



Children's
Rights Alliance
for England

FAMILY LIFE AND ALTERNATIVE CARE

STATE OF CHILDREN'S
RIGHTS IN ENGLAND

2014

FAMILY LIFE AND ALTERNATIVE CARE

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

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

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

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

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

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

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

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What does the Convention say?

The UN Convention of the Rights of the Child (UNCRC) describes the family as *'the fundamental group of society'*. It recognises parents' role in protecting and promoting the rights of their child, but requires the state to help parents fulfil their responsibilities.

Unless it is in the child's best interests to be separated from their parents, children have a right to enjoy their family life, without interference from the state. If the child's parents are living apart, the child has the right to maintain contact with both, if that is safe and in their best interests. Where it is necessary for children to be cared for outside of their families, they have a right to alternative care provided by the state - care that is subject to regular review to ensure it is responsive to the child's views as well as their changing circumstances.

In 2008, the UN Committee on the Rights of the Child highlighted its concern about a number of areas relating to the child's right to a family life in the UK. Among these, it recommended that the UK Government:

- Provide assistance to help parents and guardians with their child-rearing responsibilities
- Facilitate contact for children separated from their parents and siblings
- Ensure support for children whose parent is in prison
- Ensure that victims of abuse can access services to help them recover and reintegrate
- Make sure that anyone who works with children receives training on domestic violence
- Regularly visit and check up on children in alternative care
- Speed up the process of adoption when it is in the child's best interests
- Provide education and training to help prepare children in care for adult life

There are four general principles, which underpin each of the specific rights outlined in the rest of the Convention:

- Article 2 - children should not be discriminated against in the enjoyment of their rights
- Article 3 - the child's best interests should take precedence in every decision and action taken relating to a child
- Article 6 - children have a right to life and develop to their full potential
- Article 12 - children have a right to express their views and have them given due weight

What progress have we made?

There is no definitive list of indicators which determines whether or not children enjoy their rights. This section presents indicators which have been used to illustrate particular rights issues facing children in England, and is based on a combination of official statistics, published research and additional material gathered through Freedom of Information requests. In addition, it summarises significant laws or policies which affect children's human rights.

Supporting families

The UNCRC says the government should support parents in raising their families. On 18 August 2014, David Cameron made a commitment that, from October, all government departments would have to assess the impact any new policies will have on the family through the introduction of a Family Test,¹ with internal guidance to be issued to government departments. The impact of these proposals are yet to be seen. The Prime Minister's speech took place at a relationship support conference, at which he announced a doubling of the annual budget for relationship counselling to £19.5 million.

The cost of living and the availability and affordability of high quality child care can have a significant impact on the pressures facing families and their ability to cope. These issues are addressed in Standard of Living and Education.

Decisions about contact with parents following separation or divorce

Forty-eight percent of the 118,140 couples divorcing in England and Wales in 2012 had at least one child aged under 16.² Children rarely have a voice in what happens when their parents separate. Recent changes to family law are intended to tackle the "blunt instrument" of court determinations in family life,³ as well as reduce delay and public costs.

1 Cameron, D (2014) David Cameron on families - speech to the Relationships Alliance Summit, 18 August 2014. <https://www.gov.uk/government/speeches/david-cameron-on-families>

2 Office of National Statistics (2014) Divorces in England and Wales, 2012. http://www.ons.gov.uk/ons/dcp171778_351693.pdf

3 Norgrove, D et al (2011) Family Justice Review: final report. p.20. Ministry of Justice. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217343/family-justice-review-final-report.pdf

The changes came into effect in April 2014. Part 2 of the Children and Families Act 2014⁴ means that:

- People planning to apply for divorce, judicial separation or dissolution of a civil partnership are required to attend a family mediation information and assessment meeting before going to court. Cases involving domestic violence are exempted. The Act does not, however, specify that children can take part in family mediation sessions
- "Contact orders" and "residence orders" are replaced by a "child arrangements order" that regulates when and with whom a child is to live, spend time, or have contact
- There is a presumption that both parents should continue to be involved in their child's life where that is safe and consistent with the child's welfare. Critics have raised concern that this will, in practice, prioritise the parent's right to contact over the child's best interests⁵

In 2013-14, CAFCASS (the Children and Family Court Advisory and Support Service), which represents children's interests in family law cases, received a record number of 46,415 private law cases.⁶ The tally of received cases has decreased by at least one-third each month since April 2014.⁷ This sudden fall has been linked to the removal of legal aid for private law cases that do not involve domestic violence or child abuse.⁸

CRAE's Freedom of Information request to the Ministry of Justice showed that the number of children granted legal aid for cases relating to their parents' divorce or separation fell by 69% between 2008-09 and 2013-14.

In July 2014, the Family Justice Minister announced that, from the age of 10, children will have direct access to judges to make their views and feelings known about where they might live, and who and how often they might see family members.⁹

Troubled Families Programme

Under the UNCRC, governments should assist parents in their child-rearing responsibilities. The Troubled Families Programme was launched in 2011, aiming to reach 120,000 families with school-age children in England and provide multi-agency support to help them "turn their lives around" by 2015. The programme is being offered in every local authority in England. Success is measured against three criteria: children who were truanting or excluded from school are in school for at least three terms; high levels of youth crime and anti-social behaviour are down over at least six months; and adults are in work for at least three months. As at August 2014,¹⁰ local authorities reported they had "turned around" 69,508 troubled families:

- 63,151 improving in education attendance or reducing their involvement in anti-social behaviour/youth crime, and
- 6,357 in employment

However, the profiles of the families involved indicate a far more complex picture of multiple and high-level needs for both parents and children that include mental and physical ill-health, substance misuse, a risk of eviction, domestic violence and child protection in addition to the measures of success relating to crime, education and employment.¹¹ Some of the families have children in care and/or on a child protection plan. Work to address these factors is not represented in the outcomes framework currently published by government.

