

State of Children's Rights in England **2017**



Children's
Rights Alliance
for England



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Briefing 1 Executive Summary



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Acknowledgments

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Any views expressed in this report are CRAE's and do not reflect the views of these individuals and organisations, or of CRAE's members.

CRAE has produced an annual *State of children's rights* report since 2003.

About this briefing

The UK ratified the UN Convention on the Rights of the Child (CRC) in 1991. This means that all areas of government and the state, including local government, schools, health services, and criminal justice bodies, must do all they can to fulfil children's rights.

In June 2016 the UK Government was examined by the **UN Committee on the Rights of the Child** (the UN Committee) on its compliance with the CRC for the first time since 2008.

The UN Committee made a number of recommendations (Concluding Observations) for change.¹ In May 2017 the UK was examined on all its human rights treaties, including the CRC, by the 193 member states of the Human Rights Council as part of the **Universal Periodic Review (UPR)**.² This is a process where states can reiterate previous recommendations made by UN Committees and can be used by civil society and parliamentarians as an additional advocacy tool. The Government can choose whether to "support" (accept) recommendations or "note" them (reject or not agree). We are very disappointed that the Government has only

supported 28% of the recommendations relating to children's rights compared to 42% of all the recommendations it received.

CRAE's *State of children's rights in England 2017* is made up of seven thematic briefings assessing the progress made towards implementing the UN Committee's recommendations:

Children at the centre: The General Measures of Implementation and General Principles of the CRC; Poverty and homelessness; Health; Immigration, asylum and trafficking; Education, leisure and cultural activities; Safeguarding children; and Policing and criminal justice.

This summary gives a flavour of some of the issues covered in each briefing, which highlight areas of improvement and concern since last year's *State of children's rights in England 2016* was published in December 2016. It is based on written and oral evidence from CRAE's members and additional analysis of recent laws and policies, newly published research, official statistics, and responses to Freedom of Information (FOI) requests. For more detail on each issue, see the individual briefing.

What is the CRC?

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

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

Introduction

The political debate continues to be consumed by Brexit, with a focus on the economy, trade, and negotiations with the EU, with little space for issues affecting children. Uncertainties around the future health of the economy continue, which could adversely affect struggling families with children. The EU (Withdrawal) Bill also poses a threat to the continued enjoyment to the rights and entitlements that children currently have though Britain's membership of the EU.

Encouragingly, there has been some positive progress across a range of areas including looked after and separated children, and children with mental health issues. Making Relationship Education and Sex and Relationship Education compulsory in primary and secondary schools respectively, is also welcome. However our findings show that more needs to be done before children's rights are fully realised. While developments such as civil service training on the CRC and the development of a child rights impact assessment (CRIA) template are positive

steps forward, children's rights and needs continue to be largely absent from the decision making process. This demonstrates the need for a duty to consider children to be placed on a statutory footing.

The Government must use the *State of children rights 2017*, alongside the recommendations it received from the UN Committee and under UPR, to identify key actions it will take to ensure that all children have a good childhood and the best possible start in life.

2. General Measures and General Principles

The EU (Withdrawal) Bill fails to bring the EU Charter of Fundamental Rights (the Charter) into UK law. All Charter rights apply to children, but article 24 also gives rights specifically to them. The so-called "Henry VIII powers" in the Bill have also raised widespread concern that significant changes to laws could be made with inadequate parliamentary scrutiny, or assessment of how such changes could affect children.

Ⓡ The EU (Withdrawal) Bill should be amended so that it transposes the Charter of Fundamental Rights into UK law. A statutory requirement to undertake a CRIA on any change made under the proposed delegated powers should be introduced.

Disappointingly, there is still no Cabinet Minister responsible for children's rights, despite the UN Committee making clear that senior political leadership is required if children's rights are to be fully respected. **The Government continues to resist calls for a children's rights action plan. This is urgently needed so that Government can set out how it will implement the UPR and UN Committee recommendations.** More resource is also needed to ensure adequate coordination of CRC implementation across Whitehall.

