



**Office of the Children's Commissioner**

# The views and experiences of children in residential special schools

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Overview report

**December 2014**

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# About the Office of the Children's Commissioner

The Office of the Children's Commissioner (OCC) is a national public sector organisation led by the Children's Commissioner for England, Dr Maggie Atkinson. We promote and protect children's rights in accordance with the United Nations Convention on the Rights of the Child and, as appropriate, other human rights legislation and conventions.

We do this by listening to what children and young people say about things that affect them and encouraging adults making decisions to take their views and interests into account.

We publish evidence, including that which we collect directly from children and young people, bringing matters that affect their rights to the attention of Parliament, the media, children and young people themselves, and society at large. We also provide advice on children's rights to policy-makers, practitioners and others.

The post of Children's Commissioner for England was established by the Children Act 2004. The Act makes us responsible for working on behalf of all children in England and in particular, those whose voices are least likely to be heard. It says we must speak for wider groups of children on the issues that are not-devolved to regional Governments. These include immigration, for the whole of the UK, and youth justice, for England and Wales.

The Children and Families Act 2014 changed the Children's Commissioner's remit and role. It provided the legal mandate for the Commissioner and those who work in support of her remit at the Office of the Children's Commissioner to promote and protect children's rights. In particular, we are expected to focus on the rights of children within the new section 8A of the Children Act 2004, or other groups of children whom we consider are at particular risk of having their rights infringed. This includes those who are in or leaving care or living away from home, and those receiving social care services. The Bill also allows us to provide advice and assistance to and to represent these children.

## **Our vision**

A society where children and young people's rights are realised, where their views shape decisions made about their lives and they respect the rights of others.

## **Our mission**

We will promote and protect the rights of children in England. We will do this by involving children and young people in our work and ensuring their voices are heard. We will use our statutory powers to undertake inquiries, and our position to engage, advise and influence those making decisions that affect children and young people.



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We would like to thank staff at the Department for Education and Ofsted for their support in providing the data used in this report.

We would like to thank the schools who agreed to host and participate in the research and went out of their way to support the researchers and children.

Most of all, we would like to thank the 83 children and young people (and their families) who took part in the research and shared their experiences and feelings with openness and enthusiasm.



## Foreword by the Children's Commissioner

I am pleased to publish this overview report on the findings from the OCC's project focused on the views and experiences of children and young people who attend residential special schools. Because one report does not tell a full story or give a detailed picture without the other, I urge you to read this one alongside *My life at school*, which is a rich and detailed account of the research undertaken with children. We asked our researchers to work closely with them, because they are, after all, experts in their own lives. The research report will deepen your understanding as it has enriched ours.

Based on children's accounts of their lives from a small sample of residential special schools; on the data we have gathered to inform our reporting; and on detailed and probing discussions with stakeholders; this report makes a series of recommendations to government. They are designed to ensure that every child living and learning in a residential special school receives the excellent protection, education and nurture that they are entitled to under UK law on both education and care, and under the United Nations Convention on the Rights of the Child (UNCRC).

In undertaking this work, we did not attempt to address the complex range of issues and events which lead to decisions being made to commission residential special school placements for children with a wide range of often complex and multiple special educational needs and disabilities. However, for many children and their parents, the adversity and disruption experienced in their earlier lives, ahead of such profound decisions being made for the child concerned, is a recurrent theme. A decision to place a much-loved child away from home is momentous and can be fraught with difficulty. The families – and many of the children concerned who worked so well with our researchers – have been clear throughout that such decisions are not seen as either easy, or automatic. But the same families, as both reports make clear, state eloquently and often movingly that the wellbeing of everybody in them was at stake, or under threat, before a residential placement was sought. Weighing up what is best for those concerned rings through all their accounts. Being away from home in even an excellent residential setting, as many of these families accept alongside our own acknowledgement, denies a daily family life to the children concerned.

How well families, and their children, are supported in this very difficult choice is uneven, and all too often time, energy and emotion-consuming when families and children are in long-term testing and vulnerable situations. These two companion reports do not shy away from saying so.

We are clear that much more – and vitally, much more timely, sensitive and consistent – support is needed so family lives can be sustained and provide a good quality of life for all their children. That this ideal should be enabled and resourced at home is proven by much research to be the best option. That resources should be found for this support is imperative, and there should not



be a barrier to commissioning it, given a place at a residential school is usually far more expensive than providing that support in the child's home environment. Where that cannot happen, or where issues are so fraught and complex that a residential place is genuinely the only option, the quality of that placement should be the driving force. The decisions must be made which also involve and engage the child. These matters lie at the heart of their rights, and we commend the two reports from this small scale study in that light.



**Dr Maggie Atkinson**  
**Children's Commissioner for England**



# Executive Summary

## Introduction

1. This report provides an overview of a project exploring the lives of children and young people in residential special schools in 2014. The project focused on children's views and their experiences of life at school. In addition, a data request was used to build up a picture of residential special schools in England and the pupils attending them.
2. The project did not evaluate the education or care provided by schools involved in the research, or by residential special schools more generally. Furthermore, the important issue of whether more children and young people could be supported to remain at home with their families was not the focus of this project. However, many children and parents talked movingly about their earlier lives, and these experiences form part of the research findings.
3. Every child is entitled to the support they need so that they realise all the rights set out in the United Nations Convention on the Rights of the Child (UNCRC) without discrimination. These include the right to family life; the right to be heard; the right to the highest attainable standard of health; the right to be safe and to be protected from violence and abuse; and the right to an education which enables them to fulfil their potential. These rights formed the starting point for the research.

## Data

4. It is difficult to build a clear picture of the number of residential special schools, and of the number and profile of the children who live away from home at these schools. Our data request shows that just over 6,000 children were boarding at 277 residential special schools in January 2014, down from 8,700 children in 2005. Over half these boarders are in schools in southern England and London. Children attending residential special schools are very diverse. The majority are of secondary school age, and three quarters are male. The absence of pupil profile data for private residential special schools makes further analysis difficult.

## Research findings

5. Working with researchers from the University College London's Institute of Education, children in 17 residential special schools shared their experiences of life at school. Participation by schools and by children was entirely voluntary, and so the findings may not represent the full range of children's experiences at residential special schools. The researchers also held discussions with staff and family members. Children had different experiences and diverse views.

- 5.1 Many children missed their families, although many also valued the support and stability provided at school.





- 5.2 There were many examples within the research of schools working hard to support family contact for children, to create a homely environment at school, involve children in local community life, and to support children's emotional development and wellbeing.
- 5.3 Many parents said that they wished that provision had been available locally so that they could have kept their child at home. Some said that the residential placement had enabled them to keep their family together in very challenging circumstances.
- 5.4 Children were involved in different ways in decision-making around their daily lives. In most cases, adults were responsive to children with limited speech and complex needs, although a high proportion of activities were adult-initiated. Children often found participation in formal processes such as annual reviews difficult. There were a number of barriers which meant that many children's involvement in the biggest life decisions were very limited: these included where to go to school and plans after leaving school. These big changes were experienced as stressful and often adversarial by children and parents.
- 5.5 Most children reported feeling safe at school. Bullying was rarely a major focus, but a number of children reported feeling unsafe as a result of their own or other pupils' behaviour. Many children had had upsetting and difficult experiences at previous schools.
- 5.6 Many schools said it was difficult to get the right services from external providers when children needed them. This was a particular problem with mental health services. Some schools had limited access to specialist in-house provision, for example, educational and clinical psychologists.
- 5.7 Young people had many aspirations and hopes for the future. Many adults spoke about the impact that delayed decision-making had on young people's wellbeing and plans for life after school.
- 5.8 Looked-after children and young people faced particular challenges. Some experienced poor or inconsistent support from their placing local authority. Not all had good support to make their wishes and feelings known, particularly in relation to transition planning. As a result, decisions were taken which did not reflect their wishes and were not in their best interests.

## Recommendations

6. The report highlights the value of taking time to listen to the views of children in residential special schools and making use of a range of methods such as those used in this research. Where children cannot communicate verbally or by signing, the onus is on adults to work harder to understand children's experiences and feelings and to identify the services and support which is in their best interests. Much greater attention is needed to ensure that children in residential special schools are supported to have a say in the big decisions that affect them and their support. This is important for all children, and particularly those who are looked-after.



7. The need to get local commissioning and decision-making right in order to ensure that services for children with special educational needs and disabilities genuinely meet their needs is a recurrent theme throughout the report. Commissioning practice was not examined in detail in this report, but stakeholders were clear that good commissioning should:

- encompass a range of early support and flexible help to enable more children to remain at home with their families, or to return home from residential settings when possible and in their best interests
- ensure that commissioning for residential special school placements is focused on achieving the best possible outcomes for children, ensuring they receive health and the other interventions they need alongside educational provision
- support better and earlier planning and decision-making for young people leaving residential special schools.

8. The report identifies a number of actions that the Office of the Children’s Commissioner (OCC) will take to address the issues raised by children and young people in our policy work so that we continue to support and listen to the views of children and young people in residential special schools. We will also follow up aspects of our data request with Ofsted.

9. Since this project focused on the experience of children who board away from home at residential special schools, OCC’s **specific recommendations** focus on the standards for these schools and are directed at the Department for Education (DfE) and at the Government. They are:

- The DfE should change its requirements so that private residential special schools are required to provide a full range of pupil-level data as part of the annual school census.
- The DfE should work with children and stakeholders to develop comprehensive, ambitious and outcome focused quality standards for residential special schools, to replace the current national minimum standards. In doing so, it has an opportunity to promote the highest standards of support and education for children with complex special educational needs and disabilities. Some specific areas where the standards require strengthening are identified below. In addition, the research raises a number of important issues which merit wider discussion, including staff skills, capacity and guidance to provide children with appropriate, nurturing relationships, and children’s privacy and independence. These could be explored through a process of consultation and engagement on quality standards.
- The DfE should develop Standard 17 of the Minimum Standards for Residential Special Schools – Securing Children’s Views: with a



greater focus on supporting children to participate in important decisions about their lives, and highlighting the specific needs of children with very limited or no communication skills.

- The DfE should revise the relevant safeguarding standards for children’s homes (including dual-registered special schools), and those for residential special schools, so that:
  - (a) people undertaking Section 33 visits to Children’s Homes are approved or appointed through the local authority
  - (b) people undertaking independent visits under Standard 20 in the minimum standards for Residential Special Schools (Independent Visitors) are independent of the organisation running the school and appointed or approved by the local authority
  - (c) a requirement that all serious incidents should be formally notified to the inspectorate is reintroduced to the National Minimum Standards for Residential Special Schools
  - (d) regulation 42 of the children’s homes standards includes a list of those incidents which will always require formal notification
  - (e) the relevant regulations and standards for behaviour management and physical intervention (Regulations 21, 22 and 37 of the proposed 2015 Children’s Homes Regulations) are revised in line with the UNCRC and in order to safeguard the physical and emotional wellbeing of children
  - (f) Standard 12 of the National Minimum Standards for Residential Special Schools is revised based on the provisions and principles of the UNCRC, with strict rules around use of force/restraint including recording practices and monitoring, set within a broader restraint minimization approach.

9.5 The Government should introduce a change in the law so that mandatory reporting of abuse should be a requirement where children live in institutional settings, including all residential special schools.

