



Wales UNCRC Monitoring Group



Grŵp Monitro CCUHP Cymru

## **Submission by the Children's Rights Alliance for England and the Wales UNCRC Monitoring Group**

### **United Kingdom of Great Britain and Northern Ireland Universal Periodic Review (UPR) - 4th Cycle October-November 2022**

#### **About the Children's Rights Alliance for England**

The Children's Rights Alliance for England (CRAE), was established in 1991 and is part of the charity Just for Kids law. It works with over 150 organisational and individual members to promote children's rights. 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.

#### **About the Wales UNCRC Monitoring Group**

The Wales UNCRC Monitoring Group is a national alliance of non-governmental and academic agencies, tasked with monitoring and promoting the United Nations Convention on the Rights of the Child in Wales. The UNCRC Monitoring Group was established in 2002 and is presently facilitated by Children in Wales, the national umbrella organisation. Since 2002, the Group has worked with the UN Committee on the Rights of the Child and submitted civil society reports to inform successive UK State Party Examinations.

#### **Contact details:**

**Louise King, Director, Children's Rights Alliance for England (CRAE), part of Just for Kids Law**  
[lking@crae.org.uk](mailto:lking@crae.org.uk) +44 206 6811393  
Unit 2, Crystal Wharf, 36 Graham Street, London, N1 8GJ

**Sean O'Neill, Chair, Wales UNCRC Monitoring Group**  
[sean.oneill@childreninwales.org.uk](mailto:sean.oneill@childreninwales.org.uk) +44 029 2034 2434  
C/O Children in Wales 21 Windsor Place, Cardiff, CF10 3BY

# 1. INSTITUTIONAL FRAMEWORK FOR THE PROMOTION AND PROTECTION OF CHILDREN'S HUMAN RIGHTS IN THE UK

## 1.1 GENERAL MEASURES OF IMPLEMENTATION (GMI) OF UN CONVENTION ON THE RIGHTS OF THE CHILD (CRC)

### *Reservations and Declarations to the CRC and ratification of Optional Protocols*

1. **Recommendations 134.22 not met:** The Declaration to OPAC setting out circumstances where it might not be possible to prevent deployment of under-18s in hostilities remains in place.
2. Despite removing its reservation to Article 37 (c)<sup>1</sup> there is still no specialised juvenile justice system for children enlisted into the armed forces, which means there remains a risk that children could be detained alongside adults.
3. Many police stations do not have separate cells for children, meaning that children may come into contact with adults.<sup>2</sup>

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**The Declaration on OPAC should be amended to ensure child recruits cannot take part in hostilities in any circumstances; UK Government should ensure it meets its obligations under CRC article 37(c) by ensuring that children do not come into contact with adults in detention.**

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4. **No progress on recommendation 134.7, 134.12, 134.17,134.18, 134.19, 134.20, 134.21:** UK Government has stated that it had not signed the Third Optional Protocol as *"the UK already has strong and effective laws under which individuals may seek enforceable remedies in the courts or tribunals."*<sup>3</sup> The Welsh Government has called upon the UK Government to ratify the Protocol.<sup>4</sup>

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**UK Government should set out a participative process to consider the merits of ratifying the 3<sup>rd</sup> Optional Protocol with a timeframe in place for a decision to sign and ratify. This should start immediately and in consultation with devolved governments.**

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### *Incorporation of the CRC into domestic law*

5. **No progress on recommendations 134.60 and 134.65 at UK level:** While some aspects of the CRC are replicated in UK and devolved legislation, this piecemeal approach is not satisfactory.
6. The Welsh Parliament has passed a general and one sectoral legislative measure of implementation: the Rights of Children and Young Persons (Wales) Measure 2011<sup>5</sup> and section 7 of the Social Services and Well-being (Wales) Act 2014.<sup>6</sup> The 2011 Measure brings the text of the CRC into the law applicable to Wales. Calls have been made for laws to be strengthened and for full incorporation of the CRC in Wales<sup>7</sup>

7. There remains no specific legal redress for children in England or Wales whose CRC rights are violated. This is in contrast to developments in Scotland.

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**Expedite bringing domestic legislation in line with the CRC at both national and devolved level to ensure that the principles and provisions of the CRC are directly applicable and judiciable under domestic law.**

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### *Not weakening the Human Rights Act*

8. **Recommendations 134.68-134.77 at serious risk:** There is wide-spread concern<sup>8</sup> about proposals<sup>9</sup> to repeal the Human Rights Act 1998 (HRA) and replace it with a “Modern Bill of Rights”. The proposals will significantly weaken respect for children’s human rights and the ability of children to hold the UK Government and public bodies to account where rights have been infringed.
9. The Welsh Government strongly opposes any repeal of the HRA, calling for the current proposals to be abandoned, citing their negative impact on the rights of UK citizens, especially those most vulnerable; limiting access to justice and not sufficiently considering devolution.<sup>10</sup>
10. There is ample evidence of its positive effect on children’s rights.<sup>11</sup> As the CRC has not been incorporated into domestic law the HRA is the only available mechanism for children to enforce some of their rights in the CRC. The duty on public authorities to comply with the ECHR has also led to positive changes to children’s rights protection without the need to go to court.<sup>12</sup>

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**The Human Rights Act 1998 must be retained and its’ vital role in protecting children’s universal human rights, including key provisions in the CRC, must be recognised.**

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### *Implementation of the CRC*

11. **Some welcome developments of recommendation 134.59 but more progress needed:** Much more needs to be done to establish effective CRC coordination and monitoring structures. In England, there’s no cabinet minister with responsibility for children’s rights and, in 2018, the role of Children and Families Minister was demoted to Parliamentary Under-Secretary of State. There’s no children’s rights action plan or strategy to address recommendations received under the UPR 3rd Cycle and the 2016 Concluding Observations of the UN Committee on the Rights of the Child, nor a centrally based, adequately resourced child rights team. This results in limited implementation of the CRC.
12. The Welsh Government appointed a minister who has oversight of children’s rights but is not a named Minister for Children, with calls for an appointment to be made being rejected.<sup>13</sup> There is only a small team responsible for coordinating CRC implementation, but the establishment of a Children’s Rights Advisory Group to engage with CSOs is a positive development.

13. The plethora of issues raised in recent CRC reporting shows that much action is needed before the CRC is fully implemented across England and Wales.<sup>14</sup>

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**Further measures must be taken to ensure effective implementation including a cabinet minister with responsibility for children’s rights, a children’s rights strategy and mandatory child rights training for civil servants and ministers.**

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### ***Child Rights Impact Assessment***

14. The civil service training on children’s rights and the Child Rights Impact Assessment (CRIA) template launched in 2018 for England, are welcome steps.<sup>15</sup> However, there’s no statutory obligation to conduct CRIAs in all policy areas affecting children, despite similar requirements in Wales and Scotland.<sup>16</sup>
15. Despite the UK Government’s commitment to: ‘*give due consideration to the UNCRC articles when making new policy and legislation*’,<sup>17</sup> in practice this is largely absent. Very few CRIAs have been carried out since the template was published.<sup>18</sup>
16. In Wales, legislation has resulted in greater use of CRIA by Welsh Government, although there is inconsistency and has not been produced for annual budgets. A revised CRIA template has been published alongside a manual for civil servants to help them comply with legislation. Positively, there is a requirement to engage with children to inform a specific policy.<sup>19</sup>

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**A transparent system of CRIA for all new policy, legislation and budgetary decision-making should be mandatory. Widespread training must be implemented to ensure that officials have the necessary skills, knowledge and understanding to undertake CRIA.**

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### ***Legal aid***

17. **Little progress on recommendation 134.154.** Legal aid is still unavailable for many children and families in England and Wales, and the Exceptional Case Funding Scheme is woefully inadequate.<sup>20</sup> More positively, in 2021, the Government commissioned an Independent Review of Criminal Legal Aid<sup>21</sup>, which recommended that the criminal legal aid fees payable in the Youth Court should be increased to reflect the importance of this work. The Government is currently consulting on a range of proposals to help to provide better quality legal representation for children the Youth Court.<sup>22</sup>

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**UK and Welsh governments should ensure all children have access to independent legal aid and assistance and can access justice and challenge decisions which affect their welfare and rights. For criminal legal aid the Youth Court must be given priority in the use of resources.**

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### *Human Rights Action Plans*

18. **No progress on recommendation 134.79.** England hasn't had a CRC action plan since 2010. To date, the Westminster Governments have made no firm commitment to produce a CRC action plan.
19. The Welsh Government has produced a Children's Plan which sets out the ministerial priorities rather than being a response to the UN Committee's 2016 recommendations<sup>23</sup>. There is also a progress report published on these recommendations<sup>24</sup>. Enhanced and robust monitoring arrangements need to be in place.

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**UK and Welsh governments should develop a child rights action plan, in consultation with stakeholders setting out how recommendations from the UN Committee and UPR will be addressed, including clear, resourced, time-bound actions and a monitoring framework. Progress should be reviewed on an annual basis.**

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### *Reform of the Children's Commissioners*

20. The Welsh Government continues to reject calls for the appointment, accountability and funding of the Children's Commissioner for Wales to be transferred to the Welsh Parliament. This despite recommendations from an independent review, from CSOs and the parliamentary children's committee calling for change.<sup>25</sup> The Children's Commissioner for England is still appointed by, and can be directed to carry out inquiries, by the Government.

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**UK and devolved governments should strengthen the independence of Children's Commissioners in line with the Paris Principles, and enable them to receive and investigate complaints from or on behalf of children concerning rights violations.**

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### *Knowledge of children's human rights*

21. Knowledge of children's rights remains poor throughout England and Wales. Rights training is inadequate for professionals working with and for children and rights education in schools remains patchy.<sup>26</sup>

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**UK and devolved governments should prepare a comprehensive strategy that encompasses and coordinates activities to ensure all CRC provisions are widely known and understood by adults and children.**

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## **2. IMPLEMENTATION OF HUMAN RIGHTS OBLIGATIONS IN RELATION TO CHILDREN**

22. The UN Committee COs with 150 recommendations show that immediate action is needed by UK and devolved governments. In this section, we highlight key issues.