In the 2014 Budget,¹² the government announced an acceleration of the programme to start working with up to 40,000 additional families in 2014-15. In August 2014, Communities and Local Government Secretary Eric Pickles announced a further expansion of the programme to reach a total of 500,000 families, including those with children under five, from 2015.¹³ He also announced that the programme would enlarge its focus to include health problems.¹⁴

4 Children and Families Act 2014. <http://www.legislation.gov.uk/ukpga/2014/6/contents>

5 Coram Children's Legal Centre (2014) Children and Families Bill: 'Shared Parenting' Legislation amendment places child welfare before presumption of equal contact

6 'Private law' refers to applications made to court following a divorce or separation about the arrangements for children.

7 CAFCASS [monthly] private law demands. <https://www.cafcass.gov.uk/leaflets-resources/organisational-material/care-and-private-law-demand-statistics/private-law-demand-statistics.aspx>

8 Powell, H and others (2014) The impact of legal aid changes on children since April 2013. Desk-based research. http://www.childrenscommissioner.gov.uk/content/publications/content_872

9 Hughes, S (25 July 2014) Children will be seen and heard in family courts. Ministry of Justice Press release. <https://www.gov.uk/government/news/children-will-be-seen-and-heard-in-family-courts>

10 DCLG (2014) Troubled families programme - progress and families turned around. <https://www.gov.uk/government/publications/troubled-families-programme-progress-by-june-2014>

11 DCLG (2014) Understanding troubled families. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336430/Understanding_Troubled_Families_web_format.pdf

12 HM Treasury (2014) Budget 2014. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/293759/37630_Budget_2014_Web_Accessible.pdf

13 DCLG (2014) <https://www.gov.uk/government/news/troubled-families-programme-expanded-to-help-younger-children>

14 DCLG (2014) Health bulletin on troubled families. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/345327/Health_bulletin.pdf

Children of prisoners

Between 160,000 and 200,000 children are affected by parental imprisonment in England and Wales. They are at risk of poorer outcomes than their peers: research indicates they are at a higher risk of having mental health problems, do less well at school, and can become involved in anti-social or criminal activity.¹⁵ There is no system in place to identify these children - a prisoner's parental status is not routinely considered during arrest, trial or sentencing, or upon release.¹⁶ Separation from their parent can be abrupt, and the impact immediate, with the families liable to financial difficulties and debt, and high levels of stress.¹⁷

In 2008, the UN Committee on the Rights of the Child recommended that the government ensure support for the children of parents in prison, and help maintain contact between parent and child, if in the child's best interests. Children need support to help them decide whether, how often, and in what way they want to keep in touch with their parent. Prison visits can keep a family connected.¹⁸ Maintaining family ties can help reduce re-offending. Under Article 2 of the UNCRC, no child should be discriminated against because of the situation or status of their parent(s).

Children in need

Where parents are unable to look after their children, or meet all their needs, the UNCRC requires the state to help. Vulnerable children are referred to social services for an assessment of their needs. Those who are considered "children in need" can be provided with services to support the child and/or their family. The more recent figures show higher numbers being classed as "in need" - meaning more children are considered at risk - and being put on a child protection plan. The proportion referred for disability or illness, or other reasons including parental low income remain, broadly the same.

SUPPORT FOR CHILDREN AT RISK ¹⁹	2009-10 (1st complete year of Children In Need census)	2013-14
Number of children referred to children's social services	603,700	657,800
Children in need	375,900	397,630
Abuse or neglect	148,300 (39%)	187,710 (47.2%)
Family dysfunction	59,100 (16%)	73,840 (18.5%)
Family in acute stress	38,500 (10%)	38,550 (9.7%)
Absent parenting	13,600 (3.5%)	10,440 (2.6%)
Parent's illness or disability	12,700 (3%)	11,570 (2.9%)
Child's disability or illness	45,000 (12%)	41,560 (10.5%)
Socially unacceptable behaviour	8,000 (2%)	7,940 (2%)
Low income	2,500 (0.7%)	2,360 (0.6%)

- 15 Murray, J and Farrington, D (2005) Parental Imprisonment: A systematic review of its effects on child antisocial behavior, crime and mental health. Systematic review, version 3.
- 16 Action for Prisoners' Families (2011) Submission to the UN Committee on the Rights of the Child Day of General Discussion. http://www.prisonersfamilies.org.uk/uploadedFiles/2010_Policy/Submission%20to%20the%20UN%20Committee%20on%20the%20Rights%20of%20the%20Child%20Day%20of%20General%20Discussion.pdf
- 17 Barnardo's (2014) On the outside: identifying and supporting children with a parent in prison. <http://www.barnardos.org.uk/on-the-outside.pdf>
- 18 Martynowicz, A (2011) Children of prisoners. Danish Institute for Human Rights. http://www.prisonersfamilies.org.uk/uploadedFiles/2010_Publications_And_Resources/children_260411_page.pdf
- 19 DfE (2010) Children in need, including their characteristics and further information on children who were the subject of a child protection plan. (Children in need census - final), year ending 31 March 2010. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/219362/osr28-2010v3.pdf
- DfE (2014) Characteristics of children in need in England, 2013-14. SFR 43/2014. <https://www.gov.uk/government/statistics/characteristics-of-children-in-need-2013-to-2014>

