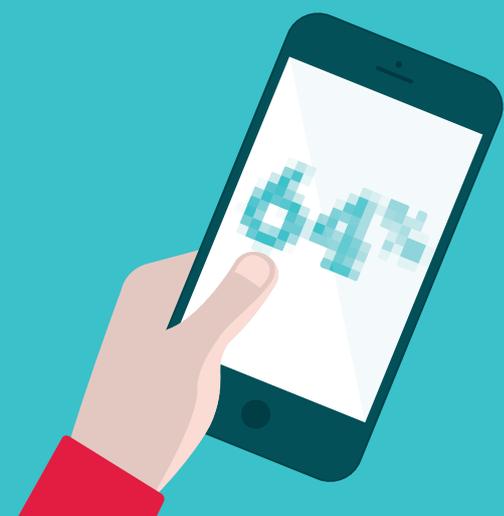


State of Children's Rights in England 2017



4

Briefing 4 Safeguarding children



Briefing 4

Safeguarding Children

ARTICLE 5 States Parties shall respect the responsibilities, rights and duties of parents, members of the extended family or legal guardians.

ARTICLE 9 States Parties shall ensure that a child is not separated from his or her parents against their will, unless such a separation is in their best interests. All interested parties shall be able to participate and make their views known. A child separated from parents has the right to direct and regular contact with both parents, unless this is contrary to the child's best interests.

ARTICLE 18 Parents or legal guardians have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern. States Parties shall help parents and legal guardians in the performance of their child rearing responsibilities.

ARTICLE 19 Children have a right to be protected from all forms of violence.

ARTICLE 20 A child deprived of his or her family environment is entitled to special protection and assistance provided by the State.

ARTICLE 21 States Parties shall ensure that the best interests of the child shall be the paramount consideration in adoptions.

ARTICLE 25 States Parties recognise the right of a child in care to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

ARTICLE 34 States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. This provision is augmented by the Optional Protocol on the sale of children, child prostitution and child pornography.

ARTICLE 39 Children who experience any form of exploitation should receive the help they need to recover and reintegrate into society.

Definitions and glossary

Children: All children and young people under-18 as set out by article 1 of the UN Convention on the Rights of the Child (CRC).

Special Guardianship Order: Appoints one or more individuals to be a child's "special guardian" under the Children Act 1989. It is intended for children who cannot live with their birth parents and who would benefit from a legally secure placement, but not adoption.

National Referral Mechanism (NRM): A framework for identifying victims of human trafficking or modern slavery and ensuring they receive the appropriate support. It is also the mechanism through which the Modern Slavery Human Trafficking Unit (MSHTU) collect data about victims.

County lines gangs: Groups of more than three people (usually based or originating within an urban city location) who have established a market in a rural town in a neighbouring county, into which they supply drugs.

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.

This briefing is part of CRAE's *State of children's rights in England 2017* and assesses the progress made in England towards implementing the UN Committee's recommendations relating to safeguarding and violence against children. It highlights areas of progress and concern since last year's *State of children's rights in England 2016* was published in December 2016. It 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 (FOI) 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 United Nations

In June 2016 the UK Government was examined by the **UN Committee on the Rights of the Child** (the UN Committee) on its compliance with the CRC for the first time since 2008. The UN Committee made a number of recommendations (Concluding Observations) for change.¹ In May 2017 the UK was examined on all its human rights treaties, including the CRC, by the 193 member states of the Human Rights Council as part of the **Universal Periodic Review (UPR)**.² This is a process where states can reiterate previous recommendations made by UN Committees and can be used by civil society and parliamentarians as an additional advocacy tool. The Government can choose whether to "support" (accept) recommendations or "note" them (reject or not agree). We are very disappointed the Government has only supported 28% of the recommendations relating to children's rights, compared to 42% of all the recommendations it received. Below are the relevant UN Committee and UPR recommendations for this briefing:

