



Submission to United Nations Committee on the Rights of the Child

December 2022

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Foreword from Dame Rachel de Souza



'The fact that some adults don't believe in children's rights, and we have those rights, so we need the Government to speak about rights for kids so that we have a life of some sort of freedom. And that we have respect for adults so adults should have at least some respect for kids around the world' - Boy, 10, The Big Ask.

When I took up post as Children's Commissioner for England and reserved matters in March 2021, I wanted to hear directly from children about what they thought my priorities should be. I was clear that that my priorities should be shaped by their views and experiences. That is why I launched *The Big Ask*, my survey of children in England which quickly grew to become the largest survey of children ever, collecting the voices of over 550,000 children.

At the time as a country, we were beginning to emerge from the Covid-19 pandemic and thinking about the longer-term impact on children and young people. Children had made huge sacrifices during the pandemic to protect the older generation. Schools were closed for most children; they weren't able to see their friends or their family networks and couldn't take part in their hobbies that they so enjoyed. I wanted to give them all the opportunity to tell the nation what really mattered to them and how we as

adults could dismantle barriers to them succeeding. I have reflected on what children told me about their lives and what they want throughout my submission to the UN.

Since March 2021, I have continued to listen to children. My team has now heard from almost 600,000 from across the country, either through speaking with them directly or by hearing about their experiences through surveys. Children's voices have been at the heart of everything I have done, from a national audit of school attendance to the independent *Family Review*.

This report is no different. Informed by the thousands of children who have spoken to me, sharing their hopes, ambitions, and even their fears, this is my submission to the UNCRC. My report is all about how we can continue to make sure every child, regardless of where they live, has their needs met and their rights upheld.

And as a reminder of why this is so important, let me finish with what one girl told me:

'Children's rights and the lack of people open to talk or listen to children's worries and concerns' – Girl, 11, The Big Ask.

Introduction

This report is from the Children's Commissioner for England to the UN Committee on the Rights of the Child's examination of the UK's combined Sixth and Seventh Periodic report under the UN Convention on the Rights of the Child (UNCRC). The role of Children's Commissioner is currently held by Dame Rachel de Souza, who took up the six-year post in March 2021. The Commissioner has an office, the Children's Commissioners office (CCo) to support her in her role. The Children's Commissioner for England also assumes the role of Children's Commissioner for Scotland, Wales, and Northern Ireland on any matter where the UK Government is responsible for non-devolved policy. Over this reporting cycle the CCo has consulted regularly with the Children's Commissioners for Scotland, Northern Ireland and Wales and has considered any relevant research they have produced throughout this report.

The Children's Commissioner for England has a statutory duty set out in the Children Act 2004 to promote and protect the rights of all children, with particular regard to children who are living away from home or receiving social care services (s8A). This includes children who are in care, leaving care, staying in hospital, or remanded in youth custody, as well as children in need of children's services who are living with their families. The Children's Commissioner may, under Section 2D of the Act, intervene on behalf of these children to provide advice, assistance, and representation. This responsibility is fulfilled by the Commissioner's Help at Hand service which supports children, their families, and professionals to address some of the barriers they are facing to receiving the care and support they need. Under Section 2E of the Act the Children's Commissioner can enter any institution that is accommodating children living away from home and under Section 2F of the Act the CCo can ask any person exercising functions of a public office to provide the Commissioner with information related to the function of the office.

Since taking up post in March 2021, the first priority for the Commissioner was to launch *The Big Ask* survey. The survey received more than 550,000 responses in total – equivalent to just under 6% of England's population of 4–17-year-olds. This makes it the largest ever survey of children. *The Big Ask* provides a unique insight into the experiences and priorities of children in England. To reach the most vulnerable children, the CCo sent the survey to mental health hospitals, youth custody settings,

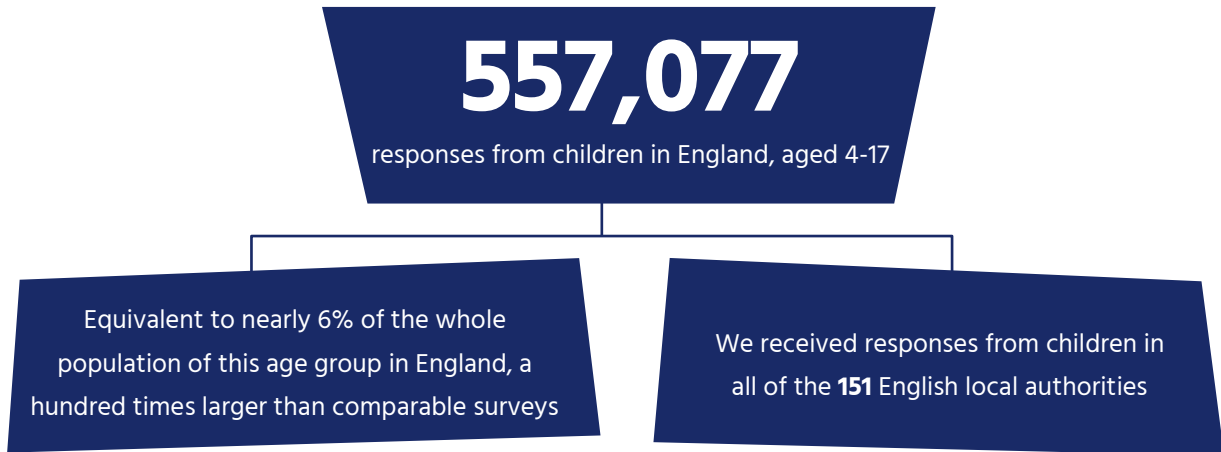
children's homes, fostering organisations, children in care councils, young carer projects, groups working with disabled children, and other charities and community groups.

As the survey gathered information about a range of children across the country, it is possible to compare groups of children across demographics such as age group, ethnicity and gender, and by local area characteristics (such as local deprivation). The survey asked children about their living arrangements, allowing the identification of certain groups of children, including children in care and young carers. To ensure that the office heard from vulnerable and harder to reach groups of children, focus groups and interviews with specific groups of children were conducted. This included Unaccompanied Asylum-Seeking Children (UASC) and children in care.

It was notable that across all different demographic groups, the findings about the key priorities and barriers for children were incredibly consistent. What was said in The Big Ask has shaped the Children's Commissioner's priorities and informs all the office's work, including this submission. In this way, the CCo has ensured that all the office's work is directly informed by the voices and perspectives of children.

Figure 1: The Big Ask in numbers¹

The largest ever survey of children and young people anywhere in the world



Unprecedented level of response from vulnerable and disadvantaged groups:



The CCo's work is divided across seven pillars, namely, Better World, Children's Social Care, Community, Family, Health, Jobs and Skills, and Schools. These reflect the priorities shared with the Commissioner by England's children through *The Big Ask*. Within each of these areas of work the CCo regularly consults with children and young people to inform policy development and assess the extent to which their rights are being respected and upheld. Throughout this report the research that the office has conducted to inform the pillars of the CCo's work will be drawn upon. In the methodology section below, further detail on the research that will be considered in this report is outlined.

This report is split into two distinct sections. Part 1 focuses on two of the General Principles and will draw on CCo's work to promote and protect the rights of particular groups of children. Part 2 of the report responds to the UN Committee's List of Issues on the Rights of the Child, drawing on CCo research, where relevant, to provide an overview of some of the challenges children in England are currently facing.

Methodology

The Children's Commissioner for England champions the voices and needs of children, particularly the most vulnerable including children who are a resident away from home. The Children's Commissioner is often described as 'the eyes and ears' of children in England – making sure that children are being taken seriously and that their views and experiences are at the heart of policy making.

Since Dame Rachel de Souza became the Children's Commissioner for England in March 2021 and across the different work streams, the office has heard from almost 600,000 children. CCo has reached some of the most vulnerable children in society whose voices often go unheard. This includes children living within the youth justice estate including in Youth Offending Institution and Secure Children's Homes, children in secure mental health hospital wards and across a range of educational settings including mainstream, special schools, and Alternative Provision. CCo also engages with children's families, and professionals on a wide range of issues and across the settings they are living within.

CCo hears from children in focus groups and through interviews; more informal meetings and consultations; creative engagements; and surveys. CCo also works together with groups of young people, to support them with their causes. The Children's Commissioner's Help at Hand service provides direct assistance to children in some of the most difficult and distressing situations. The experiences these children share, and the issues they face, underpin all our work. For example, for kinship care week, working together with Kinship Care Liverpool to distribute learning materials to schools.

From this engagement work, this report draws on this depth of understanding of the different issues children are facing in 2022. In particular, recent work on: Attendance; *The Big Ask* survey; the Special Educational Needs and Disabilities (SEND) review; Part 1 of the independent *Family Review*; *The Big Summer Survey*; as well as work on children's digital lives, mental health and youth justice. Below, some recent projects are explained in brief as they will be referred to throughout this report.

Each of these projects, as with all of CCo's work, has the views and experiences of children at its core, and children's opinions have guided policy recommendations.

The Big Ask

The Big Ask was conducted as a national conversation with children across England, gathering over 550,000 responses from children aged 4-17 years old, equivalent to nearly 6% of the population of children in this age group. Importantly, an unprecedented level of response was gathered from vulnerable, disadvantaged and hard-to-reach groups, including children with SEND, children with a social worker and those in care. The survey was publicly available and hosted online in April and May 2021. The aim of the survey was to collect information from children aged 4–17, with separate age-appropriate surveys for the age groups 4-5 (and their parents), 6-8, 9-12 and 13-17. Each survey included one qualitative free-text question.

The 6-8 survey asked:

- 'If you could change anything to make your life better when you grow up, what would it be?'

The 9-12 and 13-17 surveys asked:

- 'What do you think stops children/young people in England achieving the things they want to achieve when they grow up?'

There were nearly 260,000 responses to these open-ended questions. The aim of the qualitative analysis of the responses was to identify the topics and themes that children mentioned most frequently in response to this question; and to understand not just what these are but how they are experienced by children and how they impact children's lives.

Attendance

The *Voices of England's missing children* aimed to understand why children are absent from school; what they struggle with and what they could need more support with.² CCo spoke to nearly 500 people including over 300 children, over 40 parents and carers and around 100 professionals. Based on learnings from this, the Commissioner set out 6 ambitions for children. In addition, the CCo conducted a survey of 152 Local Authorities (LAs) revealing that the vast majority of LAs do not have an accurate figure of

how many children there are in their local areas – let alone the number of children not receiving an education.

Special Educational Needs and/or Disability (SEND)

CCo's latest work – and the work on SEND in general – is dedicated to every child living with SEND in England. The office's recent work calls for ensuring all children are getting timely and effective support, locally, with a focus on early intervention; and ensuring that all children have consistent, excellent experiences wherever they are in the system. For the recent report, *Beyond the Labels*, interviews were conducted with 55 young people in interviews and focus groups.³ CCo also undertook textual analysis using novel natural language processing techniques of 650 Education Health and Care Plans (EHCPs) from two LAs in England completed over 2019-2021.⁴

The Digital Work and Online Safety

In the context of the Online Safety Bill, and with the end goal to make the online world a safer space for children, CCo is always keen to learn from children and young people about how they view and navigate online and with social media and risks of access to harmful content. The office has recently published *Digital Childhoods* which presented findings of an online nationally representative survey of 2,000 children aged 8-17 and their parents.⁵ The survey asked about issues such as thoughts on age assurance of social media and potential access to harmful content.

