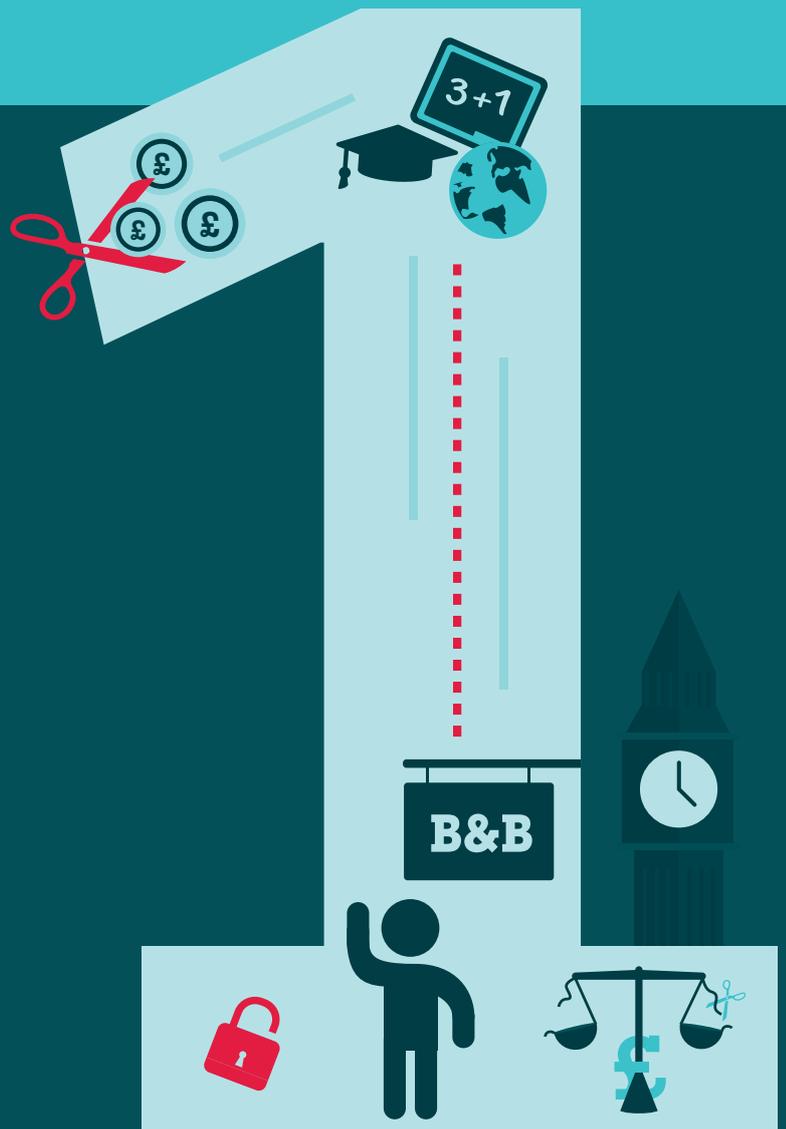




Children's
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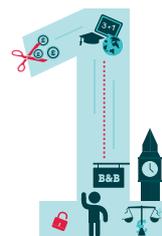
State of Children's Rights in England **2016**

Briefing 1 Executive Summary



Briefing 1

Executive Summary



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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.¹

CRAE's *State of Children's Rights 2016* is made up of seven thematic briefings assessing the progress made towards implementing the UN Committee's recommendations: Children at the Centre: The General Measures of Implementation and General Principles of the CRC; Poverty and Homelessness; Health; Immigration, Asylum and Trafficking; Education, Leisure and Cultural Activities; Safeguarding Children; 8: Policing and Criminal Justice.

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 are covered in Briefing 2.

This summary gives a flavour of some of the issues covered in each briefing, which 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.² For more detail on each issue, see the individual briefing.

Introduction

The last 18 months have resulted in changes to the political landscape not seen in recent times. The UK's decision to leave the European Union (EU) in June 2016 casts doubt on the continued enjoyment of many rights and entitlements children currently enjoy due to EU law. Uncertainties around the economy and concerns over rises in the cost of living could also adversely affect struggling families with children.

With the appointment of a new Prime Minister in summer 2016, there was an opportunity for renewed political leadership on how we treat children. Unfortunately, this opportunity was missed. England no longer has a Government Minister with responsibility for the rights of all children and the threat that the political conversation over the coming years will be dominated by Brexit, with little space for issues affecting children, is very real.