- Provide protection and adequate support to families, and protect the best interests of the child through early intervention **CRC**
- Address the increasing numbers of children in care **CRC**
- Ensure children leaving residential or foster care receive proper support, including for their future plans and how to cope with living far away from former carers **CRC**
- Stop frequent changes of foster carer and/or children experiencing more than two family placements in a year **CRC**
- Better protect children from sexual abuse and exploitation, and increase respect for the views of children when responding to allegations **CRC UPR**
- Address the low rate of prosecution for child sexual exploitation (CSE) and abuse. Complete investigations on numerous cases of sexual violence against children, and bring perpetrators to justice **CRC UPR**

Key to UPR recommendations:

UPR Supported **UPR** Noted

- Develop and implement comprehensive multi-sectoral strategies on child exploitation and abuse **CRC** **UPR**
- Address the significant number of children affected by female genital mutilation (FGM) and continue positive efforts to combat violence against women and girls **CRC** **UPR**
- Prohibit all corporal punishment in the family, including through the repeal of all legal defences such as “reasonable chastisement”, and ensure prohibition in all schools, educational institutions, other institutions and forms of alternative care **UPR**
- End the recruitment of children into the armed forces and increase the minimum age for recruitment **CRC** **UPR**

Introduction

The past year has seen some positive legislative steps by the Government to increase support for children in care and children leaving care, through reforms set out in the Children and Social Work Act (CSWA) 2017. However cuts to local authority budgets threaten the potential success of these reforms. More children need support than ever before, but there has been a continued downward trend in the funding allowance for early intervention.

The scale of sexual abuse and exploitation of children has been revealed as recognition of the problem has grown. The Government has introduced welcome laws to bring perpetrators of all forms of abuse to account, but support services for the growing numbers of children who have experienced abuse still lack capacity and investment.

What progress have we made?

The CSWA 2017 introduces a series of welcome key reforms in safeguarding practice and support for vulnerable children, in particular the

extension of Personal Advisors up to the age of 25 and increased monitoring of the support given by local councils to care leavers.³ Corporate Parenting Principles (CPPS) have also been introduced. These set out seven fundamental needs for looked after children and care leavers, which local authorities should take into account. These include: acting in the best interests of the child, encouraging them to express their views and taking these into account, helping children access the best services, promoting secure outcomes, and promoting stability.⁴ For more detail on participation and best interests CPPS, see Briefing 2.

More is now understood about abuse, especially online and emotional abuse, and numbers of recorded offences have grown for all forms of abuse in the last year. Rising numbers are concerning, but may also reflect a growing awareness and reporting of the varied forms of abuse by the public and professionals. Legislative steps to protect children from online abuse are welcome. This year Section 67 of the Serious Crime Act 2015 came into effect, making sexual communications from an adult to a child an offence. The 2017 Digital Economy Act also extends protection from online pornography by allowing sites which display pornography to children to be blocked in the UK.⁵

We welcome announcements by the Government for an additional £7 million to support sexual abuse services, alongside new funding for a £7.5 million Centre for Expertise on Child Sexual Abuse to help tackle CSE.

Where do we need to improve?

Children in care

Increase in looked after children

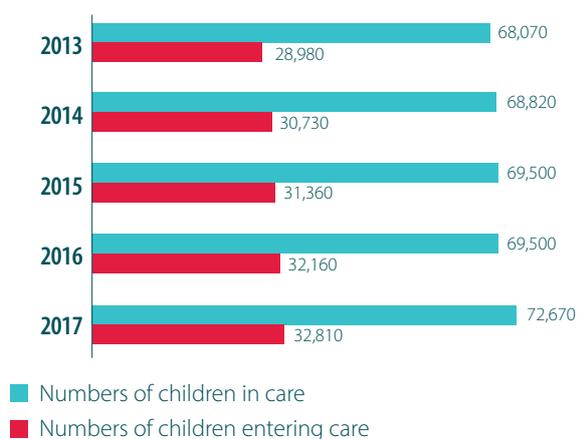
Numbers of children in care have risen for the ninth consecutive year⁶ and at the fastest rate in five years.⁷ March 2017 figures show that there are 72,670 looked after children in England, an increase of 3% on the previous year.⁸ The number of children who ceased to be looked after fell for the first time since 2008 by 2%.⁹