9.6 The DfE should ensure that revisions to Quality Standards for children’s homes incorporate ready access to specialist support, including positive behaviour support, mental health, educational and clinical psychology services, relevant to the care of children within the range of needs for which it is intended that the home is to provide care.

9.7 The DfE should amend Minimum Standard 3 (Health and Wellbeing) of the National Minimum Standards for Residential Special Schools so that schools provide appropriate in-house support for children’s physical, mental and emotional health needs, where this is likely to be required by children for which the school caters. Staff profiles and training should support this.



# Introduction

## Why we wrote this report

Every child has the right for their views and experiences to be taken into account when adults are making decisions about their lives. Listening to what really matters to children and young people is at the heart of the Office of the Children's Commissioner's work.

In April 2014, the remit of the Office of the Children's Commissioner was reformed and extended by Children and Families Act 2014 which amended the Children Act 2004. Our new role includes a special responsibility for children living away from home or receiving social care services. We also took over responsibility for the work of the Office of the Children's Rights Director, including running an advice and assistance line that any child who lives away from home can contact.

OCC undertook this project because we wanted to find out more about what life is like for children who live at residential special schools. The UNCRC says that every child has the right to an education which develops their full potential.

The best residential special schools provide excellent support which enables children to realise their rights under the UNCRC. But children in residential special schools can be vulnerable in many different ways. Their best interests must be at the heart of all decisions about their life, so that they are safe, and can learn, play and flourish. For this to happen, the different adults in children's lives must do their best to understand each child's unique needs, wishes and feelings, and provide them with the support they need.

We hope to use the information gathered through this project to make sure that OCC provides the right advice and assistance to children living in residential special schools. We want to learn about the best approaches for understanding the views and experiences of children in residential special schools. Finally, we want to give other adults – schools, families, local authorities, policymakers, and inspectors – the chance to find out what children feel and think about their experiences at school.

## How we wrote the report

The primary aim of the project was to conduct research to understand the experiences of children and young people boarding in residential special schools. This was carried out by the UCL Institute of Education on behalf of OCC during the summer term of 2014.

A secondary aim was to find out more about residential special schools and the children who attend them. This was undertaken through a data request using the OCC's data collection powers to the Department for Education and Ofsted.



We carried out a small number of phone interviews with people working for central government, local government, voluntary sector organisations, academics and organisations who have special schools and children's homes as members. These interviews were not comprehensive, but were intended to put the research with children in a broader context. Some of these organisations also took part in focus group discussions in October 2014 about the issues raised by the research.

## **Report overview**

Section 1 looks at the rights in the UN Convention on the Rights of the Child and other human rights conventions and laws and asks how they apply to children who go to residential special schools.

Section 2 looks at different kinds of residential special schools and the children who attend them.

Section 3 describes children and young people's views and experiences. This section is based on research carried out for OCC by the UCL Institute of Education with 83 children who board in 17 residential special schools. The full report, *My Life at School: Understanding the experiences of children and young people with special educational needs in residential special schools*, is available at [www.childrenscommissioner.gov.uk](http://www.childrenscommissioner.gov.uk)

Section 4 opens with a brief summary of recent policy changes most relevant to children in residential special schools. It then explores some of the issues raised by the research and makes recommendations to address the issues identified by the project.



# 1. The rights of children in residential special schools

This section of the report looks at the rights in UNCRC and other human rights conventions and laws and considers whether there are specific issues in the way they apply to children who are boarding in residential special schools.

## 1.1 The UNCRC

The UNCRC was ratified by the UK on 16 December 1991. Although it has not been incorporated into domestic law, it has important consequences for the rights of children, since *'all domestic legislation has to be construed as far as possible to comply with international obligations'*. Local Authority Directors of Children's Services must have regard to the general principles of the UNCRC in the exercise of their functions.<sup>1</sup>

The UNCRC is relevant both to the placement of children and young people in residential special schools and to the protection and promotion of their rights once they are there. It requires that governments and others place the best interests of children at the heart of decisions about them and – in doing so – take proper account of the child's own views.

Recognising that disabled children are a particularly vulnerable group, UNCRC Article 23 sets out a number of requirements in order that disabled children can realise their rights to *'a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.'*<sup>2</sup>

Overall, governments are urged to *'use placement in institutions only as a last resort [for disabled children] where it is absolutely necessary and in the best interests of the child'*, and to do their utmost to take children's views into account at every stage of the placement process.<sup>3</sup> Article 24 of the Convention on the Rights of Persons with Disabilities also underlines the importance of inclusive education systems which enable people with disabilities to realise their right to education without discrimination.<sup>4</sup>

Where children are educated in residential special schools, they are entitled to respect and support for all their rights without discrimination. These rights are wide-ranging, but include:

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<sup>1</sup> See Statutory Guidance on the roles and responsibilities of the Director of Children's Services and the Lead Member for Children's Services, for local authorities (DfE, April 2013).

<sup>2</sup> If disability is broadly defined as it is in section 17(11) of the Children Act 1989, we consider that the vast majority of children special educational needs in Residential Special Schools would fall within the rubric of article 23 UNCRC, including children with behavioural, emotional and social difficulties.

<sup>3</sup> See UN Committee on the Rights of the Child General Comment no. 9 (2006).

<sup>4</sup> The UK has entered a reservation on this provision of the UNCRPD since it believes that there may be circumstances in which a disabled child's educational needs can best be met through specialist provision outside their local community.



- The requirement that institutions conform to the standards established by competent authorities – particularly in relation to safety, health, staff and supervision (Article 3). This provision applies to public, private and voluntary settings.
- The right to have account taken of their best interests (Article 3), the right to express their views freely and have these taken into account (Article 12).
- The right to know and be cared for by the child’s family (Article 7); to maintain family contact (Article 9); and for families and the families of disabled children in particular to receive assistance and support to meet their responsibilities (Articles 18; 23).
- The specific rights of children who cannot be looked after by their parents, including the right to special protection and assistance from the State, and to placements which address the child’s need for continuity in their upbringing and to the child’s ethnic, cultural and religious background (Article 20).
- Civil rights including freedom of expression and information; freedom of thought conscience and religions; freedom of association; right to his or her privacy, family, home of correspondence (Articles 13–16). And protection from arbitrary or unlawful detention (Article 37).
- The right of life (Article 6), to protection from violence, abuse, and sexual abuse/exploitation (Art 19) sexual abuse and exploitation (Article 34), and protection from torture or other cruel inhuman or degrading treatment or punishment (Article 37).
- Rights to the highest attainable standard of health (Article 24) and education (Articles 28, 29), and play and leisure (Article 31).
- The right to a periodic review of the treatment provided and all other circumstances relevant to the child’s placement (Article 25) where a placement has been made by the State. Where children are in the care of the State, and temporarily or permanently deprived of their family environment, they are entitled to special protection and assistance provided by the State (Article 20).

## 1.2 The Human Rights Act (1998)

The Human Rights Act (1998) brought the provisions of the European Convention on Human Rights (ECHR) into UK law. This means that that local authorities, for example, must exercise their powers in a way that is compatible with ECHR rights, and they also have positive obligations to promote and protect the rights guaranteed by the Convention – for example, by taking steps to prevent breaches of rights, deterring conduct that would lead to breaches, and responding to any breaches that do occur.



The most relevant rights for children in residential special schools include:

- a prohibition on inhuman or degrading treatment (Article 3)
- protection of the right to liberty (Article 5)
- right to respect for private and family life, home and correspondence, and the right to respect for social relationships (Article 8)
- the right to peaceful enjoyment of possessions (Article 1, Protocol 1).

Article 3 is an absolute right: no child can ever be subjected to inhuman or degrading treatment. Understanding how the other rights apply in a residential special school setting can be complex. For example, parents have a big say in children's lives and can authorise others (such as schools) to impose restrictions on the liberty of the child, but only if these restrictions do not add up to a deprivation of liberty. Many residential special schools are not state-run, but children may be able to claim their rights have been violated if public bodies have been closely involved in their care plan and service provision.

### 1.3 Other laws

There are also a range of laws and regulations which – although not always taking the form of 'rights' – are particularly relevant to children who board in residential special schools. They include:

- Support for children and young people with **special educational needs and disabilities**: including – progressively from 2014 – Education, Health and Care plans which focus on the support children and young people need to achieve good outcomes in their lives; provision of information, advice and support to help young people understand their options as they move into adulthood; and an expectation that children and young people will be involved in making decisions about their support.
- Rights and support for children and young people who are **looked after**: these include six-monthly reviews with the input of an Independent Reviewing Officer, support from a social worker, access to independent advocacy for looked-after children who require it in order to make complaints or representations, and placements which take in account children's wishes, their background, contact with siblings and family where possible and distance from home, amongst other things.
- A range of **regulations and standards for the operation of residential special schools**, including regulations and standards for children's homes (covering residential special schools which are dual-registered as children's homes) and minimum standards for residential special schools, which set standards in relation to staffing, safety, children's voice, health and wellbeing and so on. Both sets of standards are currently in the





process of being revised. In addition, residential special schools are bound by the legal frameworks governing the operation of independent, non-maintained and maintained schools.

- **Deprivation of liberty** of children – at residential special schools or elsewhere – is always unlawful unless permitted by the Children Act 1989 (section 25) or for young people of 16 and over by the Mental Capacity Act 2005.



## 2. Residential special schools and their pupils

### 2.1 Introduction

2.1.1 This section provides some background information about residential schools and the children and young people who board at them. It is based on a data request made by OCC to the Department for Education and Ofsted in 2014.

2.1.2 Previous research has highlighted gaps in publically available data relating to the volume and coverage of residential special schools nationally and the profile of children and young people who board there. This data is vital in order to put the research findings into context and enable meaningful policy discussions to take place.

2.1.3 The OCC consequently issued a data request using its statutory data collection powers<sup>5</sup> to try and meet the following objectives:

- To gain an accurate picture of the number and characteristics of all children and young people in residential special schools across England.
- To build up an understanding of the inspection frameworks in place governing these establishments and the results of these inspections.
- To understand further the nature of complaints and safeguarding processes in place across residential special schools.
- To ascertain what is and is not captured within centralised data collections and the implications of this.
- To inform the broader research, further potential data requests and recommendations at the culmination of the project.

### 2.2 Summary

2.2.1 The available data paints a picture of boarders at residential special schools who have a very diverse profile and needs. Three-quarters are boys. There are a wide variety of residential special schools, including many which are dual registered as children's homes. There is a concentration of schools in the south of England and very limited provision across the North East and Yorkshire and the Humber. A high proportion of schools received 'good' or 'outstanding' judgements in their most recent Ofsted social care inspections.

2.2.2 The absence of pupil-level data in the annual returns required from private/independent schools which account for nearly half of all schools, means that data on the profile of children boarding at residential special

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<sup>5</sup> Section 2F of Children Act 2004 (as inserted by section 110 of Children and Families Act 2014).



schools is incomplete, and it is difficult to draw conclusions about their needs, looked-after status, and the distance from home. Gaps in providing certain elements of the data request by Ofsted have also prevented us from being able to report on complaints and safeguarding. The OCC will continue to seek to gather this data.

## 2.3 The number, location and types of residential special schools

2.3.1 There are 379 special schools in England as of November 2014 with a boarding capacity. These cater for children and young people between the ages of 2 and 25.

