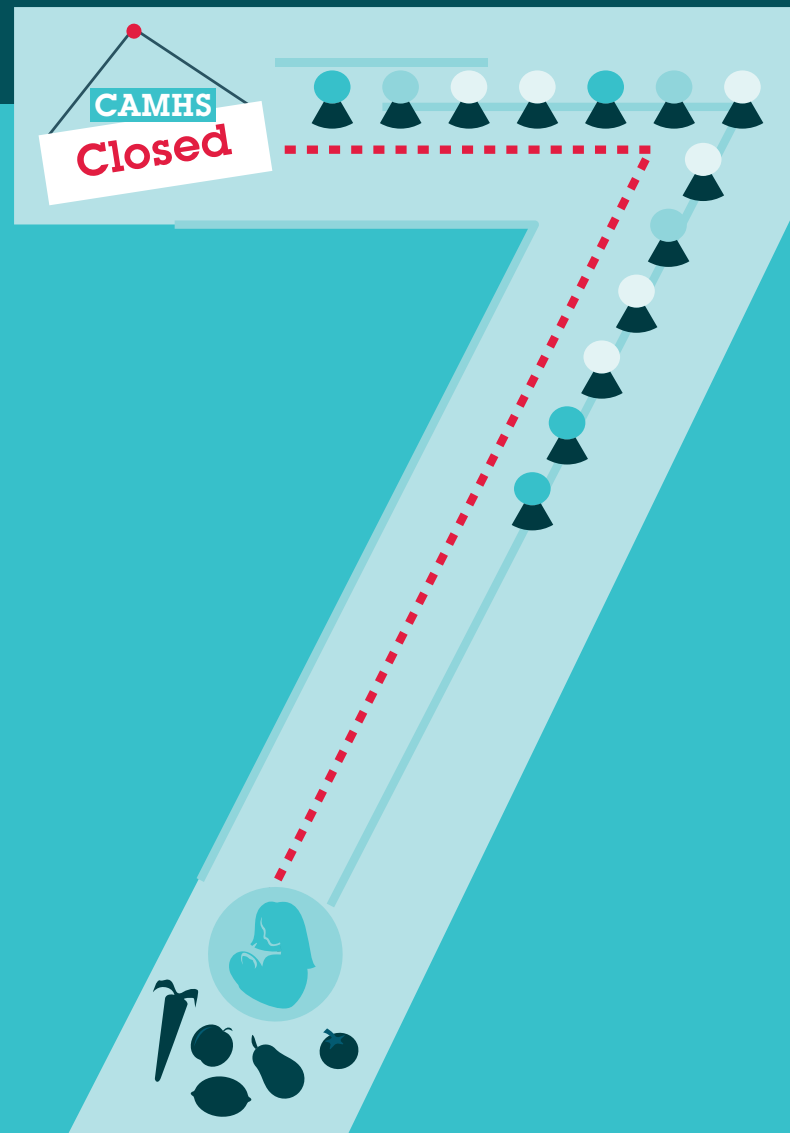


# State of Children's Rights in England 2016

## Briefing 7 Health



# Briefing 7

## Health



**Article 6.1** States Parties shall ensure to the maximum extent possible the survival and development of the child.

**Article 23** A disabled child should enjoy a full and decent life in conditions which ensure dignity, promote self reliance and facilitate the child's active participation in the community. States Parties recognise the right of the disabled child to special care and ensure they have effective access to education, training, health care, rehabilitation, preparation for employment and recreation opportunities.

**Article 24** All children have a right to the highest attainable standard of health, and to health care services that help them to attain this. State Parties shall, in particular, take measures to:

- Reduce infant and child mortality.
- To ensure the provision of necessary medical assistance and health care to all children.
- Combat disease and malnutrition.
- Ensure appropriate prenatal and postnatal care for mothers.
- Ensure everyone has health education and information, and understands the advantages of breastfeeding, basic hygiene and sanitation, and the prevention of accidents.
- Develop preventative health care guidance for parents, and family planning education and services.