Though increasing numbers of children in care may reflect increased instances of children being looked after, it could also reflect a lack of early intervention. We welcome the announcement of the Care Crisis Review to investigate the rising numbers of children in care.¹⁰

Numbers of children placed for adoption fell for the second year, down 8% in 2016/17 to 4,350.¹¹ Special Guardianship Orders (SGOs) continued to rise with 3,690 children (12%) ceasing care due to SGOs—an increase of 33% from 2,770 in 2013, but down slightly from 3,830 in 2016.¹² The trend continues to be attributed to two relevant court judgements, which positioned placing children with a family member as favourable to adoption.¹³ Concerns have been raised that the rise reflects attempts by local authorities to control costs, as in many instances an SGO will be cheaper than other out of home options.¹⁴

Nearly four-fifths of children in care are in foster care.¹⁵ As other specialist residential services close, demand for foster care is growing¹⁶ with an estimated 5,900 new foster families required.¹⁷ We welcome the national stocktake of fostering being undertaken by the Government. Better regulation, support and guidance are needed to ensure that foster care is able to meet the needs of growing numbers of children.

Graph 1: Numbers of children in care and entering care 2013-17



Source: Department for Education (2017)¹⁸

Lack of stability in care placements

Stability is a crucial factor in long term outcomes for children in care.¹⁹ Despite recommendations from the UN Committee, staff shortages, high

turnover of social workers and multiple care placements continue to undermine stability and standards for children.²⁰ **A new “stability index” published by the Children’s Commissioner²¹ suggests that 71% of all children in care experience one or more of the changes in the index in any 12 month period.²²** School and placement changes are often traumatising for the child involved and should not take place unless in the child’s best interests.²³ Plans to improve social worker retention are welcome, but further steps are required to fully address the churn of social workers.²⁴

The Local Offer for Care Leavers planned under the CSWA introduces new statutory regulations outlining the standard of services provided to care leavers by local authorities, and the extension of Personal Advisors up to the age of 25.²⁵ These are positive steps to increase stability for children leaving care, which go some way toward meeting the UN Committee’s recommendation that children in care be consulted on plans for transition and are given ‘sufficient support.’ However without extra resources, local councils are unlikely to be able to deliver such support. Worryingly, research suggests that the success of ‘staying put’ (a measure where children in foster care can request to remain in care until 21, aiming to increase stability) has been limited by lack of funding.²⁶

Keeping children safe

Changes to statutory safeguarding arrangements

We welcome the Government’s consultation on significant changes to England’s statutory safeguarding guidance, *Working together to safeguard children*, and new regulations alongside reforms, planned for 2018 under the CSWA.²⁷ Revision of the previous 2009 guidance was recommended by the UN Committee in 2016, however despite the Government pledge to do so²⁸, it has not been significantly revised to be underpinned by the CRC. Local Safeguarding Children Boards (LSCBs) will be replaced with new arrangements, led by three safeguarding partners: local authorities, Chief Police Officers, and Clinical Commissioning Groups.²⁹ It is hoped

that the new arrangement will enable a more flexible approach that can be tailored to fit local circumstances.³⁰ Although a positive step, concerns have been raised that the current duties on these different agencies regarding the new partnership arrangements are inadequate and unclear, and will potentially work less well than LSCBs. Duties must be strengthened to ensure children are not put at risk.³¹

Cuts to local authority budgets putting children at risk

Local authorities have suffered 40% funding cuts since 2010.³² Research suggests that 75% of local councils in England are being pushed to overspend on children's services budgets by more than half a billion pounds.³³

