

Unaccompanied children in need of care

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Table of contents

Foreword from Dame Rachel de Souza.....	3
Introduction.....	6
1. Children’s Commissioner’s statutory data request	8
1.1 What the data shows	8
1.2 The vulnerability of children	9
1.3 The vulnerability of unaccompanied girls	10
1.4 Missing children	10
2. What is next for these children?.....	12
Annex.....	13
References	15

Foreword from Dame Rachel de Souza



As Children's Commissioner, I have a duty to promote and protect the rights of all children. But I have a particular duty, and feel a profound responsibility, towards those who are not living with their own families. This includes the children who have arrived here unaccompanied, fleeing war and persecution in their home countries. The children I have met have faced unimaginable horrors, and then gone on to endure yet more as they are abused and exploited by the traffickers or people smugglers who bring them here. We must of course have it as our ultimate goal for no child to have to make these perilous journeys, by urgently ensuring that there are enough safe and legal ways for them to arrive.

But for every child who does arrive by irregular means, our first response must be one of love and compassion. As this report shows, these children have faced rape, torture, and even been subject to organ harvesting. As soon as they arrive, they must be brought into care, and given not only the immediate healthcare attention they need, but the stability and security that will allow them to recover and thrive.

I am worried that we are moving further away from this. Since 2021 the Home Office has been accommodating children in hotels, when they should be brought into local authority care under the Children Act 1989.¹ The day the Illegal Migration Bill was introduced I saw that it could have

devastating consequences for children. This includes the powers in the Act, which have not yet come into force, that would allow the Home Office to accommodate children, cutting across the duties in the Children Act. The Children Act is the crucial piece of legislation that provides protection for children, and it must always take primacy when it comes to caring for vulnerable children.

That is why in April I wrote to the Home Secretary, using my statutory powers, to request information about all the children who have been accommodated in the hotels. I felt it was vital to know how these children had been cared for, to allow for proper scrutiny and informed decisions to be made about what should happen next.

It has now been seven months since the deadline I gave for this information to be returned. It was information that any setting caring properly for children should have at their fingertips. It was information which was needed for anyone to be able to make an informed decision about whether clauses in the Illegal Migration Bill should pass. And yet it was only once the Bill had become an Act that any information was provided. In order for me to be able to fulfil my statutory function to promote and protect children's rights, it is essential that I have the necessary information about vulnerable children, and am able to share this with those tasked with the duty of legislating on matters that will affect children's rights in the most profound ways. The failure to provide this information in anything like a timely manner has made my job of protecting the rights of these children incomparably more challenging, and I am deeply concerned by the approach taken.

And the data I have finally received was deeply troubling. Not only because it threw into stark relief how incredibly vulnerable these children are – including children aged from ten years old, travelling alone, who have been beaten, contracted diseases, and faced sexual assault. These are children who are clearly in desperate need of proper care. But the data was also troubling because of how little was recorded about any basic safeguarding actions that had been taken. All children are entitled to the protections in the Children Act, yet this deeply vulnerable group have been excluded from them.

The information I have received has made me more determined than ever that what has happened to these children since 2021 must never be repeated. The power for the Home Office to accommodate children should never have become law, and it must now be removed from the statute book without coming into force. As the United Nations Convention on the Rights of the Child reiterates, highly vulnerable children must be given the care and protection they need. The Commissioner is clear that

unaccompanied children should be in local authority care under the Children Act 1989 from the moment they arrive.

While the Supreme Court has ruled that deportations to Rwanda would be unlawful, the government is still pursuing this approach, by seeking to deem in law that Rwanda is a safe country. By continuing to focus on how to remove those who have arrived here, the government continues to increase the risk to unaccompanied children. The threat of deportation at 18 will make these children more vulnerable than ever to further exploitation. There instead needs to be a fundamental rethink of the response to those arriving here by irregular means. There must be a clear plan to ensure that every child receives the care they need, from the moment they arrive.

