



Children's
Rights Alliance
for England

STATE OF CHILDREN'S RIGHTS IN ENGLAND

Review of Government
action on United Nations'
recommendations for
strengthening children's
rights in the UK

2014

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.

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

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Executive Summary

What are children's human rights?

Human rights are the basic things we all need in order to live with dignity: food, housing, education and health care; the right to spend time and communicate with others, to access information, form opinions, express ourselves, and hold religious beliefs; and the right to be free from violence, exploitation and abuse. Everyone, including children, has these rights just because they are human, no matter what their circumstances. Human rights mean that children must be respected as the people they are today, not just when they reach 18.

The UN Convention on the Rights of the Child (UNCRC) is an international treaty - an agreement between different governments – on a set of human rights for children up to the age of 18. The UNCRC reflects the particular needs, vulnerabilities and potential of children. It includes the right to education, the right to play, children's right not to be separated from their parents, unless it is in their best interests, and the right to be well cared for if they are living away from their family. It sets out children's right to be listened to and take part in decisions which affect their lives and, for those children living in difficult circumstances, the right to special protection and help from the government. All children should enjoy all their rights without discrimination on grounds such as disability, sex, ethnicity, age, faith or sexual orientation.

About this report

Since the UK signed up to the UNCRC in 1991, all areas of government and the state, including local government, schools, health services, and criminal justice bodies, must do all they can to fulfil children's rights. This report looks at whether enough is being done to fulfil the human rights of children in England.

There is no definitive list of indicators which determines precisely whether or not children's rights have been fulfilled, but the UN Committee on the Rights of the Child explains what is required by the UNCRC and looks at whether each state is complying with it. Based on what the UN Committee has said, this report explains what human rights mean for different areas of children's lives, and selects indicators to illustrate particular rights issues facing children in England. It looks at whether there have been improvements since the UN Committee on the Rights of the Child last examined the UK's record on children's rights in 2008. It is based on official statistics, published research and additional material gathered through Freedom of Information requests. It also summarises significant laws or policies which affect children's human rights.

General measures of implementation

The UK government is expected to do all it can to implement the UNCRC - to make sure all law, policy and decisions which impact on children comply with their human rights. The systems and structures which make sure this happens are known as "General Measures of Implementation".

There have been a few positive developments:

- The Children's Commissioner for England was recently reformed and now has a rights-based mandate, greater powers and independence from government¹
- There are limited, but welcome, duties on leaders in local authorities to have regard to children's views²

In most other respects, there is poor implementation of the General Measures of Implementation in England:

- There is no domestic law requiring all public bodies, such as schools, hospitals and the police, to comply with children's human rights and allowing children to challenge laws and decisions which breach their rights
- Nor is there any duty on public bodies requiring them to have regard to children's human rights when making decisions. The evidence suggests that they do not systematically do so
- There is currently no cross-government children's rights strategy with actions and targets to implement children's human rights
- Government budgets do not identify how much money is spent on children
- There is currently a lack of data showing whether children enjoy their rights in certain areas

¹ Children and Families Act 2014, Part 6

² DfE (2013) Statutory guidance on the roles and responsibilities of Directors of Children's Services and the Lead Member for Children's Services. pp.5-6

- Professionals working with children are not systematically trained on children's human rights
- Access to justice for children, and those working with and for them, has been significantly undermined by changes to legal aid and judicial review

CRAE sent a Freedom of Information request to the Ministry of Justice, asking them to provide information about the number of children granted legal aid in 2008-09 and 2013-14 for specific types of cases. The number of children granted legal aid for private law cases (where their parents are or have divorced or separated) has fallen by 69%, and the number of children granted legal aid for education cases has fallen by 84%.

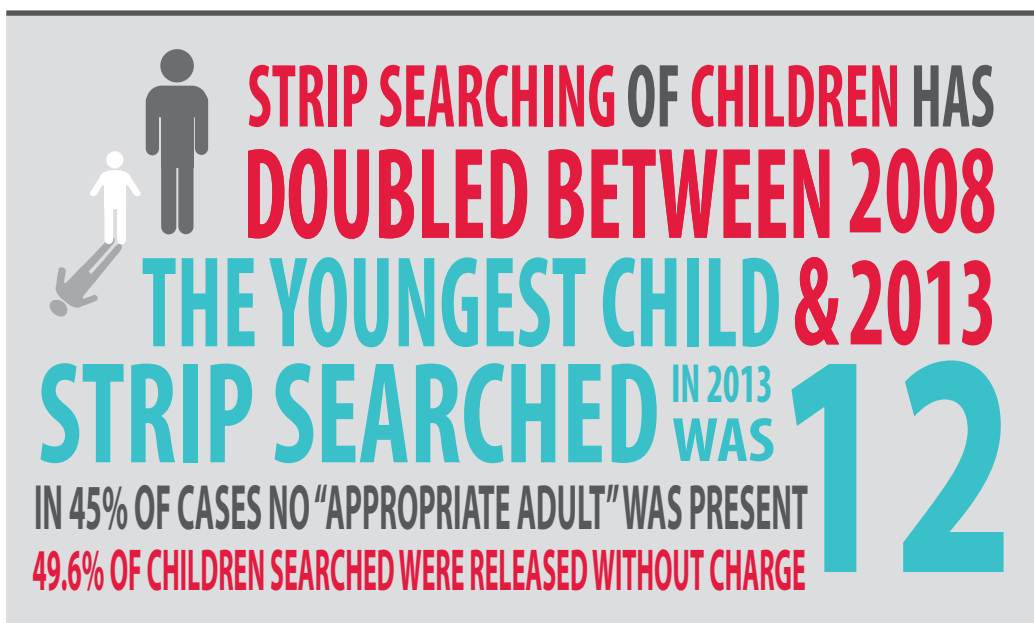
Civil liberties

Children have a right to access and to move freely in public spaces and to meet up and spend time with others. Children have a right to think and believe what they like, to access information and to speak their mind, so long as this is not harmful for others; they have a right to keep personal matters and communications private; and they have a right to be protected and free from violence.

The UN Committee on the Rights of the Child has raised significant concerns about anti-social behaviour measures, which can seriously restrict children's civil liberties. This system has been reformed, but children engaging in low-level disruptive behaviour can still find themselves with an injunction and breach can still result in imprisonment. Sixty-seven percent fewer children were stopped and searched in 2013-14 than in 2008-09, but over 30% of those children were Black or Asian.³

Privacy is particularly important for children. Revealing children's personal details, or events in their lives, to the world, can place children at risk, and the things they do as children can hang over them for the rest of their lives. There are gaps in the protection of children's privacy. In criminal courts, privacy protections do not apply pre-charge and do not stop people naming and shaming children via social media. They expire when a child turns 18, meaning children cannot leave their past behind. There have also been moves to open up the family courts, meaning cases relating to child protection and adoption are subject to public scrutiny. Children have expressed strong objections to this, and experts have warned this may deter children from reporting abuse.⁴

Children's human rights are currently threatened when they come into contact with the police. Strip-searching can be a terrifying and traumatic experience for children, especially for those coming into contact with the criminal justice system, many of whom will be feeling frightened and very vulnerable. It should only happen when absolutely necessary, and where proper safeguards are in place to keep children safe from harm and limit the trauma they are likely to experience. This is not happening in practice.⁵



3 Under Freedom of Information law, CRAE asked 40 police forces in England about the number and characteristics of children stopped and searched in their area in 2008-09 and in 2013-14. Ten police forces responded

4 Brophy, J and others (2014) Safeguarding, privacy and respect for children and young people & the next steps in media access to family courts. Wirral: NYAS and the Association of Lawyers for Children

5 Under Freedom of Information law, CRAE asked 40 police forces in England about the number of times children had been subject to strip searches at the police station in 2008 and in 2013; the ages of the children; whether an appropriate adult had been present during the strip search; and whether the child was released. Only 5 police forces responded

Two UN human rights committees have said that the use of Tasers on children should be banned.⁶ Instead, these weapons are increasingly used on children.⁷



Children have a right to be protected from violence. However, the use of force is still permitted against children in various contexts, and the way in which it is regulated does not reflect human rights standards:

- The use of force should only be permitted when strictly necessary for preventing harm to the child or others, and should never be used as a punishment. However, parents and those in loco parentis are allowed to physically punish their children and schools and prisons are allowed to use force in order to maintain "good order and discipline"
- Techniques which aim to deliberately inflict pain should not be used on children, but these are still permitted in children's prisons
- There is a lack of training for those permitted to use force on children, and a lack of transparency around the extent to which force is used. Police forces and schools were not, for example, able to tell us about how often they use force on children

Family and alternative care

The UNCRC recognises parents' primary role in protecting and promoting the rights of their child - describing the family as '*the fundamental group of society*' - but says the government should support parents in bringing up their children. Children have a right not to be separated from their parents, unless this is in their best interests. Where children must live apart from their families, they have a right to be well cared for. 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. Children should have a say when adults make decisions about where they live and how they should be cared for. 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.

⁶ Committee against Torture (2013) Concluding observations on the fifth periodic report of the United Kingdom, para.26. Committee on the Rights of the Child (2008) Concluding observations on the United Kingdom of Great Britain and Northern Ireland, para.31

⁷ Under Freedom of Information law, CRAE asked 40 police forces in England about the number of times the police has used Tasers in relation to children in 2013. 15 police forces responded to the request

Children rarely have a voice in what happens when their parents separate and their rights are not always central to decision-making:

- New rules mean that parents applying for divorce, judicial separation or to end a civil partnership are now required to attend mediation before going to court, but there is no right for children to take part. The government has, though, announced that children aged 10 and over will have direct access to judges in family cases⁸
- Under new legislation, there is a presumption that both parents will continue to be involved in their child's life where that is consistent with the child's welfare.⁹ Critics have raised concern that this will, in practice, prioritise the parent's right to contact over the child's best interests

The professionals who are supposed to keep children safe have faced a huge increase in their workload, while investment in their work has reduced. More and more children are classed as "in need" - meaning more children are considered at risk - and being put on a child protection plan.¹⁰ CAFCASS received 10,608 care applications in 2013-14,¹¹ compared to 6,465 in 2008-09.¹² At the same time, funding for "early intervention" has lost its protected status and expenditure on early intervention and family support services has fallen significantly - 32% in 2011-12, according to the Local Government Association.¹³ 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.¹⁴

There has been a lot of focus on improving care for children who are separated from their parents, largely in response to concern about current standards.

- The quality of care and safety in children's homes have been called into question following high profile sexual exploitation cases like Rotherham.¹⁵ New standards¹⁶ are being introduced to ensure children's homes are located in safe areas, staff are well qualified and staff know what to do when a child goes missing
- A focus on adoption in recent years¹⁷ has seen an increase in the number of children being adopted,¹⁸ though concerns have been raised about the quality of the decisions being made.

But currently, the experiences and outcomes for children in care remain poor:

- Like all children, children who are looked after need stability in their home life. Despite this, placement stability has shown no real improvement since 2008-09, with 23% of children experiencing 2 or more placements during 2013-14¹⁹
- While some children are placed far from home in their best interests, broadly, the distance between a looked after child's home and their placement can affect their safety and wellbeing. Despite this, in 2012-13 more than a third of children in care were placed outside their home local authority, and one in six was more than 20 miles away from home²⁰
- 34% of care leavers were not in education, employment or training in 2012-13 - an increase from 31% in 2008-09²¹

There is inadequate protection for children against certain harms:

- Around 130,000 children in the UK live in households where there is a high risk of domestic violence - it was a factor in 63% of serious case reviews (a review that takes place when a child dies or is seriously injured, and abuse or neglect is a factor).²² Her Majesty's Inspectorate of Constabulary has found that the police response to domestic violence is not good enough²³ and women's refuges are in crisis, with funding cuts and a 32% shortfall in beds²⁴

8 Hughes, S (25 July 2014) Children will be seen and heard in family courts. Ministry of Justice Press release

9 Children and Families Act 2014

10 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

DfE (2014) Characteristics of children in need in England, 2013-14. SFR 43/2014

11 CAFCASS, Care applications, June 2014

12 CAFCASS (2009) CAFCASS care demand. Press release 8 May 2009

13 Local Government Association (2012) Early Intervention Grant

14 Jütte, S, Bentley, H, Miller, P, Jetha, N (2014) How safe are our children 2014? NSPCC

15 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

16 The Children's Homes and Looked After Children (Miscellaneous Amendments) (England) Regulations 2013. DfE (2014) Children's homes regulations: high expectations and aspirations. Consultation

17 DfE (2013) Further action on adoption: finding more loving homes

18 DfE (2013) Children looked after in England (including adoption and care leavers) year ending 31 March 2013

19 DfE (2013) Children looked after in England (including adoption and care leavers) year ending 31 March 2013. DfE (2014) Children looked after in England (including adoption and care leavers) year ending 31 March 2014. SFR 36/014

20 DfE (2013) Children looked after in England (including adoption and care leavers) year ending 31 March 2013. [includes data for 2008/9]; DfE (2014) Children looked after in England (including adoption and care leavers) year ending 31 March 2014. SFR 36/014

21 DfE (2014) Outcomes for children looked after by local authorities in England as at 31 March 2013

22 Brandon, M and others (2012) New learning from serious case reviews: a two year report for 2009-2011. DfE

23 HMIC (2014) Everyone's business: improving the police response to domestic abuse

24 Women's Aid (2014) SOS campaign pages

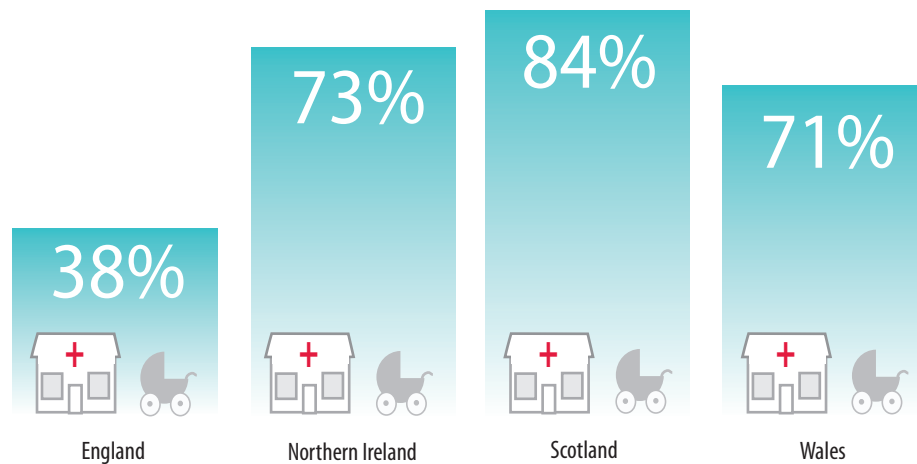
- Though Female Genital Mutilation has been illegal since 1985, no prosecutions had taken place until three were announced this year. A suite of new measures to tackle FGM have been announced
- It has become clear that child sexual exploitation is under-reported and in cases that have come to light, a common factor has been the failure of professionals to listen to or believe what children were saying - to regard them as "collaborators in their own abuse"²⁵
- Professional responses to neglect have been criticised, with cases left to drift and thresholds for intervention too high²⁶

Health

Under Article 24 of the UNCRC, all children have the right to be as healthy as they can be and to access health services. Many indicators relating to children's physical health have improved slightly since 2008, but poorer children have a far worse chance at a healthy life and developments in relation to children's standard of living are likely to undermine any progress made. Children's mental health services are in crisis.

Care for pregnant women and new mothers is key to children's right to have a healthy start in life. Good ante-natal and neo-natal services are crucial to this. However, there was a shortfall of 4,800 midwives in 2012,²⁷ and England has the lowest proportion of baby-friendly hospitals - which promote good infant feeding and mother-child bonding - in the UK.²⁸

BIRTHS IN BABY-FRIENDLY HOSPITALS



Fewer women are smoking during pregnancy and more are breastfeeding their babies. These factors have a huge impact on a child's health. However, progress is too slow, and there remains a strong correlation between a woman's socio-economic status whether she smokes and breastfeeds.

- Despite huge benefits for children, only 1% of mothers in the UK breastfeed exclusively at six months.²⁹ The rate of breastfeeding decreases with increasing social disadvantage³⁰
- The proportion of women smoking at the time of delivery has reduced to 12%, but smoking is more prevalent among women from lower socio-economic groups than others³¹

There are signs that children are being supported to make healthier choices. Though still high, compared with other European countries, teenage pregnancies are now at their lowest since records began in 1969.³² The numbers of children smoking, drinking alcohol and taking drugs have fallen considerably since 2008.^{33,34} But conception rates are higher in more deprived areas and alcohol, solvent and drug use are associated with deprivation.

25 Home Affairs Select Committee (2013) Child sexual exploitation and the response to localised grooming. Second report of session 2013-14

26 Ofsted (2014) In the child's time: professional responses to neglect

27 Royal College of Midwives (2013) State of maternity services report 2013

28 Unicef UK (2014) Baby friendly statistics 2014

29 ONS (2012) Infant feeding survey - UK, 2010

30 Health and Social Care Information Centre (2012) Infant Feeding Survey

31 Health and Social Care Information Centre (2014) Statistics on women's smoking status at time of delivery: England. Quarter 4: April 2013 to March 2014. Final report

32 ONS (2014) Conceptions in England and Wales, 2012

33 NatCen (2009) Smoking, drinking and drug use among young people in England in 2008

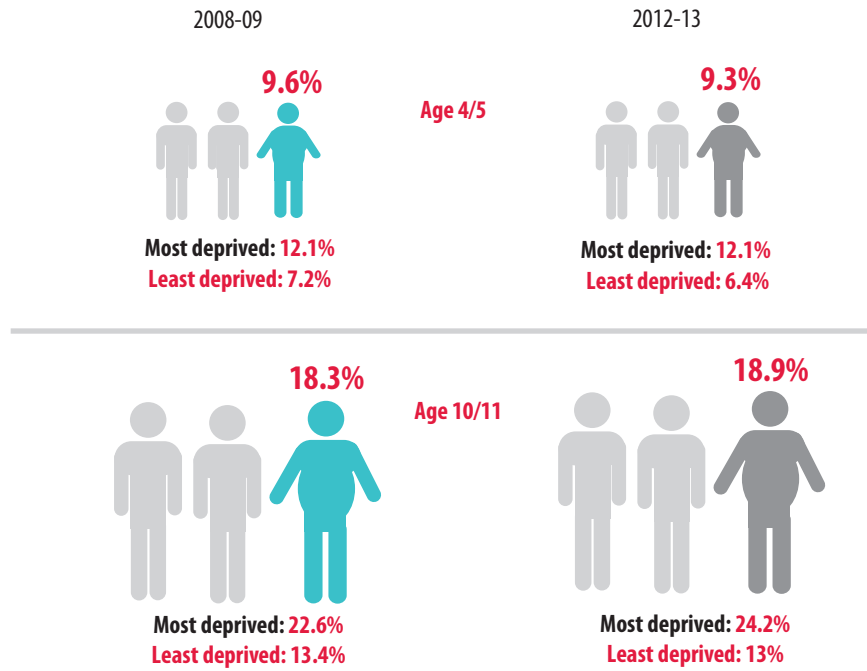
34 NatCen (2014) Smoking, drinking and drug use among young people in England in 2013

Childhood obesity is a major public health challenge - some say the most urgent public health challenge in the UK today.³⁵ This is a worsening problem.^{36,37}

- Obesity levels have gone down very slightly among younger children, but are still rising for children aged 10 to 11
- Levels of physical activity have decreased for both boys and girls since 2008-09
- The proportion of children eating a healthy diet - has fallen slightly since 2008-09

Again, weight, diet and activity levels are strongly related to socio-economic status³⁸

CHILDHOOD OBESITY



DIET AND NUTRITION



PHYSICAL ACTIVITY BY CHILDREN AGED 5-15	2008-09	2012-13
	At least 1 hour of moderate to vigorous intensity physical activity a day	28% boys 19% girls

35 Health and Social Care Information Centre (2014) Statistics on obesity, physical activity and diet
 36 NHS Information Centre (2009) National child measurement programme England, 2008/9 school year
 37 NHS Information Centre (2012) National child measurement programme England, 2012/13 school year
 38 Health and Social Care Information Centre (2014) Statistics on obesity, physical activity and diet

- There is insufficient investment in community services, with Clinical Commissioning Groups and local authorities freezing, cutting or making below-inflation increases to their budget³⁹
- Children are still being admitted to adult psychiatric wards, where they may be treated by staff who are not trained in child and adolescent mental health, and may be denied their right to education
- In 2012-13, of 580 mentally ill children who should have been taken to a “place of safety,” 45% were detained in police custody because there were no safe places available⁴⁰

The President of the Royal College of Paediatrics and Child Health has said that child death rates in the UK represent ‘a major crisis’⁴¹ - despite improvements since 2007, the UK is still ranked bottom out of 20 European countries for deaths of children under five.⁴²

Standard of living

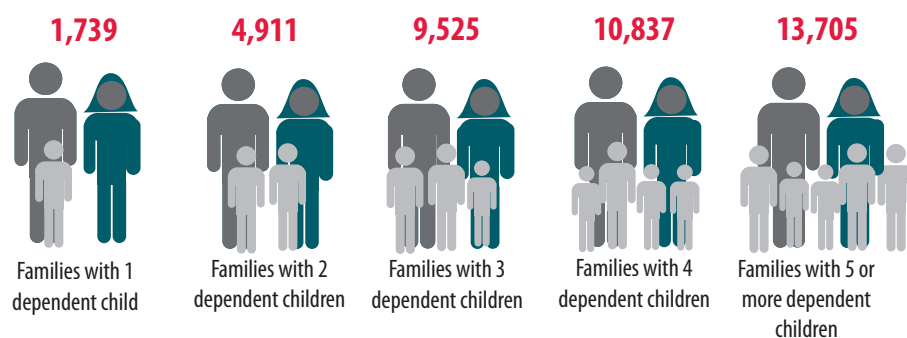
The UNCRF recognises that parents are primarily responsible for meeting their children’s needs, but when families do not have enough to live on, children have a right to financial support from the government - in particular to make sure they have enough food, clothing and housing.

Increasingly children’s living standards fall below the level required by their rights, and not enough is being done to meet their basic needs. “Relative child poverty” - that is the number living on an income which is low compared to average incomes – has gone down since 2008-09, but only because average incomes have fallen.⁴³ The proportion in “absolute” poverty (taking account of housing costs) has increased - from 28% in 2008-09 to 31% in 2012-13.⁴⁴

The government’s strategy for tackling this – which is based on families working themselves out of poverty - has been heavily criticised. In 2012-13, 63% of children in poverty were living in families where at least one adult works.⁴⁵ This is not surprising – while the cost of living has increased by 27-28% since 2008, average annual earnings have risen by only 9%⁴⁶ and millions of workers are earning less than a living wage.

Since 2010, the government has introduced a series of cuts to the benefits and tax credits system. This includes a benefit cap of £500 a week for families with children, no matter how big the family.⁴⁷

HOUSEHOLDS AFFECTED BY THE BENEFITS CAP



96% OF ALL THE HOUSEHOLDS IN ENGLAND, AFFECTED BY THE BENEFITS CAP, HAVE CHILDREN

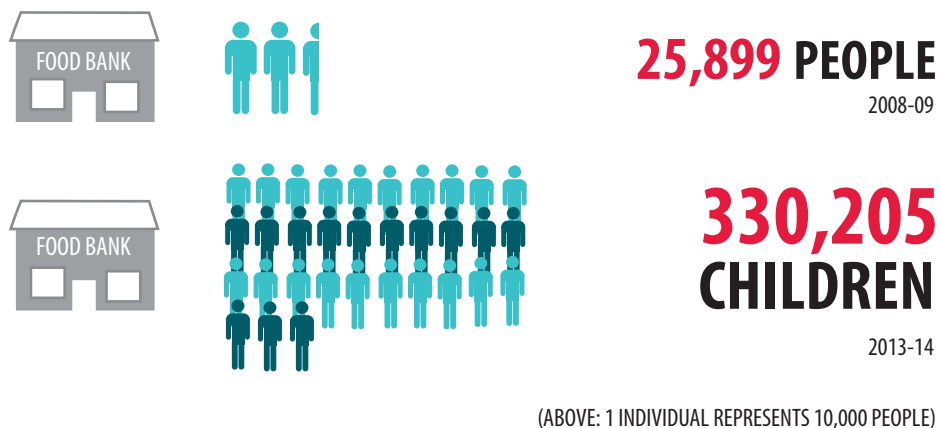
APRIL 2013 - MAY 2014

39 Leaman, C. (2014) Devastating cuts to leading to children’s mental health crisis. 21 June 2014. Young Minds Press release
 40 Care Quality Commission (2014) New map of health-based places of safety for people experiencing a mental health crisis reveals restrictions in access for young people. 16 April 2014, CQC Press release
 41 Roberts, Y. and Campbell D. (13 July 2013) British child death rates are ‘a major crisis’, says paediatricians’ leader, The Observer
 42 Wang, H and others (2014) Global, regional and national levels of neonatal, infant and under-5 mortality during 1990 - 2013: a systematic analysis for the Global Burden of Disease Study 2013. Lancet, 22 July 2014, pp.957-979
 43 Department for Work and Pensions (DWP) (2014) Households below average income (HBAI): 1994 to 2013
 44 Department for Work and Pensions (DWP) (2014) Households below average income (HBAI): 1994 to 2013
 45 Department for Work and Pensions (2013) Households Below Average Income 2011/2012
 46 Hirsch, D (2014) The cost of a child 2014. London: CPAG
 47 Department for Work and Pensions (DWP) (2014) Benefit cap: number of households capped to May 2015. Table 1

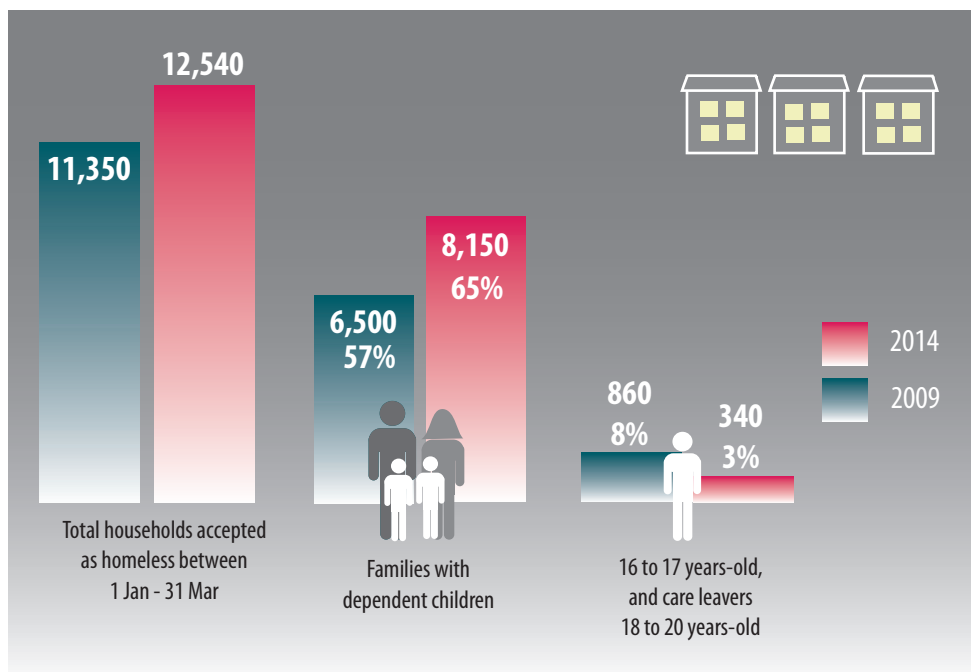
Low wages, inadequate benefits and rising costs are having a real impact on children's lives:

- In 2012, 45% of the 2.28 million households living in fuel poverty were families with children, compared to 17% in 2008^{48 49}
- There has been a huge increase in food poverty, and a rapid rise in the use of foodbanks⁵⁰
- More and more children are affected by homelessness – 65% of homeless households are families with children - and they are increasingly housed in unsuitable bed and breakfast accommodation. There was a 400% increase of families with children living in bed and breakfast accommodation between 2009 and 2014⁵¹

REFERRALS TO TRUSSELL TRUST FOOD BANKS



HOMELESSNESS HOUSEHOLD COMPARISON 2009:2014



48 DECC (2012) Trends in fuel poverty, 2003 to 2010. Table 5
 49 DECC (2014) Annual fuel poverty statistics report, 2014, Chart 3.6
 50 Trussell Trust website <http://www.trusselltrust.org/stats#Apr2013-Mar2014>
 51 DCLG (2014) Live tables on homelessness. Tables 773 and 775

Education and play, rest, leisure and culture

All children, no matter what their ability, interests or background, have a right to an education that will help them achieve their potential without discrimination. Children have a right to play and recreational activities, to rest and leisure, and to take part in cultural life. A lack of investment in the services which are crucial for a child's development and well being – such as high quality early years education and childcare and play and youth services – means that children do not all have an equal chance in life.

High quality education during a child's early years has a significant positive impact on the child's outcomes and helps close the gap between rich and poor children. There have been positive moves to improve children's access to early year's education. Free early years provision for three and four year-olds was expanded to cover 40% of all two year-olds from September 2014. However, there are concerns in other areas:

- Children's centres improve outcomes for young children, and particularly for the most disadvantaged families. 4Children reports a cut of 20% in spending on children's centres and early years services between 2012-13 and 2014-15⁵²
- Quality matters, but only 50% of two year-olds and 52% of three year-olds in private, voluntary or independent settings are taught by well-qualified staff⁵³
- Since 2009, the cost of childcare in England has risen by 27%.⁵⁴ Thirty-seven percent of lone parents and 23% of couples paying for child care said they found it difficult or very difficult to cover the costs⁵⁵

The need to address inequality through early investment becomes clear when you look at results later in life. Official figures show attainment improving between 2008-09 and 2012-13, including for more disadvantaged children on free school meals.⁵⁶ However there is still huge inequality in the system:

- There have been improvements for black pupils, but results for white pupils at early stages have remained static
- Children in care are achieving better results at earlier stages, but the gap starts to widen by the time they take their GCSEs
- The attainment gaps for children with special educational needs (SEN) have actually increased at all stages

The number of exclusions from school has fallen significantly since 2008, but figures show that the vast majority of exclusions affect the most disadvantaged children.^{57 58}

- More than two-thirds of those excluded have a special educational need
- Almost half of permanent exclusions (46%) affect children on free school meals
- Children in care are twice as likely to be permanently excluded, and three times as likely to get a fixed term exclusion from school
- More than a quarter of permanent exclusions affect minority ethnic pupils

Children have a right to play, rest, leisure and culture. This is important for children's development and learning, for their health and wellbeing, and for their resilience and confidence. In response to Freedom of Information requests sent to 152 local authorities in England by CRAE:

- 32 local authorities were able to provide information on play budgets, which showed all had reduced their play budgets - overall, a 54% reduction in funding for play between 2008-09 and 2014-15. Three had no play budget at all in 2014-15
- 60 local authorities responded in relation to youth services, showing budgets have fallen by 35% as a proportion of local authority spending, from an average 1.28% of the total local authority budget in 2008-09 to 0.87% in 2014-15. Eleven local authorities have increased their budget for youth services since 2008-09

52 4Children (2014) Children's centres census 2014

53 Huskinson, T et al (2014) Childcare and early years survey of parents 2012-2013. DfE

54 Daycare Trust (2009) Childcare costs survey 2009; Family and Childcare Trust (2014) Childcare costs survey 2014

55 Huskinson, T et al (2014) op cit.

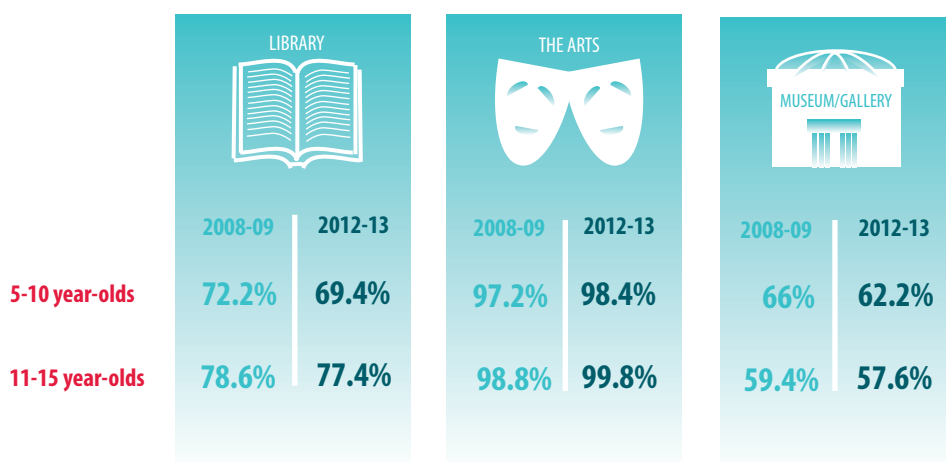
56 DfE (2010) Early Years Foundation Stage Profile Achievement by Pupil Characteristics, England 2008/09; DfE (2014) Early Years Foundation Stage Profile results, 2013 to 2014; DfE (2014) National curriculum assessment at Key Stage 2 in England, 2014 (provisional); DfE (2014) Provisional GCSE and equivalent results in England 2013/14; DfE (2009) National curriculum assessments at Key Stage 2 in England, 2008/9 (revised); DfE (2013) National curriculum assessments at Key Stage 2: 2012 to 2013; DfE (2014) GCSE and equivalent attainment by pupil characteristics in England, 2012/13; DfE (2013) Early Years Foundation Stage Profile Attainment by Pupil Characteristics, England 2013; DfE (2013) Outcomes for Children Looked After by Local Authorities in England, as at 31 March 2013, Tables 10 and 11

57 DfE (2010) Permanent and fixed period exclusions from schools and exclusion appeals in England, 2008/09. Tables 6.1, 12 and 15

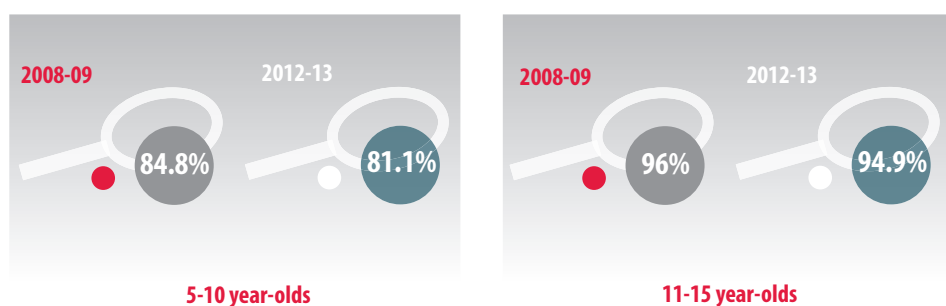
58 DfE (2014) Permanent and Fixed Period Exclusions in England: 2012 to 2013

Children's participation in the arts increased slightly between 2008-09 and 2012-13, but a lower proportion of children were taking part in sport and visiting libraries and museums.⁵⁹

PARTICIPATING IN CULTURAL ACTIVITIES (OVER THE YEAR)



PARTICIPATING IN SPORTING ACTIVITIES (OVER A 4 WEEK PERIOD)



Immigration, asylum and migrant children

Migrant, asylum-seeking and trafficked children have a human right to be properly cared for. The best interests of each child should be assessed, that assessment should guide all decisions made in relation to them and take precedence over immigration considerations. Like all children, when their family cannot meet their basic needs such as food, housing and education and healthcare, migrant and asylum-seeking children have a right to help from the government. They should not be discriminated against.

There have been some positive steps to protect the rights of migrant, asylum-seeking and trafficked children:

- In 2008, the government removed its immigration reservation – a sort of exception - to the UNCRC
- A duty now requires immigration officers to safeguard children's welfare⁶⁰
- In 2010, the government said it would end the detention of children for immigration purposes
- In 2008, force was being used to control children in immigration detention, but there were no recorded cases of this in 2013.⁶¹ This may change - the Home Office has said that the rules should allow force to be used to remove children from the UK⁶²

⁵⁹ DCMS (2014) Taking part: annual child report

⁶⁰ Borders, Citizenship and Immigration Act 2005, s.55

⁶¹ Under Freedom of Information law, CRAE asked the Home Office for details of how often force was recorded as being used on children and young people under 18 in immigration detention in 2008 and 2013

⁶² Home Office (2014) The Home Office response to the Independent Family Returns Panel report 2012 to 2014

There remain, however, important breaches of the rights of migrant, asylum-seeking and trafficked children:

- Rather than being treated as children “in need” and looked after by local authorities, a high proportion of unaccompanied or separated children are subjected to controversial age assessments, are “age disputed” or treated as adults on the basis of their appearance⁶³
- There is evidence that immigration concerns are too often given priority over the best interests of the child in immigration decision-making⁶⁴
- Although the numbers have fallen significantly, children are still being detained for immigration reasons – with 203 detained in 2013^{65 66}
- Financial support offered to asylum-seekers, who cannot claim mainstream benefits, leaves them well below the poverty line. In some cases, a family needs nearly three times as much as they currently receive on asylum support to be lifted out of poverty⁶⁷
- Children can be separated from their families in order to ensure the family’s arrest and return⁶⁸ and the Homes Office could not tell us how many are treated in this way
- 120,000 undocumented children and their families in the UK are likely to find it hard to find housing and access healthcare, following changes brought in under the Immigration Act 2014
- There is no specific offence criminalising child exploitation and no clear statutory law which says child victims of trafficking and exploitation should not be prosecuted for behaviour linked to their exploitation
- Unaccompanied and separated migrant children do not have independent legal guardians, instead, a child advocacy service is currently being piloted^{69 70}
- Legal aid is no longer available for non-asylum immigration cases, including children’s cases. Children are not, therefore, able to challenge decisions which breach their rights, such as separation of children from their parents, in relation to support and/or housing

Criminal justice

The UNCRC is clear that children who are in conflict with the law are children first, and should be treated as such. Children should be kept out of the criminal justice system if possible – it is not well-suited to address the welfare needs which generally lie behind a child’s behaviour. Children need a separate system from adults – in which they can understand what is happening, they are protected from harm and from contact with adults accused or convicted of crimes. The decisions made about how to deal with children’s cases should be proportionate, take account of their age and help them turn their lives around. In particular, punishment should never be cruel or inhuman and detention should only be as a last resort, in settings where children are safe and cared for.