## 2.1 GENERAL PRINCIPLES

### *Discrimination*

23. **Little progress on recommendations 134.88 and 134.92:** Black and other minority ethnic children continue to face significant discrimination in many aspects of their lives.<sup>27</sup> While the criminalisation of children overall has decreased in the last decade, it has increased for Black children. Many recommendations of an independent review looking at racial disproportionality in the criminal justice system have yet to be implemented.<sup>28</sup>
24. Gypsy Roma and Traveller (GRT) children also encounter systematic institutional and community discrimination and are more likely to suffer mental and physical ill-health.<sup>29</sup> Approximately 3,000 GRT families don't have a permitted place to stop,<sup>30</sup> so children living in caravans face constant evictions and live without basic amenities such as water and sanitation.<sup>31</sup> They also struggle to access school.<sup>32</sup>
25. While there are some welcome measures in the Government's new action plan,<sup>33</sup> it falls short of the ambitious cross government race equality strategy is needed to fully address race discrimination affecting children. Concern has also been raised that several pieces of proposed legislation will undermine the plan.<sup>34</sup>
26. **No progress on recommendations 134.100, 134.101, 134. 114, 134.116:** The police recorded over 76,000 racial hate crimes in the year ending March 2020 – a 6% increase from the previous year.<sup>35</sup> There was a rise in race hate crime against children since 2015/16, with over 10,500 such crimes in 2017/18 and reports of children whitening their skin to avoid bullying and racial abuse in school.<sup>36</sup>
27. **No progress has been made on recommendations 134.128:** Although the current version of Government's counterterrorism Prevent Strategy<sup>37</sup> does not explicitly target Muslims, FOIs indicate that 40% of children referred to the Prevent programme were recorded as Muslim and a quarter Asian.<sup>38 39</sup> This is a substantial overrepresentation.<sup>40</sup>
28. Since the introduction of the Prevent duty in 2015, children have been disproportionately targeted by the programme; nearly half (47%) of all referrals have been of children aged under 18.<sup>41</sup> Recent studies have called for the Prevent strategy to be repealed due to its infringement of children's rights.<sup>42</sup>

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**UK government must take immediate steps to address the significant racial disproportionality in all parts of the youth justice system in England and Wales.**

**UK and Welsh governments should address discrimination and hate crime experienced by Black and other minority ethnic children, including investing in training, education and accountability systems and proactively monitoring the media.**

**UK and Welsh governments should assess measures taken to counter terrorism to ensure they do not breach children's rights. Measures must be monitored, evaluated and continually reviewed.**

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### *Participation*

29. Many children do not feel listened to or provided with feedback by professionals in decision making processes. In England and Wales, there is no permanent structure or action plan to facilitate systematic participation and involvement of children in policy-making. Provision for under-11s is particularly patchy, as are adequate participation structures at a local level.
30. There is no statutory right to advocacy for most children, and the availability of good quality, independent advocacy is patchy.<sup>43</sup>
31. In Wales, all 16-17-year-olds can vote in national elections to the Welsh Parliament but not in UK Parliamentary elections.

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**UK and Welsh governments should ensure permanent structures to facilitate the systematic participation of children in national and local policy-making and scrutiny, such as child and youth parliaments and other accountability mechanisms; enshrine in law a right to an independent advocate for all children receiving or seeking care or support from the state; take steps to ensure that independent and confidential advocacy is widely available.**

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## **2.2 EDUCATION**

### *Children with Special Educational Needs and Disabilities (SEND)*

32. Schools in England have experienced a continued per capita fall in funding for addressing SEND.<sup>44</sup> As a result, applications for Education, Health and Care Plans (EHCP) which provide the highest levels of SEND funding and ring-fenced provision to individual children have increased, as families try to secure support.<sup>45</sup> The system has not kept up with this pressure, meaning children don't get the support they need<sup>46</sup> and often end up excluded from school. The quality of decision-making is also poor. Appeals against local authority decisions to refuse support are largely successful.<sup>47</sup> The Government has published its long-awaited SEND Review for consultation aimed to address these issues.<sup>48</sup>
33. In Wales, reform of education arrangements for children with Additional Learning Needs (ALN) are progressing in line with strengthened legislation, yet children still face many barriers when accessing appropriate, consistent and timely support.<sup>49</sup>

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**The SEND review in England should ensure there is sufficient funding for children with SEND so that they can get the support they need without delays.**

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### *School exclusions*

34. Despite a recent fall in exclusion levels in England, they are still unacceptable high in England and Wales<sup>50</sup> and disproportionately affect certain groups of children: those eligible for free school meals<sup>51</sup>, with special educational needs<sup>52</sup>, boys, GRT and Black Caribbean children.<sup>53</sup> The review system to challenge unfair and unlawful school

exclusion remains ineffective.<sup>54</sup> The appeal bodies for reviewing school exclusions still lack power to reinstate a child at a school.<sup>55</sup> There is no legal aid available so families must argue cases involving complex law principles.<sup>56</sup>

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**UK and Welsh governments should reduce school exclusions; ensure permanent or temporary exclusion is used as a last resort; address over-representation of particular groups of children; and ensure children have a statutory right to appeal against exclusions with legal advice and representation for those without means.**

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### *Educational attainment*

35. The attainment gap between children living in poverty in England and their peers grew in 2019 for the first time in 12 years. Disadvantaged children<sup>57</sup> are nine months behind their peers in primary school, and an average of 18 months behind their peers by secondary school exam age.<sup>58</sup> This has worsened after school and nursery closures of six months during lockdown.<sup>59</sup> There continues to be a gap between children of different ethnic backgrounds particularly GRT and Black Caribbean children.<sup>60</sup> Similar patterns exist for Wales.<sup>61</sup>

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**UK and Welsh governments should intensify efforts to reduce the attainment gap between children in poverty, GRT, care experienced and Black Caribbean backgrounds.**

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## **2.3 PROTECTION FROM ALL FORMS OF VIOLENCE**

### *Corporal punishment*

36. **Progress on recommendations 134.193 - 134.198 in Wales:** Physically punishing children is now illegal through the new Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020.<sup>62</sup> However, there has been no similar development in England.

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**UK government should repeal all legal defences as a matter of priority to ensure that corporal punishment in the family is prohibited.**

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### *Use of force*

37. **No progression on recommendation 134.134.**

### *Use of Taser*

38. Use of Taser on children continues to rise.<sup>63</sup> Latest annual figures show police forces in England and Wales used Tasers against children 2,091 times, including 6 times against under-11s.<sup>64</sup> Of this number, 122 were discharged which includes 1 discharge on a child under 11.<sup>65</sup> Taser is also used disproportionately on Black children.<sup>66</sup>



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**UK and Welsh governments should prohibit the use of Tasers on children. At the very least there should be clear national guidance and adequate training to ensure it's only used on children as an absolute last resort.**

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### *Use of force in institutions*

39. Children are still regularly subjected to use of force in prison. Annual statistics show there were almost 4,500 use of force incidents in Secure Training Centres (STCs) and Young Offender Institutions (YOIs).<sup>67</sup> Use of force is highest for Black children.<sup>68</sup> The Independent Inquiry into Child Sexual Abuse concluded: *"the use of pain compliance techniques should be seen as a form of child abuse."*<sup>69</sup> Restraint can also be used on children in YOIs for *"good order and discipline"*.
40. 1,049 children and young people under 20 were subject to restrictive interventions in mental health, learning disabilities, and autism inpatient services in 2018-19<sup>70</sup> – 369 to prone physical restraint.<sup>71</sup> There is currently no publicly available disaggregated data on the ages of children subject to these practices.<sup>72</sup>
41. Physical and mechanical restraint, isolation, and chemical restraint is being used against disabled children in schools.<sup>73</sup> Over half of cases of physical intervention or seclusion involved children aged between five and ten.<sup>74</sup>

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**The UK and Welsh government should ensure restraint against children is only used as a last resort, exclusively to prevent harm to the child or others, and never to deliberately inflict pain. All methods of restraint for disciplinary purposes should be abolished.**

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### *Strip searching*

42. Children are strip-searched in police stations and in custodial institutions in England and Wales and has also taken place in school. Children's rights are still being violated through strip searching, most clearly illustrated in a recent safeguarding review report,<sup>75</sup> without the presence of an appropriate adult, as required by law.<sup>76</sup> Routine strip-searching of children in YOIs was replaced with risk-based strip searching in 2014. However, concern has been raised that too many children in prison are still being strip-searched.<sup>77</sup> There is a lack of regularly published data on this issue, but a recent FOI request found that between 2016-2021 the Metropolitan Police Service (MPS) carried out 9,088 strip-searches of children.<sup>78</sup>

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The UK and Welsh Government should strengthen the law, guidance and training to ensure children are not subject to strip-searching unless absolutely necessary, and only in the presence of an appropriate adult.

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### *Mechanical restraint and spit hoods*

43. In 2020/21, spit-hoods were used on children in England and Wales 652 times, including twice on under-11s.<sup>79</sup> Black and minority ethnic children accounted for 34% of spit-hood use nationally and 72% of MPS use.<sup>80 81</sup>
44. Children have described how traumatic and distressing it is to be hooded.<sup>82</sup> Despite evidence of dangers of asphyxiation and trauma, there has been no assessment of how safe they are to use on under-18s and there is no national guidance for use on children.
45. Use of mechanical restraints on children can be used in police custody in England and Wales. In 2020 to 2021, there were 3,646 instances of limb/body mechanical restraints, 41 of which were for under 11s.<sup>83</sup>

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Use of mechanical restraints and spit-hoods on children must be banned.