Ⓡ A Cabinet Minister with responsibility for children's rights should be appointed alongside sufficient human, technical and financial resources, to ensure effective coordination of CRC implementation. In consultation with stakeholders, a



comprehensive action plan should be developed to take forward the recommendations made by the UN Committee and under UPR.

More positively, a CRC Action Group has been established, co-chaired by CRAE's Director and a Department for Education (DfE) Senior Civil Servant. In partnership with the Action Group, officials are working on children's rights training and a template for a CRIA, which will assist civil servants to assess policy development against CRC standards. While this is good news, concern remains that a requirement to do so has not been placed on a statutory footing.

Ⓡ A statutory obligation on public authorities to conduct CRIA in all decision making affecting children should be introduced.

The drastic reduction in legal aid introduced by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 persists in being one of the greatest threats to children's rights.

Positively, the Government review of legal aid has commenced, but must look fully at the impact on children and hear directly from them.

Children continue to not feel listened to. There is still no permanent structure to facilitate children's systematic participation in policy making, though it is heartening that the DfE has indicated it wishes to improve such engagement. Disappointingly, **the Government continues to oppose calls to lower the voting age to 16.**

Groups of children continue to experience discrimination based on certain characteristics such as ethnicity or sexuality. Gypsy/Roma and Traveller children remain particularly disadvantaged, with a low educational attainment, high levels of homelessness,³ and overrepresentation in the youth justice system.⁴ The Government's Race Disparity Audit is therefore welcome.⁵

In 2015 infant mortality in England and Wales increased for the first time since 2006. Worryingly, risk factors still include the parents' socio-economic status.⁶

Unfortunately, examples throughout this report demonstrate that the best interests of the child is not a primary consideration in decision making.

3. Poverty and Homelessness

The right to thrive and have a decent standard of living is still under threat for many children, as cuts to social security are starting to bite with a disproportionate and detrimental impact on already disadvantaged families.

The number of children living in relative poverty in the UK (after housing costs) has increased to 4 million in 2015/16.⁷ This is an increase of 100,000 over the previous year and means that nearly a third of children in the UK are living in poverty. Around three-quarters are a result of benefit changes and a growth in average real earnings, which leaves those on benefits behind.⁸ The repeal of the 2010 Child Poverty Act in 2016 removed the duty to report on the four key targets for eradicating child poverty by 2020.

🔴 The Government should develop, fund and implement a plan to reduce the number of children in poverty for the next five years and ensure progress, monitoring and reporting continues against the indicators in the Child Poverty Act 2010.

The four year freeze on support for children under Universal Credit has had the largest impact and will reduce key children's benefits by around 12% by 2020, affecting approximately 7.5 million children.⁹ Households with children make up 93% of those affected by the lower benefit cap¹⁰

which will result in an additional 100,000 children in poverty.¹¹ **The two child limit for Universal Credit and tax credit is particularly regressive and will lead to an additional 200,000 children in poverty.**¹²

🔴 The Government should exclude children's benefits, including child benefit and the child element of Universal Credit, from the scope of the benefit cap.

The numbers of homeless families continues to increase. The majority of these families are placed in temporary accommodation (TA), the use of which is also rising (though at a slightly slower pace than last year) with 60% more placements in 2017 than in 2010 (60,550 compared with 37,940). Of these, there are 120,540 children or expected children.¹³ The rise is mainly attributed to the impact of cuts to social security (in particular the benefit cap) combined with a chronic shortage of social housing and rising costs of private sector rentals. Research has shown the detrimental impact of TA on children's health, development, education and wellbeing.¹⁴

🔴 The Government should make a significant investment to build new social housing to reduce the numbers of homeless households in TA and the length of time they stay there. Any temporary accommodation used must not have shared facilities and must be child-friendly, clean and safe.