2.3.2 277 schools had children and young people boarding in them at the time of the 2014 school census in January 2014.<sup>6</sup>

**Table 1:** Residential special schools with boarders broken down by number of schools, school type, number of pupils and number of boarders

| Type of residential special schools with boarders | Number of Schools | Total number of pupils | Total number of boarders |
|---|-------------------|------------------------|--------------------------|
| Academy Special Converter                         | 14 (5%)           | 1490 (10%)             | 345 (6%)                 |
| Academy Special Sponsor Led <sup>7</sup>          | 1                 | 0                      | 0                        |
| Community Special School                          | 69 (25%)          | 5525 (36%)             | 1540 (25%)               |
| Foundation Special School                         | 10 (4%)           | 850 (5%)               | 250 (4%)                 |
| Non-Maintained Special School                     | 54 (19%)          | 3135 (20%)             | 1630 (27%)               |
| Other Independent Special School                  | 129 (47%)         | 4490 (29%)             | 2305 (38%)               |
| <b>Grand Total</b>                                | <b>277 (100%)</b> | <b>15485 (100%)</b>    | <b>6070 (100%)</b>       |

Numbers of pupils and boarders have been rounded to the nearest 5. Totals may not match the sum of the constituent parts.

2.3.3 As Table 1 shows, boarders can be a minority within residential special schools, with 39% of 15,85 pupils taught in those schools boarding. This is an average of 22 boarders per school, although this figure is affected by the suppressed figures and the newly opened schools<sup>2</sup>.

2.3.4 Independent schools are the largest provider of boarding places, catering for 38% of boarders. Given the absence of individual pupil level data from independent schools in national captures, a significant gap in available data relating to their characteristics and needs is present.

2.3.5 As map 1 shows, 55% of boarders in residential special schools in January 2014 were in schools in the two southern most regions of England or

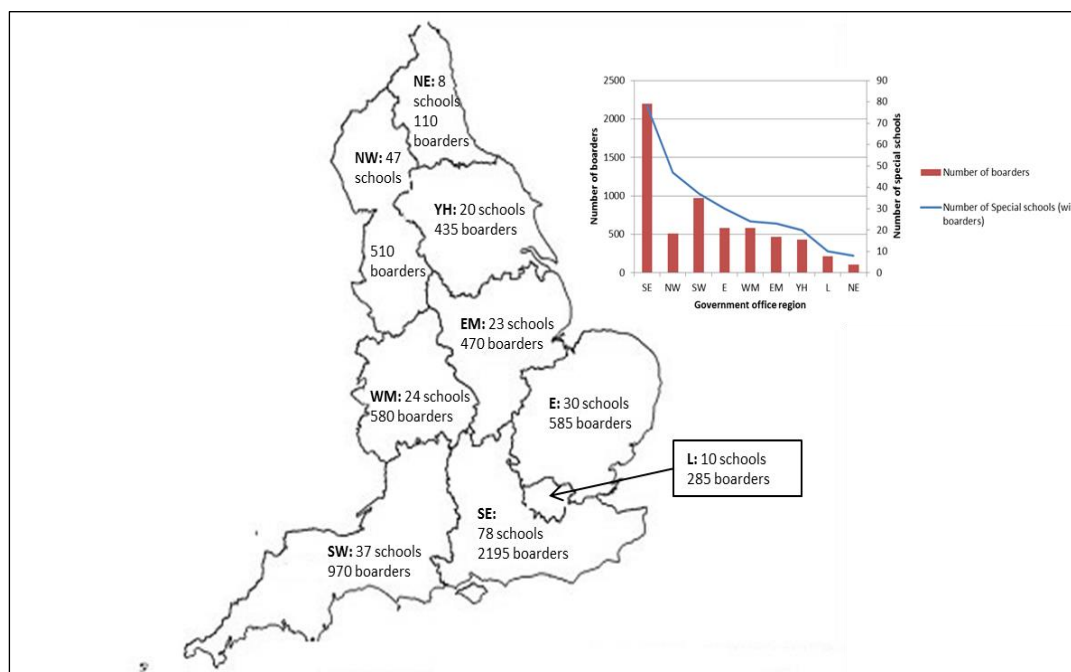
<sup>6</sup> Five of these schools opened after the school census data collection took place and therefore no data is available. 30 of the schools have between one and two children boarding and therefore the data has been suppressed and is also not included.

<sup>7</sup> Opened in October 2014 so no data available from existing national data collections.



London.

### Map 1: Map of England broken down by former Government Office Regions showing the number of schools with borders and the number of children and young people boarding



2.3.6 The available data shows a relatively lower number of schools with boarders in the North of the country, in particular the North East and Yorkshire and Humber regions. The drivers underpinning the establishment of a special school and placement decisions for residential placement are outside the scope of this project. It is therefore unclear if the need profile, demand and funding arrangements is significantly different in these regions when compared to the two most Southern regions which have the largest number of boarders. Nevertheless, the concentration of boarding capacity in some parts of the country raises questions about the accessibility of specialist provision for children in different regions in England.

**2.3.7 Residential special schools which are dual-registered as children's homes:** A total of 192 residential special schools are dual-registered as children's homes.<sup>8</sup> On the whole, children in these settings are likely to have more complex needs than those in termly boarding schools, and a higher proportion (although by no means all) will be looked after. Not all these schools have children boarding at any one time, however, and in January 2014, only 56% (n=107) had boarders in residence, catering for 1,560 boarders. 88% of dual registered special schools with boarders are run by independent providers, providing for 79% children who board in dual-registered settings. Non-maintained schools account for the majority of other dual registered special schools as Table 2 illustrates.

<sup>8</sup> Registration as a children's home is required if at least one child stays 295 or more days a year. Residential provision at these settings is inspected in the same way as for other children's homes.



**Table 2: Number of dual registered special schools with boarders broken down by provider type, total number of pupils and number of boarders**

| Type                             | Dual Registered residential special schools / children's homes with boarders |             | Total Pupils |             | Total Boarders |             |
|----------------------------------|--|-------------|--------------|-------------|----------------|-------------|
|                                  | Total  | %           | Total        | %           | Total          | %           |
| Community Special School         | 1  | 1%          | 150          | 6%          | 25             | 2%          |
| Non-Maintained Special School    | 12   | 11%         | 520          | 21%         | 295            | 19%         |
| Other Independent Special School | 94   | 88%         | 1,785        | 73%         | 1,240          | 79%         |
| <b>Grand Total</b>               | <b>107</b>   | <b>100%</b> | <b>2,455</b> | <b>100%</b> | <b>1,560</b>   | <b>100%</b> |

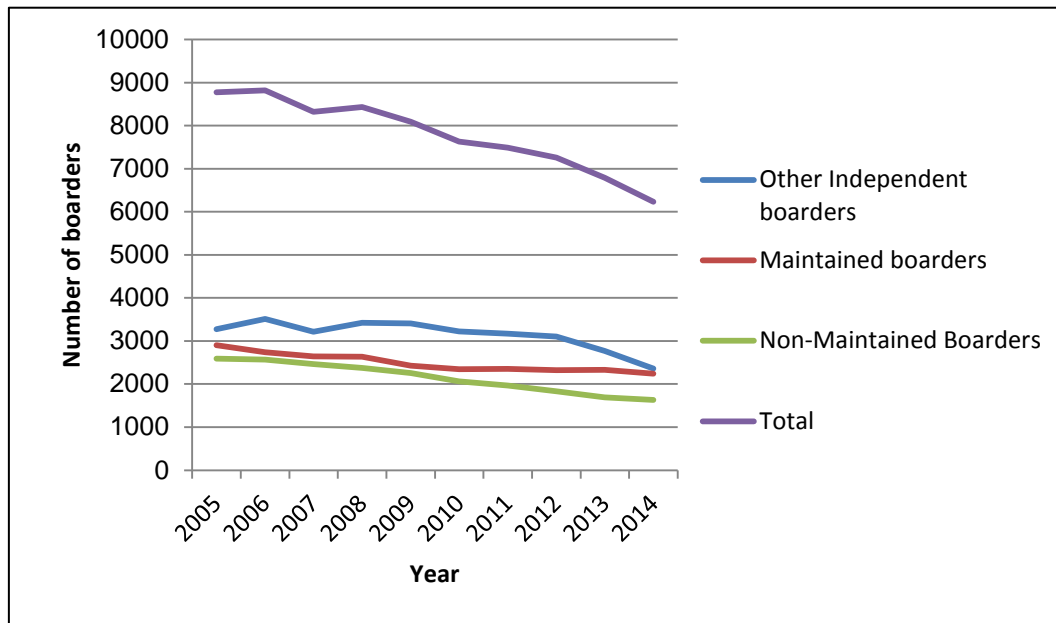
### 2.3.9 Change over time

Data since 2005 shows an overall decline in the number of children boarding at residential special schools and a rise and then a fall in special schools recording boarders. There has also been a notable reduction in the number of boarders per establishment: from around 29 boarders per school in January 2005 to 22 boarders per school in January 2014.

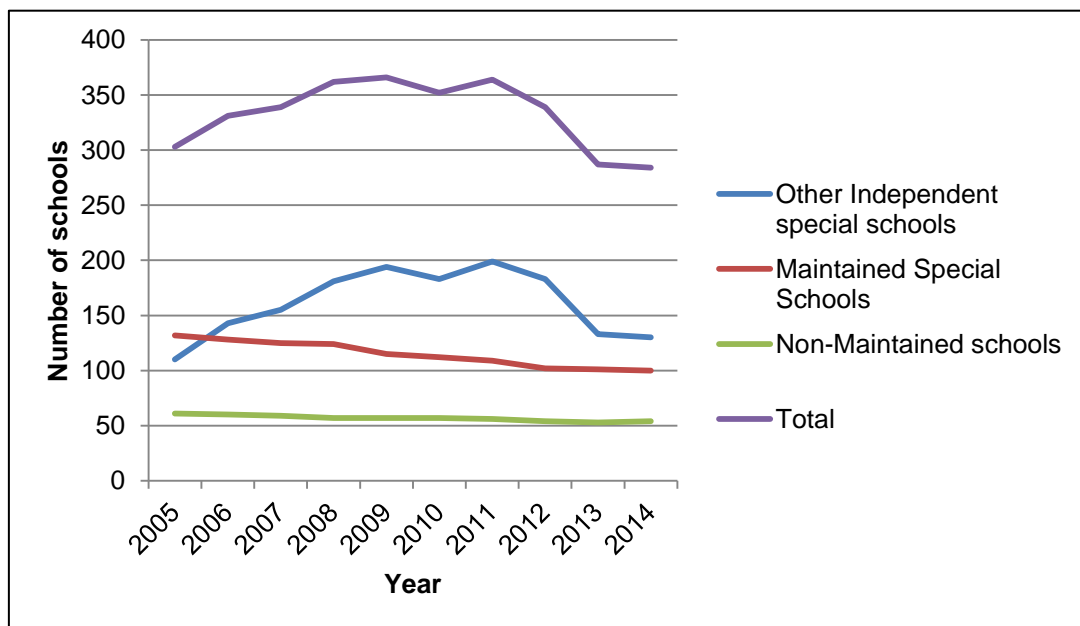
Without more information about the profile of children boarding at residential special schools, or which local area they come from, it is difficult to explain these overall trends.