**Article 27.1** States Parties recognise the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

### Definitions and glossary

**Children:** This briefing refers to "children" which covers all children and young people under-18 as set out by article 1 of the UN Convention on the Rights of the Child (CRC).

**Mental health issues:** We use this term to describe different conditions children can experience including mild, moderate to severe and ensuing conditions, ranging from anxiety or depression through to bipolar disorder, schizophrenia and eating disorders.

**Clinical Commissioning Groups (CCGs):** Commission health services for their local population.

**Local transformation plans:** are developed by local partnerships of health and care leaders across the country. They set out each area's strategy for improving services in line with the vision of 'Future in Mind' (the Government's strategy for improving children and young people's mental health, published in 2015) - and are a condition of receiving the first year's tranche of the investment announced as part of the *Future in Mind* programme.

## About this briefing

The UK ratified the UN Convention on the Rights of the Child (CRC) in 1991. This means that all areas of government and the state; including local government, schools, health services, and criminal justice bodies, must do all they can to fulfil children's rights. In June 2016 the UK Government was examined by the UN Committee on the Rights of the Child (UN Committee) on its compliance with the CRC for the first time since 2008. The UN Committee set out a number of concerns (summarised below) and recommendations (Concluding Observations) for change.<sup>1</sup>

This briefing is part of CRAE's *State of Children's Rights 2016* and assesses the progress made in England towards implementing the UN Committee's recommendations and covers issues relating to health, including mental health. It highlights areas of improvement and concern since July 2015 when CRAE

coordinated the England civil society report to the UN Committee as part of the last UK examination.<sup>2</sup> This was endorsed by 76 civil society organisations.

This briefing is based on written and oral evidence from CRAE's members and additional analysis of recent laws and policies, newly published research, official statistics, and responses to Freedom of Information (Fols) requests.

### What is the CRC?

The CRC applies to all children aged 17 years and under and sets out the basic things that children need to thrive - the right to an adequate standard of living, to be protected from all forms of violence, an education, to play, be healthy, and be cared for. Children's rights should act as a safety net – meaning children always receive at least the minimum standard of treatment whatever the changing economic climate.

The CRC has four guiding principles (General Principles) which are rights in themselves but also the framework through which all the rights in the CRC should be interpreted. They are: non-discrimination (article 2); the best interests of the child (article 3); survival and development (article 6); and respect for the views of the child (article 12).

England's compliance with these General Principles is covered in Briefing 2.

### Concerns of the UN Committee 2016

- Inequality in access to health services
- and health outcomes for vulnerable groups of children
- The number of children with mental health needs is increasing
- Children with mental health conditions are treated far away from home and do not receive adequate child-specific attention and support, are placed in adult facilities, or may be detained in police custody
- The new shortened waiting period targets established or planned may not be realised
- Investments in mental health services will not necessarily lead to an improvement in quality
- Therapeutic community-based services have not been sufficiently developed
- Children under-16 are excluded from the protection afforded by the Mental Capacity Act (2005) in relation to medical treatment without consent
- Mechanisms for reviews of any unexpected death or serious injury involving children have not been established or operationalised
- The high prevalence of overweight and obesity among children
- Extremely low rates of breastfeeding and inadequate regulation of marketing of breastmilk substitutes

## Introduction

**There has been considerable effort from the Government to achieve parity of esteem with mental and physical health.** This has been through significant investment to realise the transformation set out in *'Future in Mind'* - the Government's strategy for improving children and young people's mental health, published in 2015.<sup>3</sup> However due to wider cuts to public health and local authorities, who are now responsible for delivering these services, there are concerns as to whether this investment will reach where it is needed. This is an issue also highlighted by the UN Committee.

Worsening mental health and poor access to both community and inpatient services has limited England's progress towards a child's right to have the best possible health and access to health services, sometimes with fatal consequences. Government efforts to tackle obesity are a step in the right direction but these are undermined by continued health inequalities amongst some groups of children.