Despite some positive progress, especially in relation to children in care and children with mental health needs, our analysis shows that much more needs to be done before children's rights are fully respected. Time and again children are not central to decision-making. This must change. It's crucial that the Government uses the *State of Children's Rights 2016*, alongside the UN Committee's Concluding Observations, to urgently identify what actions it will take so that all children can have a happy and fulfilling childhood and the best start in life.

2. General Measures and General Principles

In the reshuffle following Theresa May's appointment, the role of Minister for Children and Families was replaced with a Minister for Vulnerable Children and Families. This is a backwards step. A child rights team staying in place within the Department for Education is welcome, but it lacks the capacity and authority needed to effectively monitor and coordinate children's rights across government.

Positively in October 2016, a Ministerial statement was laid before parliament on the UN Committee's recommendations. However, **Government continues to resist calls for a child rights action plan.** This is urgently needed. The distribution of the Concluding Observations (COs) across Whitehall is encouraging, as is a call for government departments to reflect on the UN's recommendations, but these steps alone will not ensure the UN's concerns are fully addressed.

A Cabinet Minister with responsibility for children's rights should be appointed alongside an adequately resourced child rights team. Government should develop a comprehensive child rights action plan to take forward the COs.

Government remains unconvinced of the value of child rights impact assessments (CRIA) despite a UN Committee recommendation to make them statutory. The Government opposed amendments to the Children and Social Work Bill to introduce a public sector child rights duty but positively, it did commit to looking at the issue further and considering evidence from devolved nations.³

The Government should introduce a statutory obligation on public authorities to conduct child rights impact assessments.

A proposal in the Children and Social Work Bill poses a significant threat to the legal rights that children currently enjoy by allowing local authorities to opt out of specific pieces of children's legislation for up to six years. The Government has also confirmed it will press ahead with plans to repeal the Human Rights Act and replace it with a British Bill of Rights, despite widespread opposition.⁴

Recent research finds: **'Access to justice in England has been undermined and fundamentally weakened by the cuts to civil legal aid in breach of the UK's international human rights obligations'** yet the Government is still to confirm when its planned review of legal aid will commence.

Despite positive steps, children are still not systematically involved in decisions that affect them, especially under 11s, and discrimination remains wide-spread for certain groups of children: **The Government's anti-terrorism strategy Prevent has received particular criticism for discriminating against Muslim children;** research has found that homophobic, biphobic and transphobic bullying remains a major problem in schools;⁵ and an increase in hate crimes have been reported since the EU referendum result.

The Government should urgently review the Prevent strategy. It should take immediate action to address discrimination experienced by many groups of children, especially in relation to bullying and school exclusions.



Only 8 children and 28 young adults granted legal aid under the Exceptional Case Funding Scheme between October 2013 and June 2015



Source: Department for Communities and Local Government (June 2016) Statutory homelessness and prevention and relief live tables

Alarming, **child mortality still differs depending on the mother's country of birth, age and socio-economic factors.** Unfortunately, there are numerous examples throughout this report which demonstrate that the best interests of the child is not a primary consideration in decision-making.

3. Poverty and Homeless

The right to thrive and have a decent standard of living has come under great threat for many children in England in 2016. It's of grave concern that the latest figures show that child poverty is rising. **3.9 million children were living in poverty in 2014/2015.** That is nine children in every classroom, or 29% of all children.⁶

The statutory duty on the Government to report on the four key targets for eradicating child poverty by 2020 has been removed by repealing sections of the Child Poverty Act 2010.

® The Government should develop, fund and implement a plan to reduce the number of children in poverty year-on-year for the next five years.

The Welfare Reform and Work Act 2016 introduced a two child limit on receipt of the child element of child tax credit and Universal Credit. It is thought 640,000 families will lose support as a direct result of the proposed changes.⁷

The Government has also extended the benefit cap. Large families and those in London are most affected.⁸ **Analysis suggests 319,000 children are likely to be affected by the new cap.**

Alongside these changes, the Government introduced a four year freeze on entitlements to most benefits and tax credits until 2020. **Around 7.5 million children are estimated to be affected by the four year benefit freeze.** Nearly two thirds will be in work.⁹ The UN Committee urged the Government to *'Conduct an assessment of the cumulative impact of the social security and tax credit reforms on children, particularly those from disadvantaged groups.'*

Although Government has introduced the National Living Wage which will increase the incomes of some low earners, the Institute of Fiscal Studies predicts this will have *'very little impact'* on official poverty measures, or household income inequality up to 2020/21.¹⁰

® The Government should conduct an assessment of the cumulative impact assessment of the welfare and benefit reforms on children, particularly those from disadvantaged groups.

