



Children's
Rights Alliance
for England

**DRAFT PERIODIC REPORT TO THE UN COMMITTEE ON THE RIGHTS OF THE
CHILD**

Response from the NGO (England) steering group

This submission has been endorsed by the following members of the NGO (England) steering group: Action for Children, British Youth Council, Children England, Children's Rights Alliance for England (CRAE), National Children's Bureau, NSPCC Save the Children, The Children's Society, UNICEF UK.

The NGO (England) steering group is coordinated by CRAE.¹

This response has also been supported by the following organisations: Barnardo's, Child Soldiers International, Inquest, National Council for Voluntary Youth Services, National Youth Agency, Summerhill School, Women's Aid Federation for England

Not all of the organisations named above (necessarily) endorse all aspects of this response

¹ The contents of this response do not necessarily reflect the view of all CRAE's members.

1. OVERARCHING COMMENTS

- The periodic reporting process presents an important opportunity, once every five years, to take stock of how children in the United Kingdom are faring in all aspects of their lives. This is an opportunity to celebrate measures which have been instrumental in pushing children's rights forwards – and there are reasons to celebrate - and also identify areas where more needs to be done to improve outcomes for children.
- As currently drafted, the report lacks a narrative to draw out some of these key conclusions. On reading the report, it is very difficult to get a sense of the extent to which children enjoy their rights. The draft report is largely descriptive, describing a range of policies and legislation affecting children. It lacks any analysis of the extent to which those measures have had a positive (or negative) impact on children or promoted or undermined the rights of children. As a result, the Government has missed an opportunity to highlight those areas where there has been significant progress for children's rights, and identify those areas where more needs to be done. In our view, the report fails to present a picture of children's lives which children would themselves recognise.
- This undermines the value of the reporting process. Without an assessment of whether the measures taken have been effective in promoting children's rights, the UN Committee will not be able to assess progress and make meaningful recommendations. More importantly, it undermines the value of the process for Government, civil society, and children themselves.
- **The reporting process is not an end in itself, but part of a process of change - of identifying what more needs to be done for children, and moving towards improved outcomes for them. Having produced a report identifying where further action is needed to promote children's rights (as we recommend above), we would strongly urge the Government to set out its plans to improve children's rights in the report or an accompanying statement.**

2. GENERAL COMMENTS

Process

- We welcome this opportunity to comment on the Government's draft report to the UN Committee on the Rights of the Child. We are also pleased that the Department for Education has engaged civil society in the development of the report via a reference group. Civil society can play an important role in ensuring that the Government's report presents a picture of children's rights which children in the UK would recognise, and in maximising the value of the periodic reporting process to advance children's rights. It is important to recognise that both the report and the process of drawing it up represent a significant improvement on those seen during previous reporting processes.
- However, it is disappointing that only a short period of time for submitting responses to the report has been allowed. We are also disappointed that there has been limited involvement of children and young people in the development of report. Initial plans to engage children and young people in the process of developing the report were not implemented. In 2008, the UN Committee on the Rights of the Child called on the UK Government to:

...encourage the active and systematic involvement of civil society, including NGOs and associations of children, in the promotion and implementation of children's rights...as well as in the follow-up to the concluding observations of the Committee and the preparation of the next periodic report.²

Approach

- As stated above, the report needs to be more reflective and analytical, and have a narrative drawing out key conclusions. Other states have been criticised for failing to take an analytical approach in their periodic reports. More analysis could be achieved through the inclusion of key statistics and other evidence indicating the impact of measures taken throughout the report. The treaty-specific reporting guidelines state that the report should include specific data and statistics.³ In addition a separate data annex is required. All statistics and figures must be fully referenced. It is not clear, for example, where the figures on school councils on page 96 are from. Reference to reports from independent bodies such as the EHRC, the Children's Commissioner, the JCHR and ombudspople will be particularly important in indicating impact, given the lack of analysis on the part of Government in this report. Comments from these should be included to provide analysis on the impact of legislation, policies and practices.
- The report should describe changes affecting children from the last time the UN examined the UK (2008) up until the date of the current report. As currently drafted, it focuses very much on recent developments.

² UN Committee on the Rights of the Child (2008) *Concluding Observations: United Kingdom of Great Britain and Northern Ireland*

³ Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child *CRC/C/58/Rev.2 and Corr. 1*

- When there are important distinctions between different nations, it is important to highlight these, but the current approach makes the report disjointed, increases the length of the report and also undermines the extent to which it is possible to gain a good overall understanding of how children are doing in the UK.
- A more analytical and less descriptive report could reduce the length of the report. The Government's report is currently over 120 pages long. We note that according to the guidelines for reporting to the UN Committee on the Rights of the Child, reports should not exceed 60 pages.⁴ All Concluding Observations issued by the Committee state that State Parties will be asked to review and resubmit their reports if they exceed 60 pages:

The Committee draws attention to its harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2 and Corr. 1) and reminds the State party that future reports should be in compliance with the guidelines and not exceed 60 pages. In the event that a report exceeding the page limitations is submitted, the State party will be asked to review and eventually resubmit the report in accordance with the above-mentioned guidelines. The Committee reminds the State party that, if it is not in a position to review and resubmit the report, translation of the report for purposes of examination of the treaty body cannot be guaranteed.⁵

- Our final general comment relates to the need to analyse the cumulative impact on children of changes carried out in the name of austerity, which will have a **major impact** on children's rights across the board and must be addressed in the round. The report should include clear information on how levels of spending have changed (up/down) since 2008 and the impact of increasing or decreasing expenditure on the realisation of children's rights.
- The Government's report does not set out how it has taken into account the UN Committee's General Comments (as required by the treaty-specific guidelines on reporting under the Convention on the Rights of the Child)⁶. Since the publication of the treaty-specific guidelines in 2010, an additional five General Comments have been issued by the UN Committee on the Rights of the Child. The report should address how it has taken account into **all** of the UN Committee's General Comments.
- We recommend that every chapter should include a section on emerging issues.

⁴ Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child *CRC/C/58/Rev.2 and Corr. 1*

⁵ See for example: Concluding observations on the combined third and fourth periodic report of Canada, adopted by the Committee at its sixty-first session (17 September – 5 October 2012) , para 91

⁶ Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child *CRC/C/58/Rev.2 and Corr. 1*

Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child

'The treaty-specific report should contain all information relating to the implementation of the Convention, and its two Optional Protocols... The treaty specific report should be limited to 60 pages' [III. A. 11]

'The treaty-specific report should include... information of a more analytical nature on how laws, legal systems, jurisprudence, the institutional framework, policies and programmes impact on children...' [III. A, 13]

'...the treaty-specific report should include specific data and statistics, disaggregated according to age, sex and other relevant criteria, which are pertinent to the implementation of the provisions of the Convention...' [III. A, 14]

'The treaty-specific report should indicate progress and challenges in achieving full respect for the provisions of the Convention' [III. B. 17]

2. COMMENTS ON SPECIFIC CHAPTERS

GENERAL MEASURES

Comments on text:

- **(Para 8) Bill of Rights** - The report mentions a Bill of Rights but makes no mention of the context in which debates about a Bill of Rights have arisen, which are characterised by misunderstanding of and hostility towards human rights and repeated threats to, and attacks on, the Human Rights Act 1998. This is relevant to the future protection of children's rights.
- **(Para 9) CRC Incorporation** - With regard to incorporation of the UNCRC into domestic law, the Government's report states:

As a general principle, the State Party does not incorporate international treaties directly into domestic law. While the wording of many of the UNCRC Articles helpfully allows local flexibility and encourages progressive implementation, it does not provide the level of precision that would allow legislators to incorporate it directly within the UK legal framework.

- The Government's assertion that the UNCRC is not sufficiently precise to allow it to be incorporated into domestic law is inaccurate and damaging. Professor Elaine Sutherland has pointed out that *'[t]he dedicated experts from almost all nations who... devoted ten years to drafting the UN Convention had every intention that their work would lead to substantive rights for children and young people around the world'*.⁷ Incorporation of the UNCRC into domestic law is the explicit intention of the UN Committee:

⁷ Professor Elaine E Sutherland (October 2013) *Supplementary Written Evidence to The Education and Culture Committee of the Scottish Parliament in respect of The Children and Young People (Scotland) Bill: Incorporation of the United Nations Convention on the Rights of the Child*

*Incorporation should mean that the provisions of the Convention can be directly invoked before the courts and applied by national authorities and that the Convention can be directly invoked before the courts and applied by national authorities...*⁸

- The Committee has been clear that '*[F]or rights to have meaning, effective remedies must be available to redress violations. This requirement is implicit in the Convention*'. The best way of making the Convention rights justiciable is to incorporate them into domestic law. The UN Committee has repeatedly recommended that the United Kingdom should incorporate the Convention.⁹ The fact that many states have indeed incorporated the Convention illustrates that this is possible. In 2007, the UNICEF Innocenti Research Centre found that two-thirds of 52 countries studied had incorporated the Convention into domestic law.¹⁰
- The economic and social rights in the Convention do not render it imprecise or make it inappropriate for incorporation. Human rights provisions, which are designed to apply to many different situations and states, are necessarily broad and flexible. The courts are used to interpreting and applying these. Economic and social are intended to be enforceable. The Committee on the Rights of the Child '*believes that economic, social and cultural rights, as well as civil and political rights, should be regarded as justiciable*'.¹¹ General Comments of the Committee on the Rights of the Child and other Treaty Bodies, including the Committee on Economic Social and Cultural Rights have been clear that economic and social rights should be justiciable, and have elaborated the content and specific requirements of the more flexible provisions, so that the courts and others required to interpret them are able to apply them in practice. Other jurisdictions, such as South Africa, Ireland and India, have incorporated economic and social rights, and the courts have been able to apply these. Domestic studies carried out by bodies including the Joint Committee on Human Rights and Justice have set out models for their incorporation in the UK. This part of the Government's report is damaging because it propagates myths, and undermines understanding of the Convention, in contravention of the Government's obligation to promote awareness and understanding of its provisions. If the Government is unwilling to incorporate the Convention, we urge the Government not to explain its position - which is a policy decision - by suggesting that this is not possible.
- In relation to devolution, whilst we agree that devolution allows for differences in practice across the four nations, the UK Government is the State Party, so has ultimate responsibility for CRC implementation. This needs to be clearly acknowledged in the report. It would also be useful to have some analysis of the different approaches to children's rights and their corresponding impact on children in the devolved nations rather than just a description of actions taken in the four nations.