The Government is planning to withdraw the formula grant that councils rely on for most child protection and care services,³⁴ which would leave child protection funding dependent on councils' income from local business rates and council tax.³⁵ This will particularly increase pressure on the poorest areas of the country where children are ten times more likely to be placed under a child protection plan or be subject to care proceedings.³⁶ A survey found that two-thirds of local authorities lack the resources to provide universal services like children's centres and youth clubs. More than four in 10 said they did not have enough money to meet one or more of their statutory duties to children. Half of respondents said this was primarily due to increased levels of poverty and hardship, while 45% said cuts

to other services for families (such as housing support) were a contributing factor.³⁷ See Briefing 3 for more detail on child poverty.

Early intervention is essential to support children and their families, and to stop problems escalating. However the trend for reduced spending in this area has continued despite UN and UPR recommendations to protect this.

Early intervention allocation to local authorities fell by 55% in five years—a cut of £1.7 billion across England.³⁸ There has also been significant variation in children's services spend across England. This ranges from £63 million in the East Midlands to more than seven times that in London.³⁹ Money that councils have available is severely limited across the country and is increasingly taken up with the provision of urgent help for children and families already at crisis point.⁴⁰

Late intervention often results in more children being taken into care, and poorer outcomes for these children. Incentives must be put in place to encourage early intervention and prevention, and to avoid growing pressure on children's services. Social workers are increasingly struggling to manage caseloads and provided an estimated £600 million in unpaid overtime in the past year.⁴¹

Violence against children

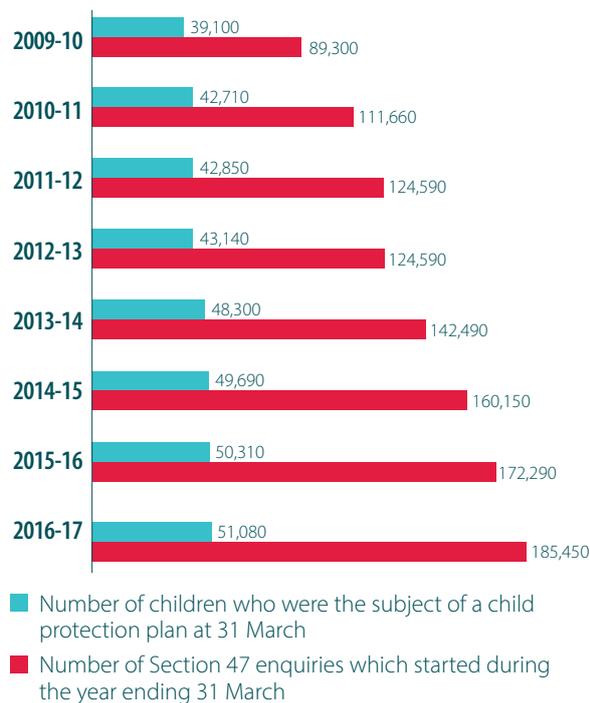
Increasing levels of neglect and abuse 185,450 children were subject to child protection enquiries in 2016/17, a staggering increase of 107% (89,300) since 2009/10.⁴²

The number of children made subject to a child protection plan or being added to the child protection register rose to 51,080 in 2017, an increase of 31% (11,980) since 2009/10 (1% on the previous year).⁴³ The number of children added to the register due to emotional abuse rose from 23% in 2006 to 35% in 2016.⁴⁴ Calls to the NSPCC helpline about a child being emotionally abused increased by 200% in 7 years—3,341 in 2009/10 to 10,009 in 2016/17.⁴⁵ Research has identified that there are 670,000 children growing up in "high risk" family situations, though many more "invisible" children may be being missed by national statistics.⁴⁶ Recognition and reporting of many different types of abuse is growing.