The Family Review

The Children's Commissioner was commissioned to undertake the independent Family Review as part of *Inclusive Britain*, the Government's response to the 2021 Commission on Race and Ethnic Disparities.⁶ The purpose of the Family Review is to *'improve the way public services understands the needs of children and families so every child has the best start in life and the opportunity to reach their full potential'*. To inform Part 1 of the *Family Review*, CCo heard from 47 children, 120 parents and carers and 93 professionals.⁷ The CCo also conducted a nationally representative survey with over 3,500 adults across the UK, including over 3,300 parents, as well as over 2,200 children aged 8-17.⁸ The survey was

designed to understand what modern families in the UK look like, the current pressures on families, the services they currently use and what they think about that support.

Children for whom the Children's Commissioner has special responsibility

Under Section 8D of the Children Act 2004 the CCo has special responsibility towards children who are looked after by the state or require the help or protection of children's services. As of March 2022, 1.6 million children had been a Child in Need (CIN) in the past 6 years, of which over 400,000 were currently CIN, 80,000 were currently Looked After Children (LAC), 13,010 were looked after in institutions and 140 were looked after in secure units. Views and voices from children who reached out to CCo's Help at Hand service, a help line offering advice and support to children in care, leaving care or living away from home and the online platform 'In My Opinion' (IMO), a space for open and honest conversations with care leavers about issues that are important to them, are included in this report.

Figure 2: Children to whom Section 8D Applies^{9,10,11}

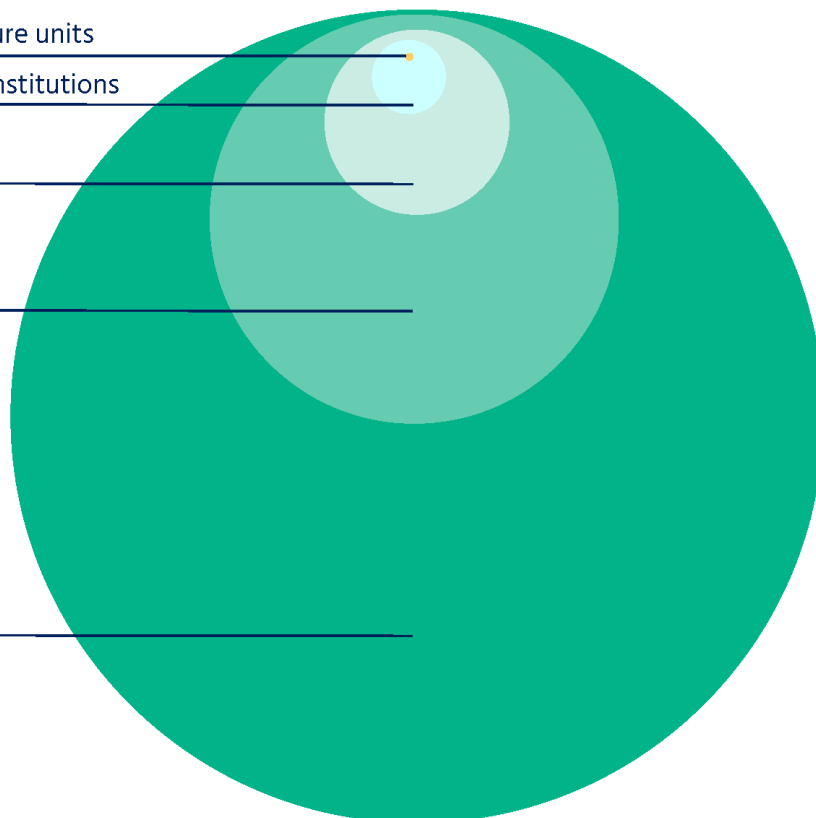
140 Looked After Children in secure units

13,010 Looked After Children in institutions

82,170 Looked After Children

404,310 Children in Need

1.6 million children who have been a Child in Need at some point in the past 6 years



Note: All figures as of March 31 2022 except the estimate of 1.6 million children who have been a Child in Need at some point in the past six years which is based on 2012/13 – 2017/18 longitudinal CIN dataset. Looked After Children in institutions refers to Looked After Children in secure units, children's homes and semi-independent living accommodation.

Part 1 - General Principles: CCo's work to amplify children's voices and protect their rights

The first part of the report focuses on two of the General Principles of the UNCRC, which underpin all the CCo's work.

These are Article 2, 'Non-discrimination' and Article 12 'Right to be heard'. These Articles are particularly pertinent to the office's work as children themselves recognise their importance.

31% of children who responded to *The Big Ask* told us that fairness in society was one of their main worries about the future. As one child said:

'The unfairness in society across the globe but also in England. People aren't treated fairly, and people aren't doing enough to stop it' - Girl, 13, *The Big Ask*.

The CCo's independent advocacy service, Help at Hand, demonstrates every day the importance of hearing from children who need their voices to be amplified to ensure that their needs are met. One child the Help at Hand team supported said:

'She [Child Rights Adviser] she really understood what I was talking about, she understood where I was coming from, she really understood the rights, which was [...] I had felt that nobody was listening to what I was saying, and nobody had heard my side at all' – Child, Help at Hand

The CCo is focusing on Article 2 because some groups of children in England have consistently poorer outcomes and access to opportunities than their peers. The task of ensuring all children have access to first-class public services to help them achieve their potential is core to the mission of the current Children's Commissioner, Dame Rachel de Souza.

To address the disparity in outcomes of specific groups of children, the CCo conducts research, develops policy solutions, and intervenes in line with its statutory remit to support certain groups of children to overcome barriers they are facing.

In Section 1.1 this report will focus on the right to **non-discrimination** of three particularly vulnerable groups of children: children in care, children with disabilities, and children living in disadvantaged households. These groups are the ones where the CCo is particularly worried about their outcomes, this report in Part 2 also references other children that outcomes can be disadvantaged.

Section 1.2 of this report will focus on the **right to be heard** for vulnerable groups. Drawing on findings from the CCo's independent advice and representation service, Help at Hand, it will highlight the role that independent advocacy plays in the lives of the most vulnerable children. In recognition of importance of amplifying children's voices, reflections from what children themselves have told the office about what they want from the support they receive will be highlighted.

1.1 Right to non-discrimination (Article 2)

All children have the right to access equal opportunities

The Children's Commissioner wants to ensure all children have the same opportunities to have a good childhood, including access to a world-class education, develop their own interests and character, receive the specialist help and support they need and live in a stable and loving home.

The right to non-discrimination means that all children have the right to access equal opportunities and have all of their rights upheld. Children should not be disadvantaged because of their skin colour, sex or religion, if they speak another language, have special educational needs or a disability (SEND), or are rich or poor.

What children have said

Across the various strands of CCo's work, children have consistently said that they believe all children should be treated fairly, without judgement or discrimination. In *The Big Ask* children told us that they valued safety, both online and in the real-world, and were ambitious for a more equal society. They spoke about fairness, about caring for people who might suffer from discrimination and about equality across racial, sexual, and gender-identities. As one boy told the CCo: *'You can't help what you are born. Everyone should be treated fairly'* – Boy, 11, *The Big Ask*.

A key theme across responses that mentioned politics, equality and society was reference to all members of society as a single unit. Children often mentioned 'everyone' or 'everybody', highlighting children's hope for all children in England to be treated fairly, for example: *'Nobody is less capable than anyone [...] if they have a different colour of skin [...] they should be treated fairly'* - Boy, 10, The Big Ask.

Children recognised that fairness could affect their mindset to achieve and be ambitious for their future. As one girl said: *'I think what stops children from achieving what they want to achieve when they grow up is that not everyone is treated fairly and some people don't have the opportunity to do something they really want to achieve'* - Girl, 11, The Big Ask.

Children's responses also reflected a desire to have the opportunity to be heard by the older generations on an equal playing field, especially regarding issues that they were set to inherit, such as the environment and socio-economic inequality. Children across England were particularly concerned when they felt their voices went unheard. As one girl said: *'Older generations love to mock us for taking action against social issues by calling us, and I quote snowflakes. Yet they won't. We are finally taking action on things'* - Girl, 13, The Big Ask.

The CCo's approach

There are three groups of children that the CCo would like to draw the committee's attention to under Article 2. These groups are children with disabilities, children in care and children living in disadvantaged households. There is of course crossover in these groups. These groups have been highlighted because, as a whole, they consistently have worse outcomes and experiences, in particular in regard to the rights to education, health and wellbeing, and family life. This section demonstrates these children fall behind their peers on key outcomes such as educational engagement and attainment. Knowing that these groups need targeted and often specialist support, the CCo urges the UN to make these children a core focus of its evaluation of the UK.

Part 2 of this Report covers the issues faced by other groups of children, including Unaccompanied Asylum-Seeking Children (UASC) and Gypsy-Roma-Traveller Children (GRT) and the CCo's work to counter disproportionate outcomes within the criminal justice system for black children.

1.1.1 Children with disabilities and with additional needs

Summary of issue

- In 2021/22, there were 355,566 pupils with a statement or EHCP and 1,129,843 on Special Educational Need (SEN) support – equivalent to 4% and 13% of the English pupil population. The percentage of pupils on EHCPs has increased from 3.7%, continuing a trend of increases since 2016. Prior to this, the rate had remained steady at 2.8%.¹²
- The attainment gap between pupils with SEN and their peers is the widest amongst all disadvantaged groups measured such as children in care and those on Free School Meals (FSM).
- In 2021, only 53% of children with SEND achieve Level 2 attainment (5 GCSEs levels 9-4 or equivalent), 33 percentage points less than those without SEND – and not much has changed over the past three years.
- A similar story exists regarding children with SEND achieving L3 attainment (2 A-Levels or equivalent) – only 30% to 65% of those without SEND.¹³

As Article 23 outlines, no child should be discriminated against or have their rights denied on the basis of disability. The CCo pays specific attention to children with SEND as they are a group who have particular needs and entitlements in terms of state support. The Children's Commissioner's wants to see a system that focuses on children's needs, and the additional support they require to succeed. Instead, as our work with children highlights, children often encounter a system fixated on labels and diagnosis; systems which are too slow to provide help and children continue to experience prejudice and low expectations when a diagnosis is made. The result of this, is that overall, too few children with additional needs achieve what they are capable of and fulfil the ambitions they have for themselves.

In England, the Children and Families Act 2014 was a landmark reform for how children with SEND are identified, and their education and healthcare is supported. The 0-25 SEND code of practice that the Act introduced focuses on strengthening the voices of children and their families as well as outlining how joint commissioning arrangements can foster better integration between education, health and social

care services.¹⁴ The ambitions of the Act further the rights of children to be heard, their rights to education and healthcare simultaneously. The principles of this legislation are all the correct ones, but they have not been consistently realised in implementation. As with all major reforms, implementation can take time and progress needs careful monitoring. To understand the effectiveness of the reforms, the Government launched a Review of the SEND system.