CHILDREN SUBJECT TO A CHILD PROTECTION PLAN	44,300	59,780
Neglect	19,300 (43.5%)	25,140 (42%)
Emotional abuse	12,300 (27.7%)	19,750 (33%)
Physical abuse	6,300 (14.2%)	6,500 (10.9%)
Multiple	4,000 (9%)	5,560 (9.3%)
Sexual abuse	2,500 (5.6%)	2,830 (4.7%)

The NSPCC believes that the thresholds for accepting children in need referrals are rising and that only the more serious cases are being taken on by local authorities.²⁰ This has taken place over a period when early intervention funding has lost its protected status. In 2013-14, the Early Intervention Grant was incorporated within the local government Business Rate Retention Scheme. As local government budgets have fallen, expenditure on both early intervention and family support services has fallen too.²¹ The year-on-year allocation of funds to early intervention has fallen significantly - 32% in 2011-12 according to the Local Government Association.²²

In 2011, the government refused to place an early intervention duty on councils, one of the key recommendations of Eileen Munro's review of child protection.²³ The Local Government Association reported that even protected budgets, which reflect statutory duties and include children's social services, have seen a reduction in real-terms expenditure, even though the numbers of children requiring services continue to rise.²⁴

Spotlight on: Protecting children from abuse and exploitation

Under Article 19 of the UNCRC, the state should protect children against all forms of violence and abuse. They must take appropriate action to properly investigate suspected abuse. Children are vulnerable to abuse, violence and exploitation which happens out of sight in their homes and in the community. They are the hidden victims of domestic violence and sexual exploitation, and the unnoticed victims of female genital mutilation (FGM). These children have a right to be seen and heard - and protected.

Domestic violence

When a child dies or is seriously injured, and abuse or neglect is a factor, the Local Safeguarding Children Board is responsible for conducting a serious case review²⁵ in order to learn from what happened and improve local practice. In a recent analysis of 139 serious case reviews, domestic violence was a factor in 63% of the cases.²⁶ In 2012-13, there were around 380,000 incidents of domestic violence recorded in England and Wales.²⁷ According to Her Majesty's Inspectorate of Constabulary (HMIC), domestic abuse comprises around 8% of all recorded crime, and one-third of all recorded assaults with injury. In its inspection of the police response to domestic violence,²⁸ HMIC found that it was not good enough - a

20 Jütte, S, Bentley, H, Miller, P, Jetha, N (2014) How safe are our children 2014? NSPCC. http://www.nspcc.org.uk/Inform/research/findings/how-safe/how-safe-2014-report_wdf101938.pdf

21 Office of the Children's Commissioner (2013) A Child Rights Impact Assessment of Budget Decisions: including the 2013 Budget, and the cumulative impact of tax-benefit reforms and reductions in spending on public services 2010 – 2015. http://www.childrenscommissioner.gov.uk/content/publications/content_676

22 Local Government Association (2012) Early Intervention Grant. http://www.local.gov.uk/briefings-and-responses/-/journal_content/56/10180/3736125/ARTICLE

23 Munro, E (2011) The Munro review of child protection - final report. A child-centred system. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/175391/Munro-Review.pdf

24 LGA (2014) Future funding outlook 2014: funding outlook for councils to 2019/20. <http://www.local.gov.uk/documents/10180/5854661/L14340+Future+funding+-+initial+draft.pdf/1854420d-1ce0-49c5-8515-062dcca2c70>

25 Department of Health (2013) Working together to safeguard children: a guide to inter-agency working to safeguard and promote the welfare of children. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/281368/Working_together_to_safeguard_children.pdf

26 Brandon, M and others (2012) New learning from serious case reviews: a two year report for 2009-2011. DfE. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/184053/DFE-RR226_Report.pdf

27 ONS (2014) Overview of violent crime and sexual offences. http://www.ons.gov.uk/ons/dcp171776_352364.pdf

28 HMIC (2014) Everyone's business: improving the police response to domestic abuse. <http://www.justiceinspectorates.gov.uk/hmic/wp-content/uploads/2014/04/improving-the-police-response-to-domestic-abuse.pdf>

high priority on paper but not in practice. Around 130,000 children in the UK live in households where there is a high risk of domestic violence. The Home Office is consulting on whether to create a specific offence of domestic abuse²⁹ while Women's Aid reports that women's refuges are in crisis,³⁰ with cuts in public funding and a 32% shortfall in bedspaces.