The numbers of homeless families are rising; there are two thirds more than in 2009.¹¹ The rise has been mainly attributed to the impact of cuts to social security.¹² These cuts combined with a shortage in social housing and the high cost of private sector rentals has led to an increase in families being housed in temporary accommodation (TA).

The number of households with children living in TA is almost two thirds more than in 2010 (58,180 compared to 36,230) which includes 114,930 children or expected children.¹³ 12% of these households were living in accommodation with shared facilities such as

bathrooms or kitchens. Research has shown the detrimental impact of extended periods in TA on children's health, development, education and well-being.¹⁴

Despite a ban and the UN urging the Government to *'Strictly implement the legal prohibition of prolonged placement of children in temporary accommodation'*, local authorities are continuing to break the law.

4. Safeguarding children

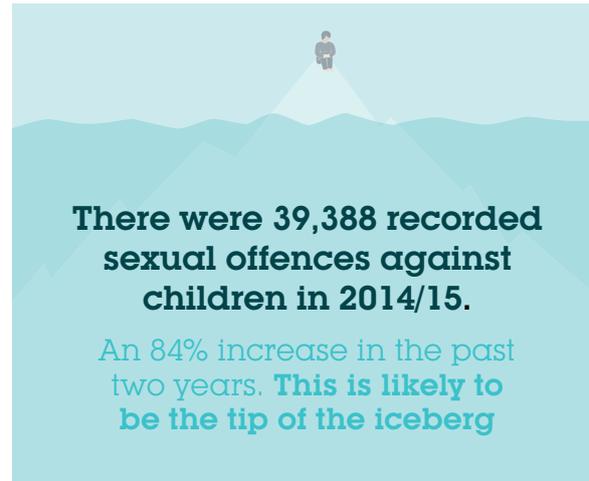
The past year has seen a number of positive measures from Government to improve the rights of children in care and reduce violence against children. These are part of a reformed vision to improve children's social care and the Government's Children and Social Work Bill.¹⁵

The number of children in care has continued to rise steadily - **there were 70,440 looked after children at 31 March 2016.**¹⁶ This increase is double-edged – in some instances it means more children are being safeguarded, in other cases, it could mean insufficient or lack of early intervention.

Cuts to local authority budgets, particularly early intervention services, risk damaging outcomes for vulnerable children as social workers struggle to do more with less. In 2015/16 local authorities reduced spending on children's centres, young people's and family support services by 31% (over £958 million in real terms) compared to 2010/11. **This amounts to a total spending cut of more than £2.4 billion over six years.**¹⁷

A Government push to increase the number of adoptions after a decrease of 18% in the last year is welcome but risk undermining other equally valid options which help ensure permanence for children.^{18,19}

The Government has gone some way towards meeting the UN's recommendations to improve support for care leavers by introducing a suite of welcome measures, most notably extending the support of a personal adviser to 25.²⁰ But more needs to be done to ensure care leavers are fully supported, including financially and with appropriate accommodation. Despite changes to



Source: FOI responses in NSPCC (2016) *How safe are our children? 2016*

allow children leaving in residential care to *Stay Close* there is still some way to go before they achieve parity of support with those in foster care.

R The Government should introduce a duty for local authorities to take reasonable steps to provide care leavers up to 21 with suitable accommodation.

The true scale of the sexual abuse and exploitation of children is starting to be revealed across the country after recognition from Government to tackle the issue and bring perpetrators to justice helps more victims have the confidence to come forward.²¹ Whilst important, it's crucial that vulnerable victims receive the support they need to recover and are able to have their voices heard.

R The Government should ensure that all victims of sexual crimes should have access to specialist therapeutic or mental health support.

Despite calls, including from the UN Committee, the UK refuses to increase the minimum recruitment age to the armed forces from age 16.^{22,23} In 2015, almost one in four new recruits were aged 16 or 17.²⁴ The UN Committee also criticised the armed forces for making child recruits complete a longer minimum period of service than is required of adult recruits.

R The Government should ban children aged 16 and 17 from being recruited to the army.



5. Immigration, asylum and trafficking

Sadly the Government has regressed in relation to refugee and migrant children's rights in 2016 and taken a number of steps to further their policy of creating a "hostile environment".

We are disappointed that the Government continues to ignore the best interests of refugee children (article 3) and prioritises immigration control over children's welfare.