There has been huge progress in keeping children out of the criminal justice system, and today children are dealt with in a more proportionate way than they were in 2008-09:

- In 2008-09 17% of all arrests made by the police were of children,⁷¹ but in 2012-13, this had reduced to 11.8%⁷² While there are still more than 27,000 children entering the criminal justice system for the first time in 2012-13⁷³ – making up 38% of all those in the system - this has dramatically reduced from more than 79,000 in 2008-09⁷⁴
- A higher proportion of children are given out of court disposals⁷⁵
- The number of custodial sentences given to children has dropped dramatically, from 6,720 in 2008-09 to 2,780 in 2012-13⁷⁶

The criminal justice system continues to discriminate against certain groups, and punish disadvantage:

- While the number of children in prison has been reduced hugely, black children are over-represented in the prison population, and this has got worse as the number of children in prison has gone down. In 2008-09 black children accounted for 15% of the population and in 2012-13, they represented 21%⁷⁷

63 Home Office (2013) Immigration statistics, Oct to Dec 2013. Asylum tables

64 Joint Committee on Human Rights (2013) Human rights of unaccompanied migrant children and young people in the UK. First report of session 2013-14

65 Home Office (2010) Control of immigration statistics United Kingdom 2009

66 Home Office (2014) Immigration statistics, Oct to Dec 2013. Detention tables

67 The Children’s Society (2014) From persecution to destitution: section 95 asylum support

68 Home Office (2014) Visa and immigration operational guidance: chapter 45 Families and Children. Section (b) Family returns process operational guidance. p.32

69 Bradley, K (2014) Charity to provide specialist support for child victims of trafficking. Home Office press release 4 June 2014

70 Lord Bates (2014) Human trafficking: children. House of Lords Hansard, 14 October 2014, WA36

71 Home Office (2011) Police powers and procedures England and Wales 2009/10. Table 1.02

72 Home Office (2014) Police powers and procedures England and Wales 2012 to 2013. Table A_03

73 Youth Justice Board (2014) Youth justice statistics, 2012/13, England and Wales

74 Youth Justice Board (2010) Youth justice annual workload data 2008/9, England and Wales

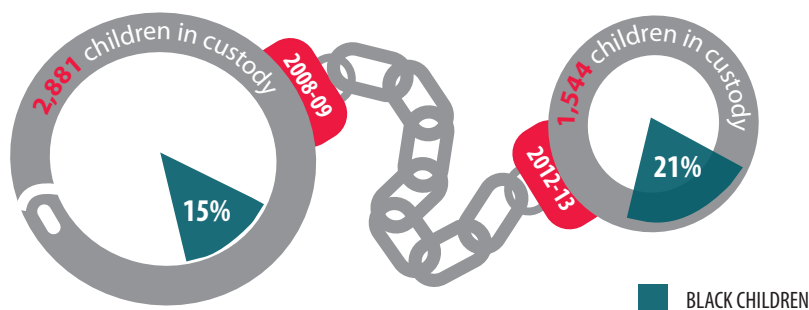
75 Youth Justice Board (2014) Youth justice statistics, 2012/13, England and Wales

76 Youth Justice Board (2014) Youth justice statistics, 2012/13, England and Wales

77 Youth Justice Board (2014) Youth justice statistics, 2012/13, England and Wales

- 33% of children in young offender institutions (YOIs) said they had been in local authority care and 19% said they had emotional or mental health problems⁷⁸
- Between 23% and 32% of the children in custody have a generalised learning disability, compared with between two and four percent in the general population⁷⁹

NUMBER OF CHILDREN IN PRISON CUSTODY (AVERAGE)



Those children who end up in custody are very vulnerable, with highly complex needs, yet children's experience in prison are becoming increasingly difficult:

- There is a move away from small, therapeutic environments which are close to home (Secure Children's Homes) and towards larger units, far from home, with more repressive regimes (Secure Colleges)
- The rate at which staff use force on children increased by 45% between 2009-10 and 2012-13. In 2012-13, 170 children were injured and in 5% of cases required hospital treatment. Self harm increased by 5% and assaults increased by 22%⁸⁰
- Staff can still deliberately inflict pain on children, and force can be used to make children follow staff instructions
- Children are still dying in prison – three have died since 2008 – but the government's review into deaths in custody will not cover children
- Less than half of children in YOIs receive a visit each week,⁸¹ there are barriers to children accessing health services⁸² and the amount of education offered is currently very low, at 12 hours each week in YOIs - though there are moves to increase education⁸³

Not enough is done to address the fact that children in the criminal justice system are in a different situation from adults - too many children are still treated as adults by the police, come into contact with adult defendants, appear in adult courts or encounter professionals, such as lawyers and judges, who are not specialists in dealing with children. Their privacy is not properly protected in court, which can put them at risk and hold them back for life.

CRAE sent a Freedom of Information request to the Ministry of Justice, asking them to provide statistics for the number and proportion of specific categories of cases involving a child under 18 granted legal aid for 2008-09 and 2013-14. The number of children able to apply for legal aid for private law cases (their parents are or have divorced or separated) has fallen by 69%, and the number able to apply for legal aid for education cases has fallen by 84%.

Disabled children and children with special educational needs

Disabled children have a right to enjoy all the human rights in the Convention, including the rights to education, to health and to play, without discrimination. This means that barriers which exclude disabled children should be removed, and they should be provided with additional support to access the same opportunities as other children.

To date, there has been no government-led campaign to raise awareness of the rights of disabled children, and 35% of parents of disabled children say that others' attitudes act as a barrier to their children participating fully in life.⁸⁴

78 Kennedy, E (2013) Children and young people in custody 2012-13. HMI Prisons/Youth Justice Board

79 Office of the Children's Commissioner (2012) Nobody made the connection: the prevalence of neurodisability in young people who offend

80 Youth Justice Board (2014) Youth justice statistics, 2012/13, England and Wales

81 Kennedy, E (2013) Children and young people in custody 2012-13. HMI Prisons/Youth Justice Board

82 British Medical Association (2014) Young lives behind bars: The health and human rights of your people detained in the criminal justice system

83 Ministry of Justice (2014) Transforming Youth Custody: Government response to the consultation

84 ONS (2010) Life opportunities survey: wave 1 results

Nor does there appear to have been any cross-government attempt to anticipate and mitigate the impact of government policies on disabled children.

The parents of disabled children have difficulty accessing suitable child care for their children, making it difficult for them to work. In 2014, only 28% of local authorities in England reported having a sufficient supply.⁸⁵ In 2014, almost 30% of children with a special educational needs were eligible for free school meals – compared with around 16% of the general population.⁸⁶ While one in eight disabled children have been excluded from the new cap on benefits, a significant number of families with disabled children could still be affected. A child rights impact assessment of the budget⁸⁷ showed that families with disabled children have been hit harder than others by changes to benefits, tax and public spending.

Children still enter care because of their disability, suggesting a failure to support families before this was necessary. Since 2011, local authorities have been required to provide short break services for parents of disabled children,⁸⁸ but funding for the programme is no longer ring-fenced and significant reductions in expenditure on short breaks have been reported. In 2013, Mencap reported that eight out of 10 families had reached breaking point due to a lack of short breaks.⁸⁹ Disabled children are three to five times more likely to be abused or neglected than non-disabled children.⁹⁰

Despite huge reforms to the legislation regulating support for children with special educational needs and disabilities, the rights are heavily education focused.⁹¹ Children do not have a right to have their health needs met under the rules, unless they also have educational needs.

Disabled children should not be excluded from the general education system because of their disability and have a right to support to facilitate their participation. Teachers and other education staff should be trained to work with children with SEN and disabilities. The proportion of SEN pupils attending special schools has gone up since 2009,^{92 93} despite the government's commitment '*to continuing to develop an inclusive system where parents of disabled children have increasing access to mainstream schools and staff, which have the capacity to meet the needs of disabled children*'.⁹⁴ Despite a reduction in the total number of exclusions since 2008-09, SEN pupils still make up more than two-thirds of all those excluded.^{95 96} It arguably discriminates against children who have moderate or severe learning difficulties to use attainment as the only measure of a child's educational experience, but using that measure, the attainment gap for SEN pupils remains stubbornly high at all assessment stages. At GCSE, the attainment gap at GCSE increased from 44.9% in 2008-09 to 47% in 2012-13 for children with SEN.^{97 98 99} Disabled children are as likely as other children to visit a library or museum at least once a year, but less likely to take part in sport.¹⁰⁰ An Ofsted survey into youth work shows disabled young people who accessed youth services found them enjoyable and beneficial, but only 4% to 6% of disabled young people were accessing local provision.¹⁰¹

85 Rutter, J and Stocker, K (2014) *Childcare costs survey 2014*. London: Family and Childcare Trust

86 DfE (2014) *Children with special educational needs 2014: an analysis*. Table 1.9

87 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*

88 Children and Young Persons Act 2008, s.25. The Breaks for Carers of Disabled Children Regulations 2011

89 Mencap (2013) *Short breaks support is failing family carers: reviewing progress 10 years on from Mencap's first Breaking Point report*

90 Jütte, S and others (2014) *How safe are our children 2014?* NSPCC

91 Children and Families Act 2014, Part 3

92 DCSF (2010) *Special educational needs in England, January 2009*. Table 1A

93 DfE (2014) *Children with special educational needs: an analysis*

94 UK Government Interpretative Declaration to the Convention on the Rights of Persons with Disabilities. Cited on ALLFIE website

95 DfE (2010) *Permanent and fixed period exclusions from schools and exclusion appeals in England, 2008/09*. Tables 12 and 15

96 DfE (2014) *Permanent and Fixed Period Exclusions in England: 2012 to 2013*

97 DfE (2013) *Early Years Foundation Stage Profile Attainment by Pupil Characteristics, England 2013*

98 DCSF (2010) *Level 2 and 3 attainment by young people in England measured using matched administrative data: attainment by age 19 in 2009*

99 DfE (2014) *Op cit*.

100 DWP (2013) *Fulfilling potential: building a deeper understanding of disability in the UK today*

101 Ofsted (2013) *Critical issues in the provision of youth work for young disabled people*



GENERAL MEASURES OF IMPLEMENTATION

ARTICLE 4 - States Parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the UNCRC. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of the available resources . . .

ARTICLE 42 - States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

What does the Convention say?

The UK Government is expected to do all it can to implement the UNCRC - to make sure all law, policy and decisions which impact on children comply with their human rights. There are different ways of making sure laws and policies comply with the UNCRC: legal measures, which mean that decisions can be challenged in court; and non-legal measures, such as collecting and analysing information about whether children enjoy their rights and making sure that the rights under the UNCRC are widely known and understood by children, adults and public bodies.

In 2008, the UN Committee on the Rights of the Child called on the UK Government to take further action to ensure that there are adequate structures and mechanisms in place to make sure children's rights are taken into account when the government and other public bodies are making decisions. These include:

- Incorporating the UNCRC rights into UK domestic law
- Taking measures to bring other legislation in line with the UNCRC
- Co-ordinating implementation of the UNCRC throughout government and different local authorities
- Adopting and implementing children's rights action plans
- Conducting children's rights impact assessments
- Ensuring the Children's Commissioner is independent of government, and has the necessary resources to carry out his or her mandate
- Strengthening efforts to ensure that the UNCRC is widely known and understood
- Ensuring systematic training on children's rights for all professionals working with children
- Promoting, facilitating and implementing the principle of respect for the views of the child, including by supporting forums for children's participation

In addition to the general measures of the UNCRC, 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?

Making sure children's human rights shape decision-making

The UN Committee on the Rights of the Child has recommended that the government should consider incorporating the UNCRC into UK domestic law. This would mean that public bodies, such as schools, hospitals and the police, would be required by domestic law to comply with children's human rights in everything they do and a child could go to court to challenge a decision which breaches his or her rights. They should also be able to challenge other laws and policies which breach their rights. The UNCRC is not yet "incorporated" – or made a part of - our domestic law.

Some of the rights in the UNCRC are similar to those in another international human rights treaty - the European Convention on Human Rights (ECHR). The ECHR has been incorporated into UK law through the Human Rights Act 1998 – if a decision breaches the human rights which are protected in the ECHR, a child can go to court to challenge that decision. This is a very important protection for some of the human rights in the UNCRC, but does not protect all of them.

Some aspects of the rights in the UNCRC appear in different pieces of legislation – requiring public bodies to comply with a particular right in a particular area, such as in relation to family, in special educational needs or child poverty. However, this piecemeal approach does not satisfy the requirements of the Convention. It limits a child's protection to a particular service they use or the setting they are in, and protects some rights while ignoring others. It allows children to challenge the actions and decisions of public bodies, but does not allow children to challenge laws which breach their rights.

Child rights impact assessment

Child rights impact assessment (CRIA) is a process through which a Government anticipates the impact of any proposed law, policy or budget on children's human rights. It is a way of considering how the proposals would comply with the UNCRC, and should, in particular, be used to ensure that the best interests of the child (Article 3 of

the UNCRC) and children's views (Article 12 of the UNCRC) are an integral part of policy development. These should be published to show how children's human rights have been taken into account. The UN Committee on the Rights of the Child recommends that all levels of government - national, regional and local – should complete a CRIA as part of their policy development.

In 2010, the then Children's Minister made '*a commitment that the Government will give due consideration to the UNCRC articles when making new policy and legislation.*¹ Cabinet Office guidelines on making legislation² recommend that government departments should address the compatibility of government Bills with the UNCRC in the explanatory notes that are published with each Bill. This commitment was not, though, set out in law.³ In contrast, Wales⁴ and Scotland⁵ have introduced UNCRC duties that apply to all Welsh and Scottish Government ministers. The Rights of Children and Young Persons (Wales) Measure 2011⁶ requires Welsh ministers to have due regard to the UNCRC.⁷ The Children and Young People (Scotland) Act 2014⁸ requires Scottish ministers to review their approach to implementing the UNCRC and, if they think it appropriate, take steps to further secure children's human rights. This means that Government ministers should look at laws and policies that have a direct or indirect impact on children and assess what they need to do to make sure they comply with the UNCRC. Routine CRIA is carried out in Wales,⁹ and the Scottish Government is developing a CRIA model due to be rolled out across Scotland in 2015.

CRAE made a Freedom of Information request to 11 government departments to ask what child rights impact assessments they had produced between April 2013 and August 2014.

In February 2013, the Department for Education (DfE) published a detailed assessment measuring the different sections of the Children and Families Bill (now Children and Families Act 2014) against the UNCRC and ECHR,¹⁰ and published a series of impact assessments during the passage of the Bill.¹¹ The Home Office issued a memorandum on the Modern Slavery Bill which looked at aspects of the Bill in the light of ECHR and UNCRC requirements,¹² but this was not a systematic child rights impact assessment.

Other departments said they consider the interests of children when developing relevant policy, but were unable to provide evidence of systematic child rights impact assessment. In its scrutiny of the Criminal Justice and Courts Bill, the Joint Committee on Human Rights criticised the Ministry of Justice's failure to carry out any equality or child rights impact assessment of their proposals for secure colleges, a new kind of custodial establishment for children.¹³

In England, the Office of the Children's Commissioner has carried out some CRIAs, often in response to policy areas in which the government has singularly failed to do so - notably, on the 2013 Budget and the cumulative impact on children of tax and benefit reforms and reductions in spending in public services.¹⁴ However, this neither removes nor replaces the government's responsibility to undertake CRIA.

- 1 Teather, S (2010) Children's Commissioner Review. House of Commons Hansard, 6 December 2010, col.17WS. <http://www.publications.parliament.uk/pa/cm201012/cmhansrd/cm101206/wmstext/101206m0001.htm>
- 2 Cabinet Office (2014) Guide to making legislation, p.98. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/328408/Guide_to_MakingLegislation_July_2014.pdf
- 3 Teather, S (2010) Children's Commissioner Review. House of Commons Hansard, 6 December 2010, col.17WS. <http://www.publications.parliament.uk/pa/cm201012/cmhansrd/cm101206/wmstext/101206m0001.htm>
- 4 Rights of Children and Young Persons (Wales) Measure 2011 <http://www.legislation.gov.uk/mwa/2011/2/contents>
- 5 Children and Young People (Scotland) Act 2014 http://www.legislation.gov.uk/asp/2014/8/pdfs/asp_20140008_en.pdf
- 6 Rights of Children and Young Persons (Wales) Measure 2011 <http://www.legislation.gov.uk/mwa/2011/2/contents>
- 7 Welsh Government (2014) Children's Rights Scheme 2014 <http://www.assemblywales.org/Laid%20Documents/GEN-LD9732%20-%20Children's%20Rights%20Scheme%202014-22042014-255569/gen-ld9732-e-English.pdf>
- 8 Children and Young People (Scotland) Act 2014 <http://www.legislation.gov.uk/asp/2014/8/section/1>
- 9 Welsh Government (2014) Children's Rights Scheme 2014, annex 1 <http://www.assemblywales.org/Laid%20Documents/GEN-LD9732%20-%20Children's%20Rights%20Scheme%202014-22042014-255569/gen-ld9732-e-English.pdf>
- 10 DfE (2013) Consideration of the Children and Families Bill provisions in light of the European Convention on Human Rights and the United Nations Convention on the Rights of the Child. <http://webarchive.nationalarchives.gov.uk/20140430083435/http://media.education.gov.uk/assets/files/pdf/e/140213%20echr%20and%20uncr%20note%20for%20publication%20final%20lao.pdf>
- 11 DfE (2013) Evidence packs to Children and Families Bill. Adoption reforms. <http://webarchive.nationalarchives.gov.uk/20140430083435/http://media.education.gov.uk/assets/files/pdf/a/adoption%20-%20evidence%20of%20impact.pdf>
Childcare. <http://webarchive.nationalarchives.gov.uk/20140430083435/http://media.education.gov.uk/assets/files/pdf/c/childcare%20-%20evidence%20of%20impact.pdf>
Family justice. <http://webarchive.nationalarchives.gov.uk/20140430083435/http://media.education.gov.uk/assets/files/pdf/f/family%20justice%20-%20evidence%20of%20impact1.pdf>
- 12 Home Office (2014) Modern Slavery Bill: European Convention on Human Rights; United Nations Convention on the Rights of the Child - memorandum. http://www.parliament.uk/documents/joint-committees/human-rights/Modern_Slavery_Bill_ECHRMemo.pdf
- 13 Joint Committee on Human Rights (2014) Legislative scrutiny (1) Criminal Justice and Courts Bill, and (2) Deregulation Bill, para 1.57. Fourteenth report of session 2013-14
- 14 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_701

The UN Committee on the Rights of the Child asks governments to review their domestic legislation and guidance to make sure it complies with all of the rights in the UNCRC.¹⁵ In 2010, the UK Government published an analysis of whether key legislation complies with the UNCRC and in that document committed to an annual review and update of its contents. Even though significant legal reforms have since taken place, no update has been published.¹⁶

Children's rights strategies

Article 4 of the UNCRC requires governments '*to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the UNCRC*'. This requires a co-ordinated, cross-government children's rights strategy or implementation plan that sets out actions and targets, with clear monitoring and reporting arrangements. The plan must also be properly resourced. A UK-wide plan was published in 2009¹⁷ and commits ministers in England, Northern Ireland, Scotland and Wales to meet to discuss progress on the Convention. It is unclear whether these meetings are taking place.

Also in 2009, England,¹⁸ Scotland¹⁹ and Wales²⁰ each published an action plan, and Northern Ireland produced a second action plan to its ten-year children's strategy.²¹ Since then, Scotland²² has issued a progress report; Northern Ireland²³ is working on a new action plan; and Wales is planning to revise its action plan. There has been no update or progress report in England where the government prefers to take a '*less centralised approach*.'²⁴ This does not satisfy the requirements of the UNCRC in which State signatories are responsible for ensuring the full implementation of the UNCRC.

Child budgeting

Article 4 of the UNCRC requires governments to fulfil children's economic, social and cultural rights to the maximum extent of their available resources. It is not possible to do this without being able to identify and monitor what financial allocations are made to services that have a direct impact on children and how this benefits them.

In its fifth periodic report to the UN Committee on the Rights of the Child,²⁵ the UK Government makes a welcome - though incomplete - attempt to do this. Areas where it is easier to identify what is being spent on children include:

- Benefits targeted at children - Child Benefit, Disability Living Allowance, Child Tax Credit, and Income Support (which is being phased out)
- Early education and childcare
- Primary school education
- Secondary school education
- Education for 16 to 19 year-olds
- Children's services, including services for children in care, child protection and local authority youth justice services

It is the policy of the coalition government to devolve spending decisions to local authorities and schools, which makes the task of identifying what is being spent on children even more difficult.

Data collection

The UN Committee on the Rights of the Child recommends that governments develop indicators to cover all rights in the UNCRC and that they should collect comprehensive and reliable data, which shows whether children are enjoying their rights in practice.²⁶ This is an essential part of complying with the UNCRC. The UK Government has not

15 UN Committee on the Rights of the Child (2003) General comment no.5 on the general measures of implementation of the Convention on the Rights of the Child.

16 Zaman, S (2010) The United Nations Convention on the Rights of the Child: how legislation underpins implementation in England. London: DCSF https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/296368/uncrc_how_legislation_underpins_implementation_in_england_march_2010.pdf

17 DCSF, Welsh Government, Scottish Government, Northern Ireland Executive (2009) Working together, achieving more: a joint commitment to take action in response to the UN Committee on the Rights of the Child Concluding Observations. <http://webarchive.nationalarchives.gov.uk/20130401151715/http://www.education.gov.uk/publications/eOrderingDownload/01084-2009BKT-EN.pdf>

18 DCSF (2009) United Nations Convention on the Rights of the Child : priorities for action. <http://webarchive.nationalarchives.gov.uk/20130401151715/http://www.education.gov.uk/publications/eOrderingDownload/01099-2009BKT-EN.pdf>

19 Scottish Government (2009) Do the right thing. <http://www.scotland.gov.uk/resource/doc/282927/0085645.pdf>

20 Welsh Government (2009) Getting it right.

21 Office of the First Minister and Deputy First Minister (2009) Northern Ireland's priorities and plans for children and young people. <http://www.ofmdfmi.gov.uk/northern-irelands-priorities-and-plans-2>

22 Scottish Government (2012) Do the right thing progress report 2012. <http://www.scotland.gov.uk/Resource/0039/00392997.pdf>

23 Committee of the Office of First Minister and Deputy First Minister (2014) Delivering social change for children and young people: departmental briefing. NI Assembly Hansard, 22 January 2014 <http://www.niassembly.gov.uk/Assembly-Business/Official-Report/Committee-Minutes-of-Evidence/Session-2013-2014/January-2014/Delivering-Social-Change-for-Children-and-Young-People-Departmental/>

24 HM Government (2014) The fifth periodic report to the UN Committee on the Rights of the Child: United Kingdom, para.15 <http://www.equalityhumanrights.com/sites/default/files/uploads/Pdfs/The%20UK's%20Fifth%20Periodic%20Review%20Report%20on%20the%20UNCRC.pdf>

25 HM Government (2014) The fifth periodic report to the UN Committee on the Rights of the Child. United Kingdom http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CRC%2fC%2fGBR%2f5&Lang=en

26 UN Committee on the Rights of the Child (2003) General comment no.5 on the general measures of implementation of the UNCRC.

developed a set of children's rights indicators. Unicef UK's Child Rights Partners programme is working with six local authorities across the UK to develop a set of child rights indicators²⁷ to demonstrate that this can be done. There is currently a lack of data showing whether children enjoy their rights in certain areas – for example in relation to play and children's mental health services and outcomes.

The UN Committee suggests that children themselves should contribute to this data. The Office of National Statistics publishes annual survey results on children's self-reported wellbeing as part of its Measuring Wellbeing programme.²⁸ This survey looks at children's personal wellbeing; their relationships with others; health; how they spend their time; personal finances; education and skills. It is a welcome addition to data sets, but is not developed within the framework of the UNCRC and does not cover the full range of children's rights.

National human rights institutions

Independent national human rights institutions (NHRIs) play an important role in promoting and ensuring the implementation of the UNCRC.²⁹ Part 6 of the Children and Families Act 2014³⁰ gave the Children's Commissioner for England a clearer mandate to promote and protect children's rights, including a power to monitor the implementation of the UNCRC in England. As recommended by the UN Committee, the Children's Commissioner now has increased powers in line with international standards and increased independence from government, but is still appointed by the government (which could compromise the independence of the office), and does not have all the powers recommended by the UN Committee, such as the power to consider individual complaints or to bring human rights cases involving children to court. It also has fewer powers and less autonomy than the Children's Commissioners in Northern Ireland, Scotland and Wales.

Children's access to justice

If children are to be able to take action when their rights are breached, they must be able to access the courts. Changes to legal aid and judicial review have undermined children's access to justice.

Legal aid is meant to help those who otherwise could not afford legal help and/or legal representation. Not having legal representation can undermine a child's ability to bring a case to court and challenge public bodies which breach their rights. Since April 2013, the types of cases that can be funded through legal aid have been severely restricted. Most private family law (except those that involve domestic violence or child abuse), immigration (except asylum and detention), welfare benefits, and education (except special educational needs) cases have been removed from the scope of legal aid provision, leaving children and families without the advice they need to understand or navigate their way through the complexities of the legal system. CRAE's Freedom of Information request to the Ministry of Justice showed that the number of children granted legal aid for education has fallen by 84%, and the number granted legal aid where their parents have divorced or separated has fallen by 69%.

A CRIA of the legal aid changes, produced by the Office of the Children's Commissioner, found that *'it is likely that a range of rights will be negatively impacted when children do not receive legal support to resolve an ongoing legal problem.'*³¹ Participation work with children affected by these reforms found that the legal aid changes have had a profound impact on children's ability to effectively exercise their right to information, advice, support and representation.³²

- Most were unaware that the issue they faced was a legal matter that could be resolved by recourse to the law
- Many had tried but were unable to resolve their cases without legal support
- Trying to represent themselves was having a bad effect on their wellbeing, and on the likelihood of the proceedings reaching a satisfactory conclusion
- Local authorities would have continued to fail to meet their statutory duties to these young people if the cases had not gone forward
- Where legal aid was no longer available, children were relying on charities and pro bono work in order to access legal support

27 Unicef UK Child Rights Partners webpages <http://www.unicef.org.uk/UNICEFs-Work/Our-UK-work/Child-Rights-Partners/>

28 ONS (2014) Measuring national well-being: exploring the well-being of children in the UK, 2014. <http://www.ons.gov.uk/ons/rel/wellbeing/measuring-national-well-being/exploring-the-well-being-of-children-in-the-uk-2014/rpt-measuring-national-wellbeing-children-uk-2014.html>

29 UN Committee on the Rights of the Child (2002) General comment no.2 on the role of independent national human rights institutions in the promotion and protection of the rights of the child.

30 Children and Families Act 2014. <http://www.legislation.gov.uk/ukpga/2014/6/part/6/enacted>

31 Office of the Children's Commissioner (2014) Legal changes since April 2013: child rights impact assessment, p30 http://www.childrenscommissioner.gov.uk/content/publications/content_871

32 Carter, J (2014) The impact on children of legal aid changes since April 2013: participation work with children and young people. http://www.childrenscommissioner.gov.uk/content/publications/content_873

*Judicial review is an important type of court case which can allow children to challenge the decisions or actions of public bodies which breach their human rights. Reforms have made it more difficult for children, adults acting on children's behalf and children's organisations to use judicial review to protect children's human rights.*³³

Awareness-raising of children's human rights

Under Article 42 of the UNCRC, the government should do all it can to ensure that the rights under the UNCRC are widely known and understood by both children and adults.

In the UK-wide UNCRC action plan published in 2009, ministers made a commitment to raise awareness of the UNCRC in their jurisdictions. The UK government has minimal information on the UNCRC on its official gov.uk website.³⁴

Human rights and international law are part of the Key Stage 4 Citizenship curriculum,³⁵ which applies to maintained schools only. Neither free schools nor academies are obliged to teach pupils about their rights under the Convention. Younger children have no right to learn about their human rights under the curriculum. The Key Stage 4 curriculum makes no mention of the UN Convention on the Rights of the Child.

Training in children's rights

As well as raising public awareness of the UNCRC, the UN Committee on the Rights of the Child emphasises the government's responsibility to develop training for all those who work with or on behalf of children. This of course includes teachers, health visitors, social workers, childcare providers, and youth workers, but also police, doctors, prison officers, immigration staff, journalists, lawyers, civil servants and the judiciary. The purpose of such training is to increase knowledge and understanding of, and encourage respect for, the UNCRC, as well as instilling respect for children as holders of human rights.³⁶

There is no overarching programme of training or core curriculum on the UNCRC in professional training programmes in England, and levels of awareness and understanding seem to be relatively low, though the principle of the child's right to be heard in matters which affect them is more widely known and accepted.³⁷

Children taking part in the political process

Article 12 of the UNCRC requires governments to make sure that children are able to express their views in all matters that affect them. In the words of the Votes at 16 campaign:

*We want our political system to recognise the abilities of 16 year-olds. To properly include us in our society and show us the trust and respect that society expects of us by giving us the right to vote.*³⁸

There were 109,533 (over 80%) 16 and 17 year-olds registered to vote in the Scottish Referendum on 18 September 2014, the first time young people under 18 have been able to take part in a public election in the UK. The Liberal Democrat, Labour and Green parties all support the call for constitutional change, promising to extend the right to vote to all 16 and 17 year-olds in the UK when the opportunity arises.

Children's participation in decision-making

In 2008, the UN Committee on the Rights of the Child recommended that the UK Government should promote respect for the views of the child, including by supporting forums for children's participation. Article 12 of the UNCRC gives a child the right to express their views freely in all matters affecting them, and these views should be given due weight in accordance with the child's age and maturity. Other rights in the UNCRC - for example, the right to access information - support the implementation of Article 12.

33 See Part 5 of the Criminal Justice and Courts Bill

34 The United Nations Convention on the Rights of the Child. <https://www.gov.uk/government/policies/creating-a-fairer-and-more-equal-society/supporting-pages/the-united-nations-convention-on-the-rights-of-the-child-uncrc>

35 DfE (2014) The national curriculum in England: Key Stage 3 and 4 framework document. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/330327/SECONDARY_national_curriculum_FINAL_140714.pdf

36 UN Committee on the Rights of the Child (2003) op cit.

37 Davey, C (2010) Children's participation in decision-making: a summary report on progress made up to 2010. London: National Children's Bureau for Participation Works. http://www.crae.org.uk/media/26285/Childrens_participation_in_decision-making_-_a_summary_report_.pdf

38 Votes at 16. <http://www.votesat16.org/about/>

At central government level, the Youth Policy Team in the Cabinet Office has issued guidance to civil servants on involving children in policy development. Their focus is on children from 11 to 18, so excludes younger children.

Statutory guidance on the roles and responsibilities of local authority Directors of Children's Services and the Lead Members for Children's Services states that both '*should have regard to the General Principles of the United Nations Convention on the Rights of the Child and ensure that children and young people are involved in the development and delivery of local services.*'³⁹ This requires activity at both the strategic and service delivery levels.

Reforms for children with special educational needs and disabilities place a legal duty on local authorities to have regard to the views, wishes and feelings of the child and their parents, and to ensure they participate as fully as possible in any decisions,⁴⁰ with details of how this should be implemented available in a statutory Code of Practice.⁴¹

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. Nearly all local authorities have a children and youth forum, or youth cabinet, often linked to the work of the UK Youth Parliament, and enjoying regular contact with the local council.

Some local authorities listed additional mechanisms that give children the opportunity to influence the commissioning and evaluation of social care, health, recreation and other local services:

- Young Mayors, elected in five of the local authorities who responded
- Young inspectors/young reporters/mystery shoppers, trained to assess the quality of local services in 14 local areas
- Disabled children and young people's groups, helping 12 local areas to prepare for wide-ranging special educational needs and disability reforms
- Children's commissioning task forces or scrutiny groups, advising on commissioning decisions in seven local areas
- Youth commissioners, or young Police and Crime Commissioners, providing a youth perspective on local crime issues in one local area

Recommendations

- Incorporate the UNCRC into UK domestic law
- Appoint a senior Minister for Children with responsibilities for developing a children's rights strategy and action plan, which includes clear, resourced, time-bound actions and a corresponding monitoring framework
- Introduce a mandatory, transparent system of child rights impact assessments for all policy and legislation
- Collect and publish disaggregated data which cover the full range of children's rights, and use this data as a means of monitoring the resourcing and implementation of the UNCRC
- Deliver a national strategy for increasing awareness, knowledge and understanding of the UNCRC
- Develop a UNCRC curriculum to benefit all children
- Establish appropriate mechanisms to ensure the genuine participation of children, including young children, in government decision-making at national, regional and local levels
- Establish transparent and participatory budgetary decision-making processes and publish disaggregated budgets, which show spend on children
- All professionals working with and for children must receive statutory, pre and post qualifying comprehensive and ongoing training on the UNCRC
- Ensure children can access justice in all cases relating to their rights

39 DfE (2013) Statutory guidance on the roles and responsibilities of Directors of Children's Services and the Lead Member for Children's Services. pp.5-6. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/271429/directors_of_child_services_-_stat_guidance.pdf

40 Children and Families Act 2014, s.19. <http://www.legislation.gov.uk/ukpga/2014/6/section/19/enacted>

41 DfE (2014) Special educational needs and disability Code of Practice: 0 to 25 years. <https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

2

CIVIL LIBERTIES

ARTICLE 13 - Children have a right to share their views and to receive and share information, as long as the information or views are not damaging to either themselves or others.

ARTICLE 14 - Children have the right to think and believe what they like, and can show their beliefs publicly, so long as they do not harm others in doing so. Parents can offer guidance to children where they are deciding what to think and believe.

ARTICLE 15 - Children have a right to meet together, and to join groups and organisations, as long as it does not stop others from enjoying their rights.

ARTICLE 16 - No child should be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence.

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

ARTICLE 37 (a) - No child should be subjected to cruel, inhuman, degrading treatment or punishment.

What does the Convention say?

Children have a right to be visible, to access space and to move freely in public spaces. They have a right to meet up and spend time with each other in private and in the community. Children have a right to think and believe what they like, to access information and to speak their mind, so long as this is not harmful for others; they have a right to keep personal matters and communications private; and they have a right to be protected and free from violence.

In 2008, the UN Committee on the Rights of the Child highlighted its concern about a number of areas relating to children's civil rights and freedoms. Among these, it recommended that the UK Government:

- Think again about how some anti-social behaviour measures infringe children's rights and their freedom of movement
- Treat Tasers as weapons subject to rules and restrictions
- Intensify efforts to respect the privacy of children in the media
- Set up mechanisms to monitor the extent to which children are subject to violence, abuse, neglect or exploitation, and make sure they are not further victimised in court

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.

Children in public spaces

In 2008, the UN Committee on the Rights of the Child asked the UK Government to reconsider the anti-social behaviour measures which were in force at that time, which inhibited children's right to move freely within the community and failed to protect their privacy. Anti-social behaviour legislation has been changed, with the old anti-social measures replaced by some new ones. It is now easier for the authorities to issue an anti-social behaviour measure against a child and the measures can impose more onerous requirements upon a child, which are, therefore, easier to breach. The consequences of breach are, at least, not all criminal, but can still result in imprisonment.

Dispersal orders

In 2008-09, 30% of adults said there was a fairly or very big problem with teenagers hanging around on the streets in their local area; in 2013-14, only 20% of adults reported the same problem.¹ Despite this, powers to disperse young people have been extended.

Dispersal orders, created under the Anti-Social Behaviour Act 2003, give police forces powers to disperse groups of two or more people from areas where persistent anti-social behaviour is occurring, and take home any child under 16 who is on their own between 9pm and 6am in any dispersal zone - designated as such in partnership with the relevant local authority. When asked under Freedom of Information law, only two police forces were able to provide information to CRAE on the number of dispersal orders given to children - nine in one area and six in the other in 2008, falling to five and zero in 2013. These do not indicate there is a need to extend the range of the order.