**Graph 1: Numbers of children boarding in residential special schools, 2014-15<sup>9</sup>**



**Graph 2: number of residential special schools recording boarders, 2014-15**



<sup>9</sup> Since independent residential special schools can admit children who do not have statements of special educational need, some of these children may not have SEN statements.

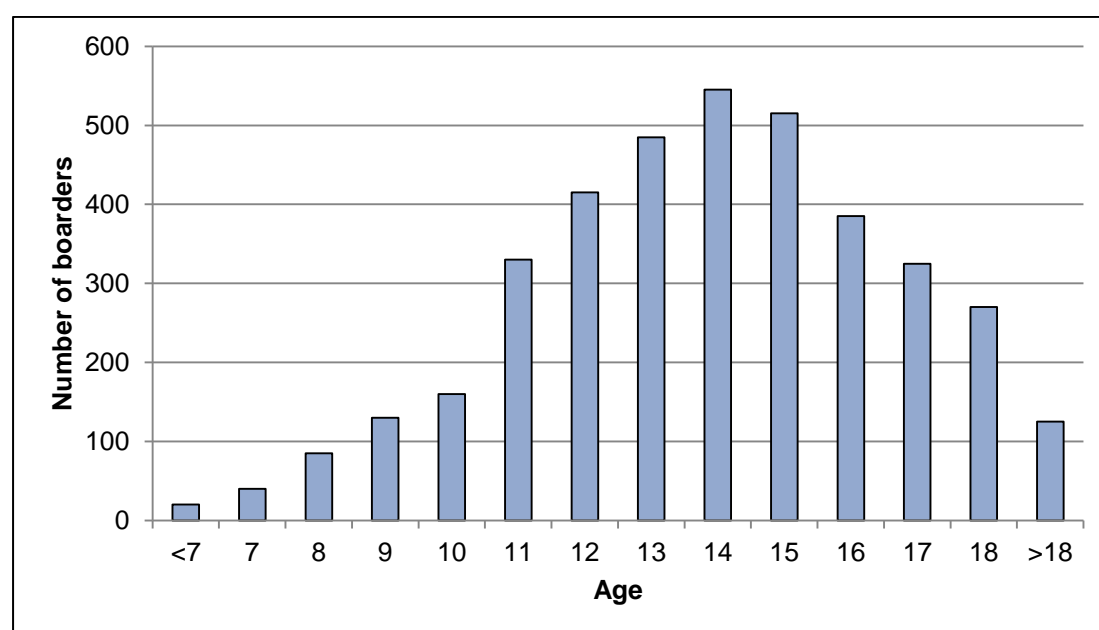


## 2.4 The profile of children and young people attending residential special schools

2.4.1 National data on children boarding at residential special schools and their characteristics is very incomplete. Information other than volume is only available for the boarders who attend maintained and non-maintained residential special schools. The following characteristics data is therefore based on the data regarding boarders in special schools in non-independent provision. This accounts for 62% of boarders. It is therefore a very partial profile and is not likely to be representative. This analysis required an additional analysis by the Department for Education to obtain as is not separated or available in their published statistics.

2.4.2 **Age and sex:** The Graph 3 shows the ages of children boarding in residential special schools. Boarders range from aged 7 and below and over 18. The mean and mode age is 14. Just over 60% are aged between 12 and 16 years old. 75% of known boarders in residential special schools are male.

**Graph 3: Bar chart showing number of children and young people boarding in special schools broken down by age**



2.4.3 **Ethnicity:** Children defined as being from any white background<sup>10</sup> are the largest ethnic group boarding in residential special schools. National census data indicates that they are over represented relative to their proportion in the population. Children and young people from any Asian background<sup>11</sup> appear to be underrepresented.<sup>12</sup>

2.4.4 **Statement of special educational needs:** The top three primary

<sup>10</sup> Includes white British, Irish, Traveller of Irish heritage, Gypsy/Roma, and any other white background.

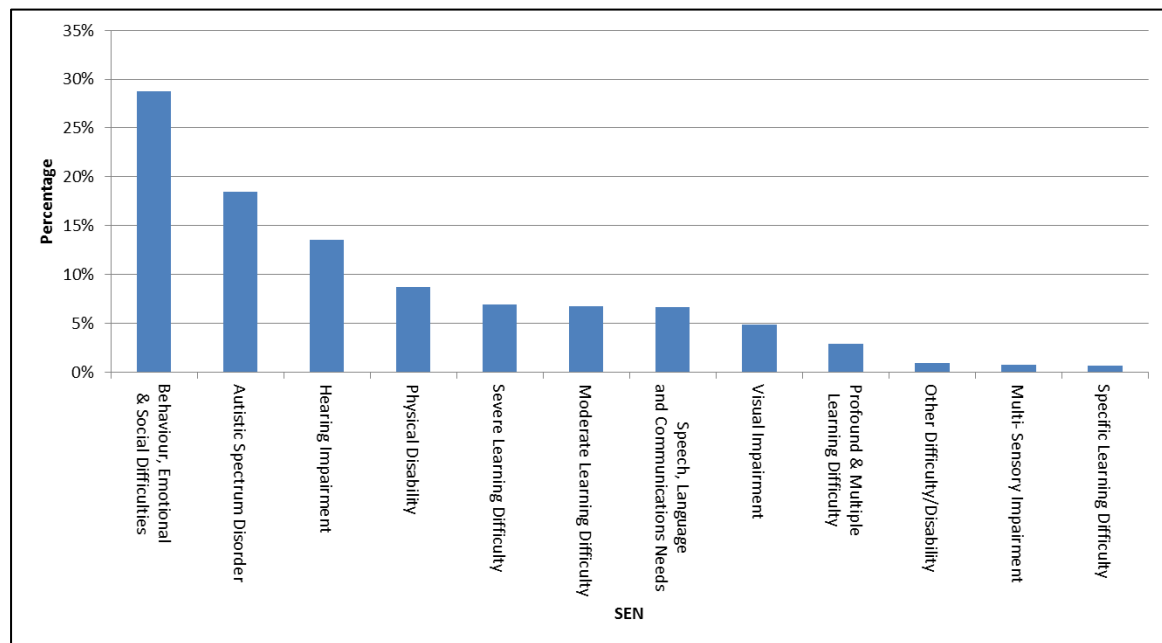
<sup>11</sup> Includes Indian, Pakistani, Bangladeshi, and any other Asian background.

<sup>12</sup> Census 2011 data indicates that 79% of England's population of 0–19 year olds are from any white background and 10% from any Asian background. Available data on boarders in Residential Special Schools indicates that 87% are from any white background and 3% any Asian background.



reasons listed on a SEN statement for boarders in residential special schools in 2014 were: behaviour, emotional and social difficulties (29%), autism spectrum disorder (18%) and hearing impairment (14%). SEN statements do not necessarily give a full picture of children's needs.

**Graph 4: Bar chart showing the primary SEN category for boarders in special schools**



**2.4.5 The profile of children who are boarders in residential special schools which are dual registered as children's homes** (and are maintained and non-maintained residential special schools) indicates that they are likely to have a slightly older population with >18 being the highest volume age (25%). Females make up a higher proportion (33%) of the population than in all residential special schools. The most common primary SEN identified is hearing impairment (32%) followed by autistic spectrum disorder (22%) and profound and multiple learning difficulty (19%). These figures exclude the 79% of children attending dual-registered residential special schools where the school is independent. They are unlikely to be representative.

**2.4.6 Distance between school and home:** We wanted to understand how far children in residential special schools lived away from their home. This information is only available for children in maintained and non-maintained residential special schools. For these children:

- 26% of boarders have a home address more than 20 miles away from the residential special school they attend.
- 31% of boarders are placed in a residential special school out of the local authority which they originally resided. The majority of these are in non-maintained special schools, where 60% of boarders are from different local authority areas. Children boarding at maintained residential special





schools are more likely to come from the same local authority area.

**2.4.7 Looked after children:** We wanted to find out how many boarders in residential special schools are looked-after. Looked after children have specific entitlements and they may also face particular challenges, for example, in their rights to a family life, or in the transition to adulthood.

10% of boarders in maintained and non-maintained residential special schools are looked-after children. The main category of need identified at the time the child started to be looked after was the child's disability (38%) followed by abuse or neglect (34%). The majority of boarders in residential special schools who are looked after (61%) are done so through a voluntary agreement under section 20 of the Children Act 1989.

**Table 2: Legal status of children boarding in residential special schools (maintained and non-maintained special schools)**

| Legal status of children boarding in residential special schools (maintained and non-maintained special schools) |                                     | Total      | Percentage  |
|--|-------------------------------------|------------|-------------|
| Care Orders  | <i>Interim care orders</i>          | 5          | 1%          |
|  | <i>Full care orders</i>             | 145        | 37%         |
| Freed for adoption   |                                     | x          |             |
| Placement Order granted  |                                     | 5          | 1%          |
| Voluntary agreements under S20 CA 1989   |                                     | 240        | 61%         |
| Detained for child protection  | <i>Police protection</i>            | 0          | 0           |
|  | <i>Emergency protection orders</i>  | 0          | 0           |
|  | <i>Under Child Assessment Order</i> | 0          | 0           |
| <b>Total</b>   |                                     | <b>395</b> | <b>100%</b> |

As we have seen, children in independent residential schools (including a high proportion of those which are dual-registered as children's homes) are not included in this data, and overall proportion of looked-after children in residential special schools is likely to be significantly higher than 10%.

## 2.5 Inspection of residential special schools

2.5.1 The inspection arrangements for residential special schools are relatively complex.

2.5.2 Inspection of **residential provision:**

- Ofsted inspects the residential provision for residential special schools on an annual basis.
- If the residential special school is dual registered as a children's home (children and young people in their care for over 295 days per year)



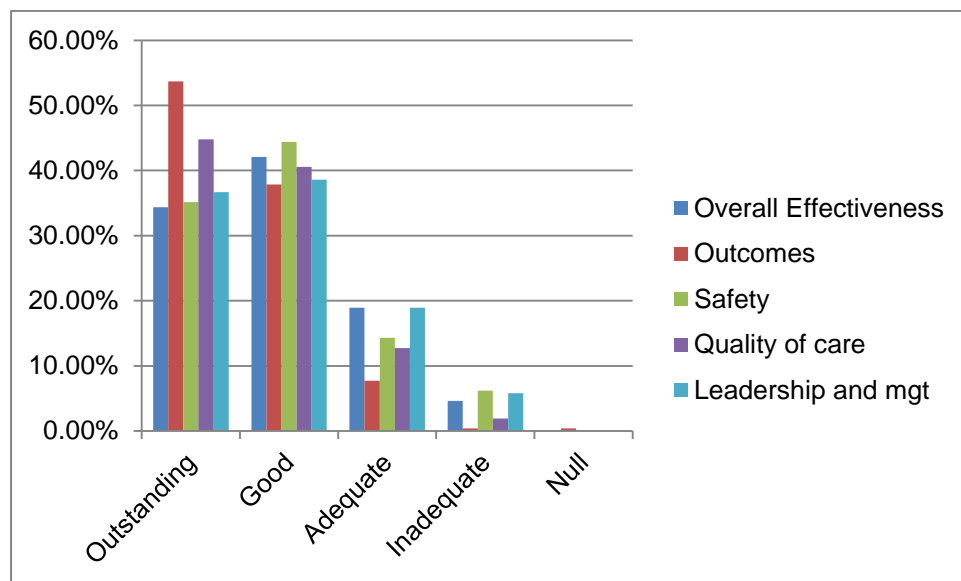
then they are inspected twice annually using the children’s homes inspection framework and regulations.

