independent Parliamentarians' Inquiry into the operation of the Youth Court', the Michael Sieff Foundation has been active encouraging Government, the Judiciary and the legal profession to adopt the Carlile proposals.

Much progress has been made. In particular, a series of round tables have been organised, partly funded by the Nuffield Foundation.

The longer-term ambition is to encourage Government to produce a new youth justice bill and to support moves to join youth and family courts together. The main outstanding recommendations of the Carlile Inquiry we are pursuing are:

- issues around the youth and family court, joint training, combined youth and family panels. Specifically, magistrates should be allowed to sit in youth and family jurisdictions. This would help reduce the workload of family courts, which are currently under great pressure and youth court JP's have too little work, family JP's too much;
- Crown court trials for juveniles in exceptional cases only;
- Section 37, Children Act 1989 to be used by the youth court to request a report from Children's Services because of concerns over the child's welfare needs;
- establish problem solving courts;
- implement the Criminal Justice and Criminal Evidence Act sch 1, para 35, to enable courts to review youth rehabilitation orders;

In addition, the Government could consider looking at introducing the recommendations of the Taylor Report into law.

Chris Stanley Lead youth justice Trustee, Michael Sieff Foundation.

Annex: <http://www.michaelsieff-foundation.org.uk/content/implementation-of-the-recommendations-of-the-carlile-inquiry-progress-report-2020.pdf>

For CRAE LOIPR submission – 3 Sept 2020

## Immigration, asylum and trafficking

### An increase in the use of certified refusals for unaccompanied asylum seeking children under 18

The Home Office has the power to 'certify' protection and human rights claims, under section 94 of the Nationality, Immigration and Asylum Act 2002. If the Home Office certify a claim because they categorise it as 'clearly unfounded', it restricts the right of appeal against refusal, so the appellant can only appeal from outside the UK. Statutory guidance<sup>1</sup> makes it clear that they can be used in cases involving children in asylum-seeking families as well as unaccompanied asylum seeking children. The Home Secretary designates by order which states she considers to be safe, and that 'there is in general in that State or part no serious risk of persecution of persons entitled to reside' there, and that removal there 'will not in general contravene' the European Convention on Human Rights.<sup>2</sup>

Although the number given is small in relation to the total number of applications, official statistics indicate the use of certified refusals is increasing, with the greatest number being used for unaccompanied asylum seeking children from Albania which is one of the designated safe countries.

Number of certified refusals given to unaccompanied asylum seeking children <sup>3</sup>							
2016		2017		2018		2019	
Total all countries	Total Albania	Total all countries	Total Albania	Total all countries	Total Albania	Total all countries	Total Albania
32	25	31	23	70	65	100	95
Total number applications unaccompanied asylum seeking children <sup>4</sup>							
Total all countries	Total Albania	Total all countries	Total Albania	Total all countries	Total Albania	Total all countries	Total Albania
3,290	420	2,399	265	3,063	293	3,651	232

#### Proposed questions:

1. Why is the number of certified refusals being given in UASC cases increasing?

<sup>1</sup> Home Office (12 Feb 2019) Certification of protection and human rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims). Version 4.  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/778221/certification-s94-guidance-0219.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/778221/certification-s94-guidance-0219.pdf)

<sup>2</sup> Ibid, p.7

<sup>3</sup> Home Office (May 2020) Immigration statistics, year ending March 2020. Table ASY\_D02  
<https://www.gov.uk/government/statistics/immigration-statistics-year-ending-march-2020>

<sup>4</sup> Ibid, Table ASY\_D01

2. What ages are the children being given certified refusals?
3. What happens to these children:
  - a. How many leave the UK voluntarily while under 18?
  - b. How many leave the UK after they turn 18?
4. How many UASC given certified refusals appeal the decision from outside the UK?
5. How many of these appeals are successful?

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**For CRAE LOIPR submission – 3 Sept 2020**

## **Immigration, asylum and trafficking**

### **Undocumented children and young people – the child as the rights holder in family immigration applications**

There are estimated to be 215,000 undocumented children and young people under 18 in the UK, half of whom were born here.<sup>1</sup>

Problems facing undocumented children and young people are not new, but the Windrush Review<sup>2</sup> acknowledged that many of its findings extend to the undocumented population in the UK, not just the Windrush generation. The review also referred to the erroneous assumptions informing the Home Office policy assessments *'for the 2013 and 2015 Immigration Bills that those who were in the country without the ability to demonstrate it with specific documents were here unlawfully'*. That failure to accurately assess the potential impact of the hostile/compliant environment proposals extends to this group. So far, the UK government is restricting any official response to the impact of policy changes and the hostile environment to the Windrush generation.

There are a number of rights issues:

- Children under 18 who have spent 7 years continuously in the UK, and for whom it would be unreasonable to expect them to leave the UK, can apply for leave to remain. Home Office policies and digital application systems treat the child who is the holder of that right as a dependent who cannot make an application in their own right. The parent must be the main applicant, including in cases where they and other family members are able to apply to regularise their status only because the child meets the eligibility requirements.<sup>3</sup>
- Section 55 of the Borders, Citizenship and Immigration Act 2009 places a duty on the Home Office to safeguard and promote the welfare of children in the UK as they carry out their functions. This is often referred to as a best interests duty. There is no child-specific immigration policy guidance for Home Office caseworkers and little evidence in decision letters of the systematic application of the best interests principle.
- Successful applicants are granted leave to remain which must be renewed every 2½ years until they have completed ten years in the UK. The fee for Limited Leave to Remain (LLR) is £1033 per applicant, whether adult or child. The administrative cost

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<sup>1</sup> Jolly, A; Thomas, S and Stanyer, J (2020) [London's children and young people who are not British citizens: a profile](#). Mayor of London

<sup>2</sup> Williams, Wendy (March 2020) [Windrush: lessons learned review](#).

<sup>3</sup> Home Office (22 July 2020) [Family policy: family life \(as a partner or parent\), private life and exceptional circumstances. Version 9](#)

to the Home Office of processing the application stands at £142 per applicant.<sup>4</sup> If successful, the applicant is almost always granted leave to remain without recourse to public funds. The same fee remains payable whether the application is a first application, or an application for renewal of existing leave to remain on the same grounds. When the period of leave is due to end, they need to find the money to pay the fee to make another application. Each applicant is also required to pay an annual Immigration Health Surcharge (IHS) at the time of the application, currently £400 a year, or £1000 over the 2 ½ year period of LLR.

- In 2019, legal aid was reinstated for unaccompanied and separated children in immigration cases but there continues to be no access to legal aid for children in families trying to regularise their immigration status. Applicants can apply for a fee waiver but must prove they are destitute. If refused, they are given 10 days to pay the application fee; if they cannot pay the fee, their application for leave is refused due to non-payment and they become unlawfully present in the UK. Many parents choose not to risk a refusal so borrow from loan sharks, and women end up living in exploitative circumstances including domestic servitude or 'sex for rent' situations.<sup>5</sup>
- A child born in the UK on or after 1 January 1983 who remains here for the first ten years of their life, without an absence of more than 90 days each year, has a right to register as a British citizen by entitlement. The application fee is £1012; the processing cost to the Home Office is £372. Legal aid and fee waivers are not available for citizenship applications. If a child or their family cannot afford the fee, they can apply for LLR and enter the 10 year route to settlement.

This makes the child in family applications particularly vulnerable. If, as happens, parents on the 10 year route leave the child off their next application because they cannot afford to pay the fees, the child has no status unless they separate themselves from the family to live independently. Systemic delays can also lead to applications being turned down if an eligible child turns 18 before a decision has been made.<sup>6</sup>

### **Proposed questions:**

1. How many children applied to remain in the UK under the 7 year rule each year from 2016 to 2019? How many parents of children eligible to apply under the 7 year rule applied for leave to remain in the UK each year from 2016 to 2019? How many of these applications were granted?
2. How does the Home Office ensure its caseworkers and decision-makers provide evidence of how they have considered the child's best interests in immigration applications?
3. Will the government remove the profit element from the level of fees chargeable for 10 year route family and children's citizenship applications?
4. Will the government bring family immigration matters back into scope of legal aid?
5. Will the government's review of the hostile environment measures look at the impact they are having on other undocumented groups including children and young people?

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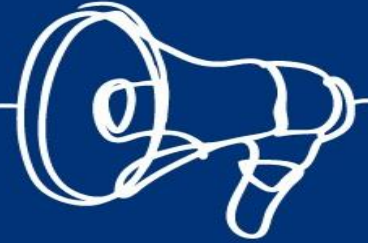
<sup>4</sup> Home Office (4 August 2020) [Table with fees and unit costs.](#)

<sup>5</sup> Qureshi, A; Morris, M and Mort, L (2020) [Access denied: the human impact of the hostile environment.](#) IPPR

<sup>6</sup> More on this from cyp point of view in Makinde, D; Akaka, Z and Bawden, F (2019) [Normality is a luxury: how limited leave to remain in blighting young lives.](#) London: Let Us Learn/Just for Kids Law/We Belong

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## Child rights: mental health

### Mind's evidence to CRAE for the joint civil society LOIPR submission to the UN Committee on the Rights of the Child

#### About Mind

We're Mind, the mental health charity for England and Wales. We believe no one should have to face a mental health problem alone. We provide advice and support to empower anyone experiencing a mental health problem. We campaign to improve services, raise awareness and promote understanding.

#### Child mental health

##### 1. Prevalence of mental health problems

We recommend that the UK Government regularly collects and publishes data on trends in child mental health.

We welcomed the latest survey findings and data on child mental health, which was published in 2018 by NHS Digital.<sup>1</sup> The previous survey in the series was only collected in 2004, and we urge the UK Government to commit to continuing this research and repeating the survey more regularly.

The key findings from the latest research showed that:

- 1 in 8 children and young people (aged 5-19) in England has a diagnosable mental health problem.
  - This shows an increase in the prevalence of mental health problems in children aged 5-15 - from 9.7% in 1999 and 10.1% in 2004, to 11.2% in 2017.
  - Particularly high prevalence in girls and young women –one in four 17 to 19 year old girls has a mental health problem

##### 2. Education

We recommend that the UK Government and DfE ensure that children and young people with a mental health problem are able to enjoy their right to an education, and do not face discrimination and stigma at school.

If you'd like to talk to us about this briefing, please contact:

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Including by:

- addressing the disproportionate number of children and young people with a mental health problem excluded from school
- making sure no child or young person (with a mental health problem) is illegally excluded or off-rolled from school
- ensuring that schools' approach to behaviour and attendance works for children and young people with mental health problems, ie identification of unmet needs, offering support and preventing discrimination
- ensuring that children and young people with a mental health problem are able to get the support they need when they need it - both for their mental health and their educational engagement and learning
- providing the proper legal protection around restrictive practices, including seclusion, in schools

We draw attention to the following key statistics:

- School exclusion is more common in children with a mental health problem<sup>ii</sup>
  - 6.8% of children and young people with a mental health problem were excluded from school (versus 0.5%)
  - One boy in ten (9.9%) with a mental health problem has been excluded from school, and 2.4% of girls with a mental health problem. Half of those boys who had been excluded had been multiple times.
- Young people with a mental health problem are less likely to achieve well academically - young people with poor mental health were 2.7 times more likely not to achieve the GCSE benchmark, even when accounting for other factors.<sup>iii</sup>
- Nearly 1 in 5 young people experiencing a mental health problem have dropped out of education due to stigma.<sup>iv</sup>
- Nearly a quarter of pupils with social, emotional or mental health needs experienced at least one unexplained exit from secondary school in 2017.<sup>v</sup>

many children are not listened to for the mental health concerns and then punished for symptoms they display in school as well as taking time off for their mental health.

Secondary school is meant to be a time to learn and grow as a person and I feel that those with mental health problems are not given that opportunity

Young person on mental health & schools

### 3. Mental health services

NHS England must deliver on its promise in the Long Term Plan to prioritise children and young people's mental health. The commitment to a 100% access rate for those who need specialist support within the next decade must not be achieved by raising the already high thresholds for accessing support, but by ensuring specialist services are well-funded and thriving.

Children and young people need access to timely, appropriate and well-managed support for their mental health. This support should be child-centred and take into account that young person's individual needs. All children and young people who need specialist help should begin treatment within four weeks.



We also remain deeply concerned about the transition from child and adolescent mental health services to adult mental health services. Young people who are transitioning from childhood to adulthood must be able to access high-quality, age-appropriate mental health services. More must be done to make sure that no one falls through the cracks in service provision.

We're calling for culturally competent and relevant community services to be available to Black communities at an earlier point. Young people from Black and Minority Ethnic communities are more likely to be referred to mental health services through routes that are less likely to be voluntary. Black and mixed-race young people were more than twice as likely to be referred through social care/youth justice than through primary care (compared to White British young people).<sup>vi</sup> And as adults, Black or Black British groups are more than 4 times more likely to be detained under the Mental Health Act than White groups (Government statistics).

#### 4. Mental health & coronavirus

In response to coronavirus, we have identified five tests which the UK Government must meet in order to protect and improve the country's mental health after coronavirus – one of which is supporting children and young people.<sup>vii</sup>

We cannot underestimate the long-term effects of the pandemic on mental health and wellbeing. This is a pivotal moment and the UK Government needs to seize the opportunity to prioritise the mental health and wellbeing of children and young people.

From our research with children and young people (aged 13-24), we found that:<sup>viii</sup>

- Two thirds of young people said that their mental health has gotten worse during the period of lockdown restrictions
- Nearly half of young people (46%) said that their mental health was poor or very poor during lockdown
- A quarter (25%) of young people tried to seek help during lockdown, and more than 1 in 4 (28%) of young people were then not able to access the mental health support that they sought.

I feel sad all the time and I miss how my life used to be.

I miss my friends, my teachers and I can't have counselling anymore because my school is closed. I can't do sessions over the phone because my house is so busy

Young person on the impact of coronavirus

Whilst we're still understanding the full impact of coronavirus on mental health and mental health services, we understand from the NHSE mental health director that child and adolescent mental health services referrals had reduced estimated 30 and 40 per cent.<sup>ix</sup>

<sup>i</sup> NHS Digital (2018) [Mental Health of Children and Young People in England, 2017. Official Statistics.](#)

<sup>ii</sup> NHS Digital (2018) [Mental Health of Children and Young People in England, 2017. Official Statistics.](#)

<sup>iii</sup> Natcen (2019) [How does poor mental health in the early years of secondary school impact on GCSE attainment?](#)

<sup>iv</sup> [Time to Change, 2019](#)

<sup>v</sup> Education Policy Institute (2019) [Unexplained pupil exits from schools: A growing problem?](#)

<sup>vi</sup> [UCL, 2019](#)

<sup>vii</sup> Mind (2020) [Mental health after coronavirus: five tests for the UK Government](#)

<sup>viii</sup> Mind (2020) [The mental health emergency: how has the coronavirus pandemic impacted our mental health?](#)

<sup>ix</sup> [HSJ, 2020](#)

## **The National Network of Designated Healthcare Professionals for Children (NNDHP)**

### **Health thematic for consideration by the Children's Rights Alliance of England prior to the 2021 review of the UK by the UN Committee for the Rights of the Child**

#### **INTRODUCTION**

The NNDHP is the collective voice of all Designated Professionals for Child Safeguarding, Looked After Children and Child Death Overview Panels who work in the National Health Service (England). The 700 members are senior nurses or medical consultants with leadership roles in their localities. They provide clinical expertise and strategic advice to their employers and local partners. The NNDHP was founded to fulfil the same functions at a national level.

Compliance with the UNCRC is a means to an end, rather than an end in itself. Therefore, we have focussed on the key health concerns for children in the UK in 2020 that the UNCRC can be utilised to ameliorate. The following words from the Lancet published in 2018, and which apply even more certainly in 2020, have spurred us on.

*"The UK is facing nothing less than a national emergency regarding the health of its children and young people. This emergency is a scar on the moral body of our country"<sup>1</sup>*

We discuss the two leading issues of most gravity to minorities of children (death in childhood, and children being looked after by the state) and the three leading themes of the gravest import to the largest numbers of children, (malnutrition, poverty and health promotion). The issues of mental health and disability, having been thoroughly considered in the submission from the Royal College of Paediatrics and Child Health, are not included to avoid duplication, despite their importance.

#### **THEMES**

##### **1. Infant and Child Mortality (Articles 6, 24)**

Comparative infant mortality figures indicate over a thousand infants a year die in the UK who would have survived had they been born elsewhere in the developed world<sup>2</sup>. This is a serious failure for the UK in an area that is an internationally recognised marker of the overall health of a society and one that is used as a key international indicator in the UN's Sustainable Developmental Goals and as a benchmark in UNICEF international comparisons.

The current infant mortality rate for the UK is 3.593 deaths per 1000 live births, a 2.31% decline from 2019. And while these figures indicate a slight improvement on previous years, they continue to compare unfavourably with other developed European countries, for example, Spain and the

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<sup>1</sup>The Lancet Vol 392 P 106

<sup>2</sup>Eurostat. Live births and crude birth rates: <https://ec.europa.eu/eurostat/databrowser/view/tps00204/default/table?lang=en> (2019)

Netherlands (2.213 and 2.369 per 1000 live births respectively) and further afield, for example, Hong Kong where the rate is 1.261<sup>3</sup>. Further, the pace of the improvement in UK figures is inadequate to achieve the Government's ambition to halve the 2010 infant mortality rate (4.522) by 2025.