Part 3 of the Anti-Social Behaviour, Crime and Policing Act 2014² introduces a new and additional measure: dispersal directions give police the power to direct anyone aged 10 and up who has or is believed likely to commit anti-social behaviour from a specific area for 48 hours - relying on a subjective judgement being made about the child's behaviour and intentions. A child under 16 can be taken to a place of safety. Failure to comply with the dispersal direction is a criminal offence, and can lead to a maximum fine of £2,500.

1 ONS (2014) *Crime in England and Wales, year ending March 2014*. <http://www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/period-ending-march-2014/stb-crime-stats.html#tab=Anti-social-Behaviour>

2 *Anti-Social Behaviour, Crime and Policing Act 2014*. <http://www.legislation.gov.uk/ukpga/2014/12/contents>

Anti-social behaviour orders (ASBOs)

ASBOs can be used for children from the age of 10, prohibit them from doing certain things like going into a designated area, and last for two or more years. In 2013, 21% of all ASBOs were issued to children.³ While relatively low-level childhood behaviour can result in a child being issued with an ASBO, the consequences of breaching an ASBO can be very severe. Breach of an ASBO is a criminal offence, and can lead to a fine, community sentence or custody. Children find it difficult to comply with ASBOs - more than two-thirds of children breached their ASBOs at least once in 2013. In 2013, 23% of children who breached their ASBO were sentenced to custody, with an average sentence of five months. In 2012-13, 7% of children in prison were there for breach of a statutory order.⁴

In 2013, 23% of children who breached their ASBO were sentenced to custody, with an average sentence of five months and 7% of children in prison were there for breach of a statutory order in 2012-13.³

In a 2011 consultation on extending anti-social behaviour measures,⁵ the Government complained that Anti-Social Behaviour Orders (ASBOs) were not working because breach rates are high and the numbers issued have been declining. Part 1 of the Anti-Social Behaviour, Crime and Policing Act 2014 replaces Anti-Social Behaviour Orders with civil injunctions which can apply to children from the age of 10 and can last for up to one year. There are a number of notable differences between the ASBO and the civil injunction which supplants it. The injunction can prohibit certain behaviours and actions, but can also require children to fulfil positive obligations, such as drug classes or alcohol treatment. While breaching an injunction is not considered a criminal offence - an advance in children's rights - it can lead to the youth court making a supervision order or detaining the young person in custody,⁶ replicating one of the main criticisms of the ASBO - that non-criminal behaviour could lead to a custodial sentence.

Stop and search

An inquiry into children and the police undertaken by the All Party Parliamentary Group for Children found that, between 2009 and 2013, more than one million stop and searches were carried out on children and young people over 26 police forces in England and Wales⁷ - 1,136 on children under 10, which is the age of criminal responsibility. Depending on the police force area, between 13% and 28% of all stop and searches involved children and young people under 18. Almost half of the children stopped were from black and minority ethnic groups.⁸

Ten police forces responded to a Freedom of Information request from CRAE to provide information on the number of stop and searches carried out on children in their area in 2008-09 and in 2013-14. These suggested a significant fall in overall figures, but that children from black and minority ethnic groups were significantly over-represented. The figures also indicate that, although it is usually boys and young men who are stopped and searched, the proportion of girls being stopped is increasing in some areas.

STOP AND SEARCHES	2008-09	2013-14
Under the age of 18	239,198	78,449
Under the age of 10	936	178
By ethnic group:		
White	47.7%	55.7%
Black	27.1%	23.6%
Asian	11.3%	9.2%

3 Home Office (2014) Statistical Notice: Anti-Social Behaviour Order (ASBO) Statistics – England and Wales 2013

4 Ministry of Justice (2014) Youth Justice Statistics 2012-13

5 Home Office (2011) More effective responses to anti-social behaviour. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118297/asb-consultation-document.pdf

6 Anti-Social Behaviour, Crime and Policing Act 2014. Reform of anti-social behaviour powers: statutory guidance for frontline professionals. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/332839/StatutoryGuidanceFrontline.pdf

7 These figures are based on responses to a Freedom of Information request sent to all police forces in England and Wales by the All Party Parliamentary Group for Children

8 All Party Parliamentary Group for Children (2014) All Party Parliamentary Group for Children inquiry into children and the police: initial analysis of information request to police forces. http://www.ncb.org.uk/media/1150494/appgc_police_data_report_july_2014_final.pdf

In April 2014, the Home Secretary announced a package of reforms to the use of stop and search⁹, including:

- A revision of the Police and Criminal Evidence Act 1984 (PACE) Code A, which provides the statutory framework for police stop and search powers¹⁰
- Training for police on stop and search
- Her Majesty's Inspectorate of Constabulary (HMIC) to include stop and search in its annual assessments of police force performance
- Making stop and search data more readily available on police.uk
- Improving the recording of stop and search through a voluntary Best Use of Stop and Search Scheme,¹¹ which all 43 police forces in England and Wales have joined

There is little direction from government on the use of stop and search with children, or how police should build trust with and safeguard under-18s. The new measures will not require police to record the date of birth or age of those they stop and search, which will make it increasingly difficult to monitor how the power is being used.

The child's right to privacy

Article 16 of the UNCRC protects children's right to privacy and to freedom from interference in their family life, their homes, and their reputations. This is supported by Article 8 of the European Convention on Human Rights (ECHR) which states that everyone has the right to respect for his or her private and family life.

Spotlight on: online activity

The internet, and social media, are hugely important in promoting children's rights to access information, to form opinions, to have their voices heard and actively engage in debate and to communicate with others. Children can also be exposed to harm online, which they have a right to be protected against. A study across European countries, including the United Kingdom, found that children were concerned about harassment and cyber-bullying, contact from online strangers, including requests for personal information, over-exposure to advertisements and scary content.¹² They were also worried about privacy. Children reported negative feelings about: *'the pressure to reveal information or to be constantly online, or the sensation of being constantly watched and spied on'; 'filling in information about themselves for various online accounts, websites or contests. . . and concerns about strangers accessing it' and 'peers posting private or embarrassing information (pictures, videos) of the respondent without the child's will.'*

There is increasing recognition that children's privacy rights are not adequately protected when they engage in online activity, and that measures designed to protect children can inappropriately restrict children's access to the benefits and opportunities provided by the internet. In September 2014, the UN Committee on the Rights of the Child held a day of discussion on digital media and children's rights *'to understand the impact on and role of children's rights in this area, and develop rights-based strategies to maximize the online opportunities for children while protecting them from risks and possible harm.'*¹³ The Committee was seeking ways to balance the child's right to information, their right to communicate and participate, with their right to be protected from exploitation and public exposure. The iRights initiative is undertaking a similar task at the domestic level.

In court

Similarly, rules protecting a child's right to privacy when they are involved in court proceedings have not kept pace with technological developments which are undermining this right. Public identification of children involved in proceedings relating to divorce, care or domestic violence or identification of a child who is a victim, witness or defendant in criminal proceedings can have a hugely negative impact on a child's life, which can extend long into their future.

9 Home Office (2014) Police powers of stop and search: summary of consultation responses and conclusions. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/307545/StopSearchConsultationResponse.pdf

10 Home Office (2014) Consultation on revised PACE Code A. <https://www.gov.uk/government/consultations/revised-pace-code-a>

11 Home Office (2014) Best use of stop and search. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/346922/Best_Use_of_Stop_and_Search_Scheme_v3.0_v2.pdf

12 Smahel, D and Wright, M F (2014) The meaning of online problematic situations for children: Results of qualitative cross-cultural investigation in nine European countries

13 UN Committee on the Rights of the Child (2014) Day of General Discussion: "Digital media and children's rights" 12 September 2014. Programme and backgroundpapers. <http://www.ohchr.org/EN/HRBodies/CRC/Pages/Discussion2014.aspx>

The law on the reporting of criminal cases involving children dates back to the Children and Young Persons Act 1933.¹⁴ Section 49 prohibits the publication of information which would identify any child, including photographs, appearing in a youth court, unless the court orders otherwise. Section 39 of the same Act allows any court to prohibit the identification of any child involved in other proceedings.

However, there are several gaps in protection: the restrictions do not apply before a child is charged, do not cover social media and expire when a child turns 18. There is anecdotal evidence that the courts are increasingly lifting the reporting restrictions in relation to child defendants. Further, the new anti-social civil injunctions presume that children subject to an injunction will be publicly named unless the court orders otherwise.

This is an anomaly that has been criticised by the UN Committee in the past. A Standing Committee on Youth Justice review set out the consequences and impact of the public identification of young people in trouble with the law:

- Named children can be put at risk of verbal or physical attack, or exploitation
- Being publicly identified can undermine a child's rehabilitation and future life chances
- Family members of the child, including brothers and sisters, may also be identified – and placed at risk – as a result of “naming and shaming” of children involved in such cases.¹⁵

A child's right to privacy has also been undermined in family cases – in order to open up the courts to public scrutiny, help the public better understand the system and improve confidence in the court. In January 2014, Sir James Munby, President of the Family Division of the High Court and the Court of Protection, issued practice guidance on transparency in the courts,¹⁶ transforming the rules on media coverage of cases involving children and families. The guidance states that:

Permission to publish a judgment should always be given whenever the judge concludes that publication would be in the public interest and whether or not a request has been made by a party or the media.

This guidance applies to child protection, care proceedings, adoption placements and orders, secure accommodation orders, and applications relating to medical treatment. The President of the Family Division is currently consulting on disclosing certain documents to the media and on hearing some family cases in public.¹⁷

Recent research from NYAS and the Association of Lawyers for Children found that - when asked - children and young people *‘did not wish the intimate details of their care and maltreatment - and the circumstances and failures of their parents - to be publicised by the media: they did not want the media in court, and they did not want the media to have access to any documentation’*.¹⁸ Additionally, professionals raised concerns that children would be less willing to talk to someone about ill treatment or abuse if they felt their private lives could become subject to public scrutiny.

At the police station: strip searching

Under Freedom of Information law, CRAE asked 40 police forces in England about the number of times children had been subject to strip searches at the police station in 2008, and in 2013; the ages of the children; whether an appropriate adult had been present during the strip search; and whether the child was charged following the search. Only five police forces responded, but of those, the strip-searching of children has almost doubled between 2008 and 2013. The youngest child strip-searched in 2013 was 12. In almost half of the cases in which a child was strip-searched by the police (45%), there was no “appropriate adult” present – the child's parents, carers, or other supportive adult. Appropriate adults are an important safeguard for children's rights at the police station, offering support, advice and promoting the welfare of often frightened and distressed children at the police station. Almost half of the children who were strip-searched by the police (49.6%) were released without charge.

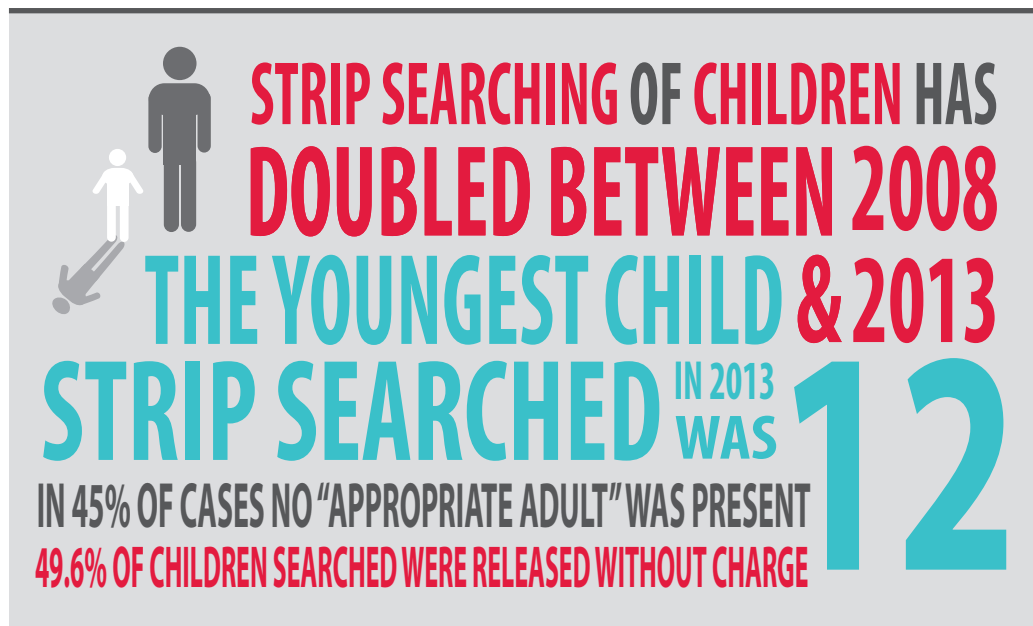
14 Children and Young Persons Act 1933. <http://www.legislation.gov.uk/ukpga/Geo5/23-24/12>

15 Hart, D (2014) What's in a name?: the identification of children in trouble with the law. http://scyj.org.uk/wp-content/uploads/2014/05/Whats-in-a-Name-FINAL-WEB_VERSION_V3.pdf

16 Munby, Sir James (2014) Transparency in the family courts. Practice guidance issued on 16 January 2014. http://www.familylaw.co.uk/system/redactor_assets/documents/1171/transparency-in-the-family-courts.pdf

17 Munby, Sir James (2014) Transparency - the next steps: a consultation paper issued by the President of the family division

18 Brophy, J and others (2014) Safeguarding, privacy and respect for children and young people & the next steps in media access to family courts. <https://www.nyas.net/wp-content/uploads/2014/07/NYAS-ALC-REPORT-CHILDREN-SAFEGUARDING-AND-NEXT-STEPS-MEDIA-ACCESS-TO-FAMILY-COURTS-FINAL-7.pdf> Wirral: NYAS and the Association of Lawyers for Children.



All children have a right to be safe from violence. Article 19 of the UNCRC makes Governments responsible for taking whatever measures are necessary to protect children from physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment, or exploitation.

Children in England are not protected against all forms of violence.

Parents and those in loco-parentis, including in informal education and care settings such as madrasas and after school clubs, can rely on a defence of "reasonable punishment" to a charge of assault in respect of their children.¹⁹

Staff have a legal power to use force on children in certain regulated settings. In certain settings, this includes restraint techniques which involve the deliberate infliction of pain on children.

In some settings, the circumstances in which force can be used are tightly regulated, whilst in others, staff are permitted to use force in a very broad range of circumstances. For example, in schools and in Young Offenders Institutions (YOIs), force can be used by staff in order to maintain "good order and discipline". Most settings require special training for staff in the use of force, though schools are the exception to this.

In some settings in which force is used on children, such as youth custody, institutions are required to record and publish information about the extent and outcome of use of force incidents. This information is not available in respect of others, such as schools. Under Freedom of Information law, CRAE asked the relevant government departments and inspectorates for details of how often force was used on children in schools and academies, mental health settings, immigration detention, police detention and youth custody. Use of force statistics are available for children in custody and can be found in the section on Criminal Justice. Statistics in relation to immigration detention are in the chapter on Immigration. Schools, mental health settings and the police were not able to respond to the question, nor were the relevant government departments or inspectorates. Although no longer required to do so, some police forces do complete a "use of force" form whenever an incident occurs, but the information is kept in individual case records, and so is difficult to retrieve. A lack of transparency can make it difficult to scrutinise whether children's rights are being respected, in practice.

Children who have experienced the use of force understand that there are times when it may be necessary, for example to prevent children from hurting themselves or others, but only as a measure of last resort, and after staff have tried to calm things down and defuse the situation. Children say that physical restraint should never hurt a child or young person.²⁰ Issues of abuse and exploitation are also addressed in the chapter on Family and Alternative Care.

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Tasers

The use of Tasers by police forces in England and Wales was introduced in 2003, and the circumstances in which they could be used widened in 2007. Tasers are described as a “less lethal option” to firearms, but as is noted by the Independent Police Complaints Commission, their use is contentious.²¹ Police must be trained to use Tasers and have to record any instances when they use them.

In 2008, the UN Committee on the Rights of the Child expressed concern at the authorisation of Tasers for police officers in England and Wales and called for them to be classified as weapons. In 2013, the UN Committee against Torture recommended that the UK ban their use on children.²² Instead, their overall use is increasing.

Under Freedom of Information law, CRAE asked 40 police forces in England about the number of times the police has used Tasers in relation to children in 2013. Across the 15 police forces which responded to the request, Tasers had been used on 230 children. The youngest children were 13, and more than 1 in 4 uses of Tasers on children (26%) was on a child aged between 13 and 15. While in the vast majority of cases Tasers were drawn, aimed or used to “red dot” a child, in 7.5% of the cases where Tasers were used on children, the weapons were either fired or the “drive stun” technique was used - where the Taser is held against the subject’s body and the trigger pulled, causing pain but not an incapacitating effect. The Independent Police Complaints Commission (IPCC) has said it has ‘*major concerns about the use of Tasers in “drive stun mode,”*’ which is ‘*purely a means of pain compliance.*’²³

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IN 7.5% OF CASES, THE WEAPONS WERE FIRED OR THE “DRIVE STUN” TECHNIQUE USED

CAUSING PAIN BUT NOT INCAPACITY.

21 Independent Police Complaints Commission (IPCC) (2014) IPCC review of taser complaints and incidents. http://www.ipcc.gov.uk/sites/default/files/Documents/guidelines_reports/Taser_report_final_2014.pdf

22 Committee against Torture (2013) Concluding observations on the fifth periodic report of the United Kingdom, para.26

23 IPCC (2014) IPCC review of Taser use and complaints published. <https://www.ipcc.gov.uk/news/ipcc-review-taser-use-and-complaints-published>

Recommendations

- Change the law so that the range of anti-social behaviour orders cannot be issued in response to normal childhood behaviour and breach does not result in a custodial sentence
- Police forces should be required to collect the date of birth of those they stop and search, and the Home Office annual review of stop and search should assess the proportionality of stop and search in relation to age and ethnicity
- Change the law so that there is a presumption that the privacy of children involved in criminal proceedings will be protected, that the protections cover social media, the period before charge and extend beyond a child's 18th birthday
- Promote adherence to the IRights initiative
- Ensure that children are not subjected to strip-searching unless absolutely necessary, and then only in the presence of an appropriate adult
- Ban the use of physical punishment on children in all settings, including the home
- Ban the deliberate infliction of pain on children as a means of securing a child's compliance with instructions
- Ensure that the regulation, training and guidance on use of force on children in various settings is clear that force can only be used as a last resort, where it is absolutely necessary, for strictly limited purposes and where its use is proportionate to those purposes. Each use of force should be recorded, and include information about the reasons for its use, the outcome, and the child's characteristics. This data should be published in a way which is disaggregated by age
- Ban the use of Tasers on children, and, in the meantime, improve the regulations, training, guidance and transparency around the use of Tasers on children, as specified above in relation to other use of force

3

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.

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 address 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 RISK¹⁹	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/2010_Policy%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.justiceinspectors.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-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>

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

4

HEALTH

ARTICLE 24 - All children have a right to the highest attainable standard of health, and to health care services that help them to attain this. States Parties shall, in particular, take measures to:

- a). Reduce infant and child mortality
- b). Combat disease and malnutrition
- c). Ensure appropriate prenatal and postnatal care for mothers
- d). Ensure everyone has health education and information, and understands the advantages of breastfeeding, basic hygiene and sanitation, and the prevention of accidents
- e). Develop preventive health care, guidance for parents, and family planning education and services

What does the Convention say?

Under Article 24 of the UN Convention on the Rights of the Child (UNCRC), all children have the right to be as healthy as they can be and to access health services. Public authorities should take action to reduce child deaths, combat disease and malnutrition, and provide support to women during their pregnancy and following the birth of their child. The government should educate the public on child health, preventive healthcare, and provide family planning education and services. Public authorities should use the maximum available resources to fulfil children's right to health under Article 4 of the UNCRC.

As well as providing a comprehensive primary healthcare system, the government should focus on the underlying determinants of children's health, including their mental health.¹ Services should be provided as close as possible to where children and their families live. When inpatient treatment is necessary, it must be provided in the best interests of the child. Health care itself must be shaped by evidence-based standards and best practice. The UN Committee on the Rights of the Child makes clear that the realisation of the right to health is indispensable for the enjoyment of all the other rights in the UNCRC.

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

- Tackle inequalities in access to health services
- Encourage breastfeeding and promote baby-friendly hospitals
- Provide sexual health services for children and young people
- Provide additional resources and support for children with mental health problems
- Provide mental health and counselling services, and ensure they are accessible and sensitive to the needs of children and young people
- Provide children with accurate and objective information on substance misuse, as well as substance misuse services to help those trying to stop using them

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

Context

The state of children's health, and the extent to which the health system is responsive to children's needs and views, have been under scrutiny in the UK in recent years. A series of reports including those by Kennedy and Marmot have noted the low importance given to children's health in the NHS² highlighting concerns about the impact inequality has on children and their families that can only be tackled by giving the highest priority to their health and wellbeing.³

The NHS in England has undergone radical reform over the past four years. In preparation for these changes, the Secretary of State for Health established the Children and Young People's Health Outcomes Forum (CYPHOF) to advise him on how to improve children's health.⁴ In response to the Forum's recommendations, the Department of Health, Department for Education, Royal Colleges, Association of Directors of Children's Services, Healthwatch, Public Health England and the NHS Confederation published a joint Pledge on child health,⁵ committing themselves to improving the health outcomes of children and young people in England so that they become among the best in the world. The Forum monitors how well this commitment is taken forward.⁶

1 UN Committee on the Rights of the Child (2013) General comment no.15 on the right of the child to the enjoyment of the highest attainable standard of health
 2 Kennedy, I (2010) Getting it right for children and young people: overcoming cultural barriers in the NHS so as to meet their needs. para 3.5. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/216282/dh_119446.pdf
 3 Marmot, Sir M (2010) Fair society, healthy lives. p.16, and p.94. <http://www.instituteofhealthequity.org/projects/fair-society-healthy-lives-the-marmot-review>
 4 Children and Young People's Health Outcomes Forum (2012) Report of the Children and Young People's Health Outcomes Forum. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/216852/CYP-report.pdf
 5 Department of Health and others (2013) Better health outcomes for children and young people: our pledge. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207391/better_health_outcomes_children_young_people_pledge.pdf
 6 Children and Young People's Health Outcomes Forum (2014) Children and young people's health outcomes annual report. <https://www.gov.uk/government/publications/improving-children-and-young-peoples-health>

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.

Caring for pregnant women

The UN Committee on the Rights of the Child requires governments to make sure there are sufficient hospitals, clinics, health practitioners, and equipment to provide health care to all children, pregnant women and mothers within the state.

Despite increased national investment in training new midwives, there are reports that maternity services in England are struggling to cope.

- In 2012, 694,241 babies were born in England - the highest number since 1971.⁷ The Royal College of Midwives estimates the number of midwives working in the NHS in that year was only suitable for 565,245 births, meaning a shortfall of 4,800 midwives⁸
- There are more complex pregnancies, with more women over 40 having babies, and an increase in maternal obesity - both of which require more midwife time
- Nearly a fifth of spending on maternity services is for clinical negligence cover⁹
- Most maternity care is funded through a payment-by-results model, and many services are running at a loss¹⁰

In 2012, 694,241 babies were born in England - the highest number recorded. The Royal College of Midwives estimates the number of midwives working in the NHS in that year was only suitable for 565,245 births, meaning a shortfall of 2,300 midwives.

Infant nutrition

Children have a right to adequate nutrition.¹¹ Children need enough food with the right balance of nutrients in order to grow up healthy and develop to their full potential. A lack of nutrients is an immediate problem for children, affecting their health and mortality in the short term. It also affects long-term outcomes, such as educational achievement.¹²

The UN Committee on the Rights of the Child recommends that the UK government encourage breastfeeding and promote baby-friendly hospitals, which support mothers in breastfeeding. Breastfeeding has huge benefits for children. Breast milk provides all of the nutrients, vitamins and minerals an infant needs, and carries antibodies that help combat disease. Breastfeeding also lowers the risk of health problems such as obesity, high cholesterol, high blood pressure, diabetes, asthma, and leukaemia. Breastfeeding can strengthen the emotional bond between mother and child, which can have a positive impact on the child for life - in terms of the child's behaviour, speech, sense of wellbeing and security.¹³ The World Health Organisation (WHO) recommends that all infants are breastfed exclusively for six months, and as part of a programme of complementary feeding for two years or more.

Public bodies can play an important role in encouraging breastfeeding. Many mothers need help, advice and support to breastfeed - especially for their first baby. Baby-friendly hospitals are those which are accredited as having met a set of standards, intended to offer an optimal level of care for infant feeding and mother/baby bonding. England has the lowest proportion of baby-friendly hospitals in the UK. Only 1% of mothers in the UK continue to breastfeed exclusively at six months.¹⁴ The rate of breastfeeding decreases with increasing social disadvantage.¹⁵

7 ONS (2013) Birth summary tables, England and Wales 2012. <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-314475>

8 Royal College of Midwives (2013) State of maternity services report 2013. <https://www.rcm.org.uk/sites/default/files/State%20of%20Maternity%20Services%20report%202013.pdf>

9 Public Accounts Committee (2014) Maternity services in England. Fortieth report of session 2013-14. <https://www.rcm.org.uk/sites/default/files/State%20of%20Maternity%20Services%20report%202013.pdf>

10 Ibid.

11 The World Health Organisation (WHO) states that 'nutrition is a crucial, universally recognised component of the child's right to the enjoyment of the highest attainable standard of health'. World Health Organisation (WHO) and Unicef (2003) Global strategy for infant and young child feeding. http://www.unicef.org.uk/Documents/Baby_Friendly/Guidance/Global_Strategy_for_infant_and_young_child_feeding.pdf.

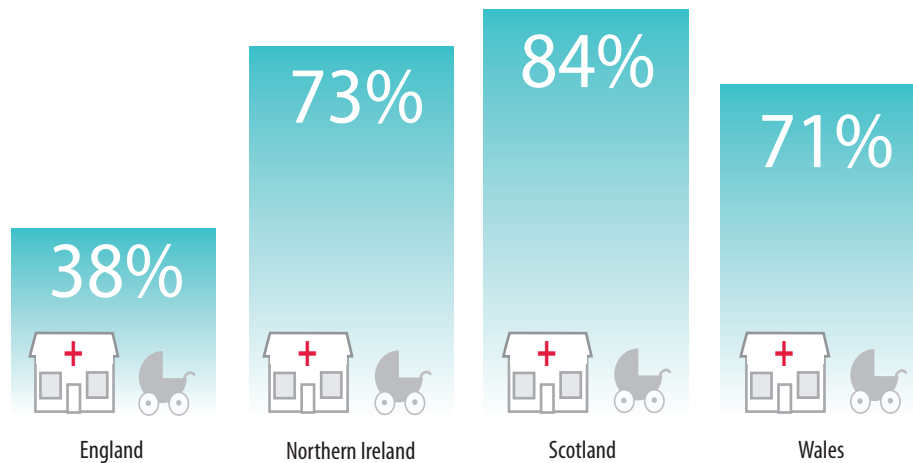
12 UNICEF (2013) The right ingredients: the need to invest in child nutrition

13 Entwistle FM (2013) The evidence and rationale for the UNICEF UK Baby Friendly Initiative standards. UNICEF UK. http://www.unicef.org.uk/Documents/Baby_Friendly_Research/baby_friendly_evidence_rationale.pdf

14 ONS (2012) Infant feeding survey - UK, 2010. <http://www.hscic.gov.uk/catalogue/PUB08694/Infant-Feeding-Survey-2010-Consolidated-Report.pdf>

15 Health and Social Care Information Centre (2012) Infant Feeding Survey

BIRTHS IN BABY-FRIENDLY HOSPITALS¹⁶



BREAST FEEDING RATES ¹⁷	2008-09	2012-13
After delivery	71.7%	73.9%
After 6-8 weeks	44.5%	47.2%

Smoking during pregnancy

Smoking in pregnancy increases the risk of low birth weight, which is the strongest risk factor for infant mortality. It also increases the child's risk of developing a range of congenital disorders and respiratory infections, having learning difficulties, or becoming overweight or obese.¹⁸ The Department of Health's Tobacco Control Plan¹⁹ has a target to reduce smoking levels in pregnant women to 11% by 2015. The proportion of women smoking at the time of delivery has reduced. Smoking is, though, more prevalent among women from lower socio-economic groups than others.

MATERNAL AND INFANT HEALTH	2008-09	2013-14
Women who smoke at time of delivery ^{20 21}	14.6%	12%

INFANT HEALTH	2008-09	2012-13
Low birth weight of term babies (is less than 2500 grams) ^{22 23}	7.2%	7%

16 Unicef UK (2014) Baby friendly statistics 2014. <http://www.unicef.org.uk/BabyFriendly/About-Baby-Friendly/Awards/Baby-Friendly-statistics-2014/>
 17 NHS England (2014) Breastfeeding 2013/14 tables. <http://www.england.nhs.uk/statistics/wp-content/uploads/sites/2/2014/03/12-Week-Risk-Assessment-1314Q4.pdf>
 18 Action on Smoking and Health (2013) ASH factsheet: smoking and reproduction. http://ash.org.uk/files/documents/ASH_112.pdf
 19 Department of Health (2011) Healthy lives, healthy people: a tobacco control plan for England. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213757/dh_124960.pdf
 20 Child Health Profiles <http://www.chimat.org.uk/profiles>
 21 HSCIC (2014) Statistics on women's smoking status at time of delivery: England. Quarter 4: April 2013 to March 2014. Final report. <http://www.hscic.gov.uk/catalogue/PUB14258/stat-wome-smok-time-deli-eng-q4-13-14-rep.pdf>
 22 ONS (2013) Characteristics of birth1, England and Wales 2012. <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcn%3A77-320855>
 23 ONS (2010) Report: infant and perinatal mortality by health areas in England and Wales, 2008. <http://www.ons.gov.uk/ons/rel/vsob1/child-mortality-statistics--childhood--infant-and-perinatal/2008/index.html>

Child deaths

Like smoking, breastfeeding and low birth weight, there is a clear correlation between infant and child deaths, poverty and disadvantage. Despite improvements since 2007, the UK is still ranked bottom out of 20 European countries in a league table of the number of deaths of children under five.²⁴ In 2013, the President of the Royal College of Paediatrics and Child Health said that the child death rates in the UK represented '*a major crisis*'.²⁵

Infant mortality covers children up to one year. The majority of these deaths involve pre-term babies and low birth weight babies. Injuries and poisoning is the most common cause of death for children between one and 15. Unintentional injury deaths in the UK are most often related to transport. Intentional injury deaths include self-harm and assault, and become more common as children get older; in fact, the rates of intentional injury deaths among 10 to 18 year-olds have remained broadly the same for three decades.²⁶

In its General Comment on child health,²⁷ the UN Committee on the Rights of the Child recommends that governments implement strategies and measures to reduce the incidence of drowning, burns and other accidents, as well as protecting children from violence.

CHILD MORTALITY ^{28 29}	2008	2012
Infant deaths per 1,000 live births	4.6	4.0
Child deaths - children 1 to 14 per 100,000 population	12	11

HOSPITAL ADMISSIONS ³⁰	2010-11	2012-13
Accidental/deliberate injuries in children 0 to 4 per 10,000 population	143.2	134.7
Unintentional/deliberate injuries in children 5-17 years per 10,000 population	116.3	103.8

Healthy lifestyles

In wealthy countries, like the UK, public health interventions rarely deal with access to clean water and sanitation - they try to promote healthy lifestyles and address the positive or negative impact of a person's lifestyle has on their current and future health. Children have a right to information about how to lead healthy lives, which is key to enabling them to make informed choices. The lifestyle choices available to children and their parents are, of course, very much influenced by their means and circumstances.

24 Wang, H and others (2014) Global, regional and national levels of neonatal, infant and under-5 mortality during 1990 - 2013: a systematic analysis for the Global Burden of Disease Study 2013. Lancet, 22 July 2014, pp.957-979. <http://www.thelancet.com/themed/global-burden-of-disease>

25 Roberts, Y and Campbell, D (13 July 2013) British child death rates are 'a major crisis', says paediatricians' leader. The Observer

26 Wolfe, I and others (2014) Why children die: death in infants, children and young people in the UK. Part A. p.13 London: Royal College of Paediatrics and Child Health; National Children's Bureau. http://www.ncb.org.uk/media/1130496/rcpch_ncb_may_2014_-_why_children_die_part_a.pdf

27 UN Committee on the Rights of the Child (2013) General comment no.15 on the right of the child to the enjoyment of the highest attainable standard of health

28 ONS (2010) Childhood, infant and perinatal mortality in England and Wales, 2008. <http://www.ons.gov.uk/ons/rel/vsob1/child-mortality-statistics--childhood--infant-and-perinatal/2008/index.html>

29 ONS (2014) Childhood, Infant and Perinatal Mortality in England and Wales, 2012. <http://www.ons.gov.uk/ons/rel/vsob1/child-mortality-statistics--childhood--infant-and-perinatal/2012/index.html>

30 Public Health England (2012) Injury profiles

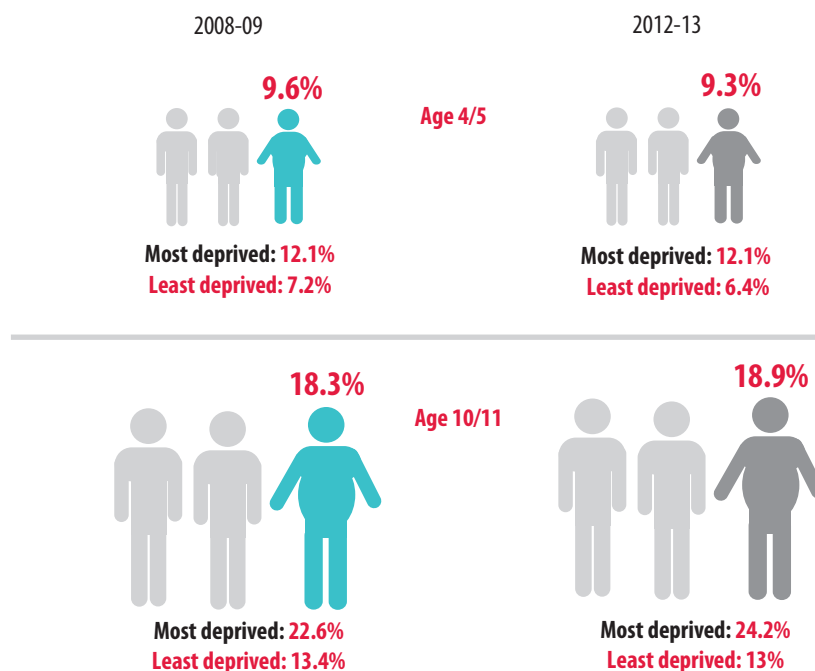
Obesity, diet, and physical activity

Childhood obesity is a major public health challenge - some say the most urgent public health challenge in the UK today.³¹ An unhealthy diet and sedentary lifestyle can lead to a child becoming overweight or obese, as well as make a child prone to illness, and listless and inattentive in class. Weight, diet and activity levels are strongly related to socio-economic status - children from poorer families eat fewer fresh fruit and vegetables, take less exercise, and have a higher chance of being overweight or obese.³²

In 2011, the government published a call to action on obesity for both children and adults, aiming to set off a downward trend in the level of excess weight in the population by 2020.³³ The Chief Medical Officer (CMO) published guidelines on physical activity for different age groups, including babies.³⁴ The Government's Public Responsibility Deal asked members of the food and drinks industry to sign up to a pledge to produce and promote healthy foods.

The most recent figures indicate that obesity levels have gone down very slightly among younger children, but are still rising for children aged 10 to 11. Levels of physical activity have decreased for both boys and girls since 2008-09. The proportion of children eating five or more fruit and vegetables daily - a proxy indicator of a healthy diet - has fallen slightly since 2008-09. This may improve with the introduction of universal Free School Meals for young children from September 2014,³⁵ and revised school food standards from January 2015.³⁶

CHILDHOOD OBESITY ^{37 38}



Weight, diet and activity levels are strongly related to socio-economic status - children from poorer families eat fewer fresh fruit and vegetables, take less exercise, and have a higher chance of being overweight or obese.