⁸ UN Committee on the Rights of the Child (2003) *General Comment No. 5: General Measures of Implementation of the Convention on the Rights of the Child*

⁹ UN Committee on the Rights of the Child (2002) *Concluding Observations: United Kingdom of Great Britain and Northern Ireland*; UN Committee on the Rights of the Child (2008) *Concluding Observations: United Kingdom of Great Britain and Northern Ireland*

¹⁰ UNICEF Innocenti Research Centre (2007) *Law Reform and Implementation of the Convention on the Rights of the Child*

¹¹ UN Committee on the Rights of the Child (2003) *General Comment No. 5: General Measures of Implementation of the Convention on the Rights of the Child*

- **(Paras 10-12)** The Government is right to draw attention to its very welcome commitment to have regard to children’s rights in developing laws and policies. However, the report should explain the mechanisms in place for ensuring that this commitment is complied with in practice, the methodology the Government applies in having regard to children’s rights, and any transparency measures which provide evidence of compliance with the duty. This is particularly important to reassure the Committee, civil society and children that the Government complies with the commitment in practice, given concerns that this is not the case.
- Whilst it is positive that there has been analysis of the Education Act 2011 and Children and Families Bill 2013, this does not indicate that the Government routinely complies with the 2010 commitment. Most legislation and policy impacts upon children’s rights and therefore should be analysed in light of the UNCRC – not just that which emanates from the Department for Education. Furthermore, other legislative proposals indicate that the Government has not complied with its commitment. Several major pieces of legislation such as the Health and Social Care Act 2012, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and the Immigration Bill, will have a significant impact on children’s rights and address issues raised in the Concluding Observations, yet there is no evidence that there has been any assessment of their impact on children’s rights. The Joint Committee on Human Rights (JCHR) recently expressed concern that the Government had not analysed the impact of the Anti-social Behaviour, Crime and Policing Bill, which is particularly concerning given the significant implications that provisions in the Bill are likely to have on children and young people.¹² The JCHR expressed doubt that mechanisms to ensure a ‘*systematic analysis of the impact of laws and policies on children’s rights is carried out are yet embedded across Whitehall*’ and called on Government:

...to reassure Parliament that in future it will conduct a thorough assessment of the impact of legislation on the rights of children under the UN Convention on the Rights of the Child before the legislation is introduced.

- A Freedom of Information request sent to 17 Government departments by CRAE in 2012 found that only the Department for Education had conducted any detailed analysis of its policies in relation to the UNCRC. Three departments stated that they did not hold the information requested, suggesting they do nothing to assess the compatibility of their policies with the UNCRC. Other departments gave inadequate responses indicating that systematic analysis had not taken place.
- **We have serious concerns that the Government is failing to ensure that policies and legislation are compliant with children’s rights. The Government should explain how it ensures a systematic analysis of its policies and legislation in line with the UNCRC. It should provide evidence that this is done and indicate the impact that its analysis has had. This should include evidence of any assessments of policies and legislation that have been conducted since 2008, not just evidence relating to the Education Act 2011 and Children and Families Bill. In the absence of any analysis, the Government must explain why systematic**

¹² Joint Committee on Human Rights (October 2013) *Legislative Scrutiny: Anti-social Behaviour, Crime and Policing Bill Fourth Report of Session 2013–14*

consideration across Government is not being given to the UNCRC when developing policies and legislation.

- **(Paras 21 - 24) UNCRC strategies and plans** - This section does not adequately respond to the call for a national strategy or action plan. We would dispute the idea that a CRC implementation/action plan is a *'bureaucratic process'* that must be avoided. Indeed, the Government does publish strategies and action plans in other areas. Unless all decisions affecting children are made at local level – which is obviously not the case – the desire for greater decision-making and autonomy at local level does not negate need for a central Government action plan for UNCRC implementation. There are some things that can only be done at national level e.g. changes to legislation, and some decisions that can only be made at national level e.g. budgetary allocations, which have major impact on children's rights – and which therefore require a national action and implementation plan, coordinated across Government. The State Party has ultimate responsibility for implementation, and it is simply not appropriate to rely on local authorities, especially as the requirement for local authorities to prepare Children and Young People's Plans has been removed. The lack of an action plan means that there is no coordinated action across England to ensure UNCRC implementation. The Government's report must be explicit that there has been no update on the *Working together: achieving more* or the *Priorities for Action* documents.
- **(Paras 28 - 29) UNCRC Coordination** - How often do Ministers and officials meet to discuss CRC implementation? How often have they met since 2008? The report says that each department is responsible for ensuring that their policies and legislation is CUNRC compliant. Is there a system in place for checking that this process has taken place or any publicly available evidence to show that this analysis has been conducted? The recent JCHR report on the Anti-social Behaviour, Crime and Policing Bill strongly indicates that this is not the case.¹³
- **(Paras 33 - 35) Resources for UNCRC implementation** - There is a lack of information about the impact of spending decisions on children, particularly with the localisation of spending and increasing lack of local government ring-fencing and we would call on the Government to rectify this. We note that the OCCE was able to publish an assessment of the impact of a range of spending decisions on children¹⁴, so it should be possible to ascertain the level and impact of expenditure on broader policies (see para 34). We disagree with point in relation to household spending – whilst it is the case that decisions made by individual households have an impact on how social protection measures impact upon children, these decisions will be made within the broader context of what benefits and support the household receives in the first instance. It would be useful to include specific figures here, rather than just vague statements such as *'levels of expenditure have remained the same'*.

¹³ Joint Committee on Human Rights (October 2013) *Legislative Scrutiny: Anti-social Behaviour, Crime and Policing Bill Fourth Report of Session 2013–14*

¹⁴ Office of the Children's Commissioner (June 2013) *A Child Rights Impact Assessment of Budget Decisions: including the 2013 Budget, and the Cumulative Impact of Tax-Benefit Reforms and Reductions in Spending on Public Services 2010 – 2015*

- **(Paras 36 - 37) Provision of international aid** - The UK Government is to be congratulated for increasing its ODA to 0.7%. This shows a substantial commitment to supporting communities and children around the world. However, whilst the UK Government does provide a significant amount of overseas aid which supports children, most of these focus on specific child focused interventions which consider children as a beneficiary – rather than an active partner in change. This results in children only being considered in programmes relating to health and education. This should be explained in the report. In order for ODA to fulfil the intention of the UNCRC, children should be considered under every area of ODA spending, including economic growth, conflict and stability and climate change. In addition, there is a need to have a strategy for spending on children, and to track the spending on children within ODA. The report should set out the Government’s response to this issue.
- **(Paras 38 - 39) Children’s Commissioner** - Whilst we warmly welcome the Government’s moves to strengthen the role and functions of the Office of the Children’s Commissioner for England (OCCE) and to give it a more right-based remit, the Office as currently mandated does not meet the standards for an NHRI - and even if Government proposals are passed – will still not meet these standards. The Government has so far disregarded calls to enhance the independence of the OCCE and to strengthen its powers and functions (which would bring it in line with the powers which an NHRI should have). The report should explain how and why the OCCE will not meet the standards of an NHRI. The reporting guidelines state that the report should indicate whether NHRIs can receive individual complaints for children. The report does not address this. In addition, where a State Party has ratified OPAC, the report should indicate *‘whether an NHRI is mandated to monitor military schools and the military, and if voluntary recruitment is permitted below the age of 18.’*¹⁵ This information is not included in the report.
- **(Paras 44 - 45) Dissemination, training and awareness raising** - The revised national curriculum does not now include explicit reference to the UNCRC. How will the Government monitor whether children are learning about their rights, and particularly the UNCRC? What mechanisms are in place to ensure that they do? How are teachers informed about the resources about the UNCRC that are available? Do you have any more information on the awareness raising delivered to officials and professionals working with children – numbers, which authorities, which roles?

What is missing?

- Access to justice is a central aspect of the general measures of implementation. The report should explain the impact of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and changes to judicial review and proposals to further reform legal aid and judicial review on access to justice for children. This should include an analysis of the impact upon children when their parents are denied access to justice.
- The reporting guidelines state that State Parties are requested to provide information on the impact of the activities of business corporations on children’s rights and to address how the Government has taken account of

¹⁵ Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child *CRC/C/58/Rev.2 and Corr. 1*

the UN Committee's general comments No. 2 (on the role of independent national human rights institutions in the promotion and protection of children's rights) and No. 5 (on general measures of implementation of the CRC).¹⁶ The report must set out how it has taken into account these General Comments and what action it has taken in relation to them. In addition, the UK's draft submission does not include any information on the challenges taken to respect, protect and fulfil children's rights in the context of the activities and operations of business – domestic and, where appropriate, transnational. The recently published General Comment No 16 makes it clear (in paragraph 86) that States should include such information.

- Changes within the DfE are not addressed in this chapter: the change in name from Department for Children, Schools and Families to Department for Education. An increased focus on schools rather than other children's issues, policy briefs moving to other departments (i.e. youth to the Cabinet Office), loss of DfE CRC coordination resource, removal of cross-departmental briefs on children in conflict with the law and refugee and asylum seeking children.
- The report must include further information on how the Government has disseminated information about the UNCRC and Concluding Observations since the last reporting cycle, as required by the UN Committee.¹⁷
- In relation to dissemination and awareness-raising - under the Health and Social Care Act 2012, the Government placed a duty on health services to promote the NHS constitution. The Department of Health has provided the Council for Disabled Children and National Children's Bureau with funding to work with children and young people to create materials to help children and young people understand and access their rights under the NHS Constitution. This would be a useful addition to the report.

GENERAL PRINCIPLES

Comments on text:

- **(Paras 3 - 4) Negative portrayal of children and young people** - We welcome the mention of *Positive for Youth* but the report must set out whether this policy and other initiatives have had any impact on the public and media images of young people. There have been several opportunities to address the negative images of children and young people in the media, and their rights to complain about inaccurate reporting, yet the Government's report makes no mention of the consultation on the Editors Code of Practice, the Leveson Inquiry or the Royal Charter. In relation to tackling the negative portrayal of children and young people, the Anti-social Behaviour, Crime and Policing Bill is likely to further stigmatise the behaviour of teenagers by widening the definition of anti-social behaviour and allowing cases relating to IPNAs and CBOs to be reported.
- **(Para 12) Protection from discrimination** - We are very concerned about the limited attention that is given in the Government's report to developments

¹⁶ Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child *CRC/C/58/Rev.2 and Corr. 1*

¹⁷ UN Committee on the Rights of the Child (2008) *Concluding Observations: United Kingdom of Great Britain and Northern Ireland*

relating to equality legislation since 2008. Despite the (very welcome) introduction of the Equality Act 2010, equality legislation and structures to promote equality and anti-discrimination have continued to come under threat, particularly since the coalition Government came into power in 2010. The report should include reference to the following:

- The deliberate exclusion of children and young people under the age of 18 from protection from unfair age discrimination in the Equality Act 2010
- The repeal of the socio-economic duty in the Equality Act 2010¹⁸
- The Red Tape Challenge – which included the Equality Act 2010 in its list of ‘*anything which imposes bureaucratic burdens*’¹⁹
- The review of the Public Sector Equality Duty (PSED) coming only a short time after the Duty came into force, without sufficient time being given for the PSED to be fully embedded in practice.
- The statement made by the Prime Minister in relation to “bureaucratic” equality impact assessments:

*Take the Equality Act. It's not a bad piece of legislation. But in government we have taken the letter of this law and gone way beyond it, with Equality Impact Assessments for every decision we make. Let me be very clear. I care about making sure that government policy never marginalises or discriminates. I care about making sure we treat people equally. But let's have the courage to say it, caring about these things does not have to mean churning out reams of bureaucratic nonsense. We have smart people in Whitehall who consider equalities issues while they're making the policy. We don't need all this extra tick-box stuff. So I can tell you today we are calling time on Equality Impact Assessments. You no longer have to do them if these issues have been properly considered.*²⁰

- The coalition Government prevented EHRC from publishing statutory code of practice on the PSED - in the OCCE's view, this statutory guidance would lead to ‘*the single biggest improvement*’ in implementation of the Equality Act 2010²¹
- Evidence from OCCE (in relation to exclusions) that schools are not clear on their duties in relation to equality law²²
- The raft of changes (both legislative and non-legislative) made to the power and functions of the EHRC, including budget cuts, an end to its grant making function, the closure of its helpline, a reduction in the frequency with which the Commission is required to report on progress on equalities and the repeal of the EHRC's duty to promote good relations between and within groups (sharing a protected characteristic), as well as the powers associated with that duty.