The number of babies born before 24 weeks gestation has increased in recent years with the risk of death increasing for babies born at 24 weeks gestation or below adding to the higher infant mortality figures. Deprivation and poor maternal health are major contributory factors for prematurity and high infant mortality rates in the UK. Social, economic and environmental factors all play a part<sup>4</sup>. Rates are significantly higher in the 10% most deprived areas of the UK compared with the 10% least deprived and exemplified by the fact that death rates are highest at a national level in manual/working class populations and much lower for higher managerial, administrative and professional occupations. This gap has not improved since 2011<sup>5</sup>.

It is important for policy makers to take these factors into account to enable improved obstetric and neonatal provision, monitoring and research, and to commit more resources for services where the need is most acute.

Non-infant child deaths, although less prevalent, are concerning because many are preventable<sup>6</sup>. On average, 60 children under five years of age die from injuries in and around the home<sup>7</sup>. Between the ages of one and five, poisoning and injuries are common causes of death. Good accident prevention programmes and public health campaigns can help to reduce childhood death rates<sup>8</sup>. However, in recent years, there has been a lack of capacity in community health organisations to deliver a robust universal 'Healthy Child Programme'<sup>9</sup> due to a reduction in the health-visiting workforce. The closure of community resources such as children's centres has also impacted on the means whereby young families with small children can be supported and educated. In the face of these changes it is not clear that sufficient action has been taken at a national level over preventable child deaths. All possible opportunities to save lives should be being taken.

Tragically, suicide rates among young people aged 15-24 has increased from 6.6 to 8.1 per 100,000. There is also evidence that the Coronavirus lockdown has increased suicides in young people. Before lockdown (82 days) there were 26 likely child suicides. A further 25 were recorded in the following 56 days. Isolation, restriction of education and other activities, disruption to care and support services and tensions at home were cited as contributory factors<sup>10</sup>. Cross sector support including that from health agencies will be necessary to halt any further harm to young people's mental health and emotional wellbeing caused by Covid measures.

Finally, there has been an increase in overall mortality among adolescents in the UK since 2014<sup>11</sup> in contrast to recent reductions seen in comparable wealthy countries. Resources for research and services to ensure child and adolescent wellbeing are much needed.

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<sup>3</sup>U.K Infant Mortality Rates: [www.macrotrends.net/countries/GBR/united-kingdom/infant-mortality-rate](http://www.macrotrends.net/countries/GBR/united-kingdom/infant-mortality-rate) (2020).

<sup>4</sup>Infant and neonatal mortality. Nuffield Trust (2020)

<sup>5</sup>Child and infant mortality in England and Wales: (2018)

<sup>6</sup> Why Children die: deaths in infants children and young people in the UK. RCPCH (2014)

<sup>7</sup> Reducing unintentional injuries in and around the home among children under five years. PHE (2018)

<sup>8</sup>Preventing unintentional injuries: A guide for all staff working with children under five years: Child Accident Prevention Trust (2017)

<sup>9</sup> Healthy Child Programme 0 to 19: health visitor and school nurse commissioning strategy (2016)

<sup>10</sup> Child Suicide Rates during the COVID-19 Pandemic in England: National Child Mortality Database (2020)

<sup>11</sup>State of Child Health. RCPCH (2020)

## Questions to the UK Government

What urgent child rights-based approach does the Government intend to use to bring the UK's infant mortality rates in line with those of smaller, developed countries?

What is the Government's target and action plan for an urgent reduction in child deaths from accidents?

What are the Government's targets and action plans for an urgent reduction in adolescent deaths from suicide and other conditions that put UK young people at greater risk than other developed countries?

## 2. Malnutrition (Article 24, 31)

UNICEF's flagship report 'The Changing Face of Malnutrition, State of the World's Children 2019' highlights childhood obesity as one of three forms of child malnutrition<sup>12</sup>. The prevalence of obesity and overweight amongst children and young people in the UK is a significant public health crisis. In England, 1 in 5 preschool children are either overweight or obese rising to 1 in 3 children entering secondary education<sup>13</sup>. The burden of childhood obesity is felt the hardest in more deprived areas with preschool children 1.6 times more likely to be overweight or obese when compared to children of a similar age in less deprived areas. Children in Black and Minority Ethnic groups are particularly affected<sup>14</sup>. Recent projections by the Royal College of Paediatrics and Child Health have found that, of the most deprived boys in England, more than a third could be obese by 2030 if current trends continue. A recent UNICEF snapshot report on the impact of the pandemic on children in the UK predicts a reduction in healthy behaviours and a further likely increase in childhood obesity<sup>15</sup>.

The over-abundance of calorie-dense low nutrient products and fast-food outlets or 'food swamps' often found in low income urban neighbourhoods result in entrenched food habits as evidenced in a recent study by London's Child Obesity Taskforce. Unhealthy food marketing and economic barriers to accessing healthy nutritious foods further contribute to the rise of childhood obesity.

Overweight and, specifically, obese children are at higher risk of developing non-communicable diseases for example Type 2 Diabetes and liver problems in childhood. They are more likely to experience cognitive, behavioural and emotional difficulties and a lower quality of life. Overweight and obesity in children can also result in stigmatisation, poor socialisation, depression and reduced educational attainment thus interfering with other economic, social and cultural rights<sup>16</sup>. They are highly likely to become obese adults with increased chance of developing heart disease, stroke, high blood pressure and cancers.

The children of 2030 are being born today and if they are to grow up healthy and at reduced risk of obesity transformative measures must be put into practice now.

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<sup>12</sup>The Changing Face of Malnutrition, State of the World's Children 2019, Children, food and nutrition; Growing well in a changing world, UNICEF

<sup>13</sup> State of Child Health 2020, Royal College of Paediatrics and Child Health

<sup>14</sup> Childhood Obesity: Plan for Action

<sup>15</sup> Children in Lockdown: What Coronavirus means for UK Children, UNICEF

<sup>16</sup> Protecting Children's Rights to a Healthy Food Environment, UNICEF

## Questions to the UK Government

What child rights-based approach is the UK Government taking to prevent and reduce child malnutrition in all its forms?

What child rights-based approach is the UK Government taking to create and safeguard food and retail environments that enable healthy diets for children and contribute to the fundamental right to healthy food and adequate nutrition to which all children are entitled?

What plans has the UK Government made to protect children from the harmful impact of inappropriate promotion, and advertising of unhealthy foods?

Will the UK Government fund and expand targeted child centred social prescribing projects to enable a holistic approach to enhancing child physical and mental wellbeing?

### 3. Looked After Children (Articles 24, 25)

“I am happy to accept my children will have poorer health outcomes, increased mental health problems, poorer educational attainment, increased risk-taking behaviour and be at increased risk of exploitation”. No parent would say such a thing, but evidence shows that, in the UK, corporate parents appear to accept exactly such a state of affairs.

#### Workforce

It is accepted that Looked After Children (LAC) require additional support due to their complex needs and increased vulnerability. They have inevitably experienced trauma, abuse and neglect as they progress through the safeguarding system. We know from research around Adverse Childhood Experiences (ACEs) that adverse factors affecting childhood have a profound and long lasting negative impact. The importance of the professional’s skill and consistency working with children and young people cannot be underestimated. Concerns about social care (expressed in the UN report of 2016 about frequent changes of social workers and placements) continue to be problematic while health professionals’ capacity and recognition of the importance of this work is under threat<sup>17</sup>.

The UK needs to resource, implement and embed trauma informed practice as soon as possible for all health and social care disciplines delivering care to Looked After Children. Professional training and practice standards to establish this cultural change are both urgent and necessary.

#### Health

Robust health and social care assessments are essential for the health and wellbeing of each child. The wishes and feelings of children to enable them to influence the choices made on their behalf should be standard in all assessments. Their right to privacy should not be forgotten and their ability to influence the wider strategic planning objectives for services at local and national level are also

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<sup>17</sup> RCPCH – Covering All Bases: Community child health Workforce 2017  
<https://www.rcpch.ac.uk/sites/default/files/generated-pdf/document/Covering-all-bases%253A-Community-child-health-workforce-%25282017%2529.pdf>

important. This inclusion should be incorporated in strategy and planning for Looked After Children and as they progress to become care leavers.

The continuing lack of suitable therapeutic or secure placements for Looked after Children, with complex mental health problems often results in further distress to young people and their families. The government should review commissioning pathways and the type, location and capacity of specialist provision for complex cases. It is unacceptable for placements to aggravate a child's difficulties, which is clearly not in a child's best interest. One in eight young people reside in unregulated settings where they are more easily groomed for sexual exploitation and coerced into criminal activity. All placements need to be appropriate, safe and quality assured with appropriate regulations for all children and young people.

General health outcomes are poor and problems can be wide ranging so every service that comes into contact with looked after children and young people should have specific awareness, knowledge and skills to meet those needs<sup>18</sup>.

There is an increased proportion of children and young people with special educational needs in the looked after population. This needs to be recognised and addressed with appropriate funding and support for alternative education and virtual schooling to enable children to reach their potential and improve their long term outcomes for careers and life<sup>19</sup>.

As with child protection, Looked After Children are everyone's responsibility. However, with regards to the NHS statutory responsibilities for Looked After Children, there is a well-established structure in each of the four nations. This is delivered by specialist doctors and nurses who understand the needs of Looked After Children and advocate for them in both commissioning and operational contexts. They possess the necessary skills, competencies and experience to commission, deliver, challenge and assure the health component of care plans for each individual child in their looked after population.

In England, there is a set of competencies for healthcare professionals<sup>20</sup> embedded in statutory guidance<sup>21</sup> with equivalent legislation in Scotland, Wales and Northern Ireland. Since 2016, failures to meet the national guidance in the number, responsibilities and capacity of these key system leaders have caused great concern. Gaps in provision for both Looked After Children and Child Safeguarding professionals were clearly demonstrated in practitioner surveys undertaken by the Royal College of Nursing and later by the NNDHP. This lack of compliance with statutory guidance has a direct impact on, and seriously disadvantages, Looked After Children. It needs urgent attention by NHSE, the Department of Health and the CQC inspectorate. Once lost, this resource will be difficult to replace. The RCPCH State of Child Health 2020 report presented to Government recommends expansion of Looked After Children services to support young people transitioning to adult care and up to the age of 25 years<sup>22</sup>.

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<sup>18</sup>Keene, J., Mohiddin, A., Wolfe, I. (2017). Health and well-being profile of looked after children. Abstract. *Archives of Disease Childhood*, 102(1)

<sup>19</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/884758/CLA\\_Outcomes\\_Main\\_Text\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/884758/CLA_Outcomes_Main_Text_2019.pdf)

<sup>20</sup> Looked after children: Knowledge, skills and competences of healthcare staff: Intercollegiate Role Framework (2015)

<sup>21</sup> Working Together to Safeguard Children (Statutory Guidance HM Gov (2018)

## Questions to the UK Government

What is the Government's target and action plan for reducing the number of Looked After Children entering the NEET (not in education, employment or training) population?

What is the Government's target and action plan for providing resources and expertise to deliver trauma informed care at all levels of needs to Looked After Children?

What is the Government's action plan to ensure up-to-date, adequate legislation and workforce to meet the health and wellbeing needs of Looked After Children?

### **4. Child Poverty (Articles 4, 24, 27, 31); UN Sustainable Development Goals 10.2 and 10.4**

Poverty is a major determinant of health and social inequality. Children living in households on low incomes are significantly disadvantaged. Through food poverty, material poverty and digital poverty the ability to make healthy choices, maintain health and access health care is severely limited<sup>22</sup>. There are significant regional differences in the overall health outcomes for children and young people in the UK that can only be explained by systemic inequality, and this situation is not improving<sup>23</sup>.

In 2010, the Government's earlier pledge to end child poverty by 2020 was enshrined in law (Child Poverty Act). This pledge was abandoned in 2016 (Welfare Reform Act). In 2017-2018, rates of child poverty were as high as 30% (Marmot) and are predicted to increase (Child Poverty Action Group). **It is unconscionable that any children living in the 5<sup>th</sup> largest economy in the world should go to bed hungry in 2020.**

The results of poverty are clear to see and measure. For example, 46% of 15-year olds in the most deprived areas of the UK have decay in their permanent teeth, and children aged 5 are twice as likely to have tooth decay. Food insecurity is a major issue. One in 8 secondary school children are entitled to free school meals and this may be their only meal of the day. Only 1 in 12 young people aged 11 to 18 in the UK eat five portions of fruit or vegetables a day<sup>24</sup>. Food banks and deprived neighbourhoods are becoming the 'new norm'. The high prevalence of childhood obesity is a direct outcome of failure to eliminate food poverty.

Low income families are more likely to live in unhealthy environments and homes that are injurious to health, for example in overcrowded homes that are cold, damp or poorly maintained and in surroundings that may pose increased risks to children through air pollution, traffic hazards and a lack of safe places to play. Disproportionately high rents increase the mental distress of parents, which subsequently affects the health and emotional development of children.

Homelessness involving children and families is increasing despite the UN calling for the UK Government to reduce it. Children are still being placed in temporary accommodation much of which is unsuitable. This is predicted to increase even further as unemployment increases and a deeper recession takes hold again as a result of the pandemic and Brexit.

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<sup>22</sup> Health Equity In England: The Marmot Review 10 years on. (2020)

<sup>23</sup> State of Child Health (2020)

<sup>24</sup> Key data on young people: Association for Young People's Health (2019)

## Questions to the UK Government

By what child rights-based approach does the Government intend to restore the pledge to end child poverty?

What child rights-based interdepartmental and collaborative strategy is the Government taking to reduce child poverty?

What child rights measures is the government taking to eliminate family homelessness?

What child based approach does the Government intend to use to create places for social care and other forms of social contact that can mitigate social isolation in vulnerable families?

### 5. Promotion of health and wellbeing (Articles 3, 13, 17, 18, 19, 24)

Promoting health and wellbeing underpins all aspects of child health. This statutory responsibility is laid out in the Children Act 1989 and 2004. **Since 2016, there has been a major reduction in this provision for children in the statutory sectors of health and social care and in funding for voluntary organisations.** This was the result of governmental decision-making which instigated transferring public health responsibility to local authorities. Whilst laudable in principle it could be argued, this removed the protective budget for this provision which, in turn, resulted in a greatly reduced offer to children and families. It undermined the Healthy Child Programme's commitment to families of 0-19 year-olds. A recent Institute of Health Visiting survey found that parents experienced different levels of support depending on where they lived rather than their level of need<sup>25</sup>.

Health Visitors and School Nurses are now working with families at a high threshold of need or risk as poverty and deprivation has become the 'new norm'<sup>26</sup>. The capacity for universal health promotion, and health surveillance and prevention, has dropped considerably. The Healthy Child Programme remains an important government strategy yet parents are now no longer routinely supported by community specialist public health nurses who could offer timely health and development advice from pregnancy to nineteen years. As a result, childhood physical and mental health problems are not being identified early. Immunisation rates have fallen. Uptake of MMR and 5 in 1 vaccination in infancy has declined across all 4 nations of the UK. As a result, England and Wales have lost their measles-free status.

Failure to identify childhood conditions requiring early intervention due to lack of sufficient resources places an intolerable burden on families and systems; for example, in long waiting lists and delays in treatment for children with autism or mental health difficulties. Children and young people at risk of harm are not being identified, sometimes with devastating consequences. Adverse Childhood Experiences have a serious impact on the health and welfare of an individual throughout their life. Having sufficient resource in the system to safeguard and promote the wellbeing of young

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<sup>25</sup>What do parents want from a health visiting service? Institute of Health Visiting (2020).

<sup>26</sup>Out of Routine: A review of SUDI in families where the children are considered at risk of significant harm (Child Safeguarding Practice Review Panel, July 2020).



people is clearly cost effective in the long term. The government recognises this<sup>27</sup> but interventions, resources and new ways of supporting children, young people and families must be funded.

Despite UN concerns, young people in the UK, many with complex disabilities or mental health needs in acute settings still find themselves on adult wards. In a primary care context, social prescribing as a public health measure for children remains rare, the emphasis being placed on adults. This also applies to obesity where current resources are focused almost exclusively on adult provision despite the high prevalence of childhood obesity in the UK.

Good health outcomes for children are reliant on their voices being heard at every level of the health commissioning cycle including for service design, delivery and evaluation. Engagement with children on that level requires a positive relationship and child-centred communication utilising methods and technologies acceptable to all children and young people depending on their needs and situation and commensurate with their age and understanding. **In the government's own words, "The voice of the child must permeate, inform and inspire our collective endeavours"**<sup>28</sup>. Yet, there is no systematic approach to hearing children's voices, despite this governmental imploration to do so.

### Questions to the UK Government

Does the Government intend to provide a 'ring-fenced' budget for statutory provision for promoting the health and wellbeing of children?

When does the Government intend to enact their own 'public health informed approach to improving outcomes for vulnerable children' (2020)?

By what child rights approach does the Government intend to provide funding for early years provision particularly for children's centres?