31 Haslam, D (2013) State of the nation's waistline: obesity in the UK. Analysis and expectations. <http://www.nationalobesityforum.org.uk/media/PDFs/StateOfTheNationsWaistlineObesityintheUKAnalysisandExpectations.pdf>

32 Health and Social Care Information Centre (2014) Statistics on obesity, physical activity and diet. <http://www.hscic.gov.uk/catalogue/PUB13648/Obes-phys-acti-diet-eng-2014-rep.pdf>

33 HM Government (2011a) Healthy lives, healthy people: a call to action on obesity in England. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213720/dh_130487.pdf

34 Chief Medical Officer (2011) UK physical activity guidelines. <https://www.gov.uk/government/publications/uk-physical-activity-guidelines>

35 DfE (2014) Universal infant free school meals: departmental advice for local authorities, maintained schools, academies and free schools. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/359774/Universal_infant_free_school_meals_departmental_advice_30092014.pdf

36 School Food Trust. Revised school food standards website. <http://www.childrensfoodtrust.org.uk/schools/the-standards/revi-sed-standards>

37 NHS Information Centre (2009) National child measurement programme England, 2008/9 school year. <http://www.hscic.gov.uk/catalogue/PUB00776/nati-chil-meas-prog-eng-2009-2010-rep.pdf>

38 NHS Information Centre (2013) National child measurement programme England, 2012/13 school year.

DIET AND NUTRITION ³⁹

5-15 YEAR-OLDS EATING 5 OR MORE
FRUIT AND VEGETABLE PORTIONS PER DAY

2008



2011



PHYSICAL ACTIVITY BY CHILDREN AGED 5-15 ⁴⁰	2008-09	2012-13
At least 1 hour of moderate to vigorous intensity physical activity a day	28% boys 19% girls	21% boys 16% girls

Levels of activity decrease as children get older, and were lowest for those in lower income groups

Smoking, alcohol and drugs

The numbers of children smoking, drinking alcohol and taking drugs have fallen considerably since 2008.

In 2007, the ban on smoking in enclosed public spaces in England came into force. It is illegal to sell tobacco products to anyone under the age of 18, and the government is bringing forward regulations to make private vehicles carrying children smoke-free⁴¹ in order to tackle continuing health concerns about the effects of second-hand smoke on children.⁴²

Although fewer children are trying alcohol, the amount consumed by those who do drink is increasing.⁴³ It is illegal to sell alcohol to under-18s in England.

Health surveys indicate that young people believe it is okay to try smoking (31%) and drinking (53%) - though not being drunk. Fewer approve of experimenting with drugs, and even that depends on which drug, with cannabis gaining a higher approval rating than sniffing glue or taking cocaine.⁴⁴

SMOKING, ALCOHOL AND DRUG USE - 11-15 YEAR-OLDS ^{45,46}	2008	2013
Tried smoking	32%	22%
Used drugs	22%	16%
Drunk alcohol at least once	52%	39%

39 NatCen (2012) Health survey for England, 2011. <http://www.hscic.gov.uk/searchcatalogue?productid=10152&q=title%3a%22Health+Survey+for+England%22&ort=Relevance&size=10&page=1#top>

40 NatCen (2013) Health survey for England 2012. <http://www.hscic.gov.uk/article/2021/Website-Search?productid=13887&q=health+survey+for+england&sort=Relevance&size=10&page=1&area=both#top>

41 Department of Health (2014) Smoking in private vehicles carrying children - consultation on proposed regulations to be made under the Children and Families Act 2014. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/329885/Smoking_in_cars_carrying_children.pdf

42 Action on Smoking and Health (2014) Secondhand smoke: the impact on children. http://www.ash.org.uk/files/documents/ASH_596.pdf

43 Alcohol Concern (2011) Young people and alcohol. Factsheet. <http://www.alcoholconcern.org.uk/assets/files/Publications/Young%20People%20%20factsheet%20Dec-2010.pdf>

44 Fuller, E and Hawkins, V (2014) Smoking, drinking and drug use among young people in England, 2013. NatCen for the Health & Social Care Information Centre. <http://www.hscic.gov.uk/catalogue/PUB14579/smok-drin-drug-young-peop-eng-2013-rep.pdf>

45 NatCen (2009) Smoking, drinking and drug use among young people in England in 2008. <http://www.hscic.gov.uk/pubs/sdd08fullreport>

46 NatCen (2014) Smoking, drinking and drug use among young people in England in 2013. <http://www.hscic.gov.uk/article/2021/Website-Search?productid=15144&q=Smoking%2c+drinking+and+drug+use+among+young+people+in+England+in+2013&sort=Relevance&size=10&page=1&area=both#top>

Sexual health

In 2008, the UN Committee on the Rights of the Child recommended that the government should provide sexual health services for children, which are able to meet their specific needs, including information and education on contraception and family planning, the dangers of early pregnancy, the prevention of HIV/AIDS and the prevention and treatment of other sexually transmitted diseases.⁴⁷

In the most recent sexual attitudes survey in Britain, 31% of 16 to 24 year-old men, and 29% of 16 to 24 year-old women reported having sexual intercourse before the age of 16.⁴⁸

Early pregnancies happen for a number of reasons - *'lack of knowledge, lack of confidence to resist pressure, poor access to advice and support, low aspirations'*⁴⁹ - and most teenage pregnancies are unplanned. Around half end in an abortion. Teenage pregnancy can contribute to negative long-term outcomes for young mothers and their children.⁵⁰ The children of young mothers (who are still children themselves), are more likely to have poorer health outcomes, poorer educational outcomes, and to live in poverty. Their mothers may experience health problems linked to an early pregnancy, and are more vulnerable to postnatal depression and other mental health problems, more likely to have to finish their education early, and to experience poverty.

The number of teenage conceptions has fallen to its lowest level since records began in 1969, though the number of births to young mothers remains high when compared with other European nations.⁵¹ There are regional variations across England for both, with conception rates higher in more deprived areas.

SEXUAL HEALTH ⁵²	2007-09	2012-13
Teenage conceptions per 1,000 15 to 17 year-olds	40.5	27.7
Teenage conceptions per 1,000 in those aged under 16	7.8	5.6

BIRTH STATISTICS ⁵³	2008	2012
Live births to mothers under 18 in England and Wales	12,603	9,192

Child and adolescent mental health service (CAMHS)

Child and adolescent mental health is a major area of concern for the UN Committee on the Rights of the Child. Mental health problems amongst children are on the increase in many parts of the world. Under the UNCRC, governments should invest in public health and primary care approaches to detect and treat mental health problems early, and must provide adequate treatment and rehabilitation facilities.⁵⁴

47 UN Committee on the Rights of the Child (2003) General comment no.4 on adolescent health and development in the context of the Convention on the Rights of the Child

48 National Survey of Sexual Attitudes and Lifestyle (2014) Sexual attitudes and lifestyles in Britain: highlights from Natsal 3. <http://www.natsal.ac.uk/media/823663/natsal%20infographic.pdf>

49 DCMS and Department of Health (2010) Teenage pregnancy strategy: beyond 2010, p.4. https://www.education.gov.uk/consultations/downloadableDocs/4287_Teenage%20pregnancy%20strategy_aw8.pdf

50 Swann, C, Bowe, K, McCormick, G. and Kosmin, M (2003) Teenage pregnancy and parenthood: a review of reviews. NHS Health Development Agency

51 ONS (2014) Conceptions in England and Wales, 2012. http://www.ons.gov.uk/ons/dcp171778_353922.pdf

52 ONS (2010) Conception statistics England and Wales, 2008. <http://www.ons.gov.uk/ons/rel/vsob1/conception-statistics--england-and-wales/2008/index.html>

53 ONS (2014) Conception statistics England and Wales, 2012. <http://www.ons.gov.uk/ons/rel/vsob1/conception-statistics--england-and-wales/2012/index.html>

54 ONS (2010) Birth statistics England and Wales, 2008. <http://www.ons.gov.uk/ons/rel/vsob1/birth-summary-tables--england-and-wales/2008--final/index.html>
 ONS (2013) Births in England and Wales, 2013. <http://www.ons.gov.uk/ons/rel/vsob1/birth-summary-tables--england-and-wales/2013/stb-births-in-england-and-wales-2013.html>

54 UN Committee on the Rights of the Child (2013) General comment no.15 on the right of the child to the enjoyment of the highest attainable standard of health

It is estimated that one in 10 children between five and 16 suffer from a diagnosable mental health condition⁵⁵ - though this prevalence study is 10 years out of date. The Department of Health is planning to commission a new prevalence study.

The Children and Young People's Improving Access to Psychological (or "talking") Therapies (CYPIAT) programme began in 2011, and by 2018⁵⁶ aims to work with all existing CAMHS partnerships to provide evidence-based training, develop outcome monitoring, and involve children and young people in shaping local services.⁵⁷ However, this is happening at a time when investment in CAMHS is being hit.

There is a growing amount of evidence to indicate that there is insufficient community-level investment in child and adolescent mental health services.

In June 2014, Young Minds released findings from Freedom of Information requests which showed that 77% of CCGs had frozen or cut their CAMHS budgets for 2014-15, and 55% of local authorities had frozen, cut or made below-inflation increases⁵⁸ - a finding and conclusion supported by the Local Government Association.⁵⁹

Since April 2013, there has been a split in the commissioning of children's mental health services, with community-level (tiers 1 to 3) services commissioned by GP-led Clinical Commissioning Groups (CCGs), sometimes with local authorities. The Health Committee has found that some local authorities do not consider CAMHS early intervention services as "core business"⁶⁰. In 2013-14, two-thirds of the Joint Strategic Needs Assessments upon which CCGs base their planning and commissioning decisions failed to include a section on children and young people's mental health needs. Those that did try to assess the level of need were dependant on inadequate and out-of-date data,⁶¹ illustrating the importance of commissioning new prevalence research. Schools and academies can commission their own mental health services.

See the chapter on Education for information about CAMHS services in school.

Spotlight: What children want from mental health services

In her 2012 report on child health,⁶² the Chief Medical Officer (CMO) for England said that children want:

- Mental health to be a greater priority
- More health promotion campaigns and teaching about mental health in schools
- Counselling to be available in schools
- Age-appropriate, accessible and non-stigmatising services that are open at times suited to them and in places they are free to go
- To be able to self-refer and drop-in to services when they want to
- Clean inpatient facilities where interesting activities are available, as well as on-site education, and appropriate support on discharge
- Alternatives to medication, and greater access to talking therapies
- Staff who are approachable, available and who listen and take their concerns seriously - before they are in crisis

Following consultations with 5,600 children and young people aged 11 to 25, Young Minds⁶³ reports that the five big issues affecting them are:

Bullying	Stress at school	Sexual pressures
No work	Lack of access to help	

55 Green, H and others (2005) Mental health of children and young people in Great Britain 2004. <http://www.hscic.gov.uk/pubs/mentalhealth04>

56 Department of Health (2014) Closing the gap: priorities for essential change in mental health. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/281250/Closing_the_gap_V2_-_17_Feb_2014.pdf

57 Children and Young People's Improving Access to Psychological Therapies website. <http://www.cypiatp.org/children-and-young-peoples-project.php?accesscheck=%2Findex.php>

58 Leaman, C (2014) Devastating cuts to leading to children's mental health crisis. 21 June 2014. Young Minds Press release. http://www.youngminds.org.uk/news/2094_devastating_cuts_leading_to_childrens_mental_health_crisis

59 Local Government Association (2014) Children's mental health services in need of reform. 13 August 2014. LGA Press release. http://www.local.gov.uk/media-releases/-/journal_content/56/10180/6437032/NEWS

60 Health Committee (2014) Children's and adolescents' mental health and CAMHS. Third report of session 2014-15, para. 51. <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmhealth/342/342.pdf>

61 Oliva, L and Lavis, P (2013) Overlooked and forgotten: a review of how well children and young people's mental health is being prioritised in the current commissioning landscape. Children and Young People's Mental Health Coalition. http://www.cypmhc.org.uk/media/common/uploads/Overlooked_and_forgotten.pdf

62 Davies, S (2012) Annual report of the Chief Medical Officer. Our children deserve better: prevention pays. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255237/2901304_CMO_complete_low_res_accessible.pdf

63 http://www.youngminds.org.uk/assets/0001/5757/YM_Vs_Party_Conference_Report.pdf

They want schools to help them more through compulsory Personal, Social and Health Education (PSHE) and Sex and Relationship Education (SRE); through providing safe spaces to talk about these things; through helping young people build their emotional strength; through being better able to identify and understand mental health issues and providing access to counselling; and by ensuring that everyone who works with children is trained in spotting the signs that they may be struggling and in need of help.

The Health Committee heard from young people and their parents about how they have to battle to get access to CAMHS, with only the most severely affected young people getting appointments.⁶⁴ In 2012-13, maximum waiting times for specialist CAMHS tier 3 services averaged 15 weeks.⁶⁵ This delay in receiving a service may lead to the child having a mental health crisis and requiring inpatient treatment.

There is a national shortage of inpatient beds for child and adolescent mental health patients. The Health Committee heard evidence of children undergoing a mental health crisis having to wait at home, in a paediatric ward, in an adult psychiatric ward, or even a police cell for a bed to become available.⁶⁶ Inpatient (tier 4) treatment is commissioned by NHS England. The Mental Health Act 2007 clearly states that young people should not be admitted to accommodation that is not "age appropriate" - a duty which came into force in 2010. Children are still being admitted to adult wards, where they may be treated by staff who are not trained in child and adolescent mental health, and may be denied their right to education. In 2012-13, the average length of stay as a CAMHS patient was 116 days.⁶⁷

There are significant variations in the location of adolescent units, and in particular units that will take under-13s. This can mean the young person is placed far from home.

CHILD AND ADOLESCENT MENTAL HEALTH (CAMHS) ^{68 69}	2009-10	2012-13
Number of children admitted to adult wards	88 - 5 of whom were under 16	236 - 29 of whom were under 16
Number of children who spent time on adult wards	80 - 5 of whom were under 16	219 - 23 of whom were under 16

Children undergoing a mental health crisis are often picked up and detained by the police under s.136 of the Mental Health Act 1983. They should be assessed in a place of safety, but a shortage of these means children are being assessed in police cells. In 2012-13, 580 children and young people under the age of 18 were detained under s.136, 45% of whom were taken to police custody.⁷⁰ The Care Quality Commission has found that too many places of safety turn away children: in the first four months of 2014, 16% of providers of health-based places of safety in England said that there was no local provision for 16 and 17 year-olds, and 26% of providers reported that there was no provision for children under 16.⁷¹

64 Health Committee (2014) Children's and adolescents' mental health and CAMHS. Third report of session 2014-15, para. 110. <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmhealth/342/342.pdf>

65 NHS Benchmarking Network (2013) CAMHS Benchmarking report December 2013

66 Health Committee (2014) Children's and adolescents' mental health and CAMHS. Third report of session 2014-15, para. 158. <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmhealth/342/342.pdf>

67 CAMHS Tier 4 Steering Group (2014) Child and adolescent mental health services (CAMHS) Tier 4 report. NHS England. <http://www.england.nhs.uk/wp-content/uploads/2014/07/camhs-tier-4-rep.pdf>

68 Care Quality Commission (2010) Mental Health Act annual report 2009/10. Figure 6. http://www.cqc.org.uk/sites/default/files/documents/cqc_monitoring_the_use_of_the_mental_health_act_in_200910_main_report_tagged.pdf

69 HSCIC (2014) Monthly Mental Health Minimum Data Set (MHMDS) Reports, England - Final November 2013, Key facts. <http://www.hscic.gov.uk/catalogue/PUB14125>

70 Care Quality Commission (2014) New map of health-based places of safety for people experiencing a mental health crisis reveals restrictions in access for young people. 16 April 2014, CQC Press release

71 Care Quality Commission (2014) A safer place to be: findings from our survey of health-based places of safety for people detained under s.136 of the Mental Health Act, p. 22. <http://www.cqc.org.uk/content/safer-place-be>

Substance misuse treatment

Article 33 of the UNCRC requires governments to protect children from drug use. The UN Committee on the Rights of the Child has said the UK should provide children with accurate and objective information on substance misuse and adequate substance misuse services. The nature of addiction is very different for young people: children who require specialist substance misuse treatment need help, such as counselling either on their own or with family members, to address the reasons why they are using as well as the kinds of behaviours their usage leads to.

Overall numbers accessing specialist substance misuse services have fallen since 2008-09, and the numbers recorded as successfully completing their treatment have increased. Alcohol, solvent and drug use are associated with deprivation. In 2012-13, 19% of children accessing specialist substance misuse services were in alternative education provision and 19% were not in education, employment or training (NEET).⁷² Seventeen percent were BME, and 66% were male. The youngest patients accessing specialist substance misuse services were under 12, though 77% were between 15 and 17.

SUBSTANCE MISUSE ^{73 74}	2008-09	2012-13
Numbers accessing specialist services for drug/alcohol treatment	24,053	20,032
Percentage successfully completing treatment	65%	79%

Children's involvement in shaping health services

All health organisations must listen to children and use what they say to improve children's health outcomes.

In March 2014, NHS England launched its new youth forum⁷⁵ - 20 children and young people aged 11 to 18, supported by the British Youth Council (BYC), to canvass the views of children from across the country. In their first year, they will be looking at:

- Ways to improve communications between young people and clinicians
- Improving awareness of mental health issues for young people
- De-stigmatising and improving sexual health services for young people

Under Freedom of Information law, CRAE wrote to all 211 Clinical Commissioning Groups (CCGs) in England to ask what mechanisms they have in place for consulting and involving children in the development and commissioning of local health services - 152, or 72% of CCGs, responded.

The majority of CCGs work with their local authorities to consult with children about local health issues:

- 56 mention working with local authority youth councils or youth groups
- Only 33 CCGs mention working with Healthwatch, which is responsible for representing the views of people who use health services
- 27 access information through pupil surveys or school visits, and 11 work with colleges
- Seven work with Young Inspectors to assess the quality of local health services
- Seven consult with young carers groups in partnership with the local authority

72 Li, S and Lewis, C (2013) Young people's statistics from the National Drug Treatment Monitoring System (NDTMS): 1 April 2012 to 31 March 2013. Public Health England. [http://www.nta.nhs.uk/uploads/annualypstatistics2012-13-final\[0\].pdf](http://www.nta.nhs.uk/uploads/annualypstatistics2012-13-final[0].pdf)

73 National Treatment Agency (2010) Substance misuse among young people in England: the data for 2008-9

74 Public Health England (2014) Substance misuse among young people in England, 2012-13. <http://www.england.nhs.uk/ourwork/patients/public-voice/yth-for/>

75 <http://www.england.nhs.uk/ourwork/patients/public-voice/yth-for/>

A significant number mentioned working with parent/carer groups and third sector organisations to obtain children's views of health services, although it was unclear whether this was instead of or in addition to talking to children themselves.

The main focus of consultations with children to date have been: the special educational needs and disability (SEND) reforms; child and adolescent mental health services; the health of looked after children; and national-led health issues including reviews of continence services, urgent care/A&E, wheelchair services and maternity services.

Recommendations

- The government's child poverty strategy should focus more on reducing health inequalities
- Increase the number of midwives to ensure the safety of both mother and child
- Increase the number of hospitals, health visitors and children's centres that have or are working towards Unicef Baby Friendly Initiative accreditation
- Ofsted's inspection framework for early years settings, schools and colleges should include consideration of the extent to which these settings provide an environment that promotes children and young people's social and emotional wellbeing
- Early identification of mental health difficulties should be established as a core capacity of all health, social care and education professionals who work with children and young people
- The Department of Health should set out an action plan for improving child and adolescent mental health services encompassing all levels of provision (Tier 1 to Tier 4) with a clear focus on prevention and early intervention, backed by additional resource
- Make SRE and PSHE a statutory entitlement for all pupils in state-funded schools
- Provide and promote safe outdoor play spaces for children
- Invest in community level CAMHS
- Ensure that all children and young people are assessed and treated in age-appropriate settings
- Involve children and young people in consultations about health services at institutional, local authority, Clinical Commissioning Group and national level
- Provide children's rights and participation training to all staff to ensure effective engagement with children and young people so that their views are sought and acted upon

5

STANDARD OF LIVING

ARTICLE 26 - Children have a right to benefit from social security, taking into account the resources and circumstances of those who have responsibility for the child.

ARTICLE 27 - Every child has a right to a standard of living adequate to their physical, mental and social development. States Parties shall take appropriate measures to assist parents and carers and shall, in case of need, provide assistance and support with particular regard to food, clothing and housing.

What does the Convention say?

Under Articles 26 and 27 of the UNCRC, when families do not have enough to live on, children have a right to financial support from the government in order to enjoy a standard of living will meet their basic needs and allow them to develop fully. The UNCRC recognises that parents are primarily responsible for meeting their children's needs but governments must step in ensure that children's essential needs are met - in particular, food, clothing and housing - where families are unable to do so. Public bodies should use the maximum available resources to ensure that all children have an adequate standard of living under Article 4 of the UNCRC.

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

- Allocate the maximum resources available to implement the UNCRC, with a particular focus on eradicating poverty and reducing inequality
- Provide material assistance and support to children living in poverty
- Prioritise children and families in most need of support
- Implement legislation aimed at ending child poverty by 2020
- Establish measurable indicators to achieve this goal
- Require local authorities to provide safe and adequate sites for travellers

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.

Context

Poverty damages children's lives. Poor children are more likely to eat unhealthy foods; live in substandard, insecure and unsafe housing; have fewer places to play; be worried about household finances and their parents' health and mental health; try to hide their poverty from others; and do less well at school.¹ Living in poverty undermines a child's right to develop (Article 6), and can have a negative impact on their other rights, including the right to education, the right to health, and the right to be safe.

The Child Poverty Act² was passed in 2010. It sets out in law the government's intention to significantly reduce child poverty by 2020. There are four targets listed in the Act:

1. Relative low income – to reduce to less than 10% the proportion of children living in households with below 60% national median income (before housing costs)
2. Combined low income and material deprivation – to reduce to less than 5% the proportion of children living in households with below 70% national median income who also experience material deprivation³
3. Absolute low income – to reduce to less than 5% the proportion of children living with below 60% national median income in real terms (at the 2010-11 median)
4. Persistent poverty – to reduce to less than 7% the proportion of children living in households below 60% national median income for three out of the last four years⁴

1 Kothari, P, Whitham, G and Quinn, T (2014) A fair start for every child: why we must act now to tackle child poverty in the UK. http://www.savethechildren.org.uk/sites/default/files/images/A_Fair_Start_for_Every_Child.pdf

2 Child Poverty Act 2010. <http://www.legislation.gov.uk/ukpga/2010/9/contents>

3 "Material deprivation" is based on a series of questions asked for the annual Family Resources Survey

4 Duncan Smith, I (2014) Statement on child poverty. House of Commons Hansard, 16 October 2014, col. WS39. <http://www.publications.parliament.uk/pa/ld201415/ldhansrd/text/141016-wms0001.htm#14101675000210>

The coalition government added a fifth measure that is not in the Act (severe poverty)

5. Severe poverty - the number of children living in households with below 50% national median income who also experience material deprivation (before housing costs)

The Act also places a duty on local authorities and other agencies to mitigate the effects of child poverty in their local area. They must undertake a local child poverty needs assessment and prepare a joint child poverty strategy.

Levels of child poverty in the UK

"Income" can be measured before housing costs (BHC - the government's preferred measure) or after housing costs (AHC). Housing costs in some regions of England - in particular, London and the South East - are among the highest in Europe, so it is important to take these into account in working out whether a family has enough to live on.

The proportion (and number) of children living in households with a "relative low income" is now lower than it was in 2008-09, not because those households are necessarily better off, but because average incomes have fallen by 8% since the beginning of the recession in 2008-09.⁵ The number in absolute poverty after housing costs has increased.

LEVELS OF CHILD POVERTY IN THE UK ⁶	2008-09	2012-13
Relative low income BHC	2.8 million children - 22%	2.3 million children - 17%
Absolute low income BHC	2.7 million children - 20%	2.6 million children - 19%
Relative low income AHC	3.9 million children - 30%	3.7 million children - 27%
Absolute low income AHC	3.6 million children - 28%	4.1 million children - 31%
Low income and material deprivation ⁷	2.3 million children - 18%	1.8 million children - 13%
Severe poverty	0.8 million children - 6%	0.5 million children - 4%

The 2013-14 figures are not yet available, but as a series of benefit cuts, detailed below, took effect from April 2013, forthcoming figures are expected to show that child poverty levels are rising again.⁸ The Institute of Fiscal Studies⁹ predicts that, by 2020 - the target year for reducing child poverty in the UK - we will see child poverty levels of:

- 3.4 million (23.5%) children living in relative poverty BHC, rising to 4.7 million (32.9%) AHC
- 3.9 million (27.2%) children living in absolute poverty BHC, rising to 5.1 million (35.9%) AHC

The Social Mobility and Child Poverty Commission agrees, saying in their latest annual report, that poverty is set to rise, not fall: '*... without radical changes to the tax and benefit system to boost the incomes of poor families, there is no realistic hope of the statutory child poverty targets being met in 2020.*'¹⁰ That denotes a serious and conscious failure by the Government to have regard to the social and economic rights of children, and to the role that the State should be playing to reduce poverty levels.

⁵ MacInnes, Tom and others (2011) Monitoring poverty and social exclusion. York: Joseph Rowntree Foundation. <http://www.jrf.org.uk/sites/files/jrf/MPSE2013.pdf>

⁶ Department for Work and Pensions (2014) Households below average income (HBAI): 1994-95 to 2012-13

⁷ Questions in the survey changed in 2010/11 so not directly comparable

⁸ Social Mobility and Child Poverty Commission (2014) State of the Nation 2014: social mobility and child poverty in Great Britain, p.157. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/365765/State_of_Nation_2014Main_Report.pdf

⁹ Browne, J, Hood, A and Joyce, R (2013) Child and working age poverty in Northern Ireland from 2010 to 2020, Appendix A. <http://www.ifs.org.uk/comms/r78.pdf>

¹⁰ Social Mobility and Child Poverty Commission (2014) State of the nation 2014: social mobility and child poverty in Great Britain, p.v https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/365765/State_of_Nation_2014_MainReport.pdf

In-work poverty

The Child Poverty Act requires the government to publish a national child poverty strategy every three years. The most recent strategy came out in 2014 and focuses on breaking the cycle of poverty through behavioural change and increasing employment. Its core message is that *'families can work themselves out of poverty'*¹¹ - a point of view undermined by the growing levels of in-work poverty in the UK.

"In-work poverty" refers to children in families where at least one of the parents is working but the household income is below the poverty line, and is a function of stagnant wages, restricted hours, and cuts in tax credits. Average earnings have been falling since 2009-10, inflation has hit families hard,¹² and millions of workers are earning less than a living wage.¹³ Although the cost of living has increased by 27-28% since 2008, average annual earnings have risen by only 9%.¹⁴

Article 7 of the International Covenant on Economic, Social and Cultural Rights recognises the right of everyone who is working to receive remuneration that, as a minimum, provides them with a decent living for themselves and their families.¹⁵ The Joseph Rowntree Foundation estimates that a couple with two children needs to earn £40,600 in order to achieve what most people regard as a socially acceptable living standard,¹⁶ which is much higher than either the average wage (currently around £27,000) and much higher than the official poverty line (relative low income).

Currently, the national minimum wage is £6.50 an hour for people 21 and over; £5.13 for 18 to 20 year-olds; and £3.79 for under-18s.¹⁷ A growing number of employers, including some local authorities, have signed up to the Living Wage - currently set at £7.85 an hour for most of the UK and £9.15¹⁸ in London. The National Minimum Wage is agreed by the government, employers, the unions and others and is set at a level that should not have an adverse impact on employment. In contrast, the Living Wage is calculated according to the basic cost of living.

*In 2012-13, 63% of children in poverty were living in families where at least one adult works. Increasing levels of parental employment does not automatically lead to a reduction in poverty: '... in too many cases, it simply moves children from low income workless households to low income working households.'*¹⁹

Welfare reforms and benefit cuts

Since 2010, the government has introduced a series of cuts to the benefits and tax credits system, undermining both out-of-work and in-work support. Those affecting families with children include:

- Benefits, such as child tax credits, have been uprated by just 1% a year, which is less than inflation
- £190 Health in Pregnancy grant scrapped
- £500 Sure Start maternity grant restricted to first child only
- Child Benefit rates frozen until 2014-15 when they increase by 1%
- Childcare costs covered by working tax credit cut from 80% to 70%
- Total benefit cap of £500 a week for families with children, no matter how big the family
- Removal of the spare room subsidy (commonly called the bedroom tax) - families with one spare bedroom lose 14% of their housing benefit; those with two rooms lose 25% of their housing benefit
- Council Tax Benefit replaced by Council Tax Reduction, which is devolved to local authorities, the majority of which are now levying a minimum charge on all working-age families no matter what their level of income
- Social Fund community care grants and crisis loans replaced by non-ring-fenced Local Welfare Assistance schemes; all government funding for the scheme will cease in April 2015

11 HM Government (2014) Child poverty strategy 2014-17. p.28. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324103/Child_poverty_strategy.pdf

12 Belfield, C and others (2014) Living standards, poverty and inequality in the UK: 2014. London: IFS <http://www.ifs.org.uk/uploads/publications/comms/r96.pdf>

13 Whittaker, A and Hurrell, A (2013) Low pay Britain 2013. London: Resolution Foundation. <http://www.resolutionfoundation.org/wp-content/uploads/2014/08/Low-Pay-Britain-2013.pdf>

14 Hirsch, D (2014) The cost of a child 2014. London: CPAG. http://www.cpag.org.uk/sites/default/files/Cost_of_a_child_2014.pdf

15 International Covenant on Economic, Social and Cultural Rights <http://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

16 Davis, A, Hirsch, D and Padley, M (2014) A minimum income standard for the UK in 2014. York: Joseph Rowntree Foundation. <http://www.jrf.org.uk/sites/files/jrf/Minimum-income-standards-2014-FULL.pdf>

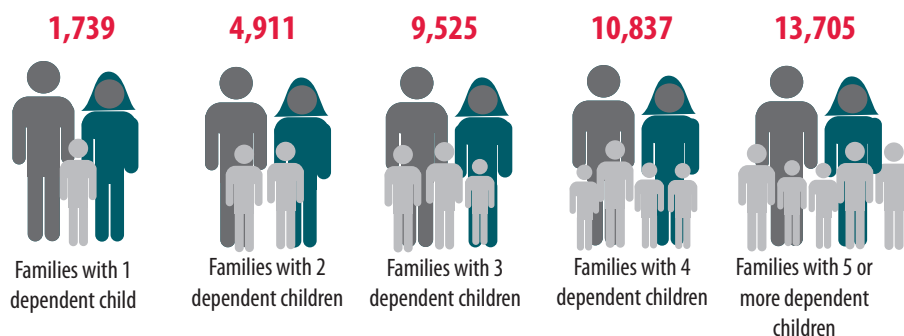
17 National minimum wage webpages <https://www.gov.uk/national-minimum-wage-rates>

18 Living Wage website <http://www.livingwage.org.uk/>

19 Social Mobility and Child Poverty Commission (2014) Response to the consultation on the Child Poverty Strategy 2014 to 2017, para.9. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/318062/2b_Poverty_ResponseFinal.pdf

Research from Action for Children shows how the introduction of the benefit cap has broken 'the historic link between need and welfare',²⁰ affecting more than 175,000 children in England.

HOUSEHOLDS AFFECTED BY THE BENEFITS CAP ²¹



96% OF ALL THE HOUSEHOLDS IN ENGLAND, AFFECTED BY THE BENEFITS CAP, HAVE CHILDREN

APRIL 2013 - MAY 2014

The Social Fund, which provided loans for families facing unexpected costs like having to pay for a new washing machine or find some basic furnishings for an empty flat, has been replaced by Local Welfare Assistance schemes administered by local authorities. A Freedom of Information request by the Guardian newspaper and Centrepoin²² found that only 58% of those applying for assistance were getting it, compared to an 80% success rate for Social Fund applications. Local authorities had tighter eligibility criteria, often excluding the working poor entirely, and were offering vouchers or referrals to other sources of help like food banks rather than cash. There is no additional funding to support the scheme from 2015-16, and the Local Government Association has indicated that 15% of local authorities will no longer be able to offer this kind of assistance.²³

Some of the harshest cuts have been to housing-related benefits. New Policy Institute analysis reveals²⁴ that:

- In April 2014, 780,000 families were receiving less housing benefit than they needed to pay their rent
- Couples with children lost an average of £20.71 per week
- Lone parent families lost an average of £15.96 per week
- Single adults without children lost an average of £10.48 per week

An early evaluation of the spare room subsidy²⁵ reveals that, over the first six months of the policy, only 4.5% of affected tenants moved to a smaller property. One in five tenants had registered to move, but their landlords were unable to accommodate them with a smaller home. Eighteen percent of those who were working were trying to find ways of earning more money to cover the benefit shortfall, and 50% of those who were unemployed were looking for work, many of them disabled or with young children. Fifty-seven percent of claimants reported cutting back on essential household items to pay their rent.

From April 2014, 1.4 million families have to pay on average £154 a year in council tax for the first time - an amount they were considered too poor to pay before the programme of welfare cuts began.²⁶

20 Rennison, R (2014) Children and the benefit cap, p.6. Watford: Action for Children. https://www.actionforchildren.org.uk/media/8341721/children_benefit_cap.pdf

21 DWP (2014) Benefit cap: number of households capped to May 2015. Table 1. <https://www.gov.uk/government/statistics/benefit-cap-number-of-households-capped-to-may-2014>

22 Butler, P and others (2014) The crisis in local welfare assistance explained. 20 April 2014. Guardian newspaper. <http://www.theguardian.com/politics/datablog/2014/apr/20/the-crisis-in-local-welfare-assistance-explained>

23 Centre for Social and Economic Inclusion (2014) How councils are meeting local crisis and community care needs. Local Government Association. <http://www.local.gov.uk/documents/10180/11531/LGA+delivering+local+welfare++how+councils+are+meeting+local+community+care+needs/92c88e3c-ca8e-4caf-9bd7-6b236e27d500>

24 Aldridge, H and MacInnes, T (2014) Multiple cuts for the poorest families. London: New Policy Institute/Oxfam. http://npi.org.uk/files/4613/9816/3093/Full_report_-_Multiple_cuts_for_the_poorest_families.pdf

25 Ipsos MORI (2014) Evaluation of the spare room subsidy. London: DWP. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/329948/rr882-evaluation-of-removal-of-the-spare-room-subsidy.pdf

26 Aldridge, H and MacInnes, T (2014) Multiple cuts for the poorest families. New Policy Institute/Oxfam. http://npi.org.uk/files/4613/9816/3093/Full_report_-_Multiple_cuts_for_the_poorest_families.pdf

The way in which the changes are being implemented, as well as the reductions themselves, have added to the difficulties facing families.²⁷ Having to apply online is almost impossible for those who do not know how to use the internet. Losing face-to-face contact time with Jobcentre and council staff makes the system harder to navigate. Having eligibility assessments run by private companies like Atos Healthcare adds to the levels of suspicion and mistrust.

The cost of living: fuel poverty

Being in fuel poverty means that a household has higher fuel costs than average which, if they were to spend the amount they need to on fuel, would leave them with an income below the poverty line. Fuel poverty has risen as energy prices have increased and household incomes have fallen.

*Around 2.28 million, or 10.4%, of households in England were in fuel poverty in 2012. Forty-five percent of those living in fuel poverty in 2012 were families with children, compared to 17% in 2008.*²⁸

The Children's Society reports that in 2011-12, there were 110 excess winter deaths among children in England and Wales, and many said their families were having to cut back on spending on food, clothing and transport in order to cover the cost of heating their homes.²⁹

The quality of a child's housing – and particularly the number of poorer families living in substandard private rental properties - is a factor in fuel poverty. The unemployed and households living in privately rented accommodation have the highest rates of fuel poverty in the UK.²⁸ One in ten privately rented homes has the lowest energy efficiency rating.

PERCENTAGE OF FUEL POOR HOUSEHOLD BY HOUSEHOLD COMPOSITION ^{30 31}	2008	2012
Couple with dependent child(ren)	10%	30%
Lone parent with dependent child(ren)	7%	15%
Couple with no dependent children	6.8%	9%

Recently, the government has consulted on a new strategy in which it proposes establishing a new indicator to monitor the number of children under 16 living in fuel poverty.³²

The cost of living: food poverty

Food is the largest item of household expenditure for low income households after housing, fuel and power costs. In 2012, an average 11.6% of all household spend went on food in the UK; the 20% lowest income households spent 16.6% of their household finances on food.³³

Low income households have a poorer diet as well: they eat more food and drinks high in fat and/or sugar, and fewer fruit and vegetables - nutritious food is becoming too expensive for people on low wages or benefits.