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## 2.4 FAMILY ENVIRONMENT AND ALTERNATIVE CARE

### *Children in care*

46. **Regression on recommendation 134.152:** The numbers of children in care and on a child protection plan in England and Wales has continued to rise.<sup>84</sup> At the same time, estimated funding to local authorities' children services in England has fallen by £2.2 billion since 2010.<sup>85</sup> Crucially, spending on early intervention services for children has fallen dramatically by 46% since 2010, with late intervention increasing by 29%.<sup>86</sup> The Government recently announced £500 million for children and families, including to further roll out 75 Family Hubs but these will not be sufficient to cover the loss of thousands of children's centres.<sup>87</sup>
47. In Wales, there has been a sharp increase in the proportion of new-borns who became the subject of care proceedings.<sup>88</sup> In England, as social services are now only getting involved at crisis point, children who enter the care system are typically older with more complex needs.<sup>89</sup> The UK Government has commissioned an Independent Review of the Care System but any proposed changes will need increased funding or little will change.<sup>90</sup> The Welsh Government has commitment to safely reduce numbers of children in care has been cautiously welcomed.
48. Children in care experience frequent changes to social workers, placement, and schools.<sup>91</sup> The process of supporting children in care to transition to adulthood does not begin early enough and many face significant barriers in accessing multiple services.<sup>92</sup>
49. The number of children placed in unregulated, unsuitable, or unsafe accommodation<sup>93</sup> and in out of area placements has grown in recent years.<sup>94</sup> Although unregulated

accommodation has been banned in England for under-16s,<sup>95</sup> this will not cover 16-and-17-year-olds leaving them at risk of abuse, exploitation, or re-trafficking.<sup>96</sup>

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**The UK and Welsh governments should urgently increase funding for children’s and youth’s services; ensure there are enough local placements to meet the needs of looked after children; and legislate to ensure no under-18s are placed in unregulated accommodation.**

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## 2.5 BASIC HEALTH AND WELFARE

### *Child poverty*

50. **Regression on recommendations 134.168 and 134.192:** Child poverty is rising, with 4.2 million children living in poverty in the UK. <sup>97 98</sup> Families in poverty are now living in deeper poverty than five years ago.<sup>99</sup> The two-child limit and benefit cap on support households receive, regardless of need, continue to exacerbate child poverty.<sup>100</sup>
51. There’s been no strategy in England to address child poverty since repeal of the Child Poverty Act in 2016, along with associated targets, monitoring, and reporting. The Government has been criticised for failing to address the cost-of-living crisis, which is expected to increase child poverty.<sup>101</sup>
52. In Wales, the current statutory Child Poverty Strategy is dated and there is no action plan.<sup>102</sup> Child poverty rates are higher in Wales than the rest of the UK, disproportionately affecting lone parents and large families. The Welsh Government are taking steps to expand entitlement to Free School Meals but many children in poverty remain excluded due to restrictive eligibility criteria.<sup>103</sup>
53. Migrants – including children of migrant parents – often have a ‘no recourse to public funds’ (NRPF) condition on their visas, which leads to deep, long-term child poverty.<sup>104</sup> However, some progress has been made recently to allow some migrant children to receive free school meals.<sup>105</sup>

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**UK and devolved governments should make the elimination of child poverty, including for NRPF families, a priority by publishing national strategies and ensure progress continues against the indicators in the 2010 Child Poverty Act. They should assess impacts of the two-child limit and benefit cap on child poverty and ensure all families can access and afford high-quality childcare.**

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### *Homelessness*

54. **More progress needed on recommendation 134.164:** In England and Wales the number of homeless households with dependent children has increased since 2017, as has the number of homeless families staying in poor quality temporary accommodation.<sup>106 107</sup>

55. Children continue to be placed in B&Bs for longer than the six-week legal limit.<sup>108</sup> In 2021, there were 96,060 households living in temporary accommodation in England, including 121,680 dependent children.<sup>109</sup>
56. The number of homeless children in England has risen by 51% in the last five years.<sup>110</sup> Official figures are considered underestimates.
57. Homeless 16-and 17-year-olds often don't receive support they're entitled to.<sup>111</sup> Under current legislation<sup>112</sup> they should become Looked After, which entitles them to vital support and contact from a social worker while a child and care leaver entitlements once they turn 18, including financial and housing support. However, due to lack of understanding of the legislation and funding, only one in five children receive this status.<sup>113</sup>
58. One third of care leavers become homeless in the first two years immediately after they leave care and a quarter of all homeless people have care experience.<sup>114</sup> Only care leavers who are 21 and under have a priority need to receive homelessness help. Care leavers can be found intentionally homeless – thus becoming ineligible for support – if they refuse to be placed in unsuitable accommodation or are evicted due to rent arrears.

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**UK and Welsh governments should end the use of temporary accommodation for families and ensure long-term stable, good quality accommodation. The UK Government should ensure all homeless children become Looked After under section 20 of the Children Act; and better support homeless care leavers by extending priority need to all care leavers up to 25 and abolishing intentionality.**

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### *Mental health*

59. **Little progress on recommendation: 134.166.** Suicide is among the leading causes of death for five to 19 year-olds<sup>115</sup> and it's estimated that one in six (17.4%) six to 16 year-olds in England have a mental disorder.<sup>116</sup>
60. In Wales, three children in every classroom have a diagnosable mental health condition, with levels of stress, anxiety and self-harm rising.<sup>117</sup>
61. Covid-19 has taken its toll, with a sharp increase in eating disorders, self-harm, and in referrals to CAMHS.<sup>118</sup>
62. Under-investment in mental health remains a huge concern, despite additional investment of £1.4bn committed in England from 2015-16 to 2020-21.<sup>119</sup> Children account for 20% of the population, but only 10% of total mental health spending. On average, the NHS spends £225 for every adult and £92 for every child.<sup>120</sup> Children wait, on average, two months to begin mental health treatment.<sup>121</sup> Young people experience difficulties transitioning from CAMHS and many see support cut off at 18.<sup>122</sup> <sup>123</sup> Children are still admitted to adult mental health inpatient wards.<sup>124</sup>

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**UK and devolved governments should increase funding for mental health support for children; and take steps to understand and address the underlying causes of high rates of mental ill-health among children.**

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### *Health inequalities*

63. **Regression on recommendation 134.166.** Inequalities in some health outcomes for children have widened<sup>125</sup> with disproportionate ill-health in poorer households and among Black and minority ethnic children. This is driven by underlying factors, namely poverty and food insecurity, systemic racism, disability, poor housing, and homelessness. Children from deprived backgrounds have higher rates of mortality,<sup>126</sup> tooth decay, and childhood obesity.<sup>127</sup> There is no strategy or targets to address child health inequality but the Government has established the Office for Health Improvement and Disparities and a forthcoming health disparities white paper.<sup>128</sup>
64. The NHS charging regulations<sup>129</sup> are also a discriminatory barrier to accessing healthcare for undocumented migrants.<sup>130</sup>

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**UK and Welsh governments should set out proposals and targets to address growing health inequalities and review the impact of NHS charging regulations on migrant children.**

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## **2.6 SPECIAL PROTECTION MEASURES**

### *Overnight detention in police custody*

65. Fewer children are entering police custody due to reduction in child arrests,<sup>131</sup> but the treatment of those that do is concerning. Children spend considerable periods of time without access to an independent adult and many who are refused bail are kept in the police station overnight,<sup>132</sup> despite this being illegal.<sup>133</sup>
66. Annual data shows that a high proportion of child arrests in England and Wales results in overnight police custody (21,369<sup>134</sup> out of 58,939<sup>135</sup>). Very young children are also held in police custody overnight, with 6,779 children aged 15 years and under. 244 children aged 12 and under were held overnight and 9 children held overnight were just 10 years of age.<sup>136 137</sup>
67. Black children are disproportionality represented 21.7% (4,193), with a total of 15% (2,893) from other minority ethnic groups.<sup>138</sup>

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**UK and Welsh governments should ensure overnight police detention is used only as a last resort, and there is sufficient local authority accommodation to accommodate children; improve the treatment of arrested children; and ensure it regularly collects and publishes disaggregated data, including by age and ethnicity on child overnight police detention.**

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### *Age of criminal responsibility*

68. **Recommendations 134.206 and 134.207 and 134.208 have not been met:** The UN Committee has consistently raised concerns about the low age of criminal responsibility - 10 years in England and Wales. There has been no progress despite an increase to 12 years in Scotland.<sup>139</sup>

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**Legislation to increase the mandatory age of criminal responsibility should be introduced at the earliest opportunity.**

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### *Numbers of children in prison*

69. **Some progress on recommendation 134.58.** The child custodial estate is not fit for purpose and should be abolished. In December 2016, the Government committed to phasing out child prisons,<sup>140</sup> but little action has been taken. While children remain in prison, their safety and welfare is at risk.
70. While the number of children deprived of their liberty has fallen sharply over the last 10 years, custody is not used as a last resort and for the shortest possible time.<sup>141</sup> Black and other minority ethnic children now make up the majority (51%) of those imprisoned.<sup>142</sup> There were 502 children in custody in January 2022, with the majority held in prison-like STCs or YOIs with only 70 (14%) in welfare-based Secure Children's Homes.<sup>143</sup>
71. The proportion of children held in custody on remand is increasing and accounted for 40% of all children in prison by March 2021.<sup>144</sup> Almost three quarters of children remanded to custody received a non-custodial outcome.<sup>145</sup> <sup>146</sup> Black children account for 34% of those remanded to custody.<sup>147</sup>
72. **There has been no progress on recommendations 134.203 and 134.204.** The requirement that any child convicted of murder receive a life sentence remains of great concern as is the availability and frequent use of discretionary life sentences and other "adult" sentences, especially as the average length of sentence has increased substantially in recent years<sup>148</sup> and proposals<sup>149</sup> will increase custody time.
73. Whilst the majority of children from Wales who serve custodial sentences are held in Wales, there are no facilities in Wales for girls, who are held in STCs in England placing additional challenges in terms of visits and maintaining connections upon which they might depend after release.<sup>150</sup> The need for and quality of Welsh language support should be evaluated and data collection improved.

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**Provide a clear plan, including timescales, for the closure of all juvenile YOIs and STCs; introduce child specific maximum sentences and abolish life imprisonment for offences committed by children.**

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### *Immigration, migration and trafficking*

74. **Regression in relation to recommendations 134.190, 134.213, 134.221.**

### *Asylum-seeking children*

75. In 2021, the UK Government embarked on a significant programme of reform to the asylum system through the Nationality, Asylum and Borders Bill (NABB) that UNHCR warned would undermine the 1951 Refugee Convention.<sup>151</sup> The UK Government refused to exempt children and have not conducted a CRIA.<sup>152</sup> This Bill and proposed reforms to the HRA on irregular migration and deportation of foreign national offenders without appropriately considering children's best interests. The Welsh Parliament has recently voted to withhold consent for the Bill, with the Welsh Government calling for amendment to ensure that several clauses do not apply in Wales.<sup>153</sup>
76. Unaccompanied children face significant delays in the processing of their asylum claims.<sup>154</sup> Standards in the provision of care for these children have been undermined by the UK Government housing children as young as 12 on their own in hotel rooms rather than in the care of local authorities.<sup>155</sup> Children in asylum-seeking families also face long delays, whilst living in sometimes sub-standard accommodation with little financial assistance.<sup>156</sup>
77. A large number of unaccompanied children are still misidentified as adults and spend time unsupervised in inappropriate accommodation before being correctly cared for by local authorities.<sup>157</sup>
78. The UK asylum system has recognised an increasing proportion of claimants as refugees; e.g. in 2021, 85% of decisions made on unaccompanied child claims were recognised as a refugee.<sup>158</sup> However these children remain unable to realise their right to family life as they continue to be ineligible for the Refugee Family Reunion Policy relating to adults.

