

Report to the Pre-Sessional
Working Group of the
Committee on the Rights of
the Child, preparing for
examination of the UK's
second report under the CRC

ENGLAND

MARCH 2002

Children's Rights Alliance
for England

About CRAE

Children's Rights Alliance for England (CRAE)

CRAE promotes the fullest implementation of the UN Convention on the Rights of the Child (CRC). We are a coalition of over 180 member organisations drawn mainly from the voluntary sector.

CRAE actively collaborates with other children's rights alliances across the UK. We have worked together to produce an additional UK-wide analysis of progress in implementing children's human rights, also submitted for the Committee's June pre-session meeting. This report is concerned with the 11.3 million of the UK's 13.5 million children who live in England.

Preparation of NGO report

This report has been prepared by CRAE in collaboration with member organisations.

While CRAE welcomes many aspects of recent Government policy and activity in relation to children, we see CRAE's unique role – as a coalition of organisations committed to the fullest implementation of the CRC – as being to inform and provide evidence to the Committee on the Rights of the Child of continuing (and new) breaches in children's human rights.

The report is separated into eight sections, reflecting the Committee's reporting guidelines. Each section begins with a summary commentary on the UK Government's Second Report to the Committee in 1999, followed by a discussion of key areas of concern and ending with action for compliance.

References to the UK Government's Second Report to the Committee are to the version printed by the Government, not to the version prepared by the Secretariat, which is not available at the time of writing (March 2002). References "CO ..." are to paragraphs in the Committee's 1995 Concluding Observations.

We understand that young people often prefer not to be described as children. However, in this particular report we are for obvious reasons using the Convention's interpretation of children.

We support the NGO England report submitted by the Children's Rights Alliance for England to the Committee on the Rights of the Child in 2002

16/21 Housing	Children's Rights Commissioner, Oxfordshire	Leyton Youth and Community Service	Parenting Education and Support Forum
Action on Rights for Children in Education	Children's Rights Officers and Advocates	London Children's Rights Commissioner	Peace Pledge Union
Article 12	Children's Society, The	MENCAP	Professional Association of Nursery Nurses
ATD Fourth World	Citizenship Foundation	Milton Keynes Children's and Young People's Rights Service	Refugee Council, The
Bar Committee on the Rights of the Child	Community Practitioners and Health Visitors Association	National Association for the Care and Resettlement of Offenders	Reunite International Child Abduction Centre
Barnardo's	Coram Family	National Aids Trust	Right from the Start Education Project
Black Women's Health and Family Support	Dawson Cornwall Solicitors	National Autistic Society	Royal Institute of Public Health
Boys and Girls Welfare Society	Daycare Trust	National Childminding Association	Royal National Institute for the Blind
Brent Children's Play Service	Down's Syndrome Association	National Children's Bureau	RPS Rainer
British Association for Adoption and Fostering	End Physical Punishment of Children	National Confederation of Parent Teacher Associations	Save the Children
British Psychological Society	Family Rights Group	National Council for Voluntary Youth Services	Stockport Youth Service
British Youth Council	Forum on Children and Violence	National Council Voluntary Child Care Organisations	Summerhill School
Campaign for State Education	Fostering Network, The	National Early Years Network	Transport 2000
Care Leavers' Association	Grandparents Federation	National Society for the Protection of Cruelty to Children	UNICEF UK
Catholic Child Welfare Council	Greater London Domestic Violence Project	National Youth Advocacy Service	Union of Muslim Organisations of UK and Eire
Catholic Children's Rescue Society	Home-Start	NCH Coventry & Warwickshire Children's Rights	Who Cares? Trust
Centre for Studies in Inclusive Education	Howard League for Penal Reform		Women's Aid Federation of England
Child Brain Injury Trust, The	Inspire		Xpress Advocacy Service
Child Poverty Action Group	Inter-Action Trust		Youth Access
ChildLine	Kidsactive		
Children and Neighbourhoods in London	Kids Clubs Network		

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Overview

The UK has the fourth richest economy in the world, yet 32% of our children live in relative poverty.ⁱ

It is plain that government has so far failed to get to grips with its human rights obligations to children. This is not to ignore recent progress, in government policies or structures. A Children and Young People's Unit has been established, with huge potential; but in over a year the Government has said nothing about its role in ensuring the CRC is fully implemented. The Unit is championing children's participation in government and public services but still in key legislation – such as in education and family law – children have no legal right to have their views considered when decisions are made that affect them. Across the UK, we are seeing the emergence of independent watchdogs for children but the Government continues to resist the repeated calls for a children's rights commissioner for England's 11.3 million children.

The Government has committed itself to eradicating child poverty by 2019 – almost 30 years after ratifying the Convention on the Rights of the Child. Meanwhile, it refuses to reintroduce grants to enable poor families to buy essential living items such as cookers, beds and blankets. It will not bring back social security benefits for 16 and 17 year-olds; and homelessness is at an all time high, with 100,000 children living in temporary accommodation.ⁱⁱ Poor children continue to fare badly in education,ⁱⁱⁱ they are more at risk of early death and childhood accidents,^{iv} they are more susceptible to mental ill health^v and their neighbourhoods are hardest hit by crime.^{vi}

Between one and two children die every week in England and Wales as a result of abuse and neglect (there were 77 child homi-

cides in 1999-2000, 48% of which were babies under one).^{vii}

Violence towards children is an everyday sight in English streets and supermarkets. In the mid-1990s researchers found that 52% of one year-olds were hit/smacked at least once a week by their parents. A quarter of children had been hit with an implement and over a third punished "severely".^{viii}

A Public Inquiry into the torture and murder of eight-year-old Victoria Climbié by her aunt and aunt's partner in London in 2000 is under way. There has been widespread condemnation of the failure of our child protection system to save Victoria from such a brutal death. Yet within two months of the Inquiry opening the Government announced it would not reform the law on physical punishment. In November 2001 a Health Minister explained that the Government wanted to avoid "heavy-handed intrusion into family life". At the same time, it promotes zero tolerance of domestic violence between adults.

The UK has one of the worst records in Europe for locking up children – figures are 51.3% higher than a decade ago.^{ix} Conditions in our young offender institutions have been described as "unacceptable in a civilised society" and "institutionalised child abuse".^x Eleven children in custody have killed themselves in the last five years.^{xi} There are constant reports of children being denied access to fresh air and of going to sleep cold and hungry.^{xii} Bullying is a huge concern, as is children's lack of educational provision.^{xiii} The Department for Education and Skills has shown that of the 5,963 boys admitted to young offender institutions during 2000/2001 37.6% had the numeracy ability of a seven year-old^{xiv} and 31.36% had the literacy ability of a seven year-old. Yet successive educa-

tion acts have specifically excluded detained children.