Female genital mutilation

Female Genital Mutilation is a form of child abuse, with an estimated 60,000 girls under the age of 15 at risk in the UK. The practice has been illegal since 1985, but no prosecutions had taken place until three were announced in March 2014.³¹ A suite of new measures have been introduced to tackle FGM this year:

- All NHS hospitals must record and provide information on patients who have undergone FGM. In September 2014, there were 467 new cases of FGM and 1,279 existing cases identified by NHS hospitals in England³²
- Campaigns to raise awareness of FGM are being funded by the government through a community engagement initiative
- The Department for Education (DfE) updated its safeguarding guidance for schools³³
- FGM protection orders will be introduced to prevent parents/carers from taking a child out of the country to undergo FGM³⁴

Sexual exploitation of children

Child sexual exploitation involves adults grooming young people under 18 and offering gifts, affection, money or accommodation in return for sex. The relationship between victim and perpetrator is abusive, with the adult holding all of the power - manipulating, coercing and sometimes terrifying the victim into feeling they will not be believed if they come forward to report the abuse. In a 2012 report, the Office of the Children's Commissioner found 2,409 known victims of child sexual exploitation in the period from August 2010 to October 2011, and identified 16,500 children as being at high risk of child sexual exploitation.³⁵ Research from the NSPCC³⁶ finds that young people in care are disproportionately more vulnerable to sexual exploitation, citing evidence of targeted abuse by carers, other adults or peers, or systematic abuse by staff. Recent high-profile cases of child sexual exploitation include:

- Rochdale, involving 47 young victims and leading to nine convictions in 2012³⁷
- Derby, involving 15 young victims and leading to 12 convictions in 2012-13³⁸
- Oxford, involving six young victims and leading to seven convictions in 2013³⁹
- Peterborough, involving five young victims and leading to five convictions in 2013⁴⁰
- Rotherham, involving up to 1,400 young victims over a 16-year period and leading to five convictions in 2010, with further prosecutions pending⁴¹

Experts comment that these are not isolated, or even unusual, cases - child sexual exploitation is under-reported and is happening across the country. In cases that have come to light, one common factor is a failure among too many professionals to listen to or believe what children were saying - to regard them as "collaborators in their own abuse."⁴²

29 Home Office (2014) Strengthening the law on domestic abuse - a consultation. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/344674/Strengthening_the_law_on_Domestic_Abuse_-_A_Consultation_WEB.PDF

30 Women's Aid (2014) SOS campaign pages. <http://www.womensaid.org.uk/page.asp?section=0001000100100022§ionTitle=SOS>

31 CPS (2014) CPS announces first prosecutions for female genital mutilation. Press release 21 March 2014. <http://blog.cps.gov.uk/2014/03/cps-announces-first-prosecutions-for-female-genital-mutilation.html>

32 HSCIC (2014) Female genital mutilation: experimental statistics. <http://www.hscic.gov.uk/catalogue/PUB15711/fgm-sep-2014-exp-rep.pdf>

33 DfE (2014) Keeping children safe in education: statutory guidance for schools and colleges. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/350747/Keeping_children_safe_in_education.pdf

34 Ministry of Justice (2014) Female Genital Mutilation: proposal to introduce a Civil Protection Order - response to the consultation. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/365187/female-genital-mutilation-consultation-response.pdf

35 Berelowitz, S (2012) I thought I was the only one in the world. The Office of the Children's Commissioner's inquiry into child sexual exploitation in gangs and groups. Interim report. http://www.childrenscommissioner.gov.uk/content/publications/content_636

36 Biehal, N and others (2014) Keeping Children Safe: Allegations concerning the abuse or neglect of children in care, London: NSPCC. <http://www.nspcc.org.uk/globalassets/documents/evaluation--of-services/keeping-children-safe-report.pdf>

37 Rochdale Borough Council (2013) Independent review of child sexual exploitation. <http://www.rochdale.gov.uk/default.aspx?page=16320>

38 Derbyshire Safeguarding Children Board (2012) Operation Kern learning review summary. <http://www.derbyscb.org.uk/docs/DerbySCB-Kern-Learning-Review-Summary-2013-11-21.pdf>

39 Laville, S (2013) Oxford gang found guilty of grooming and sexually exploiting girls. 14 May 2013. Guardian newspaper. <http://www.theguardian.com/uk/2013/may/14/oxford-gang-guilty-grooming-girls>

40 Welch, J (2013) Peterborough sex gang's sophisticated grooming tactics. 14 January 2014. BBC news. <http://www.bbc.co.uk/news/uk-englandcambridgeshire-25659042>

41 Jay, A (2014) Independent inquiry into child sexual exploitation in Rotherham. http://www.rotherham.gov.uk/downloads/file/1407/independent_inquiry_cse_in_rotherham

42 Home Affairs Select Committee (2013) Child sexual exploitation and the response to localised grooming. Second report of session 2013-14. <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/68/68i.pdf>

Child neglect

Neglect is the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. The scale of neglect is not really known, and local authorities do not have systems in place to collect data on neglect. The NSPCC reports that its helpline received around 13,500 calls reporting concerns about the neglect of a child in 2012-13, and that neglect has consistently made up the largest number of contacts every year since 2007-08.⁴³ Neglect is a serious factor in 60% of serious case reviews, and can affect children of any age.⁴⁴

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In 2014, Ofsted looked at professional responses to neglect, and identified a number of issues:⁴⁵

- Cases being allowed to drift, placing children at further risk
- Too-high thresholds for intervention, leading to little change for the child
- Social work training in child neglect having little impact on practice
- Professionals not knowing enough about child development, and therefore unable to address the impact of neglect on children

Action for Children reports that this failure to intervene early enough is due to a number of factors including the rationing of services because of budget cuts, a lack of training and sources of help available for the education professionals who are often the first to notice signs of neglect, and little clarity about the responsibilities of different professionals who may encounter child neglect.⁴⁶

Children in care

Admissions to care

As with children on a child protection plan, the total number of children being taken into care has risen since the tragic and highly publicised deaths of 17 month-old Peter Connolly in 2009, and four year-old Daniel Pelka in 2012 - both at the hands of their parents.