¹⁸ Announced by Theresa May in May 2012

¹⁹ See: <http://www.redtapechallenge.cabinetoffice.gov.uk/home/index/>

²⁰ See: <https://www.gov.uk/government/speeches/prime-ministers-speech-to-cbi>

²¹ Office of the Children's Commissioner (April 2013) *Office of the Children's Commissioner's Response to the Government's Equality Duty Review*

²² See: Office of the Children's Commissioner (March 2012) ‘*They never give up on you*’ Office of the Children's Commissioner *School Exclusions Inquiry, Final report* and Office of the Children's Commissioner (April 2013) *Office of the Children's Commissioner's Response to the Government's Equality Duty Review*

- **(Para 13)** The UN Committee lists a number of different groups of children who must benefit from anti-discrimination activities, in addition to Gypsy and Traveller children. What has been action has the Government taken in relation to these other groups specified in the Concluding Observation – migrant children, asylum-seeking and refugee children, lesbian, bisexual, gay and transgender children and children belonging to minority groups - since 2008, and what impact has this action had for these groups of children?
- **(Para 18) Best interests of the child** - This section of the report should describe changes to primary and secondary legislation which will subordinate the best interests of the child to other considerations, and in particular the provisions in the Immigration Bill. While there are many good proposals in the Children and Families Bill, the removal of the child's ethnicity from the checklist of issues to be considered prior to adoption will undermine consideration of the best interests of the child and the presumption that the involvement of both parents in a child's life is best for every child following separation will focus attention on the rights of adults away from the best interests of the individual child. This section should be written in a way that recognises that there are views held by commentators and practitioners that the provisions within the Bill may have unintended adverse outcomes for children.
- **(Paras 21 - 24) Right to life** - In relation to infant mortality rates (para 21), the first sentence relates to England and Wales and is referenced accordingly. The remaining figures in the paragraph have no sources. It is also unclear whether the trends that are being presented relate to England and Wales only, or to Scotland and Northern Ireland as well. The data in this section should be properly referenced. If the State Party is trying to show a UK wide figure, then data from Scotland and Northern Ireland should be presented.
- It would be useful to include data on the number of child death reviews between 2008 and 2013 disaggregated by relevant characteristics. This section should include disaggregated information in relation to disparity in infant mortality, child development and avoidable deaths and analyse the differences between different groups.
- **(Para 28) Use of Tasers** - This section should include up to date Taser statistics from 2008 to 2013. We also recommend that this section of the report include data on the use of ratchet handcuffs and escort chains in the juvenile justice system.
- **(Paras 30 – 35) Respect for the views of the child** - It is positive that so many developments relating to respect for the voice of the child are included here. But this mainly focuses on activities – what was done – rather than children's views on different measures and the impact of their involvement. It is essential that the participation of children and young people in decision-making is meaningful and effective. Does the Government have any evidence of feedback from children following their engagement in decision-making or impact of that involvement?
- We note that since 2008, many Government departments have established panels or advisory groups to support children's engagement in decision-making – many of these are not mentioned here. We recommend that the Government's report include information about:

1. Which panels or advisory groups have been established by Government since 2008 (either Departmental, or cross-Government)?
 2. Which children and young people's panels or advisory groups have received funding from Government since 2008
 3. The remit of these groups or panels?
 4. The age range of participants on these groups or panels
 5. The changes in policy and practice introduced as a result of children and young people's participation in these groups or panels
 6. Which groups are no longer functioning (2008 – 2013), and why?
 7. Which civil society organisations since 2008 have received funding from Government to coordinate/support children and young people's involvement in decision-making?
- We are also concerned that many of the developments listed in the report relate to the involvement of older young people in decision-making, often going up to the age of 25 years (and thus beyond the remit of the UNCRC), and many examples just say 'children and young people'. Does the Government have any examples that relate to the involvement of children under the age of 10? Can the report be more specific in this regard, and if not, please explain why young children are largely excluded from opportunities to express their views and influence Government policy and practice.

What is missing?

- The reporting guidelines state that State Parties are requested to address how the Government has taken account of the UN Committee's general comments No. 12 (on the right of the child to be heard) [and No. 11 (on indigenous children and their rights under the Convention)].²³ The report must set out how it has taken into account these General Comments and what action it has taken in relation to them.
- In relation to right to life - we suggest that this section of the report include information on, and analysis of, the three Outcomes Frameworks introduced following the introduction of the Health and Social Care Act 2012. These frameworks included indicators and placeholder indicators that measure children and young people's mortality. In 2013, a new indicator was introduced to the NHS Outcomes Framework of Potential Years of Life Lost from causes amenable to healthcare for children and young people aged 28 days to 20 years. We also note that in early 2013, the Government published *Better health outcomes for children and young people: Our Pledge* which included a commitment to reduce child mortality. Progress on this Pledge has now been included as an objective for the health system within the NHS Mandate for 2014/15. However, reduced funding from Government, the Office for National Statistics has proposed to cut the measurement of key data on child death from its portfolio.

²³ Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child *CRC/C/58/Rev.2 and Corr. 1*

- The report should include the numbers of deaths in custody since 2008, including ages and where they were locked up. The report should explain why there has still been no public inquiry into deaths of children in custody
- The report should include information on the fact that Serious Case Reviews (para 24) have demonstrated that children are frequently not listened to, and set out in detail the steps that Government is taking to address this.
- The report should include information on participation losses – the invite and consider duty²⁴ has not yet been implemented, children were not given right to appeal their own exclusions during the passage of the Education Act 2011 – despite the UN Committee’s recommendation to this effect, the reduction of *Working Together* guidance removes a dedicated section on ‘the child in focus’, the decision to stop the *Tellus Survey* – the only survey undertaken for Government which asked children about the extent to which their right to be heard is respected in school.

CIVIL AND POLITICAL RIGHTS

Comments on text:

- **(Para 5 - 6) Use of mosquito devices** - The Government report quotes from its own *Positive for Youth* strategy that it is for young people and those working on their behalf to ‘*challenge the discriminatory and inappropriate use of mosquito devices*’. We disagree. It should be for Government to regulate the use of devices that discriminate against babies, children and young people – not be left to children and young people themselves. We also dispute the comment in the report that there will be times when mosquito may be used legitimately – as there is no way of controlling their impact on babies (who cannot move themselves out of the way of the device), children and young people. We do not understand why is it not possible to find out how many of these devices exist. Why would it be ‘*difficult and burdensome*’ to administer and monitor their sale and use? We assume that a device that targeted any other (protected) characteristic would be robustly monitored, if not banned. The report should explain why it is not possible to find out how many devices exist, or where they are located. The report should include data on where mosquito devices are used on public buildings and in public spaces, and on the sales of such devices.
- **(Para 8) Protection of privacy** - We welcome the inclusion of positive developments for children’s privacy rights in the report. However, the report should also state that the CCTV code of practice does not cover many public bodies, including schools.²⁵ We also urge the Government to include information about the extended search powers that were granted to teachers under the Education Act 2011.
- **(Paras 9 -11) Children in the media** - We note that although the Government consulted on the rules regulating child performances, this failed to address the Committee’s recommendation - and started from the premise that the existing regulations were too prescriptive. The report should provide an update on this consultation.

²⁴ Section 157 of the Education and Skills Act 2008 introduced new Section 29B of the Education Act 2002

²⁵ Protection of Freedoms Act 2012, s33

- **(Paras 13 - 16) Cruel, inhuman or degrading treatment** - The section in relation to restraint in custody should set out the purposes for which restraint can be used. The section relating to the new system of restraint (MMPR) must explicitly state that the new system included a new technique for painful restraint. This section should include data on the numbers of restraints per child in the estate between 2008 and 2013 and the extent of resulting injuries. The report should explain why the numbers of restraint are increasing yet numbers of children in custody are decreasing. The report should analyse the efficacy of systems for monitoring restraint in custody.
- The *Statutory framework for fostering services* (referred to in para 15) is not referenced and does not appear to be available on the Department for Education website. The report should set out the purposes for which restraint can be used against children. The report should include reference to the requirement under Regulation 35 of the Fostering Services (England) Regulations for reports of certain incidents to be made by the 'registered person', including use of force against a child being fostered. The Government should state whether these statistics have been made available so that an assessment can be made as to whether the use of force is reducing or increasing. The Government's report should also state whether Inspectors are making use of these reports in order to determine whether the use of force is proportionate, justifiable and in accordance with the service provider written policy.
- In relation to the use of force in children's homes, the report should include data on the use of restraint in these settings. The Government should state whether inspections of children's homes include opportunities for inspectors to gather the views of children and young people on the use of restraint, and whether inspectors examine the records of restraint to see if the use of force is proportionate, justifiable and in accordance with the account of the child or young person.
- **(Paras 18 - 19) Corporal punishment** - The report should state which schools in England are not covered by laws banning corporal punishment and why. The report should explain why the Singleton report was never taken forward, so ongoing gaps in relation to corporal punishment in unregistered settings and part-time education remain.
- **(Paras 21 - 23) Child sexual exploitation** - In relation to the pilots referred to in para 22, they are not confined to sex abuse cases. We recommend that the paragraph be amended as follows *'New arrangements to allow vulnerable witnesses, including all children, to be cross-examined on their evidence in advance of the trial, reducing delay and stress, with a view to improving the quality of their evidence'*. **See special measures of protection for further comments on this topic.**
- **(Para 28)** This section should include data on the number of prosecutions under FGM legislation, and set out what action is being taken by Government to increase prosecutions.
- **(Para 29) Child victims** – It is important to acknowledge that witnesses will still be required to go through their evidence in detail, albeit away from the

court room. The primary benefit of this measure is that it will reduce delay as in many cases there may be a delay of one-two years before a case comes to trial. This can have a detrimental impact on the witnesses ability to recall the experience, and also limits the extent to which they can focus on recovery from the experience. The report should analyse the extent to which special measures available for children involved in court proceedings are implemented in practice.