### *Children in the immigration system*

79. The so-called 'hostile environment' for undocumented migrants implemented under the Immigration Acts 2014 and 2016 substantially remains. Research estimates that the number of undocumented children could be 215,000<sup>159</sup> but there are many hurdles to securing status: the cost of citizenship and application fees, lack of legal aid, and once granted status, a five-year route to permanent status for some children. Undocumented children remain subject to policies like limiting their families' access to work and social security assistance leaving many in extreme poverty.<sup>160</sup> The only available support is from local government under child safeguarding provisions. Since Brexit, there have been concerns that more families and children will end up undocumented.<sup>161</sup>
80. The protections available for stateless children under UK nationality law are also set to be weakened under the NABB.<sup>162</sup>
81. **Some progress on recommendations 134.138 and 134.146.** The Independent Child Trafficking Guardians service has expanded and is now available in two thirds of local authority areas in England, but isn't available to all trafficked children<sup>163</sup> or all separated migrant children despite repeated calls from human rights bodies.<sup>164</sup> The National Referral Mechanism for trafficked children is weak and fails to embed identification and

safeguarding into existing child protecting processes and proposals in the NABB will reduce identification and protection for child victims of exploitation.<sup>165</sup>

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**UK Government should ensure immigration law, policy and practice reflects the UK's obligations under the CRC and the NAAB is abolished. UK and devolved governments should put in place a consistent system of national, legal, independent guardianship for all separated migrant children and ensure all child victims of trafficking and exploitation are not criminalised but treated as victims and receive appropriate support.**

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### *Children in armed conflict - recruitment age*

82. The UK still enlists 16-year-olds to the armed forces. In 2019-20, the armed forces enlisted 3,260 under-18s, three-quarters of whom joined the army.<sup>166</sup> 16 and 17 year-olds made up 25.5% of the army's intake – with more soldiers recruited at 16 than any other age.<sup>167</sup> Army recruiters strategically target deprived neighbourhoods and children below enlistment age.<sup>168</sup> The risks associated with being in the armed forces – such as poor mental health, post-traumatic stress disorder, alcohol misuse, self-harm, or suicide – are greater for those recruited as children.<sup>169</sup>

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**UK Government must raise the minimum age for armed forces recruitment to 18 years and in the interim, strengthen its safeguards to meet the standards required by Article 3 of OPAC.**

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<sup>1</sup> UNCRC Article 37(c) - the requirement to detain children separately from adults

<sup>2</sup> All Party Parliamentary Group for Children (2014) "It's all about trust": Building good relationships between children and the police [https://www.familylaw.co.uk/docs/pdf-files/appgc\\_children\\_and\\_police\\_report\\_-\\_final.pdf](https://www.familylaw.co.uk/docs/pdf-files/appgc_children_and_police_report_-_final.pdf)

<sup>3</sup> UK Government (2014) 5th UK Periodic Report to the UN Committee on the Rights of the Child, Paragraph 17

<sup>4</sup> Welsh Government (2020) Written Response to the Welsh Parliament Children, Young People & Education Committee inquiry into Children's Rights in Wales

<sup>5</sup> Welsh Government (2011) Rights of Children and Young Persons (Wales) Measure 2011 <http://www.legislation.gov.uk/mwa/2011/2/contents>

<sup>6</sup> Welsh Government (2014) Social Services and Well-being (Wales) Act 2014 [http://www.legislation.gov.uk/anaw/2014/4/pdfs/anaw\\_20140004\\_en.pdf](http://www.legislation.gov.uk/anaw/2014/4/pdfs/anaw_20140004_en.pdf)

<sup>7</sup> Wales UNCRC Monitoring Group (2020) State of Children's Rights in Wales: CSO submission to the UN

<sup>8</sup> See for example <https://www.bih.org.uk/hra-reform-other-organisations>

<sup>9</sup> Ministry of Justice (2021) Human Rights Acts Reform. A Modern Bill of Rights consultation <https://www.gov.uk/government/consultations/human-rights-act-reform-a-modern-bill-of-rights/human-rights-act-reform-a-modern-bill-of-rights-consultation>

<sup>10</sup> Welsh Government (2022) Response to the Human Rights Act Reform consultation [https://gov.wales/sites/default/files/publications/2022-03/human-rights-act-reform-a-modern-bill-of-rights\\_0.pdf](https://gov.wales/sites/default/files/publications/2022-03/human-rights-act-reform-a-modern-bill-of-rights_0.pdf)

<sup>11</sup> Children's Rights Alliance for England (2022) Human Rights Act reform: A proposal for a Modern Bill of Rights [http://www.crae.org.uk/media/132431/HRA-reform-response-March-2022-FINAL\\_-002-.pdf](http://www.crae.org.uk/media/132431/HRA-reform-response-March-2022-FINAL_-002-.pdf)

<sup>12</sup> For example, it has enabled a disabled girl to access transport to get to school, prevented a new born baby and her mum have from being made homeless and enabled a young person to have a voice in order to be rehoused following abuse.



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- <sup>13</sup> Welsh Government written answer (23 September 2020) *Response to the Welsh Parliaments Children, Young People & Education Committee's report from their inquiry into Children's rights* <https://business.senedd.wales/documents/s105741/Welsh%20Government%20response%20-%2023%20September%202020.pdf>
- <sup>14</sup> See Children's Rights Alliance for England (2020) *England Civil Society Submission to the United Nations Committee on the Rights of the Child to inform its List of Issues Prior to Reporting (LOIPR)* [http://www.crae.org.uk/media/129724/CRAE\\_LOIPR\\_09-DEC-20.pdf](http://www.crae.org.uk/media/129724/CRAE_LOIPR_09-DEC-20.pdf); and Wales UNCRC Monitoring Group (2020) *State of Children's Rights in Wales: CSO submission to the UN*
- <sup>15</sup> Nadhim Zahawi MP, Parliamentary Under Secretary of State for Children and Families (20 November 2018) *Written Ministerial Statement for Universal Children's Day HCWS1093*
- <sup>16</sup> The Rights of Children and Young Persons (Wales) Measure 2011 imposes a duty on ministers to have due regard to children's rights as expressed in the CRC. Part one of the Children and Young People (Scotland) Act 2014 requires all Scottish ministers to give better or further effect to the requirements of the CRC; take account of the relevant views of children of which they are aware; promote public awareness and understanding of the rights of children; and report every three years to the Scottish Parliament on what they have done to fulfil these duties.
- <sup>17</sup> Lord Agnew of Oulton, Parliamentary Under Secretary of State for the School System (20 November 2018) *Written Ministerial Statement for Universal Children's Day HLWS1064*
- <sup>18</sup> The true scale of how many CRIAs have been conducted is unknown as they are not centrally collected. Most are not published.
- <sup>19</sup> Welsh Government (2021) *Embedding Children's Rights within Welsh Government: A manual to support staff & a CRIA Template* <https://gov.wales/sites/default/files/publications/2021-11/childrens-rights-scheme-staff-manual.pdf>
- <sup>20</sup> Coram Children's Legal Centre (2018) *Rights without remedies: Legal aid and access to justice for children* [https://www.childrenlegalcentre.com/wp-content/uploads/2018/05/Rights-without-remedies\\_Final.pdf](https://www.childrenlegalcentre.com/wp-content/uploads/2018/05/Rights-without-remedies_Final.pdf)
- <sup>21</sup> Bellamy, C. (2021) *Independent Review of Criminal Legal Aid* [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1041117/clar-independent-review-report-2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041117/clar-independent-review-report-2021.pdf)
- <sup>22</sup> Ministry of Justice (2022) *Response to independent review of legal aid* <https://www.gov.uk/government/consultations/response-to-independent-review-of-criminal-legal-aid/response-to-independent-review-of-criminal-legal-aid>
- <sup>23</sup> Welsh Government (2022) *Children and Young People's Plan* <https://gov.wales/sites/default/files/pdf-versions/2022/3/4/1648138844/children-and-young-peoples-plan.pdf>
- <sup>24</sup> Welsh Government (2021) *Welsh Government update on progress following the publication of the United Nations Committee on the Rights of the Child Concluding Observations report into the United Kingdom of Great Britain and Northern Ireland 2016* <https://gov.wales/sites/default/files/publications/2021-03/un-committee-rights-of-child-concluding-observations-welsh-government-update.pdf>
- <sup>25</sup> Shooter, M. (2014) *The Independent Review of the Role and Functions of the Children's Commissioner for Wales*
- <sup>26</sup> See for example Children's Rights Alliance for England (2015) *UK Implementation of the UN Convention on the Rights of the Child: Civil Society alternative report 2015 to the UN Committee*; Wales UNCRC Monitoring Group (2015) *Report to the United Nations Committee on the Rights of the Child*
- <sup>27</sup> Runnymede Trust (2020) *England civil society submission to the UN Committee on the Elimination of Racial Discrimination* [https://assets-global.website-files.com/61488f992b58e687f1108c7c/61bca661b8abd33d2f6f579c\\_Runnymede%20CERD%20report%20v3.pdf](https://assets-global.website-files.com/61488f992b58e687f1108c7c/61bca661b8abd33d2f6f579c_Runnymede%20CERD%20report%20v3.pdf)
- <sup>28</sup> Lammy, D. (2017) *An independent review into the treatment of, and outcomes for Black, Asian and Minority Ethnic individuals in the criminal justice system* [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/643001/lammy-review-final-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf)
- <sup>29</sup> Equality and Human Rights Commission (2016) *Healing a divided Britain: the need for a comprehensive race equality strategy* [https://www.equalityhumanrights.com/sites/default/files/healing\\_a\\_divided\\_britain\\_-\\_the\\_need\\_for\\_a\\_comprehensive\\_race\\_equality\\_strategy\\_final.pdf](https://www.equalityhumanrights.com/sites/default/files/healing_a_divided_britain_-_the_need_for_a_comprehensive_race_equality_strategy_final.pdf)
- <sup>30</sup> Ministry of Housing, Communities and Local Government (2019) *Count of Traveller Caravans, July 2019 England* [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/848868/TCC\\_November19\\_Stats\\_Release.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/848868/TCC_November19_Stats_Release.pdf)
- <sup>31</sup> Equality and Human Rights Commission (2018) *Pressing for progress: women's rights and gender equality in 2018* <https://www.equalityhumanrights.com/sites/default/files/pressing-for-progress-womens-rights-and-gender-equality-in-2018-pdf.pdf>