Despite a ban on local authorities accommodating homeless families and pregnant women in bed and breakfast (B&Bs) for longer than six weeks, local authorities are continuing to break the law.¹⁵ At the end of June 2017, statistics showed that 2,710 families with dependent or expected children were living in B&B accommodation, nearly four times than in 2010 (740). Alarming, well over a third of families (1,200) were living there for more than six weeks.¹⁶ The UN Committee urged the Government to: *'strictly implement the legal prohibition of prolonged placement of children in temporary accommodation.'*

Unsafe, dirty and overcrowded accommodation has a detrimental effect on children's health and development.¹⁷ In too many cases, this is because local authorities are not fulfilling their safeguarding duties and inspections are being carried out infrequently.

Over half of local authorities asked said they **did not have a safeguarding policy for transferring children to local authority temporary accommodation or B&Bs.**



Source: CRAE FOIs responses from 170 local authorities¹⁸

4. Safeguarding

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

Numbers of children in care have risen for the ninth consecutive year¹⁹ and at the fastest rate in five years.²⁰ March 2017 figures show that there are 72,670 looked after children, an increase of 3% on the previous year.²¹ Though increasing numbers of children in care may reflect increased instances of children being looked after, it could also reflect a lack of early intervention.

Local authorities have suffered 40% funding cuts since 2010.²² The Government is planning to withdraw the formula grant that councils rely on for most child protection and care services,²³ which would leave child protection funding dependent on councils' income from local business rates and council tax.²⁴ This will particularly increase pressure on the poorest areas of the country.

The Government should introduce a Children Act Funding Formula to distribute national taxation to all local authorities according to the needs of children in their area, by 2020 at the latest.

Recorded sexual offences against children under-18 have continued to rise – 47,045 recorded offences in 2015/16, up 18% from 38,575 in 2014/15.²⁵ The Government has introduced welcome laws to bring perpetrators of all forms of abuse to account, but concerns have been raised about the capacity of support services to provide essential therapeutic support to a growing number of victims.²⁶

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

County lines gangs pose a significant threat to vulnerable children. Up to 4,000 teenagers from London are being criminally exploited and trafficked to sell drugs in rural towns with some children as young as 12.²⁷ Research suggests that children involved are often perceived as having “made a choice” and are therefore criminalised.²⁸

The Government should take steps to ensure that children involved in county lines gangs are placed on the National Referral Mechanism (NRM) and treated as victims of trafficking and modern slavery, not criminals.

The Government continues to allow the armed forces to recruit from age 16, despite recommendations from the UN Committee to increase the minimum enlistment age to 18. In 2016/17, a quarter of new army recruits were aged 16 or 17.²⁹ Army recruiters strategically target deprived neighbourhoods and children below enlistment age.³⁰

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

An increase of 284% since 2010/11



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

R As a matter of priority, the Government should raise the minimum enlistment age to the armed forces to 18, with a view to ending the recruitment of children.

5. Immigration, asylum and trafficking

The Government has committed to a number of positive steps in 2017 to improve policy and practice to safeguard unaccompanied children, given the increase in numbers. However, long-standing concerns of the UN Committee have not been addressed in relation to age assessments, child detention and the treatment of undocumented children. Family reunification for children both coming to, and already in, the UK remains an ongoing concern.

After a large increase in 2015, the numbers of unaccompanied children seeking asylum in the UK have remained high but stable: 3,290 in 2016 – a 1% increase on the previous year.³¹

Only 30% of unaccompanied children were granted refugee status in 2016, with the majority (50%) refused asylum and granted a temporary form of leave (UASC leave), which is rarely in children's best interests as it does not provide them with a durable solution.³²

There are approximately 120,000 undocumented children in the UK – 65,000 of whom were born here.³³ They are living in precarious situations because they are unable to secure permanent status in the UK and their rights are being breached in many ways.³⁴ Without documentation a child cannot work, open a bank account, or access sources of support (such as housing), and are cut off from college and university, often leaving them vulnerable to poverty and exploitation.³⁵ **Less than 15% of the population of undocumented children in the UK have been able to regularise their status (or have left the UK), meaning thousands are still living in legal limbo.**

R **The Government should introduce a shorter route to permanent status for long-resident children with lower application fees that does not make a profit for the Home Office.**

In 2016, 679,000 European national children under the age of 18 resided in the UK.³⁶ A

928 unaccompanied children had their age disputed in 2016

Almost one third of all children seeking asylum.