Introduction

The Children's Commissioner for England has a statutory duty to promote and protect the rights of children in England. She has a particular duty towards children living away from home, including those who have arrived in the country fleeing war and persecution, who are often the victims of trafficking and exploitation.

Unaccompanied children seeking asylum in the UK are highly vulnerable and in need of care and protection from the moment they arrive. As the data presented in this report shows, these children have experienced the most extreme forms of trauma and are in desperate need of medical and psychological help and should be given a safe and stable home that can provide them with consistent love and care.

The Children Act 1989 is the legislation that sets out how children in England should be supported and protected from harm. Any child who has no parents or carers to look after them should be cared for by local authorities. The children's social care system steps in to care for children who, for a range of reasons, cannot live at home. In the same way that local authorities step in as corporate parents for children across the country, they must also be there to provide safety and stability for vulnerable unaccompanied children.

However, instead of receiving wrap around care from the moment they arrive, since July 2021 the Home Office has been routinely accommodating children in unsafe hotel accommodation that cannot meet their needs. A recent High Court ruling has made it clear that unaccompanied children should not be placed in hotels and should instead be in the care of local authorities. The Children's Commissioner has continually raised her concerns about the unsuitability of this accommodation for vulnerable children. These are children who have been separated from parents and family, faced abuse and exploitation on their journeys here, and are then missing out the care they should receive as a looked after child. As a result, and as the data presented in this report shows, children miss out on their most basic and fundamental rights.

Instead of seeking to address the issue of thousands of children missing out on their entitlement to care as a child without parents that can care for them, the government introduced provisions with the Illegal Migration Act (IMA) to legitimise the use of Home Office run hotels. Throughout the rapid

passage of the IMA which was introduced on 7th March 2023 and received Royal Assent on 20th July 2023, and well before its introduction, the Children's Commissioner raised her concerns with the lack of safeguarding and suitability of hotel accommodation for unaccompanied children.²

Alongside letters to the Home Office, the Children's Commissioner and her team used the Commissioner's statutory powers of entry to visit children living in the hotels. The Commissioner's Help at Hand team, who offer advice and assistance to children and young people, have been working to support many of the children in the hotels – particularly those who have been waiting for a long time to move out of hotels and reception centres.

The team's regular visits to the hotels highlighted how poor and inconsistent the safeguarding of children was across the hotels. The lack of safeguarding was made even more clear by the high numbers of children who were being reported missing. That's why, in April 2023 the Children's Commissioner used her statutory powers to request information from the Home Office on the safeguarding practices in place to protect children.

Additionally, after a legal challenge about the use of Home Office hotel accommodation the High Court has made clear that unaccompanied children should not be placed in hotels, and should be in the care of local authorities³. It is welcome that for the time being all children have been moved out of the hotels. But what is needed now is a plan to ensure this practice does not simply start again when more children arrive. It is essential that the powers for the Home Office to accommodate children are removed from the statute book, and a long-term plan for how to appropriately care for the children who arrive here alone is developed.

1. Children's Commissioner's statutory data request

On 5 April 2023 the Children's Commissioner requested data from the Home Office on the safeguarding practices in place to protect vulnerable unaccompanied asylum-seeking children. Seven months after the deadline the Home Office returned the data with fewer than half (11 out of 27) of the data fields the Commissioner requested. This was despite the request being sent using the Commissioner's statutory data collection powers as set out in Section 2F of the Children Act 2004. The office has previously published the full list of data fields the Commissioner sent to the Home Secretary (see Annex below).⁴

The quality of the data, and the amount of information missing, returned by the Home Office is in itself is concerning. The information requested is the kind that any organisation looking after children should have readily available in order to monitor its safeguarding processes.

1.1 What the data shows

The data that the office received is primarily demographic and shows that the vast majority of the 5,298 unaccompanied children who were housed by the Home Office in the 21 months and 1 week between 21/07/2021 and 03/05/2023 were male (97%) and 3% were female.