The pandemic appears to have exacerbated some of the challenges that children with SEND and their families experience. Data collected via a survey between April to June 2020 highlights the challenges that children with SEND and their families faced during the first national lockdown. The added pressures of closed schools, limited health and social care provisions, work from home, and changed routines exacerbated stress felt by children and their families.¹⁵

While there are huge variations in the type of additional learning needs and disabilities that children experience, there is evidence to suggest that children and young people with learning disabilities have a much higher chance of also developing mental health difficulties.¹⁶ Because of this, children with disabilities often face concurrent issues in regard to their right to health and education.

The CCo has advocated for children with SEND to be supported holistically through access to a supportive school environment and high-quality education, as well as wider family support where needed. Yet too often children do not receive adequate or timely support and as a result are facing substantial barriers accessing their right to education.¹⁷ It is important to remember that where support is high quality and timely, children with additional needs, who received support in mainstream school, were happier than the overall cohort.

Children with an EHCP are more likely to be absent from school.ⁱ Almost 36% of pupils with an EHCP were persistently absent in the autumn 2021 term, meaning that they missed 10% or more of possible

ⁱ An EHCP sets out the support that children with special educational needs and disabilities should be receiving to support their educational, health and social needs.

education sessions. This is compared to 31% for pupils with SEN support and 22% for pupils with no identified SEN.¹⁸

Exclusion and suspension rates are also higher among pupils with SEND. In the 2020/21 academic year, the permanent exclusion rate for pupils with an EHCP was 0.08 and for pupils with SEN support it was 0.15, compared to only 0.03 for those without SEND. Similarly, the suspension rate was higher at 12.98 for pupils with an EHCP and 11.86 for pupils with SEN support compared to only 2.80 for those without SEND.¹⁹

Research conducted by the CCo has revealed that the SEND system is disjointed, lacks common standards, and rarely provides opportunities for children with SEND to express themselves.²⁰ Across the 650 EHCPs analysed by CCo, there was significant variation in the accessibility of EHCPs and the extent to which outcomes set in them were specific, measurable, achievable, realistic and time bound. This supports the need for a standardised and digitised EHCP system, to enable greater accessibility, both for direct stakeholders and wider understanding and monitoring of the EHCP system.

The children and young people with additional needs that the CCo spoke with described a sense of powerlessness over the organisation and delivery of their education and care. As one girl who spoke with the CCo to inform the SEND consultation said, asking the child about their care is crucial:

'Asking a child [...] because without asking you won't know the pivotal thing [...] and it needs to be reviewed regularly' - Girl, 13, with autism.

The entire process of securing an EHCP should take no more than 20 weeks, but the reality for thousands of children, is that it takes much longer. In the 2021, 59.9% of EHCPs were issued within 20 weeks, meaning that around 24,800 children waited longer than 20 weeks.²¹ There were also large difference in the time children spent waiting for their EHCP to be issued. In Calderdale, for example, 100% of EHCPs were issued within 20 weeks, compared to 3.7% in Stoke-on-Trent.

Some children the CCo spoke to reflected on the difficulties they faced in securing an EHCP:

'My EHCP, it took 3 years to actually get one, it got pushed back. My parents and [special school] had to fight for us to get one. When I got one me and my mam went through it but it was ages ago. It was a

pain to get one. I was not getting no help for my education they want us to do well' – Boy, aged 16, attending a special school.

Under Section 2D of the Children Act 2004, the CCo has the power to intervene on behalf of children to support them to access the support they are entitled to. Over the past year the Help at Hand service has supported many families with disabled children who were struggling to get the right support. Many of the children supported by CCo were missing out on their right to an education because no suitable school had been found.

The CCo is concerned that delays in providing appropriate support can even impact on a child's right to family life. The CCo works with families who with are committed to caring for their disabled child at home, yet they report substantial barriers to accessing adequate support to enable them to do so. The CCo has supported families who have been told the only home available to their child is if they are institutionalised. No child should be taken from their family and placed in an institution because of the failure of the state to make the necessary adjustments in order to work with the family in a home setting.

The Children's Commissioner is also concerned about the increase in the number of children the CCo supports who are LAC with SEND who are not in appropriate education settings, and in some cases, not in school at all. The office has found that this issue was particularly pronounced for children who had been moved out of their local area once they became looked after. This issue occurs because although the Local Authority (LA) that placed the child in a different area (their home LA that acts as their corporate parent) is responsible for their Care Planⁱⁱ, the LA the child is placed in takes over responsibility for the child's EHCP. In these cases, there is a disconnect between those responsible for upholding a child's right to education and those responsible for the child's care.

ⁱⁱ By law, all children in care should have a Care Plan that explains how a local authority will best look after them and which outlines the individuals who have responsibility for the welfare of the young person.

The CCo will continue to monitor these issues and advocate for children with SEND and their families to receive the highest quality support and care.

Ambitions

To address the disparity in outcomes for children with SEND, the CCo would like to see a focus on:

- Supporting children and their families to access the support they need as early as possible to prevent problems escalating.
- Every child with SEND to have access to a place in a school that can effectively meet their needs.
- A focus on implementation, to ensure every child has consistently good experiences. At present one of the biggest issues is the gap between statutory entitlements and lived experience.

1.1.2 Children in care

Summary of issue

- In 2022, the number of LAC in England rose to 82,170, up 2% on last year, continuing the rise seen in recent years.²²
- Children in care perform worse than their non-looked after peers across all Key Stage 4 measures.
- In 2020/21 the average Attainment 8 score of children who had been looked after for 12 months as of 31 March 2021 was 23.2 compared to 50.9 of all pupils. Only 13% achieve grades 5 or above in GCSE English and Maths, much lower than 52% of the overall pupil population.²³

As Article 2 sets out, no child should be discriminated against on the basis of their family background. Given the CCo's statutory remit, a large proportion of the CCo's work is focused on promoting and protecting the rights of the children who interact with the children's social care system.

The most consistent message from the CCo's work with children in care is that they want the same things as all other children: to be loved, to have friends, to make plans for the future and to be able to pursue their own interests:

'I feel like children in care are treated differently to people who live with their biological family. But we are the same as other young children' – Girl, 14, The Big Ask.

Children in care are ambitious. Two thirds of those who responded to *The Big Ask* survey told CCo that their top aspiration was to get a good job or career. As one girl living in foster care at the time of the survey the office:

'I want to be a vet when I am older and I think what stops me is Covid ...and also courage because I am very nervous, but I don't have to worry yet because I'm only 9' – Girl, 9, in foster care.

The CCo is clear that the children's social care system in England needs reform if it is going to be able to support children to access loving and stable home environments and pursue their dreams. Currently, almost half of LA children services in England are rated as either requires improvement to be good (35%) or inadequate (12%). Moreover, CCo analysis shows that in 2021, 58% of LACs were in LAs which require improvement to be good or inadequate.^{24,25}

As Article 20 of the convention outlines, a child that has been placed away from home (including for example in foster care or residential care) should have special protection including having their views respected and heard. Yet the CCo is concerned that, due to issues driven by the insufficiency of high-quality placements for children, many LAC in England are not receiving the quality of care they need.

CCo's Help at Hand team finds that children are being placed out of their local area or that there is no home available for them anywhere in the country. Many children and foster carers contact the team because they are being asked to move against their wishes, despite the disruption and damaging impact on them.

Help at Hand's casework also illustrates that there is a critical need for more foster carers and therapeutic children's homes with specialisms in autism, trauma, learning disabilities and complex needs. Many of the children needing these homes are cared for in unregistered settings with agency carers and are often placed under a Deprivation of Liberty (DoL) order. To put this in context, in the last three years England and Wales the use of DoL orders has been identified to have increased by 462%. CCo believes that the use of DoL orders is an indicator of a greater need for settings that can support children's needs.²⁶

Help at Hand Case Study – Bobby

Bobby*, 15, has autism and complex mental health needs due to childhood trauma. His adoptive parents wanted him to remain with them but could no longer keep him safe. Nonetheless, they were committed to staying in his life and supporting him. The LA had no children's homes within its area that could meet Bobby's needs and were unable to find one even after a country-wide search. Ultimately, the LA rented a house and hired staff, as there was no children's home available. The process was extremely stressful for Bobby and his parents, and his relationship with them has become more difficult as a result.

*name changed

Children in care can also experience a high number of multiple placements moves, impacting their ability to form close relationships and feel a sense of security. The latest available data shows that, of the children in care as of March 2022, 69% had one placement over the course of a year, 21% had 2 placements over the course of a year, and 10% had 3 or more placements.²⁷

Moreover, children in residential settings are much more likely to be placed away from their home area than other children in care. In 2021, 43% of children placed in residential settings were 20 miles or more outside of their home LA, compared to only 13% of foster placements.²⁸ This is particularly the case for children with the most complex needs.

A consequence of the insufficiency of quality placements is that many children in care experience a high number of placements moves, which in turn impacts their access to education.

A significant proportion of the CCo Help at Hand team's work involves advocating for children who aren't in the right educational setting or don't have a school place at all. This is a particular issue for children who have been moved out of their local area by the LA.

Help at Hand Case Study – George

George* is a LAC with an Education, Health, and Care Plan (EHCP). He moved to a new area following a traumatic placement breakdown. He had previously been doing very well in a special school but, five months after moving, he still had no school place, which was largely due to poor communication and information sharing between the LAs.

*name changed

The CCo is concerned about these findings given that the attainment of LAC at GCSE level is significantly lower than their non-looked after peers. In 2020/21 the average Attainment 8 score of children who had been looked after for 12 months as of 31 March 2021 was 23.2 compared to 50.9 of all pupils. The Attainment 8 score measures the average achievement of pupils in up to 8 qualifications and has a maximum point score of 90.²⁹ LAC and CIN reaching the end of key stage 4 are also much more likely to have a SEN than their non-looked after peers, often resulting in lower average attainment.

To further investigate some of the challenges that LAC are facing in accessing the education they are entitled to, the CCo is undertaking a nationwide audit of the education provision for LAC. This data will be collected from LAs using the CCo's statutory powers to collect data relating to children from any public sector organisation as outlined in Section 2F of the Children Act 2004. The CCo will use this data to recommend further reforms to ensure that all children in care, including those with SEND get the educational opportunities they are entitled to.

It is essential that children in care have access to the stability and support that they tell the office they want. The Children's Commissioner believes that the focus of the system should be on supporting children to live with, and stay with, a family, whatever form this family takes.

To understand how this can be achieved, the CCo will be commencing a project looking at where children in care live and call home and will examine support for specialist foster carers as an alternative to children's homes. This will help to understand how to improve stability and support and give more children in care the opportunity to grow up in a loving family.

The CCo also believes that an essential part of ensuring that children in care have access to long-lasting relationship is ensuring they can maintain their sibling relationships. The CCo will be examining how to strengthen the legal protections for sibling relationships to be maintained.

As a member of the National Implementation Board for the Independent Care Review, the CCo will continue to advocate for children to have access to secure homes that can provide them with love and stability.

Ambitions

To support children in care to thrive, the CCo believes:

- All children should feel loved, supported and stable. Children must experience fewer placement moves and have an increased sense of support and stability.
- Children should have relationships that are trusting and stable, and the social care system should support children and families to develop relationships and strong community networks.
- The Children's Commissioner is committed to ensuring that no child grows up in an institution. The focus of the system should be on supporting children to live with, and stay with, a family, whatever form this family takes.