The support given to asylum seeking families is discriminatory and wholly inadequate: these destitute and often desperate families are given 24% less financial assistance than other poor families and are excluded from a range of welfare services and housing support. Unaccompanied minors too often are left to fend for themselves in bed and breakfast accommodation, where they face the prospect of being "dispersed" to a different part of the UK once they reach 18.^{xv} Asylum-seeking mothers are denied milk and vitamin vouchers, even when they have HIV/AIDS and breastfeeding risks their babies' health.^{xvi}

Legislation permits the exclusion of disabled children from mainstream schools on the grounds of resources or the perceived needs of other children.^{xvii} The UK enlists the largest number of under 18s into the Armed Forces of any European state.^{xviii} One in ten of our children have mental health problems requiring professional help.^{xix} At the end of March 2000, 70% of children in care left school with no GCSE qualifications. In 2000/01 30% of young people using a homelessness support centre in London had been in care: 47% had run away from home before their 16th birthday.^{xx} Vulnerable children still have no entitlement to independent and confidential advocacy services, despite concerns about the high levels of children in need that fail to approach statutory services.^{xxi}

This report charts the continuing breaches in children's human rights since the Committee last examined the UK Government in 1995. We hope it will assist the Committee in its questioning of the Government, but most of all we hope it will generate outrage and then action with and for children in our country.

General Measures of Implementation

Articles 4, 42 and 44.6

Reservations

The Government retains various reservations to the CRC (*see UK-wide NGO report*). Of particular concern is its wide-ranging reservation concerning immigration and citizenship, which is incompatible with the object and purpose of the CRC and therefore in conflict with article 51.2¹ (CO paras. 7 and 22). (*See also Special Measures of Protection, Article 22.*)

ACTION FOR COMPLIANCE

The UK should withdraw its remaining CRC reservations in the light of Article 51.2 and ensure that law, policy and practice are consistent with the Convention.

Ratification of related international instruments

The two Optional Protocols to the CRC – on the Involvement of Children in Armed Conflict and on the Sale of Children, Child Prostitution and Child Pornography, have been signed but not yet ratified by the UK (March 2002). The Government's declaration relating to the Optional Protocol on the Involvement of Children in Armed Conflict significantly weakens children's protection.

See UK-wide NGO report for update on ratification of other international instruments.

ACTION FOR COMPLIANCE

The UK should ratify the two Optional Protocols to the CRC, and in doing so should remove its declaration relating to the involvement of children in armed conflict. It should also remove its declaration on the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction. The UK should ratify the Optional Protocols to the International Covenant on Civil and Political Rights and to the

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The UK should remove its declaration under Article 16 of the CEDAW in relation to children's best interests and adoption.

Article 4 – Implementation of rights

Government structures for children

In July 2000 the Prime Minister's Office announced significant new structures which may in time develop an effective children's rights perspective at the heart of government for England: a Cabinet Committee on Children and Young People's Services (chaired by the Chancellor of the Exchequer, not the Prime Minister), a Children and Young People's Unit and a Minister for Young People (CO para. 23). All these structures cover the age range 0 to 18. But the Minister, situated in the Home Office, is not a member of the Cabinet and has other major responsibilities.² The Children and Young People's Unit now has responsibility for co-ordination of preparation of reports under the CRC. No body is specifically charged with monitoring CRC implementation.

Overarching children's strategy

In November 2001 the Children and Young People's Unit launched a consultation³ on development of an overarching "Children's Strategy" and also circulated core principles and supporting guidance⁴ on children's and young people's participation. The CRC is mentioned in the Children's Strategy consultation document but is not as yet being used as the framework for the Strategy.

Legislation

There has been no systematic review to ensure that legislation is brought into conformity with the CRC's principles and standards. Courts are

Commentary on the UK Government's Report, 1999

Section 5 of the Government's Report purports to cover "General Measures" and "General Principles". It does not cover "General Principles" at all (although these are referred to here and there throughout the report). In relation to "General Measures" it only inadequately covers legislative reform, local planning of children's services and UK aid policy (UK reservations are covered in para. 1.8). It fails to answer the questions in the relevant sections of the Committee's Guidelines, and does not address the specific subjects of concern and recommendations in the Committee's Concluding Observations (CO paras 8, 9, 23, 26 and 44).

As with its Initial Report, the only section of the Government's Report with a CRC and children's rights focus is the one dealing with Article 4 in the context of the Department for International Development's aid projects (paras 5.5ff).

The Report fails to fulfil the obligation under Article 44.2 to "indicate factors and difficulties affecting the degree of fulfilment of the obligations under the Convention", being mainly descriptive and selective of positive aspects of government policy, and failing to acknowledge many breaches of children's rights, several of which existed at the time of the Government's examination on its Initial Report and were noted by the Committee.

not required to consider the principles and standards of the CRC. Incorporation of the European Convention on Human Rights into domestic law through the Human Rights Act 1998 brings certain civil and political rights, which apply equally to children, into UK law for the first time. Government statistics⁵ show only a slight impact on court workloads since the Act came into effect in October 2000. There is no indication as yet that the Act is encouraging greater respect for children as rights-holders, or that it is providing children with much-needed mechanisms for remedying breaches of their human rights.

Ministers are required to make a statement of compatibility with the European Convention rights when introducing new legislation to Parliament. No statement of compatibility with the CRC is required, and there is no system to assess the impact of new policies and legislation on children and on implementation of their full range of CRC rights. There is a Parliamentary Joint Human Rights Committee, but its remit does not at present include monitoring compliance with the CRC.

Local implementation

The CRC is not consistently used as the framework for local children's services planning, although some local authorities have made exceptional progress. Since 1996, local authorities have been required to prepare Children's Services Plans. Initial guidance⁶ positively referred to the CRC. However, in April 2000 the Government issued draft proposals for improving local children's services planning and the CRC was not mentioned at all.⁷

Budget analysis

Spending reviews co-ordinated by the Treasury have given increasing attention to children's services. The Spending Review 2002 will include

a review of services for "Children at Risk". There is, however, as yet no comprehensive analysis of central government spending on children, and so no way of monitoring whether economic, social and cultural rights are being implemented "to the maximum extent of available resources" (CO para. 9). The very high level of child poverty and inequality and their effects on the realisation of a range of human rights for children raise major concerns. (*See also Basic Health and Welfare, Articles 24 and 27.*)

Data collection

The Children and Young People's Unit has proposed in its consultation on a Children's Strategy a regular "State of the Nation's Children and Young People's Report". There has been no systematic collection of data on children or on implementation of their rights.⁸

Independent monitoring

Various parliamentary and other reports and a very broad alliance of NGOs have advocated for a statutory independent Children's Rights Commissioner, compliant with the Paris Principles. Despite positive developments in Wales, Scotland and Northern Ireland, (*see separate NGO reports*) the Government has continued to resist establishing an independent human rights institution for England's 11.3 million children (CO para. 8).

A new National Care Standards Commission, to be operational from April 2002, includes a "Children's Rights Director". This important new post relates only to inspection and regulation of residential provision for the approximately 200,000 children living away from home, the majority of them in private boarding schools, and for certain related services. The Director will have no role in relation to children in prison service custody, private 'secure training

centres' or to those living in probation bail hostels (17 year-olds). Currently the post lacks necessary statutory powers⁹ in relation to its limited mandate and its existence in no way reduces the case for an independent human rights institution for all of England's children. (The Government has at times argued that the establishment of this post reduces or removes the need for an independent children's rights commissioner).

Consultation and collaboration

Preparation of the Second Report included some welcome formal cooperation and collaboration with NGOs, but the inclusion of NGO comments in the report was unbalanced and unsatisfactory (CO para. 23). The Department of Health makes a small but welcome contribution to the core funding of the Children's Rights Alliance for England. There are as yet no regular or formal arrangements for meeting with or consultation with the Alliance, which is the umbrella body for organisations committed to full implementation of the CRC.