## What progress have we made?

**The Government's continued investment in mental health services since the £1.4 billion pledged in March 2015 is welcome.**

The Government recently announced an additional £25 million for Clinical Commissioning Groups (CCGs) for 2016/17. This additional investment will be used to improve mental health services for children and young people by cutting waiting times, reducing waiting list backlogs, and minimising the length of stay for those in inpatient care.<sup>4</sup> A further £247m has been pledged to ensure there are mental health services in every hospital emergency department.<sup>5</sup> Alongside this, 22 areas are piloting a named single point of contact to help achieve more joined-up working between schools and Child and Adolescent Mental Health Services (CAHMS).<sup>6</sup>

The Government's commitment to stop the detention of children experiencing a mental health crisis in police cells through the Police and Crime Bill alongside the provision of £6.1m funding for alternative places of safety is a positive development.<sup>7</sup>

In addition, the Government has committed to £290 million of investment to 2020 to help at least 30,000 more women each year access specialist mental healthcare before and after giving birth.<sup>8</sup> The increase in health visitors, a "sugar tax" and a Government plan to tackle childhood obesity and increase the uptake of sport are further encouraging steps towards improving the health of children.

## Where do we need to improve?

### Mental Health

#### Insufficient data on mental health

Insufficient data on the scale of mental health problems among children continues to be a serious issue as there has been no prevalence study on children's mental health for 14 years. Data will be available in 2018 when the next prevalence study is published but Government must keep to its commitment to commission this study no less than every seven years. There is limited nationally collated data of children and young people's experience of using CAMHS or on the outcomes of service use. The UN Committee called for the UK to *'collect data on child mental health... and rigorously invest in child and adolescent mental health services and develop national strategies'*.

#### Mental health problems among children increasing

**Nearly a quarter of a million children in England are receiving support from mental health services of which 11,849 are under five years old.**

Given that data could only be obtained from 60% of NHS Trusts, the figure for England is likely to be significantly higher.<sup>9</sup> There was a 48% increase in referrals for eating disorders between March and June 2016.<sup>10</sup> However, it is unclear whether these increases

are a result of progress in reducing the stigma around mental health, therefore encouraging children and their parents to seek help, increased access to mental health services, or a failure to prevent needs from escalating. Anti-depressant use amongst children in the UK is also rising.<sup>11</sup>

The rise in suicides amongst children is alarming (See Briefing 2). **Recent figures also show the number of children self-harming has risen dramatically in the past 10 years.**<sup>12</sup> Experts have attributed this to unprecedented social stress such as pressure to succeed at school, the damaging effects of social media, family breakup, growing inequality, children’s body-image fears, a history of abuse, including sexual abuse, and increasing sexualisation.<sup>13</sup>

Research has revealed a sharp decline in levels of well being and good mental health amongst girls over the last five years, in contrast to boys.<sup>14</sup> Evidence indicates that 14% of girls are unhappy with their lives as a whole, and a third are unhappy with their appearance. In contrast, happiness amongst boys has remained stable over the last five years with 11% feeling unhappy with their lives as a whole and 20% reporting being unhappy with their appearance.<sup>15</sup> Additional research has found that girls are facing unparalleled levels of stress and pressure and tend to dismiss or play down the issues they face and feel they should be able to cope alone.<sup>16</sup>

**Stretched capacity and capability in children’s mental health**

**Despite increased Government investment of £1.4 billion (until 2020), CAMHS are still chronically underfunded.** There are concerns that the investment is being delayed and failing to reach the frontline of children’s mental health services where it is badly needed. NHS England has revealed that it only anticipates £143m of

the £173m promised for 2015/16 will have been spent on children’s mental health services.<sup>17</sup> The NHS England Chief Executive has admitted that even if this spending target is met, it will still only increase the proportion of children and young people with mental health issues being helped from a quarter to a third.<sup>18</sup> Worryingly, as funding for children’s mental health services are not ring-fenced they are at risk due to wider austerity cuts to local authorities.<sup>19</sup> The UN Committee expressed disquiet that *‘the significant investments in improving mental health services will not necessarily lead to an improvement of the quality of services.’* Concerns have been also been expressed that the vast majority of local transformation plans to improve mental health services for children are inadequate.<sup>20</sup>