Source: National Audit Office report (October 2016)
Children in need of help or protection

Graph 2: Numbers of children subject to a child protection plan or enquiry 2009-17



Source: Department for Education (2017)⁴⁷

Increasing CSE and inadequate responses to victims

Recorded offences against children under-18 have continued to rise—47,045 recorded offences in 2015/16, up 18% from 38,575 in 2014/15.⁴⁸ Worryingly, 16 and 17 year old victims are excluded from official statistics on sexual offending (and are instead counted with adult data) as they are over the age of consent, despite calls from the UN Committee to change this. A child cannot consent to sexual exploitation, and CSE statutory definitions include children up to the age of 18. The recent ruling illegalising sex between sports coaches and 16 and 17 year olds is a positive step to increasing protections for this age group.⁴⁹

Following a consultation, the Government has revised the statutory definition of CSE that has been in place since 2009 and published a new guide for practitioners.⁵⁰ It is hoped that these measures will ensure professionals have a shared understanding of what abuse is, and will work to resolve misunderstandings about consent, which have previously led to inadequate responses to children who have been sexually abused and exploited.⁵¹ The UN Committee and UPR recommended that the UK:

'develop comprehensive services to support children.'

However with growing numbers of cases of abuse coming to light, concerns have been raised about the capacity of support services to provide essential therapeutic support to a growing number of victims.⁵²

Some progress has been made toward the UN Committee and UPR recommendations to increase the prosecution of perpetrators of CSE. A recent progress report by the Government showed a 14% increase in the number of defendants prosecuted for child sexual abuse related offences, and a 19% increase in convictions.⁵³ However the Criminal Inquiry Compensation Authority has only recently agreed to review its current guidelines, which have previously failed to recognise grooming as a factor in abuse cases. Nearly 700 children, some as young as 12, have been denied compensation as they are deemed to have given consent.⁵⁴ Government plans to introduce programmes (through the Police Transformation Fund) to educate police officers on sexual abuse and how best to support victims are positive.⁵⁵ However further work is needed to ensure that respect for the views of the child is guaranteed for children making allegations, as recommended by the UN Committee in 2016 and UPR in 2017.

Escalating online abuse

In 2016/17 there were 12,248 Childline counselling sessions about online safety and abuse, a 9% increase on the previous year.⁵⁶

In 2015/16 the number of police-recorded offences relating to indecent images of children increased by 64% in England, an increase of 284% since 2010/11.⁵⁷ Children

are often forced to share images of themselves or groomed to do so by adults. The number of cases where under-18s were sharing indecent or prohibited images was up by a third on the 4,681 offences recorded the previous year, and represented a 131% rise on 2014/15, with 2,700 incidents.⁵⁸ There has also been a sharp increase in recorded "sexting" offences, with 6,238 underage recorded in England and Wales in 2016/17—a rate of 17 a day, with some reports from children as young as 10.⁵⁹ "Sexting" is not always harmful but can carry significant risks for children. Once shared, images can end up in the

Numbers of police-recorded offences relating to indecent images increased 64% in 2015/16.

An increase of 284% since 2010/11



Source: Bentley, H. et al. (2017) *How safe are our children?* NSPCC

hands (or on the smartphones) of a whole school, or adults seeking to groom children online. This can potentially result in criminal sanctions and a criminal record, which could severely undermine a child's life chances.⁶⁰ See Briefing 8 for more information on criminal records.