28 Defra (2014) Annual fuel poverty statistics report, 2014. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319280/Fuel_Poverty_Report_Final.pdf

29 Royston, S (2014) Behind cold doors: the chilling reality for children in poverty. http://www.childrensociety.org.uk/sites/default/files/tcs/behind_cold_doors_-_final.pdf

30 DECC (2012) Trends in fuel poverty, 2003 to 2010. Table 5 <https://www.gov.uk/government/statistical-data-sets/trends-in-fuel-poverty-england-2003-to-2010>

31 DECC (2014) Annual fuel poverty statistics report, 2014, Chart 3.6 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319280/Fuel_Poverty_Report_Final.pdf

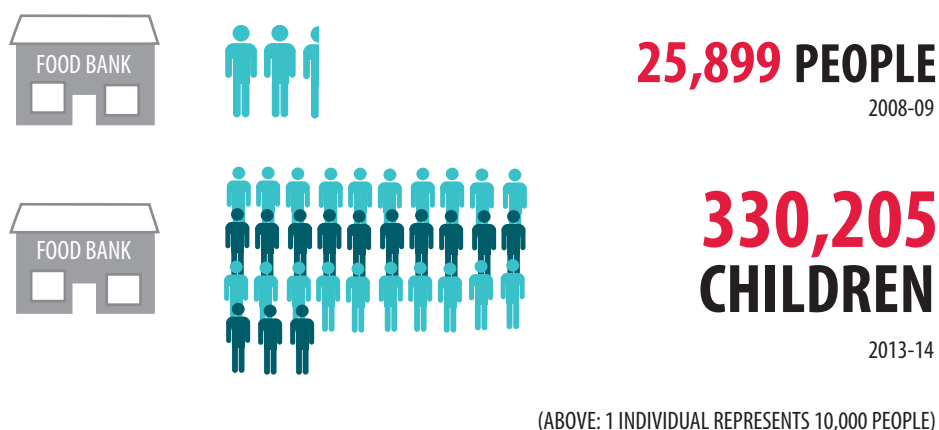
32 HM Government (2014) Cutting the cost of keeping warm: a new fuel poverty strategy for England. Consultation document. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335099/fuel_poverty_consultation.pdf

33 Defra (2013) Family food report 2012. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/265243/familyfood-2012report-12dec13.pdf

*The nation's heightened state of food insecurity raises serious concerns with regard to the UK's compliance with its international human rights obligations in relation to the human right to food.*³⁴

Oxfam, Church Action on Poverty and the Trussell Trust calculate that more than half a million children in the UK are living in families unable to provide a minimally acceptable diet.³⁵ The rise in the cost of living, wage stagnation, and the impact of benefit cuts and benefit sanctions have led to the increase in food poverty.³⁶ The evidence suggests that turning to food aid happens only when a family has exhausted all other strategies.³⁷

REFERRALS TO TRUSSELL TRUST FOOD BANKS³⁸



Homelessness

Secure and adequate housing is a right under the UNCRC. The state of a child's home – in terms of how fit is for habitation, its size, stability and location – affects a child's physical and mental health, education, relationships and safety. Homeless children are three to four times more likely to have mental health problems, two to three times more likely to be absent from school, and are likely to have lower academic achievement, which does not correlate to the child's ability.³⁹

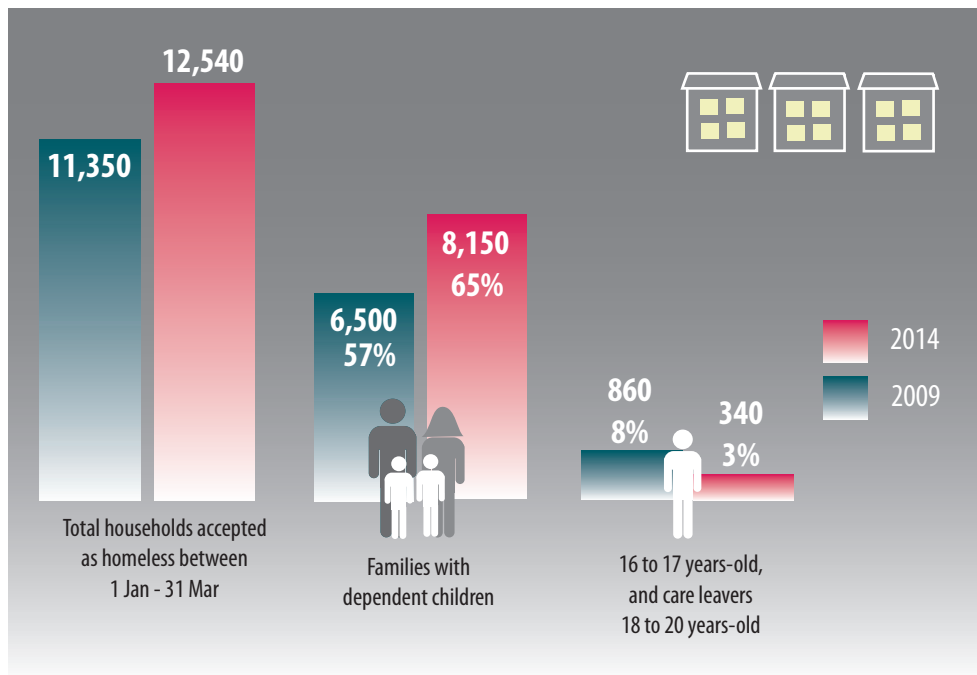
When children are homeless, authorities must step in and assist them. Under the Housing Act 1996, local authorities are required to find accommodation for homeless families with children, 16 and 17 year-olds who are not living with their families, and care leavers. Homeless applications and acceptances have been increasing since 2011. However, a shortage of appropriate housing stock means families and single young people are increasingly placed in temporary accommodation, and this can include bed and breakfast accommodation.

Bed and breakfast accommodation is recognised as unsuitable for homeless children. Sharing accommodation with vulnerable adults who can have problems with drugs, alcohol, or violence can both feel and be unsafe. Families have to share bathrooms with other residents, and there are often no cooking facilities. Children often share a room with the whole family.⁴⁰ There is no place to do homework.

- 34 Just-Fair (2013) Going hungry? The human right to food, p.8. http://just-fair.co.uk/uploads/Going_Hungry_Human_Right_to_Food_REPORT_FINAL..pdf
- 35 Church Action on Poverty/Oxfam/Trussell Trust (2014) Below the headline: the relentless rise of food poverty in Britain. http://www.trusselltrust.org/resources/documents/foodbank/6323_Below_the_Breadline_web.pdf
- 36 Griffith, R, O'Connell, M and Smith, K (2013) Food expenditure and nutritional quality over the Great Recession. IFS Briefing Note BN143. <http://www.ifs.org.uk/bns/bn143.pdf>
- 37 Lambie-Mumford, H and others (2014) Household food security in the UK: a review of food aid. Final report. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/283071/household-food-security-uk-140219.pdf
- 38 Trussell Trust website <http://www.trusselltrust.org/stats#Apr2013-Mar2014>
- 39 Shelter (2006) Chance of a lifetime: The impact of bad housing on children's lives
- 40 Shelter (2013) Nowhere to go: the scandal of homeless children in bed and breakfast. http://england.shelter.org.uk/_data/assets/pdf_file/0009/727290/Nowhere_to_go_CHRISTMAS_2013.pdf

However, the use of bed and breakfast accommodation has gone up in response to changes to the benefit system, particularly the benefit cap.⁴¹ Private landlords can charge higher rates than housing benefit recipients can now afford.

HOMELESSNESS HOUSEHOLD COMPARISON 2009:2014⁴²



BED & BREAKFAST ACCOMODATION ^{43 44}	1 JANUARY - 31 MARCH 2009	1 JANUARY - 31 MARCH 2014
Total number in bed & breakfast accomodation	2,450	4,370
Families with children in bed and breakfast accomodation	470	1,900
Longer than 6 weeks	70	440
Young people 16 to 17 years-old	340	60
Longer than 6 weeks	120	20

It is against the law for local authorities to keep homeless families or pregnant women in bed and breakfast accommodation for longer than six weeks⁴⁵ but, in reality, more families with children have to stay for a longer period of time while attempts are being made to find them more suitable accommodation.

41 Shelter (2013) Nowhere to go: the scandal of homeless children in bed and breakfast. http://england.shelter.org.uk/_data/assets/pdf_file/0009/727290/Nowhere_to_go_CHRISTMAS_2013.pdf

42 DCLG (2014) Live tables on homelessness. Tables 773 and 775. <https://www.gov.uk/government/statistical-data-sets/live-tables-on-homelessness>

43 DCLG (2013) Families in bed and breakfast accommodation for more than 6 weeks: quarterly figures for 2007 to 2012: individual local authorities. <https://www.gov.uk/government/statistical-data-sets/families-in-bed-and-breakfast-accommodation-for-more-than-6-weeks>

44 DCLG (2014) Statutory Homelessness: January to March Quarter 2014 England (Revised). <https://www.gov.uk/government/statistics/statutory-homelessness-in-england-january-to-march-2014>

45 The Homelessness (Suitability of Accommodation) (England) Order 2003. http://www.legislation.gov.uk/uksi/2003/3326/pdfs/uksi_20033326_en.pdf

Spotlight: Children's views on poverty

Amplify, the Children's Commissioner's advisory group of children and young people, surveyed 1,300 children about their views on what they need in order to fulfil their hopes and dreams.⁴⁶

- Nearly 90% said money was important because it helps children access items and opportunities that help them reach their goals
- Their top opportunities were: access to education, access to health care, and support and advice
- Having a home, someone to care for you, food and water, and a bathroom were basic items that everyone needs

In its annual Good Childhood report,⁴⁷ The Children's Society included a set of questions on the impact of recent changes to household income as a result of the global economic crisis and the introduction of austerity measures in the UK on child wellbeing. They found:

- Only 12% of children reported no impact from the economic crisis - 36% reported either a "fair amount" or "great deal" of impact
- Children who reported a stronger impact had significantly lower levels of wellbeing, as well as higher levels of exposure to the effects of reductions in income and increasing financial strain within their families
- Perceptions of material equality seemed more important to children than being better off than their friends and peers

The Children's Commission on Poverty, made up of 15 young people, was set up in October 2013 to explore children's attitudes to and experiences of childhood poverty, as well as ask what can be done to improve living standards for the most vulnerable children. In their first report, they find that, on average, parents are spending £800 on education costs, school uniforms, school meals, sports kits, trips, clubs, travel, books and internet access at home. Twenty-eight percent of the children surveyed reported being bullied because they were unable to afford some things, and more than half avoided asking their parents to pay for some school-related items or activities.⁴⁸

The Children's Commission on Poverty is supported by The Children's Society.

Recommendations

- Set out a new strategy and timetable for meeting the 2020 child poverty targets
- Ensure that fiscal policy decisions aim to reduce the number of children living in poverty
- Make families living in relative poverty eligible for the Warm Home Discount⁴⁹ - a payment of £140 for low income, vulnerable households
- Terminate the benefit cap for households with dependent children
- Identify households with dependent children living in poor housing, and prioritise them to reach the decent home standard
- Introduce rent controls for low income households
- The government should develop and implement an action plan to address food poverty
- Introduce a living wage as the minimum wage - currently £7.85 an hour outside London, and £9.15 in London
- Uprate benefits in line with inflation

46 Amplify and others (2013) What we say we need: a report on the important items, opportunities and aspirations for children and young people. London: Office of the Children's Commissioner. http://www.childrenscommissioner.gov.uk/content/publications/content_738

47 Pople, L and others (2014) The good childhood report 2014. London: The Children's Society, http://www.childrenssociety.org.uk/sites/default/files/publications/the_good_childhood_report_2014_-_final.pdf

48 Holloway, E and others (2014) At what cost? Exposing the impact of poverty on school life. London: The Children's Society. <https://www.childrenssociety.org.uk/sites/default/files/At%20What%20Cost%20Exposing%20the%20impact%20of%20poverty%20on%20school%20life%20-%20Full%20Report.pdf>

49 Warm Home Discount webpages. <https://www.gov.uk/the-warm-home-discount-scheme/overview>

6

EDUCATION, REST, PLAY AND CULTURE

ARTICLE 18(3) - States Parties shall ensure the children of working parents benefit from childcare services and facilities.

ARTICLE 28 - States Parties recognise every child's right to education, on the basis of equal opportunity. School discipline should be administered in a manner consistent with the child's human dignity.

ARTICLE 29 - The education of the child shall be directed to:

- a) The development of the child's personality, talents, and mental and physical abilities to their fullest potential
- b) The development of respect for human rights
- c) The development of respect for the child's origins and identity, and for civilisations around the world
- d) The preparation of the child for responsible life in a free society
- e) The development of respect for the natural environment

ARTICLE 31 - States Parties recognise the right of the child to rest and leisure, to engage in play and recreational activities, and to participate freely in cultural life and the arts

What does the Convention say?

All children, no matter what their ability, interests or background, have a right to an education that will help them achieve their potential without discrimination. Education should be child-centred and empowering. It should be based on a broad curriculum, designed to provide children with life skills, develop their personality, talents and abilities and promote human rights values.¹ School discipline must respect children's human rights. Children should be able to express their views, and encouraged to participate in preschool, school and college life.

Every child has the right to achieve their potential without discrimination. The UN Convention on the Rights of the Child (UNCRC) recognises that many children experience discrimination in accessing education, and makes it clear that governments must ensure the right to education is based on equal opportunity. In this context, "discrimination" refers not only to decisions which discriminate against an individual pupil or student, but also where governments oversee inequalities to access to a high-quality education or disparities in funding for education.

Children also have a right to play and recreational activities, to rest and leisure, and to take part in cultural life.

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 education, and the right to play and recreation in the UK. Among these, it recommended that the UK government:

- Provide assistance to help parents and guardians with their child-rearing responsibilities
- Ensure the right of all children to an inclusive education
- Continue efforts to reduce the impact of disadvantage on children's achievement at school
- Reduce the number of exclusions, and only use it as a last resort
- Strengthen children's participation in school and learning
- Guarantee children's right to rest and leisure, to engage in play and recreational activities, and to participate in cultural life and the arts
- Provide all children, including those with disabilities, with adequate and accessible play spaces

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.

Early education and childcare

The UNCRC recognises that children's earliest years are of the utmost importance. High quality education during a child's early years has a significant positive impact on the child's outcomes.² The pre-school years are a crucial time for children's cognitive, social, and emotional growth, and early years education is important in allowing children to flourish in these respects. The right to early childhood education is closely aligned to Article 6 of the UNCRC and the young child's right to maximum development.

Children's centres are community facilities working to improve outcomes for young children and their families, with a particular focus on the most disadvantaged families, in order to reduce inequalities in child development and school readiness³ - though pressures on local government funding are leading to a reduction in the hours and services provided, as well as mergers and closures of centres.⁴ Children reports an overall cut in spending on children's centres and early years services of 20% over the three years from 2012-13 to 2014-15, but estimates that they are currently working with only 67% of the families identified as vulnerable.⁴

¹ UN Committee on the Rights of the Child (2001). General comment no. 1 on the aims of education

² Gregory, I (July 2009) Childcare take up and National Indicator 118: A summary of learning funded by government regional offices 08/09 across England, Daycare Trust

³ DfE (2012) The core purpose of Sure Start Children's Centres. <http://media.education.gov.uk/assets/files/pdf/s/sure%20start%20childrens%20centres%20core%20purpose.pdf>

⁴ 4Children (2014) Children's centres census 2014. http://www.4children.org.uk/Files/d1b2b533-b62b-45cc-80f2-a3c400d8e691/Children_Centre_Census_2014.pdf

An entitlement to free early years provision was introduced for all four year-olds in 1998, and expanded to include all three year-olds in 2004. The current entitlement is for 15 hours per week for 38 weeks a year, per child. Since September 2013, 130,000 two year-olds from disadvantaged families have been eligible for a similar free entitlement, with the target doubling to 260,000 or 40% of all two year-olds, from September 2014 - though organisations including the Family and Childcare Trust have expressed doubt over whether the new targets can be met due to insufficient funding and a shortfall in places.⁵ Although it can provide young children with the benefits of some early years provision, the 15 hour-a-week entitlement is not flexible enough to enable parents to work.

PROPORTION OF CHILDREN WITH FUNDED EARLY EDUCATION PLACES ⁶	JANUARY 2009	JANUARY 2014
2 year-olds in funded early education places - funded place based on disadvantage	No data	13%
3 year-olds	92%	94%
4 year-olds	98%	99%

Early years qualifications

The UN Committee on the Rights of the Child says that those who work with young children should be highly qualified and the work they do valued.⁷

Early education and childcare provision in England is offered by a mix of public, private and voluntary sector providers. Private, voluntary and independent (PVI) providers take the greater share of two and three year-olds, with the majority of four year-olds attending school-based infant classes. Most school settings employ qualified teachers, but qualifications for those employed in PVI settings vary.

Only 50% of two year-olds and 52% of three year-olds in PVI education are at settings where staff have Qualified Teacher Status⁸ or Early Years Professional Status.⁹

Quality matters - Ofsted has commented on how much more young children from low income families are likely to benefit from high quality early years provision than their more advantaged peers, while noting that twice as many outstanding early years providers are based in more affluent areas.¹⁰

Childcare costs

Since 2009, the cost of childcare in England has risen by 27%. Despite government subsidies available through Working Tax Credit or employer support through childcare vouchers, most parents who buy full-time care have to contribute between 20% and 30% of their gross income on childcare.¹¹

The UN Committee on the Rights of the Child has commented on governments' responsibility to ensure that

5 Family and Childcare Trust (2014) Thousands of England's poorest two year olds missing out on free childcare offer. Press release. 17 February 2014. <http://www.familyandchildcaretrust.org/News/thousands-of-englands-poorest-two-year-olds-missing-out-on-governments-flagship-free-childcare-offer>

6 DCFS (2010) Provision for children under five years of age in England, January 2009. <http://webarchive.nationalarchives.gov.uk/20130401151655/http://media.education.gov.uk/assets/files/pdf/sfr112009pdf.pdf>

DfE (2014) Provision for children under five years of age in England: January 2014. <https://www.gov.uk/government/statistics/provision-for-children-under-5-years-of-age-january-2014>

7 UN Committee on the Rights of the Child (2005) General comment no.7 on implementing child rights in early childhood

8 Qualified Teacher Status is a level 5 qualification; and Early Years Professional Status is a level 3 qualification.

9 Huskinson, T et al (2014) Childcare and early years survey of parents 2012-2013. DfE <https://www.gov.uk/government/statistics/childcare-and-early-years-survey-of-parents-2012-to-2013>

10 Ofsted (2014) The report of Her Majesty's Chief Inspector of Education, Children's Services and Schools - early years 2012/13. <http://www.ofsted.gov.uk/sites/default/files/documents/annual-reports/o/Ofsted%20Early%20Years%20Annual%20Report%20201213.pdf>

11 Daycare Trust (2009) Childcare costs survey 2009. Family and Childcare Trust (2014) Childcare costs survey 2014. <http://www.familyandchildcaretrust.org/childcare-costs-surveys>

the children of working parents have the right to benefit from childcare services. How affordable childcare is has an inevitable impact on maternal employment,¹² and getting parents into paid work is the core thrust of the government's strategy to reduce child poverty.¹³

CHILD CARE COSTS - 25 HOURS A WEEK ENGLAND REGIONAL AVERAGE ¹¹	2009	2014
Nursery (under 2)	£83.50	£110.95
Nursery (2 and over)	£78.00	£106.19
Childminder (under 2)	£78.00	£100.74
Childminder (2 and over)	£76.00	£101.51

In its annual parents' survey of childcare,¹⁴ the Department for Education (DfE) found that:

- 37% of lone parents and 23% of couple families paying for childcare said they found it difficult or very difficult to cover the costs
- Only 58% of parents rated the overall quality of local childcare provision as very or fairly good
- 54% of mothers who were not working said that they would prefer to go out to work if they could arrange good quality childcare which was convenient, reliable and affordable

The government is planning to introduce an Early Years Pupil Premium from April 2015, allocating £300 funding for every disadvantaged child to early years providers to help pay for extra support.¹⁵ A new tax free childcare scheme is due to be introduced in Autumn 2015, which will provide families where the lone parent or both parents work 20% support towards their childcare costs up to £2,000 per child.¹⁶ It will not be available to parents who receive help with childcare costs through the tax credits system.

School places

A shortage of school places impacts on a child's right to education, how much choice they have over the school they attend, and the quality of the education they may receive. In 2013, the National Audit Office¹⁷ estimated that 256,000 new school places would be needed in 2014-15 - mostly in primary schools. The Education Act 2011¹⁸ stipulates that any new school in a local authority area has to be an academy, which has led to some local authority maintained schools having to convert non-classroom spaces, reduce playground space, or expand classes beyond the 30 child- per-class limit to accommodate children.¹⁹

In a report on school admissions, the Office of the Children's Commissioner (OCC) investigated whether or not unlawful admissions activity was taking place.²⁰ Although there is a statutory Admissions Code²¹ which is meant to ensure an open and fair allocation of places - and in particular prioritises placements for children in care, adopted children, and children with special educational needs - in practice the admissions system operates as a market. OCC found no clear-cut evidence that schools were deliberately "gaming" the admissions system to manipulate their intakes, but that elements of the admissions systems used by some schools may have that effect, even if schools were not doing it deliberately. The DfE is consulting on changing the Code²² to prioritise the admission of children eligible for the Early Years Pupil Premium, Pupil Premium, or Service Premium in all state-funded schools.

12 Thompson, S and Ben-Galim, D (2014) Childmind the gap: reforming childcare to support mothers into work. http://www.ippr.org/assets/media/images/media/files/publication/2014/02/childmind-the-gap_Feb2014_11899.pdf

13 HM Government (2014a) Child poverty strategy 2014-17. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324103/Child_poverty_strategy.pdf

14 Huskinson, T et al (2014) op cit.

15 DfE (2014) Early years pupil premium and funding for two year olds - consultation. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/323495/EY_Funding_ConDoc_Branded_final_with_foreword.pdf

16 Childcare Payments Bill. <http://www.publications.parliament.uk/pa/bills/cbill/2014-2015/0007/15007.pdf>

17 National Audit Office (2013) Capital funding for new school places. http://www.nao.org.uk/wp-content/uploads/2013/03/10089-001_Capital-funding-for-new-school-places.pdf

18 Education Act 2011, s.37 and schedule 11. <http://www.legislation.gov.uk/ukpga/2011/21/schedule/11/enacted>

19 Local Government Association (2013a) Councils warn of rising demand for primary school places. Press release. 3 September 2013. http://www.local.gov.uk/media-releases/-/journal_content/56/10180/5416718/NEWS

20 Office of the Children's Commissioner (2014) It might be best if you looked elsewhere: an investigation into the schools admission process. http://www.childrenscommissioner.gov.uk/content/publications/content_798

21 DfE (2012) Admissions Code. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275598/school_admissions_code_1_february_2012.pdf

22 DfE (2014) Changes to the school admissions code. <https://www.gov.uk/government/consultations/changes-to-the-school-admissions-code23>

Ofsted (2014) The pupil premium: an update. <http://www.ofsted.gov.uk/sites/default/files/documents/surveys-and-good-practice/t/The%20pupil%20premium%20-%20an%20update.pdf>

Spotlight: the Pupil Premium

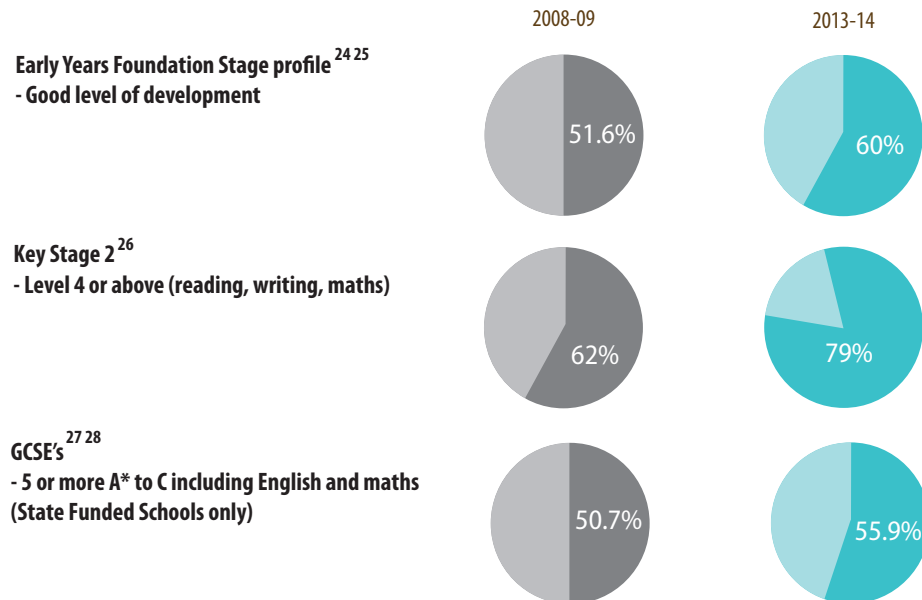
The coalition government introduced the Pupil Premium in April 2011. It provides additional per pupil funding to all state-funded schools (local authority maintained and academy) on the basis of the number of children registered for Free School Meals (FSM), looked after children, and the children of service personnel. The money is used by the school to buy in whatever services it decides would help to close the attainment gap between disadvantaged pupils and their peers; the school is inspected on the way it spends the fund and its results. Typically, the money is used to buy in additional staffing which can help the school provide smaller classes, one-to-one tuition, learning mentors, classroom assistants, and speech and language therapists. In its latest assessment of the Pupil Premium, Ofsted reports that the money is being well-spent in good and outstanding schools, and the attainment gap is closing.²³ The government plans to introduce an Early Years Pupil Premium from April 2015.

Educational outcomes

Children have a right to education which allows them to realise their potential - a high quality education suited to their capacities, needs and learning styles.

Although not directly comparable due to changes in the curriculum and assessment systems, official figures on educational achievement show an overall increase between 2008-09 and 2013-14 in early years (or readiness for school), at Key Stage 2, and in GCSEs. This applies to both boys and girls, and children eligible for Free School Meals (FSM). There have been improvements for black pupils, but Early Years Foundation Stage (EYFS) and Key Stage 2 results for White pupils have remained static. The attainment gaps for children with special educational needs (SEN) have actually increased at all stages at which they were assessed or tested. Children in care are achieving better results at Key Stage 2 but the gap starts widening again by the time they take their GCSEs.

EDUCATIONAL DEVELOPMENT AND ACHIEVEMENT - ALL CHILDREN



23 Ofsted (2014) The pupil premium: an update. <http://www.ofsted.gov.uk/sites/default/files/documents/surveys-and-good-practice/t/The%20pupil%20premium%20-%20an%20update.pdf>

24 DCSF (2010) Early Years Foundation Stage Profile Achievement by Pupil Characteristics, England 2008/09. <http://webarchive.nationalarchives.gov.uk/20130401151655/http://www.education.gov.uk/researchandstatistics/statistics/allstatistics/a00196330/early-years-foundation-stage-profile-attainment-by>

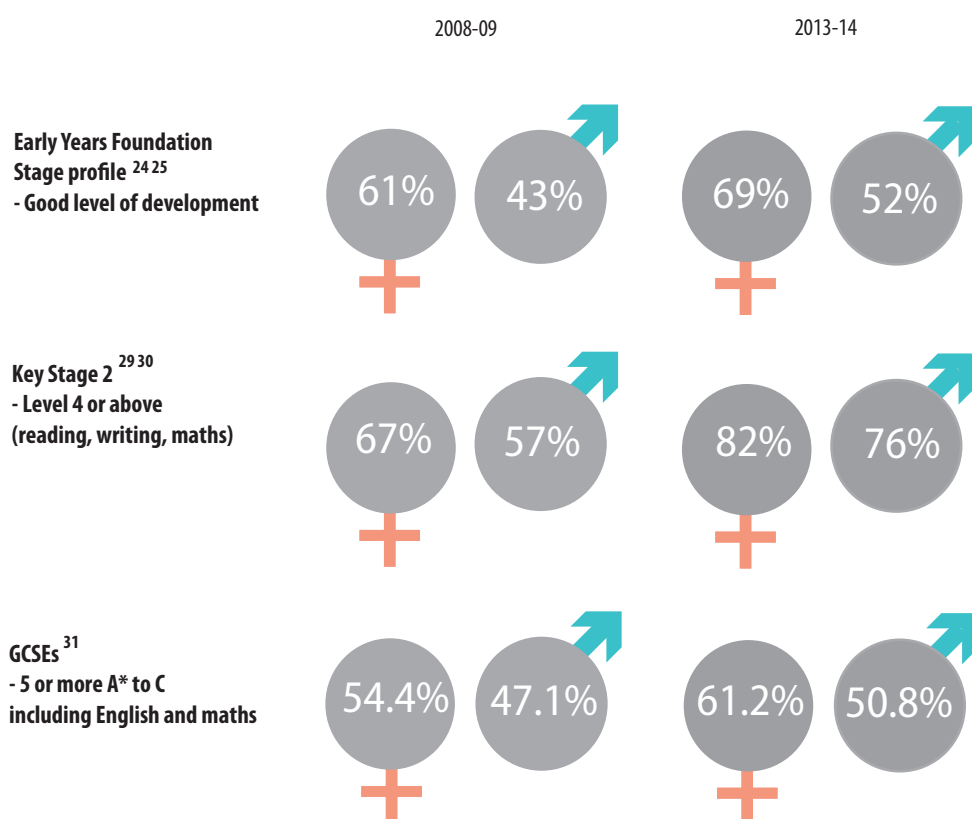
25 DfE (2014) Early Years Foundation Stage Profile results, 2013 to 2014. <https://www.gov.uk/government/statistics/early-years-foundation-stage-profile-results-2013-to-2014>

26 DfE (2014) National curriculum assessment at Key Stage 2 in England, 2014 (provisional). <https://www.gov.uk/government/statistics/national-curriculum-assessments-at-key-stage-2-in-england-2014>

27 DfE (2014) Provisional GCSE and equivalent results in England 2013/14. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366556/SFR41_2014_provisional_GCSE_and_equivalents.pdf. Not directly comparable to previous years due to changes to vocational qualifications and the introduction of the early entry policy to only count a pupil's first attempt at a qualification

28 DCSF (2009) National curriculum assessments at Key Stage 2 in England, 2008/9 (revised). <http://webarchive.nationalarchives.gov.uk/20130401151655/http://www.education.gov.uk/researchandstatistics/statistics/allstatistics/a00196257/national-curriculum-assessments-at-key-stage-2>

EDUCATIONAL DEVELOPMENT AND ACHIEVEMENT - BY GENDER



EDUCATIONAL DEVELOPMENT AND ACHIEVEMENT - BY ETHNICITY

	2008-09	2012-13
Early Years Foundation Stage profile ^{24 32} - Good level of development	53.3% White; 43.7% Black - attainment gap 9.6	53% White 51% Black - attainment gap 2
Key Stage 2 - Level 4 or above (reading, writing, maths)	73% White 64% Black - attainment gap 9	76% White 73% Black - attainment gap 3
GCSEs - 5 or more A* to C including English and maths	White 50.7% Black 44.5% - attainment gap 6.2	White 60.2% Black 58.1% - attainment gap 2.1

29 DCSF (2009) National curriculum assessments at Key Stage 2 in England, 2008/9 (revised). <http://webarchive.nationalarchives.gov.uk/20130401151655/http://www.education.gov.uk/researchandstatistics/statistics/allstatistics/a00196257/nationalcurriculum-assessments-at-key-stage-2>

30 DfE (2014) National curriculum assessments at Key Stage 2: 2014

31 DfE (2014) GCSE and equivalent attainment by pupil characteristics in England, 2012/13. <https://www.gov.uk/government/statistics/gcse-and-equivalent-attainment-by-pupil-characteristics-2012-to-2013>

32 DfE (2013) Early Years Foundation Stage Profile Attainment by Pupil Characteristics, England 2013. <https://www.gov.uk/government/statistics/eyfsp-attainment-by-pupil-characteristics-2013>

EDUCATIONAL DEVELOPMENT AND ACHIEVEMENT - SPECIAL EDUCATIONAL NEEDS	2008-09	2012-13
Early Years Foundation Stage profile ²⁴ - Good level of development	15.4% SEN 55.5% no SEN - attainment gap 39.6	14% SEN 56% no SEN - attainment gap 42
Key Stage 2 - Level 4 or above (reading, writing, maths)	31.0% SEN 85.5% no SEN - attainment gap 54.5	35% SEN 88% no SEN - attainment gap of 53
GCSEs - 5 or more A* to C including English and maths	Attainment gap of 44.9 - attainment gap 6.2	Attainment gap of 47.0 - attainment gap 2.1

EDUCATIONAL DEVELOPMENT AND ACHIEVEMENT - CHILDREN ELIGIBLE FOR FREE SCHOOL MEALS	2008-09	2012-13
Early Years Foundation Stage profile ^{24 30} - Good level of development	34.5% FSM pupils 55% non FSM - attainment gap 20.5	36% FSM pupils 55% non FSM - attainment gap 19
Key Stage 2 - Level 4 or above (reading, writing, maths)	53.3% FSM pupils 75.5% non FSM - attainment gap 22.2	60% FSM pupils 79% non FSM - attainment gap 19
GCSEs - 5 or more A* to C including English and maths	26.6% FSM pupils 50.7% all state funded pupils - attainment gap 24.1	37.9% FSM pupils 60.6% all state funded pupils - attainment gap 22.7

EDUCATIONAL DEVELOPMENT AND ACHIEVEMENT - CHILDREN IN CARE ³³	2008-09	2012-13
Early Years Foundation Stage profile - Good level of development	No information	No information
Key Stage 2 - Level 4 or above (reading, writing, maths)	Attainment gap of 29.5 (English and maths)	Attainment gap of 26
GCSEs - 5 or more A* to C including English and maths	Attainment gap of 38.1	Attainment gap of 42.7

33 DfE (2013) Outcomes for Children Looked After by Local Authorities in England, as at 31 March 2013, Tables 10 and 11 <https://www.gov.uk/government/statistics/outcomes-for-children-looked-after-by-las-in-england>

School curriculum

Article 29 of the UNCRC entitles children to a broad curriculum which helps them develop their life skills, talents and abilities, including the ability to make well-balanced decisions and develop a healthy lifestyle. It also stresses the child's right to learn about human rights.³⁴ In its General Comment on the right to health, the UN Committee on the Rights of the Child recognises the importance of children receiving education on relationships and sexual health.³⁵

The school curriculum has undergone a number of key changes since 2008. In 2011, the English Baccalaureate (EBacc) was introduced as the key performance measure for schools. The EBacc measures a pupil's performance across a group of core academic subjects - English, maths, history or geography, the sciences and a language - and appears to have led to a decline in the provision and choice of non-academic subjects in the school curriculum.³⁶ A new National Curriculum took effect in September 2014.

Only maintained schools are required to follow the National Curriculum, but all state-funded schools, including academies, must provide a curriculum which is balanced and broadly based and which promotes the spiritual, moral, cultural, mental and physical development of pupils at the school and of society and prepares pupils at the school for the opportunities, responsibilities and experiences of later life.³⁷ Ofsted assesses the breadth of the curriculum during its inspections of schools and academies.³⁸

Spotlight on: Personal, Social, Health and Economic (PSHE) education and human rights education

Personal, Social, Health and Economic (PSHE) education is a non-statutory subject in the National Curriculum. Although schools are able to develop their own PSHE programme, they must refer to statutory sex and relationship education guidance.³⁹ Human rights and international law are part of the Key Stage 4 Citizenship curriculum, but younger children do not have a right to learn about human rights.⁴⁰

In order to assess how teachers are delivering on those wider aims of education, CRAE asked a sample of secondary schools and academies across England about their PSHE education, and whether they provide human rights education. Twenty-two secondary schools and academies responded to this question.

PSHE education is available in all but one of these schools and academies, though the number of hours per student designated for PSHE education varies significantly from half an hour to 6½ hours a week. This includes classroom teaching, but also meetings with form tutors and school assemblies, as well as cross-curricular aspects covered in other areas of the curriculum. Twelve of the 22 schools/academies had teaching staff trained in PSHE, or specific elements such as sex and relationship education or drug education. Two of the schools also accessed expertise through external agencies, including the PSHE Association.

All 22 schools and academies said they teach their pupils about human rights. Twelve of the schools/academies provide human rights education as part of their PSHE, or Citizenship education. Others cover human rights in English, Psychology, History, Geography, Business and especially Religious Education. Most were unable to quantify teaching time. Only five schools/academies had teachers who had received some training in human rights education - and two of the academies were working towards Unicef's Rights Respecting Schools Award accreditation.⁴¹

34 UN Committee on the Rights of the Child (2001) General comment no. 1 on the aims of education

35 UN Committee on the Rights of the Child (2013) General comment no.15 on the right of the child to the highest attainable standard of health

36 Greevy, H et al (2013) Revised: The effects of the English Baccalaureate. DfE. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/183528/DFE-RR249R-Report_Revised.pdf

37 DfE (2013) The national curriculum in England: framework document. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/339805/MASTER_final_national_curriculum_until_sept_2015_11_9_13.pdf

38 Ofsted (2014) School inspection handbook. <http://www.ofsted.gov.uk/sites/default/files/documents/inspection-forms-and-guides/s/School%20inspection%20handbook.pdf>

39 DfEE (2000) Sex and relationship education guidance. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/283599/sex_and_relationship_education_guidance.pdf

40 DfE (2014) The national curriculum in England: Key Stage 3 and 4 framework document. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/330327/SECONDARY_national_curriculum_FINAL_140714.pdf

41 Unicef UK Rights Respecting Schools award website. <http://www.unicef.org.uk/rrsa>

Careers guidance

The right to education includes a right to technical and vocational education that - in addition to the academic curriculum - can help prepare young people for work.⁴² Up to 2011, Connexions provided information, advice and guidance - including careers advice - to young people. In 2011-12, Connexions funding became an unprotected part of the Early Intervention Grant and many local services were closed.⁴³ In the Education Act 2011,⁴⁴ schools and academies were made responsible for providing impartial careers guidance to young people from the age of 13, though they receive no additional funding to do so. An all-age National Careers Service (NCS) was launched in April 2012, with information, advice and guidance about courses and careers available through its website.