By what child rights approach will the Government develop a systematic, cross-governmental and intersectoral approach to hear the voice of the child?

September 2020

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<sup>27</sup> No child left behind: a public-health-informed approach to improving outcomes for vulnerable children. PHE. 2020.

<sup>28</sup>Prime Minister's Hidden Harms Summit, June 2020 .

## NSPCC Written Evidence Submission - UK UNCRC Examination

### Safeguarding Children including Violence against Children

#### Introduction

The UN's review into the government's adherence to the UN Convention for the Rights of the Child (UNCRC) is an opportunity to ensure that the UK Government adopts a long-term, sustainable, trauma-informed response to safeguarding children against violence and neglect. It is crucial the Government recognises the need for safeguarding agencies to be properly resourced.

The safeguarding and child protection system in England is experiencing significant resource and financial strain, which in turn, risks impeding the response safeguarding agencies can provide to children who are experiencing abuse or neglect. Any safeguarding response must centre the needs and interests of children at the heart of decision making.

The number of children subject to a child protection plan in England has increased since the Committee last examined the UK in 2016; an increase from 50,310 children at 31 March 2016 to 52,330 children at 31 March 2019. These are children whom a child protection conference has determined are suffering, or are likely to suffer, significant harm. There has also been an increase in the number of children in need, those requiring support in order to safeguard or promote their welfare including children requiring help as a result of child or adult disabilities, parental mental ill health or the family experiencing financial or other stresses. There were 399,500 children in need at 31 March 2019 compared to 394,400 at 31 March 2016. In 2019, 54% of children in need have been assessed as having experienced or being at risk of abuse or neglect from within their family or from exploitation outside the home, including by criminal gangs and organised crime groups. Not included in these statistics are many more vulnerable children<sup>[1]</sup> and families facing adverse circumstances.

The strategies in place to keep children safe range from early intervention services for families and children to responses to children at risk of significant harm. Even prior to the pandemic there were concerns that the safeguarding system was 'overstretched and overwhelmed'<sup>1</sup> and unable to meet the growing safeguarding pressures brought about by:

- persistent cuts to local authority budgets – by £2.2 billion since 2010<sup>2</sup>; increasing levels of hardship faced by families growing understanding of, and responsiveness to, sexual and criminal exploitation of children as well as increases in the number of adolescents with complex needs coming to the attention of services.<sup>3</sup>

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<sup>[1]</sup> Office of the Children's Commissioner for England (2019). *Childhood vulnerability in numbers*. Available at:

<https://www.childrenscommissioner.gov.uk/publication/childhood-vulnerability-in-england-2019/> 2

<sup>1</sup>Care Crisis Review: options for change (2018) London: Family Rights Group

<sup>2</sup>Funding alliance recent paper [https://www.childrenssociety.org.uk/sites/default/files/childrens-and-young-peopleservices-funding-and-spending-report-2018-19\\_1.pdf](https://www.childrenssociety.org.uk/sites/default/files/childrens-and-young-peopleservices-funding-and-spending-report-2018-19_1.pdf)

<sup>3</sup> Safeguarding pressures ADCS

- This resulted in only the most high risk cases being prioritised, reduced availability of early intervention support for children and families<sup>4</sup> and variations in support with an unevenness in practice and standards across local authority areas.<sup>5</sup>

The Care Crisis Review concluded a culture of blame, shame and fear is inhibiting effective partnership working between the state and children and their families - an underlying principle of the Children Act 1989 - resulting in a rising number of children in the care system. The most recent triennial review of serious case reviews covering the period 2014 to 2017 also highlighted the pressures on the system of increasing complexity of caseloads and the impact of austerity on the ability to provide consistent, relationship based social work.<sup>7</sup>

### **Covid-19 and the impact on the child protection services**

The frequency and consistency of contact of children's social care services with children and families has been impacted by COVID-19 related sickness levels, staff in different agencies being redistributed to cover areas that were deemed a priority for response, usually focussing on high risk cases, and local authorities juggling priorities within their collective caseloads. These changes have significantly impacted relationship based working with children and their families, with child welfare processes involving families often taking place by phone rather than face to face. In some cases this has led to diminishing opportunities for partnership working to both identify and effectively address needs and risks and maximise the chances of children being able to safely live within their family networks.

Whilst in some other areas partnership working between agencies around safeguarding has improved. Engagement has continued through digital platforms for many individual children facing extra familial risks, particularly where the level of risk was identified as high. Anecdotal feedback from practice suggests that for some young people this way of engagement was welcome and beneficial. While for others, particularly those who share small living space with a big group of people and lack private space for digital engagement, this type of support is insufficient. Some support workers also reported that the efforts of building trusting relationships with the young person have been undone during the lockdown due to the loss of face to face sessions.

The NSPCC shares the concern of the wider children's sector about the impact on children and families of freedoms and flexibilities introduced through the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 (SI445). Plans must be put in place backed with appropriate investment to build the capacity of the child welfare and care system to respond to the needs of children at all times, especially once these regulations expire on the 25<sup>th</sup> September 2020.

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<sup>4</sup> Care crisis review, Funding pressures report, Counting lives

<sup>5</sup> Ofsted (2020). The Annual Report of Her Majesty's Chief Inspector of Education, Children's Services and Skills 2018/19. Available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/859422/Annual\\_Report\\_of\\_Her\\_Majesty\\_s\\_Chief\\_Inspector\\_of\\_Education\\_Children\\_s\\_Service\\_and\\_Skills\\_201819.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/859422/Annual_Report_of_Her_Majesty_s_Chief_Inspector_of_Education_Children_s_Service_and_Skills_201819.pdf)

The NSPCC also has concerns about the significant financial strain on resources that children's social care is under, to provide support and intervention for children and families, financial strain which has only been exacerbated by the current covid-19 pandemic. Prior to the pandemic, children's services were already in a precarious position attempting to manage increasing demand for statutory children's services while absorbing reductions in funding of £2.2 billion.<sup>6</sup> The pandemic has accelerated a trend of late intervention spending, as well as the need to cover a multitude of new pressures that have resulted from the crisis itself.<sup>7</sup> Whilst the government has begun to announce new and additional funding measures, this is only making 'small headway'<sup>8</sup> in addressing the gap between funding and spending.

The covid-19 pandemic has radically altered children's services, not only shining a light on the exacerbated pressures on an already strained system, but the need to balance immediate and long-term intervention and support for children and families. There is a considerable risk that the lack of further funding being made available to local authorities by central government may result in children who have already experienced adversity that was exacerbated by the pandemic from being denied timely and appropriate specialist support to recover from abuse and/or neglect.

### **Questions:**

1. Will the Government commit to ensuring that the child protection system is given long-term sustainable investment in order to meet the needs of the children and families during the covid-19 pandemic and beyond?
2. What collaboration is taking place between local and central government to identify opportunities to address increasingly complex issues arising from keeping children safe from abuse and neglect?
3. How will the government ensure that children's views are incorporated into new policy, practice or research initiatives with regards to child welfare or child protection?

### **Victims of child sexual abuse**

Prevalence studies for England and Wales suggest that some 15% of girls and 5% of boys experience sexual abuse before the age of 16. The most serious and repeated offences are more likely to be committed by known persons, with family members being more common for girls and young women and authority figures for boys and young men.<sup>9</sup> There has also been a decline in the number of prosecutions for child sexual abuse charges since 2018.<sup>10</sup> In March 2020, The Office of National Statistics reported significant discrepancies between number of

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<sup>6</sup> <https://www.actionforchildren.org.uk/media/13023/childrens-and-young-peoples-services-funding-and-spending-report-2018-19-002.pdf>

<sup>7</sup> Ibid

<sup>8</sup> Ibid p.15.

<sup>9</sup> CSA centre

<sup>10</sup> The Office of National Statistics (2020) Child abuse and the criminal justice system, England and Wales: year ending March 2019

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/childabuseandthecriminaljusticesystemenglandandwales/yearendingmarch2019#main-points>

police reports of child sexual abuse, CPS prosecutions and convictions.<sup>11</sup> Only 4% of child abuse cases flagged by the police resulted in a charge or summons, due to 'evidential difficulties.'<sup>12</sup> The CPS also recorded an 18% decrease in prosecutions for child sexual abuse cases between 2019 and 2018.<sup>13</sup> Yet in cases that were brought to trial, 79% of these resulted in a conviction.<sup>14</sup> Similar discrepancies with regards to charging, prosecution and convictions were identified with adult rape cases which resulted in a major cross-government review and intervention by Government,<sup>15</sup> but the response in relation to children has been markedly different. It is concerning that government have not responded to the growing evidence that the justice system is failing child victims of sexual abuse, with the same concerted attention it has shown for adult victims.

The recent Joint Targeted Inspection Report into Multi-agency response to child sexual abuse in the family environment highlighted the lack of prioritisation for the prevention and identification of sexual abuse and inconsistency in protection and therapeutic recovery.<sup>16</sup> For some children who experience sexual abuse by someone outside their household, the lockdown situation brought positive protection from abuse, for others who may be residing in the same household as their abuser, this results in traumatic events that will be difficult to escape. 77% of contacts to the NSPCC Helpline about child sexual abuse during the pandemic lockdown period related to concerns about sexual abuse within the family home.<sup>17</sup> The NSPCC also saw a threefold increase in the number of Childline counselling sessions about child sexual abuse within the family, from an average of 8 sessions per week before the pandemic restrictions were imposed to an average of 23 per week since 23 March 2020.<sup>18</sup> It is evidence that the lockdown period was challenging for children as they were cut off from other trusted adults or support mechanisms who they could speak to about their experiences of abuse.<sup>19</sup>

In June 2019 the Government announced it would publish the first national strategy for tackling Child Sexual Abuse. This has been repeatedly delayed and in August 2020 the Minister responsible said it would be published "by the end of the year". The strategy needs to be published as a matter of urgency and must clearly set out a child-centred, trauma informed approach to addressing concerns about prevalence and gaps in protection from child sexual abuse. To keep children safe from abuse, the strategy should be accompanied by funding to enable key stakeholders to implement the strategy.

## **The Justice System and Trauma Informed Recovery**

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<sup>11</sup>Ibid

<sup>12</sup>Ibid

<sup>13</sup> Ibid

<sup>14</sup> Ibid

<sup>15</sup> <https://www.theguardian.com/society/2020/aug/09/downing-street-to-set-rape-prosecution-targets-police-and-cps>

<sup>16</sup> <https://www.gov.uk/government/publications/the-multi-agency-response-to-child-sexual-abuse-in-the-familyenvironment/multi-agency-response-to-child-sexual-abuse-in-the-family-environment-joint-targeted-area-inspectionsjtais>

<sup>17</sup> NSPCC Briefing: Impact of Coronavirus on child welfare: sexual abuse (2020)  
<https://learning.nspcc.org.uk/media/2280/impact-of-coronavirus-pandemic-on-child-welfare-sexual-abuse.pdf> p.2

<sup>18</sup> [Ibid f p.1](#)

<sup>19</sup> [Ibid p.9.](#)

The ambitions for court and tribunal reform set out in the HMCTS report, *Transforming our Justice System* in 2016 had the potential to make significant improvements to the experiences of young victims and witnesses in the criminal justice system (CJS). It proposed welcome changes that should have improved the experience of the CJS for young victims and witnesses through the use of technology. In particular, ensuring roll out of special measures including pre-recorded cross-examinations for child victims under s 28 of the Youth Justice and Criminal Evidence Act 1999 (YJCEA) and widening provision for vulnerable witnesses to give evidence over a digital link, rather than being physically present in a court room or even a court building, seemed to offer promising alternatives to a process that could be long, frustrating and often retraumatizing for children.

The NSPCC has also undertaken significant research into the experiences of child victims and witnesses in the criminal courts. [Falling Short?<sup>20</sup>](#), a research report looking at policy and practice in relation to young witnesses, raised concerns about the problems children had in accessing justice, especially those who had experienced child sexual abuse. *Falling Short* provides evidence that provision of support is inconsistent and fragmented and, as a result, child witnesses and victims are still at risk of negative experiences in the criminal justice system.

Despite the vision statement's ambition that "a modernised and upgraded justice system would work even better for everyone", the reality of young witnesses' experiences leaves much to be desired. Since the covid-19 pandemic, the Government has accelerated its national rollout of s.28 provisions across England, aiming to have all crown courts equipped to deliver s.28 hearings and trials by the end of 2020.<sup>21</sup> Whilst the NSPCC welcomes this progress as an important step in developing a child-centred criminal justice response, as evidenced in the NSPCC's *Falling Short?* report, these improvements are far too late for too many children. Young witnesses and victims are also still experiencing unacceptable delays in the criminal trials, both in terms of timeliness of cases and waiting times on the day.<sup>22</sup>

In 2018, The Lighthouse, was opened in London. The service is delivered in collaboration between the NSPCC, University College Hospital NHS Foundation Trust, The Tavistock and Portman NHS Foundation Trust, Camden Council, Solace Women's Aid and the Metropolitan Police. Based on the Child House, or 'Barnahus' model, which provides a child-centred approach to support for children who have experienced sexual abuse or exploitation, the Lighthouse has been funded by the Home Office, NHS England, the Mayor's Office for Policing and Crime (MOPAC) and the Department for Education. It offers early support after the trauma of abuse, increases the length of time support is provided to children and families, gathers more effective evidence from interviews and supports a speedier progress in investigations and court cases. Medical, advocacy, social care, police, and

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<sup>20</sup> Plotnikoff J and Woolfson R (2019), *Falling Short?: a snapshot of young witness policy and practice*. London: NSPCC <https://learning.nspcc.org.uk/research-resources/2019/falling-short-young-witness-policy-practice>

<sup>21</sup> <https://insidehmcts.blog.gov.uk/2020/08/24/protecting-the-vulnerable-with-s-28/>;  
<https://www.gov.uk/government/news/vulnerable-victims-in-london-and-kent-to-be-given-new-courtroom-protections>

<sup>22</sup> Plotnikoff and Woolfson (2019), page 18

therapeutic support is delivered from one centre, providing a coordinated approach to supporting children and young people.

The Child House model offers a crucial opportunity to rethink the way children who have suffered abuse are supported in a way that properly responds to their needs. Evidence from around the world suggests that this secures better outcomes for children, improves their experiences, leads to more convictions and hence, gives children a better chance to recover. The Lighthouse pilot is funded by different Government and statutory agencies until September 2021. However, there are currently no plans for dedicated funding streams to enable the long term sustainability of the Child House in London or to ensure others can open in different locations across England. As well as funding the individual services that come together in a Child House (for example, social care, police and health) the Government should ensure funding is available to enable the model to thrive so that children who have experienced abuse can access the support and services they need to recover.

### **Questions:**

1. What steps is the Government taking to address the discrepancy between the rising number of police records of child sexual abuse and the drop in prosecutions?
2. What steps has the Government taken to ensure its strategy to address child sexual abuse will be implemented by statutory partners and key stakeholders?
3. How will the government ensure that services to support and protect children who are sexually abused, such as Child Houses, have sufficient resources?
4. What further improvements will be made to the criminal justice system to ensure that child victims and witness are not at risk of being retraumatised or subject to significant trial delays?

### **Increase in online risks**

As children have spent more time at home the role of social media and online platforms has played an important role in communication, education and entertainment. While this interconnectedness has many important benefits, the lack of safeguards in platform design and moderation means that it presents risks of avoidable harm to children.

During the pandemic, the NSPCC has set out the potential for a three-fold 'perfect storm' which could lead to a spike in online child abuse. At a time of surging demand, some platforms have faced challenges sustaining their moderation levels. Secondly, the stresses placed on children by the pandemic may increase their vulnerability to grooming. Thirdly, intelligence from Europol and the National Crime Agency points to an increased threat.<sup>23</sup> We are now seeing these risks translate into evidence of actual harm. In April 2020, there were over 4 million

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<sup>23</sup> Europol (2020) Catching the virus: cybercrime, disinformation and the COVID-19 pandemic. Lyon: Europol

reports to National Centre for Missing and Exploited Children (NCMEC), four times the recorded rate in April 2019.

The pandemic may result in structural changes to the online abuse threat, with mass take-up of high-risk video chat services and changes to working patterns likely to fuel increased long-term demand for child abuse material.<sup>24</sup>

The Government published the Online Harms White Paper in April 2019, in which it committed to regulation of social networks and gaming sites. Platforms will be subject to a legal duty of care to identify and mitigate reasonably foreseeable risks caused by the systemic design and function of their sites. However, the legislation will only deliver meaningful protection for children if it provides the regulator with comprehensive investigatory, information disclosure and enforcement powers that are proportionate to the companies in scope; and supports the creation of user advocacy arrangements for children, to be funded by the industry levy.

### Questions:

1. What steps will the Government be taking to ensure that tech firms have to comply with a legal duty of care to protect every child from abuse online?
2. When will this legislation be passed and come into effect?
3. Will legislation provide appropriately robust powers to the regulator to discharge its functions effectively, and secure positive regulatory outcomes for children?
4. What assessment has the Government made of whether its Online Harms agenda is likely to be consistent with the draft General Comment on Children's Rights in the Digital Environment?