**Insufficient access to mental health services**

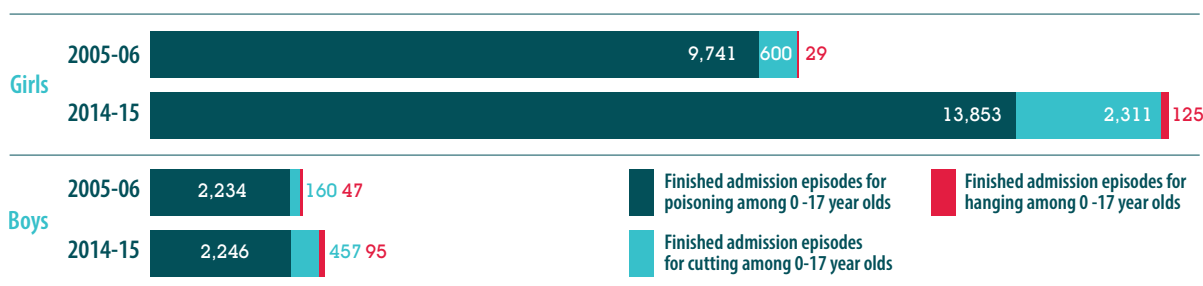
Research has found that access to CAMHS and treatment is currently a postcode lottery: 28% of children referred to CAMHS in 2015 were turned away – increasing to 75% in some areas. Nearly 60% of children were on a waiting list, with many forced to wait an average of 100 days. Lengthy waiting times can lead to children not engaging with the service, and/or their condition worsening. Although the Government has committed to introducing waiting time targets, these will not fully come into effect until 2020.<sup>21</sup>

Another study found that in spite of pockets of good practice, providers often do not understand how to co-produce services with children so they are designed around their needs.<sup>22</sup>

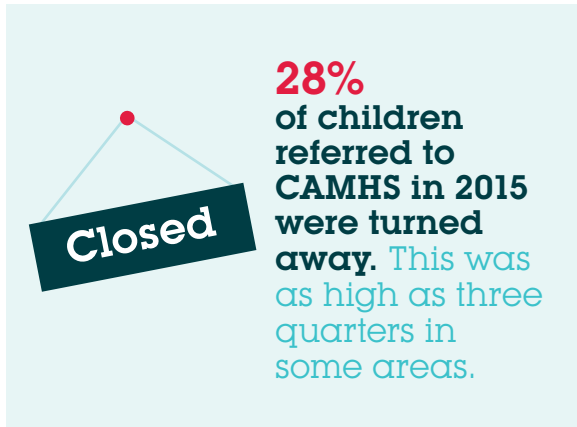
**Inadequate mental health services for children in care**

Children in care are not being adequately supported in their journey through CAMHS despite being four times more likely to have a mental health issue.<sup>23</sup> An Education Select

**Graph 1: Finished admission episodes for self harm among 0-17 year olds**



Source: Hospital Episode Statistics (HES), Health and Social Care Information Centre



Source: Children's Commissioner (2016) Lightning Review: Access to Child and Adolescent Mental Health Services

Committee Inquiry found CAMHS are turning away children in care because they do not meet thresholds for treatment, because children are without a stable placement, or are unwilling to begin treatment if a child moves placement, even within the same local authority.<sup>24</sup> This is contrary to statutory guidance.<sup>25</sup> The Committee also found that current mental health support for young people leaving care, as well as their transition to adult services, was inadequate and based too heavily on inflexible age restrictions.