- <sup>32</sup> Department for Education Statistics (2020) *Destinations of school pupils after GCSEs (and equivalent qualifications)* <https://www.ethnicity-facts-figures.service.gov.uk/education-skills-and-training/after-education/destinations-of-school-pupils-after-key-stage-4-usually-aged-16-years/latest>
- <sup>33</sup> HM Government (2022) *Inclusive Britain: The Government's response to the Commission on Race and Ethnic Disparities* [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1061421/Inclusive-Britain-government-response-to-the-Commission-on-Race-and-Ethnic-Disparities.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1061421/Inclusive-Britain-government-response-to-the-Commission-on-Race-and-Ethnic-Disparities.pdf)
- <sup>34</sup> Equally Ours (March 17 2022) 'Statement on the Government's Inclusive Britain Action Plan' Press Release [https://www.equallyours.org.uk/equally-ours-statement-on-the-governments-inclusive-britain-action-plan/?utm\\_source=Equally+Ours+Newsletter&utm\\_campaign=4425660220-Newsletter+March+2+2022&utm\\_medium=email&utm\\_term=0\\_104ed5022f-44](https://www.equallyours.org.uk/equally-ours-statement-on-the-governments-inclusive-britain-action-plan/?utm_source=Equally+Ours+Newsletter&utm_campaign=4425660220-Newsletter+March+2+2022&utm_medium=email&utm_term=0_104ed5022f-44)
- <sup>35</sup> Home Office (2020) *Hate crime, England and Wales, 2019 to 2020* [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/925968/hate-crime-1920-hosb2920.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925968/hate-crime-1920-hosb2920.pdf)
- <sup>36</sup> Dodd, V. (30 May 2019) 'Children whitening skin to avoid racial hate crime, charity finds' *The Guardian*
- <sup>37</sup> Home Office (2011) *Prevent Strategy* [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/97976/prevent-strategy-review.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97976/prevent-strategy-review.pdf)
- <sup>38</sup> Figures obtained through FOI requests – period March 2014 to 2016. Breakdown by ethnicity: Asian 37.7%; white 33.0%; black 5.3%; mixed 4.0%; Chinese 0.2%; other 7.2%; unknown 11.6%; Children's Rights International Network (2018) *Caught in the crossfire?* <https://archive.crin.org/sites/default/files/caughtinthecrossfire.pdf>
- <sup>39</sup> In recent years, the Department has rejected requests to provide this data under the Freedom of Information Act. In response to one such request by CRIN, the Home Office claimed that it was necessary to withhold the data for purposes of national security. Home Office [3 June 2021] Response to Freedom of Information Request (Ref. 62693)
- <sup>40</sup> Compared to the population as a whole, Muslims accounted for 4.8% and Asians for 7.5% of the population in the most recent national census data. Muslim Council of Britain (2015) *British Muslims in Numbers: A Demographic, Socio-economic and Health profile of Muslims in Britain drawing on the 2011 Census* [https://www.mcb.org.uk/wp-content/uploads/2015/02/MCBCensusReport\\_2015.pdf](https://www.mcb.org.uk/wp-content/uploads/2015/02/MCBCensusReport_2015.pdf)
- <sup>41</sup> Home Office [2 Jun 2021] Response to Written Question 6170; Home Office [4 Feb 2022] Response to Written Question 115834; Home Office (2021) *Individuals referred to and supported through the Prevent Programme, England and Wales, April 2020 to March 2021* <https://www.gov.uk/government/statistics/individuals-referred-to-and-supported-through-the-prevent-programme-april-2020-to-march-2021/individuals-referred-to-and-supported-through-the-prevent-programme-england-and-wales-april-2020-to-march-2021>
- <sup>42</sup> A Recent publication by CRIN has argued that the Prevent strategy violates children's human rights by putting policing priorities above children's rights and welfare. Child Rights International Network (2022) *Preventing Safeguarding: The Prevent strategy and children's rights* <https://static1.squarespace.com/static/5afadb22e17ba3eddf90c02f/t/62385835c6d6f61c4977be26/1647859768092/Preventing+Safeguarding+March+2022+CRIN.pdf>
- <sup>43</sup> Children's Rights Alliance for England (2019) *State of Children's Rights 2018* [http://www.crae.org.uk/media/126982/B2\\_CRAE\\_GMI\\_2018\\_WEB.pdf](http://www.crae.org.uk/media/126982/B2_CRAE_GMI_2018_WEB.pdf)
- <sup>44</sup> National Audit Office (2019) *Support for pupils with special educational needs and disabilities in England* <https://www.nao.org.uk/wp-content/uploads/2019/09/Support-for-pupils-with-special-education-needs.pdf>
- <sup>45</sup> Department for Education statistics (2019) *Statements of SEN and EHC plans: England 2019* [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/805014/SEN2\\_2\\_019\\_text.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805014/SEN2_2_019_text.pdf)
- <sup>46</sup> Ibid. See table % of new EHC plans issued in 20 weeks (20 weeks being the lawful time limit from request to completion)
- <sup>47</sup> Keer, M. (18 June 2019) 'The latest SEND Tribunal figures paint a troubling picture' *Special Needs Jungle* <https://www.specialneedsjungle.com/latest-send-tribunal-figures-paint-a-troubling-picture/>
- <sup>48</sup> Department for Education (29 March 2022) *Summary of the SEND review: right support, right place, right time, out for consultation until 1 July 2022* <https://www.gov.uk/government/publications/send-and-ap-green-paper-responding-to-the-consultation/summary-of-the-send-review-right-support-right-place-right-time>
- <sup>49</sup> Wales UNCRC Monitoring Group (2020) *State of Children's Rights in Wales: CSO submission to the UN*
- <sup>50</sup> There were 5,057 permanent exclusions and 310,733 fixed-term exclusions in the academic year ending in 2020, compared with 7,849 and 438,265 respectively for the year ending 2019. While these statistics show that permanent exclusions and suspensions have decreased, 2019/20 was interrupted by the first national lockdown. Therefore, school closures have had a substantial effect on the number of permanent exclusions and suspensions so caution

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should be taken when comparing figures across years. Department for Education statistics (July 2021) *Permanent and fixed-period exclusions in England* <https://www.gov.uk/government/statistics/permanent-exclusions-and-suspensions-in-england-2019-to-2020>

<sup>51</sup> Ibid. The permanent exclusion rate for pupils eligible for FSM is 0.16, compared to 0.04 for those not eligible. In both cases these rates have decreased in the last year. The suspension rate is also higher at 9.34 for pupils eligible for FSM, compared to 2.58 for those not eligible.

<sup>52</sup> Ibid. The permanent exclusion rate for pupils with an education, health and care (EHC) plan is 0.10, and for pupils with SEN with no EHC plan (SEN support) is 0.20, compared to 0.04 for those without SEN. The suspension rate is also higher: 11.70 for EHC pupils and 10.98 for SEN support pupils, compared to 2.43 for those without SEN.

<sup>53</sup> Ibid. For the year ending 2020, the national rate of permanent exclusion was 0.6, the rate of fixed term exclusions was 3.76. The rate for Gypsy/Roma learners was 0.23 and 15.28 respectively. For Travellers of Irish heritage, the rates were 0.14 and 10.12. For Black Caribbean learners, the rates were 0.14 and 7.3.

<sup>54</sup> Justice (2019) *Challenging School Exclusions* <https://justice.org.uk/our-work/administrative-justice-system/challenging-school-exclusions/>

<sup>55</sup> Department for Education (2022) *Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement* Page 54, para 187: [https://consult.education.gov.uk/school-absence-and-exclusions-team/revised-school-behaviour-and-exclusion-guidance/supporting\\_documents/Suspension%20and%20permanent%20exclusion%20guidance.pdf](https://consult.education.gov.uk/school-absence-and-exclusions-team/revised-school-behaviour-and-exclusion-guidance/supporting_documents/Suspension%20and%20permanent%20exclusion%20guidance.pdf)

<sup>56</sup> LAG (2014) *The education problems still covered by legal aid* <https://www.lag.org.uk/article/202534/the-education-problems-still-covered-by-legal-aid>

<sup>57</sup> Disadvantage is defined by the DfE as a student who has been in receipt of free school meals at any time in the preceding six years. Education Policy Institute (2020) *Education in England: annual report* [https://epi.org.uk/wp-content/uploads/2020/09/EPI\\_2020\\_Annual\\_Report\\_.pdf](https://epi.org.uk/wp-content/uploads/2020/09/EPI_2020_Annual_Report_.pdf)

<sup>58</sup> Ibid

<sup>59</sup> Department for Education (2021) *Understanding Progress in the 2020/21 Academic Year: Findings from the summer term and summary of all previous findings* [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1055351/Understanding\\_progress\\_in\\_the\\_2020\\_to\\_2021\\_academic\\_year.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1055351/Understanding_progress_in_the_2020_to_2021_academic_year.pdf)

<sup>60</sup> Gypsy/Roma pupils are nearly three years behind their peers by the end of secondary school, and Travellers of Irish Heritage two years behind. Black Caribbean students are 11 months behind white British students at the end of their GCSEs. Education Policy Institute (2020) *Education in England: annual report* [https://epi.org.uk/wp-content/uploads/2020/09/EPI\\_2020\\_Annual\\_Report\\_.pdf](https://epi.org.uk/wp-content/uploads/2020/09/EPI_2020_Annual_Report_.pdf)

<sup>61</sup> Wales UNCRC Monitoring Group (2020) *State of Children's Rights in Wales: CSO submission to the UN*

<sup>62</sup> Welsh Government (2020) Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020 <https://www.legislation.gov.uk/anaw/2020/3>

<sup>63</sup> The number of incidents has risen from 16,193 in 2017/18 to 34,429 in 2020/21. Home Office (2021) *Police use of force statistics, England and Wales: April 2020 to March 2021* <https://www.gov.uk/government/statistics/police-use-of-force-statistics-england-and-wales-april-2020-to-march-2021>

<sup>64</sup> Ibid

<sup>65</sup> Ibid

<sup>66</sup> Children's Rights Alliance for England (2019) *State of Children's Rights in England 2018: Policing and Criminal Justice* [http://www.crae.org.uk/media/127098/B8\\_CRAE\\_POLICINGCJ\\_2018\\_WEB.pdf](http://www.crae.org.uk/media/127098/B8_CRAE_POLICINGCJ_2018_WEB.pdf)

<sup>67</sup> Comparable data are not held for SCHs. Ministry of Justice and Youth Justice Board (2022) *Youth Justice Statistics: England and Wales 2020-2021* <https://www.gov.uk/government/statistics/youth-justice-statistics-2020-to-2021>

<sup>68</sup> Ibid. The average monthly rate of use of force per 100 children for Black children was 72.2 compared to an overall average of 63.2.