Available Ofsted data regarding welfare inspections in residential special schools suggests that overall standards are generally high with over 75% rated outstanding or good. In particular Ofsted inspections suggest residential special schools have strengths in developing positive outcomes for children and young people.

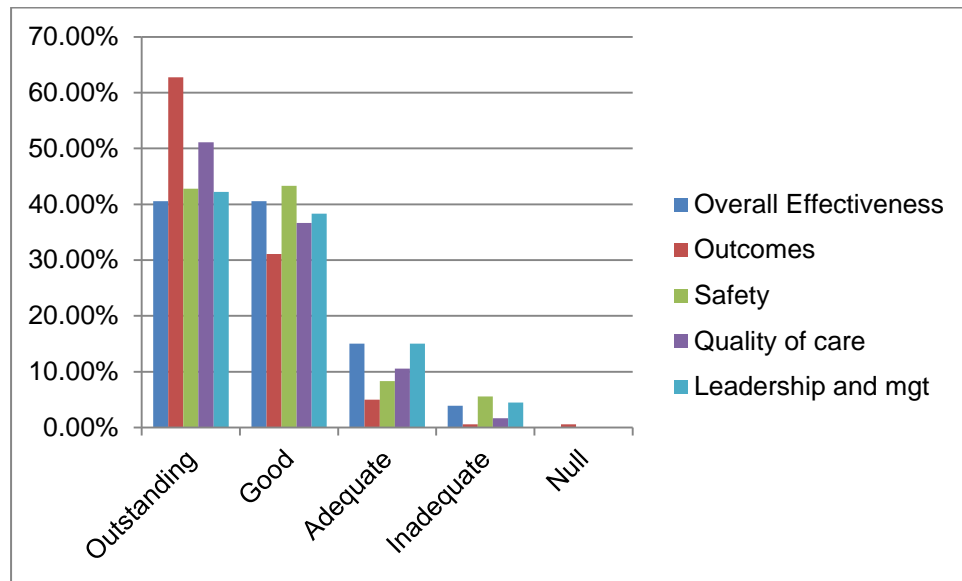
For residential special schools which are dual registered as children’s homes, judgements tend to be somewhat lower, with 65% of these judged to be outstanding or good overall. The standards and inspection frameworks differ between those residential special schools which are dual-registered as children’s homes and those which are not.

In the limited number of cases where inadequate ratings in social care inspections were given by Ofsted, the highest proportion related to concerns around the safety of children and young people (6%).

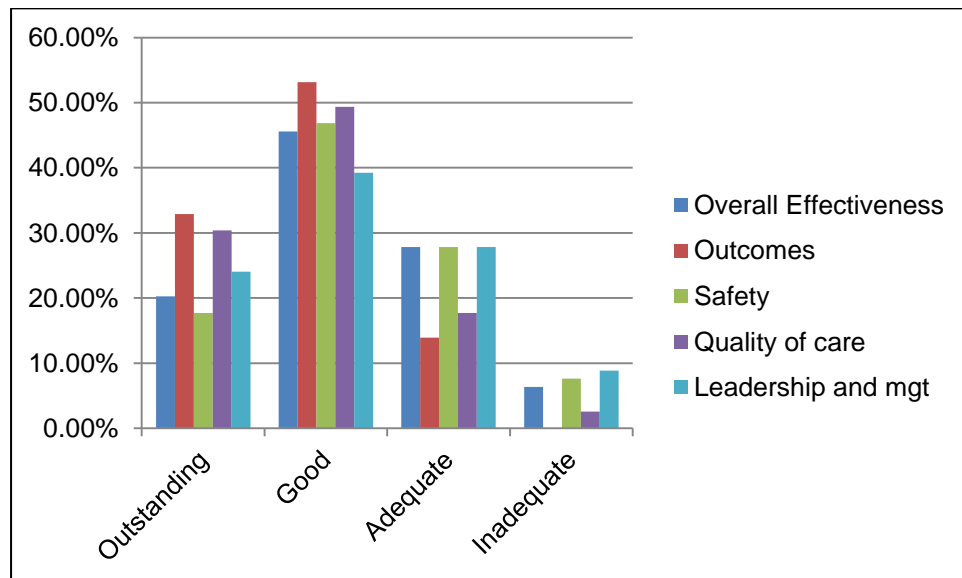
**Graph 5: Ofsted Social Care Inspection results for residential special schools broken down by rating and inspection theme**



**Graph 6: Ofsted Social Care Inspection results for residential special schools broken down by rating and inspection theme**



**Ofsted Social Care Inspection results for RSS's dual registered as children's homes broken down by rating and inspection theme**



### 2.5.1 Inspection of educational provision

The education provision in residential special schools is inspected by Ofsted for maintained and non-maintained special schools, with timing dependent on a number of factors.

The education provision for independent special schools is inspected every three years, under section 162A of the Education Act 2002, as amended by schedule 8 of the Education Act 2005, the purpose of which is to advise the Secretary of State for Education about the school's suitability for continued registration as an independent school.



Ofsted undertake education inspections every three years and for independent RSS's they are one of four inspectorate bodies undertaking work in this area as set out in section 162a of the Education Act 2002. The other inspectorates include: the Independent Schools Inspectorate (ISI); School Inspection Service (SIS); and the Bridge Schools Inspectorate (BSI).

## **2.6 Data gaps**

2.6.1 In order to obtain the data contained in this report the OCC issued two data requests to Ofsted and the Department for Education under the statutory powers of the office.

2.6.2 The resulting response has highlighted gaps in what is collected regarding boarders in special schools. Of most significance is that regarding independent special schools which has already been highlighted.

2.6.3 One objective of this data capture was also to gain a picture as to the extent and nature of safeguarding concerns and complaints relating to special schools from Ofsted. In response Ofsted informed us that in September 2011 the DfE removed the duty to notify serious incidents from the National Minimum Standards for special schools. They are therefore not informed of incidents regarding safeguarding or complaints made to the school of a serious nature unless contacted by a third party. Ofsted state therefore that they only hold partial data in this area. They also failed to provide what data they do have in line with our statutory request which have prevented us from meeting this objective of the data request. This is due to reported complications in the way in which this data is collated within Ofsted databases and their ability to abstract data specific to our requirements from amongst a wider dataset. This will be subject to further follow up by the OCC.



## 3. The research: children and young people's experiences of boarding at residential special schools

### 3.1 Introduction to the research

This section is a short summary of the findings of research carried out in the summer of 2014 by the University College London's Institute of Education in 17 residential special schools on behalf of the Office of Children's Commissioner. For a much richer and more detailed exploration of children's views and the research process, please see the main research report<sup>13</sup>.

The researchers worked with 83 children to find out more about their experiences of school, focusing on some of the rights in the UNCRC. They used different methods, including structured observation for children who had difficulty communicating verbally. They also spoke to staff at the schools and to parents and carers as a way of finding out more about children's views and how they were listened to. The objective was to find out more about children's views and experience, not to 'assess' individual schools or residential special school provision generally.

The OCC is very grateful to all the young people, their families and carers, and to the schools and staff who supported the research. We also thank the research team at the Institute of Education and Wac Arts who worked so hard and so creatively to carry out the research.

All 287 residential schools which recorded pupils boarding at the time of the January 2013 census were invited to participate, and all of those who expressed an interest were able to participate. The seventeen schools encompassed a range of different schools and children with diverse needs and experiences were involved.

The findings of the research, however, will not be representative of the range of experience of the many and diverse children who board at different residential special schools:

- Almost every participating school had been judged 'good' or 'outstanding' in their most recent Ofsted inspection. As section 2 shows, a high overall proportion of residential special schools are judged to be 'good' or 'outstanding'. The study relied on the willing support of schools, and it does not allow us to draw conclusions about the experiences of children in schools judged to be performing less effectively.
- A high proportion of the schools who volunteered to participate were from the South East of England.

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<sup>13</sup> 'My Life at School: Understanding the experiences of children and young people with special educational needs in residential special schools',



- The children involved in the study had a range of different needs. Attention was given during the research was given to including children with very limited communication . Given the limitations on data about children boarding at residential special schools described in section 2, it is hard to say with confidence how far the children involved were representative of the profile of children in residential special schools in England. A comparison of the study sample with the data for children in maintained and non-maintained schools in section 2.4 suggests that children with behaviour, emotional and social difficulties, physical disabilities, and severe learning difficulty may have been under-represented in the sample, and children with autistic spectrum disorder and speech, language and communication needs may have been over-represented. Although there were many commonalities between children’s experiences, a larger sample size and a longer time frame might have highlighted differences in the experiences of children with different needs.
- The research process was designed to be comfortable and enable children to focus on what mattered most to them. The interviews were conducted in a flexible way, with topics identified by the children from a set of themes. Children were given the option of having a staff member they knew with them during discussions, and almost all opted to do so. It is possible that this had an impact both on the subjects covered and on children’s responses.
- Eleven children who did not communicate verbally were observed as part of the research. Observation yielded valuable information about their daily lives, and how adults understood and responded to their feelings and preferences. In addition, discussions were held with parents and staff to build up a picture of their lives and experiences. However, direct views from this group of children on some of the areas covered by the research – for example, family life, safety, or aspirations – are limited for obvious reasons.
- Many children and their parents spoke to the researchers about difficult experiences prior to a placement at residential special school and their relief at having found a place where they (or their child) was safe and supported. It is possible that this relief, and difficult past experiences, may have shaped the expectations and responses of both children and parents.

## 3.2 The research findings

### 3.2.1 Children’s right to a family life

For many children – notably younger children – living away from home presented challenges to their **rights to family life**. Many children reporting that they felt homesick sometimes or often. Some missed the greater privacy and independence they had at home. Other children, however, said that they preferred living at school to home, either because of turbulent family lives or because they were able to access support at school.

A number of parents or staff felt that the residential placement had helped to



keep the child within the family, when lack of external support, limited space at home or challenging behaviour meant it was becoming hard for their family to cope.

The researchers described many of the ways in which schools work to sustain contact and the relationship between children and their families. Staff and parents described ways schools tried to create a homely environment, and to develop trusting relationships between staff and young people.

Staff also reported challenges that schools and staff face in striking a balance between creating clear boundaries and supporting children's emotional needs. They noted the impact that staff turnover could have on these relationships. Some parents talked about the impact of changes in key staff had had on their children.

### **3.2.2 Children's right to participate in community life and their right to play, leisure and culture**

A complex picture emerged from the research in relation to children's right to participate fully in community life. Children participating in the research were schooled on average 51 miles from home: 21 children lived less than 20 miles from home, and the greatest distance between school and home was 150 miles. For some children, therefore, distance presented a 'considerable strain': a barrier to relationships and a working knowledge of the community close to home. This presented particular challenges for children nearing the end of their time at school.

Many parents said that they wished that more local provision was on offer, so that they would have been able to keep their child at home, send them to a closer school, and/or build up connections with the local community that would help them in adulthood.

Schools often worked with local communities and children and staff described a range of local work experience opportunities and activities.

Some children reported a sense of belonging that came about from being part of a community of children with similar needs with good staff support. Yet for some, including some autistic children, living alongside other children presented some difficulties.

