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State of Children's Rights in England 2018

Executive Summary



Briefing 1

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About this briefing

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

In June 2016 the UK Government was examined by the **UN Committee on the Rights of the Child** (the UN Committee) on its compliance with the CRC for the first time since 2008. The UN Committee made recommendations (Concluding Observations) for change.¹ In May 2017 the UK was examined on all its human rights treaties, including the CRC, by the 193 member states of the Human Rights Council as part of the **Universal Periodic Review (UPR)**.² This is a process where states can reiterate previous recommendations made by UN Committees and can be used by civil society and parliamentarians as an additional advocacy tool. The government can choose whether to "support" (accept) recommendations or "note" them (reject or not agree). We are very disappointed that the government has only supported 28% of the recommendations relating to children's rights compared to 42% of all the recommendations it received.

CRAE's *State of children's rights in England 2018* is made up of seven thematic briefings assessing the progress made towards implementing the UN Committee's recommendations: Children at the centre: the General Measures of Implementation and General Principles of the CRC; Poverty and homelessness; Health; Immigration, asylum and trafficking; Education, leisure and cultural activities; Safeguarding children; and Policing and criminal justice.

This summary provides an overview of some of the issues covered in each briefing, which highlight areas of improvement and concern since CRAE's last *State of Children's Rights in England* report published in December 2017. It is based on written and oral evidence from CRAE's members and additional analysis of recent laws and policies, newly published research, official statistics and responses to Freedom of Information (FOI) requests. For more detail on each issue, see the individual briefing.

What is the CRC?

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

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

Introduction

Brexit has continued to dominate the political debate, making it difficult to secure attention for issues affecting children.

At the same time child poverty has seen further increases, with a devastating impact on the most disadvantaged households. Rising levels of poverty and homelessness represent an erosion and regression of children's rights.

More encouragingly, the Department for Education (DfE) has taken positive steps to raise awareness and understanding of children's rights across Whitehall and to encourage policy makers to take children's rights into account in decision-making. The Ministry of Justice review on the use of pain-inducing restraint in child prisons and escorting procedures, due in 2019, is also a positive development. There have also been welcome announcements in support of children's mental health and healthy relationships in schools.

However, there is still a need for a cross-departmental plan to address concerns raised by the UN Committee in 2016, many of which were reiterated following the UK's review under

UPR. **The government must use the *State of children's rights 2018*, alongside the UN Committee and UPR recommendations, to identify key actions it will take to ensure all children have a good childhood and the best possible start in life.**

2. General Measures and General Principles

The EU (Withdrawal) Act 2018 excluded the EU Charter of Fundamental Rights from being transposed into UK law. While all Charter rights apply to children, article 24 gives rights specifically to them. The Act also gives ministers powers to create statutory instruments to help with a range of legal issues caused by the UK's exit from the EU. There is concern that changes will be introduced without adequate consideration of the impact on children's rights.

R There should be a child rights impact assessment (CRIA) on any changes proposed under delegated powers introduced by the EU (Withdrawal) Act. Reference to children's rights should be included in the explanatory notes to any statutory instruments related to Brexit.

Following a ministerial reshuffle in early 2018 the role of Children and Families Minister was demoted from a Minister of State to a Parliamentary Under-Secretary. This is a retrograde step. **The UN Committee has made clear that senior political leadership is required if children's rights are to be fully respected.** A child rights team within the DfE is welcome, as is engagement through the UNCRC Action Group, but more capacity and authority are needed to adequately coordinate and monitor CRC implementation. A children's rights action plan or strategy is urgently required to ensure coherent government action on the concerns raised by the UN Committee and in the UPR review.

R A cabinet minister with responsibility for children's rights should be appointed alongside sufficient human, technical and financial resources to ensure effective coordination and evaluation of CRC implementation. The government should develop a comprehensive action plan to take forward the recommendations made by the UN Committee and under UPR.

The EU (Withdrawal) Act excluded the EU Charter of Fundamental Rights from being transposed into UK law.



More positively, in partnership with the UNCRC Action Group, the DfE has developed a children's rights training tool and a CRIA template, which will assist civil servants to assess policy development against CRC standards. While this is good news, concern remains that a requirement to do so has not been placed on a statutory footing.

R The government should introduce a statutory obligation on public authorities to conduct child rights impact assessments in all decision-making affecting children, including in budgetary decision-making.

The drastic reduction in legal aid remains a key threat to children's rights. Positively, following judicial review, the government will bring immigration matters for separated children back into scope of legal aid.³ It is crucial that the ongoing government review of legal aid fully considers how the cuts have affected all children.