1.1.3. Children living in low-income households

Summary of issue

- In January 2022, 1.9 million pupils were eligible for FSM, 22.5% of all pupils. This is an increase of nearly 160,000 pupils since January 2021, when 1.74 million (20.8%) of pupils were eligible.
- In 2021 63% of FSM children achieved L2 qualifications, 22 percentage points less than non-FSM eligible pupils. The same is true for L3 qualifications (2 A-Levels or equivalent) where only 38% of FSM pupils achieve such qualifications compared to 63% of those not eligible for FSM.³⁰

As Article 28 of the convention sets out, all children have the right to access education and the right to a good education is perhaps the most important of all rights children hold. All the work the CCo undertake reiterates the point that children want to attend school, want to learn and want to be supported to meet their ambitions. As one child responding to The Big Ask said:

'Good education is important as you need a school that will be able to know your ability and challenge you in order to help you succeed and reach your full potential' – Girl, 14, The Big Ask.

Yet as the statistics above demonstrate there are a large number of children in England from economically disadvantaged backgrounds and they tend to do worse than their peers in educational outcomes. There have been some big advances in recent years, and children whose outcomes have been vastly improved, for example the percentage of children eligible for FSMs who go onto higher education has gone from 14% to 28% over the past 15 years.³¹ There has also been a range of Government initiatives to close the attainment gap:

- The Government have invested heavily in research on how to best help disadvantaged children through the Education Endowment Foundation³²
- School reform and transformation has been focused on schools serving the most disadvantaged communities

- School accountability and performance measures have been reformed to better focus on the relative performance of disadvantaged pupils

The results of these changes have been positive progress towards narrowing the educational attainment gap between disadvantaged children and their peers.³³ However, in recent years progress in closing the gap has slowed.³⁴ Progress has been marked at school-level, with England's highest performing schools showing dramatic improvement in the outcomes for England's most disadvantaged pupils. However, access to world-class education is unequal, and those who would most benefit – those from disadvantaged backgrounds – are consistently disadvantaged in accessing the best schools. For example, a child receiving FSMs is 1.3 times more likely to be going to a school that is rated by Ofsted as 'requires improvement' or 'inadequate', i.e., has been rated as less than 'good'.³⁵ In England, as of December 2021, 520,000 children were currently attending a primary school that is less than 'good'.³⁶ Across England, there are areas where all primary schools are 'good' or 'outstanding', and other council areas where over a quarter of primary-age children are attending a primary school less than 'good'.³⁷ Data shows us that when a vulnerable childⁱⁱⁱ is attending a 'good' or 'outstanding' school they are more likely to do better in their GCSE English and Maths than a vulnerable child that attends a school that is rated as 'requires improvement' or 'inadequate'.³⁸

The CCo is dedicated to ensuring that all children, including the most disadvantaged, are starting secondary school at the expected reading and writing standard. To achieve this, children need to be supported to attend school and to access the right support when they need it. The CCo has advocated for vulnerable children to be prioritised to access the National Tutoring Programme, in admissions and for the introduction of a register of children not in school.

To address the regional disparities in the ratings of schools, the CCo has advocated for all schools to be part of a family of schools – enabling schools within multi-academy trusts to share resources and teaching expertise.

ⁱⁱⁱ A child that has both have a social worker and are eligible for free school meals.

While the CCo believes that many of the reforms proposed in the School's Bill will help to address regional disparities and improve the outcomes of disadvantaged children, the office is concerned about the recent delays to the passage of the Bill and is particularly keen to see the introduction of the EHE register at the earliest available opportunity.

There are clear disparities in other outcomes of disadvantaged children compared to their peers on a range of measures. For example, children living in disadvantaged households are likely to have poor health outcomes, including indicators that can be identified from birth, such as low birth weight. Physical health conditions, including respiratory conditions can also manifest later in a child's life as a consequence of poor housing conditions and overcrowding.^{39, 40} In addition, research shows that childhood poverty is linked to involvement in violence and interaction with the criminal justice system.⁴¹

The CCo is committed to ensuring that no child grows up in destitution or poverty. Although the latest statistics in the UK indicate child poverty has been stable in recent years and fell in 2020-21, there are still many children living in households that are struggling financially.

Between 2019/20 and 2020/21, the percentage of children in the UK in relative low income after housing costs (AHC) decreased by four percentage points, from 31% to 27%. This means that in 2020/21, 3.9 million children (27%) in the UK were living in relative poverty.⁴² This is a relatively sharp fall after relative low income (AHC) was generally stable around 29% from 2016/17 to 2019/20.⁴³

In England in 2020/21 there were 2 million children aged under 16 in low-income families in relative low income and 1.64 million in absolute low income.⁴⁴ In the 2021/22 academic year there were 1.9 million pupils eligible for FSM in England in 2022 which makes up 22.5% of the student population. This year's figures represent a 9% increase from 2021, when 1.74 million pupils were eligible.⁴⁵

The shift in the overall poverty trends in the UK has been attributed to the Universal Credit (UC) Uplift, a decrease in median incomes and other significant UK Government interventions, including the Coronavirus Job Retention Scheme and the Self-Employed Income Support Scheme.⁴⁶ However, based on current measures and the increased cost of living, there are projections of an increase in the number of children living in relative poverty.⁴⁷

Children themselves are aware of the difficulties their families are facing with the rise in cost-of-living impacting many families across the country. One boy, aged 15, who CCo met at a youth group as part of the work for the independent Family Review said: *'It can be difficult with prices going up at the moment.'* Another boy, aged 16, in the same focus group told CCo that his friend had to work to support the family financially. When asked what he thought about that, he said: *'it is causing a lot of stress at school and other stuff, like stress with the family [...] you have to get work just to pay the bills can cause a lot of stress especially for young people.'*

There are currently some initiatives, such as the Holiday Activity Fund (HAF) that are targeted at supporting disadvantaged children to access social and cultural enrichment activities during holiday periods.^{iv} During the Family Review the CCo visited a number of HAFs and heard many positive reviews from the families that access them. One mother at a HAF in Hackney said:

'I am thankful for the break. [My children] are here all the time. Because they love it here, they really love it here. They make so many friends.'

The CCo welcomes programmes of this type and has recommend the investment be sustained to ensure that vulnerable children can continue to benefit from them. In addition to this the CCo has called for auto-enrolment of children for FSM so that LAs assess FSM eligibility and ensure all disadvantaged children receive the support they need. However, there is a need for wider systemic reform to address some of the inequalities between disadvantaged children and their peers.⁴⁸

^{iv} In receipt of free school meals.

Ambitions

To address the disparity in outcomes for disadvantaged children, the CCo believes:

- The legislation in the School's Bill should be considered in parliament and reforms implemented swiftly.
- Support the educational attainment of children in poverty by maintaining a relentless focus on closing the attainment gap between disadvantaged children and their more affluent peers.
- The CCo is committed to ensuring no child grows up in destitution. Welfare reforms that focus on poverty reduction measures should target families with children.

1.2 Right to be heard (Article 12)

All children have the right to be listened to and taken seriously

The Children's Commissioner listens to children and young people's views and speaks up for children and young people from all backgrounds and across the country. She makes sure that Government policy and decision-makers take their views and interests into account when making decisions. But she is most concerned about the voice of children who do not have a parent to advocate on their behalf, especially those living in institutions.

In the CCo view, the right to be heard means that every child has the right to be listened to and taken seriously. When adults are making decisions that affect children, children have the right to say what they think about it and be listened to. Children have the right for their views to be respected and taken into consideration in relation to what happens to them at home, at school, and in their community. In all the office's work, children's voice is at the centre.

What children have said

Children consistently express how important it is for them to be heard and taken seriously. Children have told the CCo about when they feel they have been heard in a variety of contexts, but also sometimes when they feel their voices were not heard by those around them.

The CCo has heard from young carers for example, that they'd like more people at school to understand them and about the challenges that accompany them on their school day. As two young people who the CCo met at the Young Carer's Festival shared: 'I would like teachers to be made more aware of young carers and what they are' and 'A change I want to see for Young Carers is more understanding of our situation'.

Some children have a youth worker or a social worker that they trust and can speak with. Some feel listened to by their families. However, the CCo still hears that some children don't feel listened to enough. For example, in *The Big Ask*, one child wrote: 'We feel like we don't have a voice or if we do have a voice it can be easily discounted or discredited because however much logic and information, we provide the adults view is put as a priority' - Girl, 13, *The Big Ask*.

Many children were appreciative that *The Big Ask* was an opportunity for them to voice their opinions and provided a chance to communicate with adults and policymakers openly and freely, highlighting the ambitiousness of children up and down the country. As one girl told the CCo: 'I know it sounds a bit silly, but I think this would really help children in England - and around the world- to achieve what they want to do when they grow up. I have a voice as a child, thank you for listening' - Girl, 11, *The Big Ask*.

But, also for other work, such as the Family Review, children told the CCo about how and why young people are not always being listened to: '*Young people's ideas get shut off by older people thinking they're foolish and stuff when some young people have smart and intelligent ideas and they might not want to share them because they might feel no one will be listening to them and they'll be judged. They just stay quiet*' - Boy, 16, Family Review.

The CCo's approach

Across all these strands the CCo makes sure it listens to children's needs, rights, and views.

It is vital that all children have their right to be heard respected, but it is perhaps most important for the vulnerable groups of children for whom the Children's Commissioner has particular responsibility. This section therefore focuses on these children.

While all children in the England have the right to legal advice or representation on a range of matters including criminal law, education and nationality, children in care also have the right to make a complaint about any aspect of their care.

Yet, in a recent review of the CCo's Help at Hand service, the office has found that many children in care and care leavers are not aware of their right to advocacy. Some children also face long delays following a referral to the LA's advocacy service, and the quality and effectiveness of these services is variable. For example, a recent study of 129 LAs found 70% of advocacy services fail to meet national standards.⁴⁹

The CCo works across the country to ensure that children, and the professionals supporting them, are aware of their right to express their views and have them be heard. The CCo, under Section 2D of the Children Act 2004, can intervene to provide advice, assistance, and representation to any child that is living away from home or receiving social care services. This includes children who are in care, in hospitals and in youth custody settings. The CCo's 'Help at Hand' service oversees this duty by supporting children to understand their rights and complain about their care if they feel they have been unfairly treated.

Typically, independent advocacy is commissioned by the LA through an independent third-party provider. The 'Help at Hand' service acts as an escalation point for advocates across England, supporting them with advice and intervention to uphold the rights of the children they are representing. The team has also started on a program of delivering free rights training to advocates across England.

The Help at Hand service recently underwent a review of the service, and in doing so spoke with 70 children that were eligible for the service. To ensure that the review captured the voices of a range of children from different backgrounds and perspectives, the team conducted two focus groups with children in care aged 8 to 18, two full-day sessions with children in secure settings, two focus groups with care leavers, one discussion group with UASC children, two visits to settings with disabled children, and eight interviews.

Concerningly, many of the children were not aware of the service or their rights to independent advocacy. One care leaver told the team:

'I mean, if I'd known about it, I would have found a way to contact you whether it was phone or internet or anything, I would have found a way because I struggled a lot [...] and I know a lot of other young people who struggle so much that we end up relying on each other'.