<sup>69</sup> Independent Inquiry into Child Sexual Abuse (2019) *Sexual Abuse of Children in Custodial Institutions: 2009-2017 Investigation Report* <https://www.iicsa.org.uk/reports-recommendations/publications/investigation/custodial>

<sup>70</sup> This amounts to 32,221 restrictive interventions, including physical and chemical restraint, seclusion, and segregation. NHS Digital (April 2006 to March 2019) *Mental Health Bulletin Reference Tables*, Table 7.1 <https://digital.nhs.uk/data-and-information/publications/statistical/mental-health-bulletin/2018-19-annual-report#>

<sup>71</sup> Ibid

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<sup>72</sup> The Mental Health Units (Use of Force) Act 2018 requires the collection of disaggregated data on all incidences of use of force in mental health units, as well as training and measures to minimise it. The new provisions under the Act will come into force on 31 March 2022.

<sup>73</sup> The Challenging Behaviour Foundation and Positive and Active Behaviour Support Scotland (2019) *Reducing Restrictive Intervention of Children and Young People: Case study and survey results* <https://www.challengingbehaviour.org.uk/learning-disability-assets/reducingrestrictiveinterventionofchildrenandyoungpeoplereport.pdf>

<sup>74</sup> Ibid

<sup>75</sup> CHSCP (2022) *Local Child Safeguarding Practice Review Child Q* <https://chscp.org.uk/wp-content/uploads/2022/03/Child-Q-PUBLISHED-14-March-22.pdf> and Dodd, V. and Quinn, B. (16 March 2022) 'Met officers under investigation over strip search of girl at London school' *The Guardian* <https://www.theguardian.com/uk-news/2022/mar/16/met-officers-under-investigation-over-strip-search-of-girl-at-london-school>

<sup>76</sup> Home Office (2020) *Police and Criminal Evidence Act 1984 (PACE) codes of practice*

<https://www.gov.uk/guidance/police-and-criminal-evidence-act-1984-pace-codes-of-practice>

<sup>77</sup> Howard League for Penal Reform (2016) *The Carlile Inquiry Ten years on: The use of restraint, solitary confinement and strip-searching on children* <https://howardleague.org/wp-content/uploads/2016/06/Carlile-Inquiry-10-years-on.pdf>

<sup>78</sup> Archer, N. (18 March 2022) 'More London children speak out about horrific police strip searches' *Open Democracy* <https://www.opendemocracy.net/en/child-q-strip-search-london-metropolitan-police-hackney/>

<sup>79</sup> Home Office (2021) *Police use of force statistics, England and Wales: April 2020 to March 2021*

<https://www.gov.uk/government/statistics/police-use-of-force-statistics-england-and-wales-april-2020-to-march-2021/police-use-of-force-statistics-england-and-wales-april-2020-to-march-2021>

<sup>80</sup> Children's Rights Alliance for England (2020) *Children's rights and policing: Spit-hoods and children's rights*

[https://yjlc.uk/wp-content/uploads/2020/04/CRAE\\_POLICING-SPITHOODS\\_PRINT.pdf](https://yjlc.uk/wp-content/uploads/2020/04/CRAE_POLICING-SPITHOODS_PRINT.pdf)

<sup>81</sup> There is a lack of recent disaggregated data on the ethnicity of children subject to these practices.

<sup>82</sup> See the case study of Sophie, a disabled 11-year old girl, in Children's Rights Alliance for England (2016) *State of children's rights in England: Policing and criminal justice*

[http://www.crae.org.uk/media/118312/crae\\_scr2016\\_b8\\_cjs-web.pdf](http://www.crae.org.uk/media/118312/crae_scr2016_b8_cjs-web.pdf)

<sup>83</sup> Home Office (2021) *Police use of force statistics, England and Wales: April 2020 to March 2021*

<https://www.gov.uk/government/statistics/police-use-of-force-statistics-england-and-wales-april-2020-to-march-2021/police-use-of-force-statistics-england-and-wales-april-2020-to-march-2021>

<sup>84</sup> In 2021, the number of children looked after by local authorities in England rose to 80,850, up 1% on the previous year and continuing the rise seen in recent years. In Wales, there was a further 2% increase in 2021 on the previous year. Department for Education (2021) *Children looked after in England including adoption: 2020 to 2021*

<https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2020-to-2021> *Welsh Government (2021) Children looked after by local authorities 2020 to 2021* <https://gov.wales/children-looked-after-local-authorities-april-2020-march-2021>

<sup>85</sup> Action for Children, National Children's Bureau, NSPCC, The Children's Society, and Barnardo's (2020) *Children and young people's services: Funding and spending 2010/11 to 2018/19*

[https://media.actionforchildren.org.uk/documents/Joint\\_report\\_-\\_childrens\\_services\\_funding\\_2018-19\\_May\\_2020\\_Final.pdf](https://media.actionforchildren.org.uk/documents/Joint_report_-_childrens_services_funding_2018-19_May_2020_Final.pdf)

<sup>86</sup> Local authority spending on early intervention services for children and young people has fallen from £3.5 billion to £1.9 billion between 2010/11 and 2018/19. Local authority spending on late intervention services for children and young people has risen from £5.6 billion to £7.2 billion between 2010/11 and 2018/19. Action for Children, National Children's Bureau, NSPCC, The Children's Society, and Barnardo's (2020) *Children and young people's services: Funding and spending 2010/11 to 2018/19*. [https://media.actionforchildren.org.uk/documents/Joint\\_report\\_-\\_childrens\\_services\\_funding\\_2018-19\\_May\\_2020\\_Final.pdf](https://media.actionforchildren.org.uk/documents/Joint_report_-_childrens_services_funding_2018-19_May_2020_Final.pdf)

<sup>87</sup> Simpson, F. (27 October 2021) 'Spending Review: Family Hubs 'No Replacement' for Sure Start, Critics say' *CYP Now* <https://www.cypnow.co.uk/news/article/spending-review-family-hubs-no-replacement-for-sure-start-critics-say>

<sup>88</sup> Nuffield Family Justice Observatory (2019) *Born into Care: new-borns and infants in care proceedings in Wales* <https://www.nuffieldfjo.org.uk/wp-content/uploads/2021/05/Born-into-care-Wales-main-report-English-final-web.pdf>

<sup>89</sup> Between 2015 and 2019, the proportion of children in care aged 10 to 15 increased by 18% and for those aged 16 and over by 21%. Department for Education (2019) *Children looked after in England including adoption: 2018 to 2019* <https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2018-to-2019>

<sup>90</sup> The Independent Review of Children's Social Care (2021) <https://childrensocialcare.independent-review.uk/>

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- <sup>91</sup> Children’s Commissioner (2020) *Stability Index 2020: Overview report* <https://www.childrenscommissioner.gov.uk/report/stability-index-2020/>; Welsh Government (2021) *Experimental Statistics* <https://gov.wales/sites/default/files/statistics-and-research/2021-11/children-looked-after-local-authorities-april-2020-march-2021-experimental-statistics-396.pdf>
- <sup>92</sup> APPG for Looked After Children and Care Leavers (2021) *Spotlight Inquiry* <https://becomecharity.org.uk/content/uploads/2022/03/APPG-for-Looked-After-Children-and-Care-Leavers-Spotlight-Inquiry.pdf>; Care Inspectorate Wales (2019) *National Overview Report in relation to care experienced children and young people* [https://careinspectorate.wales/sites/default/files/2019-06/190619-national-overview-report-en\\_2.pdf](https://careinspectorate.wales/sites/default/files/2019-06/190619-national-overview-report-en_2.pdf)
- <sup>93</sup> Such as unregulated accommodation, temporary accommodation, etc. These settings often do not provide the level of support young people need. Under current Government proposals for new national standards, these settings would continue to be legally unable to provide care. Department for Education (2020) *Reforms to unregulated provision for children in care and care leavers* <https://consult.education.gov.uk/unregulated-provision/unregulated-provision-children-in-care/>; Become (2020) *Submission to the Department for Education’s consultation on reforms to unregulated provision for children in care and care leavers* <https://www.becomecharity.org.uk/for-professionals/resources/response-to-consultation-on-unregulated-accommodation-2020/>; Department for Education (2020) *Looked after children in independent or semi-independent placements* <https://www.gov.uk/government/publications/looked-after-children-in-independent-or-semi-independent-placements>
- <sup>94</sup> Department for Education (2019) *Children looked after in England including adoption: 2018 to 2019* <https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2018-to-2019>; Ofsted (2020) *Ofsted Annual Report 2018/19: education, children’s services and skills* <https://www.gov.uk/government/publications/ofsted-annual-report-201819-education-childrens-services-and-skills>
- <sup>95</sup> A ban on placing children under the age of 16 in unregulated accommodation came into force in September 2021. However, the Department for Education have said that independent and semi-independent provision are appropriate for 16-and 17-year-olds where it is high quality and meets children’s needs. Department for Education (19 February 2021) ‘Unregulated accommodation banned for vulnerable children under 16’ Press Release <https://www.gov.uk/government/news/unregulated-accommodation-banned-for-vulnerable-children-under-16>.
- <sup>96</sup> The number of children missing from out of area placements has more than doubled since 2015. The number of young people aged 16 or 17 living in unregulated environment has more than doubled in the last 10 years to over 6,000. All-Party Parliamentary Group for Runaway and Missing Children and Adults (2019) *No place at home* <https://www.childrenssociety.org.uk/sites/default/files/2020-10/no-place-at-home.pdf>
- <sup>97</sup> Estimated number of children in relative low-income poverty (i.e. percentage below 60% of contemporary median income) after housing costs. Department for Work and Pensions (2020) *Households Below Average Income 2018/19 Table 4b* <https://www.gov.uk/government/statistics/households-below-average-income-199495-to-201819>
- <sup>98</sup> In 2018-19.
- <sup>99</sup> Lee, T. (2020) *Dragged Deeper: how families are falling further and further below the poverty line*, Child Poverty Action Group <https://cpag.org.uk/policy-and-campaigns/report/dragged-deeper-how-families-are-falling-further-and-further-below>
- <sup>100</sup> To be affected by the two-child limit, any third or subsequent children must have been born on or after 6 April 2017, when the policy came into force.
- <sup>101</sup> Child Poverty Action Group (17<sup>th</sup> March 2022) Open letter ‘Second Benefits cut is unthinkable – organisations call for minimum 7% benefits rise’ <https://cpag.org.uk/news-blogs/news-listings/organisations-call-for-minimum-7-benefits-rise>
- <sup>102</sup> End Child Poverty Network Cymru (2020) *Senedd Elections – Child Poverty: A Manifesto towards Eradication 2021* <https://www.childreninwales.org.uk/application/files/6916/3179/3835/ECPN-Manifesto-2021.pdf>
- <sup>103</sup> Since 2018, households in Wales receiving Universal Credit are only eligible for free school meals if their family income is below £7,400 (before benefits are taken into account)
- <sup>104</sup> The Children’s Society (2020) *A Lifeline for All: Children and Families with No Recourse to Public Funds* <https://www.childrenssociety.org.uk/information/professionals/resources/lifeline-for-all>
- <sup>105</sup> The Government has announced that they will be permanently extending eligibility for free school meals to some children from families with NRPF after this was temporarily introduced in the pandemic. Will Quince MP, Parliamentary Under Secretary of State for Children and Families (24 March 2022) *Update on Children with No Recourse to Public Funds*: HCWS714 <https://questions-statements.parliament.uk/written-statements/detail/2022-03-24/hcws714>