ACTION FOR COMPLIANCE

- **Central and local government policies, the overarching Children's Strategy and planning mechanisms should be rights-based, using the CRC as their framework.**
- **There should be a Minister for Children in the Cabinet.**
- **Government should institute a detailed and ongoing review, with an independent element, of the compatibility of all legislation with the CRC.**
- **Guidance should be issued to the juvenile and family courts to ensure that the CRC and other relevant international human rights treaties are routinely**

considered whenever decisions are made that affect children.

- There should be explicit responsibility across government and at all levels of government for monitoring implementation of the CRC and a built-in system of child impact assessment.
- Transparent budget analysis should provide a comprehensive picture of government spending on children to enable monitoring of the implementation of children's economic, social and cultural rights.
- A comprehensive "State of England's Children's Rights Report", using the framework of the CRC, should be published and presented to Parliament annually.
- An independent statutory human rights institution for children – a children's rights commissioner – should be established, compliant with the Paris Principles.
- Effective formal structures for co-operation and collaboration with children's rights NGOs, including organisations of children, should be established.

Article 42 – Making the Convention and its rights widely known

There has been no significant dissemination of information¹⁰ about the CRC to children or adults, nor any systematic attempt to evaluate knowledge of rights. A recent study¹¹ into civil rights in English schools found that of 2,272 children surveyed, over 75% had not heard of the CRC; the remaining 25% had heard only "a little bit". Citizenship education will become a statutory

subject in secondary schools from September 2002. Initial guidance for the secondary school curriculum for citizenship education¹² mentions human rights but makes no reference to the CRC. The initial guidance for primary schools (where citizenship education is not compulsory)¹³ does not refer to human rights.

We are not aware of any systematic inclusion of the CRC in training courses for those working with or for children, including teachers, social workers, doctors etc.¹⁴ (CO para. 26).

ACTION FOR COMPLIANCE

- Education on children's rights should be included in the mainstream school curriculum for all ages.
- Training curricula – both initial and in-service – for all those working with and for children should promote knowledge of and respect for children's rights.

Article 44.6 – Dissemination of reports

In 1999 the Government published its second report (available on sale). It includes as an Annex the Committee's Concluding Observations on the Initial Report. There has been no other dissemination of the Committee's conclusions, nor was there any parliamentary debate. Parliamentary questions to Ministers on what action would be taken following the Committee's recommendations received dismissive replies:¹⁵

Extract from House of Commons (written answer), Hansard Col 370, February 9 1995:
Mr Hinchcliffe [Labour MP]: To ask the Secretary of State for Health what steps she is planning to take to respond to the report of the UN Committee on the implementation of the UN Convention on the Rights of the Child regarding her policies with regard to the

physical punishment of children; and if she will make a statement.

Mr Bowis [junior health minister]: None

Extract from House of Lords, Hansard Col 1577, March 2 1995:

Baroness Williams of Crosby asked her Majesty's Government: What response they have made to the UN report criticising government policy with regard to the rights and welfare of children.

The Parliamentary Under-Secretary for State, Department of Health (Baroness Cumberledge): My Lords there is no obligation under the UN Convention on the Rights of the Child for the UK Government to respond to the observations of the UN Committee, and we have no plans to do so.

There has been no dissemination of the summary records of the Committee's discussion with UK Government representatives. The full 220-page Second Report has not been made available in any other languages or forms. A very brief 12-page summary of the Report, including a summary of the Convention and a shortened and very distorted summary of the Committee's conclusions has been made available in 10 minority languages and in Braille and other forms as well as through the internet. (CO para. 42).

ACTION FOR COMPLIANCE

- The Government should promote a public debate, fully involving children, on the CRC reporting process and the Committee's Concluding Observations.
- The Government should plan now to develop its Third Report in line with the Committee's guidelines and in such a way as to encourage the widest possible popular participation and public – including children's – scrutiny of relevant government policies.

Definition of the Child

Article 1

Commentary on the UK Government's Report, 1999

The Government's Report completely fails to address age-based legislation, as did its Initial Report to the Committee in 1994. An overview of how the law defines and intervenes in childhood should be the starting point for government action on implementing the CRC.

Age-based legislation in England continues to be muddled and inconsistent, with serious concerns among NGOs that the present Government's drive to reduce crime has resulted in various initiatives that have brought younger children into the criminal justice system. (See also *Special Measures of Protection, Articles 37 and 40.*)

Children as young as ten years can be tried in an adult Crown Court and the law permits custodial sentences from the age of ten for grave offences.

Asylum seeking children can be detained with their families at any age (unaccompanied minors who can prove they are children are the responsibility of social services).

Thirteen year-olds can work part-time but are not eligible for the minimum wage until 18 years (even then it is at a reduced rate until they reach 22 years).

Sixteen and seventeen year-olds can work full time, pay income tax, get married, change their name by deed poll, ask the state to look after them and claim social security benefits in certain restricted circumstances. Full benefit entitlement is not available to anyone under 25 years: even when they are parents, children are not entitled to full benefit rates.

Sixteen year-olds have to pay for prescriptions, dental treatment and eye tests unless they are in full time education, or in receipt of social security benefits.

A person of any age can be a company director or a member of a trades union but only over 18 year-olds can be Trustees of charities.

Local government legislation now encourages community participation and the public's involvement in democratic processes.¹⁶ Yet children are not allowed to vote until they are 18 years, or to stand for election as a local councillor or as a

Member of Parliament until they are 21 years.

The Government has made no indication that it intends to challenge age-based discrimination. Although we are optimistic that the Children and Young People's Unit could become the central mechanism within government driving the implementation of children's human rights, the pervading emphasis at present is upon preparing children for the future and alleviating family and community disadvantage. The recently published consultation document on developing an overarching strategy for children in England fails to refer to the need to review and introduce legislation that respects children's human rights.

There is little sign at this stage that the Government intends to use the Children and Young People's Unit to identify and tackle the discrimination children face because they are young people. Compare this with the Women and Equality Unit, established in the Cabinet Office (at the heart of government) with an overt agenda of tackling discrimination against women.¹⁷

ACTION FOR COMPLIANCE

- **The Government should undertake a review of age-based legislation to ensure it is fully compliant with the CRC.**
- **The concept of children's evolving capacities should be established in legislation, with appropriate safeguards to ensure professional assessments of their understanding can be challenged.**

General Principles

Articles 2, 3, 6 and 12

Article 2 – Right to non-discrimination

England has legislation relating to race, sex and disability equality but we have no legislation dealing specifically with age discrimination.