Source: Home Office statistics

significant proportion of these children live here long-term and around 258,000 (38%) were born here.

Brexit poses significant risks for the rights of these children. The Government has set out plans where the right to stay is based on demonstrating five years of continuous and "lawful" residence. Many children will be denied residence rights, because they are reliant on their parents to demonstrate lawful residence or to complete the application for the new settled status. There is no recognition of the need to consider the child's best interests.

R **The Government should allow European nationals in the UK with permanent residence, or who are able to show five years' residence, indefinite leave to remain through a simple process with no application fee, and ensure that all children are able to apply for settled status in their own right.**

Research found that more than a quarter of all trafficked children and over 500 unaccompanied children went missing at least once from September 2014 to 2015, and 207 had not been found. It also revealed a worrying lack of consistency in the way local authorities identify and record the risk of trafficking and exploitation, with no national process for identifying and recording children who may have been trafficked and who have gone missing. However we welcome measures set out in the new *Safeguarding unaccompanied asylum seeking and refugee children strategy* to work with local authorities who have high numbers of missing unaccompanied children.³⁷

6. Education

Very positively, Relationships Education (RE) in primaries and Relationships and Sex Education (RSE) in secondary schools will become statutory across all types of schools from September 2019.³⁸ The Government abandoning plans to remove the ban on new grammar schools is also welcome, as is significant investment and targeted programmes aimed at reducing the attainment gap. However despite these encouraging developments, significant challenges remain.

Analysis of Government data found that 91% (17,942) of schools will have seen, or are due to see, a real terms per pupil budget cut between 2015/16 and 2019/20. For the average primary school this is a loss of £54,000 per year and for the average secondary school a loss of £205,600.³⁹

R The Government must urgently allocate significant additional resources for schools to maintain funding in real terms and to reverse the affects that cuts have already had.

Worryingly, school exclusions continue to rise. Permanent exclusions across all state funded primary, secondary and "special" schools have increased from 5,795 in 2014/15 to 6,685 in 2015/16. In state funded primary schools the number of fixed term exclusions increased from 49,665 in 2014/15 to 55,740 in 2015/16. In state funded secondary schools they increased from 239,240 to 270,135.⁴⁰ This is despite the UN Committee's recommendation to: *'further reduce the number of exclusions.'* Gypsy/Roma and Traveller children, Black Caribbean children, children with Special Educational Needs (SEN), children eligible for Free School Meals, looked after children, and boys continue to be disproportionately excluded.⁴¹ **Alarming, large numbers of young children in reception and year one continue to be excluded from school.**⁴²

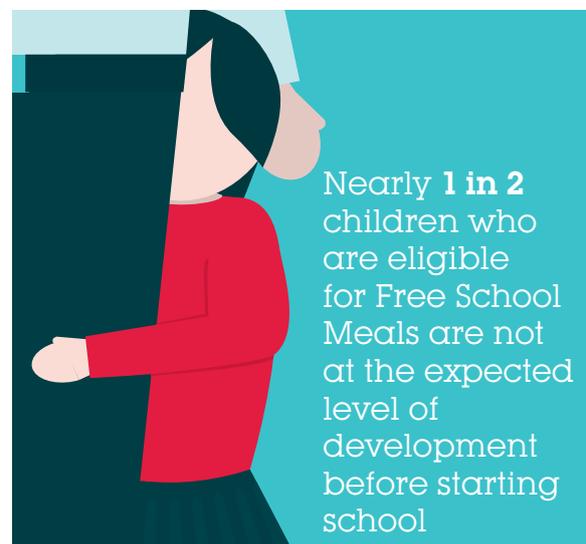
R The Government should: urgently address the overrepresentation of certain groups of children being excluded from school, introduce a statutory right for children to appeal against exclusion decisions, enforce the ban on informal exclusions, and urgently improve the quality of Alternative Provision.