When the team asked children how they would seek help if they wanted support, the most common response was through school. One child in care told the team:

'If a young kid needs to talk about their foster carers, as an example, they would be at ease speaking to their teachers, not to the carers' - Paraphrasing a child in care.

In many instances the team supports the advocates that are assigned to represent the views of children in care. There are a few common issues that the service typically supports advocates to address, including unwanted placements moves and children being placed in unsuitable accommodation.

Often the team finds that while the child is expressing concern over an unwanted placement move, the LA responsible is not responding to their wishes. To strengthen the child's voice in this process, the team contacts the relevant professionals supporting the child (such as the Independent Reviewing officer) to ensure they are upholding the child's rights in line with the statutory safeguards in place to support them.

Help at Hand Case Study –Tiffany

Tiffany*, 12, has been looked after from a young age, after experiencing serious abuse from her parents. Her long-term foster carer contacted Help at Hand following the LAs decision to move her to a therapeutic children's home. She explained that she and her family were committed to Tiffany, who had made great progress since coming to live with them. They had been asking the LA to provide therapy for Tiffany for a long time, to help with her trauma, but this had not been agreed. Tiffany made it clear to her advocate that she was very happy with her foster carers and did not want to move home or school. Help at Hand contacted the LAs children's social care managers and asked them to rethink the move. They decided to change the plan and instead provided extra support to Tiffany with her foster carers, including therapy.

*name changed

Through the support the team provides to families and professionals that raise concerns about the suitability of the accommodation provided to children with complex needs and disabilities, it is clear that there are gaps and inadequacy in the provision currently available to support these children.

The CCo believes that the recent revelations in the Child Safeguarding Practice Review Panel report that outlined the abuse and neglect of children in residential special schools operated by the Hesley Group in Doncaster are an indicator of the need for specialist independent advocacy for this group and the need more support for specialist foster carers as an alternative to children's homes. As mentioned, the office will soon be commencing work that will examine the support for specialist foster carers as an alternative to children's homes.

The CCo wants all children to have access to the support they need, and particularly those that are being supported by children's social care services. The recent Care Review highlights that the government could consider an expansion of the CCo's role by having the office oversee the delivery of a national independent advocacy service for children in care and care leavers across England. The Government is currently considering this recommendation as part of plans to reform children's social care.

Ambitions

The CCo believes that:

- All children should be listened and responded to. Every child living away from home or receiving support from children's services should have access to high quality independent advocacy to help amplify their voice.
- Across the country there should be sufficient numbers of non-structured advocates that can support disabled children to advocate for what they need and want.

Part 2 - CCo's response to the UN Committee's List of Issues on the Rights of the Child

This Part 2 of the report responds to the Committee's list of issues. Alongside this, the CCo has also added some additional challenges that children are facing to highlight their needs.

2.1 New developments

2.1.1 Bill of Rights

The UK Government has introduced plans to replace the Human Rights Act (HRA) 1998 with a Bill of Rights. If any reforms are introduced, the Children's Commissioner for England will reinforce the vital importance of enshrining international obligations in relation to children's rights.

The CCo wrote to the Justice Secretary to ask for assurances that there will be effective scrutiny of the legislation as the Bill passes through parliament.

2.1.2 Covid-19

The lockdowns imposed by the Covid-19 pandemic had a substantial impact on children's lives across England. Children's academic progress was impacted with estimates suggesting that children in primary school had fallen 3.4 months behind in maths and 2.2 months behind in reading in spring 2021, although this reduced to 2.2 months in maths and 0.9 months in summer 2021. Concerningly, the learning losses for disadvantaged pupils in primary school were even greater, at 4.2 months in maths and 2.7 months in reading, reducing to 2.6 months and 1.2 months in summer 2021. Most worryingly, disadvantaged pupils in secondary schools had fallen further behind by the summer. In reading, losses in the autumn term (2020) were 1.9 months for secondary disadvantaged pupils. By the summer term (2021), they rose to 2.4 months.⁵⁰

In *The Big Ask* children reflected on the impact that Covid-19 had on their ability to engage in the activities they love, to study and to learn.

'Lockdown really stops children because they can't do that much stuff we love and it makes them go all shaky like they can't study the normal day and if they need to achieve a job, they want to do it will be hard for them to pass the exams' – Girl, 9.

It is also clear that isolation during the pandemic had an impact on the mental health and wellbeing of children. Findings from *The Big Ask* show that mental health was children's biggest worry overall with 1 in 5 children worried about their mental health. This was more pronounced amongst older teenage girls, with around 2 in 5 of 16–17-year-old girls reporting that they felt unhappy with their mental health.

The CCo welcomes the UK Covid-19 Inquiry which has been set up to examine the UK's response to and impact of the pandemic, although notes it is vital for the Inquiry to thoroughly examine the impact of the pandemic on children's lives. Following a number of tragic deaths as a result of failings across children's social services, the CCo has called for the inquiry to widen its scope.

2.2 General measures of implementation (Articles 4, 42 and 44 (6))

2.2.1 Use of Child Rights Impact Assessments (CRIAs)

To ensure a greater use of CRIAs, the CCo recommends that the Government implements mandatory training on the use of CRIAs and the UNCRC across Government. The CCo believes that policymakers working across Government should ensure children have the right to participate when policy and legislation is developed.

The CCo welcomed the use of CRIAs in the Independent Review of Children's Social Care (Care Review) and in the SEND and Alternative Provision Green Paper. However, the CCo would like to see a greater use of CRIAs when developing legislation, for example in relation to the Victims Bill. CRIAs should be used early on in policy and legislative development, rather than retrospectively, so that they can most usefully inform and influence ministers and other decision makers.

As with CRIAs, the Family Test was designed to assess the impact of policy on families. In light of insights from the Children's Commissioner's Family Review, the CCo would like the Government to review and strengthen the Family Test and to ensure that it is used as an accountability mechanism for local and national Government during planning and implementation of policy.

In Part 2 of the CCo's independent Family Review, the office will publish new principles to guide a reinvigorated Family Test. The CCo principles will set out how the test can be reformed to ensure that it shapes Government policy from inception, placing children's relationships and outcomes at its heart. The CCo wants to ensure that the test ensures that policy is family-friendly by design, and the power of family is harnessed to help children thrive.

2.2.2 Allocation of resources and budgeting

To ensure that budgeting and allocation of resources follows a children's rights approach, the Government should employ a greater use of CRIAs.

In England, for 2022-23, councils budgeted spend for children's social care is £11.153 billion up 3.2% (£348m) from 2021-22 levels.⁵¹ While the Care Review warns that without system change over the next decade children's social care system could cost up to £15 billion per year.⁵² The CCo's *Family Review* proposes a shift towards earlier intervention and investment in services that support the family as a unit.⁵³

2.2.3 Collation and analysis of transparent and disaggregated data

There is a need for a consistent approach to collection and dissemination of data related to children across England. The Covid-19 pandemic posed a unique opportunity to rapidly extend the data collection mechanisms across the UK. For example, in England the Department for Education is now trialling automatic daily attendance data collection from schools.

To address the need for a clear and up to date overview of childhood vulnerability data, the CCo developed the Childhood Local Data on Risks and Needs (CHLDRN) dashboard which is based on available data on childhood vulnerability in England.⁵⁴ There is a need for Government to define

vulnerability and disadvantage and for regular reporting of data on childhood vulnerability. For example, the advent of the Covid-19 pandemic saw the DfE take a very narrow view of vulnerability where they considered only children in receipt of FSM, children with an EHCP and children with a social worker in the daily attendance data returned by schools.⁵⁵ The CCo believes that Government must take a wider, more holistic view of vulnerability and disadvantage. To address this the CCo will be conducting work to define disadvantage in England, building on the earlier work of the CCo vulnerability profiles.

In Part 2 of the Independent *Family Review*, the CCo will publish a paper outlining the practical and cultural challenges to data-sharing for the benefit of children and families, with proposals as to how to address these. This paper will be accompanied by a high-level outcomes framework that will aim to align the outcomes that services supporting families in England are striving for, with the aspirations children and families have for themselves. The CCo believes that focusing on outcomes will drive cohesion across services that are supporting families.

2.2.4 The role of the CCo

The CCo is funded by the UK Government but operates independently and its remit includes ensuring the Government is held to account for its progress on children's rights. The CCo has the right to appoint its own staff and business plan each year which outlines its priorities for the year ahead. The CCo is answerable to Parliament and is regularly called to accountability hearings within parliament. For example, this summer the Children's Commissioner appeared in front of the Education Select Committee's Accountability Hearing and was asked questions on the progress of the office since the beginning of the Commissioner's tenure in March 2021. This hearing is part of the ongoing scrutiny that forms the accountability mechanism of the CCo.

2.2.5 Children's participation in decision making

The CCo aims to amplify children's voices and ensure that its work is accessible to young people. The CCo engages with children through surveys, focus groups and interviews to capture children's lived experiences and represent them the office's work. The office also runs the independent advice and advocacy service 'Help at Hand' for children that interact with the care system and is keen to ensure

that the next phase of the Care Review focuses on ensuring children have access to high quality independent advocacy.

Next year the Children's Commissioner will be launching a Care Experienced Advisory Board, to harness the insight, ambition and expertise that these young people can bring to the work of the CCo.

2.3 Definition of the child (Article 1)

2.3.1 Definition of the child

The Marriage and Civil Partnership (Minimum Age) Act 2022 raises the minimum age of marriage to 18, which is an important step to preventing forced marriage. The CCo was an advocate for the Bill and welcomes the law.

The minimum age of criminal responsibility in England (MACR) is 10 years old, making it substantially lower than the average MACR of 13.5 years old across European countries which range from 8-16 years of age.⁵⁶ The CCo believes that the MACR across the UK should be raised to 14 in line with the recommendation of the UNCRC.

2.4 Civil rights and freedoms (Articles 7–8 and 13–17)

2.4.1 Respect of children's privacy rights

The CCo welcomes the Online Safety Bill, which has the potential to be a landmark piece of legislation to protect children from online harms. In May 2021 the CCo was formally commissioned by the Secretaries of State for Education and for Digital, Culture, Media and Sport (DCMS) to explore the role of the online world in shaping children's experience of sexual harassment and abuse, following the Everyone's Invited movement against sexual violence in schools.

In response, the CCo consulted extensively with children and parents, and gathered civil society leaders with expertise in online child protection. The CCo also convened a series of industry roundtables with

representatives of adult and social media platforms, alongside the Secretary of State for Education, the Secretary of State for DCMS, and the Children and Families Minister.

The CCo presented final findings and recommendations in March 2022.⁵⁷ 4 out of 7 recommendations were incorporated in the re-drafted Online Safety Bill. The Children's Commissioner has continued to advocate for children as the Online Safety Bill moves through Parliament, representing their views and needs for internet regulation.