### **3.2.3 Children's right to have a say in decisions which affect them**

The research found that very few children had any involvement in choosing their current school. Many parents and carers said that the process of the getting their child a place at a residential special school was very adversarial and this made it difficult for children to be involved. Many children also spoke about having a say in their school council and some contributed to the running of the school in other ways.

Although many children participated in the annual review of their SEN



statement, few discussed this. When they did, they reported the reviews made them feel shy, or anxious, particularly if it was one of the relatively rare occasions when their parents visited.

It was unclear whether looked-after children in residential special schools attended their Looked-after-Child review and whether they were able to contribute meaningfully. It appeared from the research that not every child had an input from Independent Reviewing Officers in their annual reviews.

Schools also spoke about the support they gave to children to enable them to exercise autonomy and choices. This included eliciting and responding to children's preferences about daily activities such as eating and leisure, including where children had no little or no spoken/sign communication. During the research, structured observations were undertaken with children with limited speech or communication to understand the extent to which young people direct their activities: more than two-thirds of activities were mainly adult-directed.

### **3.2.4 Children's right to be safe**

Many children (and parents) talked about feeling unsafe before coming to residential special school, and reported harrowing experiences of bullying, neglect or unmet needs at school, and being excluded because of challenging behaviour.

Most children reported feeling safe at residential special school. The things that mattered to them varied a lot: from privacy in bathrooms, to support when out in the community or during fire alarms, and support for managing medical needs. Bullying in residential special schools was mentioned during interviews, but was rarely a major focus. A number of young people did report, however, feeling unsafe as a result of challenging behaviour – others' or their own. Some children felt that their independence was undermined because staff were checking up on them too often. During the course of the research, in the majority of cases, adults treated children with respect and dignity. There was, however, one example of a child left alone for long periods of time, one example of bullying by a staff member, and one example of a child who felt unsafe and unsupported by staff. These were raised with the schools concerned. That such incidents should occur in schools judged to be high-performing, is of course a concern.

Parents talked about schools' open-door policy to parents and how it made them feel reassured. Staff talked about the importance of structure and routine offering a sense of security for young people and of building trust so that young people can raise issues. There were a number of instances in the study where schools addressed issues relating to sexuality and relationships.

### **Children's right to the highest attainable standard of health and well-being**

Schools highlighted the importance of support for children's emotional and





mental well-being. Yet a significant number of both maintained and private schools reported substantial difficulties securing the right external support for children when it was needed. The most notable example cited was in mental health support, but other examples – including ambulance and police services – were given, and one school spoke having been ‘banned’ from the hospital in the past.

Schools had very variable access to and use of a range of in-house health and social care providers. Access to educational and clinical psychologists was notably limited in the schools participating in the research.

### **3.2.5 Transition and an education which prepares children to fulfil their potential**

Children described many of the things they would like to do as adults. Life after school was a major theme for many adults who spoke to the researchers – they emphasised the need to build up children’s confidence, to celebrate achievements, to help children develop life skills and self-awareness/self-regulation, to build up children’s independence and to support integration into home life at the end of their time at school. Many schools spoke about the impact that delayed decision-making and poor planning had on young people’s transition from children’s to adults’ services.

### **3.2.6 Looked-after children**

Across the different rights explored by the research, there were a number of issues which were specific to looked-after children. These issues included:

- Considerable variation in the level, quality and consistency of support for looked-after children from placing local authorities.
- Difficulties faced by many looked-after children in making their wishes and feelings known.
- Particular challenges relating to transition planning for children living away from school. Transition was a challenge for many children in residential special schools, but it was particularly the case for children who lacked a parent or carer to advocate on their behalf. There were examples in the research where looked-after children lacked clarity about what their plans were, and where they were re-located back to their area of origin where they had no local networks or relationships.



## 4. Key issues and recommendations

This section first considers recent relevant policy reforms and the opportunities they present for addressing some of the issues highlighted in the research. It goes on to explore issues raised by the research and makes recommendations.

OCC's recommendations are based both on the experiences and views of children and young people in residential special schools, and our analysis of how best to ensure the full realisation of these children's rights based on discussions with stakeholders and review of the policy and legal framework for residential special schools.

Most of the specific recommendations are targeted at national bodies. In the discussion, we also highlight key issues for schools and local bodies, including commissioners.

### 4.1 The external context

4.1.1 Reforms to **Special Educational Needs and Disabilities provision** introduced through the Children and Families Act 2014 include replacing Statements of Special Educational Need with integrated Education, Health and Care plans which may run up until a young person's 25<sup>th</sup> birthday, requiring local areas to set out available services for children with SEN in a 'local offer', and will introduce new requirements to consult with parents and children in key decisions and to offer personal budgets. The 2014 SEND Code of Practice requires agencies to work to reduce out-of-authority placements and to seek placements as close as possible to the child's home where possible. The reforms are likely to affect all children who attend residential special schools through SEN statements. They have the potential to lead to integrated packages of support which are designed to meet children's needs, reflect children's and parents' wishes, and smooth the transition into adult life.

The **Care Act 2014** also addresses transition: young people or their parents/carers have the right to ask for an assessment of their support needs as they approach 18 years, and requires that there is cooperation within and between local authorities to ensure that the necessary people cooperate, that the right information and advice are available and that assessments can be carried out jointly.

4.1.2 The **Winterbourne View Joint Improvement Programme** is intended to improve support for children (as well as adults) with learning disabilities or autism who have mental health conditions or behaviour that challenges. The programme is intended to ensure these children do not spend long periods of time in in-patient care, that they are supported to remain in their communities, that they are listened to and their care is safe and of high quality, and that transition to adult services is better managed. In practice, however, there are



concerns that local level implementation has been inconsistent, with little evidence in some areas of effective commissioning for children or a whole pathway approach.<sup>14</sup> A recent review recommends *inter alia* a Charter of Rights for people with learning disabilities and/or autism and their families to underpin all commissioning, and a mandatory commissioning framework.<sup>15</sup>

4.1.3 New **Quality standards for Residential Children's Homes** are due to be published in 2015 as part of efforts to improve the quality of care and the stability of placements for looked-after children. This follows new regulations introduced in January 2014 which introduced new provisions relating to safeguarding in children's residential care. These changes will affect children in Residential Special Schools which offer 52-week provision and therefore have dual registration as children's homes.

4.1.4 There are some changes underway to **standards, governance and inspection of schools**. The main changes relate to independent special schools and are intended to raise standards, ensure rigorous inspection and strengthen the government's powers to require change in relation to safeguarding and pupil welfare<sup>16</sup>. In addition, the Government plans to consult shortly on revised National Minimum Standards for Residential Special Schools (of all types except schools which are dual-registered as children's homes). Ofsted have also made changes in their approach to inspection of residential special schools (of all types) following acknowledged shortcomings in their inspections of Stanbridge Earls School, where serious safeguarding problems were overlooked.<sup>17</sup>

## 4.2 Choice, decision-making and children's best interests

4.2.1 OCC's objective in this project was to work with children who are already in residential special schools. We wanted to understand their experiences and views of life at school and to think about what more OCC and others could do to protect and promote their rights.

4.2.2 We did not focus on the process leading up to children's placement in school. However, during the course of the research, many children and their parents spoke about difficult and distressing experiences in previous schools, and about the lack of other appropriate local services, which had ultimately led to a decision that their needs could only be met through a residential special school placement, often at a time of crisis and extreme disruption for the child. We were concerned to hear that many of the things that children said they valued most in their school life – opportunities to learn and get involved in activities and local community life, developing friendships, being free from bullying and stigma, and feeling safe, secure, supported and understood by staff – had not been made available to them earlier, when they

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<sup>14</sup> See LGA and NHS England 'Winterbourne View joint improvement programme: Stocktake of progress report'

<sup>15</sup> See The Transforming Care and Commissioning Steering Group, "Winterbourne View – Time for Change: Transforming the commissioning of services for people with learning disabilities and/or autism"

<sup>16</sup> See Letter from Lord Nash to Graham Stuart MP, [The Regulation of Independent Schools](#), March 2014

<sup>17</sup> See [Stanbridge Earls School: Review Findings and updated action plan](#)



were living at home.

4.2.3 We heard a great deal from all stakeholders about decision making – both at the time of entry to residential special schools, and again, when children leave school. A picture emerged of variable practice and adversarial decision-making about placement decisions (often involving the SEND tribunal) against a backdrop of family crisis and characterised by delay, poor information, and disagreement about what is in a child’s best interests. This is not a helpful context within which to seek children’s views and very few children in the research had any say in their choice of school.

4.2.4 These experiences are remarkably similar to those reported by families in other research conducted over the past 15 years.<sup>18</sup> For many children with Special Educational Needs and disabilities too little has changed.

4.2.5 Many children spoke warmly about the support, opportunities and structure that were available at their residential school. Some families said that the residential placement enabled the family to stay together after a period of enormous strain. Some schools in the study – for example, those catering for complex medical needs – were providing a level of specialist support to children that would be extremely difficult to provide in a home setting.

4.2.6 Being educated in a residential special school presents very real challenges to children’s rights to a family life and to the right of disabled children to play a full part in community life, alongside their family and their peers. Many schools, and families, worked hard and creatively to overcome these challenges and to keep children safe and well.

4.2.7 OCC’s view is that the best interests of each individual child must be paramount in decisions about the right support and education for that child. The right support for children and families has an important role to play in enabling children to live fulfilling lives and sustain their right to family life<sup>19</sup>. Getting the right support early in a child’s life is crucial, but throughout childhood and into adulthood the right interventions can make a big difference. During discussions with local authority commissioners and others for this project, we heard about positive examples of local authorities working to support families so that children were supported to remain at home. Some local authorities were working collectively to develop a picture of need in their local areas and to encourage providers to develop the right services locally. There is a case for a more flexible use of residential special schools’ expertise as part of such an early intervention approach. This could support children and their families to achieve educational and social goals and to stabilise family situations at times of crisis.

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<sup>18</sup> See McGill et al (2006) ‘Parents whose children with learning disabilities and challenging behaviour attend 52-week residential schools: Their perceptions of services received and expectations of the future’. *British Journal of Social Work* 36 (4). pp. 597-616 and Abbott, D. et al, op cit.

<sup>19</sup> See for example, ‘Early Intervention for children with learning disabilities whose behaviours challenge’ (The Challenging Behaviour Foundation, 2014).



4.2.8 A child's 'best interests' evolve and change. They are not fixed for all times –

*Decision-makers should therefore consider measures that can be revised or adjusted accordingly, instead of making definitive and irreversible decisions. To do this, they should not only assess the physical, emotional, educational and other needs at the specific moment of the decision, but should also consider the possible scenarios of the child's development, and analyse them in the short and long term.<sup>20</sup>*

The research did find examples of children who were being prepared and supported by their residential special school placement to the point where they were able to return to non-residential education. But as the research indicates, an adversarial system makes this flexibility difficult, and crowds out children's feelings and wishes.