In 2013-14, CAFCASS received 10,608 care applications,⁴⁷ compared to 6,465 in 2008-09.⁴⁸ In July 2014, CAFCASS received a total of 1,013 applications, which is the highest ever recorded for a single month.⁴⁹

The reasons why children are taken into care have remained broadly the same since 2008-09, with more than half due to abuse or neglect.⁵⁰

Changes to children's residential care

Under Article 7 of the UNCRC, wherever possible, children should be brought up within their families. When that is not possible, they have a right to be well cared for by the state, under Article 20 UNCRC. The quality of care and safety in children's homes have been called into question following high profile sexual exploitation cases like Rotherham⁵¹ where some of the victims had been in care. New regulations⁵² and quality standards are being introduced to try to

43 Jütte, S and others (2014) How safe are our children 2014? NSPCC. <http://www.nspcc.org.uk/Inform/research/findings/how-safe/how-safe-2014-reportwdf101938.pdf>

44 Brandon, M and others (2012) New learning from serious case reviews: a two year report for 2009-2011. DfE. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/184053/DFE-RR226_Report.pdf

45 Ofsted (2014) In the child's time: professional responses to neglect. <http://www.ofsted.gov.uk/sites/default/files/documents/surveys-and-good-practice/i/In%20the%20child%27s%20time%20-%20professional%20responses%20to%20neglect.pdf>

46 Action for Children (2014) Child neglect: the scandal that never breaks. <http://www.actionforchildren.org.uk/media/8678791/child-neglect-the-scandal-that-never-breaks.pdf>

47 CAFCASS, Care applications, June 2014. <http://www.cafcass.gov.uk/news/2014/july/june-2014-care-demand-statistics.aspx>

48 CAFCASS (2009) CAFCASS care demand. Press release 8 May 2009. <http://www.cafcass.gov.uk/media/6272/0809%20care%20demand%20update%20FINAL.pdf>

49 CAFCASS (2014) Care applications in July 2014. <http://www.cafcass.gov.uk/news/2014/august/july-2014-care-demand-statistics.aspx>

50 DfE (2014) Children looked after in England (including adoption and care leavers) year ending 31 March 2014. SFR 36/014. <https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption--2>

51 Office of the Children's Commissioner (2012) Briefing for the Rt Hon Michael Gove MP, Secretary of State for Education, on the emerging findings of the Office of the Children's Commissioner's Inquiry into Child Sexual Exploitation in Gangs and Groups, with a special focus on children in care. http://www.childrenscommissioner.gov.uk/content/publications/content_580

52 The Children's Homes and Looked After Children (Miscellaneous Amendments) (England) Regulations 2013. <http://www.legislation.gov.uk/uksi/2013/3239/introduction/made>. DfE (2014) Children's homes regulations: high expectations and aspirations. Consultation. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/356167/Childrens_homes_regulations_consultation_document_v2.pdf

ensure that children's homes are located in safe areas; that they have a policy and procedures to follow when a child goes missing from the home; and that staff are well-qualified, since one of the major criticisms in recent years has been the low status of residential care work, and the shortage of qualified and experienced staff in residential care.

Changes to adoption

The UN Committee on the Rights of the Child has urged the government to speed up adoptions, but stresses that adoptions must be made in the best interests of the child. The government has prioritised adoption in recent years and the numbers of children being adopted are increasing.⁵³ This acceleration of what is essentially "a severance of family ties"⁵⁴ has raised concerns about the quality of the decisions being made, and the life-long impact that will have on the child. For example, s.3 of the Children and Families Act 2014⁵⁵ repeals the requirement for local authorities and adoption agencies in England to give due consideration to a child's religious persuasion, racial origin and cultural and linguistic background when placing him or her for adoption, so removing the UNCRC requirement to respect an adoptive child's ethnic and cultural background. Draft adoption guidance⁵⁶ removes any presumption that siblings will be placed together, making continuing contact more difficult - something that has to be agreed and specially arranged.

Kinship care

Although the proportion of children being placed with foster carers has remained broadly the same, the proportion being placed with family and friends through the care system has fallen significantly.

TYPES OF PLACEMENT ⁵⁷	2009	2014
Foster care - Fostered by family or friends	43,900 (72%) 6,910 (11%)	51,340 (75%) 5,200 (8%)
Secure units, children's homes and hostels	6,110 (10%)	6,360 (9%)
Parents	4,170 (7%)	3,210 (5%)
Placed for adoption	2,690 (4%)	3,580 (5%)
Adopted	3,330 (6%)	5,050 (10%)
Residential special schools	1,030 (2%)	840 (1%)
Young offenders institution (YOI) or prison	150 (-%)	270 (-%)

Stability of children's placements

Like all children, children who are looked after need stability in their home life, and frequent moves are almost invariably bad for children. There is a close link between placement disruption and poor outcomes for looked after children.⁵⁸ While a change of placement will sometimes be in a child's best interests, frequent moves can have a negative impact on a child's education, mental health, and his or her ability to maintain important relationships.