2.4.2 The impact of harmful online content

Recent findings from an online Digital Survey conducted by the CCo found that underage use of social media platforms is widespread and that children are frequently exposed to harmful and sexualised content. The survey of 2,005 children found that 45% of children aged 8-17 have seen content they felt was inappropriate or made them worried or upset. Concerningly, children with FSM status were more likely to see every type of harmful content online. This includes sexualised and violent imagery, anonymous trolling, and content promoting self-harm, suicide or diet restriction.⁵⁸

There is a growing body of evidence that children are increasingly exposed to pornography, content which promotes violent behaviour, and content which promotes self-harm or extreme dieting. In the case of pornography, there is growing evidence that exposure to pornographic content changes the sexual behaviour of children towards their peers.⁵⁹ This is particularly concerning in light of research findings that 45% of freely available videos on Pornhub (a major free pornography provider) contained at least one act of physical aggression and that women were the target of the aggression in 97% of the scenes.⁶⁰

In response to this concerning trend that the CCo is further investigating the link between how acts commonly seen in pornography are being repeated in cases of peer-on-peer sexual abuse. To inform this work the CCo will also be examining case records from sexual abuse clinics.

2.5 Violence against children (Articles 19, 24 (3), 28 (2), 34, 37 (a) and 39)

2.5.1 Violence against women and girls

The latest available data from the 2019 Crime Survey for England and Wales estimated that the biggest difference in experience of abuse between men and women was for sexual abuse. 11.5% of women and 3.5% of men experienced sexual abuse before the age of 16 years.⁶¹ Other more recent estimates suggest that in the UK around 1 in 20 children have been sexually abused.⁶²

In *The Big Ask*, around 300 children mentioned words that would indicate violence against girls – for example, ‘harass,’ ‘assault,’ ‘catcall’ – in their responses. Even young girls talked about their own experiences of being catcalled or even followed by older men. Girls talked about being afraid to go outside or walk alone after dark; others spoke about the effects on their mental health and self-confidence. One young girl told the office:

‘Sexism is a big worry for me and no one should worry about being attacked while walking home’ - Girl, 14, The Big Ask.

The Independent Inquiry on Child Sexual Abuse (IICSA) recently published its final report after a seven-year-long investigation. The CCo welcomes the Inquiry’s recommendations in relation to increasing access to specialist therapeutic support for child sexual abuse victims, and for a thorough review of compliance with the Victims Code.

The CCo gave evidence to the Justice Select Committee about the need for child victims of abuse to be fully recognised within the Draft Victim’s Bill. The CCo believes that without specific recognition in the Victims Bill, many children will remain reliant on adult services, which are often not appropriate for them.

2.5.2 Child-centred support for children affected by sexual abuse

The CCo notes the need for greater sufficiency of services that provide wrap around support to child victims of sexual abuse across the country. The CCo recently visited the Lighthouse in North London–

a facility in London based on the Barnahus model – which is an exemplary model of how to support victims holistically in a safe space.

2.5.3 Use of restraint and seclusion in settings

In England, isolation and restraint are often used across settings, including in schools and children's homes. Too often this is in response to low level incidents (more information about use in secure setting is presented in Section 2.6.4 below). The CCo is clear that restraint should not be used to maintain order and instead should only be used as a safety measure to protect a child or third party.

Yet the CCo is aware that restraint is often used to manage behaviour. In *The Big Ask* one child spoke about his experience of being restrained in a special school:

'I am autistic and special school ruined my chances of ever having a good education. I was restrained all the time and wanted to die. Now I am happy with mum learning (sic) me but I am really behind because of specialist school environment' - Boy, 14, *The Big Ask*.

In regard to the use of seclusion and isolation, children have told the CCo about their experiences in isolation which many of them don't find helpful. During the CCo's attendance work, the office spoke with some children who were attending alternative provisions but had previous experience in mainstream schools. Children spoke about their experiences of being put in isolation in response to behavioural incidents.

'For me – being on your own, its just not good for you. For your mental health and stuff. It's a bit like a prison. You feel quite claustrophobic. Its just not good' - Boy, 16, in an AP

'They [isolation] made me feel, claustrophobic, I hated it' – Girl, 1

The CCo has outlined its position on the use of isolation through the Commissioner's investigation into school attendance. In *Voices of England's Missing Children*, the CCo set out that when a child is removed from the classroom, whether through internal exclusion, suspension, permanent exclusion, a managed move, or implementation of a 'part time timetable', this should be an opportunity to learn about the child's underlying needs.⁶³ A child's needs should be assessed and a plan to regulate that behaviour

should be implemented, jointly agreed with the child and the school. Guidance issued to schools and services needs to take a holistic view of the child rather than focusing on a single issue. DfE should consult on further guidance for the assessment of children's needs who have been excluded to be included in the Keeping Children Safe in Education guidance⁶⁴. This would help ensure exclusion becomes a trigger for a package of support around the child.

2.6 Family environment and alternative care (Articles 5, 9–11, 18 (1)–(2), 20–21, 25 and 27 (4))

2.6.1 Family support services

The CCo is committed to supporting children and families as early as possible to prevent problems escalating. The office welcomes the Government's commitment of £301.75m for the Family Hubs and Start for Life Programme to fund the development of family hubs across 75 LAs in England, and the continuation of investment in the Supporting Families programme.⁶⁵ The CCo will be publishing further recommendations in December 2022 about ensuring there is sufficient provision of family support services across the country.

However, the CCo believes that further support is needed for the Healthy Start Programme to ensure that families received their mandated health visitor checks as they are a vital early intervention touchpoint. Since 2015 there has been an estimated 37% reduction in the number of health visitors practicing in England and a fall in Public Health Grant allocations from £4.2 billion in 2015–16 to £3.3 billion in 2021–22.^{66,67}

While the CCo welcomes the increased investment in childcare in recent years through the 30 hours free childcare entitlement, there is a need for there to be a greater focus on the accessibility and affordability of childcare offers particularly for disadvantaged families. New analysis by the CCo on the take-up of the free 15 hours a week of early education, that all 3- and 4-year-olds are entitled to, shows

while overall take-up is fairly high, there are large differences in the rate of childcare take-up between ethnic groups, local areas, English as an additional language status and SEND status.⁶⁸

A recent report by the CCo proposes solutions for providing reliable, affordable, high-quality early education and childcare. Recommendations include, putting schools at the centre of the system with greater use of before and after school club, introducing consistent progress measures including a unique child identifier and ensuring that there is no gap between the end of statutory leave and funded entitlements.

2.6.2 CCo's Independent Family Review

As part of Inclusive Britain – the Government's response to the 2021 Commission on Race and Ethnic Disparities – the Children's Commissioner was asked to undertake an Independent Review into family life.

In September the CCo published Part 1 of the *Family Review*. The report explored the current structure of family life – including the increase in co-habitation and decrease in marriage, and the fact that 44% of children will not live with both parents throughout their childhood. It showed that when families need support, most of them (78%) say they would turn to family first. The report demonstrated how family provides a 'protective effect' to its members – loving, enduring relationships, practical and emotional support, and time shared together are all correlated with better outcomes for children.⁶⁹

Part 2 of the *Family Review* will explore how services can be re-designed to mirror the protective effect that families provide. The second phase of the report will include the development of a high-level outcomes framework which focuses on family strengths, practical proposals to improve the integration of services at a local level and guidance on how to improve both data collection and data-sharing between agencies working with children and families.

It will also include an analysis of the CCo's Big Summer Survey to understand more about how children spend their free time, and who they spend it with, and where they turn for support with family life.

2.6.3 Children living in alternative family arrangements

In England in 2022, there are 404,310 children in need in need, including 50,920 children on child protection plans, both presenting an increase from 2021.⁷⁰ There has also been a 2% increase in the number of children that are looked after, with the latest data for 2022 showing that 82,170 children in England are looked after.⁷¹

Kinship care is when a child lives with a relative or friend who isn't their parent. There are different types of kinship care, including: living in an informal arrangement; being on a Child Arrangements Order or Special Guardianship Order and being 'looked after' by the LA and placed with kinship foster carers. It is difficult to estimate the number of children in kinship care as many arrangements are organised informally. Estimates suggest that there are around 152,910 children living in kinship care in England, however, this figure is likely to be out of date as it is based on the 2011 census.⁷²

The majority (70%) of these children are in a foster placement. Children in foster placements can be living with a relative or friend, or another carer. Outside of these foster placements, children are placed in a range of other settings including but not limited to, secure units, children's homes, or semi-independent living accommodation (16%) or have been adopted (3%).⁷³

The CCo welcomes the Government's ban, which the office called for, on placing under 16-year-olds in unregulated independent or semi-independent placements. The CCo believes that every looked after child should live in a caring, family environment until they are ready to move on. As a step towards this ambition, the CCo welcomes the move to regulate and inspect these homes for children aged 16-17, to ensure they are held to a higher standard than they are currently.

For children in care, their experience of family is understandably, very different from other children. Among this group, the overarching theme in the responses was that they wished to be treated more like other children who are not in care and have the same opportunities. While being in care created challenges for some young people, they also talked about how much they valued their foster families and the support they provided:

'It might sound stupid, but I'm really, really scared for the future. I'm not sure how to react when I see my mom again [...] I shouldn't be saying this [...] I should be saying "I will achieve my goals" not being scared' - Girl, 13, living in foster care

The Children's Commissioners ambition is for no child to be living in an institution, and until this is achieved for there to be a meaningful, familial and loving alternative.

2.6.4 Safety and wellbeing of children in secure settings

Secure settings of any sort should always be a last resort for children. The CCo has called for improved services for children with mental health difficulties at an early stage, better support for families with a range of challenges, and more join-up between LAs and the NHS to ensure that children get help earlier so that they do not need secure care.

Isolation and restraint are often used across secure settings, including secure children's homes, and too often in response to low level incidents.^v The CCo is clear that restraint should not be used to maintain order and instead should only be used as a safety measure to protect a child or third party.

The CCo is also concerned about the increase in use of DoL orders which have been identified as increasing by 462% in the last three years across England and Wales.⁷⁴ CCo believes that the use of these orders is an indicator of a greater need for settings that can support children's needs – both secure settings and those providing step-down care, and the need for greater scrutiny around the placement of children in non-secure settings.⁷⁵ The launch of the National DoLs Court at the Royal Courts of Justice is a welcome step towards ensuring that there is greater expertise and scrutiny involved in granting DoL orders.

The CCo has responded to the UK Government's consultation on proposed changes to the Mental Capacity Act 2005 Code of Practice and implementation of the Liberty Protection Safeguards (LPS). The

^v More information on the use of restraint and seclusion for children in the youth justice estate is presented in Section 2.9.3

submission raised concerns that the Liberty Protection Safeguards will offer significantly less robust safeguards for 16- and 17-year-olds compared to the current arrangements.

2.6.5 Children's social care reform

In 2022, almost half of LA children services in England were rated as either requires improvement to be good (35%) or inadequate (12%). The other half were either judged outstanding (13%) or good (40%). Moreover, CCo analysis shows that in 2021 58% of LAC were in LAs requires improvement to be good or inadequate.^{76,77}

The CCo has been clear that the children's social care system is in urgent need of reform. In January 2022, the CCo published a vision paper for social care reform which set out the office's position on what needs to change.⁷⁸ This includes the need to focus on ensuring that children feel listened and responded to and – a set out in the Children Act 1989 - the best interests of the child are the overriding consideration in decision making. The CCo wants children in care to have loving and stable homes and would like to see a focus on reducing the number of disruptive placements moves that children experience as well as a recognition of the need to support children to develop strong and lasting relationships with the people that care for them (e.g., social workers and foster parents).