### Children in domestic abuse situations

Before the covid-19 lockdown, over 800,000 children in England were living in households that reported domestic abuse.<sup>25</sup> The devastating impact of domestic abuse impacts children's well-being<sup>26</sup>, may lead to increased risks of criminal behaviour, interpersonal difficulties in future intimate relationships and friendships, and risks of experiencing sexual abuse, sexual exploitation and other forms of violence and abuse in later life.<sup>27</sup>

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<sup>24</sup> CNN (2020) The pandemic is causing an exponential rise in the online exploitation of children, experts say. Published May 25th

<sup>25</sup> Office of the Children's Commissioner for England (2019). *Childhood vulnerability in numbers*. Available at: <https://www.childrenscommissioner.gov.uk/publication/childhood-vulnerability-in-england-2019/>

<sup>26</sup> Royal College of Psychiatrists (2017). 'Domestic violence and abuse – the impact on children and adolescents.' Available at: <https://www.rcpsych.ac.uk/mental-health/parents-and-young-people/information-for-parents-andcarers/domestic-violence-and-abuse-effects-on-children>;

UNICEF (2006). *Behind Closed Doors: The Impact of Domestic Violence on Children*. Available at: <https://www.unicef.org/media/files/BehindClosedDoors.pdf>

<sup>27</sup> Office for National Statistics (2017). 'People who were abused as children are more likely to be abused as an adult: Exploring the impact of what can sometimes be hidden crimes'. Available at:



The covid-19 lockdown measures placed children at increased risk. Refuge reported a 700% rise in calls to its National Domestic Abuse Helpline in a single day.<sup>28</sup> The number of domestic homicides is far higher than the average rate for the time of year.<sup>29</sup> Contacts to NSPCC's Helpline about children experiencing domestic abuse also increased by 10% during the lockdown period.<sup>30</sup> Even before the coronavirus crisis, recent research from Action for Children shows support for children affected by domestic abuse was patchy.<sup>31</sup> The current crisis has exacerbated existing problems in the system. Despite concerns about increasing levels of need among children, 60% of service providers that responded to Women's Aid COVID-19 survey stated that they needed to reduce/cancel their service offer for children.

The Domestic Abuse Bill is currently working its way through parliament. In June 2020, the NSPCC welcomed the Government's decision to introduce an amendment to the statutory definition in the Bill, which recognises the impact domestic abuse has on children. The Government must now underpin this recognition with sustainable and resourced support services to help children recover and move forward with their lives. The NSPCC is particularly concerned with the lack of a statutory duty on local agencies to provide specialist, community based services for children who have experienced domestic abuse. There are also concerns that migrant women's exclusion from the bill may have knock-on effects for migrant children accessing support through section 17 of the *Children Act (1989)*.

### Questions:

1. What steps will the government be taking to ensure that all children experiencing domestic abuse will have access to specialist, community based support in order to help them recover from their experiences?
2. Will the government commit to undertaking a review of current child protection legislation and statutory guidance, in order to identify where improvements can be made, and improve our response to children experiencing domestic abuse?

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<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/peoplewhowereabusedaschildrenaremorelikelytobeabusedasanadult/2017-09-27>

<sup>28</sup> The Observer (Sun 12 Apr 2020). 'Revealed: surge in domestic violence during COVID-19'. Available at:

<https://www.theguardian.com/society/2020/apr/12/domestic-violence-surges-seven-hundred-percent-uk-coronavirus>

<sup>29</sup> The Guardian (Wed 15 Apr 2020). 'Domestic abuse killings "more than double" amid COVID-19 lockdown'.

Available at: <https://www.theguardian.com/society/2020/apr/15/domestic-abuse-killings-more-than-double-amid-COVID-19-lockdown>

<sup>30</sup> Data from analysis of contacts to NSPCC's Helpline about children experiencing domestic abuse

<sup>31</sup> <https://www.actionforchildren.org.uk/what-we-do/policy-and-research/keeping-children-in-safe-and-lovinghomes/domestic-abuse-policy-report/>

## NYAS perspective for UNCRC Monitoring

Submitted to CRAE on 3<sup>rd</sup> September 2020



Thank you for the opportunity to provide written evidence to inform the CRAE UN Committee submission. We are writing on behalf of NYAS (National Youth Advocacy Service), a leading children's rights charity that supports and empowers care-experienced children and young people across England and Wales. Because of our experience working with governments in both countries, we are well placed to make comparisons in policy and practice and have occasionally done so within this submission.

NYAS works with thousands of care-experienced children and young people, providing services such as rights-based advocacy, independent visiting, return interviews, mentoring, children's homes regulation 44 visits, youth participation and mental health support.

We have put together this evidence in collaboration with the care-experienced children and young people that we work with, listening to them to identify the main issues that UK Government should prioritise to ensure greater compliance with the UNCRC, and put children's rights at the heart of decision-making. We have pinpointed five areas for closer inspection, headed under a relevant UNCRC article.

### Article 12

**Every child or young person has the right to express their views, feelings and wishes in matters affecting them.**

Since the Committee's most recent observations in 2016, many care-experienced children and young people continue to feel voiceless in the policy-making process, and in decisions about their day-to-day care.

In their 2016 concluding observations, the UN Committee recommended that UK Government establish structures at a local and national level for the active and meaningful participation of children within law and policy-making. There still exists no meaningful structure for children's views to be heard in England.

However, it is not only enough that children's rights are taken into account throughout the decision-making process. It is vital that participation from children and young people is actively sought by UK Government, particularly on issues that disproportionately affect certain groups of children. From our experience working with care-experience children and young people, it is clear that more must be done to meaningfully consult with them in England.

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The COVID-19 pandemic has further highlighted the importance of embedding a children's rights approach in our national decision-making framework. In April, the Government introduced new legislation, Statutory Instrument 445 (or SI 445, *The Adoption and Children (Coronavirus) (Amendment) Regulations 2020*), which removed or diluted 65 key protections for children in care, including the right to contact with a social worker every six weeks. This legislation was introduced at the peak of the lockdown, when our research found that feelings of anxiety and loneliness among care-experienced children and young people were particularly high.

Our survey on life in lockdown received responses from over 230 care-experienced young people across England and Wales and found that half (50%) of respondents were feeling lonely more often.<sup>1</sup> Yet SI 445 was implemented in England without consideration for the views of care-experienced young people themselves, without the approval of the Children's Commissioner, and without the support of the children's rights sector. We are not aware of any other government that chose to remove or dilute the legal rights and entitlements of children in care or entering care during the pandemic. The decision not to consult the Children's Commissioner for England is being challenged by children's rights charity *Article 39* in the Court of Appeal on Friday 4<sup>th</sup> November.

The right of care-experienced children and young people to have their wishes and feelings considered is embedded in primary legislation such as the Children Act 1989, including the right to an advocate. An advocate is an independent person not employed by the local authority, who can inform them of their rights and empower them to have their voice heard. In Wales, there is an 'active offer' of advocacy, which means that children and young people are actively made aware of their right to an advocate at vital stages, including when they first enter care.

It is not enough that children have the right to advocacy, every child or young person in England must have an active offer and be empowered to self-advocate or seek the support of an advocate should they want it.

We would like to know:

- What steps the UK Government has taken to ensure that every care-experienced child or young person is aware of their right to an advocate?
- What steps the UK Government intends to take to embed the wishes and feelings of care-experienced young people into decision-making at a policy level?
- How will the UK Government ensure that, unlike in it's crafting of SI 445, every new law or policy affecting children and young people is made after consulting for their views, wishes and feelings, or at a minimum consulting with their statutory champion, the Children's Commissioner.

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## Article 25

**Every care-experienced child or young person has the right to their care, protection and health to be checked up on when they are away from their families, making sure that their best interests are acted on.**

In 2016, the Committee drew attention to the increase in the number of children in care in England, and the number of children and young people being placed at a distance from their biological families, which prevents them from keeping in contact even when that is in their best interests. The number of children and young people in care is now at an all-time high. In a decade there has been a 53% increase in children placed on child protection plans and a 139% increase in cases where the local authority believes a child may be suffering, or likely to suffer, significant harm.<sup>2</sup>

At the same time, funding for local authorities' children and young people's services has fallen by £3 billion since 2010, and the most deprived local authorities spending on children and young people's services has fallen almost five times faster than the least deprived.<sup>3</sup>

Since the 2016 UNCRC observations, the number of care-experienced children and young people living 'out of area' in residential children's homes is also at an all-time high. Now, two thirds (64%) of children and young people living in residential homes are outside of the council's boundary, many over twenty miles away from the place they would call home.<sup>4</sup> Whilst there may be a genuine need for some children and young people to live out of area, including in situations of exploitation or trafficking, the decision to place a child or young person far away from their home often runs counter to their best interests as well as their views, feelings and wishes under Article 12.

There is evidence that placing care-experienced children and young people out of area can have significant negative effects. In 2019, the APPG for Runaway and Missing Children and Adults found that the number of children missing from out-of-area placements has more than doubled since 2015, with more than 70% of police forces in England stating that placing children out of area increases their risk of exploitation.<sup>5</sup>

Yet children and young people are not only being moved 'out of area', away from their support networks, but also into unregulated semi-independent accommodation at an alarming rate, without checks from Ofsted or formal Reg. 44 visits. The number of young people aged 16 or 17 living in unregulated environment has more than doubled in the last ten years, to over 6,000. Over 80% of police forces expressed concern about the increasing number of young people living in these settings as part of their evidence to the APPG on missing children.<sup>6</sup>

We would like to know:

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- What steps the Government is taking to reduce the number of care-experienced children and young people living in unregulated accommodation, including those who are 16+ years old.
- What evidence, if any, does the Government have that placing children out of area is in the best interest of children, by measurable outcomes?
- What steps is the Government taking to reduce the rate of missing episodes for children placed out of area?

### **Article 39**

**Every child or young person has the right to recover from the difficult things that happen to them, and they can expect to receive help that allows them to do so. This includes survivors of violence, sexual violence, neglect, exploitation, abuse, torture, armed conflict and trafficking.**

Experience of abuse or neglect is the primary reason that children and young people enter the care system in England. In 2019, almost 50,000 children across England and Wales entered care because of their exposure to abuse or neglect.<sup>7</sup>

One of the known consequences of trauma is its impact on mental health, including increased risk of PTSD (post-traumatic stress disorder), anxiety or depression. For children and young people, exposure to abuse or neglect can have a profound impact. One in three adult mental health conditions relates directly to adverse childhood experiences.<sup>8</sup> Care-experienced young people are four times more likely than their peers to have a recognised mental health problem.<sup>9</sup> While specific mental health services for care-experienced children and young people exist in over half of areas in the country, this is a postcode lottery.<sup>10</sup>

The most recent Crime Survey for England and Wales found that one in five adults aged 18 to 74 experienced at least one form of child abuse before the age of 16 years.<sup>11</sup> The Children's Commissioner has also drawn attention to the 'hidden harm' of witnessing abuse, estimating that 800,000 children witnessed domestic abuse in 2019.<sup>12</sup>

Despite this, many young people still do not have access to the support that they urgently need. This is despite young people routinely themselves raising mental health as a priority issue. Where children and young people do manage to access mental health services, the average waiting time for children and young people to be seen stretches beyond two months, in which time over three quarters of young people have a further deterioration of their mental health according to parents and carers.<sup>13</sup>

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It is clear that more must be done to enable children and young people to recover from trauma in England. Every opportunity must be taken to address mental health challenges faced by children and young people, through access to evidence-based early support.

We would like to know:

- What steps has the Government taken to ensure that care-experienced children and young people have access to specialist mental health provision across England?
- What steps has the Government taken to collate and publish data on the scale of abuse and neglect across England?
- What steps has the Government taken to ensure that CAMHS waiting times are reduced, and the accessibility of services for children and young people increased?

### **Article 40**

**Every child who is accused or guilty of breaking the law must be treated with dignity and respect. They have the right to legal assistance and a fair trial. The justice system must enable children who have been in conflict with the law to reintegrate into society.**

Many of the Concluding Observations raised by the UN Committee in 2016 on Article 40 continue to be relevant now. As the Committee noted then, the number of children in custody remains high, with disproportionate representation of ethnic minority children, children in care and children with psycho-social disabilities. Care-experienced young people continue to be overrepresented in criminal justice settings. A 2019 report found that for girls and women, only 1% of the general population have been in care, but up to 50% of imprisoned children have been in care.<sup>14</sup> The Children’s Commissioner for England has estimated that the total percentage of children in custody who are also care-experienced is between 30- 40%.<sup>15</sup> More than 1 in 3 children in Youth Offender Institutions are care-experienced, and a significant number (1 in 5) have a disability.<sup>16</sup>

One recommendation made by the UN Committee in 2016 was for the UK Government to ensure “that children in conflict with the law are always dealt with within the juvenile justice system.” On this front, the UK Government has taken steps to decrease the number of children detained in custody over the last decade, and real progress had been made in some areas. The number of children in custody on a Detention and Training Order has gone down by 79% in the last ten years.<sup>17</sup> The number of children living in residential care who have been convicted or subjected to a final warning or reprimand has also dropped by 40% since 2013.<sup>18</sup>

In 2016, the UN Committee also recommended that ‘diversion measures’ away from custody should not appear in children’s criminal records. Over 10.5 million people in the UK have a

criminal record, and as discussed above, a disproportionate number of them are care-experienced. With more than 1 in 3 (39%) care-experienced 19-21 year olds not in employment, education or training, childhood criminal records limit children's opportunities at every turn. Many care-experienced children have themselves entered care as a victim of abuse or neglect, only to later be treated as a criminal as the mental health implications of that experience become clear. At the moment, a childhood criminal record is never deleted, but this may be about to change. The Government recently announced changes to the disclosure regime to remove disclosure of youth cautions, reprimands and warnings on background checks. 'Unlock' considers the impact of the changes [here](#).

However, it is still the case that care-experienced children and young people are significantly more likely to come into contact with the police than their peers through no fault of their own. Care-experienced children and young people living in England are significantly more likely to go missing than other children, and a consequence of this is that almost half the call-outs from children's homes to police forces relate to missing incidents.<sup>19</sup> These types of incidents can lead to the unfair criminalisation of care-experienced children and young people. In 2018 the UK Government produced a 'national protocol on reducing criminalisation of looked-after children', but there does not appear to be any meaningful monitoring of its success or implementation.<sup>20</sup>

We would like to know:

- What steps has the Government taken to monitor and embed the protocol on reducing the unnecessary criminalisation of looked-after children?
- What steps has the Government taken to reduce the impact of a childhood criminal record?
- What steps has the Government taken to support care-experienced children or young people convicted of a criminal offence to reintegrate?

#### **Article 4**

**Governments must do all they can to make sure that every child can enjoy their rights by creating systems and passing laws that promote and protect children's rights.**

In 2016, the UN Committee recommended that the UK allocates available resources for the "implementation of children's rights, with a focus on eradicating child poverty and reducing inequalities" to ensure that children can enjoy their rights as contained in the UNCRC. Levels of child poverty across the UK are getting worse, and an estimated 30% of children in the UK are now thought to be living below the breadline. Children from black and ethnic minority groups are significantly more likely to live in poverty than White British families.<sup>21</sup>

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At added risk of living in child poverty are care leavers, who have told us that they struggle to get by and pay the bills. Young people can leave care in England at 16 years old. This is a time when their peers are still being supported by their parents, and they find themselves having to navigate bills and make ends meet. In some areas of the UK, care leavers are exempt from paying council tax, but in others, particularly when they have been moved “out of area”, they still have to pay.<sup>22</sup> Every care leaver across the UK should be given equal opportunity to thrive no matter where they live.

In England, there is no formal requirement for a Children’s Rights Impact Assessment (CRIA) to be undertaken on legislation or policy, or an agreed methodology for child rights scrutiny, four years after the 2016 Committee recommendation. In Wales, CRIA have been utilised across Welsh Government to assess the impact of laws and policy on children’s rights, as contained within the UN Convention on the Rights of the Child (UNCRC) since 2012. This includes CRIA on economic policy such as austerity measures. A Children’s Rights Impact Assessment provides reassurance that the UNCRC has been considered in decision-making, and places children’s rights at the forefront.

In Scotland, there was recently a Government consultation on how best to incorporate the full UNCRC into Scottish Law. The direct incorporation of the UNCRC into the English legal system would mean that government and public bodies would have to protect children’s rights or leave themselves open to both legal challenge and scrutiny. The UNCRC is the most comprehensive children’s rights treaty in the world, and we must ensure that children living in England have access to those recourse when their rights are breached.

As discussed earlier, we are deeply concerned that the COVID-19 pandemic was used by the UK Government as an opportunity to dilute or remove many legal rights and protections for children in care and entering care, through Statutory Instrument 445 (SI 445). This was not a course of action pursued by other governments in Europe or indeed within the UK. If a national emergency or time of crisis results in abandoning rights for children, then the universality and permanence of those rights are threatened. This also relates to Article 41 of the UNCRC where the UK should keep laws even if they represent higher national standards.

We would like to know:

- What steps has the UK Government taken to incorporate the UNCRC into the English legal system?
- What steps has the UK Government taken to ensure that every care-experienced child or young person is aware of their rights, as contained in the UNCRC?
- How did SI 445 protect or promote children’s rights?