53 DfE (2013) Further action on adoption: finding more loving homes. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/219661/Further_20Action_20on_20Adoption.pdf

54 Re B-S (Children) [2013] EWCA Civ 1146. <http://www.familylawweek.co.uk/site.aspx?i=ed117048>

55 Children and Families Act 2014. <http://www.legislation.gov.uk/ukpga/2014/6/contents>

56 DfE (2014) Draft statutory guidance on adoption: for local authorities, voluntary adoption agencies and adoption support agencies. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/321968/Adoption_Statutory_Guidance_2014.pdf

57 DfE (2013) Children looked after in England (including adoption and care leavers) year ending 31 March 2013, includes data for 2008/9. <https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption> DfE (2014) Children looked after in England (including adoption and care leavers) year ending 31 March 2014. SFR 36/014. <https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption--2>

58 Sinclair, I (2008) Stability and well-being in the care system. NICE expert paper EP2 - LAC2.4. <https://www.nice.org.uk/guidance/ph28/resources/looked-after-children-ep2-stability-and-wellbeing-in-the-care-system-ian-sinclair2>

Too many report that their views were not considered as part of the decision to move them, or that they had little notification that they were to be moved.⁵⁹

Despite this, placement stability - the number of times a child is moved during a year in care - has shown no real improvement since 2008-09. The most common measure of instability is the proportion of children in care who have had three or more placements in the course of a year.

PLACEMENT STABILITY ⁶⁰	2009	2014
One placement during the year	40,410 (66%)	46,150 (67%)
Two placements during the year	13,720 (23%)	15,170 (22%)
Three or more placements during the year	6,780 (11%)	7,520 (11%)

Maintaining contact with family

Under the UNCRC, the choice of placement for a looked after child should be based on what will work best for the individual child, taking into account his or her wishes and feelings. However, broadly, the distance between a looked after child's home and their placement, and whether the placement is outside of their home local authority, can affect their safety and wellbeing. Being too far away from home can lead to a child going missing;⁶¹ it can also interfere with the child's schooling, health services, relationships, and social life. It can also affect the likelihood that the placement will work. The UNCRC says that where children are unable to live with their families - if safe and what the child wants - they are entitled to maintain contact with their family.

The Children Act 1989⁶² requires local authorities to secure sufficient accommodation for looked after children within the authority's area, which can meet the needs of those children. Despite this, in 2012-13 more than one-third of children in care were placed outside their home local authority, and one in six was more than 20 miles away from home. Although some children are placed further away from home for their own safety or to receive specialist care, Ofsted has found that out-of-area placements are most commonly due to a shortage of suitable placements closer to home.⁶³ In January 2014, new requirements came into force making senior local government officials responsible for placing children outside their local area.⁶⁴

Spotlight on: the voice of the child

Advocates ensure that children's views and wishes are represented when decisions are being made about them, during complaints processes and in child protection case conferences - a right enshrined in Article 12 of the UNCRC.⁶⁵

CRAE sent a Freedom of Information request to all 152 local authorities in England asking for details of their budgets for advocacy services for children and, if there was a separate budget, for children in care in 2008-09 and 2013-14. Forty-five local authorities were able to provide data from both years.

59 Morgan, R (2014) Children's care monitor 2013/14. Children on the state of social care in England. <http://www.ofsted.gov.uk/sites/default/files/documents/surveys-and-good-practice/c/Children%27s%20care%20monitor%20201314.pdf>

60 DfE (2013) Children looked after in England (including adoption and care leavers) year ending 31 March 2013. [includes data for 2008/9] <https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-and-care-leavers> year ending 31 March 2014. SFR 36/014. <https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption--2>

61 APPG for Runaways and Missing Children (2012) Report into the joint inquiry into children who go missing from care. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/175563/Report_-_children_who_go_missing_from_care.pdf

62 Children Act 1989, s.22G. <http://www.legislation.gov.uk/ukpga/1989/41/section/22G>

63 Ofsted (2014) From a distance: looked after children living away from their home area. <http://www.ofsted.gov.uk/sites/default/files/documents/surveys-and-good-practice/f/From%20a%20distance%20Looked%20after%20Children%20living%20away%20from%20their%20home%20area.pdf>

64 DfE (2014) Out of authority placement of looked after children. Supplement to the Children Act 1989 Volume 2: care planning, placement and case review guidance. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/339312/Out_of_authority_placement_of_looked-after_children.pdf

65 Adoption and Children Act 2002, s.119. <http://www.legislation.gov.uk/ukpga/2002/38/section/119>

Of these:

- 29 local authorities had budgets for advocacy services for children
- 26 local authorities had separate budgets for advocacy services for children in care, care leavers and children in child protection case conferences

A majority of the 45 local authorities had reduced their spending on advocacy services for children by around half between 2008-9 and 2013-14. However, 20 local authorities had actually increased their advocacy budgets. In 2013-14, budget amounts ranged from 0.003% to 0.5% of the local authority's total budget.

Care leavers

As their “corporate parent”, the state is responsible for making sure children in care have the chance to develop to their full potential (Article 6).