Children entering care are not always assessed by qualified mental health professionals.<sup>26</sup> The Government has introduced an amendment to the Children and Social Work Bill to ensure local authorities must have regard to children's physical and mental health when carrying out their duties as corporate parents. NGOs argue this is inadequate, and have called for all children entering and leaving care to have a specialist mental health assessment by a qualified mental health professional.<sup>27</sup>

### Lack of specialist inpatient mental health provision

**Children with severe mental health problems still have to travel long distances for treatment due a lack of specialist inpatient mental health and community provision:**

- Since April 2015 there were 26 days when no beds were available in the South East and 52 days in the South West<sup>28</sup>
- In 2014/15, nearly 1000 children were treated outside of their own local NHS area

- Between November 2015 and February 2016 there were 1,834 bed days where a young person was in hospital when they could have been discharged into the community if the care had been available<sup>29</sup>

The UN Committee recommended that *'therapeutic community-based services for children with mental health conditions'* be developed. Concerns have been raised in Care Quality Commission inspections of specialist inpatient CAMHS units about the use of physical and chemical restraint.

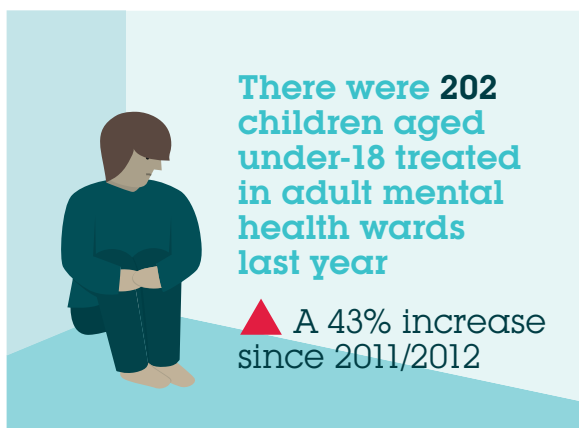
Children are still being placed in inappropriate settings such as police cells or adult mental health wards during mental health crisis despite a duty prohibiting it: our FOIs show 202 children were admitted to adult mental health wards in 2015/16, a 43% increase on 2011/12.<sup>30</sup> The numbers of children under 15 years old rose from two in 2011/12 to at least 10 in 2015/16. In both periods the youngest child was 13 years old. The forthcoming changes through the Police and Crime Bill are welcome but will not be realised unless more appropriate places of safety are created. The UN Committee urged the Government to *'Expedite the prohibition of placement of children with mental health needs in adult psychiatric wards.'*

### Deaths in mental health institutions

**Inquests continue to show that children die in mental health institutions due to a combination of failings such as neglect, inadequate staffing levels, poor care and risk management.**<sup>31</sup> Recent research has identified

a lack of a coherent system for recording, monitoring and publishing data on deaths of children receiving inpatient mental health care. At least nine children died whilst receiving inpatient care between 2010 and 2014 however, the true number of deaths from this period is likely to be much higher as many refused to provide data under FOI laws. There is no system requiring an independent investigation of child deaths, with many being investigated by the same institution where the death occurred.<sup>32</sup> The UN Committee called on the Government to *'Introduce automatic, independent and public reviews of unexpected death or serious injury for children...in mental health care institutions.'*





### Increase in children placed in Assessment and Treatment Units

The Learning Disability Census (2015) reported that there were 165 children with a learning disability and/or autism in England receiving in-patient treatment in an assessment and treatment unit. This is despite a Government commitment to reduce these numbers in 2013.

**There has been a worrying increase in the number of children being placed more than 100km away from their home, with children more than twice as likely as adults to be placed 100km away.<sup>34</sup>**

The Learning Disability Census revealed that 68% of children had experienced an adverse experience such as physical assault, self-harm and/or restrictive measures such as physical restraint and seclusion in the three months prior to the Census compared to 56% of patients overall. Just over half of children had been treated with antipsychotic medication on a regular basis and 27% of children had been rapidly tranquilised in the 28 days prior to the collection of the Census data, again a higher proportion than adults.<sup>35</sup> We are disappointed that the Government has discontinued the Learning Disability Census so data on such incidents will no longer be publicly available. The UN Committee called on the UK to *'systematically and regularly collect and publish disaggregated data on the use of restraint and other restrictive interventions on children in order to monitor the appropriateness of discipline and behaviour management for children in mental health settings.'*

### Case study

#### Preventable deaths in mental health institutions: Amy El Keria<sup>35</sup>

An inquest jury found that Amy El Keria, aged 14 suffered an accidental death contributed to by neglect while under the care of the Priory hospital (a private unit) after tying a scarf around her neck.