In a recent report, the National Careers Council acknowledged that schools are facing particular challenges in delivering careers guidance for pupils,⁴⁵ and Ofsted has found that too much guidance about 16 to 19 study options is weak.⁴⁶ In April 2014, the government issued statutory guidance for schools⁴⁷ setting out expectations that schools provide activities and opportunities that help prepare young people for the next stage of their lives - including through contact with employers, mentors and coaches.

CRAE asked a sample of secondary schools and academies about their careers budget, how many hours of careers guidance were provided over the school year, and the level of expertise in careers advice and support available to students. Twenty secondary schools and academies responded to a Freedom of Information request which found:

- A wide variation in funding available for careers guidance in schools. Schools' annual budgets for 2014-15 ranged from £3,000 to £50,000 - the £50,000 budget paid for a full-time Information, Advice and Guidance service in one academy
- Careers guidance was delivered in a number of ways: through PSHE education; as part of Steps to Success lessons; through assemblies and visits; and (where available) through drop-in sessions with local authority Connexions staff
- Seventeen schools/academies brought in external careers providers, and staff in 13 schools/academies had received at least some careers training
- Six schools/academies said they built links with and arranged visits from local businesses and colleges

Exclusion from school

A permanent exclusion is the removal of a child from the school roll. This issue was of particular concern to the UN Committee on the Rights of the Child in 2008 because of the disproportionate number of exclusions affecting certain groups of children.

Statutory guidance from the DfE states that:

*... permanent exclusion should only be used as a last resort, in response to a serious breach, or persistent breaches, of the school's behaviour policy; and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.*⁴⁸

The Office of the Children's Commissioner has said explicitly that the exclusions system in England is not compliant with the UNCR: ⁴⁹ the exclusions process does not always consider the child's views, and the child has no right of appeal against the decision to exclude.

42 UN Committee on Economic, Social and Cultural Rights (1999) General comment no.13: the right to education. <http://www.refworld.org/publisher/CESCR/GENER/AL/4538838c22,0.html>

43 Hooley, T and Watts, AG (2011) Careers work with young people: collapse or transition? University of Derby. http://www.derby.ac.uk/files/careers_transition_paper.pdf

44 Education Act 2011, s.29. <http://www.legislation.gov.uk/ukpga/2011/21/section/29/enacted>

45 National Careers Council (2014) Taking action: achieving a culture change in careers provision. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/355473/bis-14-1080-taking-action-achieving-a-culture-change-in-careers-provision.pdf

46 Ofsted (2014) Transforming 16 to 19 education and training: the early implementation of 16 to 19 study programmes. <http://www.ofsted.gov.uk/sites/default/files/documents/surveys-and-good-practice/t/Transforming%2016%20to%2019%20education%20and%20training%20-%20the%20early%20implementation%20of%2016%20to%2019%20study%20programmes.pdf>

47 DfE (2014) Careers guidance and inspiration in schools: statutory guidance for governing bodies, school leaders and school staff. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/302422/Careers_Statutory_Guidance_-_9_April_2014.pdf

48 DfE (2012) Exclusion from maintained schools, academies and pupil referral units in England. p.4. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/269681/Exclusion_from_maintained_schools__academies_and_pupil_referral_units.pdf

49 Office of the Children's Commissioner (2013) They never give up on you: Office of the Children's Commissioner school exclusions inquiry. http://www.childrenscommissioner.gov.uk/content/publications/content_561

The total number of both permanent and fixed term exclusions has fallen since 2008, but a higher proportions of pupils with SEN, from black and minority ethnic groups, who are eligible for Free School Meals, or who are in care are excluded from school than their peers.

EXCLUSIONS FROM SCHOOL	PERMANENT EXCLUSION FROM SCHOOL ^{50 51}		FIXED TERM EXCLUSION FROM SCHOOL	
	2008-2009	2012-2013	2008-2009	2012-2013
Total number - all schools	6,550	4,630	363,280	267,520
Pupils with SEN	4,680 - 71%	3,160 - 68%	235,090 - 65%	164,590 - 62%
Minority ethnic pupils	1,520 - 23%	1,240 - 27%	72,440 - 20%	59,550 - 22%
FSM	2,480 - 38%	2,110 - 46%	124,190 - 34%	109,430 - 41%

	2008-2009	2011-2012	2008-2009	2011-2012
Children in care ^{50 51}	4 times more likely to be permanently excluded	2 times more likely to be permanently excluded	Nearly 3 times more likely to be given a fixed term exclusion	Nearly 3 times more likely to be given a fixed term exclusion

Children's involvement in their school

It is a cornerstone of the UNCRC to listen to children and take account of their views. In 2014, the DfE issued statutory guidance to maintained schools on listening to and involving children and young people,⁵² which emphasises the contribution participation can make to children's achievement and attainment, as well as the development of democratic skills.

Twenty-three secondary schools and academies responded to a Freedom of Information request from CRAE.

- Twenty-two have a school council with volunteer or elected pupil members - one school appoints school council members
- Seven schools are involved in Student Voice⁵³ surveys and campaigns
- Nine schools undertake regular student surveys, though it is not clear if these are initiated by pupils or staff
- One school has Associate Student Governors, and two involve students in interviews for new staff

They mentioned a range of issues students have been consulted on recently, including: uniforms, school catering, the school environment, the curriculum, extra-curricular activities, charitable fundraising, and the school's behaviour and reward policy. One school mentioned involving students in staff inductions.

50 DfE (2010) Permanent and fixed period exclusions from schools and exclusion appeals in England, 2008/09. Tables 6.1, 12 and 15. <https://www.gov.uk/government/statistics/permanent-and-fixed-period-exclusions-in-england-academic-year-2008-to-2009>. DfE (2013) Outcomes for children looked after by Local Authorities in England, as at 31 March 2013

51 DfE (2014) Permanent and Fixed Period Exclusions in England: 2012 to 2013. <https://www.gov.uk/government/statistics/permanent-and-fixed-period-exclusions-in-england-2012-to-2013>

52 DfE (2014) Listening and involving children and young people. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/271814/Listening_to_and_involving_children_and_young_people.pdf

53 Student Voice website <http://studentvoice.co.uk/>

Feeling safe and well in school

Article 29 of the UNCRC promotes a holistic approach to education, which includes emotional support. Health education and provision within schools can reach children who may not otherwise access it.⁵⁴

Although school governors of maintained schools are under a duty to promote the wellbeing of pupils,⁵⁵ this has not been extended to academies. Neither schools nor academies are inspected on pupil wellbeing. This year, the DfE issued advice for schools on mental health and behaviour, though its contents look at how mental health issues can affect children's ability to engage with learning.⁵⁶

In an inquiry into child and adolescent mental health services (CAMHS), the Health Committee notes that schools have a crucial role to play in relation to children's and young people's mental health. Although some school support is good, many teachers seem to be "scared" of mental health issues - they lack training, and children are not taught about mental health. Despite this, between 61% and 85% of secondary schools provide children with access to counselling, making school-based counselling one of the principal forms of CAMHS intervention in England.⁵⁷

Twenty-two secondary schools and academies responded to a Freedom of Information request from CRAE, asking what types of on and off-site mental health support were available for pupils.

- Nineteen had access to a school nurse - most on-site - though their availability ranged from ½ day a week to a full-time post
- Seventeen had a school counsellor on site, available for ½ day to 21 hours a week
- Three mentioned pastoral staff, and three schools/academies had mentors available to work with pupils
- One academy offered self-esteem and confidence building clubs for students
- Seventeen had some links with local child and adolescent mental health services (CAMHS)
- Four had links with the local authority educational psychology service
- Other services mentioned include social work, Relate counselling, and a local bereavement service

Children have a right to feel safe in school and, under Article 19 of the UNCRC, should be protected from all forms of physical or mental violence. Schools in England are required to have behaviour policies in place that set out measures to prevent bullying, and have to be able to demonstrate the impact of these policies when inspected by Ofsted. In January 2009, 46% of children reported having been bullied whilst at school⁵⁸ - a situation that does not seem to have improved. In its most recent annual bullying survey of secondary school and college students,⁵⁹ Ditch the Label found that 45% of the 3,600 respondents had been bullied. In its latest Good Childhood report, The Children's Society finds that children who are bullied are unhappy most days, and three times as many of them have low life satisfaction compared with their peers.⁶⁰

In January 2009, 46% of children reported having been bullied whilst at school⁵⁸ - a situation that does not seem to have improved. In its most recent annual bullying survey of secondary school and college students,⁵⁹ Ditch the Label found that 45% of the 3,600 respondents had been bullied.

Outcomes for older children

One way of measuring how well the education system is serving children is to look at what they are doing when compulsory schooling comes to an end. School leaving age in England is 16. In the past, the UK has performed badly in international comparisons⁶¹ when comparing the rates of young people who go on to further education, or the numbers who are not in education, training or employment (NEET).

54 UN Committee on the Rights of the Child (2013) General comment no.15 on the right of the child to the enjoyment of the highest attainable standard of health
 55 Education and Inspections Act 2006, s.38. <http://www.legislation.gov.uk/ukpga/2006/40/section/38>
 56 DfE (2014) Mental health and behaviour in schools: departmental advice for staff. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/326551/Mental_Health_and_Behaviour_-_Information_and_Tools_for_Schools_finalwebsite__2__25-06-14.pdf
 57 Health Committee (2014) Children's and adolescents' mental health and CAMHS. Third report of session 2014-15. <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmhealth/342/342.pdf>
 58 Chamberlain, T and others (2010) Tellus4 national report. London: DCSF. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/221932DCSF-RR218.pdf
 59 Ditch the Label (2014) The annual bullying survey 2014. <http://www.ditchthelabel.org/uk-bullying-statistics-2014/>
 60 The Children's Society (2014) The Good Childhood report 2014, p.35. http://www.childrensociety.org.uk/sites/default/files/publications/the_good_childhood_report_2014_-_final.pdf
 61 Adamson, P (2012) Child wellbeing in rich countries: a comparative overview. Unicef report card 11. <http://www.unicef-irc.org/publications/pdf/rc11eng.pdf>

Part 1 of the Education and Skills Act 2008 requires 16 and 17 year-olds to remain in some form of education or training to the age of 18. Raising the participation age came into force for 16 year-olds in 2013, and will extend to 17 year-olds in 2015.⁶² In order to comply with the duty, young people can choose to take part in: full-time education, an apprenticeship, or full-time work or volunteering combined with part-time education or training.

Although the new policy is already having an effect - 2013 NEET figures are at their lowest since 1994 - its implementation is happening at the same time as overall funding for 16 to 19 year-olds has been cut.⁶³ There is considerable debate over whether the 16 to 19 Bursary Fund set up to support poorer students - worth up to £1,200 for care leavers and young people in receipt of benefits, with a discretionary element for other needy students - is providing sufficient support,⁶⁴ although there is extra help for some through the extension of Free School Meals to college students from September 2014.⁶⁵

PARTICIPATION RATES ^{66 67}	END 2008	END 2013
16 - 18 year olds in:		
• Education and work-based learning	75%	81.2%
• Education and training	79.4%	85.6%
• Not in education, employment or training (NEET)	10.4%	7.6%

Despite overall numbers of those achieving a qualification at the age of 19 increasing, the attainment gap between FSM and non-FSM pupils remains stubbornly high.

PERCENTAGE ACHIEVING LEVEL 3 QUALIFICATIONS AT AGE 19 ⁶⁸	2008-09	2012-13
FSM pupils	26.9%	35.2%
Non-FSM pupils	51.4%	59.5%
Attainment gap	24.5%	24.3%

Play, recreation and cultural activities

Play and recreation are essential to the health and wellbeing of children - as the UN Committee on the Rights of the Child notes: '*an essential component of physical, social, cognitive, emotional and spiritual development*'.⁶⁹ A child's right to play and recreation suffers from poor recognition of its importance, and a lack of investment by government at national and local level. The Education Act 1996⁷⁰ requires local authorities in England to ensure there are recreational facilities for children under 13, and sufficient leisure-time activities for 13 to 19 year-olds - the latter duty supported by statutory guidance.⁷¹

62 DfE (2013) Participation of young people in education, employment or training. Statutory guidance for local authorities. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/349300/Participation_of_Young_People_Statutory_Guidance.pdf

63 National Audit Office (2014) 16 to 18 year old participation in education and training. <http://www.nao.org.uk/wp-content/uploads/2014/09/16-to-18-year-old-participation-in-education-and-training.pdf>

64 Evans, J (2012) Staying the course: Disadvantaged young people's experiences in the first term of the 16-19 Bursary Fund. Barnardo's. <http://www.barnardos.org.uk/stayingthecourse.pdf>

65 Education Funding Agency (2014) Further education free meals: advice for further education funded institutions. <https://www.gov.uk/government/publications/further-education-free-meals-advice-for-fe-institutions>

66 DfE (2010) Participation in education, training and employment by 16-18 year olds in England. <http://webarchive.nationalarchives.gov.uk/20130401151655/http://www.education.gov.uk/researchandstatistics/statistics/allstatistics/a00196072/participation-in-education-training-and-employment>

67 DfE (2014) Participation in Education, Training and Employment by 16-18 year olds in England: End 2013. <https://www.gov.uk/government/statistics/participation-in-education-training-and-employment-age-16-to-18>

68 DfE (2014) Attainment gap at age 19 between Free School Meals pupils and the rest. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300218/Indicator-9_L3at19by_FSM_-_DR.pdf

69 UN Committee on the Rights of the Child (2013) General comment no.17 on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts.

70 Education Act 1996, as amended by s.507A and 507B Education and Inspections Act 2006. <http://www.legislation.gov.uk/ukpga/2006/40/section/6>

71 DfE (2012) Statutory guidance for local authorities on services and activities to improve young people's well-being. <http://media.education.gov.uk/assets/files/pdf/s/statutory%20guidance%20on%20la%20youth%20provision%20duty.pdf>

Spotlight on: Children's play services

In 2008, the government published a ten-year play strategy for England and provided funding for new or refurbished play areas. This funding ended in March 2011, and the play strategy was effectively abandoned by central government.⁷² In response to Freedom of Information request sent to 152 local authorities in England by CRAE, 32 local authorities were able to provide information on play budgets for 2008-09 and 2014-15, which indicate:

- All had reduced their play budgets - overall, a 54% reduction in funding for play across the 32 local authorities
- Three of the local authorities had reduced their play budget to zero for 2014-15
- In most areas, play funds were being used to maintain and repair existing play facilities

Youth services

Youth service provision is divided between universal services, often based round youth clubs and centres, and targeted services for vulnerable groups. In 2009–10, average local authority youth service expenditure was £77.28 for each child aged between 13 and 19;⁷³ in 2014-15, this has fallen to £49 per head.⁷⁴ Results of a survey of local authority youth services undertaken by the Cabinet Office⁷⁵ show that youth service expenditure fell by 22.3% between 2011-12 and 2013-14. This pattern is confirmed in a Freedom of Information request sent to 152 local authorities in England by CRAE, to which 60 local authorities responded, indicating:

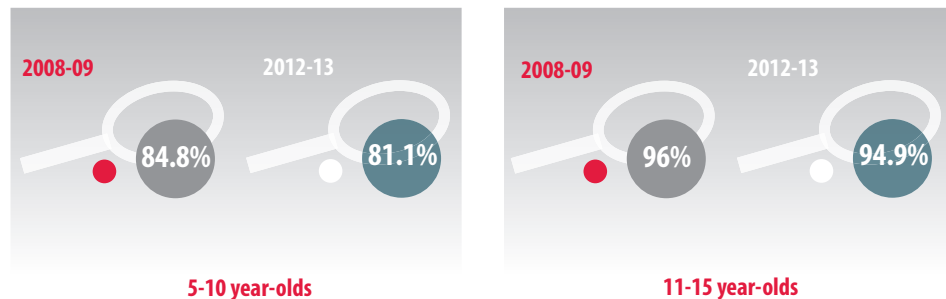
- Youth service budgets have fallen by 35%, from an average 1.28% of the total local authority budget in 2008-09 to 0.87% in 2014-15
- However, 11 local authorities have increased their budget for youth services since 2008-09
- Twelve local authorities are spending all or nearly all their youth service budget on targeted youth services

Unison has found that these continuing reductions in youth service funding have led to a loss of 41,000 youth service places, 35,000 hours of outreach work with young people, and at least 2,000 youth worker posts since 2012.⁷⁶

Participating in sport and cultural activities

Children have a right to participate in sport and culture, and public bodies should facilitate this. Results from the Taking Part survey of children in 2008-09 and 2012-13 show that more children are involved in arts activities, though levels of involvement in sport are slightly lower.⁷⁷

PARTICIPATING IN SPORTING ACTIVITIES (OVER A 4 WEEK PERIOD)



72 Play England (2013) Response to UK Government periodic report on UNCRC. http://www.playengland.org.uk/media/457042/131122_play_england_response_to_uk_government_draft_report_on_uncrc_final.pdf

73 Education Committee (2011) Services for young people: third report of session 2010-12, para.53. <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmeduc/744/744i.pdf>

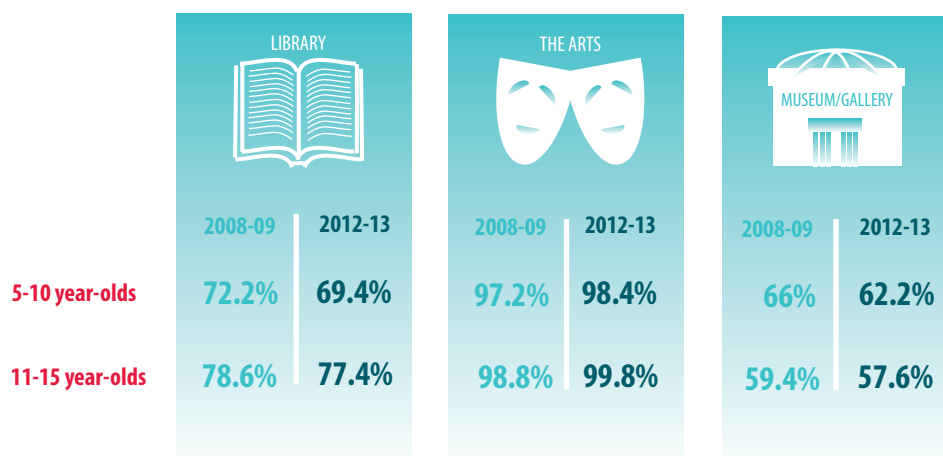
74 DfE (2014) Planned expenditure on schools, education and children's services. Table 1. <https://www.gov.uk/government/statistics/planned-expenditure-on-schools-education-and-childrens-services>

75 McCardle, L (2014) Youth funding and services cut. 22 July 2014, Children and Young People Now, pp.10-13. <http://www.cypnow.co.uk/cyp/analysis/1145500/youth-funding-services-cut-councils-overlook-legal-duty>

76 Unison (2014) The UK's youth services: how cuts are removing opportunities for young people and damaging their lives. <https://www.unison.org.uk/upload/sharepoint/On%20line%20Catalogue/22532.pdf>

77 DCMS (2014) Taking part: annual child report. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/231004/Taking_Part_Year_8_2012_13_Child_Report.pdf

PARTICIPATING IN CULTURAL ACTIVITIES (OVER THE YEAR)



Recommendations

- Set targets and introduce subsidies to encourage high quality early years settings to operate in disadvantaged areas
- Increase and protect investment in children's centres at central and local government level
- Require all early years staff to work towards a level 3 qualification to improve the quality of provision
- Develop school's understanding of and capacity to identify and support pupils' mental health needs through effective school-based mental health programmes
- Make PSHE a statutory entitlement for pupils in all state-funded schools
- Include the UNCRC in human rights education in schools at all levels
- Ensure all pupils have access to careers guidance and support throughout their time at school
- Require all state-funded schools to invite and consider pupils' views
- Place a duty on local authorities to provide a universal youth service

7

IMMIGRATION, ASYLUM AND CHILD TRAFFICKING

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

ARTICLE 20 - Children separated from their family should be well cared for.

ARTICLE 22 - Children who are seeking refugee status are entitled to special protection and the other UNCRC rights.

ARTICLE 32 - States Parties should protect children from economic exploitation, and any harmful work.

ARTICLE 34 - States Parties must protect children from all forms of sexual exploitation and abuse.

ARTICLE 35 - States Parties should make sure children are not abducted, sold or trafficked.

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

Optional Protocol to the UNCRC on the sale of children, child prostitution and child pornography

States Parties shall prohibit the sale of children, child prostitution and child pornography, recognise the vulnerability of child victims, protect their privacy, provide support and ensure their safety.

What does the Convention say?

Asylum-seeking children and child refugees are entitled to special protection and all the other rights in the UN Convention of the Rights of the Child (UNCRC). They must not be the victims of discrimination or stigmatisation. If they arrive unaccompanied by any parents or other family members, they should be well cared for. They should not be deprived of their liberty.¹

Unaccompanied asylum-seeking children are particularly vulnerable to trafficking, and economic and sexual exploitation. Governments should take every measure to prevent child trafficking, and protect all children from exploitation. They should assist child victims - not penalise them - and help them recover and reintegrate into society.

In 2008, the UN Committee on the Rights of the Child highlighted its concern about a number of areas relating to asylum, immigration, trafficking and the exploitation of children. Among these, it recommended that the UK Government:

- Use detention as a measure of last resort, for the shortest appropriate period of time
- Consider the appointment of guardians to unaccompanied asylum-seeking children
- Give the benefit of the doubt to children in age dispute cases, and seek guidance from experts when determining age
- Ensure that children involved in sexual exploitation and abuse are always considered as victims of crime in need of support, not as offenders
- Ensure child protection standards for trafficked children meet international standards

In 2014, the UN Committee on the Rights of the Child responded to the UK Government's initial report on its implementation of the Optional Protocol to the UNCRC on the sale of children, child prostitution and child pornography,² recommending that the Government:

- Make sure that unaccompanied asylum-seeking children, irregular migrant children and child victims of trafficking receive special protection and care, and that they are provided with safe and adequate accommodation
- Focus on the particular vulnerabilities and needs of child victims through the Modern Slavery Bill and other legislation
- Strengthen the capacity of law-enforcement authorities and judiciary to detect and prosecute trafficking of children for labour, sexual and other forms of exploitation
- Establish a clear non-prosecution principle in the criminal justice system for child victims of offences
- Appoint a competent and statutory guardian to safeguard the best interests of child victims

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.

Children seeking asylum can arrive alone, with their families, or with other adults. If they arrive in the care of adults, the adult can be the main applicant for asylum or the child can claim in their own right.

¹ UN Committee on the Rights of the Child (2005) General comment no.6 on the treatment of unaccompanied and separated children outside their country of origin.

² UN Committee on the Rights of the Child (2014) Concluding observations on the report submitted by the United Kingdom of Great Britain and Northern Ireland under article 12, paragraph 1, of Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. <http://www.equalityhumanrights.com/sites/default/files/uploads/UN%20Convention%20on%20rights%20of%20the%20child.pdf>

Care for unaccompanied asylum-seeking children

Asylum applications by unaccompanied children make up around five percent of the total number of asylum claims. Unaccompanied asylum-seeking children have a human right to be properly cared for and to be protected against harm. Under the UNCRC, their best interests must always be a primary consideration, and this takes precedence over immigration considerations. The UN High Commissioner for Refugees (UNHCR) has issued guidance on determining the best interests of a child, including unaccompanied children.³

In 2005, the UK Government placed a duty on immigration enforcement officials to safeguard and promote the welfare of children under the Borders, Citizenship and Immigration Act 2005,⁴ and in 2008 removed its immigration reservation to the UNCRC. All cases involving unaccompanied children should be referred to the Refugee Council's Panel of Advisers, which is contracted to support to child applicants.⁵

The Office of the Children's Commissioner has investigated the initial interview process for asylum-seeking children and found it was being used inappropriately, submitting tired and frightened children who were without support or legal representation to questions that could be used later to assess the validity of the child's asylum claim.⁶ In a 2013 review of how asylum applications made by children are handled, the Independent Chief Inspector of Borders and Immigration⁷ found that, despite some good practice:

- Staff failed to notify the Refugee Council's Children's Panel within 24 hours of a child claiming asylum
- Decisions were not always based on the best interests of the child
- There was no attempt made to trace the child's family in the majority of cases sampled
- Appropriate adults were not always present at interviews and the information provided on the asylum process was not always clear

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Age assessment and age disputes

Children claiming asylum may arrive without any identity papers to prove their date of birth or may have been given false documentation which says they are adults. Age assessment is a contentious issue that determines what level of support an asylum-seeking child will receive. Being assessed a child means they will be considered a "child in need" and looked after by local authority children's services. If their age is disputed by immigration officials or the local authority, they can be treated as an adult, lose the additional protections available to children, have their application refused, be detained and removed from the UK.

Accurate age determination is notoriously difficult.⁸ It is Home Office policy that applicants without documentation whose age is unconfirmed should be given the benefit of the doubt and treated as children until an age assessment can be done, unless their appearance very strongly suggests they are adults.⁹ Nevertheless, in practice a significant proportion of unaccompanied asylum-seeking children are "age disputed" and treated as adults, thereby denying them important protections and access to children's services. This is a denial of their rights under the UNCRC.

For example, in 2010, 26 out of 36 children detained as adults with whom the Refugee Council worked were released after they had been assessed as children. In 2011, 22 out of 38 children detained as adults were released following intervention by the Refugee Council.¹⁰

3 UNHCR (2008) UNHCR guidelines on determining the best interests of a child. <http://www.unhcr.org/4566b16b2.pdf>

4 Borders, Citizenship and Immigration Act 2005, s.55. <http://www.legislation.gov.uk/ukpga/2009/11/section/55>

5 Home Office (2013) Processing an asylum application for a child. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257469/processingasylumapplication1.pdf

6 Matthews, A (2012) Landing in Dover: the immigration process undergone by unaccompanied children in Kent. http://www.childrenscommissioner.gov.uk/content/publications/content_556

7 Independent Chief Inspector of Borders and Immigration (2013) An Inspection into the Handling of Asylum Applications Made by Unaccompanied Children, February – June 2013. <http://icinspector.independent.gov.uk/wp-content/uploads/2013/10/An-Inspection-into-the-Handling-of-Asylum-Applications-Made-by-Unaccompanied-Children-FINAL.pdf>

8 Dorling K and others (2013) Happy birthday? Disputing the age of children in the immigration system. http://www.childrenslegalcentre.com/userfiles/file/HappyBirthday_Final.pdf

9 Home Office (2011) Assessing age. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257462/assessing-age.pdf

10 Dennis, J (2012) Not a minor offence: unaccompanied children locked up as part of the asylum system. http://www.refugeecouncil.org.uk/assets/0002/5945/Not_a_minor_offence_2012.pdf

UNACCOMPANIED ASYLUM SEEKING CHILDREN ¹¹	2008	2013
Total number of asylum applications	25,930	23,507
Number of unaccompanied children arriving in the UK	4,285 (16.5% of total applications)	1,174 (5% of total applications)
Number of age assessment completions	-	404
Number of age disputed cases	1,400	324

(In 2012, changes were made to the way in which these statistics were compiled, so the figures are not directly comparable).

The Home Office figures in the table are likely to be an under-estimate since they do not include children who, upon arrival, are simply treated as adults with no age assessment made, or children who approach a local authority without claiming asylum. In response to a Freedom of Information request from Coram Children's Legal Centre, 22 local authorities reported having conducted 697 age assessments over a 21-month period in 2011-12 - so the true annual figure is likely to be nearer 500 age assessments a year.¹²

Asylum decisions

Each child's best interests must be a primary consideration when the authorities make decisions about his or her asylum claim. In a recent inquiry on unaccompanied children, the Joint Committee on Human Rights found that immigration concerns are too often given priority over the best interests of the child.¹³ It recommended that the Government should evaluate the case for setting up a formal Best Interests Determination process.

If the child's asylum claim is refused, they have a right of appeal. If the claim is allowed, they may be given Refugee Status for five years or Humanitarian Protection for five years with review possible at the end of that period. If their application is rejected and there are no adequate reception arrangements in their country of origin, they will be granted "UASC leave", a form of limited leave to remain for 30 months or up to the point when the young person reaches the age of 17½.¹⁴ Children will be "looked after" by the local authority, though those aged 16 or more may be offered more limited support.¹⁵ As children approach 18, the local authority is responsible for working with them to prepare for an uncertain future. Having grown up in the UK, they have to wait, sometimes for months, for a decision to be made about whether or not they can stay. Once their discretionary leave is up, they have no official status. The requirement to report regularly to an immigration office recommences. Their stress levels are high and they are unable to plan for their future.¹⁶

Although the numbers of unaccompanied asylum-seeking children have fallen, the proportion being granted refugee status has increased, but the proportion of those refused asylum remains the same.

Each child's best interests must be a primary consideration when the authorities make decisions about his or her asylum claim. In a recent inquiry on unaccompanied children, the Joint Committee on Human Rights found that immigration concerns are too often given priority over the best interests of the child.

- 11 Home Office (2013) Immigration statistics, Oct to Dec 2013. Asylum tables. <https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2013/immigration-statistics-october-to-december-2013>
- 12 Dorling, K (2013) Happy birthday? Disputing the age of children in the immigration system. http://www.childrenslegalcentre.com/userfiles/file/HappyBirthday_Final.pdf
- 13 Joint Committee on Human Rights (2013) Human rights of unaccompanied migrant children and young people in the UK. First report of session 2013-14. <http://www.publications.parliament.uk/pa/jt201314/jtselect/jtrights/9/9.pdf>
- 14 Home Office (2014) Immigration Rules, Part 11. Asylum. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336950/Immigration_Rules_-_Part_11.pdf
- 15 DfE (2014) Care of unaccompanied and trafficked children: statutory guidance for local authorities on the care of unaccompanied asylum seeking and trafficked children. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/330787/Care_of_unaccompanied_and_trafficked_children.pdf
- 16 Matthews, A (2014) What's going to happen tomorrow? Unaccompanied children refused asylum. http://www.childrenscommissioner.gov.uk/content/publications/content_794

	INITIAL ASYLUM DECISIONS ON UNACCOMPANIED CHILDREN AGED 17 AND UNDER ¹⁷		INITIAL ASYLUM DECISIONS ON UNACCOMPANIED CHILDREN WHO HAVE REACHED THE AGE OF 18 ¹⁸	
	2008	2013	2008	2013
Refugee status	285 (10.7%)	238 (28.8%)	50 (7.1%)	50 (26.5%)
Humanitarian Protection	15 (0.6%)	4 (0.5%)	3 (0.4%)	4 (2.1%)
Discretionary leave	1,790 (66.9%)	388 (47.0%)	7 (1.0%)	4 (2.1%)
Family or private life	Data not available	18 (2.2%)	Data not available	2 (1.1%)
Refusals	585 (21.9%)	177 (21.4%)	644 (91.4%)	132 (70.2%)
Total	2,675	825	704	188

Families with dependent children

The number of children included in asylum applications is increasing, meaning more families with dependent children are seeking asylum in the UK.¹⁹ Under the UNCRC, children have a right to an adequate standard of living that can meet their basic needs; when their family cannot do so, they have a right to help from the government.

The number of children included in asylum applications is increasing, meaning more families with dependent children are seeking asylum in the UK.

A 2013 parliamentary inquiry into asylum support heard evidence of how the asylum system in the UK was failing to meet the safeguarding and welfare needs of families with dependent children, leaving some destitute; having to move at little notice; living in poor quality and sometimes unsafe accommodation; disrupting their child's education as they move from school to school; and exposed to hostile public opinion.²⁰

Asylum seekers cannot claim mainstream benefits, and in most cases are not allowed to work. Those whose claims are being considered receive accommodation and a weekly cash allowance worth: £72.52 for couples; £43.94 for lone parents over 18; £39.80 for young people aged 16 to 18; and £52.96 for children under 16.²¹ Families whose claim has been refused will still receive this support while they have dependent children. Parents who have had children after their claim was determined are not entitled to this support, but may be eligible for accommodation and a prepaid card (no cash) worth £35.39 a week to pay for food, clothing and toiletries. Pregnant women and new mothers get additional credit from eight weeks before the baby is due to six weeks following the child's birth.

These rates are well below the poverty line in the UK. In some cases, a family needs nearly three times as much as they currently receive on asylum support to be lifted out of poverty.²²

17 Home Office (2013) Immigration statistics, Oct to Dec 2013. Asylum tables. <https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2013/immigration-statistics-october-to-december-2013>

18 Home Office (2013) Immigration statistics. Op cit.

19 Home Office (August 2014) Immigration statistics. April to June 2014. Table as_04 <https://www.gov.uk/government/publications/immigration-statistics-april-to-june-2014/immigration-statistics-april-to-june-2014#asylum-1>

20 Teather, S and others (2013) Report of the Parliamentary inquiry into asylum support for children and young people. London: The Children's Society. http://www.childrensociety.org.uk/sites/default/files/tcs/asylum_support_inquiry_report_final.pdf

21 Immigration and Asylum Act 1999, Section 95

22 The Children's Society (2014) From persecution to destitution: section 95 asylum support. http://www.childrensociety.org.uk/sites/default/files/tcs/asylum_support_briefing_stats_july_2014_finaldraft.pdf

Clients of Refugee Action report being unable to afford to buy enough healthy food for their children and themselves, or essential items like clothing, shoes, toiletries and non-prescription medicine.²³ Public transport is too expensive to use. In April 2014, in a case brought against the Home Office by Refugee Action, the High Court ruled that the Home Secretary had acted unlawfully when she decided that asylum support levels met the essential living needs of asylum seekers.²⁴ In August, the Home Office announced that, following an internal review, it would not change the current level of support.²⁵

Immigration detention

In 2010, the government said it would end the detention of children, as recommended by the UN Committee on the Rights of the Child. Although the numbers have fallen, children are still being detained - the majority of them at Tinsley House Immigration Removal Centre or in Cedars pre-departure centre. These detentions should normally last for up to 72 hours but may, in exceptional circumstances and subject to ministerial authority, be extended for up to a total of seven days.

Barnardo's provides family support, social work and welfare services within Cedars pre-departure accommodation, and has recently reported on their experience of working with families there since the centre opened in 2011.²⁶ In the first two years of operation, approximately 80% of families spent less than 72 hours at Cedars.

IMMIGRATION DETENTION ^{27 28}	2009	2013
Numbers of children detained	1,120	203
Removed from the UK	Data not comparable	84
Granted leave to remain	-	3
Granted temporary admission	-	119
Age of child		
- Under 5	500	70
- 5 to 11	370	85
- 12 to 16	210	35
- 17	40	13

Separating children from their family

The UNCRC says that children should never be separated from their parents for the purposes of immigration control. They should only be separated if there is a welfare or safeguarding concern. However, current Home Office guidance allows for the temporary separation of a family as a result of disruptive behaviour where *'it is considered in the best interests of the children to be temporarily separated from their parent(s) in order to safely ensure the family's arrest and return'*.²⁹ This guidance also allows for families to be separated permanently, where this is considered *'proportionate and legitimate'*.³⁰

23 Refugee Action (2014) Briefing on Refugee Action's bring back dignity campaign. http://www.refugee-action.org.uk/assets/0001/0045/Briefing_on_support_rates_legal_challenge_April_2014.pdf

24 Refugee Action, R (On the Application Of) v The Secretary of State for the Home Department [2014] EWHC 1033 (Admin) (09 April 2014)

25 Brokenshaw, J (2014) Levels of support to asylum seekers provided by the Home Office. Letter 11 August 2014. http://www.migrantsrights.org.uk/files/news/Home_Office_asylum_support_letter.pdf

26 Barnardo's (2014) Cedars: two years on. http://www.barnardos.org.uk/16120_cedars_report.pdf

27 Home Office (2010) Control of immigration statistics United Kingdom 2009. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/116016/hosb1510.pdf

28 Home Office (2014) Immigration statistics, Oct to Dec 2013. Detention tables. <https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2013/immigration-statistics-october-to-december-2013>

29 Home Office (2014) Visa and immigration operational guidance: chapter 45 Families and Children. Section (b) Family returns process operational guidance, p.32. <https://www.gov.uk/government/publications/chapter-45-families-and-children>

30 Home Office (2014) Op cit. Section (c) Operational process outside of the FRP, p.8. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275019/chapter45outsidefrp.pdf

Since April 2013, it is no longer possible to get legal aid funding for non-asylum immigration cases, including children's cases.³¹ This means that families may not be able to challenge decisions by the Home Office to permanently separate them, even when these decisions are unlawful. Serious concerns have been raised by a number of organisations about the quality of Home Office decision-making in family cases, family separation, and the consequences of the legal aid cuts.³²

CRAE asked the Home Office for information on the number of requests made by immigration caseworkers to split asylum-seeking families, and how many of these requests were granted. The Home Office replied that it does not hold this data.

Use of force in immigration detention

All children have a right to be safe from violence. The UN Committee on the Rights of the Child states that restraint or force can only be used on a child when he or she poses an imminent threat of injury to him or herself or others, and only when all other means of control have been exhausted.