In May 2022 the Independent Review of Children's Social Care (Care Review) was published and a response from the Government is expected in the coming months. The CCo is a member of the National Implementation Board alongside other experts from across the sector. The CCo attends the meetings as an independent advocate for children's rights.

2.6.6 Support for care leavers

Children that have left care should be supported well into adulthood to access opportunities to help them pursue their interests, educational aspirations, and develop loving relationships and stable home environments. Yet currently children who have been in care experience consistently worse outcomes than their peers.

Latest Government data from 2021 shows that 41% of 19–21-year-old care leavers were not in education, employment, or training, compared to 12% of all other young people in the same age group.⁷⁹ For care leavers who have lived in residential care settings, foster care and kinship care, there is a higher prevalence of them experiencing limiting long-term illnesses compared to people who have not been in care.⁸⁰ Research shows care leavers are more likely to experience premature and unnatural deaths, including deaths as a result of self-harm. Tragically, care leavers make up 7% of the deaths of young people aged 18-21 despite only comprising 1% of the population for this age group.⁸¹

The CCo is clear that all care leavers should receive wrap around support in every aspect of their lives all the way into adulthood. The CCo's *Vision for Care Leavers* recently outlined the role that local and national Government can play in supporting care leavers. The report includes proposals for improving access to suitable housing, health and wellbeing support and advice, educational and professional opportunities and financial help.⁸²

The CCo's independent advocacy service 'Help at Hand' frequently supports care leavers to access the help they need.

'I would have been taken off the social housing list [...] I would just have been a homeless person. [...] So, Help at Hand being there and assisting with that ensured everything' – care leaver supported by Help at Hand.

For some children in care, turning 18 can still be a frightening prospect, so more must be done to ensure that they have someone to turn to provide that love and support. Every child in care should be able to stay with carers until at least the age of 23, but fundamentally the moment they move on should be determined by when they are ready to, not when it suits the system. Every care leaver should be able to do this through a Staying Put arrangement, or to be able to benefit from a Staying Close scheme. If a child's final placement was in a children's home or unregulated setting, they should also be able to choose whether they would prefer a Staying Close scheme, or to 'Stay Put' with either a previous foster carer or in a new arrangement.

2.6.7 Child Safeguarding Practice Review Panel

The Children and Social Work Act 2017 provided for the creation of the national Child Safeguarding Practice Review Panel.⁸³ The panel is independent of Government, has statutory powers and is responsible for commissioning and supervising reviews of serious child safeguarding cases and identifying improvements that should be made by safeguarding partners.

The panel's most recent report, *Safeguarding Children with Disability and Complex Health Needs in Residential Settings* reported on findings of abuse and harm to some of the most vulnerable children living within three residential special schools operated by the Hesley Group.⁸⁴

This report followed the Panel's report in May 2022 on the murders of Arthur Labinjo-Hughes and Star Hobson, which identified a range of issues which had hindered professionals' understanding of what was happening to Arthur and Star. In particular, it identified weaknesses in information sharing, critical thinking, and challenge both within and between agencies.

The panel has published three national thematic reviews. The first looked at cases of children who died or were seriously harmed as a result of criminal exploitation. It concluded that adolescents in need of state protection from criminal exploitation don't always get the help they need and that services could be improved by working more effectively with families and responding quickly and flexibly at times when children are likely to be at their most vulnerable. It also noted that this kind of violence disproportionately affects boys from black and minority ethnic backgrounds and that exclusion from school is a key factor.⁸⁵

The second review considered cases of sudden unexpected death in infancy of children considered at risk of significant harm and looked at how to improve approaches to embed safer sleeping advice in families where child abuse or neglect were already recognised.⁸⁶

The third thematic review looked at non-accidental injury in children under one caused by male carers. It identified key factors which increased the risk of harm (poor parenting experiences, substance abuse, domestic abuse, external stressors) and recommended more investment and research to on developing practice with male carers in high-risk families.

The CCo is appalled by stories of the abuse and neglect that have been uncovered across the system by these reviews. The CCo is consistently pushing for ambitious and systemic reform across the system that guarantees that all children are safe, cared for and loved.

2.7 Basic health and welfare (Articles 6, 18 (3), 24, 26, 27 (1)– (3) and 33)

Early help

In England, more children are struggling with their mental health after the pandemic, up from 1 in 9 in 2017 to 1 in 6 in 2021.⁸⁷ Spending on NHS children's mental health services has increased in recent years and the investment appears to be having an impact, with more children being accepted into treatment and average waiting times reducing from 53 days in 2018/19 to 32 days in 2020/21.⁸⁸ However, over a third (37%) of children accepted onto waiting lists are still waiting for their treatment to begin, and a quarter do not get accepted at all.

The CCo has published a vision for children's mental health in response to the consultation on the Government's 10-year Mental Health and Wellbeing Plan highlighting the need for early help, including Mental Health Support Teams to be in every school. The CCo has noted the need for community-based, youth-focused mental health services – such as mental health hubs - which should form part of local children's mental health services, with self-referral for easy access.

The CCo believes that family hubs also have an important role to play in providing based community face-to-face support and welcomes the investment in perinatal mental health and parent-infant relationships across the 75 LAs through the Family Hubs and Start for Life Programme.

Specialist and crisis community provision

The CCo is concerned about the number of children with mental health problems and those with autism spectrum disorder (ASD) and learning disabilities that are being detained under the Mental Health Act in inappropriate secure or non-secure inpatient units due to a lack of appropriate specialist support in the community.⁸⁹

To address these challenges the CCo has called for an increase in specialist children's homes and improved coordination between LAs and NHS services to provide appropriate inpatient or community settings for children and young people with complex needs. The CCo supports the ambitions of the Building the Right Support programme, which is working to prevent children being admitted to hospital unnecessarily.

The CCo welcomes the commitment in the NHS Long-Term Plan to the rollout of national learning disability improvement standards and closer working between the Department of Health and Social Care and LAs on improving community-level support.

Inpatient care

Too many children are admitted to adult in-patient wards. While the latest NHS mental health dashboard data shows a decrease in the number of children from previous quarters, evidence obtained through the CCo's advice and advocacy service indicates that children are placed in adult wards due to a lack of suitable Tier 4 places or community provision for children.⁹⁰ The service also sees children inappropriately supported in paediatric general wards or on waiting lists in the community because of a lack of inpatient mental health beds.

The CCo is also concerned about the use of restrictive practice in inpatient mental health care. In 2020-21 there were 13,741 children subjected to restraint (which includes seated and standing restraints as well as chemical restraints), this is an increase from 2019-20 when there were 12,000 recorded restraints on inpatient children.^{91,92} The number of children subjected to seclusion and segregation also increased in 2020-21 compared to 2019-20.

This year the CCo conduct a series of visits to inpatient settings to understand children's experiences and learn how children maintain relationships with their families from within these settings.⁹³

The Mental Health Act is undergoing reform, and the CCo has submitted evidence to the pre-legislative scrutiny committee to suggest ways to ensure children are considered throughout the bill. It is particularly important that all children are able to access advocacy, provided with the right education

and social care support, and given the right measure of autonomy and protection in their decision making.

2.7.1 Standard of living

The CCo is committed to ensuring that no child grows up in destitution. However, currently there are many children living in households across the UK that are struggling financially given the rise in cost of living.

In England the latest statistics show that there are 2 million children under 16 in relatively low-income households and 1.64 million in absolute low-income households⁹⁴.

In response to the pressures families faced during the pandemic there were several interventions from the UK Government that supported disadvantaged families. The CCo welcomed these investments, specifically the support provided through the Covid-19 Winter Grant Scheme, Local Support Grant, Household Support Fund and the additional investment in the Supporting Families programme. The CCo has also called for, and welcomed, measures to increase access to FSM and investment in the HAF.

In recent months the office heard directly from children about their concerns with the rise in cost of living and the impact on their lives. One young boy who CCo met at a youth group said:

'It is causing a lot of stress at school and other stuff, like stress with the family [...] you have to get work just to pay the bills can cause a lot of stress especially for young people [...]' - Boy, 16, Family Review

The CCo believes that given the impact that the rising costs are having on children and their families, the Government should ensure that families with children are prioritised for financial support.

The CCo is clear that no child should live in an insecure housing situation. The latest available data shows that in summer 2022 there were 59,500 households with children in temporary accommodation.⁹⁵ The data also shows that there were 2,320 households with children in bed and breakfast (B&B) style accommodation and 1,020 households in these settings for longer than 6 weeks. The CCo is clear that temporary accommodation such as B&B accommodation should not be used for prolonged periods of time to support families. The guidance on for LAs on homelessness should be updated to address the

loophole which currently allows councils to place families in B&Bs for longer than 6 weeks if they are council owned.⁹⁶

2.7.2 Impact of climate change on the rights of the child

In *The Big Ask* many children told the CCo about their anxiety about the future of the natural world, including both their local environment and the global climate. Children across England were aware of the issues facing them and that they were likely to inherit an environment that is even more degraded than its current state. When asked what their worries for the future were, 39% of children aged 9-17 said the environment was one of their main worries:

'I think that children are getting worried about things like climate change and how the planet is changing. It worries them for them being the next generation that are going to either save the planet or make it worse.' – Girl, 11, *The Big Ask*.

However, children also told the office about their ambitions, to help the planet, develop new strategies and forge new careers in green sectors. As two boys told us:

'Pollution and the environment being ruined because currently the world isn't in a good state, and certain children may want to explore nature life in their jobs and want to be divers or zoologists' - Boy, aged 10.

'We need to save the planet and protect wildlife. More green jobs, homes are needed. Everything is for now not the next generation' - Boy, aged 9, *The Big Ask*.

2.8 Education, leisure and cultural activities (Articles 28–31)

2.8.1 Attendance

The pandemic has exacerbated attendance issues, with many children becoming isolated and struggling to engage with school as a result of school closures and illness during the pandemic. In Autumn 2021, the number of children persistently absent more than doubled compared to 2018/19, almost 1 in 4

children were persistently absent from school compared to around 1 in 9 in 2018/19.⁹⁷ However, it is important to note that increase was partly driven by illness.

Compared to all other ethnic groups, traveller children of Irish Heritage and Gypsy/Roma pupils had the highest overall absence rates in Autumn 2021.⁹⁸ To put these findings in wider context, in *The Big Ask GRT* children were least likely to be happy with their education – more specifically their ‘life at school or college’ compared to other aspects of their lives.

The CCo would like to address challenges that currently exist within the reporting of attendance data to ensure that schools are able to identify and support children that are missing from education, such as GRT children. To help build a clearer picture of patterns in attendance, the CCo recently published an analysis of daily attendance records from three Multi-Academy Trusts (MATs).⁹⁹ The CCo welcomes the Government’s trial collecting daily attendance data from schools and recommends the pilot be extended to all schools.

There is also need for clearer expectations regarding data sharing between organisations responsible for safeguarding children. The CCo welcomes plans for an Elective Home Education register but has also called for a unique identifier for children to facilitate better data matching between organisations responsible for safeguarding and supporting children.¹⁰⁰

2.8.2 Relationship and Sex Education

Revelations from the Everyone’s Invited movement against sexual violence in schools and the Ofsted review of sexual harassment in school highlight the urgent need to examine the Relationship and Sex Education curriculum that is taught in schools.