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**Project 17 submission to CRAE's call for written evidence: civil society submission to the UN's list of issues**

**1. Poverty and Homelessness**

**Rising levels of food poverty and 'holiday hunger'**

We have continued to see extremely high levels of food poverty among families with 'no recourse to public funds' (NRPF). In some cases, this has resulted in children developing eating disorders and health problems (see, for example, case studies provided by Project 17 to *The Children's Future Food Inquiry* (2019: p. 49)).

Research on food poverty has typically neglected the impact of immigration policy, but recent studies have highlighted food insecurity experienced by people with NRPF. For example, four of the families featured in *Living hand to mouth: Children and food in low-income families* had NRPF. These families, who were 'dependent on charity and were in "absolute" poverty', were regularly skipping meals as they could not afford enough food (O'Connell et al., 2019; pp. 38; 42-43).

Despite high levels of destitution among families with NRPF, children whose parents have NRPF are ordinarily excluded from free school meals, unless they are in receipt of section 95 asylum support. In many cases, families are faced with the choice of children going hungry or incurring debt (Chalabi, 2020: pp. 9-10).

After threats of legal action, eligibility for free school meals was extended to some families with NRPF on a temporary basis in light of the Covid-19 pandemic. The income threshold, originally set at £7,400, put families with NRPF at a significant disadvantage in comparison to families with access to the welfare system and has been revised several times in response to further litigation. The extended eligibility has been poorly communicated to schools and families, with many families unaware that their children are temporarily eligible, or in some cases, being wrongly refused by schools despite being eligible. Our main concerns with the temporary provision of free school meals to some families with NRPF are:

- The fact that some families with NRPF are still excluded. This includes children whose parents are on student, spouse and work visas, and undocumented children whose families are not in receipt of statutory support. The former are more likely to find themselves experiencing poverty as a result of the Covid-19 pandemic, and the latter are

likely to be some of the poorest children in the UK as their parents are not in receipt of any governmental support nor do they have the legal right to work.

- The government has made clear that the extended eligibility is temporary, despite the fact families with NRPF were experiencing high levels of destitution prior to the pandemic (Dickson, 2019).

We are concerned that the Covid-19 pandemic has exacerbated food poverty among families with NRPF. A survey of our clients conducted during ‘lockdown’ found that 79% of families were experiencing difficulties accessing enough food. Similarly, a recent study found that people with NRPF struggled to access enough food during the pandemic (Dickson et al., 2020).

Suggested questions:

- a) What steps has the Government taken to address food poverty among migrant children?
- b) How many children in families with NRPF received free school meals, or equivalent vouchers, during the temporary extension of eligibility?

### **Destitution among NRPF families: The implementation of section 17 support**

We have seen almost no progress from the Government in terms of addressing destitution among NRPF families. The only measure that has been implemented to partially alleviate the hardship faced by families is the temporary extension of free school meals to some families with NRPF, as discussed above.

Our research with children in families with NRPF (Dickson, 2019) found that:

- Local authority assessments of families with NRPF seeking support under section 17 of the Children Act 1989 were excessively focused on the credibility of parents at the expense of a focus on the child. Children’s views, wishes, and feelings were frequently neglected, and children were left feeling ignored (pp. 17-20).
- Support under section 17 is increasingly hard to access and local authorities are employing various ‘gatekeeping’ strategies to refuse families with NRPF support. As a result, families are left destitute and at high risk of exploitation. Of the children in our study, 24% had been left street homeless by a local authority (pp. 12-16; see also ‘Project 17’s “Hotel Fund”’ (2018)).
- Housing is a key issue for children living in families with NRPF. Many children supported under section 17 are living in poor conditions, without enough space or privacy, often far away from their schools, friends, and support networks (pp. 21-26).
- Financial support provided to families under section 17 is often well below asylum support rates under section 4 of the Immigration and Asylum Act. This is the minimum the Home Office says is required to avoid a breach of the European Convention on Human Rights, and case law suggests it is the minimum a local authority is required to

pay under section 17. Many families are unable to afford basic necessities such as enough food, clothing, school uniform, and transport (pp. 27-30).

- The challenges of having NRPF and the interconnected barriers to accessing local authority support had a significant emotional impact on children and young people. Children experiencing these issues were left feeling socially isolate, distressed, ashamed and unsafe (pp. 31-35).

Further, recent research conducted by the University of Wolverhampton found that destitute families with NRPF faced considerable difficulties accessing section 17 support during the pandemic (Dickson et al., 2020).

Although these issues have been repeatedly highlighted, the Government has made no attempt to adequately fund local authorities to provide support to those with NRPF, nor introduced statutory guidance to ensure local authorities provide consistent and adequate support. Further, we are not aware of any steps taken by the Government, pursuant to Article 12 of the UNCRC, to ensure that the ‘voice of the child’ is heard in the formation of public policy or in assessing its impact on children affected by NRPF.

Suggested questions:

- a) How many children in families with NRPF received support under section 17 of the Children Act 1989 in 2019?
- b) What steps has the Government taken to ensure that local authorities meet their statutory obligations under section 17 of the Children Act 1989 with respect to families with NRPF?

### **Lack of affordable childcare for all**

We have seen some progress in relation to affordable childcare for families with NRPF. Following litigation brought by a mother with NRPF, eligibility for the free early education entitlement for two-year-old children was extended to some families with NRPF. This includes:

- Children whose parents are ‘Zambrano’ carers;
- Children whose parents have Limited Leave to Remain with NRPF granted on the basis of family or private life (Article 8) grounds;
- Children whose parents are receiving asylum support from the Home Office under section 4 of the Immigration and Asylum Act 1999.

Eligibility was also temporarily extended to families with NRPF in receipt of section 17 support during the Covid-19 pandemic and litigation around a permanent extension to this group is ongoing.

We are concerned about the many children in families with NRPF who continue to be excluded from this provision. The vast majority of undocumented children in the UK are not in receipt of statutory support and therefore continue to be excluded from this scheme. These children are likely to be experiencing high levels of destitution.

Families with NRPF are also still excluded from the extended 30 hours of funded childcare for 3- and 4-year olds. The majority of our clients (80%) are single parents and struggle to earn enough from employment to cover their costs. Lack of free or affordable childcare represents a significant barrier to our clients earning enough to afford adequate housing and living costs.

## **2. Immigration, Asylum and Trafficking**

### **Destitution among NRPF families: The Imposition of the NRPF condition**

We have seen little progress around the imposition of the NRPF condition, which continues to be imposed on undocumented migrants and those with time-limited leave to remain in the UK. There are an estimated 215,000 undocumented migrant children living in the UK (Jolly et al., 2020). At the end of 2019, there were at least 175,643 non-EEA citizens under 18 living in families with NRPF (Fernández-Reino, 2020). It is not known how many of these families are at risk, or experiencing destitution, but The Children's Society have found that families on the 10-year family/private life route to settlement are more likely to experience destitution (Pinter et al., 2020). We have also found that the majority of the families we work with are either already on the 10-year family/private life route to settlement, or are eventually granted Limited Leave to Remain on this route.

The Unity Project have found that the NRPF policy disproportionately affects women, low-income families, disabled people, pregnant women and black and minority ethnic children (Woolley, 2019). Similarly, we have found that the negative impacts of the NRPF policy are highly racialised and gendered. Our case records show that the vast majority of our service-users, who are all experiencing destitution, are from black and minority ethnicity backgrounds. Our service-users are also disproportionately women (92.1%) and single mothers (77.4%).

Although it is possible for families on this route to make a 'Change of Conditions' application (e.g. to lift the NRPF condition on their visa), applicants face significant barriers to making a successful application (Woolley, 2019). The High Court recently found part of the Home Office's NRPF policy unlawful.<sup>1</sup> The judgment found that the policy failed to uphold the Secretary of State's legal obligation to take proactive steps to prevent destitution. The Home Office has amended the policy since the judgment, but it remains to be seen how these changes will be implemented in practice.

The numbers of people with NRPF who are likely to be experiencing destitution have increased significantly since the Covid-19 pandemic. There was a sixfold increase in the number of applications from people with NRPF for a ‘change of conditions’ (e.g. to lift the NRPF condition from their visa) during ‘lockdown’ (UKVI, 2020).

Suggested questions:

- a) What steps has the Government taken to address destitution among families with NRPF?
- b) How many applicants with dependents were granted Limited Leave to Remain with NRPF in 2019? Of those, how many were on the 10-year family/private life route to settlement?
- c) Can the Home Office provide a breakdown of ‘Data on No Recourse to Public Funds (NRPF): Applications to change conditions of leave? (2020)’ by nationality, gender, and age of dependents?

### **Poor routes to regularisation for undocumented children**

We are not aware of any progress from the Government on routes to regularisation for undocumented children. Alongside stringent and punitive rules that render many children and their parents unable to regularise their immigration status, immigration application fees have continued to rise over the last four years.

We continue to be deeply concerned about the 10-year family and private life route to settlement. The current application fee for each application is £1033 per person. The immigration health surcharge, which is set to increase in October 2020, must be paid in addition to this. From October 2020, it will cost £1560 per adult and £1175 per child for each 30 month period of leave. FOIA requests conducted by The Guardian found that the Home Office rejected 72% of applicants seeking a fee waiver in 2018 (Mohdin, 2019). The number of rejections among child applicants was particularly high.

In addition to the high cost of the route, we are concerned about the exceptionally long ‘probation’ period families on the 10-year route are subject to, which render children and their parents precarious. Many families ‘fall off’ the 10-year route for reasons such as domestic abuse and the high cost of immigration fees and are forced to restart. This means that in practice, some families will be on temporary forms of leave for longer than 10 years and are likely to struggle to reach settlement.

Further, without access to legal aid, the families we work with struggle to access free immigration advice and representation. As a result, in many cases, families have to wait exceptionally long periods of time before they can regularise their status.

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<sup>i</sup> *R (W, A Child By His Litigation Friend J) v Secretary of State for the Home Department & Anor* [2020] EWHC 1299 <https://www.bailii.org/ew/cases/EWHC/Admin/2020/1299.html>

## **Background**

The Royal College of Paediatrics and Child Health (RCPCH) is responsible for training and examining paediatricians, setting professional standards and informing research and policy. RCPCH has over 19,000 members in the UK and internationally. We work to transform child health through knowledge, research and expertise, to improve the health and wellbeing of infants, children and young people across the world.

Young people aged 11-17 from RCPCH &Us and connected organisations, RCPCH Members and staff took part in a survey to prioritise key issues for the UNC. The key issues within the survey were identified using a grounded theory approach from responses by children and young people to RCPCH &Us activity, consultation and projects between 2018-2020 alongside evidence identified through policy work at RCPCH.

### **1. General measures of implementation and general principles**

**Issue:** Lack of health services involving children and young people in decisions that affect them.

**Assessment of progress:** This response refers to Article 12 with recent changes to legislation due to COVID-19 within the UK having a detrimental impact on involvement of children and young people in decisions that affect them (Coronavirus Act 2020). England has not yet enshrined the UNCRC in domestic law, that has a knock on impact around children and young people's involvement in health services design and decision making, which is different to [Wales](#) and [Scotland](#).

**What has regressed:** Children and young people involved with RCPCH through consultation from 2018-2020 have reported a lack of involvement in making decisions affecting them, such as supporting health service planning for child and youth friendly services in a consistent way (e.g. mental health needs, transition, developing joined up care between health and education for those with long term conditions). Nor have they been involved in COVID-19 planning and responses. The UK Government did not provide opportunities for under 18s to have their voices heard as part of the COVID-19 press conferences or taking up opportunities to join children and young people co-produced Q&A events and in a way that meets their needs, delivered in an age appropriate way for children and young people that supported all communication preferences.

**References to new studies, data or reports:** Examples of children and young people taking the lead to inform health services what their needs are following consultation with RCPCH &Us: [Reimagining the future of paediatric care post-COVID-19](#) (2020), [The State of Child Health](#) (2020) voice matters, [The Inside Story](#) (2020) chapter 3, [COVID-19 Book Club](#) (2020), [Epilepsy12 &Us](#) (2019), [Rights Matter](#) (2019), [What Matters to CYP in the Long Term Plan](#) (2018) plus unpublished data held by RCPCH from CYP voice engagement activity.

#### **Specific questions to the UK Government:**

1. CYP question: What measures has the UK Government taken to ensure NHSE involves children and young people in health service shaping?
2. CYP question: What measures has the UK Government taken to ensure NHSE recognises children and young people as key partners within service design and monitoring within the NHS?

3. CYP question: What measures has the UK Government taken to audit involvement and impact of children and young people's engagement in decisions that affect them at a strategic level?
4. CYP question: What measures has the UK Government taken to audit experience of children and young people with long term conditions and their voices being heard in discussions between health and education?

## **2. Poverty and Homelessness**

**Issue:** Increasing rate of health inequalities, with poor housing affecting child health outcomes.

**Assessment of progress:** This relates to Articles 26 and 27 within a health context as trends in England reveal a widening gap between the health of children from wealthy and deprived backgrounds.

**What has regressed:** Child health outcomes are the product of inter-connected social, economic, personal and political factors. Too many children and young people in England grow up in families that are experiencing poverty and deprivation. Data from RCPCH's [State of Child Health 2020 project](#) shows that poverty and inequality impact a child's whole life, affecting their housing and social environment and in turn impacting their health outcomes.

Children from lower socioeconomic groups have a greater prevalence and severity of tooth decay. In England, while 77% of 5 year olds were free of visually obvious tooth decay in 2017, there are significant regional inequalities, with children from the most deprived areas having more than twice the level of decay compared with those from the least deprived.

*"When you don't have a lot of money, looking after your teeth can be harder" RCPCH & Us Voice Bank 2019*

Childhood obesity is additionally more prevalent among deprived areas. In England, the prevalence of severe obesity amongst 4-5 year olds was almost four times as high in the most deprived areas (3.8%) than the least deprived areas (1.0%) in 2017/18. In England, this rate is decreasing for those who are least deprived therefore the inequality gap is widening.

*"You need to be given access to free good food, lessons for everyone to know how to cook well, and be given the chance to do free activities that don't need lots of equipment" RCPCH & Us Voice Bank 2019*

Social inequalities continue to have a marked impact on infant mortality. The risk of infant death increases with greater levels of maternal deprivation, reflecting the social gradient that exists across underlying risk factors such as maternal health during pregnancy and uptake of recommended practices such as breastfeeding. Infant mortality trends, which is generally considered a marker of progress on wider child health outcomes, also show widening health inequalities, since 2010 there has been a rise in rates for the poorest children, compared to falling rates for more advantaged infants.

Low income families have the least choice over their housing and this means they may face a greater health burden from indoor pollutants. Sources of indoor pollution include mould, damp and chemicals from building materials and furnishings. Children are spending more of their lives indoors and the health impact of the air within homes needs to be taken seriously as a significant source of ill health. Inadequate housing with poor indoor air quality contributes to the ill health of children, for

example cold, damp, overcrowded housing can exacerbate respiratory illness and other conditions. Poor quality housing can also have negative consequences for children with disabilities or ongoing health conditions by making it more difficult for their parents to look after them appropriately. For instance, homes which are not warm enough or have a lack of space for equipment such as wheelchairs.

**References to new studies, data or reports:** Further detail on the evidence referenced here can be found in RCPCH's [State of Child Health \(2020\)](#), [Poverty and child health: views from the frontline \(2017\)](#) and [The Inside Story: Health effects of indoor air quality on children and young people \(2020\)](#).

#### **Specific questions to the UK Government:**

1. What plans does the UK Government have to introduce specific health inequality targets for key areas of child health?
2. What measures have the UK Government taken to ensure the delivery of health improvement work will continue following the abolition of Public Health England?
3. Will the UK Government commission a review into the factors affecting access to primary, secondary and emergency dental care, with a view to addressing inequalities in England?
4. Will the UK Government provide the necessary resources to allow Local Authorities to maintain and expand on current sports and leisure facilities available for children and young people to exercise at?
5. Will the UK Government consider expanding the school curriculum to incorporate nutrition and healthy diet education?
6. Will the UK Government commit to changing policy to reflect the importance of the first 1,000 days of life?
7. CYP question: What measures has the UK Government taken to support children and young people experiencing poor indoor air quality to assess the impact on their health and provide appropriate remedial support?

### **3. Safeguarding Children including Violence against Children**

**Issue:** Lack of routine health data collection on child protection.

**Assessment of progress:** This response refers to Articles 19 and 34 within a health context, where health services must embed children's rights throughout their practice to ensure they are protected from harm.

**What has regressed:** From 2004 to 2018, the rate of children subject to a child protection plan (CPP) has increased in all four UK nations, which suggests strategies to prevent child exploitation and abuse are not working. England experienced the greatest increase in rates, rising from 24 to 45 per 10,000 children under the age of 18. In England, the most common reasons for being the subject of a CPP are neglect and emotional abuse. Between 2002 and 2018 the number of children subject to a CPP due to emotional abuse has almost doubled in England.

Vulnerable children require targeted support to ensure they have a healthy and happy childhood. This is hindered by the lack of routine health data collection on child protection. Official figures underestimate the true prevalence of child maltreatment, as it is often underreported to child protection agencies. Therefore better, more comprehensive data on child protection is needed. Accurate knowledge of the number child protection referrals, the nature of injuries or abuse, of children in the care system and the reasons for being in the system provides indication of the

number of children at risk of harm in England. This will enable health services to understand the level of need for child protection services, ensure the health needs of victims of sexual exploitation and abuse are met, and enable us to better able protect vulnerable children from violence, abuse and neglect.

