
Rt Hon Suella Braverman MP,
2 Marsham Street
SW1P 4DF

5 April 2023

RE: Statutory information request on Home Office accommodation of children seeking asylum

Dear Home Secretary,

As Children's Commissioner for England and on all reserved matters, it is my statutory duty under the Children Act 2004 to promote and protect the rights of all children. This duty includes a particular responsibility towards children living away from home, which extends to children arriving in the United Kingdom seeking asylum. I am clear that safeguarding is everyone's responsibility, and I am committed to ensuring that every child is protected from harm.

I am writing to formally request information about the treatment of children seeking asylum in the UK. In particular, I am requesting individual-level information on all unaccompanied children aged 17 years or younger seeking asylum in the UK, who have been accommodated by the Home Office in hotel accommodation for at least one night since July 2021.

This request falls under my statutory remit to investigate and explore the lived experiences of vulnerable children, particularly those under the care and supervision of the state. This information will help us to better understand the experience of children accommodated by the Home Office and how we can best support them.

I am requesting this data under [Section 2F of the Children Act 2004](#). Under that legislation, it is compulsory for this data to be provided. Annex 1 attached to this letter provides additional detail as to why I am requesting this data, my legal basis for requesting it and how it should be provided. I thank you in advance for your cooperation with this request.

In addition to this data request, I have some questions regarding the Illegal Migration Bill. I would like clarity on some aspects of the recently published children's factsheet which accompanies the Bill, particularly the use of force and restraint, and age assessments.¹ I have requested this information from your officials and have included this in the Annex 2 attached to this letter for your reference.

I look forward to hearing from you and would welcome a meeting to discuss these areas.

¹ Home Office, 2023, Illegal Migration Bill: Children's Factsheet, [link](#). Accessed on 05/04/23

Yours sincerely,



Dame Rachel de Souza
Children's Commissioner for England

Dame Rachel de Souza
Children's Commissioner for England

0207 783 8330

Info.request@childrenscommissioner.gov.uk

www.childrenscommissioner.gov.uk

 @childrenscommissioner

 @ChildrensComm

 @childrenscommissionersoffice

Annex 1: Information required for statutory information request on Home Office accommodation of children seeking asylum

The Children's Commissioner is requesting record-level data for each unaccompanied child (aged 17 years or younger) seeking asylum in the UK, who has been accommodated by the Home Office in a hotel for at least one night since 1st July 2021.

If you have any questions or queries about providing this data, please contact stephanie.friend@childrencommissioner.gov.uk. Please respond to this request by 9am on Monday 17th April 2023.

For each child, please provide the Children's Commissioner's Office (CCo) with the following information:

- Unique number or child identifier
- Date of entry into the UK
- Address of hotel accommodation
- Length of time in Home Office accommodation
- Country of origin
- Date of birth
- Gender
- Sexual orientation

Additional identified vulnerabilities

- Whether victim of trafficking
- Disabled or special educational needs

Safeguarding concerns

- Has the child been referred to local authority children's services?
- Date of referral
- What was the outcome of the referral (no further action, s47 proceedings, s17 assessment)?
- Is the child receiving support from children's social care (no, Child in Need plan, Child Protection Plan, other – please provide details)
- Has a serious child safeguarding incident notification been made about this child?
- Has a Local Safeguarding Practice Review been carried out in relation to this child?
- Have any referrals to Local Authority Designated Officers been made in relation to this child?

Has the child been reported missing?

Per each missing episode:

- Date missing from accommodation (start of missing episode)
- Date of return to accommodation (end of missing episode)
- Date of return interview

Child's access to support

During their time in Home Office accommodation, has the child received:

- Support from a healthcare professional
- Legal advice
- Any formal education provision from a teaching professional: none, 0-5 hours per week, 5 – 10 hours per week, more than 10 hours per week?

National Referral Mechanism

- Has the child been referred via the National Referral Mechanism?
- Date of referral
- Reason for referral

Data Request Summary

For each child, provide the following variables:

	Variable Name	Value Format
1	Unique child number or identifier	ID code
2	Date of entry into UK	DD/MM/YYYY
3	Address of Home Office accommodation	Text response
4	Length of time in Home Office accommodation to date	Days (numeric)
5	Country of origin	Text response
6	Date of birth	DD/MM/YYYY
7	Gender	M/F
8	Sexual orientation	Heterosexual Homosexual Bisexual/Pansexual Other Unknown
9	Victim of trafficking	Yes/No
10	Disabled or Special Educational Needs	Yes/No
11	Referred to local authority children's services?	Yes/No
12	Local authority referred to	Text response
13	Date of referral	DD/MM/YYYY
14	Outcome of the referral	No further action s47 proceedings s17 assessment other – please detail
15	Is the child receiving support from children's social care?	No Child in Need plan Child Protection Plan

		Other – please detail
16	Has a serious child safeguarding incident notification been made about this child?	Yes/No
17	Has a Local Safeguarding Practice Review been carried out in relation to this child?	Yes/No
18	Have any referrals to Local Authority Designated Officers been made in relation to this child?	Yes/No
19	Has the child been Reported Missing?	Yes/No
20.1	[Missing episode 1] Date missing from accommodation	DD/MM/YYYY
21.1	[Missing episode 1] Date of return to accommodation	DD/MM/YYYY
22.1	[Missing episode 1] Date of return interview	DD/MM/YYYY
	[Repeat questions 19-21 for each missing episode]	
22	Received support from healthcare professional	Yes/No
23	Received legal advice	Yes/No
24	Received formal education	None 0-5 hours per week 5 – 10 hours per week More than 10 hours per week
25	Referred via the National Referral Mechanism	Yes/No
26	Date of referral to the National Referral Mechanism	DD/MM/YYYY
27	Reason for referral	Text response

How to return the data

Please compile the requested data into a single password protected .xlsx file and upload to SmartSurvey². You do not need to register for an account or log in, please use the following link to upload and share the file.