- We welcome the inclusion of an emerging issues section in this chapter. This section should also include information on child abuse images. We would also like to see a specific section on cyber bullying (currently just mentioned in para 36). ChildLine data for one year shows: 87% increase in contacts about cyber bullying and 65% increase in contacts about online abuse.
- **(Para 34 – 35) Commercialisation and sexualisation of children** - The Government's response to the recommendations are weak in relation to advertising on children.
- **(Para 36 - 38) Risks associated with children's increases use of social media** - This section should address the following:
 - Risks to children of social media
 - Lack of impact of self-regulation
 - Underage users being at risk
 - Unregulated sites (such as chatroulette)
 - The need for comprehensive education and building digital judgement
 - The need to build parent's confidence
 - Data from EU kids online, inform, NSPCC research on SNS.
- **(Para 37)** Much of the information in this paragraph relates to children's access to inappropriate adult content, rather than the risks associated with social media. We suggest this topic is in a separate section.

What is missing?

- The reporting guidelines state that State Parties are requested to address how the Government has taken account of the UN Committee's general comment No. 8 (on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment).²⁶ The report must set out how it has taken into account this General Comment and what action it has taken in relation to it.
- The reporting guidelines state that State Parties are requested to address matters relating to birth registration.²⁷ In relation to this, we suggest that the Government report refer to the recent developments in this matter - the All Party Parliamentary Sure Start Group highlighted the benefits of registering births in children's centres, including the engagement of parents, especially

²⁶ Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child *CRC/C/58/Rev.2 and Corr. 1*

²⁷ Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child *CRC/C/58/Rev.2 and Corr. 1*

“hard to reach” parents.²⁸ An amendment was proposed to the Children and Families Bill seeking to commission an independent study and pilot scheme to trial the registration of births at children’s centres.²⁹ The Government stated that it considers the choice of approach ‘*is best left to local discretion*’.³⁰ However, recognising the need to ‘*raise awareness of the existing opportunity for local authorities to use children’s centres in that way, the resulting benefits that may accrue, and what some of the barriers and obstacles to overcome would be*’, the Government confirmed it is ‘*happy to consider further how that can be best achieved.*’ What is the outcome of the Government’s consideration?

- The report should include information on, and analysis of the likely impact on children and young people of the Snowden revelations.
- The report should include information on the regulation and extent of the use of force in immigration settings and mental health settings.
- The report should include reference to the Terrorism Act which leaves children vulnerable to arbitrary and intrusive stop and search.
- The report does not explicitly address the recommendations in the UN Study on Violence against children. The Government’s report must detail what specific actions have been taken in relation to the recommendations in the report.

FAMILY ENVIRONMENT AND ALTERNATIVE CARE

Comments on text:

- **(Paras 3 - 10) Parenting support** - This section should analyse the impact of on children of rising cost of living, low wages, cuts to welfare benefits, tax changes, and changes to spending on public services. In addition, it would be useful to include figures on rising costs needed for decent childhood between 2008 and 2013, compared to rises between 2008 and 2013 in: minimum wage, average earnings, tax credits and benefits.³¹
- This section should note the high costs of child care and include information about the costs of child care in relation to incomes. We note that there have been questions about the impact of childcare support available within Universal Credit on low-income families. The Children’s Society has presented evidence that the measures included within Universal Credit will have a negative impact, with families on the lowest incomes losing support with child care costs.³²
- This section should include information on the actual and projected impact of Government spending decisions on vulnerable children and support for family services. There is a significant body of evidence to suggest that services

²⁸ All Party Parliamentary Sure Start Group (2013) *Best Practice for a Sure Start: The Way Forward for Children’s Centres*

²⁹ Children and Families Bill, new clause 56

³⁰ HC, 25 April 2013, c. 770

³¹ See Hirsch, D (August 2013) *The Cost of a Child in 2013*

³² The Children’s Society (April 2013) *Universal credit - The Children’s Society key concerns*

aimed at supporting families being cut, or at the very least experiencing decrease in funding.³³

- This section should include information on the changes to the support available to families in crisis – such as Social Fund, Crisis Loans and Community Care Grants. The report should be clear what changes have occurred to each scheme. Evidence from The Children’s Society suggests that the transfer of these schemes to local authorities, the lack of ring-fencing and changes to qualifying criteria will have a negative impact on those seeking support.³⁴
- This section should include information on the 15 hours free education entitlement for disadvantaged two-year olds. This section must also include information on the way in which the Government will be ensuring that disabled children are able to access the two-year old free entitlement, and confirm what action has been taken to ensure this entitlement will be proactively offered to disabled two- year olds and those with SEN as proposed in the consultation on the 2014 roll out. Specific concerns were raised during this consultation about the proposed use of DLA and early years statements as the proxy by which to identify disabled children for the purposes of this funding. We would value the inclusion of evidence of action taken to address this. We would also value evidence on action taken to assess the impact of changes introduced through Universal Credit on families with disabled children, particularly with regards to childcare and disability additions.
- In relation to Sure Start Children’s Centres, the report must acknowledge the role that the Government has in ensuring that local authorities are able to keep children’s centres open and able to fulfilled their core purpose. It should set out an analysis of the impact of changes to early intervention funding, including top-slicing, a lack of ring-fencing, and extra pressure caused by funding free education for disadvantaged two year-olds.
- This section of the report should include information on plans to change the system of maternity and paternity leave to a system of shared parental leave and statutory shared parental pay.
- **(Para 18) Family law** - The report should acknowledge concerns about the extent to which the Government’s plan to introduce a presumption on shared parenting will be in the best interests of the child, and that it will undermine this principle of the best interests of the child.
- **(Paras 22 - 23) Placing children in care** - The impact of unprecedented budget cuts should be included, particularly in light of the increasing number of children in care. Local authority children’s services have undergone significant reductions and change. Non-statutory services, such as early intervention and family support have been cut. Access to support services, such as drug and alcohol services for parents and CAMHS for children, have been reduced. Action for Children’s *Red Book 2013*, tracks the impact of

³³ See for example: Action for Children *The Red Book 2012, 2013* and Reed, H. (June 2012) *In the eye of the storm: Britain’s forgotten children and families*, Action for Children, The Children’s Society and NSPCC

³⁴ Royston, S. and Rodrigues, L. (July 2013) *Nowhere to turn? Changes to Emergency Support*. The Children’s Society

Government spending decisions on vulnerable families. It finds that 83% of children's centre managers reported cuts to their budgets, and an increase in need and referrals and that 47% of services have seen increases in referrals. The *Red Book* also analyses the external data, finding that '*Local authority spending on prevention has reduced in the last three financial years, amounting to £18.7 billion in 2009/10, £18.8 billion in 2010/11, and then £17.1 billion in 2011/12. This represents a fall in preventative spending, in cash terms, of some 9.2 per cent.*

- Government changes to frameworks for children in care are not significant enough to bring about the necessary improvements for these children. The Government should set out what sanctions should apply to local authorities if they fail to meet these obligations
- It should be noted that funding for the development of the Family Drug and Alcohol Court is not widespread.
- **(Paras 27- 33) Strengthening the voice of the child** - We welcome the inclusion of positive measures in relation to the views of children in care, however we are disappointed that this section does not address the recommendations of the UN Committee in relation to children in the secure estate. The report must set out what measures have been taken between 2008 and 2013 to ensure that the views of children are taken into account and that children are provided with accessible complaints mechanisms in the youth justice system and secure estate and the effectiveness of these.
- The report should set out the impact of Government measures in this area, including how they have affected children. We recommend that the Government's report include the following information in relation to the views of looked after children:
 - The numbers of Children in Care councils and numbers of local authorities that do not have them in place (rather than saying '*all but a few do now*')
 - Have Children in Care councils been an effective means of supporting children in care to express their views? Is there any evidence of positive changes that have come about as a result of establishing Children in Care councils?
 - Data on children's involvement in their care planning between 2008 and 2013
 - Figures in relation to statutory reviews and children's involvement in these reviews between 2008 and 2013
 - The developments that have taken place between 2008 and 2013 in relation to complaints mechanisms.
- The Government report should also include the extent to which the feedback of children and young people has played a role in inspections and quality monitoring. We note that a recent report into residential care presents evidence that the feedback of children and young people does not always play an important role in quality monitoring: of the children and young people surveyed, '*30% said no one asked them whether their placement was still right for them once they had been placed and 40% said they had never been asked to help with work to improve children's homes.*'³⁵

³⁵ OPM (July 2013) '*Action research into the more effective strategic commissioning of children's residential care homes*', *Final report to the Local Government Association*.

- The report should include information related to the voice of children leaving care as well as the importance of the voice of the child in protecting children outside the care system. The case of Daniel Pelka, for example, draws attention to the need for services including schools to actively consult and engage with children especially when there are concerns about their welfare. For further information, see the NSPCC's report *No One Noticed, No One Heard*.
- The report should include information on how many children have access to CAFCASS Special Guardians.
- **(Para 35) Children with parents in prison** - We are concerned that this section is extremely brief and does not make any reference to the UN Committee's recommendation that the Government ensure support to children with one or more parents in prison to maintain contact and to prevent discrimination and stigmatisation.³⁶ According to the treaty - specific reporting guidelines, this chapter should address separation from parents.³⁷ Even if it is the case that the majority of children with a parent in prison will not be looked after, it is the case that these children need support to maintain contact with their parent(s) and to deal with the impact of parental imprisonment on their lives. The report must set out the actions that have been taken by the Government in relation to supporting children with parents in prison and the impact of these. It should include data on the numbers of children with parents in prison and the distance that parents are imprisoned from their children and the extent of contact.
- **(Para 36) Children with disabilities in long-term care** - This paragraph does not address the UN Committee's recommendation to assess why so many children with disabilities are in long-term institutional care and review their care and treatment in these settings. The report should explain what action has been undertaken in relation to this Concluding Observation. The report should include data on the numbers of disabled children and young people between 2008 and 2013 who have looked after status, disaggregated by the type of care (foster, residential care, adoption, long-term institutional care) and the reason they are looked after. The disabled children's sector has raised concerns that the revised *Working Together* safeguarding guidance does not effectively address the needs of disabled children, and prioritises those at risk of abuse or neglect. For this reason, it is important that the State Party report spells out the Government's approach to addressing this critical aspect of social care support for children in England, and provides evidence of the way in which it has responded to the request of the UN Committee. The Committee's request was that the Government analyse why so many disabled children are in long term care – therefore the Government should causal analysis as well as data on numbers, etc.
- **(Para 37) Contact proceedings** - We are surprised at the lack of detail in this section. The report does not mention, for example, any of the measures proposed in the Children and Families Bill with regard to contact; the extent of

³⁶ UN Committee on the Rights of the Child (2008) *Concluding Observations: United Kingdom of Great Britain and Northern Ireland*

³⁷ Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child *CRC/C/58/Rev.2 and Corr. 1*

contact in practice; the 2013 report by the Select Committee on Adoption Legislation³⁸ which noted that practice in relation to post adoption contact with birth family varies considerably.