In February 2013, the Home Office reinstated its policy that immigration staff must not use force against pregnant women or children, except to prevent harm.³³ Under Freedom of Information law, CRAE asked the Home Office for details of how often force was recorded as being used on children and young people under 18 in immigration detention. Although it was being used in 2008, there are no recorded cases of force being used on children in 2013.

USE OF FORCE ON CHILDREN UNDER 18 IN IMMIGRATION DETENTION	TOTAL NUMBER OF INCIDENTS INVOLVING CHILDREN UNDER 18		NUMBER OF DETAINEES UNDER 18 ON WHOM FORCE WAS USED		NUMBER OF INCIDENTS PER CHILD UNDER 18	
	2008	2013	2008	2013	2008	2013
Immigration removal centres	4	0	3	0	2	0
Short-term holding facilities	0	0	0	0	0	0

The Independent Family Returns Panel has recommended that the Home Office should reconsider its strict limitations on the use of force on children in order to facilitate their removal from the UK.³⁴ The Home Office has accepted the recommendation of the Independent Family Returns Panel.³⁵ This would breach the UNCRC.

Since April 2013, it is no longer possible to get legal aid funding for non-asylum immigration cases, including children's cases. This means that families may not be able to challenge decisions by the Home Office to permanently separate them, even when these decisions are unlawful.

- 31 Legal Aid, Sentencing and Punishment of Offenders Act 2012. <http://www.legislation.gov.uk/ukpga/2012/10/contents/enacted>
- 32 Bail for Immigration Detainees (2013) Fractured childhoods: the separation of families by immigration detention. <http://www.biduk.org/162/bid-research-reports/bid-research-reports.html>
- Bail for Immigration Detainees (2014) BID response to Justice Select Committee Inquiry: impact of changes to civil legal aid under the Legal Aid, Sentencing and Punishment of Offenders Act 2012. <http://www.biduk.org/942/news/bid-responds-to-justice-committee-inquiry-on-legal-aid-cuts.html>
- Barnardo's (2014) Cedars: two years on. http://www.barnardos.org.uk/16120_cedars_report.pdf
- UNHCR (2013) Considering the best interests of a child within a family seeking asylum. http://www.unhcr.org.uk/fileadmin/user_upload/docs/UNHCR-Best_Interest-screen.pdf
- 33 Home Office (2013) Enforcement instructions and guidance, chapter 45: families and children, para.13.1 and 13.2. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335007/Ch45_a__v3_Ext__20140716.pdf
- 34 Independent Family Returns Panel (2013) Annual report, 2012-2014, Recommendation 4. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/360431/Independent_Family_Returns_report_2012_to_2014.pdf
- 35 Home Office (2014) The Home Office response to the Independent Family Returns Panel report 2012 to 2014. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/360432/Home_Office_response_-_report_2012_to_2014.pdf

Undocumented migrant children

There are around 120,000 undocumented children in the UK,³⁶ who do not have leave to enter or remain in the UK. Their parents may have an irregular immigration status; they may have arrived alone and never applied for asylum; they may be privately fostered; they may be lost in the backlog of immigration case files; or they may be trafficked children. Many young people who arrived as children and claimed asylum may find themselves “unlawfully in the UK” after their leave to remain is not extended. Often their applications have not been properly considered due to poor quality legal representation, poor quality Home Office decision-making, a lack of adherence to guidance by Home Office decision-makers, and a “culture of disbelief” within the Home Office. Following the Legal Aid, Sentencing and Punishment of Offenders Act 2012, the vast majority of children cannot access legal aid for immigration claims.

These children have the same rights under the UNCRC as all children do in the UK, including a right to housing (Article 27), a right to education (Article 28), and a right to health care (Article 24). In practice, however, they and their families find it hard to find a safe and secure place to live, access further education, get hospital treatment, or register with a GP.³⁷ Under the Immigration Act 2014, private landlords must check the immigration status of new tenants, and may not rent property to adults who require leave to enter or remain in the UK. Health providers may charge migrants for their health care.³⁸

Child trafficking

Children can be trafficked to the UK from other countries, or from within the UK to other parts of the country. In accordance with the Council of Europe Convention on Action against Trafficking in Human Beings, the UK has set up a National Referral Mechanism (NRM) to identify victims of trafficking and ensure they receive the appropriate care.³⁹ In 2013, 362 children were referred to the National Referral Mechanism.⁴⁰ The nature of trafficking means that the statistics are unreliable, and it is likely that there are many more trafficked children who are not known to the authorities. The Home Office is currently reviewing the National Review Mechanism to establish whether it is fit for purpose - specifically whether it is able to support and identify victims of trafficking.⁴¹

Most children are trafficked for financial and/or personal gain. Some have been abducted, some bound through family debt, some groomed by their exploiters. These exploiters control them through violence, make threats against their families, confiscate personal items including anything that can identify them, keep them socially isolated, and deprive them of money.⁴² Children are exploited in a number of ways, including underage forced marriage and benefit fraud. “Labour” can refer to working in sweatshops or cannabis farms, or being coerced into begging or selling drugs for the adults who control them.

TYPE OF CHILD EXPLOITATION IN 2013 ⁴³	FEMALE	MALE	TOTAL
Labour	33	90	123
Domestic servitude	37	8	45
Sexual exploitation (non-UK national)	78	10	88
Sexual exploitation (UK national)	50	6	56
Unknown	69	69	138

36 Sigona, N and Hughes, V (2012) No way in, no way out: irregular migrant children and families in the UK. Oxford: COMPAS, University of Oxford http://www.compas.ox.ac.uk/fileadmin/files/Publications/Reports/NO_WAY_OUT_NO_WAY_IN_FINAL.pdf

37 Dorling, K (2013) Growing up in a hostile environment: the rights of undocumented migrant children in the UK. Coram Children’s Legal Centre. http://www.childrenslegalcentre.com/userfiles/Hostile_Environment_Full_Report_Final.pdf

38 Immigration Act 2014, s.22 and s.38. <http://www.legislation.gov.uk/ukpga/2014/22/part/3/chapter/1/crossheading/penalty-notice/enacted> <http://www.legislation.gov.uk/ukpga/2014/22/section/38/enacted>

39 DfE (2014) Care of unaccompanied and trafficked children: statutory guidance for local authorities on the care of unaccompanied asylum seeking and trafficked children. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/330787/Care_of_unaccompanied_and_trafficked_children.pdf

40 National Crime Agency (2014) UN Human Trafficking Centre National Referral Mechanism statistics 2013. <http://www.nationalcrimeagency.gov.uk/publications/139-national-referral-mechanism-statistics-2013/file>

41 Home Office (2014) Interim review of the National Referral Mechanism for victims of human trafficking. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/360482/Interim_review_of_the_NRM_for_victims_of_human_trafficking.pdf

42 London Safeguarding Children Board (2011) London safeguarding trafficked children guidance. http://www.ecpat.org.uk/sites/default/files/london_safeguarding_trafficked_children_guidance_feb_2011.pdf

43 National Crime Agency (2013) UK Human Trafficking Centre: National Referral Mechanism Statistics 2013

In July 2014, the Home Office launched a public awareness campaign to help free the UK from modern slavery, including child victims who have been trafficked and are being exploited.⁴⁴ The Modern Slavery Bill,⁴⁵ currently being debated in Parliament, introduces new offences for slavery, servitude, and forced or compulsory labour; and for human trafficking. However, it does not include a separate offence of child exploitation. Nor does it satisfy the recommendation from the UN Committee on the Rights of the Child that there be a clear non-prosecution principle in the criminal justice system for child victims of trafficking and exploitation offences. Similarly, Article 26 of the Council of Europe Convention on Action Against Trafficking in Human Beings, recommends that States *'provide for the possibility of not imposing penalties on victims'* who have been compelled to be involved in unlawful activities.⁴⁶

Trafficked children have been deprived of almost every right: the right to an identity, to health, to education, to be safe, to be free - and are unlikely to be aware that they even have rights. When identified, they need to be supported through child protection services. This support is often compromised by their uncertain immigration status.⁴⁷

One clear recommendation from the UN Committee on the Rights of the Child is for governments to provide independent legal guardians for unaccompanied and separated children, including those who have been trafficked. A successful guardianship scheme has been piloted in Scotland.⁴⁸ Instead, the Home Office is trialling a child advocacy service across 23 local authority areas to help child victims of trafficking negotiate their way through the children's services, criminal justice and immigration systems.^{49 50} If the trial proves successful, the Modern Slavery Bill has an enabling power that could lead to the national roll-out of the child advocacy service.

Recommendations

- A child or young person's age must only be assessed via a specialist, multi-agency, holistic approach, involving paediatricians, social workers, teachers, advocates and other support workers
- A durable status should be provided for all unaccompanied and separated children
- All unaccompanied and separated asylum seeking and migrant children should be allocated a legal guardian, who is independent of the Home Office and the local authority, to make decisions with the child, that are in their best interests
- Children should never be separated from their parents for the purposes of immigration control
- Statistics should be published on the numbers of children separated from parents for the purposes of immigration control by detention, removal and deportation
- Unaccompanied and separated children in asylum and all other judicial or administrative proceedings should have free legal representation
- A consistent and comprehensive multi-agency approach to assessing the best interests of separated children should inform a child's immigration decision and all other decisions throughout the process
- Children should no longer be detained for immigration purposes
- The level of asylum support should be raised
- A new child exploitation offence should be introduced
- The National Referral Mechanism should be reformed

44 Modern slavery campaign site. <https://modernslavery.co.uk/index.html>

45 Modern Slavery Bill. <http://www.publications.parliament.uk/pa/bills/cbill/2014-2015/0096/15096.pdf>

46 Council of Europe Convention on Action Against Trafficking in Human Beings. <http://conventions.coe.int/Treaty/en/Treaties/Html/197.htm>

47 Franklin, A (2013) Still at risk: a review of support for trafficked children. London: The Children's Society. http://www.childrenssociety.org.uk/sites/default/files/tcs/still_at_risk_-_full_report_-_refugee_council_the_childrens_society.pdf

48 Crawley, H and Kohli, R (2013) She endures with me: an evaluation of the Scottish Guardianship Service pilot. Swansea University and University of Bedfordshire. <http://www.scottishrefugeecouncil.org.uk/guardianship>

49 Bradley, K (2014) Charity to provide specialist support for child victims of trafficking. Home Office press release 4 June 2014. <https://www.gov.uk/government/news/charity-to-provide-specialist-support-for-child-victims-of-trafficking>

50 Lord Bates (2014) Human trafficking: children. House of Lords Hansard, 14 October 2014, WA36. <http://www.publications.parliament.uk/pa/ld201415/ldhansrd/text/141014w0001.htm>

8

CRIMINAL JUSTICE SYSTEM

ARTICLE 37 - (a) No child shall be subjected to cruel, inhuman or degrading treatment or punishment. Young people who commit offences should not be imprisoned for life.

(b) The arrest, detention or imprisonment of a child shall be used only as a last resort and for the shortest appropriate period of time.

(c) Every child deprived of liberty shall be treated with humanity, and in a manner which takes into account his or her needs. Children should be kept separate from adult prisoners. They have the right to maintain contact with their family.

(d) Every child deprived of his or her liberty shall have the right to prompt legal advice.

ARTICLE 40 -

1. Children who are accused of, or recognised as having broken the law shall be treated in a manner consistent with their sense of dignity and worth and which takes into account the desirability of promoting the child's reintegration into society.

2. Children's privacy must be respected at all stages of the proceedings.

3. States Parties shall establish a minimum age of criminal responsibility.

4. A variety of alternatives to custody must be available to ensure that children are dealt with in a manner appropriate to their wellbeing.

What does the Convention say?

Children in conflict with the law are children first. Article 40(3) of the UN Convention on the Rights of the Child (UNCRC) recognises this, making it clear that, wherever possible, children should be dealt with outside the criminal justice system. Generally, a welfare response suited to the child's individual needs and circumstances can better address the underlying causes of the behaviour that first brought the child to the attention of criminal justice agencies.

When children enter the criminal justice system, they have a right to fair treatment and legal representation. They should not be subjected to any punishment that is cruel, inhuman or degrading. They should only be detained or imprisoned as a last resort and for the shortest possible time. Institutions where children are detained should treat them in a manner which takes into account their age, capacity and individual needs.

The UN Committee on the Rights of the Child recommends that children in conflict with the law are treated in a juvenile justice system separate from the adult system. The Committee goes on to say that children's physical and psychological development and their emotional and educational needs justify this different treatment, and that the juvenile justice system needs to ensure that all the child's rights under the UNCRC are being met.¹

A comprehensive juvenile justice policy requires:

- Prevention of offending
- Out of court interventions
- Fair trials for those who go to court
- Custodial provision only as a measure of last resort
- Rehabilitation and reintegration

All interventions must be designed to address the needs, and delivered in the best interests of the child.

In 2008, the UN Committee on the Rights of the Child highlighted its concern about a number of areas relating to children in contact with the criminal justice system in the UK. Among these, it recommended that the UK Government:

- Implement international standards of juvenile justice
- Introduce automatic, independent and public reviews of any unexpected death or serious injury involving children in custody
- Raise the minimum age of criminal responsibility
- Develop a range of alternative measures to custody
- Place in statute the principle of using custody as a measure of last resort and for the shortest possible period of time
- Ensure that children in conflict with the law are always dealt with in the juvenile justice system
- Adopt measures to protect the rights and interests of child victims or witnesses of crime

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.

Context

Overall levels of youth offending and the number of children reporting they are victims of crime have both fallen sharply since 2008, when the UK Government last reported to the Committee on the Rights of the Child. As the overall rates of offending have fallen, the children who remain in the system tend to be those with the most complex needs, requiring higher levels of support. The majority of young people who offend commit minor offences.

¹ UN Committee on the Rights of the Child (2007) General comment on children's rights in juvenile justice

Age of criminal responsibility

The age of criminal responsibility is the point at which a child can be legally prosecuted for a crime. In England, children can be criminalised from the age of 10. The UN Committee on the Rights of the Child has consistently recommended that the UK Government should increase the minimum age of criminal responsibility and, instead, implement a welfare-based and child-rights oriented approach to children's problematic behaviour, that prevents them from entering the criminal justice system. The UK Government has refused: *'The UK Government believes that children aged 10 are able to differentiate between bad behaviour and serious wrongdoing and it is right that they should be held accountable for their actions.'*²

First time entrants to the youth justice system

The UN Committee on the Rights of the Child recognises that children should not be inappropriately criminalised. Contact with the criminal justice system can be harmful for children, and evidence suggests that formal contact with criminal justice agencies can increase the risk of reoffending. It is important to look at the number of children who are entering the criminal justice system for the first time because children who have not previously been involved should, where possible, be diverted from that system and dealt with through other means.

The numbers and proportion of young people being arrested, and the numbers entering the youth justice system have fallen since 2008-09. A national target to reduce the number of first time entrants to the youth justice system was introduced in 2008 and has remained in place since. However, first time entrants still do form a sizeable proportion of those who come into contact with the youth justice system - 38% in 2012-13. Reducing the number of these children will have a significant impact on the total number of children subject to criminal sanctions.

	2008-09	2012-13
Arrests	235,625 17% of all arrests ³	126,809 11.8% of all arrests ⁴
First time entrants into the youth justice system	79,260 ⁵	27,854 ⁶

Diversion and out of court disposals

Children in conflict with the law have the right to be treated in a way that promotes their rehabilitation, in most cases this means dealing with them outside of the criminal justice system. However, children diverted from the system must understand and freely agree to what is being proposed; be given the opportunity to seek legal or other advice; and have no criminal record as a result of the "diversion".

In England, "diversion" can refer to police diverting children from the youth justice system to more suitable support which could involve employment, mental health services, family support, social care, substance misuse or special educational need services – informal diversion. It can also refer to diversion from court through formal pre-court mechanisms i.e. cautions. The availability of these programmes varies from police force to police force, and local area to local area - and the use of informal diversion is not systematically recorded by the police or in Youth Justice Board statistics. However, it is likely that these non-criminal alternatives have played a part in lowering the numbers of children entering the youth justice system.⁷ This is to be welcomed.

2 HM Government (2014) The fifth periodic report to the UN Committee on the Rights of the Child: United Kingdom. <http://www.equalityhumanrights.com/sites/default/files/uploads/Pdfs/The%20UK's%20Fifth%20Periodic%20Review%20Report%20on%20the%20UNCRC.pdf>

3 Home Office (2011) Police powers and procedures England and Wales 2009/10. Table 1.02. <https://www.gov.uk/government/statistics/police-powers-and-procedures-england-and-wales-2009-to-2010>

4 Home Office (2014) Police powers and procedures England and Wales 2012 to 2013. Table A_03. <https://www.gov.uk/government/publications/police-powers-and-procedures-england-and-wales-2012-to-2013/police-powers-and-procedures-england-and-wales-2012-to-2013#arrests>

5 Youth Justice Board (2010) Youth justice annual workload data 2008/9, England and Wales

6 Youth Justice Board (2014) Youth justice statistics, 2012/13, England and Wales

7 Ibid.

However, the right to have no criminal record as a result of diversion is not being met. Formal diversions, which are recorded, have significant implications. For example, cautions will appear on a child's record when they are being checked for Disclosure and Barring Service purposes,⁸ which could affect their chances of future employment in some professions, undermining a child's chance of rehabilitation.

In April 2013, the youth caution replaced reprimands and final warnings for young people. Previously, police could deal with only two offences by way of a pre-court disposal before being required to prosecute a child. Under the new system, an unlimited number of cautions can be issued. Since 2008-09, the numbers of out of court disposals have fallen, but have not fallen as quickly as the rate at which children enter the criminal justice system. This suggests that a higher proportion of children are dealt with via pre-court disposals.

OUT OF COURT DISPOSALS	2008-09	2012-13
Number of reprimands/final warnings given to children 10-17 years-old	75,128	30,778

Treatment by the police

Children's rights mean that all those under-18 must be treated as children when in contact with the criminal justice system. This means they should be kept separate from adults, their parents or another appropriate adult should be contacted, and they should not spend the night in police accommodation. An anomaly means that 17 year-olds are not treated as children in many respects – they will not be diverted out of police custody to local authority accommodation over night, their parents will not be present during strip-searching and, until recently, their parent or another appropriate adult would not even be contacted. An inquiry by a cross-party group of parliamentarians found that many police stations do not have separate cells for children.⁹

See the chapter on Civil Liberties for information in relation to the police use of stop and search, strip-searching and Tasers on children.

See the chapter on Health for information in relation to police contact with children who are mentally ill.

The courts

The UNCRC says that children should be dealt with in a discrete justice system, adapted to their circumstances and needs, in recognition of the fact that they are more vulnerable than, less culpable than and have different needs and capacities from adults. In its General Comment on juvenile justice, the UN Committee on the Rights of the Child recommends that all those working with children in the criminal justice system should be trained in child development and in the particular needs of vulnerable children.¹⁰ Children have a right to be heard and/or represented in any judicial or administrative proceedings. The way in which court proceedings are conducted should be adapted so children can effectively participate and understand the discussions and decisions being made.

England and Wales introduced a discrete juvenile justice system in 1908, and the current system was introduced under the Crime and Disorder Act 1998. Local Youth Offending Teams (YOTs) were established in 2000. The vast majority of cases involving children are heard in the youth court. They are presided over by a panel of three specially trained lay magistrates - members of the public – or by professional district judges. Proceedings are intended to be relatively informal, hearings are closed to the public and there is a presumption that reporting restrictions should apply. More serious offences - grave crimes – are heard in the Crown Court where there are no automatic reporting restrictions protecting the child's privacy. Children also appear in the Crown Court when they are co-defendants with adults. Proceedings in Crown Court are more formal, and ill-adapted to a child's level of understanding and maturity.

⁸ Lord Carlile of Berriew, Chair, and others (2014) *Independent parliamentarians' inquiry into the operation and effectiveness of the youth court*, p.13. London: National Children's Bureau. http://www.ncb.org.uk/media/1148432/independent_parliamentarians_inquiry_into_the_operation_and_effectiveness_of_the_youth_court.pdf

⁹ All Party Parliamentary Group for Children (2014) "It's all about trust": Building good relationships between children and the police

¹⁰ UN Committee on the Rights of the Child (2007) *Children's rights in juvenile justice*

A cross-party group of parliamentarians published an independent inquiry into the youth court in 2014, in response to concerns that criminal courts are not an effective means of responding to youth offending.¹¹ It found:

- Child defendants, families, victims and witnesses are having to travel longer distances to court hearings, often at considerable cost
- Youth court closures and opening hours have led to more children appearing in adult magistrates courts
- Those appearing in adult court are sharing transport, custody suites and waiting rooms with adult defendants
- Too many criminal justice practitioners, including Crown Court judges and defence lawyers, have no training in working with young people, and even youth court judges are spending more time in adult courts, resulting in a loss of specialism. This can mean lawyers fail to take opportunities to divert children out of the court and to identify where a child is unable to participate in proceedings
- Youth courts are seeing more children with complex needs, and are ill-equipped to identify or address these
- Too many child defendants are unable to understand court language or follow the proceedings in which they are involved. There are inadequate mechanisms in the youth court if a child is unable to effectively participate. For example, while vulnerable child witnesses have the right to an intermediary, vulnerable child defendants do not.
- Too many child defendants are appearing in court without a parent present, and children in care have no social worker accompanying and supporting them
- Fewer YOTs include secondees from children's services, education, health and housing, leading to a diminution in integrated working and failure to address the multiple needs of the child

Some of these findings - children appearing in adult court; contact with adult defendants; the failure to ensure all those involved in children's cases have the appropriate training; children being unable to understand what is happening in court - are clear breaches of the UNCRC.

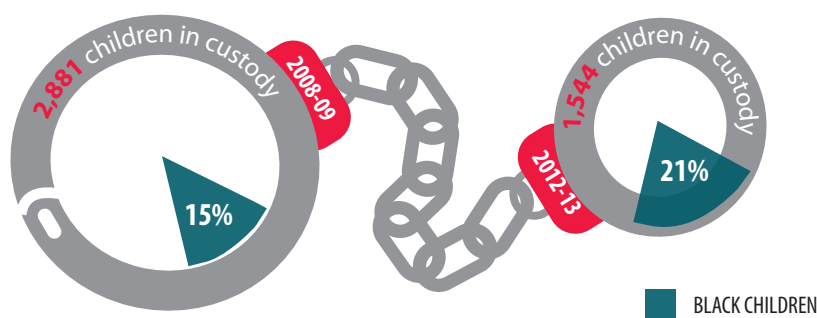
See also Civil Liberties in relation to children's privacy rights in court.

Sentencing

The sentences given to children in contact with the criminal justice system should be proportionate, and should promote their reintegration into society. The UNCRC states that children detained in custody must be separated from adults, and that custody should only be used as a last resort for children. The total number of sentences given to children has fallen as the overall number of children in the youth justice system has fallen, but the fall in those sentenced to custody has fallen at a faster rate. There has, therefore, been a significant reduction in the number of children in custody.

However, black children are hugely over-represented in the custody population, and this disproportionality has increased as overall custody numbers have gone down.

NUMBER OF CHILDREN IN PRISON CUSTODY (AVERAGE)



Changes under the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act were intended to ensure that children are only remanded to custody as a last resort, but have not brought down the number of children in prison on remand as much as had been hoped. Sixty percent of those children placed in custody on remand were not later given a custodial sentence.

CUSTODIAL SENTENCES	2008-09	2012-13
Custodial sentences	6,720	2,780
Remanded to custody	5,504 (12% of total remands)	1,900 (8% of total remands) 61% were not given a custodial sentence after their remand episode 22 % of average population were on remand
Average number in custody	2,881	1,544
Total custodial population	96% male 66% white 15% black	95% male 59% white 21% black

HMI Prisons undertakes an annual survey of boys in YOIs,¹² which provides some insights into the levels of need they bring in with them; the kinds of issues they face whilst inside; and their concerns about the support available following release. The 2012-13 survey shows:

- 33% had been in local authority care
- Nine out of 10 had been excluded from school, and more than one-third had not been at school since they were 14
- 19% said they had emotional or mental health problems
- 10% said they had a problem with alcohol
- 34% said they had a problem with drugs

A report by the Children's Commissioner found that between 23% and 32% of the children in custody have a generalised learning disability, compared with between two and four percent in the general population.¹³ In a report on the health and human rights of children in custody, the British Medical Association said:

Every child in the UK is born with an equal right to the conditions necessary for good physical, psychological, and emotional health and wellbeing. Tragically, this is not always realised, not least for the thousands of children and young people who come into contact with the criminal justice system in the UK every year. Children and young people who offend are amongst the most vulnerable and disadvantaged members of our society.¹⁴

Children's prisons

Where children are in custody, they should be detained in an establishment which is small and home-like which is close to family and friends, provided with the support and services they need and kept safe and well.

There are three types of custodial establishments in England and Wales that contain young people under 18: young offender institutions (YOIs), secure training centres (STCs), and secure children's homes (SCHs).

¹² Kennedy, E (2013) Children and young people in custody 2012-13. HMI Prisons/Youth Justice Board. <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/summaries-of-juvenile-survey-responses/hmip-children-young-people-in-custody-12-13.pdf>

¹³ Office of the Children's Commissioner (2012) Nobody made the connection: the prevalence of neurodisability in young people who offend

¹⁴ British Medical Association (2014) Young lives behind bars: The health and human rights of your people detained in the criminal justice system

YOIs are run under Prison Service standards and rules, and there are seven in England and Wales. There are four STCs in England which are run by private companies; one STC (Rainsbrook) has a mother and baby unit. There are nine SCHs which take children sentenced to custody. These are run by local authorities. Experts agree that SCHs, which are smaller, offer more intensive support and allow better relationships to develop between children and staff, are better suited to meeting the needs of children in custody. The majority of young people sentenced to custody are 17 year-old males, most of whom are placed in YOIs. Younger or more vulnerable children, and girls, are currently placed in either STCs or SCHs. Children are not always in separate facilities from adults – Hindley Prison is a “split site” prison, holding both older boys aged 15-17 years-old and 18-21 year-olds, in separate units.

The government is proposing a new type of custodial institution, called a Secure College, the first of which is due to open in 2017. It will have 320 beds, and hold girls and boys between 12 and 17 years of age. The UN Rules for the Protection of Juveniles Deprived of their Liberty say that secure institutions for children should be small-scale and *‘the number of juveniles detained in closed facilities should be small enough to enable individual treatment’*.¹⁵ The Joint Committee on Human Rights has expressed serious reservations about the compatibility of the government’s plans with international human rights standards, and raised concerns about the failure to assess the impact on girls and younger children of being detained with so many older boys, the implications for children’s family rights of being detained in an institution far away from home and the proposals for use of force in secure colleges.¹⁶

PROPORTION OF PLACEMENTS IN CUSTODIAL ESTABLISHMENTS	2008-09	2012-13
Young offender institutions (YOIs)	85%	74%
Secure training centres (STCs)	8%	16%
Secure children’s homes (SCHs)	7%	9%

Conditions in prison

Under the UNCRC, children can be deprived of their liberty as a last resort, but do not lose their other human rights, such as food, education, health care, religious observance and family contact. Children should not be deprived of these basic rights by way of punishment when in prison.

Family and carers

Every child deprived of liberty has the right to maintain contact with his or her family and/or carers through correspondence and visits. In order to facilitate visits, the child should be placed in a facility that is as close as possible to the place of residence of his or her family, unless this is not in their best interests.

Distance from home is one of a range of factors that is considered by placement officers in the Youth Justice Board when deciding where children should be held. However, the size of the custodial estate is shrinking as the numbers sentenced to custody diminish, which means that more children are likely to be placed further away from home. On 1 March 2013, the average distance from home for children in custody was 45.6 miles. If secure colleges go ahead, children will be placed in fewer larger establishments which are more likely to be further from home. The Joint Committee for Human Rights commented on this point, citing the government’s failure to take account of international standards that advocate decentralised institutions *‘to allow for children to continue having access to their families and their communities’*.¹⁷

15 UN General Assembly (1990) United Nations rules for the protection of juveniles deprived of their liberty. Rule 30. <http://www.un.org/documents/ga/res/45/a45r113.htm>

16 Joint Committee on Human Rights (2014) Legislative scrutiny: (1) Criminal Justice and Courts Bill and (2) Deregulation Bill. Fourteenth report of session 2013-14. <http://www.publications.parliament.uk/pa/jt201314/jtselect/jtrights/189/189.pdf>

17 Joint Committee on Human Rights (2014) op cit. para 1.53

In the HMIP survey of Young Offender Institutions, 79% of young men said they received visits, but only 37% reported that they had one or more visits from family or friends each week. Young women in custody were often detained in units which were a long way from home, and had problems contacting family on arrival. Forty-four percent reported having one or more visits per week.

Family visiting rights form part of the system of rewards and sanctions in place in children's prisons. If children are put on a "basic regime", because of poor behaviour, they will have the right to fewer family visits than others.

Education

Like all other children, children in custody have an right to education. Children in YOIs receive only 12 hours of education each week,¹⁸ STCs provide 25 hours each week and children in SCHs have 30 hours of education each week.¹⁹ There are, however, proposals to double the number of hours of education in YOIs.

Health

In a recent report, the BMA notes: *'Unlike patients in the community, prisoners are reliant on prison staff for almost every aspect of their day to day life, and accordingly, have an extremely limited ability to influence the various factors which affect their health'*.²⁰ The report notes that there is a lack of data about the health needs of children in the secure estate, but that which does exist suggests the children have significant health needs. The systems in place for accessing treatment, including the requirement for children to self-refer via a form which must be passed to non-medical staff and the regime which penalises those who miss education for doctor's appointments, may hinder children's access to health services and undermine confidentiality. The report notes that children's mental health needs are not being met.

The use of control and force in the secure estate

The UN Committee on the Rights of the Child has been clear that *'[a]ny disciplinary measure must be consistent with upholding the [child's] inherent dignity'* and that the following disciplinary measures must be strictly forbidden: *'corporal punishment, placement in a dark cell, closed or solitary confinement, or any other punishment that may compromise the physical or mental health or well-being of the child concerned'*.²¹ It is also clear that: *'Restraint or force can be used only when the child poses an imminent threat of injury to him or herself or others, and only when all other means of control have been exhausted'*.²² The UN Special Rapporteur on Torture has said that segregation should never be applied to children.²³

Although total numbers have gone down, with the exception of single separation incidents, proportionally, the use of force, levels of violence and rates of self-harm have risen.²⁴

- The number of Restrictive Physical Interventions (RPIs) per 100 young people increased by 45% between 2009-10 and 2012-13 (17.6 RPIs per 100 young people to 25.6 in 2012-13). 170 resulted in injury and in 5% of cases, this was a serious injury requiring hospital treatment
- The number of self-harm incidents per 100 young people increased by 5% in 2012-13 compared to 2009-10 (5.3 incidents per 100 young people to 5.5 incidents per 100 young people in 2012-13). Young women are more likely to self-harm than young men
- The number of assaults per 100 young people in custody increased by 22% between 2009-10 and 2012-13 (9.1 assaults per 100 young people compared to 11.1 in 2012-13)
- However, the number of single separation incidents per 100 young people in custody in STCs and SCHs decreased by 55% from 2009-10 to 2012-13
- Responses to a Freedom of Information Request submitted by CRAE suggested that there is limited data collected in relation to separation and segregation incidents in YOIs. However, the data provided showed that almost 10,000 children were segregated in YOIs between April 2013 and March 2014
- The use of strip-searching as a matter of routine, rather than in response to a suspicion, has been brought to an end in children's prisons, a huge step-forward for children's rights

18 Ministry of Justice (2014) Transforming Youth Custody: Government response to the consultation

19 Ministry of Justice (2014) Transforming Youth Custody

20 British Medical Association (2014) Young lives behind bars: The health and human rights of your people detained in the criminal justice system

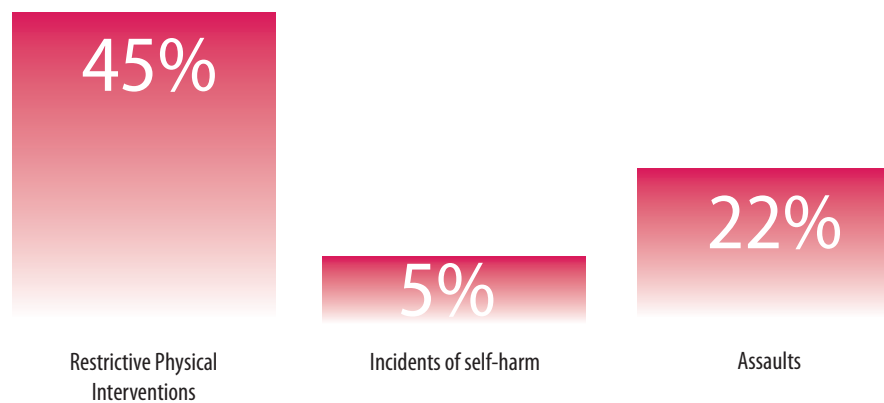
21 UN Committee on the Rights of the Child (2007) Children's rights in juvenile justice

22 Ibid

23 Special Rapporteur on Torture (2011) Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhumane or degrading treatment. A/66/268, para.86

24 Youth Justice Board (2014) op cit.

PERCENTAGE INCREASES IN PRISON ISSUES BETWEEN 2009-10 AND 2012-13



(Behaviour management data changed in 2008, so we are using 2009-10 figures to ensure comparability)

The new system of restraint for use in children's prisons, which is being rolled out across STCs and YOIs, still includes techniques which involve the deliberate infliction of pain on children, and one technique – the head hold technique – which was considered dangerous by the independent panel which reviewed the system.²⁵

In a recent report, the British Medical Association highlighted:

*The need to address, as a priority, practices in the secure estate – including the use of restraint, force and segregation – which are detrimental to health and wellbeing. Longer term, we call upon the government to carry out an in-depth review of the youth secure estate with a view to exploring more welfare-based alternatives to custodial detention.*²⁶

Keeping children safe and well

The UN Rules for the Protection of Juveniles Deprived of their Liberty is clear that the state must keep children in prison safe and promote their physical and mental well-being.²⁷ Children should only be detained in conditions which take full account of their particular needs, circumstances and requirements.²⁸ In 2008, the UN Committee on the Rights of the Child recommended that the government introduce automatic, independent and public reviews of any unexpected death or serious injury involving children in custody.²⁹

Since 2008, three young men have died in custody: 17 year-old Ryan Clark, 17 year-old Jake Hardy, and 15 year-old Alex Kelly - two of them on remand; two were victims of bullying. Two of the boys had been in public care, and one had a statement of special educational needs for ADHD.³⁰ All these deaths occurred in YOIs.

In February 2014, the Justice Secretary announced an independent inquiry into deaths in prison, but decided that this would not include the deaths of young people under the age of 18.³¹ Inquest has challenged this decision, arguing that '*current mechanisms do not allow for collective lessons to be drawn from an aggregated understanding based on multiple cases*.'³²

The Youth Justice Board has published its own "lessons learned" report on child deaths in custody,³³ in which it identifies areas where improvement is needed: support and outcomes for children in care; effective practice to tackle bullying and violence in the secure estate; information sharing with professionals and the families of young people in custody; better identification of those at risk of self-harm or suicide; and prioritising safety in the new

25 Restraint Advisory Board (2011) Assessment of Minimising and Managing Physical Restraint for children in the secure estate

26 British Medical Association (2014) op cit.

27 UN General Assembly (1990), Rule 1

28 Ibid, Rule 28

29 UN Committee on the Rights of the Child (2008) Concluding observations: United Kingdom of Great Britain and Northern Ireland

30 Prisons and Probation Ombudsman for England and Wales (2013) Child deaths: learning from PPO investigations into three recent deaths of children in custody Learning lessons bulletin, March 2013. http://www.ppo.gov.uk/wp-content/uploads/2014/07/LLB_FIL_03_Child_deaths.pdf#view=FitH

31 Grayling, C (2014) Deaths in custody. House of Commons Hansard, 6 Feb 2014. Col.35-36WS. <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140206/wmstext/140206m0001.htm#1402065900008>

32 Inquest (2014) The deaths of children in custody: the need for an independent review, p.4. http://inquest.gn.apc.org/pdf/briefings/INQUEST_Briefing_on_deaths_of_children_and_young_people_in_prison_JAN_2014.pdf

33 Youth Justice Board (2014) Deaths of children in custody: action taken, lessons learned. <http://www.justice.gov.uk/downloads/youth-justice/monitoring-performance/deaths-children-in-custody.pdf>

model of custodial provision - the Secure College. However, it fails to address the underlying causes that lead to serious injury and death in custody.

In response to questions about their safety and wellbeing as part of HMI Prisons' annual survey in YOIs:³⁴

- 25% said they had no one to turn to with a problem
- 30% said they felt unsafe at their establishment
- 22% said they had been victimised by other young men, and 22% said they had been victimised by staff
- 30% said they had been physically restrained
- 74% said most staff treated them with respect

Forty-five percent of those surveyed were from a black and minority ethnic background. They had more negative perceptions of almost all areas of their treatment and conditions. Thirty-six percent reported having been physically restrained; 6% felt they had been the victims of racism. Twenty-two percent of those surveyed were Muslim. Only 58% said staff treated them with respect, and 35% reported feeling unsafe.