Amy had a complex range of problems and mental health diagnoses, including attention deficit hyperactivity disorder (ADHD), Tourette's, oppositional defiant disorder (ODD), gender identity dysphoria and conduct disorder. She was moved to a Priory unit in August 2012 which was far from her home after being asked to leave her specialist boarding school.

Amy had attempted to end her life several times before being admitted. She was deemed high-risk and put on 15-minute observations, and forcibly sedated on at least two occasions. On the day she died – with her risk rating downgraded to medium – Amy told a member of staff she wanted to kill herself. The inquest ruled that staff failed to dial 999 quickly enough, failed to call a doctor promptly and were not trained in cardiopulmonary resuscitation. The jury agreed there was a possibility that Amy may have lived if she had received proper care.

The inquest found staffing levels in the unit were inadequate, and a lack of one-to-one time caused or contributed to Amy's death in a "significant" way. There was a high reliance on agency staff, including some with no psychiatric experience and insufficient time to read patients' paperwork or clinical notes. Risk assessments were not properly carried out, staff did not assess the risk of her being able to take her own life in her room and opportunities were missed to remove the scarf from Amy, all causing or contributing "significantly" to her death.

## Health

### Persistent inequalities in health

The UN Committee was concerned about the lack of progress to tackle inequality in access to health services and health outcomes for vulnerable groups of children. Despite the introduction of a duty on public authorities to reduce health inequalities in 2013, there is still no strategic approach to tackle this and there are wide disparities in service provision, care and outcomes. For more detail on child mortality see Briefing 2.

**Poor children and those from low socio-economic backgrounds are still more likely than their wealthy peers to suffer ill health or die in childhood.**<sup>36</sup> Whilst thousands of young children (under 5 years) are affected by obesity, tooth decay and accidental injury and do not develop well before starting school, a child's chances of experiencing one of these poor outcomes also largely depends on where they grow up. Research finds startling variations in young children's outcomes at regional and local authority level relate to service provision, waiting times, care and outcomes.<sup>37,38</sup>

There is wide variation across England in the quality of health services for looked after children. The needs of looked after children in transition are often overlooked and children placed out of area are frequently unable to access regular health assessments or CAMHS, as neither the home or out-of-area local authority will accept responsibility for the commissioning or funding of the service.<sup>39</sup>

Prevalence of mental health problems is particularly high amongst lesbian, gay, bisexual and transgender children (LGBT) who are at greater risk of depression, suicidal thoughts and self-harm than their peers. Substance abuse is

also higher, with LGBT young people more likely to smoke and drink more than their heterosexual peers.<sup>40</sup>

Children in custody, despite having significant health needs (particularly in relation to their mental health) do not have their health needs met, with great variation across institutions.<sup>41</sup>

### Charges for primary care could undermine migrants' right to health services

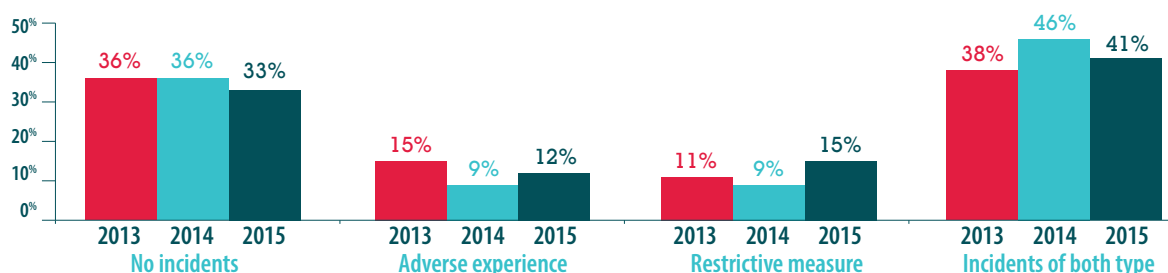
Undocumented migrants and their families can be charged for most secondary healthcare. Evidence shows this acts as a deterrent to accessing healthcare, including for migrants who are actually entitled to free care.<sup>42</sup> The Government has consulted on extending charges to primary and emergency care services. **It is extremely concerning that children have not been excluded from this proposal, which will also undermine efforts to promote good health among all children and immunisation programmes.**<sup>43</sup> Maternity care in the NHS is chargeable for most women without indefinite leave to remain in the UK, despite evidence that recent migrants face higher risks of adverse pregnancy outcomes than the general population.<sup>44</sup>