<https://www.smartsurvey.co.uk/s/PQN1UI/>

For security purposes, please email the password you used to encrypt the file to stephanie.friend@childrenscommissioner.gov.uk

Legal basis for request

This data request is made under the power conferred on the Children's Commissioner in [Section 2F of the Children Act 2004](#) (as inserted by Section 110 of the Children and Families Act 2014):

(1) Any person exercising functions of a public nature must supply the Children's Commissioner with such information in that person's possession relating to those functions as the Commissioner may reasonably request for the purposes of the primary function or the function under section 2D.

(2) The information must be information which that person would, apart from subsection (1), lawfully be able to disclose to the Commissioner.

Note that this power differs from a request made under the Freedom of Information Act in two ways. First, it **confers an obligation on the individual receiving this request**, not on your organisation more broadly. Second, this power is **not subject to the exemptions to the Freedom of Information Act** outlined in Part 2 of that Act.

This means that you will be expected to provide information even if it may be considered commercially sensitive or confidential. Similarly, it is not bound by the appropriate cost limit and where the information is not readily available, we do expect you to take reasonable steps to secure the information. This includes bespoke accounting exercises and requesting information from those who you commission to provide services.

Data Protection

The Children's Commissioner's statutory function to investigate matters relating to the rights or interests of children in England and Wales, when carrying out the primary function of the Children's Commissioner as set out in the legislation, relates directly to Articles 6(1)(e) of the UK-GDPR act:

² SmartSurvey is an online survey/questionnaire platform used widely by UK government and other public sector agencies. It meets a wide range of security and data protection criteria including UK-GDPR and DPA compliance. Your connection to the website will be secured with SSL/TLS/HTTPS encryption.

Article 6:

1. Processing shall be lawful only if and to the extent that at least one of the following applies:
 - a. processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;**

This request requires the processing of personal and special category data. In order to process special category data, the CCo must demonstrate that it has met at least one of the specific conditions set out in Article 9 of the UK-GDPR.

Article 9 2(g):

“g) processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject;”

In relying on the substantial public interest condition in Article 9(2)(g) the CCo must also demonstrate that it meets one of the 23 specific substantial public interest conditions set out in Part 2 of Schedule 1 of the [Data Protection Act \(DPA\) 2018](#).

There are two substantial public interest conditions which are relevant to this data collection. The first is Schedule 1, Part 2(6), ‘statutory and government purposes’.

Schedule 1 Part 2,6(1) sets out that:

6 (1) This condition is met if the processing—

- a) is necessary for a purpose listed in sub-paragraph (2),** and
- b) is necessary for reasons of substantial public interest.

(2) Those purposes are—

- a) the exercise of a function conferred on a person by an enactment or rule of law;**
- b) the exercise of a function of the Crown, a Minister of the Crown or a government department.

See above the highlighted sections from Section 2 of the [Children Act 2004](#) which establish the legal basis for processing the special category data collected in this request.

Data Security

All information held by the CCo is stored in accordance with our Data Protection Policy and Information Risk Management Policy, both available on request. The organisation also has a dedicated

Data Protection Officer who ensures that all data held is registered properly in an Information Asset Register, and processed safely, securely, legally and proportionally.

Annex 2: Additional questions on the children's factsheet

Use of force/ restraint

The Children's Commissioner notes that the Home Office plans to consult her office on the development of the policy on the use of force and restraint for children.

It is essential that Home Office's policy on the use of force and restraint clearly sets out the vulnerability of children and that it should only ever be used as a last resort, and with appropriate safeguards in place. The CCo's position is that restraint on a child should very rarely be used and only ever in instances where it prevents serious harm to a child or other person.

Under Clause 15 and 16 of the Bill the Home Office would be given new powers to accommodate children. As the Children's Commissioner has set out in a previous letter to the Home Secretary (dated March 13th 2023) the Children's Commissioner would like to understand what regulations will govern the Home Office run accommodation that unaccompanied children will be living in while awaiting transfer to Local Authorities. It is vitally important that this is clarified urgently given that the regulations and guidance on the use of the restraint across different settings where looked after children are living can differ substantially. It is unclear what regulations will govern the use of restraint in Home Office run accommodation.

Questions

- Could the Home Office outline its plans for consultation with the CCo on the proposed restraint policy and timeline?
- Could the Home Office clarify what existing policies on the use of force and restraint on children are being reviewed to inform the development of this new policy?
- Will the consultation with the CCo also consider the use of restraint in Home Office run accommodation?

Age assessments

As set out in the children's factsheet, the Home Office is setting up its National Age Assessment Board (the NAAB). The Children's Commissioner understands the importance of age assessment of children to be conducted accurately and appropriately. However, the CCo is concerned about the independence and impartiality of the NAAB. Conducting a holistic age assessment is a sensitive process and should be conducted independently from the Home Office and by experienced social workers with knowledge of the age assessment process.

Questions

- How is the Home Office going to ensure that the NAAB recruits social workers with the experience and expertise in conducting age assessments?
- How is the Home Office going to ensure that impartiality is maintained throughout the age assessment process?