- **(Paras 39 - 40) Monitoring the status of children** - The report does not mention the concerns that have been expressed in relation to the effectiveness of IROs, or any measures that have been taken in relation to improving their effectiveness. The report should include further information relating to the case loads of IROs and developments that have taken place into addressing problems with high case loads. An Ofsted report has called for local authorities to make sure IROs have the necessary skills, training, knowledge and time to undertake all elements of their role effectively, having concluded there is '*considerable scope for improvement*'.³⁹ The Select Committee on Adoption Legislation's heard the views of children in care and adopted children on the relevance and effectiveness of IROs.⁴⁰ In one group, only four out of 15 children felt that their IRO had been helpful. The Select Committee expressed concern that excessive workloads currently prevent IROs from carrying out their statutory duties to promote the best interests of the child, and recommended the number of cases handled by IROs should be monitored more robustly by IRO managers, and action taken, where appropriate, to reduce workloads.⁴¹ The Select Committee also recommended, in light of widespread concerns in the evidence regarding the independence of IROs, that the Government should implement Section 11 of the Children and Young Persons Act 2008 which would establish an IRO service which is independent of the local authority.
- It would be useful to include data here on the numbers of looked after children disaggregated by placement type, on the numbers of reviews carried out, and on children's involvement in these reviews. The report should refer to the numbers of children in informal kinship care. See, for example, [The Poor Relations?](#) by the University of Bristol.
- This section of the report should include more information on Ofsted's inspection findings of arrangement for looked after children and on the new inspection regime.
- The report should include information in relation to the extent of the problem of children going missing from care, the action which is being taken in relation to children going missing from care and the impact of this. We note that official statistics on children missing from care are likely to be an underestimate.⁴² The Ofsted report *Missing Children* highlights that there is little or no reliable data on missing children, including numbers, characteristics and trends.⁴³ The report should include information on ACPO missing persons guidance which has created a 'absent' category which will include children in

³⁸ Select Committee on Adoption Legislation (March 2013) *Second Report of Session 2012–13 Adoption: Post-Legislative Scrutiny Report*

³⁹ Ofsted (June 2013) *Independent reviewing officers: taking up the challenge?*

⁴⁰ Select Committee on Adoption Legislation (March 2013) *Second Report of Session 2012–13 Adoption: Post-Legislative Scrutiny Report*

⁴¹ Select Committee on Adoption Legislation (March 2013) *Second Report of Session 2012–13 Adoption: Post-Legislative Scrutiny Report*

⁴² Department for Education (September 2013) *Children Looked After in England (Including Adoption and Care Leavers) Year Ending 31 March 2013*

⁴³ Ofsted (February 2013) *Missing Children*

care and will result in there being no investigation of children who are looked after who go missing repeatedly from care.

- **(Paras 41 - 52) Improving outcomes of children in care** - This section of the report is very descriptive, and only includes very recent developments. It does not include information about any measures introduced before 2010. The report should include some analysis of the impact of Government measures on the outcomes of children in care, in relation to education, health, wellbeing, etc. The report should include data on outcomes for children in care and track these over time - 2008 – 2013 - not just data from 2012.
- Reform of provision in children's homes must be seen as part of wide scale reform of the care system. Residential care is the appropriate and best option for some children and should not be considered a 'last resort'.
- The report should refer to the evidence of social workers making better, more informed decisions since the reduced framework for looked after children has been introduced (para 47).
- Given Government cuts, the report should provide data on real funding increases/decreases for support for care leavers (para 52).
- **(Paras 55 - 58) Adoption** - The report should include official statistics on the speed of adoption from 2008 to 2013.
- The report should note what action has been taken to ensure that the cases of all children in the care system (not just adoption) are not subject to unnecessary delays. It should also note the support available to non-adoptive carers such as foster carers and kinship carers, as well as the children in their care.
- **(Paras 62 - 66) Violence, abuse and neglect** - These paragraphs do not directly address any of the UN Committee's recommendations. The report should set out how the Munro review will address the concerns of the UN Committee. Where changes have already been implemented information should be provided on the impact of these developments. The revision of the *Working Together* guidance is a significant development, yet the report includes very little information on why the decision was taken to revise it, or what the guidance now includes. The report should set out further information on the revised guidance – what has been removed from the guidance and why? How will the revised guidance better enable the Government to meet the UN recommendations and the requirements of the CRC?
- **(Para 69) Monitoring cases of violence, abuse and neglect** - Data continues to be dispersed across child protection statistics, serious crime review publications, criminal statistics, and the British Crime Survey. It is not clear to what extent the new, nationally collected data due to be published in 2014 that is referred to in the Government's report will adequately address the recommendation of the UN Committee to monitor cases and the extent to which children are subject to violence, sexual abuse, neglect, maltreatment or exploitation in different settings.

- The report must make clear that the children’s safeguarding performance information framework is for England and is not UK-wide. References to the sources included in this paragraph should be provided in footnotes.
- **(Paras 70 - 72) Training and development for professionals** – The report should provide references to sources included in this section.
- The report should clarify which initiatives in paragraphs 71 and 72 are England-wide rather than UK-wide.

What is missing?

- The reporting guidelines state that State Parties are requested to address how the Government has taken account of the UN Committee’s general comment No. 7 (on implementing child rights in early childhood).⁴⁴ The report must set out how it has taken into account this General Comment and what action it has taken in relation to it. The guidelines also draw attention to the Guidelines for the Alternative Care of Children. The report should set out what action it has taken in relation to these guidelines.
- The report does not address the UN Committee’s recommendation to ‘*avoid having children taken into alternative care as a result of low parental income*’.⁴⁵
- The report does not mention the loss of ring-fencing of early intervention budget (see comments on paras 3-18).
- The report does not refer to developments resulting from Winterbourne View Hospital scandal in relation to disabled children and young people in long term institutional care.
- The report does not mention the Government’s focus on/preference for adoption over fostering, care homes and kinship carers.
- There is no mention of any specific actions that have been taken in relation to support for children with parents in prison such as women and baby units in prisons, support for young fathers in prisons (see comments on para 35).
- The report does not acknowledge that there is no consistent national approach to supporting young victims of child sexual exploitation throughout the process, from point of disclosure through to Court.⁴⁶ The report should include information in relation to prosecutions for sexual assault against children and developments in relation to taking child victims seriously.
- Explicit information should be included in the report on cuts to funding for refuges and sexual abuse services. There should be data on levels of funding for these services from 2008 and 2013.

⁴⁴ Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child *CRC/C/58/Rev.2 and Corr. 1*

⁴⁵ UN Committee on the Rights of the Child (2008) *Concluding Observations: United Kingdom of Great Britain and Northern Ireland*

⁴⁶ House Of Commons Home Affairs Committee (June 2013) *Child Sexual Exploitation and The Response To Localised Grooming*

- In relation to care leavers, the report should include information on the extent to which care leavers are actually in receipt of their entitlements. See, for example, the evidence from the APPG on Children in Care Entitlements Inquiry. The report should also include data on levels of spending at local authority level on leaving care service and numbers of care leavers classified as NEET between 2008 and 2013.
- The report does not address the penalisation of lone parents in relation to child care (see comments in relation to child care reforms/Universal Credit)
- The report does not address developments resulting from Saville and related inquiries/court cases.
- There is insufficient information on neglect. The report should highlight statistics from the NSPCC Prevalence Study (*How safe are our children?*) showing that levels of severe neglect are higher than contact sexual abuse and severe physical abuse. Levels of neglect have remained stubbornly high over the past decade.
- The report should refer to concerns that the definition of neglect is currently not fit for purpose.

BASIC HEALTH AND WELFARE

Comments on text:

- **(Paras 3 - 5) Legislative protection – children with disabilities** - Whilst it is positive that the Children and Families Bill seeks to reform the current statements system with a single assessment and plan to meet a child's education, health and care needs, serious concerns have been raised that the reforms undermine disabled children's rights by making the education system even less inclusive than currently, by excluding large groups of disabled children from the system and by setting up weak and complex accountability mechanisms.
- The report does not acknowledge concerns that the right of children with SEN to be admitted to a mainstream nursery or school will be weakened by the provisions in the Children and Families Bill.⁴⁷ The "presumption of inclusion" (according to which children with SEN have the right to attend a mainstream institution unless it would damage the efficient education of others) will no longer apply to nurseries, undermining the inclusion rights of younger children. Changes will also affect children with SEN but without a statement. Currently, they must be educated in a mainstream school. Under the Bill, the same children will have a right to a mainstream education unless admitted to a Special Academy – and Special Academies will be able to admit children outside of the SEN legal framework. The revised Code of Practice on the Bill also fails to reflect the children's right to inclusivity, leading to concerns that institutions will increasingly rely on provisions which allow them to turn down children with SEN on the basis of the "efficient education of other pupils". The Bill does not go far enough in tackling some of the most entrenched and severe problems affecting a child's right to an inclusive education, such as

⁴⁷ Alliance for Inclusive Education (July 2013) *Children and Families Bill Second Reading Debate Briefing, House of Lords*

discriminatory exclusions. The British Medical Association (BMA) has expressed concerns that the *'disproportionate exclusion of pupils with SEN is likely to be unaffected by the Children and Families Bill'*.⁴⁸ Research and surveys undertaken by Contact a Family from 2012-13 indicate that unlawful exclusions of children with SEND remain commonplace.⁴⁹ Though the SEN Green paper proposed that schools should be required to perform multi-agency assessments prior to exclusion, this proposal was not adopted in the Bill.