Increasing numbers of missing children

Numbers of children recorded as missing have risen year on year, with 148,050 incidents recorded in 2015/16.⁶¹ Previously, concerns had been raised about 33,000 children categorised as "absent" and deemed to be at no immediate risk, therefore not receiving the police attention or follow-up support needed.⁶² New guidance issued by the College of Policing this year removed the "absent" category, so now all reports of missing children will sit within a continuum of risk from "no apparent risk" through to "high risk". Although this is a welcome first step, concerns remain that no supporting guidance accompanies the introduction of the "no apparent risk" category. Further safeguards must be put in place to ensure that children do not slip through the net in the same way they did with the "absent" category. Multi-agency safeguarding responses to missing children in England are inadequate, with research showing patchy provision of return home interviews, poor patterns and methods of information-sharing between police and local authorities, and a lack of appropriate follow up support.⁶³

Criminal exploitation of children rising: county lines

This year the National Crime Agency (NCA) reported that county lines gangs pose a significant threat to vulnerable children.⁶⁴ Recent reports estimate up to 4,000 teenagers from London are being criminally exploited and trafficked to sell drugs in rural towns, involving children as young as 12.⁶⁵ Worrying research suggests that the children involved are often perceived as having "made a choice" and are therefore criminalised.⁶⁶ Children affected should instead be placed on the NRM and treated as victims of trafficking and modern slavery, not as criminals. To date, no perpetrators have been appropriately criminally convicted. This year the Home Office produced guidance for practitioners in recognising and responding to children being exploited via county lines.⁶⁷ Whilst this is an encouraging first step, children currently receive little or no education to help them understand criminal exploitation and the associated risks. Relationships Education and Sex and Relationships Education (RE and SRE) has been made mandatory through the CSWA, which offers a good opportunity to ensure that children are made aware of different types of grooming and exploitation.⁶⁸ See Briefing six for more information on RE and SRE.

Ongoing failure to tackle FGM

The UN Committee and UPR recommended that the UK strengthen its data collection and prosecution, and continue to take action to end violence against women and girls. Since FGM was made illegal in the UK 31 years ago, there has still not been a successful prosecution. Positively, an annual statistical release of figures for FGM is now in place. There were 5,391 new cases of FGM reported between April 2016 and March 2017.⁶⁹ A £17 million transformation fund for 40 FGM projects as part of their £100 million pledge to help tackle violence against women and girls is also welcome.⁷⁰

Children still recruited to the armed forces

The Government continues to allow the armed forces to recruit from age 16, the UK is the only European Union state to do this. In 2016 the UN Committee repeated its 2008 recommendation to increase the minimum enlistment age to 18.

Case study

Just for Kids Law

Exploitation by county lines gangs

Adam* was 14 years-old when he was arrested in Eastbourne. Before his arrest he had grown up in London. When Adam was 11 years-old he had been the subject of legal proceedings for a residency order to reside with his father after it emerged he had been subject to long term physical, mental and emotional abuse by his mother. Subsequent medical assessments showed Adam was suffering from Post Traumatic Stress Disorder. After his father was granted custody Adam moved to a new part of London, a move he found highly distressing and soon began to suffer from night terrors and insomnia.

At this difficult time he was befriended by a group of older men. The men groomed him over a period of months, buying him gifts and giving him alcohol and drugs. Adam began to use marijuana supplied to him by the men to help him sleep and cope with his anxiety. After a few months the men demanded he pay them back £1k for everything they had given him. As he was unable to pay the "debt", the men told him he would have to work for them. He was driven from London to a house in Eastbourne, a well known trafficking route used by organised criminals to exploit children.

In Eastbourne Adam was forced to sell drugs and share a house with drug users, including crack addicts. He was so frightened that he slept with a knife in his bed to try and protect himself. While Adam was living at the house it was raided by the Police who arrested him and charged him with possession of drugs, intent to supply and possession of a knife.

Despite the views of his legal team, Adam pleaded guilty as he was too afraid of retribution. Regardless of clear evidence of grooming and medical testimony that Adam was a highly vulnerable child who needed to be protected and supported, he was ultimately sentenced criminalising him and potentially pigeonholing him for the rest of his life as an offender.