3253 unaccompanied children sought asylum in the UK in 2015, a 67% increase from

2014.²⁵ However only 22% of unaccompanied children were granted refugee status in 2015, the majority (52%) were refused asylum and granted a temporary form of leave (UASC leave). Such temporary leave is rarely in children's best interest as it does not provide them with a durable solution.²⁶

The Government has made a series of welcome pledges to address the refugee crisis^{27,28} and started to relocate separated children after the closure of the migrant camp in Calais.²⁹ However, the UK has been heavily criticised, including by the UN Committee for its inadequate response to support refugee children across Europe.^{30,31}

EU law (Dublin III Regulation) entitles separated children to be reunited with their family elsewhere in Europe, including in the UK.

However, despite the Government stating it will adhere to these regulations and positive decisions from the Courts,³² this mechanism is not functioning or being used effectively.^{33,34}

📌 The Government should issue guidance on implementation of the Dublin III regulation to ensure it is fit for purpose and quickly reunite separated children in Europe with their families in the UK.

The Immigration Act 2016 brings in a number of worrying measures that the UN Committee said breached the CRC. It removes the entitlement of former unaccompanied children in care to leaving care support and services which risks leaving these vulnerable young people homeless, destitute or at risk of exploitation.³⁵

📌 All care leavers, regardless of their immigration status, should have access to the full range of leaving care services.

Despite guidance from the UN Committee that '*age assessments should only be conducted in cases of serious doubt*', children are still regularly disbelieved about how old they are and face harmful, protracted age disputes. **There has been a large increase – 148% (789) - in the number of children whose ages are disputed in 2015.**³⁶

In August 2015, the Government made significant cuts to asylum support by introducing a "flat rate" of support for all individuals pushing families even further into poverty.

Despite emphasising its ongoing commitment³⁷ to the provision of Independent Child Trafficking Advocates following an independent evaluation³⁸, the Government has still not rolled the scheme out across the country and has started a new trial in three "early adopter" sites.

6. Education

More children are now taught in good or outstanding schools: 1.4 million more pupils than in 2010 but inequalities in education present a considerable challenge to ensuring all children have their right to education realised.³⁹

The Government's announcement to reverse the ban on new state funded grammar schools is very concerning given the potential impact on widening educational inequality.⁴⁰

While it's welcome that Government has emphasised that new or expanding selective schools will have to meet various conditions, such as taking a proportion of pupils from lower income households, they do not fully allay fears that increasing the number of selective schools will lower the standard for the majority of children, consigning them to a second-tier system.⁴¹

Ⓡ The Government should not go ahead with its proposals to expand grammar schools.

Positively, the Government continues to give schools additional funding to support children from disadvantaged backgrounds through the Pupil Premium, but while educational attainment has generally improved, significant attainment gaps continue. **A sizeable developmental gap between the most and least disadvantaged children in the early years remains**, which continues to widen at school and has long-term consequences for children's educational achievement.⁴²

Ⓡ The Government should invest more in high quality childcare and early education.

Every week two boys aged 4 and 5 years are permanently excluded from school



Source: Department for Education

At GCSE level, White British boys from low income backgrounds perform particularly badly, with less than a quarter of this group achieving five GCSEs grades A* to C, including English and mathematics;⁴³ Pakistani/Bangladeshi and African/Caribbean/Black pupils continued to be the lowest performing of ethnic minority groups at GCSE level;⁴⁴ while 14% of looked after children achieved five or more A*- C GCSEs compared with 53% of non-looked after children.⁴⁵

Inclusive education has declined each year since 2010. In 2016, 24% of pupils with a Statement or Education, Health and Care Plans (EHC Plan) attended state-funded secondary schools, compared with 29% in 2010.⁴⁶

Ⓡ The Government should give further resources and training to schools to assist with inclusion of disabled children and children with SEN in mainstream schools.

Particular groups of children continue to be disproportionately excluded from school.

Boys are almost three times more likely to be permanently excluded than girls; pupils who are eligible for FSMs are four times more likely to receive a permanent exclusion than those who are not eligible for FSM; children with SEN are seven times more likely to receive a permanent exclusion than children with no SEN; and Black Caribbean pupils are three times as likely to be permanently excluded than the school population as a whole.⁴⁷

Ⓡ **The Government should urgently address the overrepresentation of certain groups of children being excluded from schools.**

7. Health

There has been considerable effort from the Government to achieve parity of esteem with mental and physical health. But 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.