There has been increased awareness of the importance of protecting vulnerable children and young people, as a result of the COVID-19 lockdown and associated concerns for children and young people not recognised as vulnerable but who may be at risk. There has been a drop in referrals for child protection medical assessments during the pandemic<sup>1</sup>, yet following lockdown, the NSPCC helpline saw week-on-week increased contact around emotional abuse, domestic abuse and neglect<sup>2</sup>.

**References to new studies, data or reports:** Further detail on the evidence referenced here can be found in RCPCH's [State of Child Health \(2020\)](#).

#### **Specific questions to the UK Government:**

1. What measures will the UK Government take to ensure routine data collection on child protection is embedded across all NHS providers and is publicly accessible?
2. Will the UK Government provide the necessary resources to enable Local Authorities to ensure all vulnerable children receive timely and adequate support and are protected from abuse and neglect?
3. Will the UK Government take steps to incorporate the UNCRC into domestic law?
4. CYP question: What does the UK Government do to make sure that children and young people only have to tell their story once when being supported by health, social care and education workers and can access support to help them with their feelings?

#### **4. Education, leisure and cultural activities**

**Issue:** Lack of support for children and young people with health needs to maintain good attendance at school.

**An assessment of progress:** This response refers to Article 28 within a health context following feedback from children and young people who have shared their experiences of living with a long term condition with RCPCH.

**What has regressed:** There is a lack of support for children and young people with health needs to maintain good attendance at school. They report to frequently being taken out of school to attend multiple, uncoordinated clinic appointments or being unable to participate in the wider school curriculum activities, leading them to miss out on education and socialisation with peers due to their long term condition or health needs.

*"I can't go to the afterschool club like others because of my oxygen" RCPCH & Us Voice Bank 2019*

Recent legislation has altered the requirements around Education Health Care Plans within England (Coronavirus Act 2020) with anecdotal evidence stating children and young people have been taken

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<sup>1</sup> Department for Education (2020) *Vulnerable Children and Young People Survey: Summary of returns Waves 1-4*

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/909199/VCYP\\_Survey\\_publication.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/909199/VCYP_Survey_publication.pdf)

<sup>2</sup> NSPCC (2020) *Record numbers contact NSPCC with concerns during lockdown*

<https://www.nspcc.org.uk/about-us/news-opinion/2020/2020-10-07--helpline-recovery-plan/>

off plan during lockdown without discussion (RCPCH &Us Voice Bank 2020), with individuals sharing challenges for conditions that have a significant impact on their lives not being able to access Education Health Care Plan support:

*“We tried from when I was in year 7 to get an EHCP but kept being told no. I’m in year 13 now and luckily College did their own support plan for me but it worries me about managing catch up work and exams now without the support during COVID-19 and what will happen to me in the future”*  
RCPCH &Us Voice Bank 2020

It is important going forward that children and young people remain in education as much as possible, with health services working together to coordinate care appointments in a “one stop shop” model particularly where there are a number of specialists involved. Health services should provide support to schools to develop personalised attendance targets with children, young people and their families where they have health needs, in conjunction with health services working with education settings to access good quality training, advice and support for managing health conditions in an inclusive way.

**References to new studies, data or reports:** Evidence from children and young people on the challenges faced between their health needs and their education are from sessions that RCPCH &Us has led as part of national programmes linked to Epilepsy, Asthma, Sickle Cell, Diabetes, being looked after, having Hidden Illnesses and Mental Health needs. These have been reviewed by staff, children and young people, with some being published in wider reports [What Matters to CYP in the Long Term Plan](#) (2018), [Epilepsy12 &Us](#) (2019), [This Sickle Cell Life](#) (2019), [Rights Matter](#) (2019), [Being Me](#) (2019), [Hidden Health](#) (2019), [The State of Child Health](#) (2020) voice matters, [The Inside Story](#) (2020) chapter 3, plus unpublished data held by RCPCH from CYP voice engagement activity.

#### **Specific questions to the UK Government:**

1. CYP question: What measures have the UK Government taken to increase funding for training and support provision for schools to manage health needs of students?
2. CYP question: What measures have the UK Government taken to increase funding and resources for EHCPs to be able to detail the support needed to achieve and develop aspirations?
3. CYP question: What measures have the UK Government taken to ensure schools and local authorities are equipped to address attendance issues for children and young people with health needs?
4. CYP question: What measures have the UK Government taken to raise awareness of health conditions for children and young people in the general public linked to education experiences?

### **5. Health (including Mental Health) and Disability**

**Issue:** Increasing prevalence of mental health conditions combined with poor provision of mental health support services.

**Assessment of progress:** This response refers to Articles 6 and 24.

**What has regressed:** The prevalence of mental health conditions is increasing among children and young people. In England this has risen from 9.7% of 5-15 year olds reporting having a mental health disorder in 1999 to 11.2% in 2017. Half of adult mental health problems start before the age of 14

and 75% start before the age of 24: in 2017, 11.2% of children and young people aged 5-15 in England reported having any mental health disorder. Of these, 5.8% were emotional disorders, 5.5% behavioural disorders and 1.9% hyperactivity disorders. Suicide is now the leading cause of death for five to 19 year olds and, in 2018, the suicide rate for young people aged 15-24 was 8.1 per 100,000 in England.

In 2016/17, the rate of mental health admissions for young people under the age of 18 was 33 per 100,000 in England. There should be adequate services available to meet the growing demand for mental health support. Children and young people with mental health disorders require access to appropriate and timely services; ranging from community, inpatient to emergency services, depending on the severity of the child's mental health.

Early intervention in mental health problems is key to reducing the damage caused by them. Yet children and young people report that there is a lack of effective services in place for those who need it and a non-existence of support networks for those who have either just come out of therapy or those who are not unwell enough to qualify for help: 88% of young people did not think there was enough support available for mental health issues. This is compounded by the reported delays in referrals for children and young people to specialists for diagnosis or support, due to the low understanding and awareness by GPs and Emergency Departments in relation to long-term condition diagnosis and management.

Underinvestment in mental health is a longstanding concern. This has been amplified by the COVID-19 pandemic due to the extra stress caused by prolonged school closures, social isolation and a lack of access to usual support services.

To better understand the level of need for mental health services, improved routine data collection is required. The 2019 [NCEPOD](#) report on quality of care for children and young people admitted to hospital for mental health problems concluded that there are huge variations in quality, definitions, accessibility of national data relating to mental health<sup>3</sup>.

**References to new studies, data or reports.** Further detail on the evidence referenced here can be found in RCPCH's [State of Child Health \(2020\)](#), [Epilepsy12 &Us](#) (2019), [Being Me](#) (2019), [Rights Matter](#) (2019), [What Matters to CYP in the Long Term Plan](#) (2018).

#### **Specific questions to the UK Government:**

1. What progress has the UK Government made in ensuring Local Authorities have the resources to provide local pathways to improve access to mental health support, resources and services?
2. What measures has the UK Government taken to meet the provision of education based Mental Health Support Teams by 2023/4, as outlined in their Green Paper '*Transforming Children and Young People's Mental Health*', published in 2017?
3. Will the UK Government commit to conducting the Mental Health of Children and Young People in England survey at a minimum of every three years?
4. CYP question: What measures has the UK Government taken to understand, review and take action on the impact that having long term health conditions has on mental health?

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<sup>3</sup> National Confidential Enquiry into Patient Outcome and Death (2019) *Mental Healthcare in young people and young adults* <https://www.ncepod.org.uk/2019ypmh.html>

5. CYP question: What training is mandated for those working with children and young people to understand their mental health needs and to identify signs and symptoms that may need enhanced support?
6. CYP question: What measures are in place to ensure there are trained and skilled paediatric staff and mental health specialists within accident and emergency departments who are knowledgeable in children and young people health, specifically long term conditions?

### **Information on issues of special concern to specific or minority groups of children and young people**

We would like that children and young people with health needs are seen as a group that has special concerns in relation to health, education, play, information, access and agency.

### **Evidence of the effects of Brexit on this area.**

#### Supply of medicines, devices and delivery of care

There are potential challenges to supplies of medicines if the UK leaves the EU without a deal. The UK does not have access to a domestic supply of radioisotopes, close to the point of use, and so relies on imports from Europe and beyond. Therefore, leaving Euratom (European Atomic Energy Community) will risk supply issues. Breaks in supply can lead to delayed diagnosis and treatment, as occurred in 2009 and 2013 when maintenance of reactors resulted in facilities going offline temporarily.

Should the UK leave the EU without a deal, the UK's current participation in the European regulatory network for medical devices will end, and the Medicines and Healthcare products Regulatory Agency (MHRA) will take on the responsibilities for the UK market currently undertaken through the EU system. It is important that the MHRA continues to work closely with and align their practices with the European Medicines Agency (EMA) to ensure that children have access to the best medicines needed for their care.

#### Workforce

The NHS currently employs around 30,000 doctors whose primary qualification is from an EU or EEA (European Economic Area) country. In paediatrics, 6% of consultants and 7.2% of specialty and associate specialist (SAS) grade doctors qualified in EU countries. There is now a possibility of a sudden end to free movement if the UK leaves the EU without an agreement.

Uncertainty may have a deeply negative effect on an already squeezed NHS workforce. RCPCH are concerned that recruitment and retention figures will continue to fall as the UK begins the process to leave the EU. Prospective trainees may be hesitant to join an already pressurised workforce and EU citizens may put plans to join the NHS on hold due to the high degree of political uncertainty. Clarity on the maintenance of the NHS workforce is needed to ensure the health and wellbeing of children and young people are not harmed.

### **Specific questions to the UK Government:**

1. Will the UK Government publish detailed reassurance for patients and people who use medication and devices that supplies will be maintained?



2. Will the UK Government consider developing short stay career development opportunities in the UK for non-training grade healthcare professionals from abroad and identify a responsible body for national coordination?
3. What progress has the UK Government made to ensure immigration rules allow entry to the UK of healthcare professionals whose clinical skills will benefit the NHS?

# Civil Society Submission to the UN's List of Issues

*Written Evidence from The Children's Society*

## Introduction

The Children's Society is a leading national charity committed to improving the lives of thousands of children and young people every year. We work across the country with some of the most disadvantaged children and young people through our specialist services.

In this submission, we would like to focus on four key areas in which we work and include a number of issues in relation to how the UK government is respecting children's rights in relation to these areas.

1. **Poverty and Homelessness**
2. **Safeguarding Children including Violence against Children**
3. **Immigration, Asylum and Trafficking**
4. **Health (including Mental Health), Disability**

### 1. Poverty and homelessness

#### 1.1 Child poverty levels and targets

Since 2016, child poverty has continued to rise and latest government figures estimate that 4.2 million children are living in poverty.<sup>1</sup> The introduction of the Welfare Reform and Work Act 2016<sup>2</sup> saw a freeze on most working age benefits until 2020, along with a limit to the child element of Child Tax Credit and the child element of Universal Credit to a maximum of two children per household. Since then, the government have made very little progress in providing sufficient levels of financial support through the social security system to families with children and ensuring every child's right to benefit from social security.

Since the outbreak of Covid-19 in March 2020, the government has taken steps to support individuals financially through changes to the social security system, however there have been no policies introduced to specifically support children, apart from the Free School Meals voucher scheme.

We are concerned that children living in poverty do not have an adequate standard of living and the government must do more to help families who cannot provide this for their children.

**Question:** *What commitment will the government make to reduce child poverty, in the absence of any explicit duty to report on targets for reducing child poverty?*

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<sup>1</sup> <https://www.gov.uk/government/collections/households-below-average-income-hbai--2>

<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2016/7/contents/enacted/data.htm>

## 1.2 The value of working-age benefits

The freeze on working-age benefits came to an end in April 2020 after four years. Although benefits were uprated at a rate of 1.7% in April 2020, a great deal of value has been lost since 2016 and many families are now worse off; it was estimated that the benefits freeze cut around £560 per year from families living in poverty.<sup>3</sup>

The government also made increases to Universal Credit, Working Tax Credit and Local Housing Allowance (LHA) in response to Covid-19, uprating the Universal Credit standard allowance and Working Tax Credit by £20 and uprating LHA to the 30<sup>th</sup> percentile of local rents. However, none of these policies are specifically aimed at supporting children and families living in poverty.

**Question:** *What steps is the government taking to ensure that children in families receive sufficient support through the social security system to help lift them out of poverty?*

**Question:** *What child specific measures will the government put in place to ensure that all families have an adequate standard of living?*

## 1.3 The two-child limit

In its 2016 Concluding Observations, the Committee noted its serious concerns that the Welfare Reform and Work Act 2016 limited the entitlement to child tax credits and social benefits regardless of household needs. The two-child limit came into effect in April 2017 and remains in place. Since the introduction of the limit, there have been damaging consequences for children and families who have been pushed into poverty, or pushed deeper into poverty, as a result of the policy.<sup>4</sup>

**Question:** *What action has the government taken since the introduction of the Welfare Reform and Work Act 2016 to overturn the damaging impacts of the two-child limit?*

## 1.4 Free School Meals

With the rollout of Universal Credit continuing, the government made changes to Free School Meal eligibility in April 2018 which saw the introduction of an earnings threshold so that children in families who receive Universal Credit, earning over £7,400 per year (after tax and national insurance) are no longer eligible for Free School Meals. We estimate that this change meant that around one million children in poverty in England would miss out on free school meals – a benefit which is essential to meeting their vital needs and supporting their development.<sup>5,6</sup> The change created a cliff edge for families living in poverty, as once their earnings exceed this threshold, they lose this benefit, which we estimate is worth around £400 a year per child to a family.<sup>7</sup>

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<sup>3</sup> <https://www.jrf.org.uk/report/end-benefit-freeze-stop-people-being-swept-poverty>

<sup>4</sup> <https://cpag.org.uk/sites/default/files/files/All%20Kids%20Count%20report%20FINAL.pdf>

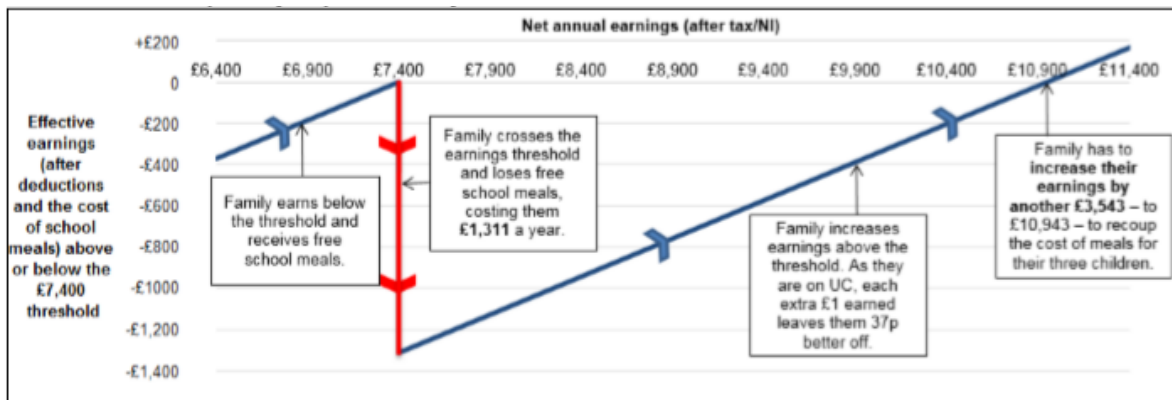
<sup>5</sup> <https://www.childrengsociety.org.uk/sites/default/files/uc-fsm-tcs-consultation-response-9-jan-2018-final.pdf>

<sup>6</sup> [https://www.childrengsociety.org.uk/sites/default/files/180313-fsm-uc-motion-debate\\_1.pdf](https://www.childrengsociety.org.uk/sites/default/files/180313-fsm-uc-motion-debate_1.pdf)

<sup>7</sup> <https://www.childrengsociety.org.uk/sites/default/files/free-school-meals-universal-credit-briefing-15-jan-2018-final.pdf>

Many families in poverty may still face difficulties paying for school meals once they exceed the earnings threshold, and can actually be worse off. The table below shows how this policy change may affect a family and their household finances.<sup>8</sup>

**Table 1: Free school meals poverty trap for a family with three children**



The government introduced transitional protections so that any child who was eligible for Free School Meals before 1 April 2018 and whose family was migrated over to Universal Credit from the legacy benefits system would not be subject to the new rules and would still be eligible. However, all households making a new Universal Credit claim do not receive this protection and their children miss out.

Children in families with No Recourse to Public Funds are usually not eligible to receive Free School Meals. During the Covid-19 pandemic, the government made progress by extending eligibility for Free School Meals to children in NRPF families, which meant these children would not go hungry. However, this extension in eligibility is only temporary and may be taken away at any time, meaning that many children may be at risk of going hungry again.

**Question:** What has the government done to ensure children are not negatively impacted by the new earnings threshold limit, which means they will lose eligibility to Free School Meals?