- We also note that large groups of disabled children and children with SEN are excluded from the new system – the Government's report does not acknowledge this. The reforms in the Children and Families Bill will only affect disabled children who have SEN. This means that the 25% of disabled children with no SEN will be excluded from the positive aspects of the reforms, such as a single education, health and care plan to address the full range of a child's support needs. The Children and Families Bill expressly excludes children and young people in custody from reforms to the SEN system.⁵⁰
- **(Para 7 - 8) Health Services** - This section represents a step backwards towards a medical model of disability, as it does not reference any activity with regards to improving support to enable children with long-term conditions to lead ordinary lives.
- **(Paras 9 - 13) Early identification programmes** - The report should explain the extent of cuts to early intervention funding (e.g. in January 2013, it was announced that the £150 million top slice of the Grant was to fund the Adoption Reform Grant., following cuts the previous year), the fact that the funding is no longer ring-fenced and additional pressures on this funding as a result of free education for disadvantaged two year-olds.⁵¹ According to The Children's Society, *'[t]he total value of the Early Intervention Grant when it was introduced was around £3 billion in today's prices. By 2015 however, the value of the grant will have been nearly halved to around £1.5 billion.'*⁵²
- It is not clear why the report includes information on the programme of work relating to school nurses and young carers in this section. If there is a strand of work that specifically works with young carers who have disabled siblings, or who are disabled themselves, this should be referenced – otherwise this has no relevance to policy for disabled children.
- **(Paras 15 - 17) Training for professionals** - This section only refers to health professionals, but should refer to other professionals working with disabled children. In relation to training of professional, we note that the British Medical Association has expressed concerns that certain professionals working with disabled children may lack training and support from specialist services. It states that, *'the responsibility for early identification and initial management of difficulties falls to professionals at the primary level,'* for example, nursery staff. It also finds the lack of child development in the

⁴⁸ British Medical Association Board of Science (May 2013) *Growing Up in The UK: Ensuring a Healthy Future for Our Children* (page 117)

⁴⁹ Contact A Family (February 2013) *Falling through the Net: Illegal Exclusions, the Experiences of Families with Disabled Children in England and Wales*

⁵⁰ Children and Families Bill (HL Bill 32), c. 70

⁵¹ Department for Education (January 2013) *Last chance for Local authorities to Attract More Adopters*

⁵² The Children's Society (2013) *Breaking barriers: How to Help Children's Centres Reach Disadvantaged Families*

curriculum of teacher training courses to be '*surprising*', and suggests that '*there is a strong argument for a review of child development content in the curriculums of all professionals working with children*', given the '*advantages of early identification and intervention in childhood disability*'.⁵³

- It is not clear from the information currently in the report whether the training mentioned includes specific information on the rights of disabled children and young people (as enshrined in the CRC and CRPD). Can the Government provide more specific information on the content of the training referred to in the report?
- **(Para 20) Strategy for inclusion of disabled children** - The Government has not developed a strategy for the inclusion of disabled children and young people in society, as required by the UN Committee.⁵⁴ The report should say so. The report focuses here on the inclusion of children in mainstream education, but this is not a strategy for the inclusion of children in society. It is very striking that the section merely notes the current status quo with regards to the inclusion of disabled children within mainstream educational settings. There is no reference to inclusion for disabled children within society and their community, or within other universal services such as play, leisure, housing, health, etc. The Government should rectify this.
- The report states that the 'vast majority' of disabled children are taught in mainstream schools. It should provide statistics. There has been a general move by Government to 'reverse the bias towards inclusion' in education, particularly evidenced in the Children and Families Bill. Disability organisations have strongly criticised this change in policy throughout the passing of this Bill through Parliament. The report should set out an explanation as to how the Government sees its approach as fitting with the UK's obligations under the UNCRC and CRPD. This section of the report should include information on the specific measures that have been taken around developing teachers' knowledge to support them to meet the needs of children in mainstream settings.
- There is an absence of information in the report as to what the Government is doing to raise awareness on disabled children's rights. If the Government is doing nothing to raise awareness, the report should say so. Whilst the Children and Families Bill may in the future increase the rights of disabled children who have special educational needs, it does not in itself raise awareness of those rights. More information about particular programmes or projects raising awareness of the rights and special needs of disabled children funded by the Government should be included here.
- **(Para 24) Convention on the Rights of Persons with Disabilities** - We welcome the Government's ratification of the CRPD, although are disappointed that it continues to maintain reservations. We have serious concerns that the reservation and interpretive declaration on article 24 of the CRPD potentially undermine not only the principles of the CRPD but also the UNCRC regarding inclusion in general.

⁵³ British Medical Association Board of Science (May 2013) *Growing Up in The UK: Ensuring a Healthy Future for Our Children*

⁵⁴ UN Committee on the Rights of the Child (2008) *Concluding Observations: United Kingdom of Great Britain and Northern Ireland*

- It is not currently clear from the Government report what specific actions have been taken as a result of the ratification of the CRPD. For both the CRC and CRPD the report needs to demonstrate what the Government is doing to support children and young people to defend their rights under the conventions and how children will have access to the UN reporting systems.
- **(Paras 25 - 27) Health and health inequalities** - This section is very light on information – which is surprising given the huge amount of attention that has been given to the deep and persistent health inequalities in the UK, and their links to poverty, in recent years. As currently drafted, this section feels like a descriptive list of actions with few statistics and no analysis of impact that current programmes and interventions are having on reducing health inequalities. The report does not address the Marmot review and associated work being undertaken by the Institute of Health Equity, nor does it refer to the recent report by the Chief Medical Officer on child health. Whilst the report refers to the Inclusion Health programme in addressing the health needs of vulnerable and excluded groups, it does not mention the current proposals to in the Immigration Bill to put in place discriminatory barriers to accessing health services.⁵⁵
- We note that the figure of 4,200 extra health visitors is a target and not something that has already been delivered. *The National Health Visitor Plan: progress to date and implementation 2013 onwards* states that as of February 2013 there has been an increase of 1,021 from the baseline.
- In relation to improvements to CAHMS services, we call on the Government to clarify the wording. Does the report mean that CAMHS services will now be available to 60% of young people under 19? Or that 60% of young people are accessing these services? Can this text be clarified?
- **(Para 33) Young people’s involvement in health services** - The draft report says that the Friends and Family Test will be extended to cover children’s services. The report should refer to a public announcement by the Department of Health or NHS England confirming this.
- It is unclear from the report which policy “a national children’s survey” refers to. The NHS Outcomes Framework states that an “indicator on children and young people’s experience of healthcare”, will be developed. The report should be clear if this is what is being referred to here. It is concerning that the text in the report suggests that the survey will only capture children and young people’s experiences of health care “in an identified area” as much more work is needed to address the deficit of reflection of children and young people’s experiences in the NHS Outcomes Framework. The Children and Young People’s Health Outcomes Forum recommended that children and young people’s views be incorporated into existing national patient surveys in all care settings – primary care, community health care, acute/in-patients, neonatal units and outpatients. It would be useful to set out what progress has been made to date on taking forward this recommendation.
- On a positive note, the NHS patient participation guidance⁵⁶ published earlier this year clearly states that “*Children and young people have a right to have*

⁵⁵ Immigration Bill, cc. 33 and 34

⁵⁶ NHS England (September 2013) *Transforming participation in health and care 'The NHS belongs to us all'*

their views taken into account on all issues that affect them” and that “participation activities must take into account barriers associated with language, age, access to information, disability etc. Great participation reaches people who find it more difficult to get their views heard.” This is a concrete step that should be included in the report.

- **(Para 34) Mental health** - We note that there have been several calls for better data collection around mental health. The National Children’s Bureau and the Council for Disabled Children said that NHS England should consider making this a priority area, as the majority of the indicators that relate to improving mental health services and outcomes currently only apply to patients and the public who are over either 16 or 18. The Chief Medical Officer has suggested that the British Children and Adolescent mental Health Survey should be repeated, to provide more up to date information and help the planning of health care services.⁵⁷ In relation to mental health we note that since 2008, there has been a significant amount of evidence of a lack of age appropriate mental health services for young people and of the gaps between children’s mental health services (which may finish at 16 or 17) and adult services. The report should include data on local authority budgets for CAHMS between 2008 and 2013. Young Minds found that 34 out of 51 local authorities in England had reduced their CAMHS budget since 2010. Derby City Council reported a 41% cut since 2010.⁵⁸ A consultation on refreshing the NHS Mandate suggested the development of access standards for mental health services. If the final refreshed mandate is published in time **and** makes clear that these standards apply to children and young people this would be a relevant action to report.
- The report should also address what is being done to provide support to children from disadvantaged groups who may be more likely to experience mental health problems, for example: the Care Inquiry report points out that the majority of looked after children and those returning from care have high levels of need requiring long-term support. They recommend access to services including counselling, family therapy, mediation, advocacy, and mental health services - responsive to the circumstances of the individual child and which are available beyond childhood and into adulthood.⁵⁹
- **(Paras 36 - 37) Health services in the secure estate** - The report should make some assessment of the quality of health services in the secure estate.
- **(Paras 39 - 40) Breastfeeding** -The International Code of Marketing of Breastmilk Substitutes has not yet been fully implemented, as called for by the UN Committee in 2008.⁶⁰ The Government’s report makes no reference to the Code nor does it set out any plans to fully implement it in the future. We note that a recent report coordinated by Baby Milk Action on behalf of The Baby Feeding Law Group outlines ways in which companies violate the Code, including failures in regulating marketing, companies using idealised claims

⁵⁷ Department for Health (October 2013) *Chief Medical Officer's Annual Report 2012: Our Children Deserve Better: Prevention Pays*

⁵⁸ Young Minds (2013) *Local authorities and CAMHS budgets 2012/2013*

⁵⁹ The Care Inquiry (April 2013) *Making not Breaking: Building Relationships for our Most Vulnerable Children*

⁶⁰ UN Committee on the Rights of the Child (2008) *Concluding Observations: United Kingdom of Great Britain and Northern Ireland*

and companies branding their products in a manner that is inconsistent with the Code and restrictions in the UK.⁶¹

- In relation to the promotion of Baby Friendly Hospitals, we note that since 2008, UNICEF's baby-friendly initiative has been extended to all healthcare services – a positive development. A total of 87% of UK hospitals, and 74% of health visiting/public health nursing services, are either working towards, or have achieved, Baby Friendly accreditation. However, it continues to be the case that in the UK, England has the lowest number of births in Baby Friendly hospitals. England has 27% of births taking place in accredited hospitals; Scotland has 81%, Wales 67% and Northern Ireland 58%.⁶² This data should be included in the Government report, alongside analysis of why this regional variation has occurred.
- **(Paras 41 - 43) Adolescent Health** - Statistics in relation to under-18 conceptions should cover the whole period 2008 to 2013. In addition, there should be further data on STI diagnoses across the same period. The report should address in detail the significant policy developments/changes that have taken place in relation to SRE/PHSE since 2008. It would be helpful for the Government to explain how they will ensure that children learn about sexual and reproductive health since the new National Curriculum to be introduced in 2014 is designed to be slimmer and more flexible and includes less detail in this area compared to the current National Curriculum.
- **(Paras 45 - 49) Substance misuse** - Whilst it is positive that substance misuse is falling among children, the report fails to mention the Government's own Alcohol Strategy – which included a promise to introduce a minimum unit pricing for alcohol - later scrapped - and the Government's decision not to introduce standard cigarette packaging. The report should make an assessment of the extent and quality of drugs and alcohol education in schools.
- The report should reference those children who are affected by parental drug and alcohol misuse. NSPCC's *All Babies Count* report found that in the UK approximately:
 - 19, 500 babies under 1 are living with a parent who has used Class A drugs in the last year
 - 93, 500 babies under 1 are living with a parent who is a problem drinker
- **(Paras 52 - 58) Standard of living** - The report should acknowledge the significant criticism that the Government's proposed measures of poverty conflate consequences of poverty with poverty itself.
- The report should explain the Government's position that '*work remains the best route out of poverty*' in the light of the huge numbers of people who are living in poverty, where a member of the family is in work. Whilst it is the case that the risk of poverty remains greater for those in workless households, the majority of children in poverty are in working families. According to unpublished research commissioned by Save the Children, 1.96 million children in the UK live in working households where no one earns the

⁶¹ The Baby Law Feeding Group (June 2013) *UK Code Violations 23: Look What They're Doing!*

⁶² Email from UNICEF UK to Children's Rights Alliance for England, 22 October 2013

minimum wage or above.⁶³ Where children are living in families where parents or carers are working, there are increasing strains on household finance: median incomes fell between 2010/11 and 2011/12⁶⁴ – an unprecedented fall, and wage stagnation is a significant problem for households in both low and middle income bands.⁶⁵ The report **must** address the adequacy of income, including zero hour contracts, the need for increased minimum wage, and increasing support of living wage and living standards.