Young offender institutions

NGOs working with children detained in prison service accommodation have serious concerns about the sub-standard and discriminatory levels of education and child protection. (See also *Special Measures of Protection, Articles 37 and 40.*)

Asylum seekers

Immigration law restricts the employment of asylum seekers and reduces by 24% social security benefits to asylum seeking families (paid in vouchers not cash). The compulsory “dispersal” scheme and detention without trial are further examples of discriminatory law and practice. (See also *Special Measures of Protection, Article 22.*)

Other evidence of racial tension and discrimination

There is concern about the scale of race discrimination pervasive in many of our public institutions and communities.¹⁸

Disproportionate numbers of children from minority ethnic communities, especially those with mixed parentage, are looked after by the state.¹⁹ Black children are six times more likely than white children to be given custodial sentences, and three times more likely to be permanently excluded from school.²⁰ More than 40% of 16-17 year-olds from minority ethnic communities are unemployed compared with 18% of their white peers.²¹

An Office for Standards in Education report in 1999²² noted the continuing underachievement of Bangladeshi and Pakistani pupils in their early years of schooling and the poor secondary education experience

of Black Caribbean pupils. There was “serious concern” about the education of Gypsy Traveller children.

The situation of Gypsy Traveller children was a matter of concern to the Committee in 1995 (CO para. 21). The Government has not reinstated the duty on local authorities to provide caravan sites.²³

Human Rights Committee

At the end of October 2001 the Human Rights Committee published its Concluding Observations/Comments on the UK’s report on its implementation of the International Covenant on Civil and Political Rights²⁴. The Committee was “deeply disturbed” by the recent racially motivated rioting in northern English cities, and with the treatment of asylum seekers.

Disabled children

The Special Educational Needs and Disability Act 2001 extends the provisions of the Disability Discrimination Act 1995 to education but disabled children can still be refused admission to mainstream schools on the grounds of limited resources or the perceived needs of other children; and they have no legal way of challenging their parents if they choose segregated education.

The Disability Discrimination Act 1995 does not cover all forms of public transport, and there is no positive duty on public authorities to promote equal opportunities.

ACTION FOR COMPLIANCE

- **Government should take urgent action to ensure that all children can enjoy all rights in the CRC without discrimination.**
- **A rights-based approach to children’s policy is required to ensure the Government systematically challenges discrimination.**

Commentary on the UK Government’s Report, 1999

Chapter 5 of the Government’s Report claims to cover the general principles of the Convention, but none of the relevant articles is mentioned.

Article 3 – Best interests of the child

The Children Act 1989 in England and Wales requires courts when making decisions concerning a child's upbringing to give paramount consideration to the welfare of the child.²⁵ (*See also Special Measures of Protection.*)

The Children and Young People's Unit, with the Treasury, is currently undertaking a Cross Departmental Review on Children at Risk but it is not yet clear whether this will establish ongoing analyses of social expenditure on all children or whether it will be pursuing systematically the principle of the best interests of the child and the requirement to implement economic, social and cultural rights of children to the "maximum extent of available resources".

Local authorities and health authorities are not required to disaggregate social expenditure.

ACTION FOR COMPLIANCE

- **Children's best interests should be established as a primary or where appropriate paramount consideration in all legislation and policy affecting children.**
- **Central and local government should prepare annual reports on levels of social expenditure on children.**

Article 6 – Right to life and maximum development

Infant mortality

In 1999 the infant mortality rate for England and Wales was 5.8 per thousand live births; the under five mortality rate for England and Wales was 6.9 per thousand live births.²⁶

Infants born to fathers in unskilled or semi-skilled occupations have mortality rates 70%

higher than those in professionals or managerial positions.²⁷

Child accidents

Accidental injuries are now the greatest cause of childhood death. During 1999, 423 children aged 14 and under died from accidental injuries (270 boys; 153 girls) in the home.²⁸ House fires accounted for the deaths of 47 children aged 16 and under. A Government survey in 1996 found that while 70.6% of owner-occupiers had home smoke detectors, only 52% of privately rented homes and 60% of council houses had smoke detectors.²⁹

The biggest cause of accidental death to children outside the home is road traffic accidents, accounting for the deaths of 221 children aged 15 and under in 1999.³⁰

During 1999 53 children aged 14 and under drowned; 19 of the children were aged four and under.³¹

Child homicide

Between one and two children each week dies in the UK as a result of abuse or neglect.³²

Disabled babies and children

In the past 10 years, 105 human rights violations have been reported to the Disability in Action Alliance in relation to disabled children across the UK. Many relate to right to life, with doctors refusing to assist resuscitation or withdrawing breathing or feeding tubes from disabled babies and children, for example.³³

Child suicide and mental ill-health

There is serious concern among NGOs at the rate of suicide and self-harm among children in young offender institutions. (*See also Special Measures of Protection, Articles 37 and 40.*) In 1997/1998 two children committed suicide while in public care;³⁴ further information on suicide attempts or the prevalence of

self-harm in care is not publicly available.

During 1998 110 teenagers killed themselves in England and Wales; a further 81 deaths were recorded as "injury undetermined".³⁵

A UK survey of five to 15 year-olds in 1999 revealed that 10% had mental health problems requiring professional help.³⁶ It also showed children in the poorest households to be three times more likely to have mental health problems than their peers with professional parents. Self-harm was greater in lone parent families, and among 11 to 15 year-old children who were frequently punished 53% were more likely to self-harm than those seldom or occasionally punished.³⁷

Workplace fatalities and injuries

Since 1996 38 employees aged 19 and under have died as a result of workplace injuries; two were under 16.³⁸ In addition, since 1996 140 members of the public aged under 16 have been killed as a result of a workplace accident; the provisional figure for 2000-2001 is 35 deaths.³⁹

Since 1996 5,704 male employees and 1,932 female employees aged 19 and under have been seriously injured at work; 94 were under 16.⁴⁰

Deaths in contact with the police

During 2000-2001 seven children died while being pursued by police in England.⁴¹

ACTION FOR COMPLIANCE

- **All child deaths should be statutorily reviewed to determine how the deaths could have been prevented and annual reports presented to Parliament depicting the causes of death, the scale of infant and child homicide and accidental fatalities, including in the workplace, and preventive action required.**

- In order to protect children's right to life and maximum development a national review should be carried out, involving NGOs and the public, on the prevalence of and factors affecting infant and child homicide and other violence that threatens children's maximum development in the family home.
- The high rate of child suicide and self-harming in custody requires immediate Government action.
- The Government should publish annual statistics on the extent of self-harming and suicide in public care.
- The Government should amend disability discrimination legislation so that disabled children's right to life and to maximum survival and development is respected in law.
- The Government should ensure that information on employment protection and the role of trades unions is disseminated to all children of working age, through schools, the Connexions service and sports and leisure facilities.

Article 12 – Right to express views and have them taken seriously

No legal right to be consulted

The Children Act 1989 requires local authorities to take account of the views of children in respect of certain court hearings and local authority decisions. But there is no legal requirement on education authorities, schools, health and local authorities, parents or national government to give consideration to the ascertainable wishes and feelings of children. There has been no review of the legal changes required to give effect to article 12.

Complaints procedures and independent advocacy

Accepting that the Children Act 1989 social services complaints procedure was not working for children, the Department of Health issued a consultation document in June 2000.⁴² One of the proposals was that children making a complaint should have access to an independent advocate. There has been no legislative progress to date, apart from with care leavers.

Central government listening

The Children and Young People's Unit (CYPU) is involving children and young people in its own work and stressing its importance across Government departments and in the administration of major Government programmes such as the Children's Fund. In November 2001 the CYPU issued core principles requiring all Government departments to prepare action plans on involving children and young people in policy and service development. In January 2002 a team of children is formally advising the Cabinet Committee for the first time.