Despite welcome investment to address educational disadvantage through the Pupil Premium and "opportunity areas" in places identified by the Social Mobility Commission as "social mobility cold spots",⁴³ a significant attainment gap persists between children living in poverty and their peers. **In 2016 the national gap at the end of secondary school was 19.3 months.**⁴⁴ Children from certain ethnicities also perform especially poorly at school, particularly Gypsy/Roma and Traveller children.⁴⁵ The UN Committee recommended that more be done to: *'reduce the effects of the social background or disabilities of children on their achievement at school.'*

Unfortunately, the proportion of disabled children and children with SEN attending mainstream schools has continued its downwards trajectory. The percentage of children with SEN or an Education and Health Plan attending "special" schools has seen a year on year increase since 2010, meaning fewer disabled children or children with SEN are attending mainstream schools.⁴⁶

R The Government should adopt and implement a coherent and adequately financed strategy, with concrete timelines and measurable goals, on increasing and improving inclusive education.

Disappointingly, there continues to be no progress on developing an adequately resourced play and leisure policy, despite it being crucial for a child's health and wellbeing, and being recommended by the UN Committee.



Source: Save the Children (2017) *Early development and children's later educational outcomes*

7. Health

The Government has continued to make considerable effort to tackle children's mental health. However, with children's mental health worsening, the significant ongoing investment in Child and Adolescent Mental Health Services (CAHMS) is still not reaching the frontline and access and waiting times continue to be a postcode lottery.

200,000 children received specialist CAMHS treatment in 2016, nearly 3% of 5-17 year olds.⁴⁷ The true figure of children with mental health issues is likely to be much higher. Rates of self-harm and suicide are still rising at an alarming rate.⁴⁸

Despite the additional £1.4 billion over five years pledged by the Government in 2015 to transform CAMHS, a refusal to ring fence this means there is wide variation in its investment. **In the second year of funding, only half of Clinical Commissioning Groups (CCGs) have increased their CAMHS spend to reflect their additional government funds.**⁴⁹ The other half are using some or all of the money for other priorities.

🔴 The Government should invest in additional and sustained funding for CAMHS to meet the true cost of unmet need and ring fence the £1.4 billion investment to CAHMS.

Despite Government commitments and funding to introduce a national waiting time and access standards, these will not come fully into effect until 2020. Access to CAHMS continues to be a postcode lottery due to under investment and capacity. **The Care Quality Commission (CQC) found CAHMS waiting times of between 35 days to 18 months in different areas.**⁵⁰

🔴 The Government should publish maximum access and waiting time standards for emergency, urgent and routine CAMHS, with performance against these standards measured at CCG level.

Worryingly, children are still being placed in inappropriate settings (such as adult mental health wards) during mental health crises, despite a duty prohibiting it. **A shocking seven out of 10 children with severe mental health problems**

Over a quarter of children referred to specialist mental health services are not accepted for treatment



Source: Education Policy Institute (2017) *Access and Waiting Times in Children and Young People's Mental Health Services*

were admitted to hospitals outside of their local areas in 2016/17, an increase of 57% from the previous year.⁵¹ This places them far away from their family, friends and local services when they are extremely vulnerable.⁵²

🔴 The Government should encourage local areas to invest in new models of places of safety for children so they are never placed in a police cell, adult ward or far from their support networks.