4.2.9 A key test of the SEND reforms will be the extent to which important decisions of this kind can be made in a timely way, with the child or young person's interests and views at the centre of decision making. The reforms offer an opportunity to get support right for children with the most complex disabilities and special educational needs, ensuring the right interventions and services are in place at the right time, enabling more children to remain with or near their families, and putting children's wishes at the heart of decisions about their education and support. In particular, this requires:

- Ensuring that children with the most complex needs are prioritised in transition to integrated Education, Health and Care plans.
- The inclusion of evidence-based early recognition, diagnosis and intervention strategies wherever possible to support children with SEN and disabilities and their families.
- Appropriate transition arrangements for older children who attend residential special schools so that they get the full spectrum of care and support they need to prepare for a fulfilling life after school.
- Local offers and collaborative commissioning partnerships which analyse, predict and respond to the need for services for children in their area and jointly commission the full spectrum of health, education and care provision that is necessary for those children.
- Close collaboration between commissioning support units and local authorities and public health to ensure that the health considerations in relation to children and young people with these needs are taken into account and offer support and guidance in relation to collaborative and

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<sup>20</sup> See UN Committee on the Rights of the Child, General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (Article 3, para. 1), para 84.



joint commissioning where the need arises.

### 4.3 Pupil Data

4.3.1 In 2001, the last major study of children in residential special schools found that '*[Neither] is there a national picture of numbers of disabled children at residential schools available from statistics gathered by the Department for Education and Skills*'.<sup>21</sup>

4.3.2 At the time of this project, in 2014, it was still not possible to arrive at a clear profile of children boarding at residential special schools. Where children attend private residential special schools, data is provided through the school level annual census. This is not underpinned by pupil-level data. As a result, there is no reliable data about the overall profile of children attending residential special schools, including their needs, their ages, the proportion who are looked-after and the distance between their school and home.

4.3.3 Many children at residential special schools have complex needs and vulnerabilities and a high proportion of these places are funded by local authorities. For one group of children in particular – those with learning disabilities or autism, who also have mental health conditions or behaviours described as challenging – there is a national policy commitment to realizing their '*right to be given the support and care they need in a community-based setting, near to family and friends*'.<sup>22</sup>

4.3.4 The absence of pupil profile data from private residential special schools makes it very difficult to build up a national picture of the profile of children attending residential special schools, how far they live from home, which local areas are most likely to make these placements and to track progress implementing post-Winterbourne View commitments. This national picture is particularly important because the number of children per local area attending this kind of provision is small, making it difficult for local authorities to analyse trends on the basis of their own, local, data.

### 4.3.5 Recommendation

**(i) DFE should change its requirements so that private residential special schools are required to provide a full range of pupil-level data as part of the annual school census.**<sup>23</sup>

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<sup>21</sup> See Abbott, D. et al (2001) 'The best place to be? Policy, practice and the experiences of residential school placements for disabled children' (Joseph Rowntree Foundation).

<sup>22</sup> See Transforming care: A national response to Winterbourne View Hospital, Department of Health Review: Final Report, Department of Health, 2012

<sup>23</sup> Our recommendation here reflects that of the Challenging Behaviour Foundation and the Council for Disabled Children, in Pinney, A. (2014) 'Children with learning disabilities whose behaviours challenge: what do we know from national data? This paper also makes important recommendations on the presentation of information for example, on out-of-area placements.



## 4.4 Children's views and wishes

4.4.1 It was clear from the research that many children had clear views about the education and care they were receiving, and were able and willing to share these views, given the right methods, support and adequate time.

4.4.2 OCC will explore how it can make use of the different research methods used in this project in future work with children in residential special schools. We believe that the research offers useful approaches to listening to and understanding children's views which can be used by schools, local authority professionals, and by Ofsted and other organisations undertaking inspections of residential special schools' education and residential provision. We urge these organisations to employ these and a range of methods to understand children's experiences.

4.4.3 There were many good examples in the research of the ways that schools supported children to make choices and express their views.

4.4.4 Yet many children either had no say in key decisions such as school placement, annual reviews and transition to adulthood, or found the experience stressful and a difficult context in which to share their views.

4.4.5 Additional efforts are needed to understand the wishes of children who cannot communicate through speech or signing, and to support them to develop functional communication skills. Decisions still have important consequences for children deemed to lack capacity or understanding, and this means that adults have a responsibility to work to understand what matters to children and what is in their interests. On the whole, this appeared to be evident in children's day-to-day interactions with staff, but not in every case, and there was a fairly high level of adult-led activities recorded in observation of this group of children.

4.4.5 Access to independent advocacy for children in residential special schools appeared limited. The only children in residential special schools for whom local authorities have a legal duty to make advocacy arrangements are 16 and 17 year olds who are deemed to lack mental capacity. Although there is no absolute right to independent advocacy for children in residential special schools who are looked after – except in relation to support for children making complaints or representations – statutory guidance on safeguarding and care planning encourages local authorities to extend provision of advocacy to looked-after young people.<sup>24</sup>

4.4.6 Our starting point is that every young person whose additional needs are so significant that they have a residential special school placement should be able to get the support they need so that people making decisions understand what their wishes and feelings are, wherever possible, and so that decisions are focused on their best interests. The standard for Securing Children's Views in the minimum standards for residential special schools

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<sup>24</sup> See Wood, M. and Selwyn, J. (2013) *The Characteristics of Young People Using Independent Advocacy Services*. Bristol: The Hadley Centre, University of Bristol.



should be strengthened to reflect the requirements of UNCRC Article 12. Although the research identified particular concerns around looked-after children, there are other children and young people in residential special schools who would particularly benefit from independent advocacy, including children whose parents cannot visit them regularly (where parents are overseas or live far away) and children who are nearing adulthood, and may not share their parents' views of their future. OCC will continue to explore these issues, including through our planned work on independent advocacy.

#### 4.4.7 Recommendation

- (i) **DfE should develop Standard 17 of the Minimum Standards for Residential Special Schools – Securing Children's Views: with a greater focus on supporting children to participate in important decisions about their lives, and highlighting the specific needs of children with very limited or no communication skills.**

### 4.5 What matters to children: Standards and aspirations

4.5.1 The research demonstrated that, with the right support, many children and young people in residential special schools were able to express clear views about their experience at school, and what mattered to them. The things that mattered included:

- Contact, love and support from their family
- Consistent support and a trusting relationship with key adults who understand the child well and can support them to communicate and make choices
- The opportunity to make friends and feel part of a community
- Feeling safe – from bullying and from other children's behaviour
- Having privacy and developing independence and autonomy
- Good support, activities, fun and opportunities.

4.5.2 The vast majority of children at residential special schools have complex needs, including communication difficulties, behaviour that challenges, medical needs and/or a history of emotional difficulties and trauma. They deserve the very highest standards of provision: quality, safety and stability of care matter enormously to them. Many will have few other options for suitable provision and cannot easily change schools if they encounter difficulties. Not every child's family will know what is happening at school on a day-to-day basis and be in a position to identify and address any problems that arise. Looked-after children are placed in residential special schools which provide termly boarding, as well as schools which are dual-registered as children's





homes<sup>25</sup>, and – as we have seen above – these children do not always have the support they need to articulate their wishes and feelings.

4.5.3 For all of these reasons, OCC believes that a ‘minimum standards’ approach is inappropriate for residential special schools. The arguments which underlie the current programme of reform to quality standards for children’s residential homes apply equally to residential special schools, in particular that minimum standards do not encourage an ambitious approach for children in residential special schools focused on their aspirations and outcomes, and are unhelpful in driving up quality.

4.5.4 Elsewhere in the report, we have highlighted specific areas, including safeguarding, behaviour management, health and wellbeing and arrangements for independent visitors, where we feel specific changes are needed. In particular, the development of standards could address one of the key issues arising from the research, the need for children to be able to sustain and develop key relationships – both with their family, and with staff, and the implications for practice, staff training, management and staff turnover, and appropriate professional boundaries. Some children in the research expressed frustration at their lack of independence, and some wanted greater privacy – particularly a room of their own. A comprehensive review and approach to quality standards would allow these and other areas to be reviewed, and to develop effective approaches to the assessment of educational and social outcomes for children as a basis for rigorous approach to inspection.

#### 4.5.4 Recommendation

- (i) **DfE should work with children and stakeholders to develop comprehensive, ambitious and outcome focused quality standards for residential special schools, to replace the current national minimum standards.**

### 4.6 Being and feeling safe

4.6.1 Children and adults who took part in the research described many positive steps that their schools took to keep pupils safe: from managing complex medical needs, to supporting young people to manage relationships and sexuality as they mature, to arrangements for dealing with bullying and other children’s challenging behaviour.

4.6.2 Many children (and their parents) described very difficult experiences in previous settings – where bullying, children’s own challenging behaviour, or schools’ failure to meet their needs – had led to disruption and distress.

4.6.3 It is well-established that disabled children are at greater risk of abuse, and significant barriers can exist to their safeguarding and wellbeing. These

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<sup>25</sup> On March 31 2013, there were 226 looked-after children living in 60 residential schools not dual-registered as children’s homes according to Ofsted, Official statistics: Children looked after placements at 31 March 2013 (July 2014).



include attitudes and assumptions which can get in the way of recognising abuse and responding effectively, isolation of disabled children and their families, a lack of awareness of abuse amongst disabled children, who may not feel able or be able to seek help and barriers which can exist at all stages of the child protection process.<sup>26</sup>

4.6.4 Earlier surveys with children in residential special schools<sup>27</sup> found that children in residential special schools reported bullying to be a significant concern. Research into safeguarding in residential special schools carried out in 2004<sup>28</sup> found that guidance and practice on key issues such as behaviour management, physical contact, dealing with pupils' needs for affection and addressing sexuality and sexual development varied considerably between schools.

4.6.5 Children's experiences of behaviour management were not explored in-depth by our research but this is clearly an important aspect of both safeguarding and children's rights. A 2006 study focusing on children with severe intellectual disabilities and challenging behaviour attending 52-week residential special schools found that '*the reactive management of their challenging behaviour included, for many, regular use of physical intervention, seclusion, protective devices and/or medication*'.<sup>29</sup>

4.6.6 The generally positive picture reported by children involved in the research was encouraging. Their dependence on professionals to understand and communicate their needs and experiences was striking and underlines the vulnerability of this group of children, particularly those who are looked after, or whose parents/carers find it difficult to be in close or regular contact. For the professionals who took part in the research, this was a challenging issue, with some staff showing reticence about fostering relationships with young people as a result of understandable anxieties about the need for boundaries and for appropriate relationships.

4.6.7 Stakeholders were clear that ensuring robust safeguarding practice in every setting is a priority. For schools, of course, making sure that pupils are safe is a key focus and a prerequisite for children fulfilling their potential as learners and as members of the school and wider community. Parents and local authorities also need to have confidence that every child will be safe and secure, and at the same time, able to develop trusting and supportive relationships with adults at the school.

4.6.8 Putting this kind of assurance in place requires that the best experience is the usual experience for all children in residential special schools. It relies on good policies and practice, supported by effective arrangements for

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<sup>26</sup> See Miller, D. and Brown, J. (2014) *We have the right to be safe: Protecting disabled children from abuse*. London: NSPCC.

<sup>27</sup> Office of the Children's Rights Director (2009) *Life in residential special schools*. London: Ofsted.