Local government listening

Greater progress has been made at local authority level, where many initiatives have been developed to explore new ways of promoting participative democratic processes with children and young people.⁴³ But in the absence of clear legal requirements, these developments are inevitably patchy.

ACTION FOR COMPLIANCE

- The Government should introduce legislation to reflect children's right to express their views and have them taken into account in all matters affecting them. Areas requiring urgent action include decision-making processes in the family, in education, representation in

family proceedings and democratic participation in central and local government.

- The provision of independent advice and advocacy should be extended to all children involved in judicial or administrative proceedings.
- Parent education and professional training should stress children's participation rights and the need to respect children as rights holders with evolving capacities.
- Funding should be made available to self-advocacy groups of children.

Civil Rights and Freedoms

Articles 7, 8, 13, 14, 15, 16, 17, 19 & 37(a)

Commentary on the UK Government's Report, 1999

Section 6 of the Government's Report dealing with civil rights and freedoms addresses Article 7 only in relation to unmarried fathers transmitting citizenship to their children, and fails to address Article 8. The section also does not provide the Committee with crucial information on developments in law and practice affecting children's freedom of association and privacy.

Articles 7 and 8 – Identity and right to know and be cared for by parents

The Adoption and Children Bill (March 2002) proposes to give unmarried fathers automatic parental responsibility if their name is included on a birth certificate.

While welcome, this will not help children whose father's name is not included on their birth certificate. Government statistics show that this is a particular problem for children of teenage mothers, where nearly two out of three birth certificates fail to include the name of the father.⁴⁴

Children's access to information concerning adoption and IVF continues to be severely limited: only adults have the right to seek information and contact with their birth family. Adoptive parents are under no duty to inform children of their status. In the case of donor insemination, the Government is currently carrying out a national consultation⁴⁵ but is not offering the option of extending the right of access to information to children who have sufficient understanding.

Parents are able in law to change their child's name.

ACTION FOR COMPLIANCE

- **The law on birth registration should be reformed so that, except where demonstrably not in the best interests of the child and taking into account the need to ensure children's safety, mothers are required to enter the name of the father on the birth certificate of the child.**
- **Law reform is needed to ensure that all children separated from their biological parents have the right to access appropriate information (in a manner consistent with their evolving capacities) about their origins, siblings and extended family.**

- **Judicial and administrative processes should be introduced so that consent is required from all children with sufficient understanding before their forenames or surnames are changed.**

The right to nationality

There has been no progress in remedying the British Nationality Act 1981, which removed the automatic right of British nationality from all children born in the UK. From 1 January 1983, the rules are that if married, either parent's status counts; if unmarried, only the mother's status counts (if the parents marry at any time after birth, the child will acquire British citizenship).

ACTION FOR COMPLIANCE

- **The British Nationality Act 1981 should be amended to restore the right of children born in the UK to British Nationality.**

Articles 13 and 14 – freedom of expression and freedom of thought, conscience and religion

Civil rights in schools

It is still the case that children can be excluded from full-time education because of persistent refusal to conform to school uniform policy, yet schools are under no obligation to consult pupils about such policies.⁴⁶ The Government has acknowledged that children have been excluded from school because of their hairstyle or for wearing jewellery.⁴⁷

Schools continue to prohibit girls from wearing trousers. In 2000 a teenage girl won the right to wear trousers at school, following intervention by the Equal Opportunities Commission.⁴⁸ The Government has taken no action to end such discriminatory rules.

Parents are entitled in law to remove children from religious education. There is no requirement on schools to seek and give due weight to children's views where parents request removal. Children themselves cannot opt out of religious education.

There is serious concern among NGOs that the Government's decision to increase the number of faith schools in England and Wales runs counter to children's right to freedom of thought, conscience and religion. The Commission for Racial Equality has also expressed opposition to "segregated schools" for black young people.⁴⁹

ACTION FOR COMPLIANCE

- **The law relating to sex education in schools in England and Wales should be reformed so that all children have a right of access to information, in a manner consistent with their evolving capacities.**
- **Policies on school exclusion should be reviewed to ensure that no child is excluded, or threatened with exclusion, as a result of his or her preferred clothing and personal appearance (so long as it does not breach the rights of others).**
- **Guidance to schools should require an end to gender-based restrictions on clothing and personal appearance.**
- **Legislation covering religious education and collective worship should be reformed so that children with sufficient understanding have the right to withdrawal and are consulted and their views given due weight when their parents request withdrawal.**

- **The relevant departments across the UK should review their policies, including funding policies, relating to single faith schools, to ensure they are not discriminatory and genuinely promote freedom of thought, conscience and religion and respect for diversity.**

Article 15 – Freedom of association and peaceful assembly

The Criminal Justice and Police Act 2001 gave local authorities and the police in England and Wales the power to impose blanket curfews restricting the movement of all under 16 year-olds in specified areas. The powers previously existed for under 10 year-olds from September 1999 and were extended because local authorities were not using them. There is intense opposition to child curfews, including from the major children's NGOs and juvenile justice organisations. The Joint Parliamentary Committee on Human Rights also expressed concern that curfews could be in breach of Articles in the European Convention on Human Rights.⁵⁰

To date (March 2002), there is still not one example of a curfew being introduced but passing such laws in itself breaches children's human rights. The introduction of anti-social behaviour orders (ASBOs) is another measure attracting criticism. Since introduction in April 1999, at least 50 children have been issued with ASBOs⁵¹: magistrates make the orders in civil proceedings but breach is a criminal offence and can bring up to two years' imprisonment for 15 to 18 year-olds.

The Crime and Disorder Act 1998 gave police powers to remove from public places children believed to be truanting from school, and either return them to school or hold

them in a predetermined place pending enquiries.⁵²

In schools, there is no duty on headteachers or governors to enable children to organise meetings or activities independent of the school curriculum.

There has been no repeal of powers in the Criminal Justice and Public Order Act 1994 that restrict the free movement and peaceful assembly of Gypsy Travellers.⁵³

ACTION FOR COMPLIANCE

- **Legislation permitting local child curfew schemes in England and Wales should be repealed.**
- **The custodial penalty for breach of anti-social behaviour orders (civil offence) in England and Wales should be repealed, and a review process instituted for children subject to such orders, taking into account their evolving capacities and development.**
- **The Government should issue guidance to schools requiring them to make appropriate provision for children to meet together, both within and outside of school time.**
- **Legislation restricting Gypsy Traveller families from peaceful assembly should be repealed.**

Article 16 – Privacy rights Privacy rights for children living away from home

Access to private telephones and to private mail correspondence is seriously restricted in juvenile justice settings, and there is need for national research on progress in ensuring the privacy rights of disabled children in residential care.⁵⁴ Children living away from home have limited access to independent and confidential advocacy services.

(See also *Family Environment and Alternative Care, Article 20*.)

Privacy in the courtroom

Despite presumption of privacy, judges retain discretion to name children and the Government has increasingly encouraged “naming and shaming”. A European Court of Human Rights case, brought by two children who at the age of 11 were subject to intense and hostile media coverage during their murder trial, led to a Practice Direction in February 2000⁵⁵ from the Lord Chief Justice in relation to Crown Courts. This does not in any way reduce the need for law reform that would safeguard at all times the privacy rights of all children alleged to have committed a criminal offence, in line with Article 40(2)(b)(vii). (See also *Special Measures of Protection, Article 40*.)