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- <sup>106</sup> In September 2021, there were 96,060 households in temporary accommodation, which included 121,680 dependent children. House of Commons (2022) *Households in temporary accommodation (England)* <https://researchbriefings.files.parliament.uk/documents/SN02110/SN02110.pdf>. In March 2017 there were 77,240 households in temporary accommodation, which included 120,540 children. National Audit Office (2017) *Ministry of Housing, Communities and Local Government; Homelessness* <https://www.nao.org.uk/wp-content/uploads/2017/09/Homelessness-Summary.pdf>
- <sup>107</sup> Shelter Cymru have seen a huge increase in the number of children experiencing homelessness, living in temporary accommodation, such as hostels and hotels, with little room to eat, sleep and play. Shelter Cymru (2021) 'Over 1,500 children in Wales will wake up this Christmas without a place to call home' <https://sheltercymru.org.uk/over-1500-children-in-wales-without-a-place-to-call-home/>
- <sup>108</sup> The number of households with children in B&B-style accommodation was 8% higher in September 2021 than a year previously. A total of 590 households had been in B&B accommodation for over six weeks, up from 470 households a year previously. Department for Levelling Up, Housing & Communities (2022) *Statutory homelessness live tables* <https://www.gov.uk/government/statistical-data-sets/live-tables-on-homelessness>
- <sup>109</sup> More than a quarter (27%) of these households are accommodated outside the local authority area they previously lived in because councils can't find suitable accommodation locally. This can lead to long, tiring journeys to school and work and families becoming isolated from support networks. Rich, H. (2022) 'Temporary accommodation: the new social housing?' *Shelter* <https://blog.shelter.org.uk/2022/02/temporary-accommodation-the-new-social-housing/>
- <sup>110</sup> Estimates by Shelter. Reynolds L. and Dzalto, A. (2019) *Generation homelessness: the numbers behind the story* Shelter [https://england.shelter.org.uk/professional\\_resources/policy\\_and\\_research/policy\\_library/policy\\_library\\_folder/generation\\_homeless\\_the\\_numbers\\_behind\\_the\\_story](https://england.shelter.org.uk/professional_resources/policy_and_research/policy_library/policy_library_folder/generation_homeless_the_numbers_behind_the_story)
- <sup>111</sup> Just for Kids Law and CRAE (2020) *Not in Care, Not Counted* <https://justforkidslaw.org/sites/default/files/fields/download/Just%20for%20Kids%20Law%20-%20Not%20in%20care%2C%20not%20counted%20-%20June%202020.pdf>
- <sup>112</sup> Section 20 Children Act (1989)
- <sup>113</sup> Just for Kids Law and CRAE (2020) *Not in Care, Not Counted* <https://justforkidslaw.org/sites/default/files/fields/download/Just%20for%20Kids%20Law%20-%20Not%20in%20care%2C%20not%20counted%20-%20June%202020.pdf>
- <sup>114</sup> All-Party Parliamentary Group for Ending Homelessness (2017) *Homelessness prevention for care leavers, prison leavers and survivors of domestic violence* [https://www.crisis.org.uk/media/237534/appg\\_for\\_ending\\_homelessness\\_report\\_2017\\_pdf.pdf](https://www.crisis.org.uk/media/237534/appg_for_ending_homelessness_report_2017_pdf.pdf)
- <sup>115</sup> Suicide and injury or poisoning of undetermined intent accounted for 17.1% of deaths among males aged five to 19, and 13.8% among females, in England and Wales. Office of National Statistics (2020) *Deaths registered in England and Wales 2019* <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/deathsregistrationsummarytables/2019>
- <sup>116</sup> This has increased from a rate of one in nine in 2017. NHS Digital (2021) *Mental Health of Children and Young People in England, 2021: Wave 2 follow up to the 2017 survey* <https://digital.nhs.uk/data-and-information/publications/statistical/mental-health-of-children-and-young-people-in-england/2021-follow-up-to-the-2017-survey>
- <sup>117</sup> Senedd CYPE Committee (2018) *Mind Over Matter* <https://senedd.wales/laid%20documents/cr-ld11522/cr-ld11522-e.pdf>
- <sup>118</sup> Royal College of Psychiatrists (2021) 'Record number of children and young people referred to mental health services as pandemic takes its toll' Press Release <https://www.rcpsych.ac.uk/news-and-features/latest-news/detail/2021/09/23/record-number-of-children-and-young-people-referred-to-mental-health-services-as-pandemic-takes-its-toll>; Forecasting from Centre for Mental Health estimates that 1.5 million children aged under 18 could need new or additional mental health support as a result of the pandemic. Centre for Mental Health (2020) *Covid-19 and the nation's mental health: October 2020* <https://www.centreformentalhealth.org.uk/publications/covid-19-and-nations-mental-health-october-2020>;  
For Wales, see Welsh Government (2020) *Review of the impact of mass disruption on the wellbeing and mental health of children and young people, and possible therapeutic interventions* [https://gov.wales/sites/default/files/statistics-and-research/2020-09/review-impact-mass-disruption-wellbeing-mental-health-children-young-people-possible-therapeutic-interventions\\_0.pdf](https://gov.wales/sites/default/files/statistics-and-research/2020-09/review-impact-mass-disruption-wellbeing-mental-health-children-young-people-possible-therapeutic-interventions_0.pdf)
- <sup>119</sup> The NHS Long Term Plan allocated £2.3bn for mental health. However, there haven't been any further commitments for green paper funding and long-term plan funding beyond 2023/24. Children and Young People's

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Mental Health Coalition (2021) *Members' Report 2021* <https://cypmhc.org.uk/wp-content/uploads/2021/11/CYPMHC-Members-Report-2021.pdf>

<sup>120</sup> Children's Commissioner for England (2020) *The state of children's mental health services* <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/01/cco-the-state-of-childrens-mental-health-services.pdf>

<sup>121</sup> Only around a third of children (32%) with a probable mental health disorder are able to access treatment.

Children's Commissioner (2022) *Children's Mental Health Services 2020/21*

<https://www.childrenscommissioner.gov.uk/wp-content/uploads/2022/02/cco-briefing-mental-health-services-2021-22.pdf>

<sup>122</sup> Education and Health and Social Care Committees (2018) *The Government's Green Paper on mental health: failing a generation* <https://publications.parliament.uk/pa/cm201719/cmselect/cmhealth/642/642.pdf>

<sup>123</sup> The Government published the [Reforming the Mental Health Act White Paper](#) in August 2021, which sets out proposed changes to the Mental Health Act 1983. The White Paper states that all the proposals will be applicable for children and young people. However, apart from one small specific section, there is very little information provided on how proposed changes will work in practice for under-18s. Further consideration is needed. Department of Health and Social Care (2021) *Reforming the Mental Health Act* <https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act>

<sup>124</sup> In 2018-19, 592 children were admitted to adult mental health inpatient wards – over three times the number admitted to adult wards the previous year (196). Article 39 (2020) *Children in Hospital (Mental Health) Statistics Briefing* <https://article39.org.uk/statistics-briefings>

<sup>125</sup> Royal College of Paediatrics and Child Health (2020) *State of Child Health in the UK 2020* <https://stateofchildhealth.rcpch.ac.uk/>

<sup>126</sup> Ibid. The current infant mortality rate for the UK is 3.593 deaths per 1000 live births – a higher rate than comparable wealthy countries (e.g. Spain, the Netherlands). Macrotrends (2022) *U.K. Infant Mortality Rate 1950-2022* [www.macrotrends.net/countries/GBR/united-kingdom/infant-mortality-rate](http://www.macrotrends.net/countries/GBR/united-kingdom/infant-mortality-rate)

<sup>127</sup> Royal College of Paediatrics and Child Health (2020) *State of Child Health in the UK 2020* <https://stateofchildhealth.rcpch.ac.uk/>

<sup>128</sup> Department of Health and Social Care (4 February 2022) 'Government launches landmark reviews to tackle health disparities' Press Release <https://www.gov.uk/government/news/government-launches-landmark-reviews-to-tackle-health-disparities>

<sup>129</sup> NHS charging regulations restrict access to some NHS services for those with irregular immigration status, including some undocumented children. Some patient groups, such as asylum seekers, refugees, victims of trafficking, recognised by the NRM and children in the care of local authorities, are exempt. Primary healthcare and accident and emergency services remain free, although there have been proposals to extend charging to these services. Murphy, L., Broard, J., Hopkinshaw, B., et al (2020) *Healthcare access for children and families on the move and migrants* *BMJ Paediatrics Open* <https://bmjpaedsopen.bmj.com/content/4/1/e000588>

<sup>130</sup> Royal College of Paediatrics and Child Health (22 April 2020) 'Migrant charges "unworkable", say paediatricians' Press Release <https://www.rcpch.ac.uk/news-events/news/migrant-charges-unworkable-say-paediatricians>. There are concerns this will affect more children as Brexit increases their risk of becoming undocumented.