In 2013, the Government published a cross-government *Care Leavers Strategy*⁶⁶ which stated, simply: *‘Care leavers should expect the same level of care and support that other young people get from their parent’*. The previous year, the government launched a *Care Leavers’ Charter*⁶⁷ which has no statutory basis but, as of March 2014, 123 local councils had signed up.⁶⁸

The Charter lists seven promises to children and young people:

1. To respect and honour your identity
2. To believe in you
3. To listen to you
4. To inform you
5. To support you
6. To find you a home
7. To be a lifelong champion

However, services and support for care leavers in England are variable.⁶⁹

Spotlight on: Children’s involvement in shaping services for children in care

CRAE sent a Freedom of Information request to all 152 local authorities in England, asking what mechanisms they have in place to support children’s participation in local authority service planning and commissioning. Eighty-nine local authorities responded, all but three of which have Children in Care Councils. Seven mentioned having a Junior Children in Care Council to make sure that the views of younger children would be heard, and five had a Care Leavers Council. The youngest member of the Children in Care Councils was six, and the oldest was 24.

Each of these groups meets one to 12 times a year with local Councillors; the Director of Children’s Services or equivalent post; and/or senior managers of corporate parenting, leaving care and other services. Four Children in Care Councils met with the Virtual School Head; four met with the designated nurse for looked after children; and one met with the Director of Public Health. Twelve Children in Care Councils met with either the safeguarding manager in their local authority, or the Local Safeguarding Children Board.

66 DfE (2013) Care leaver strategy: a cross-departmental strategy for young people leaving care. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266484/Care_Leaver_Strategy.pdf

67 DfE (2012) Care leavers charter. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264694/Care_leavers__charter.pdf

68 Timpson, E (2014) Record number of councils sign care leavers’ charter. 7 March 2014. DfE Press release. <https://www.gov.uk/government/news/timpson-record-number-of-councils-sign-care-leavers-charter>

69 Education Committee (2014) Into independence, not out of care: 16+ care options. 2nd report of session 2014-15. <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmeduc/259/259.pdf>

Age at which children leave care

The UNCRC requires the state to help prepare the children in their care for adult life. In England, looked after children are generally forced to leave home earlier than other young people, and without the same level of support that many of their peers receive from their parents. These young people can be unprepared for independence and provided with unreliable or inconsistent levels of support while leaving care. But care leavers are expected to become independent and self-sufficient much earlier than their non-care peers.

Care leavers are young people who have been in the care of a local authority for a period of 13 weeks or more spanning their 16th birthday. Although young people can leave care at the age of 16, plans for continuing support should be in place until the young person reaches the age of 21, or 25 if they are being helped with an agreed programme of education or training. The Children and Families Act 2014 requires local authorities to make “Staying Put” arrangements which enable care leavers to continue to live with their foster carers until they are 21.⁷⁰ In January 2014, Children and Families Minister Edward Timpson announced that the DfE was working with the National Children’s Bureau, The Who Cares? Trust and Action for Children to explore extending the Staying Put measure to young people in residential care.⁷¹

	2009	2013
Percentage of children in England ⁷² leaving care at age 18 and over	5,370 (62%)	6,830 (68%)

Outcomes for young people leaving care

Young people leaving care need somewhere to live, and moving into suitable and safe accommodation of their choice is one of the main concerns of young people preparing for and leaving care. Without this in place, they find it much more challenging to take part in education or training, find and hold down a job, and look after their health and wellbeing. In 2012-13, around 5% of care leavers stayed with their former foster carers beyond the age of 18.⁷³ But overall, the numbers in suitable accommodation fell slightly from 2008-09. In a parliamentary inquiry into the needs and rights of care leavers, the Education Committee⁷⁴ recommended that bed and breakfast accommodation for care leavers should be banned because it places vulnerable young people at risk of isolation, violence and exploitation. The government has refused,⁷⁵ but has offered to ‘*test the arguments for and against*’ the use of bed and breakfast. A Barnardo’s Freedom of Information request to local authorities in England⁷⁶ found that, in 2013-14:

- 73% of local authorities placed care leavers in bed and breakfast over the year
- 51% of local authorities placed young people in bed and breakfast for 28 days or more
- More than 800 young people were placed in bed and breakfast over the year - a much higher figure than appears in the official DfE figures

Educational achievement and employment opportunities for care leavers are highly dependent on what happened before the child came into care,⁷⁷ and the quality of the support they receive and continue to receive in relation to careers advice, workplace experience, employment skills, financial support, accommodation during holiday periods, interview preparation, and help with navigating the admissions systems.⁷⁸ Educational outcomes for care leavers have remained broadly static since 2008-9, though a higher proportion are recorded as NEET (not in education, employment or training) in 2012-13.