Asylum seekers

Children can be subjected to physical examination designed to establish their age, and fingerprinted, as part of the process of applying for asylum. New ID cards have been introduced for asylum-seekers – including children – attracting serious concern among NGOs.

Government databases

There is currently (2002) a rapid and disturbing expansion in the use of government and police databases as a means of monitoring and tracking children and young people. From January 2002, a national database is being established on the progress of every single school student in the country. There is no requirement on schools to inform students or their parents about this national database, with no opportunity to correct inaccurate information. The new Connexions service for 13 to 19 year-olds will include local databases and a national database containing personal informa-

tion about children, to be shared among various public authorities including the police, social services, education and youth services.⁵⁶

ACTION FOR COMPLIANCE

- **The Government should carry out comprehensive reviews of the extent to which children’s privacy rights are respected in the care system, in residential schools, in hospitals and in juvenile justice institutions, giving particular attention to disabled children.**
- **The Government should carry out a comprehensive review of the extent to which children have access to confidential counselling, including the provision of advice and information on their rights.**
- **As a matter of urgency, guidance should be issued to all courts and tribunals to protect children’s anonymity.**
- **Systems for data collection on children should be urgently reviewed to ensure full compliance with the CRC, the Human Rights Act 1998 and data protection legislation.**
- **Information should be provided to children and to parents about children’s rights to privacy and data protection.**

Article 17 – Access to appropriate information

In 1999, there were 76, 524 prosecutions for TV licence evasion in the UK.⁵⁷ The Government has introduced free licences for the over 75s but there is no assistance to poor families. This year has brought a new BBC digital channel for children, although access is not covered by the annual television licence fee.

Only 10% of the poorest families have access to the internet at home.⁵⁸

There has been no mass media dissemination of the CRC to children and adults. NGOs have achieved limited coverage on particular issues and the Government is funding the self-advocacy organisation Article 12 to produce a Children’s Rights Information Pack.

There are continuing concerns about lack of Government action to curb advertising to children, and of the use of exploitative images of children in the media.⁵⁹ Positive representations of minority ethnic communities and disabled people remain rare; and children’s participation in the media, including as reporters and commentators, is still uncommon. Media studies is not part of the national curriculum.⁶⁰

Access to sex education

Parents are still entitled in law to withdraw children from sex education in schools. Primary schools are under no obligation to provide such education. This is remarkable given the UK’s high level of teenage conceptions, and the repeated calls from NGOs and health organisations that children need more information. (See also *Basic Health and Welfare, Article 18*.)

ACTION FOR COMPLIANCE

- **The Government should consider the provision of free or subsidised television licenses to poor families and seek to end discrimination in access to the internet, through schools, libraries, community projects and so on.**
- **As a matter of urgency the Government should take proactive measures to encourage the mass media to disseminate the CRC to children and adults.**

- **The Government should ensure children are effectively protected from the risk of abuse through the internet and other mass media and telecommunications.**
- **There should be a review of the extent to which disabled people and people from minority ethnic communities are positively portrayed in the media, and follow-up action.**
- **The Government should reform the law on sex education so that it is part of the national curriculum for all children.**

Article 19 – Protection from all forms of violence

Between one and two children die every week from physical assault or neglect in England and Wales.⁶¹ Many thousands more suffer repeated beatings and ill treatment that amounts in many cases to torture or inhuman or degrading treatment. In the absence of clear law and systematic public education, hitting and humiliating children remains the social norm. The law continues to condone “reasonable chastisement”, as do some senior politicians. The child protection system lacks an adequate legislative base and continues to fail many children despite an endless succession of high-profile inquiries (and several key European Human Rights Court judgements).⁶²

In 1995 the Committee on the Rights of the Child said that the Government should prohibit corporal punishment in the family and promote public education (CO paras. 16 and 31).

Following a public consultation by the Department of Health in November 2001⁶³ a health minister announced that the Government had decided that no further change to the law was appropriate or necessary at this time. Announcing the

results of its consultation on the physical punishment of children, the Government stated, “our approach is to avoid heavy-handed intrusion into family life”.⁶⁴

The Government’s Report is misleading in its observation that ‘several NGOs’ have made clear their opposition to any form of physical punishment. In fact an Alliance of more than 300 organisations and many prominent individuals is campaigning for complete removal of the defence of “reasonable chastisement” to give children the same protection as adults under the law on assault.

The Government has suggested that implementation of the Human Rights Act 1998 does all that is necessary to protect children. But it makes no contribution whatsoever to “effective deterrence”. A Court of Appeal judgement has ruled that the defence of “reasonable chastisement” remains available: courts continue to acquit parents who have admitted injuring their children.⁶⁵

The Government’s report fails to provide data on the scale and extent of the use of corporal punishment within families. Research funded by the Department of Health in the 1990s asked 99 sets of parents to describe when and how they hit their children.⁶⁶ The findings are deeply shocking: for example, the researchers found that 52% of one year-olds were hit/smacked at least once a week by their parents. A quarter of the children in these families had been hit with an implement and over a third punished “severely”.

Failings of child protection system

Children are not systematically provided with information on their right to protection, through schools or in other settings such as children’s homes, custody or residential schools. The child protection system does not include the provision of confidential information, advice or advocacy for children living with

violent or abusive parents or carers. Public education on children’s right to protection has been left to NGOs. Child deaths are not systematically recorded, and the Government has set no targets for reducing child homicides. There is no statutory requirement on professionals carrying out investigations into child abuse to obtain information directly from the child, or to record when this is not possible.

Local “Area Child Protection Committees” and child protection registers have no statutory basis. Parliament and the public receive scant information about the extent of violence against infants and children. The British Crime Survey only reports on crimes committed against people over the age of 16 years – there is no equivalent report on crimes against children.

There has been some progress in addressing the needs of young witnesses but still children’s vulnerability and developmental needs leave them seriously disadvantaged in seeking redress through the courts.⁶⁷ There are ongoing concerns about the failure of courts to determine contact arrangements on the basis of children’s best interests, or to give due weight to children’s views. An England-wide survey, involving 127 Women’s Aid refuge projects, produced shocking findings of children’s safety being compromised by court orders requiring contact with violent fathers.⁶⁸

The Government’s commitment to tackling “domestic violence” does not include violence by adult family members against children, although it recognises the effect of witnessing violence.⁶⁹

Corporal punishment outside the family home

Local Authority Circular LAC (94) 23 specifically permitted corporal punishment by childminders. New

National Standards for daycare issued in 2000 state that childminders can smack babies and young children so long as parents have given advance written permission. The Standards for other forms of daycare state that physical punishment must not be used – but this is guidance not regulation. There is no legislative provision against corporal punishment for children in private foster care, although guidance discourages it.

Despite high-profile cases of abuse and repeated calls from professional organisations, the Government has refused to increase protection for babies and children being cared for by nannies, with no requirement even for police checks.