**Question:** How will the government mitigate against the cliff edge that families face once they exceed the earnings threshold but still cannot afford to pay for children's school meals?

**Question:** What action is the government taking to ensure that a child's right to food is not affected by their parents' immigration status?

**Question:** How many children in NRPF families would otherwise be eligible to claim Free School Meals?

**Question:** What steps is the government taking to ensure that all children living in poverty or destitution receive enough food?

<sup>8</sup> [https://www.childrenssociety.org.uk/sites/default/files/180313-fsm-uc-motion-debate\\_1.pdf](https://www.childrenssociety.org.uk/sites/default/files/180313-fsm-uc-motion-debate_1.pdf)

## 1.5 Local welfare provision

Local Welfare Assistance Schemes should provide a vital mechanism for councils to support families living in poverty at times of financial crisis and reduce the likelihood that families will be unable to heat their home, or need to turn to a food bank to get their next meal. However, 1 in 7 local authorities no longer provide a Local Welfare Assistance Scheme and funding for local welfare provision has declined by 55% in real terms in England since 2010.<sup>9,10</sup>

In 2020/21, the government provided a notional amount of £131.7 million for local authorities to spend on local welfare provision, an increase from the notional figure of £129.6 million that was allocated each year from 2015/16 to 2019/20. However, the funding is not ring-fenced, so councils do not have to spend it on local welfare provision and there are no statutory obligations for them to provide this type of support.<sup>11</sup>

In response to Covid-19, the government granted £63 million to local authorities to provide assistance to those struggling to afford essentials, to be administered through existing Local Welfare Assistance Schemes.<sup>12</sup> The funding was intended to be spent within twelve weeks and is insufficient to meet the long-term increased need created by the pandemic.

**Question:** *How many children and families accessed support as a result of the £63 million additional funding the government provided to local authorities in response to Covid-19?*

**Question:** *What steps will the government take to ensure that a long-term solution is put in place to provide local authorities with adequate resources to support families and children experiencing financial crisis and destitution?*

## 2. Safeguarding Children including Violence against Children

### 2.1 Child victims of sexual offences

In recent years there has been increased strategic focus, both nationally and locally, on tackling sexual offences against children. Improved training for professionals has led to a greater recognition that children can be targeted for sexual abuse and exploitation in any part of the country resulting in greater efforts to identify those children who may be at risk of sexual abuse.

Despite the increased efforts, the true scale of sexual offending against children and services they receive in response is not known. Firstly, because many victims of sexual offences do not report these crimes to the police. Secondly, because the data published does not always differentiate between the offences and outcomes as experienced by children and adults. For example, data on sexual offences against children aged 16 and 17 is not reported despite high numbers in this age group becoming victims of sexual offences.

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<sup>9</sup> <https://www.childrensociety.org.uk/sites/default/files/leave-no-family-behind-may2020.pdf>

<sup>10</sup> <https://www.childrensociety.org.uk/what-we-do/resources-and-publications/nowhere-to-turn-campaign-report>

<sup>11</sup> <https://www.gov.uk/government/collections/final-local-government-finance-settlement-england-2020-to-2021>

<sup>12</sup> <https://www.gov.uk/government/publications/coronavirus-covid-19-local-authority-emergency-assistance-grant-for-food-and-essential-supplies/coronavirus-covid-19-local-authority-emergency-assistance-grant-for-food-and-essential-supplies>

54,000 sexual offences against children under 18 were recorded by 43 police forces in England and Wales between 1 October 2015 and 31 September 2016.<sup>13</sup> Only around 16% of reported offences where the investigation was completed resulted in charges, summons, community resolution or cautions against the perpetrator.

Current heavy reliance on victim's disclosure, the lack of training for police on how to work with children, the lack of focus in legislation on early disruption of children being groomed for abuse, inadequate disruption of sexual abuse of older teenagers, all result in high attrition rates in sexual offences against children and heightened risk of sexual abuse of children.

In addition many of the older teenagers who experience sexual exploitation are known as 'children in need' and despite remaining vulnerable as they become adults, all support for them from social care stops on their 18<sup>th</sup> birthday. Only around 3% of children in need are referred to adult social care teams despite a majority of them facing a range of risks and vulnerabilities.<sup>14</sup>

**Question:** *When will the government publish the national strategy on supporting children affected by sexual offences?*

**Question:** *Will the government change the guidance and regulations to ensure that 'children in need' aged 16 and 17 receive support they need as they prepare for adulthood and beyond their 18<sup>th</sup> birthday if they remain vulnerable?*

## 2.2 Child criminal exploitation

The NCA annual overviews of National Referral Mechanism statistics<sup>15</sup> shows that in recent years referrals of children keep increasing across all different types of exploitation. Although child criminal exploitation was not a separate category recorded for NRM purposes before October 2019, the NCA acknowledges that the increase is primarily due to the combined increase in NRM referrals related to the county lines criminal business model.

We know that responses to children who are criminally exploited remains inconsistent across the country, they are not always seen and treated as victims of crime but instead are likely to be seen and treated as offenders.<sup>16</sup> Thus, data on arrests of children aged 10 to 17 for drug related offences – the best proxy data available on children exploited by criminal groups – shows an increase of 13% from 2015/16 to 2017/18 in the number of 10 to 17 year olds arrested for possession with intent to supply Class A drugs (49% if data from London is excluded).

The vast majority of police forces and local authorities across England and Wales were not able to share figures of the number of children affected by criminal exploitation in their area.<sup>17</sup> Only around 1 in 5 of all local authorities reported that they collect data that is retrievable to be shared. Police forces were largely not able to provide the number of children arrested for drug related offences who were at risk of child criminal exploitation. There are no consistent 'markers' to 'flag' children who are at risk of child criminal exploitation across different agencies they come into contact with – including police and social care. Independent child trafficking

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<sup>13</sup> <https://www.childrensociety.org.uk/sites/default/files/attrition-rates-briefing-final.pdf>

<sup>14</sup> <https://www.childrensociety.org.uk/what-we-do/resources-and-publications/crumbling-futures-why-vulnerable-16-and-17-year-olds-need-more>

<sup>15</sup> <https://www.gov.uk/government/collections/national-referral-mechanism-statistics>

<sup>16</sup> <https://www.childrensociety.org.uk/sites/default/files/counting-lives-report.pdf>

<sup>17</sup> <https://www.childrensociety.org.uk/sites/default/files/counting-lives-report.pdf>

guardians (ICTG) are not available to support children in all parts of the country and under the current model, children with someone in parental capacity in their lives do not have access to the long-term ICTG support even where they are available, though some short-term advocacy can be provided by ICTG co-coordinators.

The lack of a statutory definition of child criminal exploitation in the Modern Slavery Act 2015 and the lack of focus on grooming and coercion of children for the purposes of exploitation result in the lack of a consistent and coordinated response to this group of children between the law enforcement and child protection agencies.

**Question:** *Will the government clarify the definition of child criminal exploitation in law?*

**Question:** *Will the government introduce a new offence of coercion and control of a child for the purposes of exploitation?*

**Question:** *Will the government develop a cross-departmental strategy to ensure that professionals working with children are clear about how to safeguard children who are at risk or are criminally exploited?*

**Question:** *Will the government commit to making independent child trafficking guardians available to all child victims of trafficking and modern slavery across the country?*

**Question:** *What steps will the government take to ensure that victims of child trafficking do not lose support once they reach adulthood and become vulnerable to being re-victimised?*

### **2.3 Teenage relationship abuse**

The current draft of the Domestic Abuse Bill defines domestic abuse as taking place between two persons over the age of 16, despite research showing that 16 and 17 years olds experience abuse for an average of 1.5 years prior to accessing support.<sup>18</sup>

Teenagers who experience or may present as abusive in their own relationships require a different response than adults. As it is not defined in any legislation or government guidance, teenage relationship abuse often goes unrecognised and young people are left without appropriate help or support.

Based on Freedom of Information (FOI) responses<sup>1</sup> from 96 local authorities in England, we found a postcode lottery of support.<sup>19</sup> Just 21% of local authorities had a policy or protocol in place for responding to under 16s experiencing teenage relationship abuse and 39% of local authorities provide a specialist support service for under 16s.

**Question:** *Will the government issue separate statutory guidance on teenage relationship abuse?*

**Question:** *What steps is the government taking to ensure that victims and young people who present as abusive in teenage relationships receive early intervention and prevention specialist support?*

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<sup>18</sup> <https://safelives.org.uk/sites/default/files/resources/Safe%20Young%20Lives%20web.pdf>

<sup>19</sup> <https://www.childrensociety.org.uk/sites/default/files/missing-the-mark-teenage-relationship-abuse-report-by-the-childrens-society-1.pdf>

## 2.4 Missing children

Research into the provision of return home interviews for children missing from home and care shows that responses to children going missing from home and care remain inconsistent across the country.<sup>20</sup> Only in around 50% of missing incidents did children receive a return home interview with a professional to discuss the reasons behind the missing episode and support children to help address issues in their lives. Follow up support for children also remains inconsistent.

Information sharing between the police and social services that could help with better identification and assessment of risks in a child's life and better safeguarding responses remains an issue of concern.

**Question:** *When will the government update the statutory guidance on missing children to:*

- a) reflect changes made to the definition of 'missing' used by the Police?*
- b) Reflect changes in local safeguarding partnerships?*
- c) Provide further guidance on information sharing between the police and social care?*

**Question:** *When will the government implement the Missing Persons Database?*

## 2.5 Looked after children in out of area placements

The APPG inquiry into children missing from out of area placements showed that the number of children placed outside their local authorities continues to grow.<sup>21</sup> At 31 March 2018, 41% (30,670 of 75,420) of looked after children were placed outside of home local authority areas – compared to 35% at March 2012 when the first APPG inquiry into this issue was conducted. 59% of children placed in secure children's homes, children's homes, and supported accommodation were in out of area placements (5,020 of 8,530) – an increase of 46% since 31 March 2012. Data collection about children who go missing from care has improved and indicates that the number of children going missing from these placements, including missing from out of area placements, continues to increase, as does the frequency of missing episodes

71% of 41 police forces that responded to our information request stated that placing looked after children out of area increases their risk of exploitation, often resulting in them being coerced into going missing.

The increase of children placed out of area in semi-supported accommodation not regulated by Ofsted was also of concern. The exact number of children placed in unregulated accommodation is not reported at either the National or local level. Across areas that responded to the APPG inquiry the number of children placed in unregulated out of area semi-independent accommodation has almost doubled in the last 3 years.

**Question:** *How will the government ensure that there are a sufficient number of local placements, including in children's homes and semi-supported accommodation, to meet the needs of looked after children?*

**Question:** *Will the government collect and publish data on the number of children placed in semi-independent accommodation by their age, distance from the home local authority and the reasons they are accommodated in semi-independent accommodation?*

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<sup>20</sup> <https://www.childrensociety.org.uk/sites/default/files/the-first-step.pdf>

<sup>21</sup> <https://www.childrensociety.org.uk/sites/default/files/no-place-at-home.pdf>



**Question:** *What steps will the government take to ensure unregulated semi-independent accommodation is regulated and registered?*

### **3. Immigration, asylum and trafficking**

#### **3.1 Separated children slipping through the net**

The last concluding observations and recommendations in 2016 highlighted the Government's continued failure to give separated migrant children access to a statutory independent guardian, despite a trial scheme to allocate these for trafficked children, and reiterated their previous recommendation on their value alongside access to legal advice. Over the last four years, guardianship has been partially adopted across the UK, with models varying significantly across the UK and leaving significant gaps for thousands of children. Across the UK, Northern Ireland's 'Independent Guardians' model, is the most comprehensive. The law provides for an individualised service for all unaccompanied/separated children or children who have been trafficked in Northern Ireland. The Scottish Guardianship Service was introduced in 2010 and is run in partnership with the Scottish Refugee Council and Aberlour Child Care Trust, supporting all unaccompanied children in Scotland. An evaluation of the service found widespread benefits, including its role in facilitating young people to make disclosures of trafficking and exploitation.

In England and Wales, Section 48 of the Modern Slavery Act brought forth the introduction of Independent Child Trafficking Guardians (ICTGs) assigned to children identified as potential victims of modern slavery. The service is currently being rolled-out nationally but the rollout of the scheme has been extremely slow, and at the time of writing, is only in a third of areas, operating in Wales, Greater Manchester, Hampshire, East and West Midlands and Croydon. This means that children continue to face a postcode lottery of provision.

Although they form a small proportion of looked after children, separated children often fall through the gaps in statutory support, facing subsequent risks of mental health crisis, suicide and a high risk of going missing<sup>22</sup>. Based on their own experiences and these reasons, a Youth-Led Commission on Separated Children (formed by prior service users of The Children's Society) decided to campaign for independent guardians for all separated children in England and Wales.<sup>23</sup>

**Question:** *What steps will the Government be taking to ensure all separated children have access to an independent guardian?*

#### **3.2 European children living in the UK becoming undocumented post Brexit**

Brexit ends European free movement within the UK, with EU, EEA and Swiss nationals ('EU nationals') currently resident in the UK becoming subject to the UK's general immigration system at the end of the transition period. The EU Settlement Scheme (EUSS) was designed by the UK government to provide EU nationals with a digital immigration status should they wish to remain in the UK after this date. Without securing such status, any such EU national in the UK will become undocumented.

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<sup>22</sup> <https://www.childrensociety.org.uk/what-we-do/resources-and-publications/distress-signals>

<sup>23</sup> <https://www.childrensociety.org.uk/guardians>

The Children's Society has repeatedly raised concerns about the difficulty vulnerable European children and families face whilst applying to the EUSS<sup>24</sup>. The Migration Observatory have recently estimated that 61% of EEA citizen residents under age 18 have applied to the EUSS, while the same share for adults is 101%. Whilst these statistics have caveats, what is clear is the take-up rate of children is substantially lower than that of adults, increasing the risk that many children – through no fault of their own – might become undocumented after the Scheme's deadline in June 2021.<sup>25</sup>

Recognising a State's obligations under Article 20 of the UNCRC, of particular concern are the EU national looked after children and care leavers in the UK for whom the state is corporate parent. The Home Office has estimated that there are 5,000 looked after children and 4,000 care leavers in the UK who would need to apply to the EU Settlement Scheme.<sup>26</sup> The Children's Society's analysis has found as of January 2020 that 153 out of 211 local authorities across the UK have identified just 3,612 EU/EEA or Swiss looked after children and care leavers, with just 11% of those having secured status<sup>27</sup>.

Children in care who receive pre-settled status will face another cliff edge in the future when they have to re-apply for settled status, many of whom will have left care by then. The Government should act to prevent any child in their care becoming undocumented.

**Question:** *What steps is the Government taking to ensure no EU national children or children of EU parents become undocumented after the EUSS deadline?*

**Question:** *How many EU national looked after children or care leavers must apply to the EUSS to secure their status and rights by the EUSS deadline?*

**Question:** *As of [ ] 2020, how many applications for EU national looked after children and care leavers have been submitted to the EUSS?*

**Question:** *As of 2020, how many of these applications have been granted with:*

- a) *Pre-settled status?*
- b) *Settled status?*

**Question:** *What provisions are the government making for looked after children and care leavers who are granted pre-settled status and age out care by the time they are required to apply for settled status?*

### **3.3 Children in migrant families with no recourse to public funds (NRPF)**

The 2016 Concluding Observations report highlighted the difficulties for migrant children and families in gaining access to basic services, such as education and healthcare, and are at high risk of destitution.

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<sup>24</sup> <https://www.childrensociety.org.uk/sites/default/files/briefing-the-eu-settlement-scheme-in-relation-to-looked-after-children-and-care-leavers.pdf>

<sup>25</sup> See The Migration Observatory, "Children of migrants in the UK," August 2020, <https://migrationobservatory.ox.ac.uk/resources/briefings/children-of-migrants-in-the-uk/>.

<sup>26</sup> Immigration: EU Nationals: Written question – 222791 Answered on: 26 February 2019: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-questions-answers/?page=1&max=20&questiontype=AllQuestions&house=commons%2clouds&uin=222791>.

<sup>27</sup> <https://www.childrensociety.org.uk/what-we-do/resources-and-publications/looked-after-children-and-the-eu-settlement-scheme-a-guide-for>

Since 2016, we have continued to see a rise in families being cut off from services due to their immigration status and having the 'no recourse to public funds' condition applied to their visa. NRPF is a condition imposed on migrant families who have not yet qualified for permanent residency in the UK. It prevents them from accessing essential social security and support. Our recent research published in May 2020, draws upon the experiences of families whose children have experienced deep long-term poverty and destitution because of this condition.<sup>28</sup> NRPF disproportionately affects black and minority ethnic (BAME) groups and removes the safety net of welfare support from families that are likely to already be struggling financially, with additional costs such as fees for leave to remain applications.

New research provided to The Children's Society by the Migration Observatory at the University of Oxford reveals that at the end of 2019, an estimated 175,643 non-EEA citizens under age 18 lived in families affected by the NRPF condition<sup>29</sup>, which is a significant increase on the 2016 figures<sup>30</sup> that put the number at 142,496 such children. Many more families with NRPF have been struggling during the coronavirus outbreak and will continue to do so for the foreseeable future.