### Insufficient focus on children's health outcomes and services

This year's Department of Health's Mandate to NHS England (its strategy till 2020) no longer includes specific broader objectives on children's health and only includes specific deliverables on childhood obesity and child mental health services, which are not binding.<sup>45</sup>

Since the introduction of the Health and Social Care Act 2012 and the transfer of the public health grant to local authorities, there have been significant changes to commissioning and provision of local public health services. **In 2015**

**Graph 2: Percentage of patients under 18 years of age by incident group**



Source: Learning Disability Census 2015: Reference table 16. Base: All patients under 18 years old (160 in 2013 and 2014, 165 in 2015)



**there was a £200m in year cut to the public health grant.** The current year's settlement announces further cuts of £331m (9.7%) by 2020/21.<sup>46</sup> The Government has said it will eventually abolish the grant altogether.<sup>47</sup> A recent investigation has shown that services aimed at children are bearing the brunt of cuts to public health by local authorities. Overall, the analysis identified planned spending reductions worth £50.5m in 2016/17, across 77 local authorities in services such as health visiting, school nursing, childhood obesity programmes, smoking cessation services and breastfeeding support.<sup>48</sup> These are vital services for maximising the health of particularly vulnerable young children and their families and addressing health inequalities.

### Recent expansion in health visitor numbers

The Government's achievement of its target to expand health visitor numbers from around 8,000 in May 2010 to nearly 12,000 by September 2015, and their aspiration to make this an effective universal service, is welcome.<sup>49</sup> Public Health England is currently carrying out a Review into the future of the five mandated health checks for children up to two and a half beyond March 2017, when legislation requiring them to be carried out on a mandatory basis expires. Charities have warned that removing these checks will have a "significant impact" on early intervention and on the support available to parents for their child's development.<sup>50</sup>

### Some limited Government action to tackle obesity

2015/16 figures show that the prevalence of obesity has increased since the previous year in both Reception (children aged 4 and 5) and Year 6 (children aged 10 and 11). In Reception, it increased to 9.3% from 9.1%, and in Year 6 to 19.8% from 19.1%. Obesity prevalence for children living in the most deprived areas in both age groups was more than double that of those living in the least deprived areas.<sup>51</sup> **Research shows that children are still not eating healthily, only 8% of children aged 11-18 meet the five-a-day recommendation for fruit and vegetable consumption.**<sup>52</sup> The UN expressed concerns over the 'high prevalence of overweight and obesity among children'.

The Government's long awaited obesity plan and introduction of the "sugar tax" on soft drinks producers is positive.<sup>53</sup> However producers will only have to pay if they fail to voluntarily reduce the amount of sugar in their products within two years. Consumption of sugar and sugar sweetened drinks is particularly high among the most disadvantaged children who also experience a higher prevalence of tooth decay, obesity and its health consequences.<sup>54</sup>

Other positive measures in the plan include a re-commitment to the Healthy Start scheme, which provides vouchers for fruit, vegetables and milk to families on low incomes across England. Schools will also be asked to give students an extra 30 minutes a day of physical activity, and parents and carers will be encouraged to support their children to do a further 30 minutes. However campaigners have expressed disappointment that the plan is not as "robust" as promised and no action is being taken against the advertisement of unhealthy food.<sup>55</sup>