While the average age of boys accommodated in hotels was 16, and the average for girls was 17, shockingly the data showed that there were 34 children aged 12 and under in the hotels.

Children were housed in hotels for an average of 19 days, and while the majority stayed for less than a month, 855 children stayed for more than a month, 189 stayed for more than two months and 13 children were kept in hotels for longer than three months.

Children originated from 34 different countries, with the highest proportion of children being from Afghanistan (36%) followed by Iran (17%), Albania (13%) and then Syria (7%).

The office requested basic information about the steps that had been taken to keep children safe and healthy – including whether the Home Office had made safeguarding referrals for children, and whether they had seen a healthcare professional. The Home Office was not able to return this

information. The Commissioner herself has met nurses practising onsite in the hotels, and whilst children should be registered with primary healthcare providers, the Home Office were not able to confirm that each child had seen a medical professional since arriving in the hotel. This suggests a concerning lack of oversight and systematic approach to safeguarding these extremely vulnerable children.

1.2 The vulnerability of children

Instead of the requested safeguarding information the Home Office instead returned 'vulnerability notes' that are patchy and inconsistent.

The approach to recording the vulnerability notes appears to be inconsistent as they contain a range of information from explicit details on the nature of abuse the child has suffered on their journey to the UK, to information on the location of a child's family.¹

Of the 5,298 children in the data return, the Home Office only provided vulnerability notes for 38% (2,030) of the children. The Home Office told us that if there were no notes, that meant there were no known vulnerabilities. This suggests that the Home Office believes 62% of children who have fled their home countries and arrived alone in this country have no vulnerabilities.

The extreme vulnerability of the children who are placed in the hotels comes through in the vulnerability notes, where present. Of the 2,031 children with recorded vulnerability notes, alarmingly 9% of the notes refer to suicide, self-harm and mental illness. There are also concerning records which point to the shocking state of some children's health when they arrive. The data suggests 259 cases of infectious disease including scabies, tuberculosis, diphtheria, monkey pox and Covid-19. There are also concerning references to children's physical and learning disabilities. There were 18 mentions of

¹ The Home Office provided some further clarification on the sources of these notes: details from Kent Intake Unit (KIU); Any information from Home Office systems; details from their welfare/screening interview; details from their social worker assessment; details from their health assessment/nurses; information received from the hotel team leaders/social workers/senior practitioners; details from the police. Where no notes are provided it indicates that the Asylum Safeguarding Hub were not aware of any vulnerabilities.

disability or additional needs including autism, 24 notes pertaining to hearing loss or deafness, and 9 references to vision loss or blindness.

The stark reality of the complexity of the trauma that children have experienced comes through in the data with records of 198 children reporting being victims of beatings or assault, 25 victims of rape or sexual assault, 34 references to torture and some references to children being victims of organ harvesting on or before their journey to the UK. There were 35 mentions of children struggling with post-traumatic stress disorder, flashbacks, trauma or sleep disturbances.

Despite these alarming findings, Home Office was unable to say whether all of these children had received healthcare provision, or whether safeguarding referrals had been made.

1.3 The vulnerability of unaccompanied girls

Of the 169 girls that were accommodated in hotels, half (51%) have vulnerability notes recorded which show that 10% of girls had been victims of rape, sexual assault or sexual exploitation on their journeys to the UK. There is evidence in the data which shows pregnant girls were housed in hotels, including indicators that some pregnancies had been a result of rape.

It is worrying that these girls, who are highly traumatised and vulnerable are housed in hotels alongside many other traumatised children instead of being given wrap around physical and psychological care. The data show that these children are among the most vulnerable children in the country and have unique needs that often differ from that of boys and yet it is wholly unclear how these children were safeguarded while housed in these settings. In any other instance, children who had experienced complex trauma of this nature would be in care under the Children Act 1989.