**Question:** a) *How many people within the UK have the NRPF condition?*

b) *How many of those are destitute?*

**Question:** *MPs have been warning the Government for many years that families with NRPF are facing destitution, struggling to meet their children's most basic needs. How can the Home Office continue to justify this policy, recognising the obligations under Articles 26 and 27 of the UNCRC?*

**Question:** *In May, in the case R(W) brought by an 8 year old child v. SSHD, the High Court held that the NRPF regime was unlawful in breaching Art. 3 of the ECHR, against inhuman and degrading treatment. What actions has the Government taken to implement this judgment and ensure it meets its obligations under Articles 26 and 27 of the UNCRC?*

## **4. Health, including mental health**

### **4.1 The state of children's well-being**

In its 2016 Concluding Observations, the committee expressed concerns that the number of children with mental health needs is increasing. Analysis from The Children's Society's *Good Childhood Report* suggests that for much of the past decade, children aged 10 to 15 have become steadily less happy with their lives as a whole.<sup>31</sup> Data presented in the 2020 report also shows that at age 15, children in the UK are less happy with their lives across a range of well-being measures when compared to other European countries. Findings from our recent *Life on Hold* report also notes that the Coronavirus pandemic has swelled the number of young people with low life satisfaction in this country.<sup>32</sup>

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<sup>28</sup> <https://www.childrensociety.org.uk/what-we-do/resources-and-publications/a-lifeline-for-all>

<sup>29</sup> <https://www.childrensociety.org.uk/news-and-blogs/press-releases/thousands-of-children-from-migrant-families-at-risk-of-hunger-unless>

<sup>30</sup> <https://www.childrensociety.org.uk/what-we-do/resources-and-publications/a-lifeline-for-all>

<sup>31</sup> <https://www.childrensociety.org.uk/what-we-do/resources-and-publications/good-childhood-report-2020>

<sup>32</sup> <https://www.childrensociety.org.uk/what-we-do/resources-and-publications/life-on-hold-childrens-well-being-and-covid-19>

It is clear that concerted action to tackle these downward trends in well-being is needed, but the Government's response on long-term, sustainable action has been lacking. In this country, decision makers are particularly hampered by the poor quality of data available about children's lives generally, and their well-being. This means evidence-based decisions on what will improve children's well-being cannot be made.

Comprehensive data on the well-being of adults is collected through the ONS National Measurement Programme, yet data of this kind does not exist for children and young people. A comprehensive measurement of children's well-being is crucial for supporting children and young people.<sup>33</sup>

**Question:** *What steps have the Government take to improve children's well-being in the context of downward trends?*

**Question:** *With a commitment to measure the well-being of adults, will the same commitment be made to measure the well-being of children and young people?*

#### 4.2 Emotional health and well-being support

Whilst mental health and well-being are not the same, our previous research has found that low subjective wellbeing and mental health conditions like anxiety and depression are linked.<sup>34</sup> Low-level services that support emotional health and well-being are therefore crucial in providing an early response and preventing escalation to later mental ill-health.

Currently, low-level needs are met through support in schools and by the Voluntary and Community Sector in the community. However, the provision of these services is patchy across the country. This is due to responsibility for these services being shared between the NHS and local authorities, resulting in a lack of ownership and accountability in the system. This is further confused by a complicated funding environment which lacks a clear stream of funding to support children's emotional health.

Much of the current reform set out by the Government has focused on expanding access to mental health support. The 2017 Green Paper on 'Transforming Children and Young People's Mental Health Provision', outlined new plans to increase the availability of mental health support in schools.<sup>35</sup> The NHS Long Term Plan also proposes to expand access to NHS Children and Young People's Mental Health Services over the next ten years.<sup>36</sup> These reforms mark the significant progress made by the Government in expanding access.

However, more work is needed. Not only are these reforms long-term, there is little consideration of the support that can be provided beyond schools and the NHS, and into the community. As a result, there is little space in the current system for low level emotional health and well-being services.

There is a role for increased provision of open access, drop-in emotional health services within the community as a way to achieve better access to emotional health and well-being

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<sup>33</sup> <https://www.childrensociety.org.uk/what-we-do/resources-and-publications/the-case-for-national-measurement-of-childrens-well-being>

<sup>34</sup> <https://www.childrensociety.org.uk/what-we-do/resources-and-publications/the-good-childhood-report-2018>

<sup>35</sup> <https://www.gov.uk/government/consultations/transforming-children-and-young-peoples-mental-health-provision-a-green-paper>

<sup>36</sup> <https://www.longtermplan.nhs.uk/>

services.<sup>37,38,39</sup> The Committee previously recommended that the government support and develop therapeutic community-based services for children with mental health conditions. We believe the government must do more to achieve this.

**Question:** *What steps have been taken to provide emotional health and well-being support within communities?*

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<sup>37</sup> <https://www.childrensociety.org.uk/what-we-do/resources-and-publications/waiting-in-line>

<sup>38</sup> <https://www.childrensociety.org.uk/sites/default/files/life-on-hold-childrens-well-being-and-covid-19.pdf>

<sup>39</sup> <https://www.childrensociety.org.uk/what-we-do/resources-and-publications/good-childhood-report-2020>

## **Evidence submitted by the Traveller Movement to the Civil Society Submission to the UNs (CRC) list of issues**

### **1.1. Executive Summary**

The Traveller Movement (TM) is a leading national charity committed to the fulfillment of Human Rights for ethnic minority Gypsy, Roma, and Traveller (GRT) people.

The Traveller Movement's mission is to develop a platform and voice for Travellers, working in solidarity with Gypsy, Roma, and Traveller (GRT) communities to achieve equality through self-determination and proactive participation in influencing and shaping policy.

1.2. Gypsy, Roma, and Traveller (GRT) people are distinct ethnic groups yet they rarely receive the same recognition as other BAME communities, notwithstanding data that shows they experience multiple inequalities in society. Compared to the general population, GRT people, including children, are more likely to suffer mental and physical ill-health and substance misuse issues. They are at greater risk of infant mortality, maternal mortality, and suicide. At school, they are more likely to face bullying or exclusion, and less likely to attain qualifications. They encounter discrimination throughout their lives and, more often than not, their experiences of authority are negative ones.

1.3. Since the last set of concluding observations, the Women and Equalities Committee carried out an extensive 18-month inquiry<sup>1</sup> into tackling inequalities in Gypsy, Roma, and Irish Traveller communities. The committee recommended that the government implement, without delay, a cross-government strategy aimed at tackling these inequalities. While this strategy was announced<sup>2</sup> by the Communities minister in June 2019, it has yet to materialise.

## **2. List of specific issues affecting Gypsy, Roma and Irish Traveller children:**

### **Education and economic exclusion**

- Pupils from Gypsy, Roma, and Traveller backgrounds have the lowest attainment of all ethnic groups throughout their school years<sup>3</sup>.
- Gypsy and Traveller children leave school at a much earlier age than children in other ethnic groups.

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<sup>1</sup> <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/360/report-files/36002.htm>

<sup>2</sup> <https://www.gov.uk/government/news/new-national-strategy-to-tackle-gypsy-roma-and-traveller-inequalities>

<sup>3</sup> Race Disparity Audit, 2018

- After key stage 4 (usually aged 16), a quarter of Gypsy, Roma and Traveller children neither go into education nor employment<sup>4</sup>.
- Gypsy and Irish Traveller pupils have the highest rate of school exclusion, permanent and fixed period, among all ethnic groups. In the 2017 to 2018 school year, the highest permanent exclusion rates were among Gypsy and Roma pupils (0.36%, or 36 exclusions per 10,000 pupils) and Traveller of Irish Heritage pupils (0.29%, or 29 per 10,000 pupils)<sup>5</sup>.
- GRT pupils experience high levels of racist bullying, with many leaving school early for this reason<sup>6</sup>.
- A lack of engagement and cooperation between local authorities, schools, regulators, and families contributes to these poor outcomes and early exits.
- Gypsies and Irish Travellers have the highest percentage of people with no formal qualifications at 60% compared with 23% for the general population, whilst youth unemployment and economic inactivity was the highest of any ethnic group at 47%<sup>7</sup>.

## Recommendations

- Reinstating legal aid for cases involving school exclusion, admissions and bullying. GRT children are disproportionately impacted by all three, and are unable to access legal representation.
- The government should embed targeted funding to get more NEET GRT children and young people back into education and training. This could form part of the national strategy to tackle GRT inequalities.

## Racism and discrimination

- GRT experience high levels of discrimination affecting leisure time, integration and mental health.
- 91% of the respondents in a study reported they had experienced discrimination because of their ethnicity and over half had been refused service in restaurants, shops, pubs, cinemas, gyms, petrol stations, churches etc. because of their ethnicity<sup>8</sup>.

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<sup>4</sup> <https://www.ethnicity-facts-figures.service.gov.uk/education-skills-and-training/after-education/destinations-of-school-pupils-after-key-stage-4-usually-aged-16-years/latest>

<sup>5</sup> <https://www.ethnicity-facts-figures.service.gov.uk/education-skills-and-training/absence-and-exclusions/pupil-exclusions/latest>

<sup>6</sup> <https://travellermovement.org.uk/education?download=170:2020-barriers-in-education-for-young-travellers-in-london>

<sup>7</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/articles/whatdoesthe2011censustellusaboutthecharacteristicsofgypsyoririshtravellersinenglandandwales/2014-01-21#qualifications>

<sup>8</sup> <https://travellermovement.org.uk/reports?download=88:sep-2017-the-last-acceptable-form-of-racism-the-pervasive-discrimination-and-prejudice-experienced-by-gypsy-roma-and-traveller-communities>

- A poll by YouGov found that only four in ten parents in Great Britain would be happy for their child to have a playdate at the home of a child who is a Gypsy or Traveller<sup>9</sup>.

## Recommendations

- Senior leaders in all public service bodies be trained in the Public Sector Equality Duty and that each body have a Gypsy, Roma, and Traveller “champion”, similar to the role that exists in the National Police Chiefs Council.
- This could form part of the national strategy to tackle GRT inequalities.

## Health and mental health

- Gypsy or Irish Travellers had the lowest proportion of any ethnic group rating their general health as ‘good’ or ‘very good’ at 70 per cent compared to 81 per cent overall of the overall population of England and Wales.
- Gypsies, Travellers, and Roma were found to suffer poorer mental health than the rest of the population in Britain and they were also more likely to suffer from anxiety and depression<sup>10</sup>.
- Lower life expectancy, coupled with high infant and maternal mortality rates<sup>11</sup>, and a suicide rate six times higher than average<sup>12</sup>, means it is not uncommon for Gypsy and Traveller children to experience multiple difficult bereavements in their lives.
- Very often grief is not spoken about, leading to high levels of anxiety and depression among Traveller girls and boys.
- Many Gypsy and Traveller girls have unhealthy habits such as smoking, drinking alcohol, excessive use of sunbeds, plastic surgery, poor diets, crash dieting and diet pills. Insufficient provision of information and education, combined with the pressure to look and behave a certain way, contributes to this<sup>13</sup>.
- Unchallenged racist bullying in schools negatively affects GRT boy's mental health with often serious consequences<sup>14</sup>.

## Recommendations

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<sup>9</sup> <https://travellermovement.org.uk/equality-human-rights?download=68:oct-2017-yougov-poll-finds-shocking-racism-toward-gypsies-and-travellers>

<sup>10</sup> EHRC, Dec 2017: Race report: Healing a divided Britain, EHRC report on the need for a comprehensive race equality strategy.

<sup>11</sup> Equality and Human Rights Commission (2009) *Inequalities experienced by Gypsies and Travellers: A Review* [https://www.equalityhumanrights.com/sites/default/files/research\\_report\\_12inequalities\\_experienced\\_by\\_gypsy\\_and\\_traveller\\_communities\\_a\\_review.pdf](https://www.equalityhumanrights.com/sites/default/files/research_report_12inequalities_experienced_by_gypsy_and_traveller_communities_a_review.pdf)

<sup>12</sup> All Ireland Traveller Health Study (2010) [https://www.ucd.ie/t4cms/AITHS\\_SUMMARY.pdf](https://www.ucd.ie/t4cms/AITHS_SUMMARY.pdf)

<sup>13</sup> <https://plan-uk.org/file/plan-uk-state-of-girls-rights-report-2020pdf/download?token=42bpRbf8>

<sup>14</sup> <https://travellermovement.org.uk/briefings?download=166:march-2019-traveller-movement-submission-to-women-and-equalities-committee-inquiry-into-the-mental-health-of-men-and-boys>



- Gypsy, Irish Traveller, and Roma categories should be added to the NHS data dictionary as a matter of urgency.
- A mental health strategy aimed at GRT must be implemented as a matter of urgency.
- These recommendations must form part of the national strategy to tackle GRT inequalities.

### **Accommodation**

- Gypsy or Irish Travellers were more than twice as likely to live in social housing than the overall population of England and Wales (41 per cent compared to 16 per cent) and less likely to own their accommodation outright (21 per cent compared to 26 per cent).
- Roma families mostly live in insecure private rental sector accommodation, and are exposed to regular evictions<sup>15</sup>.
- Nomadic Traveller children are at persistent risk of eviction impacting on school attendance but also impacting on their social, physical and emotional wellbeing.

### **Recommendations**

- The government must include the needs of housed and nomadic Travellers, as well as Roma in the national strategy to tackle inequalities.

### **Poverty and Social exclusion**

- The 2011 Census showed<sup>16</sup> high levels of unemployment and economic inactivity, among older and younger Travellers.
- Just over half of Gypsy or Irish Travellers, who were 16 and over, were economically inactive.
- Poverty impacts GRT children's social, physical and emotional development.

### **Recommendations**

- Government should embed targeted funding to get more NEET children and young people back into education and training. This could form part of the national strategy to tackle GRT inequalities.

### **Policing and criminal justice**

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<https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/news-parliament-2017/grt-report-published-17-19/>

<sup>16</sup>

<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/articles/whatdoesthe2011censusstellusaboutthecharacteristicsofgypsyoririshtravellersinenglandandwales/2014-01-21>

- Traveller ethnicity is treated as a risk factor by the police, and GRT communities experience both direct and indirect discrimination by police forces<sup>17</sup>.
- GRT children are overrepresented in the youth justice system<sup>18</sup>. Despite just **0.1%** of the population of England and Wales identifying themselves as Gypsy or Irish Traveller, their children make up **12%** of Secure Training Centres (STCs), **7%** of Young Offender Institutions (YOIs).
- A quarter of GTR boys in Young Offenders Institutions reported having mental/emotional health issues<sup>19</sup>.
- Almost half of the Gypsy, Traveller, and Roma children in STCs a third in YOIs have been in local authority care<sup>20</sup>.

## Recommendations

- A formal inquiry should be launched into what has led to Gypsy, Traveller, and Roma children being overrepresented in the youth criminal justice system.

## Gender roles and expectations

- The education of boys and girls in Gypsy and Traveller communities is heavily gendered, with boys being removed from school to join their fathers in business and girls being removed to look after younger children and to become homemakers<sup>21</sup>.
- There are still girls that do not go to secondary school because they are not allowed to attend sex education classes or mix with boys, but this is slowly changing; Catholic girls' secondary schools are seen as a good option for many girls today.<sup>22</sup>
- Community groups run highly successful training programmes addressing these outdated attitudes, but they are largely unfunded.
- Due to a lack of familiarity with GRT communities, there are gaps in service provision to address domestic abuse in GRT communities.

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<sup>17</sup> <https://travellermovement.org.uk/criminal-justice?download=49:jun-2018-policing-by-consent-understanding-and-improving-relations-between-gypsies-roma-irish-travellers-and-the-police>

<sup>18</sup> <https://travellermovement.org.uk/criminal-justice?download=52:dec-2016-overlooked-and-overrepresented-gypsy-traveller-and-roma-children-in-the-youth-justice-system>

<sup>19</sup> <https://travellermovement.org.uk/criminal-justice?download=52:dec-2016-overlooked-and-overrepresented-gypsy-traveller-and-roma-children-in-the-youth-justice-system>

<sup>20</sup> <https://travellermovement.org.uk/criminal-justice?download=52:dec-2016-overlooked-and-overrepresented-gypsy-traveller-and-roma-children-in-the-youth-justice-system>

<sup>21</sup> <https://plan-uk.org/file/plan-uk-state-of-girls-rights-report-2020pdf/download?token=42bpRbf8>  
<https://plan-uk.org/file/plan-uk-state-of-girls-rights-report-2020pdf/download?token=42bpRbf8>

## **Recommendations**

- Schools should meet GRT parents to discuss their concerns in relation to sex and relationships education.
- The Home Office should fund civil society groups working with GRT communities to tackle outdated attitudes towards men and women's roles. This includes domestic violence prevention programmes, and LGBT support services.

## **Final comments**

The Traveller Movement and others firmly believe that if the inequalities experienced by GRT people are to be meaningfully addressed, the government must act without delay and implement a comprehensive and well-resourced national action plan, with specific, measurable, and targeted outcomes across all government departments. This includes healthcare, education, housing inequalities, the criminal justice system, data monitoring, and discrimination and hate crime. Without this targeted intervention, GRT communities will continue to experience some of the worst inequalities of all UK ethnic groups.

## **About the Traveller Movement**

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