The Government's new strategy aimed at strengthening sport uptake amongst children and those in under-represented groups, such as girls and disabled children is also a welcome step.<sup>56</sup> Levels of children involved in sport continue to be high with almost 87% aged 5-15 taking part in sports in the four weeks prior to the research.<sup>57</sup>

### Low rates of breastfeeding

The UN Committee was concerned about '*extremely low rates of breastfeeding*' and '*inadequate regulation of marketing of breastmilk substitutes*' and called on the UK to '*promote, protect and support breastfeeding*.' It is disappointing that the Government cancelled the National Infant Feeding Survey (IFS) in 2015 – a retreat from the detailed data collection commitment in the Global Strategy for Infant and Young Child Feeding. New experimental statistics from Public Health England for January and March 2016 show that the aggregate breastfeeding rate after 6-8 weeks is only 43.7% with variation across the country.<sup>58</sup> Figures from the last IFS in 2010 show that 47% were breastfeeding at 6-8 weeks but just 1% of women maintain exclusive breastfeeding to six months. A third (34%) of babies continue to receive some breastmilk by six months.<sup>59</sup>

## Recommendations

1. The Government should introduce maximum waiting time standards for access to CAMHS.
2. The Government should ring fence the £1.4 billion investment to CAHMS.
3. CAMHS services should move away from a system defined by tiers and towards one built around the needs of children.
4. Training about mental health for staff working in schools should be improved to better equip them in responding to the needs of students facing mental health and emotional problems.
5. For children placed out-of-borough, care plans should outline how the quality and level of support will be maintained when a child moves between local authority and CCG boundaries.
6. All children entering and leaving care should have a specialist mental health assessment by a qualified mental health professional.
7. The Government should increase the funding available for the number of health-based and alternative places of safety to ensure sufficient places are available for children in need of specialist inpatient treatment or a place of safety in mental health crisis so they are never placed in a police cell, adult ward or far from their support networks.
8. The Government should create a new, fully independent system for investigating deaths in mental health care settings – including those of children.
9. NHS England should collate and publish comprehensive statistics on the deaths of children in mental health care (including the numbers, types of setting, circumstances of death and other relevant information) to enable robust scrutiny and follow up action to take place.
10. As a matter of urgency, the commitment to ensure that no child with learning disabilities and behaviours that challenge is placed inappropriately in an in-patient ATU should be fulfilled. Future admissions should be prevented by securing both evidence-based support, close to home, and early intervention services.
11. The Government should recommend the use of positive behavioural support as the best evidenced method of supporting children with learning disabilities whose behaviours challenge in all settings.
12. The Government should ban the use of measures of excessive restraint in all inpatient settings.
13. Local authorities and health bodies should be provided with evidence-based information and guidance on reducing health inequalities. Trends in geographical and social health inequalities should also be monitored.
14. The Government should introduce an exemption from charges for primary and secondary healthcare for all children and pregnant women.
15. The NHS Mandate should include a broader focus on improving children's health outcomes with specific measurable targets.
16. The Government should not abolish the ring fenced public health grant to local authorities.
17. The Government should retain the requirement for health visitors to carry out the five mandated health checks for children aged two and a half.
18. Government should introduce a ban on advertising before 9pm of products which are high in saturated fat, salt and sugar.
19. The quinquennial UK National Infant Feeding Survey should be reintroduced, alongside the appointment of National Infant Feeding Coordinators and the requirement for all hospitals, maternity, health visiting and neonatal services to work towards Baby-Friendly accreditation.
20. The International Code of Marketing of Breastmilk Substitutes (and subsequent relevant Resolutions of the World Health Assembly) should be made statutory and mechanisms should be introduced to avoid conflicts of interest arising from public health programmes and partnerships.

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## About CRAE

The Children's Rights Alliance for England (CRAE) works with 150 organisations and individual members to promote children's rights, making us one of the biggest children's rights coalitions in the world.

We believe that human rights are a powerful tool in making life better for children. We fight for children's rights by listening to what they say, carrying out research to understand what children are going through and using the law to challenge those who violate children's rights. We campaign for the people in power to change things for children. And we empower children and those who care about children to push for the changes that they want to see.

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