It became clear to the CCo that in children want opportunities to learn more about ‘real life’ subjects such as how to develop healthy relationship and build their practical life skills. One girl said:

‘We are not taught about healthy relationships when we grow up’ – Girl, aged 14, *The Big Ask*.

Other children reflected on wanting to learn more about managing finances, bills and preparing for adult life. For example, another girl said:

'I feel scared and unprepared. We are not learning what we need for life like how to manage finances, relationships or how to choose who to vote for' – Girl, aged 15, The Big Ask.

In response to these findings the CCo has commenced work to look at children's experience of personal, social, health, and economic (PSHE) education and has also been commissioned by the Education Secretary to look specifically at relationship and sex education (RSE) and to complement the work that the DfE is doing to improve the consistency and quality of RSE teaching. The CCo's findings from this work will be published next year.

2.9 Special protection measures (Articles 22, 30, 32–33, 35–36, 37 (b)–(d) and 38–40)

2.9.1 Unaccompanied Asylum-Seeking Children

In March 2022, there were 5,570 children who were UASC; this group represented about 14% of all CLA in 2021, a significant increase of 34% on 2021.¹⁰¹

UASC should have access to safe and legal routes to the UK to apply for asylum. Upon arrival children should receive appropriate support, including access to education, healthcare, suitable accommodation, independent advocacy, and legal support.

Some children whose parents have No Recourse to Public Funds find themselves in need with limited access to support. Therefore, the CCo welcomes the extension of FSMs to children in eligible households who have NRPF. However, the CCo is concerned about care leavers whose immigration status is not determined while they are in care. Their lack of access to public funds severely limits their options for housing, education, benefits, and work.

LAs are under pressure due to increased numbers of arrivals of UASC, particularly in Kent. The CCo has visited the Kent Intake Unit and a hotel where UASC and asylum-seeking young people are sent soon after their arrival at the unit. The CCo notes that there is a need for a quicker transfer of children from these sites to LAs where they can have longer-term placements so that children are appropriately

safeguarded, and ongoing support for their health and education. The CCo welcomes the mandatory use of the National Transfer Scheme (NTS) for LAs to move UASC from one UK LA to another.¹⁰²

Many children and young people are trafficked into the UK from other countries and subsequently trafficked within the UK. UASC in care are particularly at risk of trafficking and the outcomes for child victims remain concerning with many children going missing. Independent Child Trafficking Guardians (ICTGs) are required for children referred to the National Referral Mechanism (NRM) and are an important source of advice and support for trafficked children. However, more could be done to ensure the NRM is as effective as possible in supporting child victims of trafficking.

The CCo recently wrote to the Home Secretary about migrant children in Manston Migrant Centre and the conditions across the hotels and intake unit where UASC are housed. The CCo explicitly asked about the number of children that have been reported missing while awaiting transfer. The office was alarmed by the high number of children that have been reported missing, which was outlined the Home Secretary's response to the letter.

The CCo is clear that transfer delays should not impact on children's wellbeing, and their ability to access the full range of support they are entitled to. It is also vital that UASC are treated as vulnerable children first foremost, and that age assessments are conducted swiftly and appropriately. The CCo will continue to monitor these sites and advocate for children to access safe and appropriate accommodation.

2.9.2 Quality of youth custody

One cohort the CCo is particularly concerned about are the children growing up in custodial institutions. In England and Wales, in September 2022, 434 children between 10 and 17-years old were held in custody in the UK, down from 2020–21 when the average was 560 children in custody¹⁰³. The average custodial sentence length for all offences has increased by over five months over the last ten years from 11.4 months to 16.8 months.¹⁰⁴ Children from ethnic minority backgrounds, those with experience of the care system, and those with mental health or learning disabilities are increasingly overrepresented.

The CCo believes that Young Offender Institutions (YOIs) and Secure Training Centres (STCs) are not suitable environments for children. In recent years there have also been STC closures which has resulted

in children being sent to YOIs that often not equipped to support children with complex needs.¹⁰⁵ As a consequence, most children in youth custody are placed in one of 5 YOIs in England and Wales which house up to 150 sentenced or remanded boys.^{vi}

There have been reports of concerning practices around separation in YOIs and isolation throughout the pandemic, including children in YOIs spending over 22 hours a day locked in their cells.¹⁰⁶ Many children were subjected to a two-week quarantine period in isolation and there were restrictions on visits during the lockdown periods.¹⁰⁷ The pandemic also had an impact on the number of staff in the secure estate, which led to severe restrictions on the time children could spend outside their rooms and on enrichment activities. One young person told my team in a recent visit to a YOI for the Family Review: *'the staffing level is shocking [...] especially on the weekends.'*

The CCo is clear that restraint should not been used to maintain order and instead should only be used as a safety measure to protect a child or third party.

In 2020/2021, there was an average of 63.2 use of force incidents (characterised as instances where force is used to move or restraint a child) per 100 children and young adults across the two STCs and the five YOIs.¹⁰⁸ The average monthly rate of use of force is higher for girls and, in comparison to other ethnic groups it was also higher for Black children. Managing and Minimising Physical Restraint (MMPR) techniques were used in 77% of all use of force incidents in 2020/2021. It is important to note that that comparable data is not available for SCHs.

The CCo welcomes the UK Government's commitment removing pain-inducing techniques (PIT) from the MMPR syllabus. While this is a welcome step, it is concerning that in 1% (45 restraints) of all MMPR restraints pain-inducing techniques were used.

^{vi} There are a very small number of girls placed at HMYOI Wetherby. On the whole, however, the Youth Custody Service aims to place girls with a custodial sentence in Secure Children's Homes which are more appropriately equipped to meet their needs.

The CCo is also concerned about high levels of restrictive practice in a range of settings including in education and detention settings. Restrictive Physical Interventions (RPIs) involve the use of force to overpower a child and restrict their movement. While number of RPIs per 100 children in the secure estate decreased by 24%, to 91 per 100 children, in the year ending March 2021 compared to the previous year the data must be interpreted with caution given the restrictions imposed in the secure estate during the COVID pandemic.¹⁰⁹

In regard to separation, data is only available SCHs and STCs as comparable data is not recorded in YOIs. Separation is also used in secure settings to as a form of discipline. There were just over 1,700 'single separation' incidents in SCHs and STCs in the year ending March 2021.^{vii} This form of separation refers to confining a child alone in a room with the door locked to prevent exit. Rates of separation were higher for White children and young adults (105.4 compared to 50.8 for those from a Black, Asian, or other Minority Ethnic background), importantly the rate for the Black, Asian or other Minority ethnic group has fallen in the latest data.¹¹⁰

Purely as a function of the size and geographical spread of these settings children are often placed at significant distances from home. Maintaining contact with family is therefore a serious challenge, made tougher by the cost, availability and inconsistent support for virtual and physical visits.

The CCo is using its statutory powers to explore how different institutions are supporting children to maintain healthy family relationships across the secure estate. This includes important relationships with foster and kinship carers. Where it is not possible, or not in the child's best interest to maintain contact with their family, the office will explore how secure settings replicate the protective effect of family life and nurture the children in their care.

The CCo is clear that children should not be placed in YOIs and STCs and instead children should be in secure schools and SCHs that are better able to provide a supportive and therapeutic environment.

^{vii} Note, we have only included data from SCHs and STCs as the data is managed separately in Young Offender Institutions (YOIs).

2.9.3 Policing of children

In 2020 the case of Child Q and the subsequent Serious Case Review which found the system designed to protect and support her had seriously failed. The case prompted questions about the prevalence and appropriateness of the use of strip search on children in England. In response to these revelations the CCo set out to further understand the issue, and whether what happened to Child Q was an isolated incident, or part of a more systemic problem. The CCo requested information about Metropolitan Police Service (MPS) practice regarding the strip searching of children during stop and searches between 2018 and 2021.¹¹¹

The results show that between 2018 and 2020, 650 children were strip searched, 25% of whom were between 10 and 15 years old. More than half of all boys who were strip searched were Black in each of the years for which data was provided, and in 2018 it was 75%.

The CCo was particularly concerned that despite the guidance, an Appropriate Adult was not present on 23% of all occasions when the MPS strip searched children during this period.

To find out more about the extent of these issues across England, the CCo has recently requested data from all police forces in England and Wales on their practice regarding strip searches of children. This data was requested under the CCo's statutory power outlined in Section 2F of the Children's Act.

Conclusion

The CCo is committed to amplifying the voices of children across all of the office's work. To ensure that the UN and other stakeholders are aware of what children across England think of the issues that affect them, the research the CCo has conducted with children is included throughout this report. The report is split into two sections, focusing first on two of the General Principles and then on the list of issues set out by the UN. This report should be taken as the Children's Commissioner for England's submission to the UN Committee's List of Issues on the Rights of the Child.

Part 1 of the report sheds a light on some of the issues that affect certain groups of children, specifically in care, children with disabilities and children living in disadvantaged households. Through the lens of Article 2, part 1 highlights the disparity in outcomes that these children experience and presents the CCo's ambitions for reform. This section also reflects on the CCo's statutory responsibility that is outlined in Section 2D of the Children's Act which enables the office to intervene to provide advice, assistance, and representation to any child that is living away from home or receiving social care services.

The CCo has also outlined its ambitions for these children, these include:

- Supporting children and their families to access the support they need as early as possible to prevent problems escalating.
- Ensuring every child with SEND has access to a place in a school that can effectively meet their needs.
- There is a focus on implementation across the SEND system, to ensure every child has consistently good experiences.
- For all children to feel loved, supported, and stable – children must experience fewer placement moves and have an increased sense of support and stability.

- Children should have relationships that are trusting and stable, and the social care system should support children and families to develop relationships and strong community networks.
- Ensuring that no child grows up in an institution. The focus of the system should be on supporting children to live with, and stay with, a family, whatever form this family takes.
- Ensuring that the legislation in the School's Bill is considered in parliament and reforms are implemented swiftly.
- Support the educational attainment of children in poverty by maintaining a relentless focus on closing the attainment gap between disadvantaged children and their more affluent peers.
- All children should be listened and responded to. Every child living away from home or receiving support from children's services have access to high quality independent advocacy to help amplify their voice.
- Sufficient numbers of non-structured advocates across the country that can support disabled children to advocate for what they need and want.

Part two of the report responds to the UN Committee's List of Issues on the Rights of the Child. Throughout this section the CCo reflects on: the impact of COVID; the mechanisms in place to support the implementation of the UNCRC; children's experiences of the online world; violence and abuse with a focus on girls; family support service; children who are living in alternative family environments and those living care; the children's social care system and recent review conducted by the Child Safeguarding Practice Review Panel; the state of children's mental health provision including inpatient care; the standard of living for families with children; children's experience of climate change; trends in attendance data; the need to examine the Relationship and Sex Education that is taught in schools; the experience of UASC, the quality of youth custody; and the policing of children.

As this report demonstrates, it is possible to hear directly from children and ensure that policy reforms reflect their views. Across England the Children's Commissioner would like there to be a renewed focus on amplifying the voices of children, particularly the most vulnerable and disadvantaged.

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