70 Children and Families Act 2014, s.98. <http://www.legislation.gov.uk/ukpga/2014/6/part/5/crossheading/staying-put-arrangements/enacted>

71 Puffett, N (2014) Government considers extending children's home leaving age to 21. 22 January 2014. Children and Young People Now. <http://www.cypnow.co.uk/cyp/news/1141702/government-considers-extending-childrens-home-leaving-age-21>

72 DfE (2013) Children looked after in England (including adoption and care leavers) year ending 31 March 2013. SFR 26/2013

73 DfE (2014) Outcomes for children looked after by local authorities in England as at 31 March 2013. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264385/SFR50_2013_Text.pdf

74 Education Committee (2014) Into dependence, not out of care: 16 plus care options. Second report of session 2014-15. <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmeduc/259/259.pdf>

75 Education Committee (2014) Into dependence, not out of care: 16 plus care options. Government response to the second report of session 2014-15. <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmeduc/738/738.pdf>

76 Barnardo's (2014) Barnardo's goes undercover after research shows children leaving care are placed repeatedly in unsafe accommodation. Press release, 7 September 2014. http://www.barnardos.org.uk/news/media_centre/Barnardos-goes-undercover-after-research-shows-children-leaving-care-are-being-placed-repeatedly-in-unsafe-accommodation/press_releases.htm?ref=98612

77 Stein, M (2004) What works in leaving care? 2nd ed. Ilford: Barnardo's. http://www.barnardos.org.uk/what_works_for_young_people_leaving_care_2004_publications_tracked.pdf

78 Biehal, N, Clayden, J, Stein, M & Wade, J (1995) Moving on: young people and leaving care schemes. London: HMSO

Children entering care have higher levels of mental health problems, and the anxieties linked to leaving care can exacerbate these.⁷⁹ Health services may not recognise those who have left care post-18 as a priority group for service provision; their needs may fall below the threshold for intervention from adult mental health services.

OUTCOMES FOR CHILDREN AGED 19, WHO WERE LOOKED AFTER WHEN 16 ⁸⁰	2008 -09	2012-13
Total young people leaving care at 19	6,090	6,930
Accommodation: ⁸¹ In suitable accommodation Staying with former foster carers In bed and breakfast	5,450 (90%) figure not available 50 (1%)	6,090 (88%) 330 (5%) 30 (-%)
Education, employment or training: Not in education, employment or training (NEET)	1,910 (31%)	2,360 (34%)
Mental health: ⁸² Percentage in care whose emotional and behavioural health is considered to be a cause for concern	figure not available	37.5%
Not in touch with the local authority	340 (6%)	520 (8%)

Children's views from the Children's Rights Director's annual Care Monitor 2013

Every year, the Children's Rights Director - now the Office of the Children's Commissioner - undertakes a survey of children living away from home, to find out what they think about the care they receive.⁸³ In 2013-14, 2,305 children and young people took part in the survey.

- 91% rated their care as good or very good - the rate was higher for children in foster care than for those in children's homes
- 70% thought coming into care had been the right thing for them at the time
- 83% said they were in the right placement for them, but 31% said they had already had more than three placements in care - when they moved, 41% of them had less than a week's notice, and 20% only one day's notice - 52% had to change schools
- 71% who had brothers or sisters in care were separated from them
- 64% said their opinions were usually or always asked on things that mattered to them - but 10% said they were never asked
 - 15% wanted more of a say in their placement
 - 13% wanted to be more involved in decisions about contact with their family
 - 12% wanted to have more input into decisions about their future
- 32% of the children surveyed said they were worried about their safety, and 16% reported being bullied for being in care

79 Dixon, J (2008) Young people leaving care: health, well-being and outcomes. *Child & Family Social Work*, 13:2, 207-217

80 DfE (2013) Children looked after in England, including adoption. SFR36/2013

81 Suitable accommodation' is accommodation, which, so far as reasonably practicable, is suitable for the child in light of his/her needs, including his/her health needs. The authority should have satisfied itself as to the character and suitability of the landlord or other provider; ensures that the accommodation complies with health and safety requirements related to rented accommodation; and that the authority has so far as reasonably practicable, taken into account the child's wishes and feelings; and education, training or employment needs.

82 Based on children completing the Strength and Difficulties questionnaire.

83 Morgan, R (2014) Children's care monitor 2013/14. Children on the state of social care in England. <http://www.ofsted.gov.uk/sites/default/files/documents/surveys-and-good-practice/c/Children%27s%20care%20monitor%20201314.pdf>

- 50% of children in children's homes, 45% of foster children, and 43% of children at home with social care support, said they had mental health or emotional problems
- 11% of care leavers said they were not getting help to prepare for their future life - children in children's homes were more likely to be getting that help than children in foster care
- 69% of care leavers thought there were in the right accommodation for them
- 54% of care leavers said they had mental health or emotional problems

Recommendations

- Place an early intervention duty on councils
- Government should invest in an early intervention strategy that shifts the balance of spending towards preventive/early intervention measures over time
- Involve children in family mediation sessions when parents are separating/divorcing and making decisions about the child
- Oblige courts to ask about the children of parents sent to prison to ensure that adequate child care arrangements are in place
- Ensure that prisons take into account the needs of children of all ages to maintain relationships with their imprisoned relatives, and establish family contact policies and procedures that allow this to happen
- Give all children a right to local authority advocacy services
- Extend the Staying Put provisions to children in children's homes
- Ban the use of bed and breakfast for care leavers

CRAE believes that human rights are a powerful tool in making life better for children. We're one charity working with over 100 organisational and individual members to promote children's rights, making us one of the biggest children's rights coalitions in the world. Our vision is a country that values and upholds every child's human rights.

We fight for children's rights by listening to what children 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.

CRAE has produced an annual State of Children's Rights in England report since 2003. This report is one chapter from the full report State of Children's Rights in England 2014.

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