<sup>28</sup> See Paul, A., Cawson, P. and Paton, J. (2004) *Safeguarding Disabled Children in Residential Special Schools*. London: NSPCC

<sup>29</sup> See Pilling, N. et al, (2006) 'Characteristics and experience of children and young people with severe intellectual disabilities and challenging behaviour attending 52-week residential special schools', *Journal of Intellectual Disability Research*.



regulation, inspection, complaints and whistleblowing, together with a culture which places listening to children at the heart of the decisions which adults take on their behalf. Following the closure of Stanbridge Earls School in 2013, there have been changes to regulations and inspections designed to ensure that safeguarding concerns are addressed swiftly and effectively. However, in OCC's view, the special circumstances of residential special schools, and the characteristics of many of the children who attend them, require further measures to ensure effective oversight.

4.6.9 OCC's view is that – where vulnerable children are spending considerable time away from home – regular access to independent, trusted adults who children can approach without fear of repercussions is an important element in a robust approach to safeguarding. We have previously recommended that Regulation 33 of the Children's Homes Regulations 2001 (as amended by the Children's Homes (Amendment) Regulations 2011) was amended so that monthly inspection visits to private children's homes are undertaken by a person independent of the organisation running the home and appointed or approved by the local authority. This recommendation has been partially adopted through amendments introduced in 2014.<sup>30</sup> We believe that similar requirements should apply in relation to residential special schools which are not dual registered as children's homes (i.e. those which offer termly or other boarding arrangements). Currently, independent visits can be undertaken by the proprietor.

4.6.10 At the time of writing, work is underway in developing guidance for restrictive physical interventions in services for children provided by or commissioned by the NHS (this is the children's section of the Positive and Proactive Care guidance). The focus is on ensuring that interventions are compliant with children's human rights including those in the UNCRF.

4.6.11 In residential special schools, the vulnerability of disabled children living away from home and the likelihood that restraint will be used means that means that there need to be very strict rules around any use of force/restraint including recording practices and monitoring, combined with a broader focus on restraint minimisation.

4.6.12 OCC's recommendations on safeguarding and behaviour management are intended to strengthen the rights of all children in residential special schools to protection from abuse and violence (UNCRF Articles 19 and 37) by ensuring they have regular access to independent adults, that all schools have a duty to report serious incidents and that approaches to behaviour management comply with the UNCRF.

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<sup>30</sup> See Children's Homes and Looked after Children (Miscellaneous Amendments) (England) Regulations 2013, paragraph 11



#### 4.6.13 Recommendations

**(i) DfE should revise the relevant standards for children’s homes (including dual-registered special schools), and those for residential special schools, so that**

**(a) people undertaking Section 33 visits to Children’s Homes are approved or appointed through the local authority.**

**(b) people undertaking independent visits under Standard 20 in the minimum standards for Residential Special Schools (Independent Visitors) are independent of the organisation running the school and appointed or approved by the local authority.**

**(c) a requirement that all serious incidents should be formally notified to the inspectorate is reintroduced to the National Minimum Standards for Residential Special Schools.**

**(d) regulation 42 of the children’s homes standards includes a list of those incidents which will always require formal notification.**

**(e) the relevant regulations and standards for behaviour management and physical intervention (Regulations 21, 22 and 37 of the proposed 2015 Children’s Homes Regulations) are revised in line with the UNCRC and in order to safeguard the physical and emotional well-being of children.<sup>31</sup>**

**(f) Standard 12 of the National Minimum Standards for Residential Special Schools is revised based on the provisions and principles of the UNCRC, with strict rules around use of force/restraint including recording practices and monitoring, set within a broader restraint minimisation approach.**

**(ii) The Government should introduce a change in the law so that mandatory reporting of abuse should be a requirement where children live in institutional settings, including all residential special schools.**

#### 4.7 Health and wider support

4.7.1 The research report highlighted the significant difficulties faced by schools in securing appropriate mental health provision and other external services for children in their care, including reports that children from schools had been turned away from hospital. Similar problems were noted by several

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<sup>31</sup> OCC’s response to the consultation on the draft standards ‘Childrens homes regulations: high expectations and aspirations’ sets out how this could be achieved, *inter alia*, through clarity on the distinct concepts of restraint, restriction of freedom of movement, and deprivation of liberty, a clear prohibition on the deliberate infliction of pain, ensuring that isolation practices are only used where lawful and necessary, and ensuring that restraint can only be used to avoid an immediate risk of injury or damage to property.



local authority staff interviewed as a background for this project, (particularly in relation to children in out-of-area placements).

4.7.2 Concerns about children's access to mental health services and other specialist services have been raised across the different work areas of OCC, and in the Health Select Committee's recent Inquiry.<sup>32</sup> Ofsted's recent thematic inspection of local authorities' effectiveness in meeting their responsibilities towards looked-after children in out of area placements<sup>33</sup> found that in one-third of the children whose cases were tracked, there were difficulties accessing appropriate health provision, most usually CAMHS, and noted that *'little, if any progress had been made on this issue since 2009 when the current statutory guidance on promoting health for looked after children was published'*. It is unacceptable that the full range of emotional health and mental health provision across the full spectrum of need is not readily available for vulnerable children with special educational needs or disabilities – both looked-after and not – who need it.

4.7.3 36% of children and young people with learning disabilities will have a co-existing mental health problem, compared with 8% of non-disabled children.<sup>34</sup> It is important that every child in a residential special school is able to access the right support which they require in order to meet their unique and changing needs. Such support can often help to prevent crises occurring. For example, meeting the physical health needs of children and young people with severe intellectual disabilities, and providing skilled communications and positive behaviour support, has a well-established role in addressing challenging behaviour and reducing future crises.

4.7.4 The research was not intended as an 'evaluation' of the provision made for children, but it was clear that many children were receiving support from a range of professionals in the school environment, tailored to their needs. It was a concern, however, that the research did identify considerable variation in this kind of input: with little provision from educational and clinical psychologists (in particular) in some settings.

4.7.5 SEND reforms and the introduction of Education, Health and Care plans offer an opportunity to get services right for every child with more complex needs. To ensure these are supported by appropriate health provision, Joint Strategic Needs Assessment should incorporate a detailed analysis of the health and care needs of children and young people with complex special educational needs and disabilities, and local commissioning strategies should encompass early intervention, appropriate mental health and other provision for children in residential special schools in the local area, and those in out of area placements for whom the local authority retains responsibility.

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<sup>32</sup> See Health Select Committee Report on Children's and adolescent's mental health services and CAMHS (November 2014)

<sup>33</sup> See Ofsted (2013) *From a distance: Looked after children living away from their home area*, para 42

<sup>34</sup> Emerson, E. and Hatton, C. (2007) 'Mental health of children and adolescents with intellectual disabilities in Britain', *The British Journal of Psychiatry*.



4.7.6 Given that many children who board in termly residential special schools have a range of needs, OCC feels that the sharper focus on meeting specific health and wellbeing needs is required in the standards for residential special schools.

#### 4.7.7 Recommendations:

**(i) DfE should ensure that revisions to Quality Standards for children's homes incorporate ready access to specialist support, including positive behaviour support, mental health, educational and clinical psychology services, relevant to the care of children within the range of needs for which it is intended that the home is to provide care.**

**(ii) DfE should amend Minimum Standard 3 (Health and Well-being) of the National Minimum Standards for Residential Special Schools so that schools provide appropriate in-house support for children's physical, mental and emotional health needs, where this is likely to be required by children for which the school caters. Staff profiles and training should support this.**

#### 4.8 Looked-after children

4.8.1 Overall, 36% of children attending schools participating in the study, and 16% of children directly participating in the research were looked-after. Looked-after children are placed at residential special schools providing over 295 days care a year (which are dual-registered as children's homes) and at residential special schools providing termly boarding.<sup>35</sup>

4.8.2 Children who are looked after are entitled to a social worker, to the involvement of an Independent Reviewing Officer, and they should also have the support they need to express their wishes and feelings. It was a concern that a number of looked-after children were simply not receiving the support to which they were entitled, and that practice across different placing authorities was highly variable, with some children experiencing little continuity of support, limited follow-up of issues raised and promises made, and decision making which did not take account of their wishes and feelings. This led some schools to feel they had to take on the role of 'advocate' for young people, but this is far from ideal and presents a potential conflict of interest for schools who are also providers of services.

4.8.3 In particular, as one of the case studies in the research clearly demonstrated, lack of support for looked-after young people to articulate their wishes and be involved in planning for their future during the period leading up to transition can lead to decisions being taken which do not take account of their wishes and are not in their best interests.

4.8.4 Where children's family are unable to provide relationship stability, children should be provided with foster care and the secure base they need

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<sup>35</sup> See Ofsted's Official statistics: Children looked after placements at 31 March 2013 (July 2014).



for healthy emotional and psychological development. Care plans for looked-after children with residential special school placements (in 52 week or 38 week placements) should consider the needs of children to have a family as well as a school placement.

4.8.5 There was consensus amongst stakeholders consulted through our focus group discussions on the emerging research findings that significant further work is needed on how far the needs of looked-after children with special educational needs and disabilities are being met by current provision. OCC will pursue a number of important issues raised by this project in taking forward policy work on looked-after children in 2015 and beyond.

#### **4.9 Issues and actions for the Office of the Children’s Commissioner**

4.9.1 In this project, we wanted to understand more about children’s views and experiences in residential special schools to inform OCC’s work. In particular, we wanted to consider whether additional steps are required so that children in residential special schools are able to access OCC’s advice and assistance line<sup>36</sup>, and to make sure the views and experiences of children in residential special schools are reflected in OCC’s wider work.

4.9.2 The research showed that many children in residential special schools were able to say what they liked and didn’t like about their time at school. The majority of children, however, wanted a trusted adult to support them to articulate their views during the research. Other children were not able to communicate using speech, signing or symbols and understanding their wishes and feelings therefore relied on observation and deduction.

4.9.3 Because children live away from home, they may not be well represented on children’s voice forums – for example, Children in Care Councils, or groups of disabled children in a local area. There may therefore be few chances to understand the views of the children except through research such as this, or by visits to schools in which they live and learn.

4.9.4 This project worked with schools who volunteered to be involved: the vast majority of these had ‘good’ or ‘outstanding’ Ofsted ratings. It is important that OCC also has an understanding of children’s experiences in the full range of settings, including those where there may be challenges.

4.9.5 This was a short piece of work, with a limited budget. Research over a longer time frame, with more schools and more children, would provide significant additional insights, particularly into the experience of children with the most complex needs, and those that cannot communicate verbally.

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<sup>36</sup> OCC’s advice and assistance line is available to children or young people who need advice or assistance and who live away from home or who receive social care services, or adults who represent them. The line generally provides support for children by putting them in touch with appropriate advocacy or specific services which can meet their needs.



#### 4.9.6 Actions

OCC will:

- (i) Follow up outstanding aspects of OCC's data request (information on complaints and safeguarding) with Ofsted by March 2015.
- (ii) Ensure that all residential special schools display up to date information about OCC's advice and assistance line by June 2015.
- (iii) Take steps to improve the accessibility of OCC's advice and assistance function and provide resources on key issues raised during the research by December 2015.
- (iv) Carry out OCC visits to residential special schools as far as capacity allows (ongoing).
- (v) Include children in residential special schools in OCC's annual Care Monitor survey (from 2015–16).
- (vi) Consider the scope for further policy-focused work on the issues raised by children and young people in the development of OCC's new Strategic Plan for 2015–18 (by April 2015).
- (vii) Share the findings of this project and the research as widely as possible, encouraging stakeholders to carry out further research into children and young people's experiences at residential special schools, with an emphasis on children who are least likely to be heard (by April 2015).





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