Violence and abuse in care

By early 2000, there were investigations into over 500 children's homes across England and Wales, with an estimated 5,000 alleged victims of abuse in residential care alone.⁷⁰ In 2000, the Association of Child Abuse Lawyers, reported that 79 of 80 police forces in the country were undertaking abuse investigations.⁷¹ The Care Leavers' Association is pressing the Government for a public apology for past abuse.

Child protection and the churches

In February 2002, the Churches Child Protection Advisory Service noted that only 50% of religious colleges offered any form of training on child protection and just 21% had a child protection policy.⁷² There have been recent calls for statutory regulations for the churches.⁷³

Child protection in sport

Following concerns about the abuse of children involved in sports activities, the "UK Child Protection in Sport Unit" was launched in 2001 by the National Society for the Prevention of Cruelty to Children and Sport England, a governmental

body. All bodies funded by Sport England must have a child protection policy before they can receive any funding. The Unit aims to advise organisations on introducing child protection policies, commission research into abuse in sport and raise the profile of child protection among sports governing bodies.

Article 37(a) – Protection from torture or other cruel, inhuman or degrading treatment

The Government does not systematically gather information on restraint or the use of solitary confinement in institutions. A home office minister recently reported that between April 2000 and February 2002, 296 children sustained injuries following restraint and control in prison.

During the same period, unfurnished cells were used 568 times for children; 240 in one establishment.⁷⁴

Since the Committee's last examination, there have been more revelations of cruelty and degrading treatment in residential care, including of disabled children.⁷⁵

ACTION FOR COMPLIANCE

- As a matter of urgency legislation should be introduced to remove the defence of "reasonable chastisement" and thus give children the same protection as adults under the law on assault.
- Existing legislation should be used to regulate all forms of day care including childminding and private fostering to prohibit any corporal punishment.
- The Children Act 1989 should be amended to ensure that orders for unsupervised contact or residence are not granted to parents who are found to be violent unless adequate arrangements have been made to ensure the child's safety, giving

due weight to the views of the child.

- Comprehensive public education should be developed to ensure children and adults are fully aware of children's right to protection from any violence and to promote positive, non-violent forms of discipline.
- Definitions of domestic violence and strategies for tackling it should ensure that children's right to protection from all forms violence in the family home are addressed.
- There should be a national review of the extent to which children feel safe and protected in the care system, giving particular attention to access to complaints procedures and independent advocacy services.
- Appropriate information should be given to all children of compulsory education age on the child protection system and other sources of advice and assistance, including of a confidential nature.
- Findings of national reviews and inquiries into the abuse and maltreatment of individual and groups of children – in the family and in institutional settings – should be disseminated to the public to encourage increased awareness and responsibility for children's protection.
- There should be an urgent review of the use of restraint, and of solitary confinement, as a punishment or "treatment" in custody, education and health and welfare institutions. Particular attention should be given to disabled children.

Family Environment and Alternative Care

Articles 5, 9, 10, 11, 18, 20, 21, 25 & 27.4

Articles 5 & 18 – Parental responsibilities

Parental responsibility and access to CRC information

In England parental responsibilities are not defined in law and there is no dissemination of children's human rights information to parents.⁷⁶

Children not a party in divorce proceedings

Children's involvement in divorce proceedings is at the discretion of the court, and many are excluded. Research shows that children are hardly ever fully involved in informal discussions between separating parents, with only 5% stating that they had been fully informed and encouraged to ask questions.⁷⁷

Separation through prison

A Government survey in 1995⁷⁸ found that 61% of women in prison were pregnant or had children under 18 years. In all they had 2,168 children – a third under five years old. Yet at the time only 48 mother and baby unit places were available (there are now just over 60 places). There has been no similar investigation into the impact of separation from fathers. In November 2000 a Home Office Minister (also the Minister for Children and Young People at the time) described the Government's approach to ensuring suitable arrangements for children's visits to parents in prison, "...I do not plan to make mandatory the provision of such facilities, either in women's prisons or the prison estate as a whole."⁷⁹

A High Court judgement in 2001 determined that babies should not automatically be separated from their mothers at 18 months (as Prison Service policy dictated).⁸⁰ NGOs such as the Howard League for Penal Reform have pointed out the harmful effects on babies of living in prison and the devastating impact of separation.⁸¹

Articles 10 and 11 – Family reunification, illicit transfer and non return

Separation through asylum law

Under UK immigration rules, asylum seekers have no right to family reunification. Even if parents or primary carers are granted "Exceptional Leave to Remain", on humanitarian grounds, they are not normally allowed to be joined by their immediate family for a further four years.

ACTION FOR COMPLIANCE

- **Parental responsibility should be appropriately defined in law, promoting respect for children's human rights and evolving capacities as well as their best interests.**
- **Statutory agencies and NGOs should disseminate information to all new parents on children's human rights.**
- **The law should be reformed to ensure children have a statutory right to involvement in and legal representation in divorce and separation proceedings.**
- **New statutory guidance should be issued to the courts and to the Children and Family Court Advisory and Support Service (CAFCASS) in England and Wales on ensuring children's best interests and wishes are given paramount consideration when arrangements such as contact or residence are being determined.**
- **Courts should be required to make the best interests of affected children a primary consideration when considering a custodial sentence for anyone with parental responsibility.**

Commentary on the UK Government's Report, 1999

The Government's Report fails to document the nature and scale of the problems facing children in respect of family life.

The Government's Report contains no information on the numbers of children living away from home nor where they are placed. Even more significantly it contains no information whatsoever, beyond summarising the statutory requirements, relating to the situation of looked after children. Accordingly, the Report fails to document the evidence relating to numbers of moves in care, and to the high levels of school exclusion, lack of educational attainment, teenage pregnancy, levels of unemployment, poor health care and likelihood of involvement with the criminal justice system associated with looked after children. This information is in the public domain and it amounts to an extremely depressing picture.

This section of the Government's Report also deals inadequately with parental physical punishment about which the Committee expressed concern and made recommendations in 1995 (CO paras. 16 and 31).

CRAE has addressed Article 19 within the Civil Rights and Freedoms section of this report.

Article 20 – Children deprived of their family environment

The Children Act Report 2000, published in July 2001⁸² shows the extremely poor educational outcomes for children in care in England. At the end of March 2000, 70% of 16 year-olds leaving care did not have one General Certificate of Secondary Education pass. The practice of placing vulnerable teenagers from care into bed and breakfast accommodation continues and up to 20% of young people experience some form of homelessness within two years of leaving care.⁸³

Complaints procedures and independent advocacy

In England and Wales, the statutory complaints and representation procedure for children using social services, established in 1991, has been poorly implemented and is generally inaccessible and ineffective in resolving children’s concerns.⁸⁴ The Government has still not implemented the recommendations of the Waterhouse Tribunal in relation to complaints.⁸⁵ Access to independent advocacy is now an entitlement to care leavers wishing to make a complaint but there is still no legal right to such provision for those in state care and for other vulnerable children.⁸⁶

Private foster care

In 2000 the torture and murder of eight year-old Victoria Climbié in London exposed serious shortcomings in the protection of children who are separated from their parents but living with other relatives or family friends/acquaintances. Victoria had 128 separate injuries on her body when she died from hypothermia at the hands of her aunt and aunt’s partner, who are now serving life sentences for her murder.