Groups of children continue to experience discrimination based on characteristics such as ethnicity or sexuality. Gypsy/Roma and Traveller children remain particularly disadvantaged. Following her visit to the UK, the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance stressed that action must be taken to address persistent disparities.⁴

Children are not systematically involved in national decision-making and respect for their views is not fully realised. The promise of allocated funding from the Department for Culture, Media and Sport for engaging young people is welcome, but there has been little progress on government recognition of the need to enable young children to influence national policy.⁵

Worryingly, infant mortality in England and Wales in 2016 saw a slight increase and was higher in the most deprived areas of England. Also of concern is that the number of children committing suicide has increased.

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

3. Poverty and homelessness

Children's right to an adequate standard of living continues to be eroded among the poorest families. The 'benefit cap', the roll-out of Universal Credit (UC) and the freeze on social security benefits have had a particularly negative impact on low-income families, single-parent families and those with disabilities.⁶ Local authorities are still failing to provide safe and secure housing for many vulnerable children and families.

The number of children living in relative poverty in the UK (after housing costs) increased to 4.1 million in 2016-17.⁷ Despite the government's insistence that work is the best route out of poverty,⁸ statistics show that in 2016-17 two-thirds (67%) of children in poverty were living in families where at least one person was working.⁹

Ⓡ The government should urgently develop, fund and implement an action plan to reduce the number of children in poverty and ensure progress, monitoring and reporting continues against the indicators in the Child Poverty Act 2010. It must also reverse its regressive social security reforms and ensure that benefits are sufficient to enable all households to have an adequate standard of living.

Analysis by the Equality and Human Rights Commission showed that households with children are the largest group to lose out from reforms to taxes and transfer payments, with lone parents losing an average of £5,250 and couples with children losing an average of £3,000 per year.¹⁰ **Single-parent households lose more than any other group in terms of final income¹¹ and 47% of children in single-parent families**



Council owned B&Bs and hotels are not bound by the law so families can be held there for longer than 6 weeks.

1,641 families were held there in 2017, with almost two thirds (1,056) for longer than 6 weeks.

Source: CRAE FOIs to 353 local authorities (December 2018)

live in relative poverty¹² – despite the fact that 67.1% of single parents are working.¹³

Ⓡ The government should exclude children's benefits, including child benefit and the child element of UC, from the scope of the benefit cap and abolish the two-child limit on child tax credit and UC.

Children continue to be illegally accommodated in B&Bs. Local authorities persist in breaking the law by housing families in B&Bs for longer than the six-week legal limit. At the end of March 2018, 2,230 families with children were housed in B&Bs - nearly 40% for longer than six weeks.¹⁴ Such accommodation is completely unsuitable for children. Very young children have nowhere to play, crawl and learn to walk, and parents struggle to set up regular sleep routines or potty train; while older children have no privacy and nowhere to study or socialise with friends.¹⁵

Ⓡ The government should take immediate action to stop children being housed illegally in B&Bs.

Shockingly, council owned B&Bs or other hotel style accommodation are not subject to the regulations preventing families from being held there for longer than 6 weeks.¹⁶

Our FOIs show 1,641 families with children were held in such accommodation in 2017, with almost two thirds (1,056) for longer than 6 weeks.¹⁷

At March 2018, 123,130 children in families were housed in temporary accommodation (TA), an increase of 2,610 on the previous year.¹⁸ Children housed in TA, particularly hostels, often face similar conditions to those living in B&Bs. Over 16,000 households with children are currently accommodated in hostels and pay-by-night accommodation.¹⁹ Alarming there is no legal limit on how long children can be housed in these settings. Children living in TA are being put at risk, often placed alongside adults with drug and alcohol problems.²⁰

R The current six-week legal limit of housing children in B&Bs must be extended to apply to housing children in council owned B&Bs and temporary accommodation.

Department for Education figures show that 3,090 looked after children (LAC) were housed in independent accommodation last year which lacks live-in staff support and includes unsupervised B&Bs.²¹ A 28% rise from 2,420 in 2010. According to FOIs carried out by The Guardian, four local authorities have placed up to 14 children in caravan parks and 17 councils have placed up to 133 children in B&Bs over the past two years.²² **Further FOIs carried out by CRAE reveal that 1,173 looked after children were housed in independent accommodation for longer than 6 months, including 19 children aged 15 and one aged 14. The real number is likely to be far higher as only a quarter of councils responded that they held this information.**²³

R Children and young people should never be housed in B&Bs, hotels or caravan parks. Before placing any child or young person in independent accommodation, local authorities should conduct a safeguarding check and risk assessment.