- The Government's report should reflect the changes in policy in relation to child poverty between 2008 and 2013. The report must include child poverty figures – both relative and absolute – since 2008 and needs to acknowledge that absolute child poverty increased by 300,000 between 2010/11 and 2011/12,⁶⁶ and that the numbers of children in absolute and relative poverty are likely to increase significantly between now and 2020.⁶⁷ Of particular note in this regard is the decision to increase certain benefits by 1% per year for the next three years instead of increasing them in line with inflation.
- The report should include indicative findings from pilot studies, which have been in place since April 2013.
- The State Party report claims that up to 300, 000 more people will enter work as a result of the introduction of Universal Credit. However, the report does not acknowledge the Government's own assessment of the impact of Universal Credit on work incentives which shows that increased numbers of claimants will face higher Marginal Deduction Rates and a large number of households will find that they lose 76p of every extra £1 earned under Universal Credit.⁶⁸
- The report does not refer to the establishment of the Social Mobility and Child Poverty Commission or the publication of a child poverty strategy in summer 2011⁶⁹, which included a commitment to monitor severe poverty. We also recommend that the report include the findings and recommendations outlined in the recent report by the Social Mobility and Child Poverty Commission.

What is missing?

- The reporting guidelines state that State Parties are requested to address how the Government has taken account of the UN Committee's general comment No. 3 (on HIV/AIDS and the rights of the Child), general comment No. 4 (on adolescent health and development in the context of the CRC) and general comment No. 9 (on the rights of children with disabilities)⁷⁰ The

⁶³ NATCEN (2013) *unpublished analysis commissioned by Save the Children*

⁶⁴ Department for Work and Pensions (June 2013) *Households Below Average Income 1994/95 to 2011/12*

⁶⁵ Department for Work and Pensions (June 2013) *Households Below Average Income 1994/95 to 2011/12*

⁶⁶ Department for Work and Pensions (June 2013) *Households Below Average Income 1994/95 to 2011/12*

⁶⁷ Institute of Fiscal Studies (2013) *Child and Working Age Poverty in Northern Ireland*

⁶⁸ Department for Work and Pensions (December 2012) *Universal Credit Impact Assessment*

⁶⁹ Department for Work and Pensions and Department for Education (2011) *A new approach to child poverty: tackling the causes of disadvantage and transforming families' lives*

⁷⁰ Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child *CRC/C/58/Rev.2 and Corr. 1*

report must set out how it has taken into account these General Comments and what action it has taken in relation to them.

- The report is lacking in any analysis on the impact of austerity (changes to tax, benefits, cuts to local authority budgets and reductions in service provision) generally on children and in relation to child poverty in particular. In addition, the report should include analysis of the impact on disabled children and children with disabled parents of welfare reform.
- There is insufficient information on homelessness and changes to housing benefits. The report must include analysis of the impact of these changes on children and their families. The report should include detailed information about the numbers of children and families who have had to move out of their area because of the cap on housing benefit.
- The report includes little information on public health and healthy lifestyle promotion. We recommend that the report should include information on the following:
 - What measures the DH has taken in response to the 2011 Chief Medical Officers' recommendations in *Start Active, Stay Active*
 - Reference to the Public Health England briefing *How healthy behaviour supports children's wellbeing (2013)*
 - Reference to the action that the Government will take in response to the Chief Medical Officer's Annual Report 2013 which says:

'By exposing young people to low doses of challenges, in safe and supported environments, we strengthen their ability to act effectively later in life.'

'For both younger children and adolescents, physical activity undertaken as part of leisure time outside school can enable children and adolescents to widen their friendship groups and participate in their local communities, thereby providing opportunities to develop social skills that help to build positive personal attributes such as self-esteem and self-confidence.'

- The report should include information on the mental health needs of looked after children and the difficulties they face in accessing services.
- The report should include the recent commitment by the Department of Health to provide specialist mental health midwives. It should also include further information on parental and infant mental health. NSPCC's *All Babies Count* report, for example, found that in the UK around 144, 000 babies under 1 year old live with a parent who has a mental health problem. *Prevention in Mind* by the NSPCC also found that:
 - 73% of maternity services do not have a specialist mental health midwife
 - 29% of midwives said they had received no content on mental health in their pre-registration training
 - There is a shortage of 50 mother and baby units for mothers requiring in-patient psychiatric care

EDUCATION, LEISURE AND CULTURAL ACTIVITIES

Comments on text:

- **(Para 2) Government's vision** - This section of the report should describe and analyse the accountability and coordination mechanisms in place following the diversification and liberalisation of schools e.g. who will be responsible for ensuring academies and free schools respect children's rights. It should analyse the impact that the growth in the number of academies and free schools will have on whether children of all backgrounds have access to a good or outstanding school.
- **(Paras 7-10) Equality, inclusiveness and disadvantage** - This section should set out and analyse disparities in educational outcomes for different groups and the effectiveness of measures put in place to address these (in terms of access, attainment, exclusions, quality of experience). It should compare level of financial support for disadvantaged children that existed in 2008 and that which exists today (e.g. compare Education Maintenance Allowance and Pupil Premium). It should address policy changes and outcomes in relation to the inclusion of disabled children. Paragraph 10 should include information in relation to other groups of children, and an analysis of the impact of measures taken.
- **(Para 13) Alternative provision** - This section should include analysis of quality of provision and outcomes for these children and the impact of measures introduced.
- **(Para 14) Exclusions** - This section should include information in relation to the extent of illegal exclusions, measures taken to tackle inappropriate exclusions and the effectiveness of these.
- **(Para 26 - 27) Looked after children** - This section should include information about Virtual school heads. It should analyse the effectiveness of IROs. It should include significant developments for the full period from 2008.
- **(Paras 29 - 35) Bullying** - This section should include information in relation to the prevalence and severity of bullying, the experiences of particular group and analysis of the effectiveness of measures put in place to tackle bullying.
- **(Para 36) Participation** - Where are the figures on school councils from? Does this include academies and free schools? Are these participation mechanisms meaningful and do they have an impact? We are concerned that participation of children and young people in decision-making in schools, classrooms and learning is inadequate and largely limited to those students who are members of school councils – which focus on a relatively limited number of topics. What action is the Government taking to ensure that all children and young people are able to participate in all aspects of their school life? The report should include details of evidence of the quality of participation activities within schools, not just on the fact that they take place. This should include feedback from children and young people.
- **(Paras 42 - 52) Play, Culture and Leisure** - This section should include information in relation to levels of participation and access and the impact of measures taken to promote (or undermine) these. It should include

information about the impact of the discontinuation of the Play Strategy, the end to ring-fenced funding for play, etc.

What is missing?

- The reporting guidelines state that State Parties are requested to address how the Government has taken account of the UN Committee's general comment No. 1 (on the aims of education) general comment No. 7 (on implementing child rights in early childhood) general comment No. 9 (on the rights of children with disabilities)⁷¹ The report must set out how it has taken into account these General Comments and what action it has taken in relation to them. The UN Committee General Comment No. 17 on Article 31) clearly sets out States Parties' obligations in respect of rest, leisure, play, recreational activities, cultural life and the arts, and how these obligations are intimately bound up with other articles under the Convention. The Government should set out a detailed response to this general comment in the report.
- The report should describe and analyse the impact of changes to early intervention funding.
- The report should include information and analysis of early years education and of the impact of changes to the revised Early Years Foundation Stage curriculum.
- The report should include information relating to the 15 hours free early education for disadvantaged two-year olds, and any initial impact that this initiative has had. In addition, the report should mention the provision of 15 hours childcare for all three and four year olds.
- The report should include information about the recent announcement to extend Free School Meal entitlement to 5 -7 year olds.
- The report should include an explanation of how young disabled people are going to be supported to exercise their right to appeal in SEN tribunals.
- The report should include information about access to justice in relation to educational issues, including the availability of legal aid and judicial review.
- This section should include information about new arrangements for admissions, and analysis of the impact these have had.
- This section should contain information in relation to changes to careers advice and the impact of these.
- This section should include information about changes to the curriculum and the impact of these on whether children's rights to education in relation to relationships, substance misuse, rights, etc. will be guaranteed.

⁷¹ Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child *CRC/C/58/Rev.2 and Corr. 1*

- As this report covers the period from 2009, it will be vital to include references to the Play Strategy put in place by the previous Government under the wider Children's Plan in order to provide context for the decision making process which the DfE undertook to move away from this area of policy. There should also be reference to investment in play that has subsequently been made by Government departments such as the Cabinet Office (£3m via the Social Action Fund) and the Department of Health (£1.2m for a street play programme).
- Transport is a huge barrier for disabled children in accessing education, play culture and leisure activities. For young disabled people, whilst there has been improvement in transport, No Go Britain found that 59% of disabled people surveyed in 2013 still experienced barriers in accessing transport. The report should address the recommendations in the BYC Transport Select Committee report. Several of these recommendations have yet to be addressed.
- There should also be reference to the fact that traffic is consistently cited by parents and children as the top barrier to children being allowed to play outdoors, or even to simply travel independently, in both urban and rural environments

SPECIAL MEASURES OF PROTECTION

Comments on text:

Administration of Juvenile Justice

- **(Para 31) Age of Criminal Responsibility** - The sentence in paragraph 34 which relates to the age of criminal responsibility should move to paragraph 31, and the Government should explain its position – why it is necessary to have a low age of criminal responsibility in order for frontline services to become involved early. The report should set out the proportion of children criminalised at different ages.
- **(Para 34 and 35) Alternative measures to detention** - This section should set out extent of and reasons for over-representation of some groups in detention and measures in place or plans to address this.
- **(Para 38) Children tried in youth courts** - The report must state the circumstances in which children are tried in adult courts.
- **(Para 39) Privacy in court proceedings** - The report must state the proportion of cases involving children in which reporting restrictions are not in place (automatic reporting restrictions lifted or order for reporting restrictions not made). Explain that reporting restrictions do not and will not apply to cases in relation to anti-social behaviour orders.
- **(Para 43) Separation from adults** - Explain whether children are separated from adults during transfer to and from custody and in police detention. Explain the extent of contact between adults and children in YOIs.
- **(Para 44) Education in custody** - This section needs to set out **current** entitlement to education in custody and what happens in practice (number of

hours in different settings, and any differences for children subject to specific regimes). This section must include an analysis of the quality and impact of education provided. It needs to describe and analyse current resettlement practice, and plans for improvement.