A higher proportion of young people who had been in care reported substance and mental health problems, as well as victimisation by other young people.

Outcomes for young people who have been through the youth justice system

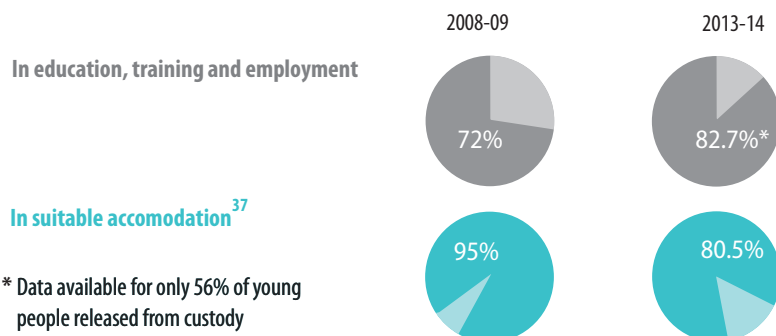
In its General Comment on juvenile justice, the UN Committee on the Rights of the Child recommends that children in conflict with the law should be dealt with in a way that promotes reintegration - '*all actions taken should support the child becoming a full, constructive member of his or her society*'.³⁵

Despite wanting to stop offending on release, the majority of young people are worried about their prospects after they return to the community, in particular being able to get a job or knowing where to go to get help with the problems they face. When asked by HMI Prisons what would prevent them getting into further trouble,³⁶ they said:

- Getting a job (46%)
- Having a partner (30%)
- Having something else to do that was not criminal (28%)
- The sentence they were serving (28%)
- Getting into school or college (28%)

Civil legal aid is no longer available for cases relating to housing, education, welfare, all of which are crucial aspects of a child's resettlement. This undermines children's ability to challenge poor decision-making in relation to their resettlement.

OUTCOME AT THE END OF SENTENCES



34 Kennedy, E (2013) Children and young people in custody 2012-13. HMI Prisons/Youth Justice Board. <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/summaries-of-juvenile-survey-responses/hmip-children-young-people-in-custody-12-13.pdf>

35 UN Committee on the Rights of the Child (2007), para.29.

36 Kennedy (2013) op cit.

37 "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; ensured 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.

Recommendations

- Raise the minimum age of criminal responsibility
- Ensure children do not have a criminal record as a result of a caution and allow children to wipe the slate clean after their sentence
- Family should be involved in children's sentence planning
- Introduce a system for recording the number of children who are coming into contact with the police and are dealt with by way of community resolution (who previously would not have had anything recorded against them)
- Ensure no child is held overnight in police custody
- Ensure that rules are changed so that 17 year-olds coming into contact with the police have the same rights as other children
- Bring in rules giving magistrates discretion to decide that children are unfit to plead
- Ensure child defendants have a right to an intermediary in court proceedings
- Raise the custody threshold
- Detain children only in small, home-like facilities, offering intensive and holistic therapeutic support (not Secure Colleges)
- Do not allow painful restraint techniques to be used on children, and only allow force for the purposes of preventing harm to the child or others
- Ensure that children's prison visits are not part of the system of rewards and sanctions to be earned or taken away
- Ensure that solitary confinement of children is banned
- Carry out an inquiry into the underlying causes of deaths of children in custody and institute urgent measures to address these
- Ensure children can access legal aid to challenge their treatment in custody and resettlement decisions

9

CHILDREN WITH SPECIAL EDUCATIONAL NEEDS AND DISABILITIES

ARTICLE 23 - A disabled child should enjoy a full and decent life in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community

States Parties recognise the right of the disabled child to special care and ensure the disabled child has effective access to education, training, health care, rehabilitation, preparation for employment, and recreation opportunities.

What does the Convention say?

Disabled children are children first, and they have a right to the same opportunities as every child. That means removing the barriers - whether social, cultural, attitudinal or physical - which impede their inclusion in education, play and recreation, and society, and providing whatever protective measures, health and social care services they might need. It also means promoting understanding of their equal rights and protecting them from discrimination. Disabled children and their families sometimes require special care and assistance which should, where possible, be delivered free of charge.¹

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

- Tackle discrimination against disabled children
- Develop a national inclusion strategy for disabled children in society
- Develop ways of identifying disabilities or impairments as early as possible
- Invest to ensure the right of all children to an inclusive education
- Ensure that children can appeal against decisions about their education
- Assess why some disabled children live in institutions and review their treatment

In 2009, the UK Government ratified the Convention on the Rights of Persons with Disabilities (the "Disability Convention")² which covers disabled people of all ages, including children. It should be read alongside the UNCRC when we look at the rights of disabled children.

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.

Context

Around 7% (0.9 million) of children under 16 in the UK are disabled - meaning they have a long-standing illness, disability or impairment which causes substantial difficulty with day-to-day activities.³

There is a significant overlap between disabled children and those with special educational needs (SEN). A child or young person has SEN if they have a learning difficulty or disability which calls for special educational provision to be made for them. Where a disabled child or young person requires SEN provision, they will also be covered by the SEN definition.⁴

In January 2014, 1,492,950 children in English schools (17.9% of all pupils) had special educational needs.⁵ The proportion of SEN pupils who are eligible for Free School Meals (FSM) is significantly higher than the total pupil population. There are more SEN pupils from a Black and minority ethnic background than SEN pupils from a White British background. This may be an indication that existing services are not meeting the range of culturally different needs of SEN children from Black and minority ethnic communities.

1 UN Committee on the Rights of the Child (2006) General Comment no.9: the rights of children with disabilities. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/452/05/PDF/G0745205.pdf?OpenElement>

2 UN (2006) Convention on the Rights of Persons with Disabilities and Optional Protocol. <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

3 DWP/ONS (2014) Family resources survey 2012/13

4 DfE/Department of Health (2014) Special educational needs and disability Code of Practice: 0 to 25 years. Statutory guidance for organisations who work with and support children and young people with special educational needs and disability. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/342440/SEND_Code_of_Practice_approved_by_Parliament_29.07.14.pdf

5 DfE (2014) Children with special educational needs 2014: an analysis. Table 1.9 <https://www.gov.uk/government/statistics/children-with-special-educational-needs-an-analysis-2014>

PROPORTION OF PUPILS WITH SEN ELIGIBLE FOR FREE SCHOOL MEALS ⁵	JANUARY 2009	JANUARY 2014
SEN pupils	28.4%	29.1%
All pupils	15%	16.3%

PROPORTION OF BLACK AND MINORITY ETHNIC (BME) PUPILS WITH SEN ⁶	2009	2014
BME pupils with SEN	Data not comparable	18.9% without statements 3.5% with statements
White British pupils with SEN	Data not comparable	16.5% without statements 3.2% with statements

This has been a transition year for special educational needs and disability with extensive reforms first proposed in 2011⁷ coming into force from September 2014. Part 3 of the Children and Families Act 2014⁸ creates a new system through which the education, health and care needs of disabled children and young people should be met. More detail can be found below. Although the statistical information in this report predates these developments, the new system is building on what was there before.

Support for disabled children and their families

Disabled children have a right to be included in their community and society. Disabled children can face a number of barriers which make it harder for them to participate in different areas of life. Parents mention:⁹

- Others' attitudes (35%)
- Financial obstacles (25%)
- Poor services (23%)
- Lack of help or assistance (20%)
- Lack of special aids or equipment (14%)
- Not enough time available (10%)
- Lack of information (5%)
- Badly designed buildings (4%)

A recent survey carried out by Mumsnet and Scope found that four in ten parents said that their disabled children "rarely" or "never" have the opportunity to socialise and mix with children who are not disabled.¹⁰

In 2008, the UN Committee on the Rights of the Child recommended that the UK government develop a strategy to set out how it intended to make this aspiration a reality. *Fulfilling Potential*¹¹ is the UK government's disability strategy. It covers both children and adults, and is meant to be centred round inclusion. In reality, however, disabled children have been virtually invisible in the policy debates about *Fulfilling Potential*. To date, there has been no government-led public awareness-raising campaign focused on the rights and needs of disabled children. Disabled children who spoke to the Office of the Children's Commissioner believe there should be, if they really are to be treated as equals.¹²

6 DfE (2014) Table 1.13

7 DfE (2011g) Support and aspiration: A new approach to special educational needs and disability. A consultation. <http://webarchive.nationalarchives.gov.uk/20130401151715/https://www.education.gov.uk/publications/eOrderingDownload/Green-Paper-SEN.pdf>

8 Children and Families Act 2014, Part 3. <http://www.legislation.gov.uk/ukpga/2014/6/part/3/enacted>

9 ONS (2010) Life opportunities survey: wave 1 results. <https://www.gov.uk/government/publications/life-opportunities-survey-wave-one-results-2009-to-2011>

10 Aiden, H and McCarthy, A (2014) Current attitudes towards disabled people. London: Scope. file:///G:/ongoing%20work/CRAE%20work%202014/SOCR/Draft%20sections/Disabled%20children/original%20docs/Current-attitudes-towards-disabled-people.pdf

11 DWP (2013) Fulfilling potential: building a deeper understanding of disability in the UK today. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/320509/building-understanding-main-report.pdf

12 Office of the Children's Commissioner (2014) "They still need to listen more": A report about disabled children and young people's rights in England. London: Office of the Children's Commissioner

Special educational needs

Article 24 of the Disability Convention covers education, and calls for an inclusive education system. Children with special educational needs and disability have a right to education without discrimination and on the basis of equal opportunity. Disabled children should not be excluded from the general education system because of their disability and have a right to receive the support required to facilitate their participation. Teachers and other education staff should be trained to work with children with SEN and disabilities. When it ratified the Disability Convention, the UK government inserted its own Interpretative Declaration to the Convention, which allows for the continuation of special, as well as inclusive, education: *'The general education system in the United Kingdom includes mainstream, and special schools, which the UK Government understands is allowed under the Convention.'*¹³

Early education and childcare

In 2008, more than one-third of local authority Family's Information Services (then called Children's Information Services) reported there was not enough childcare for disabled children in their area, and 25% were not sure.¹⁴ That situation has not improved, despite the government commitment to free early education and childcare provision for all three and four year-olds and for disadvantaged two year-olds.

In 2014, only 28% of local authorities in England reported having a sufficient supply of childcare for disabled children in their area.¹⁵

A parliamentary inquiry into childcare for disabled children¹⁶ found much the same:

- Children were unable to access the full 15 hours per week early education entitlement
- There was a lack of training in disability issues for early years providers
- Some providers did not understand their duty¹⁷ to make reasonable adjustments to ensure disabled children can join in all the activities with the other children
- Parents were being charged higher than average fees for paid childcare
- Parents unable to afford suitable childcare had been forced to give up work
- Parents were concerned about the quality of the childcare for their disabled child

All early years providers are required to identify and support children with SEN or disabilities, to promote equality of opportunity for children in their care and to have access to a Special Educational Needs Coordinator (SENCO).¹⁸ However, inspections, which focus on the children being cared for at the time they are inspected, do not pick up on providers' ability to cater for the diverse needs of SEN and disabled children throughout the year.¹⁹

	2008-09	2012-13
Proportion of children achieving a good level of development at Early Years Foundation Stage ^{20 21}	15.4% SEN 55% no SEN - attainment gap of 39.6	14% SEN 56% of no SEN - attainment gap of 42

(The EYFS has been revised, with a new version coming into effect in 2012, so these figures are not directly comparable).

13 UN Treaty Collection (2006) Convention on the Rights of Persons with Disabilities (Declarations and Reservations - United Kingdom of Great Britain and Northern Ireland. https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=iv-15&chapter=4&lang=en#EndDec

14 Daycare Trust (2009) Childcare costs survey 2008. London: Daycare Trust. <http://www.familyandchildcaretrust.org/childcare-costs-surveys>

15 Rutter, J and Stocker, K (2014) Childcare costs survey 2014. London: Family and Childcare Trust. <http://www.familyandchildcaretrust.org/childcare-costs-surveys>

16 Buckland, R and Glass, P (2014) Parliamentary inquiry into childcare for disabled children. London: Contact a Family. <http://www.edcm.org.uk/media/155556/parliamentary-inquiry-into-childcare-web.pdf>

17 Equality Act 2010, s.20. <http://www.legislation.gov.uk/ukpga/2010/15/part/2/chapter/2/crossheading/adjustments-for-disabled-persons>

18 DfE (2014) Statutory framework for the Early Years Foundation Stage. Setting the standards for learning, development and care of children from birth to five.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335504/EYFS_framework_from_1September_2014_with_clarification_note.pdf

19 Ofsted (2014) Framework for the regulation and inspection of provision on the Early Years Register. <http://www.ofsted.gov.uk/resources/framework-for-regulation-of-provision-early-years-register>

20 Early Years Foundation Stage Profile Achievement by Pupil Characteristics, England 2008/09

21 DfE (2013) Early Years Foundation Stage Profile Attainment by Pupil Characteristics, England 2013. <https://www.gov.uk/government/statistics/eyfsp-attainment-by-pupil-characteristics-2013>

Schools

Until September 2014, schools were able to meet the needs of most SEN pupils under one of two schemes: School Action, which brings in extra support to the classroom; and School Action Plus, where the school brings in additional advice and support from external providers to address the child's special needs. Children whose needs could not be met under these school-based schemes would have a "statement" which brought with it a right to additional resources from their local authority.

As part of the Children and Families Act²² reforms, this system was abolished in September 2014, and children who currently have statements should transition across to the new system by 2018. There are two key differences under the new system: a single school-based stage of support (called "SEN Support"); and a new Education, Health and Care (EHC) Plan which brings a new entitlement to health services and incorporates existing duties in relation to social care, alongside the previous educational rights established by the statement.

Inclusive education

Article 24 of the UN Convention on the Rights of Persons with Disabilities states that disabled children should be able to access '*an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live.*'²³ The proportion of SEN pupils attending special schools has gone up since 2009, despite the government's commitment '*to continuing to develop an inclusive system where parents of disabled children have increasing access to mainstream schools and staff, which have the capacity to meet the needs of disabled children.*'²⁴

The proportion of children with a statement of SEN attending maintained special schools has increased from 37.5% in 2009 to 40.5% in 2014. The proportion attending independent schools rose from 3.9% to 5.1%.^{25 26}

The UK entered a Reservation to Article 24 of the Disability Convention, to support special education provision away from a child's home:

The United Kingdom reserves the right for disabled children to be educated outside their local community where more appropriate education provision is available elsewhere. Nevertheless, parents of disabled children have the same opportunity as other parents to state a preference for the school at which they wish their child to be educated.²⁷

It is the most severely disabled children who receive residential special education - children whose high levels of need cannot be met in mainstream schools, and whose parents or carers are finding it difficult to cope.²⁸ Residential special education can be described as a placement of last resort. Arguably, the continued use of residential special schools demonstrates the government's failure to increase the capacity of mainstream schools and staff to provide an inclusive education to SEN and disabled pupils.

The schools - which can be state-funded, independent or third sector - often specialise in providing care and education to children with specific impairments. The children may be living some distance from home because of the specialist nature of the care they require. Some are day pupils, some will go home on the weekends, and some will only go home a few times a year. Schools can operate for either 38 or 52 weeks a year. Those taking boarders all year round are classed as children's homes.

In response to a Freedom of Information request made by CRAE, the Department for Education (DfE) gave us the following figures, which show that the number of boarders attending residential special schools is falling. It is unclear whether this shows that more SEN and disabled children are day pupils in a local school, perhaps because local authorities have less to spend on residential special education; or an indication that there is less specialist provision available, which means some children with very high level needs may not be having their right to education met.

22 Children and Families Act 2014, Part 3. <http://www.legislation.gov.uk/ukpga/2014/6/part/3/enacted>

23 UN (2006) Convention on the Rights of Persons with Disabilities and Optional Protocol. <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

24 UK Government Interpretative Declaration to the Convention on the Rights of Persons with Disabilities. Cited on ALLFIE website. <http://www.allfie.org.uk/pages/work/article24.html>

25 DCSF (2010) Special educational needs in England, January 2009. Table 1A

26 DfE (2014) Op cit.

27 UN Treaty Collection (2006) Convention on the Rights of Persons with Disabilities (Declarations and Reservations - United Kingdom of Great Britain and Northern Ireland). https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=iv-15&chapter=4&lang=en#EndDec

28 Abbott, D and Ward, L (2000) Disabled children at residential school. JRF. <http://www.jrf.org.uk/sites/files/jrf/420.pdf>

RESIDENTIAL SPECIAL SCHOOLS IN ENGLAND	JANUARY 2009	JANUARY 2013	JANUARY 2014
Total number of residential special schools	190	177	171
Total number of pupils enrolled	-	13,465	13,059
Number of pupils who are boarders	-	3,975	3,185

Other, more inclusive, models of education are being tested for pupils with high levels of need. For example, the National Autistic Society, in partnership with Surrey County Council and the Cullum Family Trust, is opening four specialist centres in mainstream secondary schools to enable pupils to alternate mainstream classes with special sessions in the centres.²⁹

DfE figures showing levels of attainment at Key Stage 4 indicate that, using this limited measure of progress, results for pupils in residential special schools are improving.

GCSE RESULTS FOR PUPILS IN RESIDENTIAL SPECIAL SCHOOLS	2008-09	2012-13
Total number of KS4 pupils in residential special schools	1,914	1,800
5+A*-C grades	4.8%	5.7%
1 to 5 A*-C grades	20.2%	25.6%
1 to 5 A*-G grades	34.4%	40.1%
1 to 5 C-G grades only	40.4%	39.9%
No A*-G GCSEs or equivalent	19.2%	17.1%

Educational attainment

All children have a right to education which allows them to realise their potential - a high quality education suited to their capacities, needs and learning styles. Children with SEN or disabilities should receive special assistance to help them to achieve their best. Currently, educational "success" is based on attainment scores, which ignores the wider aims of education under the UNCRC - an education that will help children achieve their potential without discrimination, is child-centred and empowering, provides children with life skills, and strengthens their capacity to enjoy the full range of human rights. Using attainment as the only measure of the value and quality of a child's educational experience arguably discriminates against those who have moderate or severe learning difficulties. However, under the assessment system in use, the attainment gap for SEN pupils remains stubbornly high at all assessment stages, though there has been some improvement at Key Stage 2 and A-level or equivalent.

²⁹ National Autistic Society (2014) Pioneering autism centres open in Surrey. 1 Oct 2014 Press Release. <http://www.autism.org.uk/news-and-events/news-from-the-nas/pioneering-autism-centres-surrey.aspx>

LEVEL OF ACHIEVEMENT ^{30 31 32}	2008-09	2012-13
Early Years Foundation Stage profile - good level of development	15.4% SEN 55% no SEN - attainment gap of 39.6	14% SEN 56% no SEN - attainment gap of 42
Key Stage 2 Level 4 or above (reading, writing, maths)	31.0% SEN 85.5% no SEN - attainment gap of 54.5	35% SEN 88% no SEN - attainment gap of 53
GCSEs 5 or more A* to C including English and maths	16.5% SEN 61.3% no SEN - attainment gap of 44.8	23.4% SEN 70.4% no SEN - attainment gap of 47
A-level or equivalent (Level 3 qualification) at age 19	54.9% no SEN pupils 20.4% on School Action 13.7% on School Action Plus 8.8% with a statement	64.1% no SEN pupils 32.7% on School Action 20.7% on School Action Plus 12.5% with a statement

(The EYFS has been revised, with a new version coming into effect in 2012, so these figures are not directly comparable).

Exclusion from school

A permanent exclusion is the removal of a child from the school roll. Disproportionate numbers of SEN pupils are excluded, usually for disruptive behaviour.

Despite a reduction in the total number of exclusions since 2008-09, SEN pupils still make up the bulk of exclusions.

The UN Committee on the Rights of the Child regards this as a sign of an unequal education system where school exclusions affect particular groups of children more than other groups; this is exclusive, and potentially discriminatory.

	PERMANENT EXCLUSION FROM SCHOOL ^{33 34}		FIXED TERM EXCLUSION FROM SCHOOL	
	2008-09	2012-13	2008-09	2012-13
Total number - all schools	6,550	4,630	363,280	267,520
Pupils with SEN	4,680 - 71%	3,160 - 68%	235,090 - 65%	164,590 - 62%

30 DfE (2013) Early Years Foundation Stage Profile Attainment by Pupil Characteristics, England 2013. <https://www.gov.uk/government/statistics/eyfsp-attainment-by-pupil-characteristics-2013>

31 DCSF (2010) Level 2 and 3 attainment by young people in England measured using matched administrative data: attainment by age 19 in 2009. <http://webarchive.nationalarchives.gov.uk/20130401151655/http://www.education.gov.uk/researchandstatistics/statistics/allstatistics/a00196352/level-2-and-3-attainment-by-age-19>

32 DfE (2014) Op cit.

33 DfE (2010) Permanent and fixed period exclusions from schools and exclusion appeals in England, 2008/09. Tables 12 and 15. <https://www.gov.uk/government/statistics/permanent-and-fixed-period-exclusions-in-england-academic-year-2008-to-2009>

34 DfE (2014) Permanent and Fixed Period Exclusions in England: 2012 to 2013. <https://www.gov.uk/government/statistics/permanent-and-fixed-period-exclusions-in-england-2012-to-2013>

There is some evidence that the cuts in overall exclusion numbers may mask other ways of excluding children, especially those with higher support needs. Parents who responded to a survey undertaken by Contact-a-Family reported that their child was regularly excluded due to staffing problems, particular school activities or trips being considered not suitable for their child to take part, or because their child was feeling angry and frustrated and “having a bad day,” leading to their parents being called to take them out of school temporarily. This is a clear breach of their rights to a full, inclusive and non-discriminatory education.³⁵

Post-16 education and training

Article 24 of the Disability Convention obliges governments to ensure that disabled people are able to take part in further, vocational and adult education, and to work, on an equal basis with others.

Fewer SEN pupils continue in education, but that is likely to change as a result of the implementation of the duty to participate. Part 1 of the Education and Skills Act 2008 requires 16 and 17 year-olds to remain in some form of education or training to the age of 18. It came into force for 16 year-olds in 2013, and will extend to 17 year-olds in 2015. The success of the policy for children with learning difficulties and disabilities will depend on the range of provision available to them, and how inclusive and supportive colleges and workplaces prove to be.

The Children and Families Act 2014³⁶ contains new rights for disabled young people to remain supported in education. There is now a single duty to put in place an Education, Health and Care Plan which can run from 0 to 25 where a child or young person has significant educational needs which require additional support. The new “local offer” (published by every local authority) must include details of post-16 provision, including apprenticeships and provision which supports young people to live independently.³⁷ However, young people may lose their Education, Health and Care Plans once they have turned 18 if the local authority considers that the outcomes it (not the child) requires have been achieved – and at present there is no appeal right in relation to the outcomes section of the Plan.

When asked what they want to do, disabled 16 year-olds talk about the same aspirations as their non-disabled peers. They expect to work full-time for the same level of earnings. However, ‘...by the age of 26, disabled people are nearly four times as likely to be unemployed compared to non-disabled people. Among those who were in employment and with the same level of qualification, earnings were 11% lower for disabled people compared to their non-disabled peers.’³⁸

	PARTICIPATION RATES AT AGE 16 AND 17 ^{39 40}		PERCENTAGE ACHIEVING LEVEL 3 QUALIFICATIONS AT AGE 19 ⁴¹	
	2009	2012-13	2009	2012-13
SEN students	Not available	85.5%	47.8%	29.9%
No SEN students	Not available	90.5%	54.9%	75.4%
Participation gap	Not available	4.7	-	-
Attainment gap	-	-	-	45.5

35 Contact a Family (2013) Falling through the net: illegal exclusions, the experiences of families with disabled children in England and Wales. http://www.cafamily.org.uk/media/639982/falling_through_the_net_-_illegal_exclusions_report_2013_web.pdf

35 DWP (2013) op cit, p.34

36 Children and Families Act 2014. <http://www.legislation.gov.uk/ukpga/2014/6/part/3/enacted>

37 The Special Educational Needs and Disability Regulations 2014, Schedule 2. <http://www.legislation.gov.uk/uksi/2014/1530/schedule/2/made>

38 DWP (2013) Fulfilling potential: building a deeper understanding of disability in the UK today, p.34. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/320509/building-understanding-main-report.pdf

39 DfE (2010) Participation in education, training and employment by 16-18 year olds in England. <http://webarchive.nationalarchives.gov.uk/20130401151655/http://www.education.gov.uk/researchandstatistics/statistics/allstatistics/a00196072/participation-in-education-training-and-employment>

40 DfE (2014) Participation in Education, Training and Employment by 16-18 year olds in England: End 2013. <https://www.gov.uk/government/statistics/participation->

41 DfE (2014) Attainment gap at age 19 between Free School Meals pupils and the rest. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300218/Indicator-9_L3at19by_FSM_-_DR.pdf Children and Families Act 2014, Part 3. <http://www.legislation.gov.uk/ukpga/2014/6/part/3/enacted>

Spotlight on: The special educational needs and disability reforms

The UN Convention on the Rights of the Child (UNCRC) requires governments to ensure that care and assistance for disabled children is designed to help them access and benefit from education, training, health care services, recovery services, preparation for employment and recreation opportunities.

Part 3 of the Children and Families Act 2014⁴² provides the legislative basis for far-reaching reforms which aim to integrate education, health and social care provision for disabled children, young people and young adults up to the age of 25. The new system includes:

- Joint commissioning of services involving education, health and social care, and covering services for children and young people with special educational needs and/or disabilities (SEND) from birth to 25
- A legal duty to have regard to the views, wishes and feelings of the child and their parents, and to ensure they participate as fully as possible in any decisions
- Information, advice and support available to children and parents in each local area
- A local offer, describing what provision SEND children and young people can expect
- A single Education, Health and Care (EHC) plan from birth to 25 to replace SEN statements and Learning Disability Assessments for school-age pupils and post-16 students
- A legal presumption that children with an EHC plan will be educated in a mainstream nursery, school or college, though children without an EHC plan can be placed in special academies or post-16 academies if allowed for in the academy's funding agreement
- A legal duty⁴³ to ensure co-operation between children's and adult services
- Personal budgets for disabled children and young people who have EHC plans, though only if the education provider agrees

The scheme in the Children and Families Act 2014 continues to prioritise educational needs over care and health needs – for example, significant educational needs will be required before a disabled child can access an Education, Health and Care Plan, which brings with it a specific entitlement to services. Detail is outlined in a statutory Code of Practice.⁴⁴ The Council for Disabled Children has produced guides for the children and young people who will be affected by the reforms.⁴⁵

Health and social care

Like all children, disabled children have a right to enjoyment of the highest attainable standard of health - without discrimination, and taking their views into account. They have a right to information about their health needs, condition, care and treatment. Under the UNCRC, disabled children have a right to special care appropriate to their condition and circumstances. Where it is necessary for children to be cared for outside their families, they have a right to alternative care provided by the state.

Disabled children can have a broad and diverse range of health needs: long-term conditions, sensory impairments, mental health problems, challenging behaviour, communications difficulties, or multiple and complex needs. In the 2011 census, disabled children up to 15 in England and Wales were asked how they rated their health.⁴⁶ Only half of those living in more deprived areas rated it as "good", compared with 81.2% in the general population. Those who spend a lot of time in health settings feel the amount of time they spend in treatment hampers their ability to enjoy the same things as other young people.⁴⁷

The Children and Families Act 2014 contains a new right for disabled children and young people to have their health needs met – if they are eligible for an EHC Plan. Since most disabled children and young people will not receive an EHC Plan, they will not benefit from this new entitlement. The national framework⁴⁸ governing continuing healthcare for children – the way in which packages of support are put in place for children with complex needs – has no statutory foundation, unlike the equivalent framework for disabled adults.

42 Children and Families Act 2014, Part 3. <http://www.legislation.gov.uk/ukpga/2014/6/part/3/enacted>

43 Care Act 2014. Sections 58-66 <http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>

44 DfE (2014) Special educational needs and disability Code of Practice: 0 to 25 years. <https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

45 <https://www.gov.uk/government/publications/sen-and-disability-support-changes-information-for-young-people>

46 ONS (2014) How do people rate their general health? An analysis of general health by disability and deprivation. http://www.ons.gov.uk/ons/dcp171776_353238.pdf

47 LaValle, I and others (2012) Listening to children's views on health provision. London: National Children's Bureau. http://www.ncb.org.uk/media/723497/listening_to_children_s_views_on_health_-_final_report_july_12.pdf

48 Department of Health (2012) National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care, November 2012 (revised). https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213137/National-Framework-for-NHS-CHC-NHS-FNC-Nov-2012.pdf

All disabled children are “children in need”⁴⁹ Children in need are entitled to an assessment by the local authority and, potentially, to services under s.17 of the Children Act 1989.

In its General Comment on disabled children, the UN Committee on the Rights of the Child notes how much more vulnerable they can be to all forms of abuse, including bullying.⁵⁰ The NSPCC’s annual child protection review⁵¹ identifies disabled children as a group more vulnerable to maltreatment because of their impairments, their dependency on others for personal assistance, and communication difficulties or an inability to understand what is happening or seek help. Disabled children are three to five times more likely to be abused or neglected than non-disabled children.

The proportion of those referred for an assessment of need because of their disability has fallen slightly since 2009-10, as has the number subsequently taken into care.

CHILDREN IN NEED ^{52 53}	2009-10 (Children in Need 1st complete year of census)	2013-14
	Total 375,900	Total 397,630
Child’s disability	45,000 (12%)	41,560 (10.5%)

CHILDREN IN CARE ⁵⁴	2008-09	2013-14
	Total 60,900	Total 68,100
Child’s disability	2,220 (4%)	2,260 (3%)

The Care Act 2014⁵⁵ creates a comprehensive new system of care and support for disabled adults and their family carers, but does not apply to disabled children. The duty to provide social care to disabled children dates back to 1970, and is neither child nor rights-centred.⁵⁶

Play and recreation

Article 31 of the UNCRC recognises the right of every child to play, leisure and recreation, and to participate fully in cultural and artistic life. Disabled children should be provided with equal opportunities to participate.

In 2007, *Aiming High for Disabled Children*⁵⁷ committed significant resources to opening up opportunities for disabled children, including funding for short breaks. Since 2011, local authorities have been required to provide short break services for parents of disabled children.⁵⁸ However, funding for the programme is no longer ring-fenced and significant reductions in expenditure on short breaks have been reported. In 2013, Mencap reported that eight out of 10 families had reached breaking point due to a lack of short breaks.⁵⁹

49 Children Act 1989, s.17. <http://www.legislation.gov.uk/ukpga/1989/41/part/III/crossheading/provision-of-services-for-children-and-their-families>

50 UN Committee on the Rights of the Child (2006) General Comment no.9: the rights of children with disabilities, para.3

51 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>

52 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

53 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>

54 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>

55 Care Act 2014. <http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>

56 Chronically Sick and Disabled Persons Act 1970, s.2. <http://www.legislation.gov.uk/ukpga/1970/44/section/2>

57 DCSF (2007) Aiming high for disabled children: better support for families. <http://webarchive.nationalarchives.gov.uk/20130401151715/http://education.gov.uk/publications/eorderingdownload/213.pdf>

58 Children and Young Persons Act 2008, s.25. <http://www.legislation.gov.uk/ukpga/2008/23/part/2/crossheading/care-breaks>

The Breaks for Carers of Disabled Children Regulations 2011 <http://www.legislation.gov.uk/uksi/2011/707/made>

59 Mencap (2013) Short breaks support is failing family carers: reviewing progress 10 years on from Mencap’s first Breaking Point report. https://www.mencap.org.uk/sites/default/files/documents/Short_Breaks_report.pdf

Disabled children are as likely as other children to visit a library or museum at least once a year, but less likely to take part in sport.⁶⁰ Young disabled people like competitive sports but, outside school, lack awareness of what might be available.⁶¹ An Ofsted survey into youth work provision for disabled young people shows similar results: the disabled young people who accessed youth services found them enjoyable and beneficial, but participation rates were low. Only 4% to 6% of disabled young people were accessing local provision.⁶²

Standard of living

The UNCRC notes that poverty is both a cause and a consequence of disability. Disabled children and their families have the right to an adequate standard of living, and to the continuous improvement of their living conditions. Governments should allocate adequate resources to services for disabled children and their families, and ensure children's basic needs are met where their families are unable to meet those needs.⁶³

"Income" can be measured before housing costs (BHC) or after housing costs (AFC). In 2012-13, disabled people were less likely to be living in poverty than in the mid-2000s.

LEVELS OF CHILD POVERTY IN THE UK ⁶⁴ CHILDREN IN FAMILIES WHERE SOMEONE IS DISABLED	2008-09	2012-13
Relative low income BHC	0.9 million children - 29%	0.8 million - 21%
Absolute low income BHC	0.8 million - 27%	0.9 million - 25%
Relative low income AHC	1.2 million - 38%	1.2 million - 33%
Absolute low income AHC	1.1 million - 36%	1.4 million - 37%
LEVELS OF CHILD POVERTY IN THE UK CHILDREN IN FAMILIES WITH A DISABLED CHILD ⁶⁵		
Relative low income BHC	31%	20%
Relative low income AHC	40%	30%
Low income [70% median] and material deprivation BHC ⁶⁶	31%	21%

However, in April 2013, a series of benefit cuts came into force reducing housing benefit levels through the introduction of a benefit cap. Households with disabled children who are receiving Disability Living Allowance (DLA) or Personal Independence Payments (PIP) are exempt from the benefit cap. PIPs are available to disabled people

60 DWP (2013) Fulfilling potential: building a deeper understanding of disability in the UK today. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/320509/building-understanding-main-report.pdf

61 English Federation of Disability Sport (2013) Disabled people's lifestyle survey, September 2013. Loughborough: Sport England. http://www.efds.co.uk/assets/0000/7297/Disabled_People_s_Lifestyle_Survey_Report_Sept_2013.pdf

62 Ofsted (2013) Critical issues in the provision of youth work for young disabled people. <http://www.ofsted.gov.uk/sites/default/files/documents/surveys-and-good-practice/y/Critical%20issues%20in%20the%20provision%20of%20youth%20work%20for%20young%20disabled%20people.pdf>

63 UN Committee on the Rights of the Child (2006) General Comment no.9: the rights of children with disabilities, para.3

64 DWP (2014) Households below average income: An analysis of the income distribution 1994/95 – 2012/13. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/325416/households-below-average-income-1994-1995-2012-2013.pdf

65 Ibid, Table 7.1t

66 Questions in the survey changed in 2010/11 so not directly comparable. HBAI Table 7.2ts

from age 16 to 64 whose condition limits their mobility and ability to care for themselves. The parents or carers of children under 16 can claim DLA if they can show their child needs a lot more personal care than the child's peers and has mobility problems. In February 2014, around 116,000, or approximately one in eight, disabled children were receiving DLA.⁶⁷ This means that a significant number of families with disabled children who receive housing benefit could be affected by the cap. A child rights impact assessment of budget decisions undertaken by the Office of the Children's Commissioner⁶⁸ showed that families with disabled children have been hit harder by the cuts.

In August, the Disability News Service reported that the UN Committee on the Rights of Persons with Disabilities may have begun an inquiry investigating the UK for alleged violations of the Disability Convention. It is believed that this could be in response to the disproportionate impact the benefit cap and other benefits changes are having on families with disabled children and disabled adults. The story is unconfirmed because all such inquiries are carried out confidentially.⁶⁹

Recommendations

- Create an integrated system that can meet disabled children's health and care needs
- End out of area residential school placements for disabled children
- Provide families (including kinship carers) with adequate support at home, so that disabled children do not have to reside in educational institutions
- Provide every child in residential schooling with safety and ensure disabled children and/or an independent advocate are involved in decisions and case conference proceedings about them
- Ensure that all services commissioned by the state support the participation of disabled children and young people in service design and evaluation
- Implement a Disability Convention awareness-raising programme in schools which involves disabled children and young people in the development of such programmes
- Ensure the effective enjoyment of the right to life of people with mental health issues and/or a learning disability on an equal basis with others
- Ensure that changes to the legal aid system do not impact on disabled people's right of access to justice in a discriminatory way
- Clarify what steps the UK is taking to 'build the capacity of mainstream schools' to be inclusive of disabled learners
- Ensure the state party carries out assessments of the extra costs of disability to gauge real ongoing annually up-rated support, beyond subsistence and poverty levels, to meet their obligations under Article 28 of the Disability Convention
- Carry out an impact assessment on the cumulative effects of welfare reform on disabled children and their families
- Provide information on the degree of accessibility of centres and facilities that host sporting, cultural and leisure activities, and indicate whether there are plans to make currently inaccessible sites accessible

67 DWP (2014) Quarterly statistical summary. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/344650/stats-summary-aug14.pdf

68 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

69 Pring, J (2014) Activists welcome UN inquiry decision. Disability News Service. <http://disabilitynewsservice.com/2014/08/activists-welcome-un-inquiry-decision/>



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