4. Safeguarding

The Children and Social Work Act 2017 promised increased support for children in care and children leaving care. Despite some positive steps by the government this year, cuts to local authority budgets threaten the potential success of these reforms. Thousands of vulnerable children remain unsupported and the downward trend in funding for early intervention continues.

Numbers of children in care have risen for the tenth consecutive year and at the fastest rate in six years.²⁴ 2018 figures show 75,420 looked after children in England, an increase of 4% on the previous year.²⁵ Increasing numbers of children in care may reflect more instances of children being looked after, but the Care Crisis Review identified lack of early intervention, lack of resources and increasing poverty among contributing factors.²⁶

Local authorities have suffered huge funding cuts since 2010, a trend that is likely to continue.²⁷ Early intervention is essential to support children and their families and to stop problems escalating, but early intervention allocation to local authorities dropped 64% between 2010-11 and 2017-18.²⁸

R The government should urgently address the funding gap in children's services and provide additional funding to local authorities struggling to provide early intervention services, and ensure sufficient funding to implement the new reforms introduced under the Children and Social Work Act 2017.

198,090 children were subject to child protection enquiries in 2016-17, a staggering increase of 122% (89,300) since 2009-10, and an increase of 7% on the previous year.²⁹

Numbers of children looked after due to abuse or neglect are now the highest on record in England (44,600 at March 2017) representing over 60% of all looked after children.³⁰

Sexual offences against children under 18 have continued to rise – 54,846 offences in 2016-7, an increase of nearly 17% since 2015-16.³¹ The announcement of a review of the effectiveness and spending on services for victims of child sexual abuse offers an important opportunity for improvements.³²

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

Vulnerable children continue to be exploited by county lines gangs.³³ New Home Office guidance for professionals on child exploitation is positive and highlights that although vulnerable children are more at risk, any child may be targeted.³⁴ **Despite children comprising nearly half of the total number of suspected trafficking**



Source: Estimate from the Children's Commissioner⁶⁴

victims they continue to be treated as criminal defendants.³⁵

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

Children can still be recruited to the armed forces from age 16. The UK is the only European Union state to allow this. Army recruiters strategically target deprived neighbourhoods and children below enlistment age.³⁶

R The government should raise the minimum enlistment age to the armed forces with a view to end the recruitment of children. In the meantime, the government should a) require recruiters to meet directly with parents and ensure parents are fully informed of the risks and obligations of military service at an early age, and b) ensure that child recruits cannot be made to serve longer than adult recruits.

5. Immigration, asylum and trafficking

The government has committed to some positive steps to improve the safeguarding of separated children. However, the 'hostile environment' has made it even more difficult for migrant and asylum-seeking children to get support and protection. The UK's exit from the EU raises concerns for children of EU nationals living in the UK, including those in care and those with complex family arrangements.

In 2017 the number of unaccompanied children seeking asylum in the UK dropped by 27% from the previous year.³⁷ In 2017, 56% of asylum-seeking children were given refugee status and 14.5% were refused.³⁸ 386 children were granted a temporary form of leave, despite consensus that temporary leave is rarely in children's best interests.³⁹

The number of children entering detention has dropped sharply since 2009, but in the twelve months to September 2018, 60 children were held in immigration detention, despite the government's promise to end this practice.⁴⁰

R The government should review its 'leave' policies for unaccompanied children and ensure that all decision-making in children's asylum cases always takes their best interests into account and aims to provide a durable solution for children's protection and well-being. It should also renew and fulfil its commitment to ending the immigration detention of all children.

There are more than half a million EU national children living in the UK, many of whom were born here. It is still unclear whether the Brexit arrangements will safeguard their rights. Despite government assurances there are ongoing concerns that many children will face difficulties in securing 'settled status'.⁴¹

R The government should ensure that all EU children and families are able to access the 'settlement scheme' or UK citizenship through a simple process. Provision must be made to ensure that those who are in vulnerable situations or have difficulties accessing the scheme are provided with



support and legal advice, free of charge where required. Children must also be able to apply for 'settled status' in their own right.