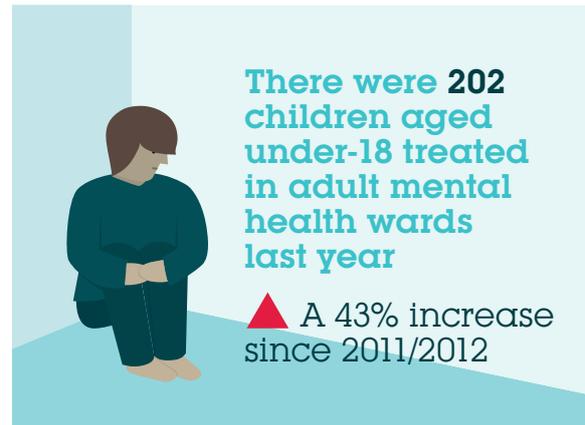
Despite the Government's investment of £1.4 billion (until 2020), CAMHS (Child and Adolescent Mental Health Services) are still chronically underfunded. There are concerns that the investment is being delayed and failing to reach the frontline of children's mental health services where it is badly needed, an issue highlighted by the UN Committee.⁴⁸

Ⓡ **The Government should ring fence the £1.4 billion investment to CAHMS.**

Nearly a quarter of a million children in England are receiving support from mental health services and the figure is likely to be significantly higher.⁴⁹ There has been an alarming rise in suicides amongst children⁵⁰ and the number of children self-harming has risen dramatically in the past 10 years.⁵¹ 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.⁵²

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.⁵³

Worryingly, children are still being placed in inappropriate settings such as adult mental health wards during mental health crisis, despite a duty prohibiting it. 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.⁵⁴

Ⓡ **The Government should increase the funding available for the number of health-based and alternative places of safety.**

Government efforts to tackle obesity are a step in the right direction but **the UN Committee was concerned by continued health inequalities amongst some groups of children, despite a Government duty to reduce this.** A recent investigation has shown that services aimed at children are bearing the brunt of cuts to public health by local authorities.⁵⁵ **In 2015 there was a £200m in year cut to the public health grant** with further cuts of £331m (9.7%) announced by 2020/21.⁵⁶ The Government has said it will eventually abolish the grant altogether.⁵⁷

Ⓡ **The Government should not abolish the ring fenced public health grant to local authorities**

8. Policing and Criminal Justice

Despite progress, there is still a long way to go before children in conflict with the law have their rights respected. In 2015, the Government commissioned a review into the youth justice system. The interim report⁵⁸ contained encouraging findings but, with a change in Government, youth justice is at a crossroads and it's unclear which direction will now be taken.

Between 2008 – 2016, the number of children in the secure estate fell by more than 70% (from 3,019 to 881)

At the same time the proportion of black and minority ethnic children increased from 25% to 42%



The National Police Chiefs' Council (NPCC) has provided impressive leadership in setting new priorities for the policing of children. In April 2015, it published a *'National Strategy for the Policing of Children and Young People'*⁵⁹, which emphasised **'that in all encounters with the police those below the age of 18 should be treated as children first.'**

The UN Committee said the use of Tasers on children in the UK should be prohibited⁶⁰ but our FOI requests to 44 police forces in England and Wales revealed that in 2015, Taser was used against children at least 538 times. Tasers were fired in 43 of these uses, with the youngest child fired on just 12 years old.

🔒 The use of Taser on children should be eliminated.

A spit hood is a bag made of mesh-like material, with a drawstring to tighten it, which is put over the head. The Independent Police Complaints Commission has investigated the deaths of two adults following the use of spit hoods.⁶¹ **In the first nine months of 2016 the use of spit hoods on children doubled: at least 24 children in England were hooded** (with the youngest recorded age being 15 years old).

🔒 The use of all harmful devices on children by police, including spit hoods, should be prohibited

The population of the youth secure estate has fallen by more than 70% since August 2008. However **BAME children continue to be disproportionately over-represented and accounted for 42% of the youth secure estate population in August 2016.**⁶²

Children's own experiences of custody reflect an unsafe environment. A survey by Her Majesty's Inspector of Prisons found that 23% of children in Secure Training Centres (STCs) reported feeling unsafe at some point since their arrival and **nearly half (46%) of boys in Yong Offender Institutions (YOIs) said they had felt unsafe at their establishment** at some point - the highest figure HMIP has ever recorded⁶³.

🔒 The use of prison-like institutions (YOIs, STCs) should be replaced with care-based homes.

Following the deaths of two children in custody in 2004 after the use of restraint, a new system - Minimising and Managing Physical Restraint - was introduced, which focusses on de-escalation yet **still includes techniques which involve the deliberate infliction of pain on children.**⁶⁴

The use of restraint has risen over the last five years: Approximately a third of children (32%) in STCs reported being restrained since their arrival. More than two-fifths (45%) of boys reported being restrained while in YOIs.

🔒 Restraint against children should only be used when the child poses an imminent threat of injury to himself or others, and it should never be used to deliberately inflict pain.

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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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