1.4 Missing children

The lack of routine safeguarding in place is made even more shocking when looking at the data on children who were reported missing. In this data 442 children went missing from the eight hotels, showing just how systemic the failures to protect safeguard these children really were across this

contingency accommodation. While the vast majority of children who go missing were Albanian boys, there was also a small number of girls who went missing.

In addition, the Commissioner is concerned that there were instances of children as young as 12 and 13 going missing, and children as young as 12 not being located. Three children were reported to have been missing for over a year and staggering 37% (166 children) of children who went missing did not have a recorded date of return. Despite there being deep concerns that children who go missing are often exploited by traffickers, only 17% of children that go missing were referred to the National Referral Mechanism (the process for identifying and supporting potential victims of modern slavery).

While it is unsurprising given safeguarding across the hotels, it is noteworthy that the Home Office was unable to provide information on whether children were receiving education or legal advice, which they would be receiving if they were in local authority care under the Children Act 1989.

2. What is next for these children?

The High Court ruling has made clear that the Home Office's practice of routinely accommodating these children in hotels was unlawful, and the Commissioner has been informed that as of November 2023 there are currently no children are being placed in hotels. The Commissioner remains concerned that the Illegal Migration Act contains powers allowing the Home Secretary to accommodate these children. These powers must not be enacted, as the data in this report reveals how the Home Office has failed to appropriately safeguard children in their care. These extremely vulnerable children must be in the care of local authorities from the day they arrive.

The Children's Commissioner has seen many dedicated public servants, within the hotels and more widely, trying their best to support these vulnerable children. This report is not about any individual failings, but rather the systemic problem of children not being looked after, with the rights conferred by the Children Act 1989, by those with professional experience, qualifications or roles in caring for them. Taking on responsibility for overseeing the care and safeguarding of acutely vulnerable children is not something that can be done by those without the necessary expertise or experience.

To support these children to begin to heal from the complex trauma they have experienced children need stability in their care placements and will often need specialist foster care. Children will continue to arrive in the UK, and there must be no return to the use of hotels. Instead, a real plan for providing care for these children from the moment they arrive should be developed and local authorities should be given the resources they need to care for these children.

The Children's Commissioner will continue champion the voices and needs of these highly vulnerable children who are in desperate need of care and protection. It is vital that we provide these children with the love and stability they need to begin to heal from the trauma they have experienced and thrive in communities and schools across the country.

Annex

Information requested from the Home Secretary using the Children's Commissioner's statutory data collection powers under section 2F of the Children Act 2004

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

References

¹ This report refers to duties under the Children Act 1989, as most children arriving arrive in England. However similar duties to protect children exist under the Children (Scotland) Act 1995, the Social Services and Well-being (Wales) Act 2014 and the Children (Northern Ireland) Order 1995.

² Children's Commissioner's letter to the Home Office: January 2023, Available at:

<https://www.childrenscommissioner.gov.uk/blog/letter-to-the-home-secretary>. Children's Commissioner's letter to the Home Office, March 2023. Available at: <https://www.childrenscommissioner.gov.uk/news/letter-to-the-home-secretary-on-the-illegal-migration-bill/> Briefings for MPs and Peers on the IMA, May 2023: Ahead of Second Reading in commons, ahead of the Committee Stage in the Commons, ahead of Report Stage in the Commons, briefing for peers, statement on Lords amendments and a statement on Bill passing. Available at: <https://www.childrenscommissioner.gov.uk/resource/briefing-for-peers-on-the-illegal-migration-bill/>

³ ECPAT UK, R (on the application of) v Kent County Council & Anor [2023] EWHC 1953 (Admin)

⁴ The full list of data fields requested is set out in Children's Commissioner's office, 2023. Letter to Home Secretary RE: Statutory information request on Home Office accommodation of children seeking asylum, 5 April 2023. Available at: <https://assets.childrenscommissioner.gov.uk/wpuploads/2023em/04/Statutory-information-request-on-Home-Office-accommodation-of-children-seeking-asylum-1.pdf>



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