*Not his real name

In 2016/17 a quarter of new army recruits were aged 16 or 17.⁷¹ In contrast, the Scottish National Party passed a resolution at its annual conference to work in Westminster to raise the enlistment age to 18, and ruled out the military recruitment of children if they governed an independent Scotland.⁷²

Army recruiters strategically target deprived neighbourhoods and children below enlistment age.⁷³ Once enlisted, children lose much of the legislative protection to which they are normally entitled, since military law imposes far-reaching obligations and suspends certain fundamental rights.⁷⁴ The risks associated with an armed forces career are greater for those recruited as children, such as poor mental health, post-traumatic stress disorder, alcohol misuse, self-harm or suicide.⁷⁵ In 2016 the UN Committee criticised the armed forces' arrangements for seeking parental consent as '*insufficient*' and called for safeguards to be strengthened. It also criticised the armed forces for making child recruits complete a longer minimum period of service than is required of adult recruits.

No movement on banning corporal punishment

Calls to introduce a full ban on corporal punishment from the UN have been echoed by the UPR. Evidence that corporal punishment is harmful is overwhelming. A 2016 review of more than 250 studies show links between corporal punishment and a wide range of negative outcomes.⁷⁶ Despite this, the Government continues to resist calls to ensure that children have equal protection from assault in the home and other settings. Last year the Government consulted on legislation to ban corporal punishment in out-of-school educational settings, but no report has been issued to date.⁷⁷ By contrast the Scottish Government is to support a Private Members Bill which will give children equal protection.⁷⁸ Ahead of a consultation of the issue (due in January 2018) the Welsh Children's Minister has said: '*Smacking has no place in modern Wales.*'⁷⁹

Recommendations

1. The Government should ensure that all children who cannot live with their birth parents are able to access the best long-term placements for them as soon as practical, whether this is adoption, special guardianship or long term fostering.
2. The Government should ensure that there is better regulation, support and guidance to effectively regulate foster care and meet the needs of growing numbers of children.
3. The Government should urgently address the funding gap in children's services and provide additional funding to local authorities struggling to provide early intervention services as well as meeting their statutory obligations to children in crisis. Mechanisms should be introduced to ensure local authorities invest in services that address problems early.
4. The Government should introduce a Children Act Funding Formula to distribute national taxation to all local authorities according to the needs of children in their area, by 2020 at the latest.
5. The Government should ensure that sufficient funding is made available to successfully realise the reforms planned under the CSWA 2017.
6. The Government should strengthen duties on local authorities, Chief Police Officers and Clinical Commissioning Groups to ensure that children are kept safe under new safeguarding arrangements.
7. The Government should protect the formula for child protection funding to ensure that children in the poorest areas of the country are not put at risk.
8. The Government should continue to invest in its programme to ensure adequate retention and recruitment of social workers.
9. The Government should commission further research to establish the full extent of child abuse and neglect in the UK.
10. The Government should ensure that all victims of sexual crimes should have access to specialist therapeutic or mental health support.
11. The Government should introduce clear standards on how young victims of crimes of a sexual nature are kept informed about the progress of investigation and court process.
12. The Government should make increased resources available to the police to enable them to tackle online abuse images of children and to increase convictions.
13. Local authorities should improve multi-agency safeguarding responses to missing children and increase methods of information-sharing between the police and local authorities.
14. The Government should take steps to ensure that children involved in county lines gangs are placed on the NRM and treated as victims of trafficking and modern slavery, not criminals.
15. The Government should introduce stronger sanctions for failing to meet mandatory reporting responsibilities on FGM among frontline professionals.
16. As a matter of priority, the Government should raise the minimum enlistment age to the armed forces, with a view to end the recruitment of children. In the meantime the Government should: a) require recruiters to meet directly with parents and ensure parents are fully informed of the risks and obligations of military service at an early age, and b) ensure that child recruits cannot be made to serve longer than adult recruits.
17. The Government should change the law to ensure that children have equal protection from assault by removing the defence of "reasonable chastisement" and prohibit corporal punishment in all educational settings.

Endnotes

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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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