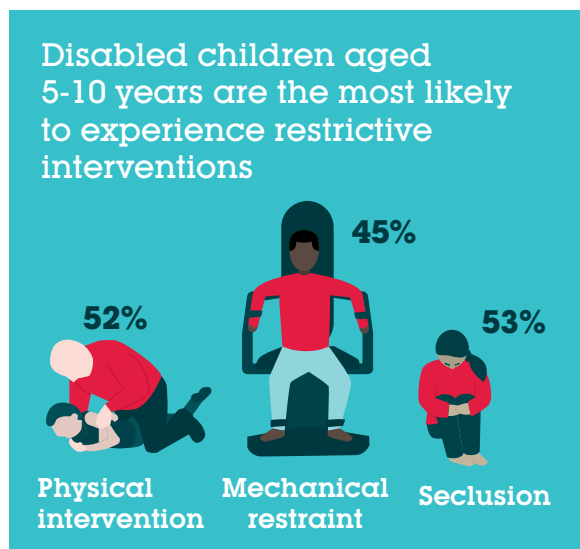
There are an estimated 144,000 undocumented migrant children living in England and Wales. Many who came to the UK as children or were born here are now facing a precarious situation. Some have been threatened with forced removal to countries they have little connection with.⁴² Application fees for settlement, coupled with the NHS surcharge, represent prohibitive costs for many and make regularisation inaccessible and protracted.⁴³

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

The government estimates there are 13,000 victims of modern slavery nationally, of which more than 4,000 are thought to be children.⁴⁴

In the second quarter of 2018, of the 1525 referrals to the National Referral Mechanism 43% were referred while a minor.⁴⁵ The government's commitment to make the NRM decision-making process 'child-friendly' is welcome, but the system is still not providing the necessary support to child victims of trafficking.

R The government should reform the NRM for children and ensure that decisions on whether a child has been trafficked are made by trained multi-agency child protection services, and ensure rights-based training for all frontline professionals.



The Challenging Behaviour Foundation and Positive and Active Behaviour Support Scotland (2019) *Reducing restrictive interventions of children and young people: Case studies and survey results*

6. Education leisure and cultural activities

This year has seen growing concern about inadequate school funding, particularly in relation to the impact on children with Special Educational Needs or those with a disability. An increase in school exclusion rates and the persistent disproportionality of certain groups of children being excluded is of great concern. **Especially alarming is the high incidence of physical restraint on disabled children in "special schools"; the increased use of isolation and the spread of 'zero tolerance' behaviour policies in mainstream schools.** These pose clear barriers to the realisation of children's right to be protected from all forms of violence and inhuman and degrading treatment or punishment.

Positively, health education will become part of the school curriculum and guidance on the teaching of Sex Education (SE) and Relationship and Sex Education (RSE) has been broadly welcomed.⁴⁶ Funding for early years education has also substantially increased.

The Institute for Fiscal Studies found that total school spending per pupil fell by 8% in real terms between 2009-10 and 2017-18.⁴⁷ A survey by the National Education Union found that 94% of respondents were pessimistic about their school's budget prospects over the next three years.⁴⁸

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

Worryingly, both permanent and fixed term exclusions continue to rise.⁴⁹ Particular groups of children continue to be disproportionately excluded from school including Gypsy/Roma pupils and Travellers and children with special educational needs. On a similar note, very young children in reception and year 1 are also excluded. The appointment of former Children's Minister Edward Timpson to carry out an independent review of exclusions is therefore welcome.

R The government should: urgently address the over-representation of certain groups of children being excluded from school, introduce a statutory right to appeal against exclusion decisions, enforce the ban on informal

exclusions and reform the appeals process so that the Independent Appeal Panel has the power to instruct a governing body to reinstate a child.

The use of physical restraint and isolation of children in schools, including disabled children, is extremely concerning.⁵⁰ A survey showed that 88% of the 204 respondents said their disabled child has experienced physical restraint, 35% reported that it happened regularly. 71% of families said their child had experienced seclusion or isolation with 21% reporting that this happened daily. **It is shocking to learn that over half of the cases of physical intervention or seclusion involved children between the ages of five and ten.**

R The government should abolish all methods of restraint against children for disciplinary purposes in all institutional settings, including “special schools”, and ensure it is used against children exclusively to prevent harm to the child or others and only as a last resort. The use of isolation rooms should be abolished.

7. Health

The Green Paper on Children and Young People’s Mental Health outlined some welcome proposals to strengthen the role of schools in promoting mental health. However, these fall short of what’s needed, as one in eight children between five and 19 had a mental disorder in 2017 and Children’s and Adolescents’ Mental Health Services (CAMHS) are struggling to cope with demand.⁵¹ There are worrying trends in children’s physical and mental health, including increasing health inequalities between the most disadvantaged children and those in more affluent families.⁵²



Source: Crenna-Jennings, W. and Hutchinson, J. (2018) *Access to children and young people’s mental health services – 2018* Education Policy Institute

The number of referrals to specialist CAMHS has risen by 26.3% in the last five years, while the proportion of children in the population has only increased by 3% over the same period, indicating a substantial increase in children’s mental health needs.⁵³ The All-Party Parliamentary Group on Mental Health has called for additional resources for CAMHS.