<sup>131</sup> This large decrease, the biggest in eight years is likely to be driven in part by the COVID-19 pandemic; with many children being home schooled for large parts of the year. Ministry of Justice and Youth Justice Board (2022) *Youth Justice Statistics: England and Wales 2020-2021* <https://www.gov.uk/government/statistics/youth-justice-statistics-2020-to-2021>

<sup>132</sup> Children's Commissioner for England (2017) *A night in the cells. Children in police custody and the provision of non-familial appropriate adults* <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2018/06/A-Night-in-the-Cells.pdf>

<sup>133</sup> This is contrary to section 38(6) of the Police and Criminal Evidence Act, which provides for the transfer of children from police custody to local authority accommodation post charge.

<sup>134</sup> This is still a significant underestimate as it only includes data from 34 out of the 43 police forces in England and Wales. Just for Kids Law (2022) *"It's horrible when they keep you in there at night"*; Ending the overnight detention of children in police custody

[https://www.justforkidslaw.org/sites/default/files/upload/J4KL\\_Detention%20briefing%202022\\_0.pdf](https://www.justforkidslaw.org/sites/default/files/upload/J4KL_Detention%20briefing%202022_0.pdf)

<sup>135</sup> Ministry of Justice and Youth Justice Board for England and Wales (2021) *Youth Justice Statistics 2019/2020* [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/956621/youth-justice-statistics-2019-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/956621/youth-justice-statistics-2019-2020.pdf)

<sup>136</sup> This is based on a minority of police forces who provide data for the youngest children, the actual figure is likely to be higher.

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- <sup>137</sup> There is no available national published data on the number of occasions in which children are detained in police custody each year, including overnight detention and limited data available for 2020 and 2021 due to Covid-19. The most comprehensive set of data is for 2019. Just for Kids Law (2022) *“It’s horrible when they keep you in there at night”*; Ending the overnight detention of children in police custody [https://www.justforkidslaw.org/sites/default/files/upload/J4KL\\_Detention%20briefing%202022\\_0.pdf](https://www.justforkidslaw.org/sites/default/files/upload/J4KL_Detention%20briefing%202022_0.pdf)
- <sup>138</sup> These statistics are from the 31 out of 43 police forces in England and Wales who provided full ethnicity breakdown to data requests. Just for Kids Law (2022) *“It’s horrible when they keep you in there at night”*; Ending the overnight detention of children in police custody [https://www.justforkidslaw.org/sites/default/files/upload/J4KL\\_Detention%20briefing%202022\\_0.pdf](https://www.justforkidslaw.org/sites/default/files/upload/J4KL_Detention%20briefing%202022_0.pdf)
- <sup>139</sup> Age of Criminal Responsibility (Scotland) Act 2019 <https://www.legislation.gov.uk/asp/2019/7/contents/enacted>
- <sup>140</sup> Ministry of Justice (2016) ‘The government response to Charlie Taylor’s Review of the Youth Justice System’ [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/576554/youth-justice-review-government-response-print.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/576554/youth-justice-review-government-response-print.pdf)
- <sup>141</sup> Standing Committee for Youth Justice (2020) *Ensuring custody is the last resort for children in England and Wales* <http://scyj.org.uk/wp-content/uploads/2020/06/Ensuring-custody-is-the-last-resort-FINAL.pdf>
- <sup>142</sup> Ministry of Justice (March 2022) *Youth custody data: January 2022* <https://www.gov.uk/government/statistics/youth-custody-data>
- <sup>143</sup> Ibid
- <sup>144</sup> Ministry of Justice and Youth Justice Board (2022) *Youth Justice Statistics: England and Wales 2020-2021* [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1054236/Youth\\_Justice\\_Statistics\\_2020-21.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1054236/Youth_Justice_Statistics_2020-21.pdf)
- <sup>145</sup> Ibid. 74% of children remanded to youth detention accommodation did not subsequently receive a custodial sentence. This is the highest level seen on record. It is likely that fewer cases for children overall have made progress through the courts due to the backlog in response to COVID-19 restrictions.
- <sup>146</sup> The Government included proposals in the Police, Crime, Sentencing and Courts Bill to strengthen the legal tests for custodial remand and require courts to record their rationale. While welcome these proposals do not go far enough.
- <sup>147</sup> Ministry of Justice and Youth Justice Board (2022) *Youth Justice Statistics: England and Wales 2020-2021* <https://www.gov.uk/government/statistics/youth-justice-statistics-2020-to-2021>
- <sup>148</sup> The average custodial sentence length for all offences has increased by over five months over the last ten years from 11.4 months to 16.8 months. Ministry of Justice and Youth Justice Board (2022) *Youth Justice Statistics: 2020-2021* <https://www.gov.uk/government/statistics/youth-justice-statistics-2020-to-2021>
- <sup>149</sup> The Police, Crime, Sentencing and Courts Bill was introduced to the UK Government on 9th March 2021. The Bill has several proposals that will increase the number of children in custody. Alliance for Youth Justice (2021) *Police, Crime, Sentencing and Courts Bill: Alliance for Youth Justice Briefing* <https://static1.squarespace.com/static/5f75bfbfb67fc5ab41154d6/t/604b2e01ccdcae6ee35f6dc6/1615539714281/AYJ+Briefing+Police%2C+Crime%2C+Sentencing+and+Courts+Bill+-+Briefing+for+Second+Reading.pdf>
- <sup>150</sup> See House of Commons Select Committees, Welsh Affairs - Fourth Report: Prisons in Wales and the treatment of Welsh offenders (March 2015) <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmwelaf/113/11302.htm>
- <sup>151</sup> <https://www.unhcr.org/uk/uk-immigration-and-asylum-plans-some-questions-answered-by-unhcr.html>
- <sup>152</sup> This includes subjecting children to a lesser form of refugee status on the basis of how they arrived in the UK, weakening protections for child victims of human trafficking, raising the standard of proof for their protection claims, changing the age assessment process, and using new accommodation centres to house people seeking asylum including potentially families with children. Nationality and Borders Bill 2022 <https://www.gov.uk/government/publications/nationality-and-borders-bill-children-factsheet/nationality-and-borders-bill-children-factsheet>
- <sup>153</sup> Welsh Government (2022) Letter from the Minister for Social Justice (Wales) to the Minister for Immigration (UK) CSOs have also written of the incompatibility of the Bill to CRC obligations and raised significant concerns with many of the proposals and greater risks to vulnerable and traumatised asylum-seeking children. Wales UNCR Monitoring Group/Children in Wales (2022) *Consultation response to the Legislative Consent Memorandum for the Nationality and Borders Bill*
- <sup>154</sup> Independent Chief Inspector of Borders and Immigration, *An inspection of asylum casework*, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1034012/An\\_inspection\\_of\\_asylum\\_casework\\_August\\_2020\\_to\\_May\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034012/An_inspection_of_asylum_casework_August_2020_to_May_2021.pdf)
- <sup>155</sup> BBC [accessed 23 March 2022] <https://www.bbc.co.uk/news/uk-england-kent-58957838>; <https://committees.parliament.uk/publications/7501/documents/85602/default/>



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- <sup>156</sup> Home Secretary evidence to HASC February (page 23) <https://committees.parliament.uk/oralevidence/3370/pdf/>
- <sup>157</sup> Age disputes increased by 195% in 2021. Refugee Council (2022) *Children in the Asylum System February 2022* <https://media.refugeecouncil.org.uk/wp-content/uploads/2022/03/11092823/Children-in-the-Asylum-System-Feb-2022.pdf>
- <sup>158</sup> <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-december-2021>
- <sup>159</sup> University of Wolverhampton (2020) *London's children and young people who are not British citizens: A profile* [https://www.london.gov.uk/sites/default/files/final\\_londons\\_children\\_and\\_young\\_people\\_who\\_are\\_not\\_british\\_citizens.pdf](https://www.london.gov.uk/sites/default/files/final_londons_children_and_young_people_who_are_not_british_citizens.pdf)
- <sup>160</sup> The Children's Society, *A Lifeline for All: Children and Families with No Recourse to Public Funds*, <https://www.childrenssociety.org.uk/information/professionals/resources/lifeline-for-all>
- <sup>161</sup> Coram Children's Legal Centre (2020) *Children left out? Securing children's rights to stay in the UK beyond Brexit* [https://www.childrenslegalcentre.com/wp-content/uploads/2020/06/CCLC-Children-left-out\\_July-2020\\_final.pdf](https://www.childrenslegalcentre.com/wp-content/uploads/2020/06/CCLC-Children-left-out_July-2020_final.pdf)
- <sup>162</sup> We support the joint submission from the Migrants Resource Centre, University of Liverpool Law Clinic and European Network on Statelessness and Institute on Statelessness and Inclusion to the UPR.
- <sup>163</sup> Home Office (2021) *Interim Guidance for Independent Child Trafficking Guardians* <https://www.gov.uk/government/publications/child-trafficking-advocates-early-adopter-sites/interim-guidance-for-independent-child-trafficking-guardians-accessible-version#ictg-service-model>
- <sup>164</sup> UN Committee on the Rights of the Child (2008) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland* and UN Committee on the Rights of the Child (2016) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*
- <sup>165</sup> Part 5 Nationality and Borders Bill
- <sup>166</sup> Ministry of Defence (2020) *UK armed forces biannual diversity statistics* <https://www.gov.uk/government/statistics/uk-armed-forces-biannualdiversity-statistics-2020>
- <sup>167</sup> Ibid
- <sup>168</sup> Morris, S. (9 September 2018) 'British army 'explicitly targeting' working-class recruits, say critics' *The Guardian* <https://www.theguardian.com/uk-news/2018/sep/09/british-army-explicitly-targeting-working-class-recruits-say-critics>
- <sup>169</sup> Early enlistment to the armed forces in recent decades has been associated with a marked, adverse impact on mental health. E.g. one study found that armed forces personnel recruited as children had 'twice the odds of alcohol misuse and twice the odds of reporting episodes of lifetime self-harm' relative to those recruited at older ages. B. P Bergman, D F Mackay, N T Fear, and J P Pell (2021) *Age at entry to UK military service and long-term mental health*, *BMJ Military Health* <https://militaryhealth.bmj.com/content/early/2021/04/08/bmjilitary-2021-001786> ; M. Jones, N. Jones, H. Burdett, et al (2021) *Do Junior Entrants to the UK Armed Forces have worse outcomes than Standard Entrants?* *BMJ Military Health* <https://militaryhealth.bmj.com/content/early/2021/04/08/bmjilitary-2021-001787>