- **(Para 54) ASBOs** - The second bullet suggests that new anti-social behaviour orders will only be available where “needed” (necessary) to prevent anti-social behaviour. This is not the case – they will be available where the court considers it “just and convenient to grant the injunction for the purpose of preventing the respondent from engaging in anti-social behaviour”. This paragraph refers to the prevention of “offending” and the circumstances of “the offender”. This suggests that new anti-social behaviour orders will only be available in response to serious criminal behaviour. This is not the case – they will be available as a response to non-serious conduct which is capable of causing nuisance or annoyance. By lowering the threshold in this way, which the Police has said is inappropriate, more young people are likely to be affected by an ASBO. This section needs to explain the nature of the sanctions available for breach – including imprisonment and eviction. The Government’s explanation for considering the new regime compatible with children’s rights suggests that the interference is justified by the need to protect the rights and freedoms of others. This is not grounded in human rights principles, since others do not have a right to be free from nuisance or annoyance. While they have a right to be protected against more serious interference with their home and private life and inhuman and degrading treatment, there are already criminal offences and existing civil measures in place to protect them against such serious treatment.

Asylum-seeking and Migrant Children

- **(Para 4) Detention of asylum-seeking children** - To avoid being misleading, this section should state that the Government set out its plans to end child detention of children for immigration purposes, but this has not yet happened in practice – children are detained when mistakenly treated as adults, in the context of the family returns process and when children arrive at the border.
- **(Para 7) Training of staff involved in screening** - This section should state explicitly that screening interviews of children are not carried out by specially trained staff, but by staff who have general screening training. The report should explain the extent to which the general training covers skills and knowledge needed interviewing children, including children’s rights, child protection and safeguarding and child development. This section should include an analysis of the quality of screening of children.
- **(Para 8) Guardians for unaccompanied children** - This section should contain some information in relation to the findings of Home Office commissioned research in relation to current support for trafficked children, and the Government’s response to that research.
- **(Para 10) Age disputes** - This section should contain information in relation to the proportion of cases in which a person claiming to be a child is age-disputed or is treated as an adult because their demeanour suggests they are over 18 and the proportion of cases in which those people are later found to be children. It should include the Government’s analysis of whether those figures indicate that those claiming to be children are given the benefit of the

doubt in relation to their claimed age. It should explain the consequences for a child of being treated as an adult (e.g. in terms of detention, accommodation and social care support).

- **(Para 12) Data on age disputes** - If data is not collected on the number of people who claim to be children but are treated as an adult because of their demeanour/appearance, this should be explicitly stated.
- **(Para 13) Safe return of children** - The statement that children are only returned following a thorough case assessment, with the best interests of the child a primary consideration should be supported by reference to the policy/guidance which ensures this, and analysis of the extent to which such guidance is complied with in practice.
- **(Para 14) Family returns** - This section should explain and analyse the process for ensuring that children's best interests are at the heart of decision-making. For example, it should address concerns that best interests determination do not take into account all relevant information and are not subject to scrutiny by the family's representatives. This paragraph should make clear that the Family Returns Panel comments on the method of return rather than the decision to return, and has criticised the quality of information with which they are provided. It should explain the mechanisms in place for scrutinising decisions to return.
- **(Para 15) Prosecution of children** - The statement '*we do not generally prosecute minors for this offence*' should be backed up by statistics.
- **(Paras 16 - 29) Sexual exploitation and abuse** - This section should include information about the policies etc which are in place to prevent children being treated as prostitutes, including information about whether policies still refer to "child prostitutes" and "child prostitution" and the reason for retaining these. This section should include information about the scandals which have indicated that more needs to be done to take children seriously and effectively respond to child sexual exploitation and abuse, and the range of measures put into place to respond to these (including measures to tackle children going missing, measures in relation to the cross-examination of children in court, to ensure children are listened to by agencies responsible for safeguarding protection etc). This section should include an analysis of the extent of the gap between the need for and availability of psychological support for victims of exploitation and abuse. The report should mention the inadequacy of services for victims of child sexual exploitation and abuse. This section should analyse data indicating the prevalence of child-trafficking and the adequacy of the Government's response to child trafficking, and any proposals to improve this.
- This section should refer to the findings of the Office of the Children's Commissioner's inquiry into Child Sexual Exploitation in Gangs and Groups published.
- The report should refer to the fact that 39, 000 babies under 1 live in households affected by domestic abuse in the last year (NSPCC, *All Babies Count*).

- Paragraph 49 should be amended to read “have to *wait and* take part in the live process” and “give evidence *in advance* from the pressurised environment”.
- The report should note that the specially vetted judges referenced in paragraph 50 will not be used in the majority of cases. The judges will only be used for the most complex cases with multiple defendants and an anticipated duration of over 10 days.

What is missing?

- **This section needs a description and analysis of other aspects of children’s experience in custody** – including issues relating to safety and dignity in custody (strip searching, segregation, self harm, restraint, violence, time out of cell) and issues in relation to family life (distance from family, arrangements for and extent of visits, etc.) and the system of complaints and access to justice in respect of treatment (availability and effectiveness of complaints in different institutions, judicial review, legal aid).
- **This section needs a description and analysis of other aspects of asylum-seeking and migrant children’s experiences** – including issues relating to their economic and social rights (levels of welfare support for families) and issues in relation to family life (how treatment of family members, including separation from family, impact upon children), the use of force on children in the immigration system, the availability of legal remedies and legal aid to challenge any rights abuses experienced by asylum seeking and migrant children.
- Statistics from the Forced Marriage Unit should be included in relation to the number of forced marriages in the UK per annum and the number of calls to their helpline, including a breakdown by ethnicity.
- The report should include prevalence data on FGM. A study based on 2001 census data in England and Wales estimated that 23, 000 girls under the age of 15 could be at risk of FGM each year.⁷²

OPTIONAL PROTOCOL ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

Comments on text:

- **(Para 61) Direct involvement in hostilities** - This paragraph should explain whether the State party has taken any steps to review its policy on deployment of under-18s since the Committee’s recommendation, and the reasoning behind its present policy to prioritise perceived military need over the rights of the child to life and physical integrity. The paragraph should provide details of the criteria and limitations to be applied in decisions on removing under-18s from their units, which may result in such decisions being made inconsistently on an ad hoc basis. The paragraph should specify the

⁷² Dorkenoo et al, 2007

number of under-18s who have been deployed overseas since the UK ratified OPAC.

- **(Para 62) Recruitment** - The Government should explain how its policy of accepting formal written applications to join the armed forces from candidates aged 15 years and 7 months is compatible with its obligation under OPAC not to recruit children below the age of 16. This paragraph should include figures of the number of 16 and 17 year olds recruited since the date of the Committee's concluding observations issued in 2008. The Government should explain why under-18s continue to be highly over-represented in annual Army recruitment intake figures compared to their overall representation in the national demographic (within armed forces recruitment age boundaries), as this appears to undermine the Government's claim that it recruits actively across a wide pool of candidates. The Government should further explain the discrepancy between national policy to encourage those aged 16 to 18 to remain in education and the targeting of this age group for military recruitment, where the academic qualifications available are below the level available to those in mainstream education (in particular, the failure of the armed forces to provide GCSE English and Maths courses to under-18s as part of compulsory training). The Government should provide up to date disaggregated data on the socio-economic backgrounds and academic qualifications of under-18s recruited into the armed forces to support its claim that it does not target children from vulnerable groups, as well as data on the number of under-18s enlisted at each recruitment office around the UK together with data on unemployment and social deprivation in these areas. Data by nation (England, Scotland, Wales and Northern Ireland) should also be provided. The Government should state in what way parents "are involved" in the recruitment and training process, together with copies of all relevant guidelines and legal requirements in this regard.
- **(Para 64) Discharge** - Implementation of this right of discharge is limited by caveats including a three month delay at the discretion of the recruit's commanding officer, and an indefinite delay should a Queen's Order be in force (during a time of "national danger or emergency"). The Government should explain its justification for these caveats to the Committee and the legal basis on which it considers these limitations to be compatible with the requirement under OPAC to ensure that all military service of under-18s to be voluntary. The Government should also explain the failure to systematically and effectively advise under-18s and their commanding officers of these new rights of discharge, such that young recruits continue to report obstacles to implementing their rights. In this regard, the Government should explain why, between 2011 and the end of 2012, four children were convicted by court martial for nine incidents of going absent without leave (AWOL), leading in one case to a sentence of 150 days' imprisonment. The Government should also explain its policy on charging under-18s for going AWOL and how this is compatible with ensuring that military service of under-18s is voluntary. This paragraph fails to address the Committee's recommendations regarding reducing under-18s' minimum terms of service to four years. The Government should explain why the Army has still not equalised the minimum term of service for recruits enlisting below the age of 18 – in contrast to the RAF, Navy and Marines, who all have equal terms for adults and minors – and on what legal basis it justifies this age discrimination in terms of employment, which appears to be unlawful under national law and EU Directives.

- **(Para 65) Peace education** - The Government should explain how it interprets and implements its obligations under the Convention to include peace education in the education system in relation to the Army Foundation College at Harrogate, where under-18s are trained as soldiers.
- **(Para 67) Use of Firearms** - The Government should explain why it has failed to prohibit the use of firearms by under-18s as per the recommendations of the Committee. It should specify the minimum age limits on the use of firearms and live ammunition by soldiers in training. The Government should also report on the number of under-18s participating in training with live firearms annually, and the number of safety incidents recorded in relation to this group.
- **(Para 73) Military justice** - The Government should explain in detail how the military justice system ensures compliance with international and national legislation and guidance on juvenile justice, despite its failure to differentiate under-18s from adults, including in particular the failure to separate adults and minors in military detention facilities, contrary to CRC Article 37. The Government should explain why the military justice system does not adhere to the standards of protection afforded to under-18s in civilian society, and why UK armed forces personnel aged under 18 are subject to lower standards of protection than those afforded to 15, 16 and 17-year-olds defined as “juveniles” under the CPERS joint doctrine (Para 72 of this Draft). The Government should provide data on the number of incidents investigated through military justice procedures concerning victims, defendants and/or witnesses aged under 18 since becoming party to OPAC, including the nature of the incidents and the outcomes.

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