R The government’s additional investment in mental health must be ringfenced and spent on frontline services, including CAMHS and community services for children.

It is deplorable that many children with learning disabilities and/or autism continue to be inappropriately and unnecessarily kept in inpatient units. The number of children in these units has almost doubled⁵⁴ and the average length of stay is 5.4 years.⁵⁵ This is hugely detrimental to children. The government investigation into the use of seclusion and segregation in Assessment and Treatment Units is therefore welcome.

R The Mental Health Units (Use of Force) Act 2018 and accompanying guidance must end all inappropriate use of force and restrictive interventions against children and ensure the collection and publication of disaggregated data on all such incidents.

Concerted efforts are needed to address inequalities in child health outcomes. Children from deprived areas are more likely to face greater health risks from birth and experience worse health outcomes in their early years and when they start school, compared to children in affluent areas.⁵⁶ Projections by the Royal College of Paediatrics and Child Health (RCPCH) show that stark health inequalities, such as infant mortality and levels of obesity, are likely to increase over the next decade – and worsen among the most disadvantaged children.⁵⁷ **The RCPCH has called for a Children and Young People’s Health Strategy for England, to ensure coordinated and transformative action on children’s health.**

R The government should develop a cross-departmental child health and wellbeing strategy which is coordinated, implemented and evaluated across the four nations. Particular attention must be given to addressing health inequalities among children.

8. Policing and criminal justice

Urgent reform of the way children in conflict with the law are treated by police and the criminal justice system is still needed. Positive steps have been taken in the form of government launched inquiries and aspirations of a public-health approach to tackling serious violence. However, there has been little meaningful change to deal with the many issues which are not compatible with children's rights.

Arrests of children in England and Wales have reduced by more than two-thirds in the last seven years.⁵⁸ This is welcome. There are also fewer children entering the youth justice system for the first time. However, there has been an increase in the disproportionate representation of BAME children in the youth justice system and no movement on increasing the age of criminal responsibility. Welcome initiatives to end the over-criminalisation of children in care have been introduced by some police forces and should be encouraged nationally, but much work remains to be done to ensure children are treated as children first rather than mini adult offenders.

The use of spit-hoods continues to rise despite children describing how traumatic it is to be hooded.⁵⁹ **CRAE's FOI requests to police forces nationally revealed that 21 of the 28 police forces that responded use spit-hoods. There were at least 47 uses on children in 2017 and 114 incidents in the first nine months of 2018,** although the true figure is likely to be much higher across all police forces. BAME children accounted for 34% of spit-hood use nationally and 72% of Metropolitan Police Force use.

The use of Tasers on children is increasing year on year. **CRAE FOI requests show that in 2017 Tasers were used on children at least 871 times. This figure was already 839 just nine months in to 2018.⁶⁰**

Ⓡ The government should prohibit use of all harmful devices on children by police, including spit-hoods and Taser. As an immediate step the regulations, training, guidance and transparency around the use of Taser on children should be improved including the regular publication of fully disaggregated national data on uses.

51% of children who have had a Taser used on them are from a BAME background



Source: CRAE FOIs based on responses from 29 police forces⁶¹

The youth secure estate continues to be unsafe for children. A survey found that 43% of children said they had felt unsafe in their current Young Offender Institution (YOI) and 19% said they felt unsafe at the time of the inspection.⁶²

Ⓡ The government should end the use of prison-like institutions for children. Where children do need to be detained they should be placed in appropriate care-based homes.

The increased use of segregation of children in custody, even as the overall number of children detained has fallen, is extremely concerning. Detention periods have doubled, from eight to 16 days, with seven out of 10 episodes of segregation in YOIs lasting over a week. The UK is out of step with growing international consensus that children should never be placed in solitary confinement. **The use of restrictive interventions on children in the secure estate increased in the year ending March 2018 (by 20% to 5,400), the largest year-on-year increase seen over the last five years.⁶³** Human rights bodies such as the UN Committee Against Torture have criticised the UK for its use of pain-inducing restraint against children.

Ⓡ Restraint against children should only be used when the child poses an imminent threat of injury to themselves or others and it should never be used to deliberately inflict pain. The government should abolish all methods of physical restraint for disciplinary and immigration purposes. The government should abolish solitary confinement or any conditions that amount to solitary confinement.

Endnotes

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About CRAE

The Children's Rights Alliance for England (CRAE), part of Just for Kids Law, works with over 100 members to promote children's rights and monitor government implementation of the UN Convention on the Rights of the Child.

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

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