While strides have been taken to improve the impact of key factors affecting children's health, such as childhood obesity and poor dental health, **poverty is still the key driver undermining a child's right to have the best possible health and access to services.**

Children belonging to poorer groups are twice as likely to be obese at age five, and three times as likely by age 11.⁵³ In dental health, 83% of five year olds in the highest income areas of the country had healthy teeth, compared with 70% in the poorest areas.⁵⁴

🔴 The Government should ensure that universal early years public health services (including health visiting and school nursing) are prioritised and supported financially, with targeted help for children and families experiencing poverty.

8. Policing and criminal justice

The Government has recognised the need to better scrutinise the way children in conflict with the law are treated, illustrated by the commissioning and publication of the *Taylor review* on youth justice and the *Lammy review* on the treatment of BAME individuals (including children) in the criminal justice system. The reports provide evidence of the scale of the problems, yet **the Government has been slow to respond with comprehensive, concrete proposals to reform the youth justice system.**

Police leaders have been more proactive in developing policy and guidance to improve the treatment of children by the police.⁵⁵ However significant improvements in practice and frontline policing are needed if children's rights are to be respected.

Children have described how traumatic and distressing it is to be hooded with a spit hood – a bag made of mesh-like material with a drawstring to tighten it, which is put over the head.⁵⁶ Responses to our FOI request revealed that at least 68 children in England were hooded in the first nine months of 2017 alone, including a 10 year old boy.

CRAE's research shows there were at least 519 uses of Tasers on children in 2016 and of these uses, Tasers were discharged or fired 42 times. **In 2016 a third of all uses (33%) were on children aged 15 years or younger.** The youngest child fired on with a Taser was 12 years old.

Ⓡ The use of Taser on children should be eliminated and the use of all harmful devices on children by police, including spit hoods, should be prohibited.

There has been an increase in the overrepresentation of BAME children in the youth secure estate. **In September 2007 BAME children made up just over 24% (713) of the imprisoned population, and by September 2017 they accounted for 45% (397).**⁵⁷ BAME children account for an estimated 17% of the general population of 10-17 year olds in England and Wales.⁵⁸

For many children in custody, violence, bullying and intimidation are a regular feature of life and in 2017 **the Chief Inspector of Prisons concluded: 'There was not a single establishment that we inspected in England [...] in which it was safe to hold children and young people.'**⁵⁹

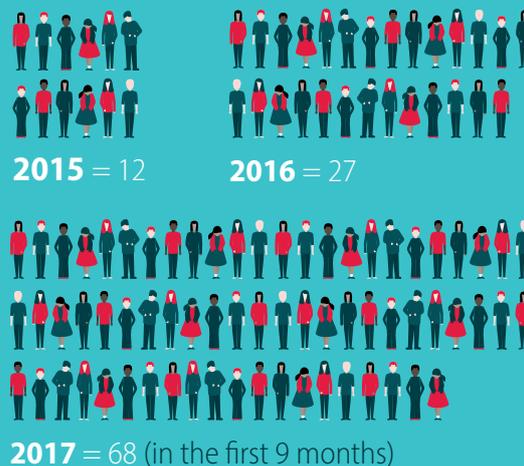
Children's own experiences of custody reflect this increasingly unsafe environment. An HMIP survey found: 22% of children in Secure Training Centres (STCs) reported feeling unsafe at some point since their arrival. 39% of boys in YOIs said they had felt unsafe at their establishment at some point.⁶⁰

Ⓡ The use of prison-like institutions (YOIs, STCs) should end for children and be replaced with care-based homes.

More than a half of children (55%) in STCs reported being restrained since their arrival and more than two-fifths (44%) of boys in YOIs. **Boys who had been restrained in YOIs were more likely to have been from a BAME background (56% compared with 39%).**⁶¹

Ⓡ Restraint against children should only be used when the child poses an imminent threat of injury to himself or others and it should never be used to deliberately inflict pain. All methods of physical restraint for disciplinary and immigration purposes should be abolished.

The use of spit hoods on children has increased as more police forces start to use them.



Source: CRAE FOI to 43 police forces

Endnotes

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About CRAE

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

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

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