One of the principal recommendations of the Utting Safeguards Review in 1997⁸⁷ was that there

should be legislation requiring local authorities to register private foster carers and making unregistered foster care a criminal offence. These proposals were never implemented.⁸⁸

ACTION FOR COMPLIANCE

- **All vulnerable children should have a legal right to independent advice and advocacy.**
- **The Government should end the practice of placing children in care and leaving care in “bed and breakfast” and other unsuitable accommodation.**
- **The law should be reformed to require that private foster care be regulated and inspected on the same basis as other placements.**
- **Accessible well-publicised and effective complaints procedures with an independent element should be guaranteed for all children living away from home.**
- **Exit interviews should be routinely carried out with children leaving care to seek information about their care and experiences and to offer advice and information.**

Article 21 – Adoption

Adoption law is currently being reformed in England and Wales, but the Bill in Parliament (March 2002) fails to give children party status or a right of consent in adoption proceedings. Children’s right of access to information – about their adoption and about their family of origin – is also not addressed in the Bill.

ACTION FOR COMPLIANCE

- **Adoption law should ensure that children’s best interests are paramount throughout the process, and that they are entitled to party status and a**

right of consent in adoption proceedings.

Article 25 – Periodic review

Children in care have no right to independent representation in local authority decision-making processes. There is no routine support for participation in meetings – through for example training or independent advocacy – even though these have been shown to be beneficial in ensuring children’s participation.⁸⁹ Further, there is no independent mechanism that can review their care and treatment throughout the time they are separated from their parents. In May 2001 the Court of Appeal in London determined that courts could take on a reviewing function but the appeal court judges stressed that this power should only be in extreme situations⁹⁰ (pending judgment from House of Lords).

ACTION FOR COMPLIANCE

- **Legislation should ensure that all children living away from home are entitled to statutory reviews, including in private foster care and in health and custodial settings.**
- **Guidance and inspection should ensure that reviews are held regularly, independently chaired, and that children are fully involved and offered access to independent advocates.**

Basic Health and Welfare

Articles 18, 23, 24, 26, 27

Article 18 – The duty to provide assistance to parents including child-care services

Parent education and child-care

The Government has established a National Family and Parenting Institute (NFPI) but it has no remit to educate parents on children's human rights.

There is concern that the Government's focus on getting parents into work is driven by an economic and political agenda rather than by the needs of young children.⁹¹

Teenage pregnancy

In 1995 the Committee was concerned about the exceptionally high rate of teenage pregnancy in the UK (CO para. 30).

In 1999 a comprehensive report on teenage pregnancy from the Social Exclusion Unit⁹² set out the UK Government's plans for tackling the problem, including the establishment of a cross-departmental Teenage Pregnancy Unit and an independent advisory group. At the time of the Social Exclusion Unit's report, each year approximately 7,700 girls under 16 were conceiving.

In November 2001 the independent advisory group issued its first annual report⁹³, noting that in 1999 there were 7,400 conceptions to girls under 16 and 39,000 to young women under 18 years. This is still the highest rate in Western Europe. The advisory group welcomed major Government initiatives such as Sure Start Plus and the Connexions Service but made 49 recommendations on the changes required in law, policy and practice to prevent teenage conceptions while also tackling the social exclusion of teenage parents. Its recommendations include making Personal, Social and Health Education part of the statutory school curriculum, improving access to confidential advice and information, and increasing support for teenage parents in

education. The report also advocates changes in the benefit system; currently 16 and 17 year-old parents receive significantly less than other parents (parents under 16 are not entitled to any benefits in their own right).

ACTION FOR COMPLIANCE

- **The best interests of children should be the primary consideration in law, policy and practice relating to the provision of child-care and nursery education services.**
- **The Government should implement the recommendations of the independent advisory group on teenage pregnancy.**

Article 23 – rights of disabled children

Only 15% of primary schools and 7% of secondary schools are fully accessible.⁹⁴ Forty percent of disabled children gain at least five GCSEs grade A-C compared to 56% of their non-disabled peers.⁹⁵ Children with statements of special educational need are nearly seven times more likely to be permanently excluded from school than other students.⁹⁶

The Disability Rights Commission (DRC) opened in April 2000. It is able to take on individual cases, and from September 2002 will be able to deal with cases of disability discrimination in education.

The Special Educational Needs and Disability Act 2001 provides that a child with a statement of special educational needs must attend a mainstream school unless that is incompatible with the wishes of the parents or the efficient education of the child or other children. While this is progress, it remains the case that disabled children have no legal right themselves to attend their local schools. Further, there is concern that schools will continue refus-

Commentary on the UK Government's Report, 1999

Section 8 of the Government's Report lists Article 6 among those to be addressed, but does not refer to the provisions contained in that or other articles of the CRC dealing with health and welfare, disability or an adequate standard of living. Problems in achieving full compliance in improving the health and welfare of all children are not addressed.

ing admission to disabled children on the grounds of the efficient education of other children (although schools and local councils have to take reasonable steps to prevent this happening). Currently 1.5 million pupils in England have statements of special educational needs.⁹⁷

Access to services

Different definitions of disability determine children's right to access support and services. This makes it difficult for children and parents to find out about and claim all their entitlements; it also means that the level and quality of support for disabled children and their families is inconsistent across service areas. There is the additional problem of geographical variation, with access to health care and education varying from area to area.⁹⁸

One appalling illustration of lack of joined-up support for disabled children is in the provision of "auxiliary aids" such as communication equipment. These are not covered within the special educational needs framework and rely on discretionary funding from local education authorities. There are continuing reports of children being forced to leave their communication aids behind when they leave school, and during holidays and weekends.⁹⁹

Inclusion

While legislation is now more supportive of inclusive community schools, residential provision and education for disabled children in state care is usually segregated. Disabled children continue to be disproportionately placed in residential establishments, often long distances from their family home and community. Research carried out for the Joseph Rowntree Foundation¹⁰⁰ into the policies and practices of 21 local authorities concluded that disabled children attending residential schools were not adequately pro-

tected under current legislation. The researchers reported that children were not routinely involved in decisions about whether they should attend a residential school. The statutory duty to offer independent visitors to children without regular parental contact has also been widely ignored by local authorities¹⁰¹, with growing concerns about the isolation and vulnerability of disabled children living away from home.

ACTION FOR COMPLIANCE

- **Education legislation should be further reformed to give disabled children the same right of access to mainstream education as non-disabled children.**
- **The Disability Discrimination Act 1995 and associated legislation should be fully implemented and monitored for thorough compliance with children's CRC rights, in all public services including transport, play, leisure and culture.**

Article 24 – children's right to health and health services

In July 2000 the Government published its NHS Plan, which gave scant attention to children and failed to mention the CRC. In November 2000 the Government set up a "Children's Taskforce" to take forward the NHS Plan in relation to children; one of its early tasks is the preparation of a National Service Framework for Children.

Physical exercise

The steep decline in children walking and cycling to school is well documented, largely caused by parents' fears of traffic and crime.¹⁰²

The first examples of adult-type diabetes have been found (February 2002) in overweight white children

in the UK, and this is attributed to a poor diet and lack of exercise.¹⁰³

Diet and access to nutritional food

Better-off mothers are more likely to breast feed their children than those from poorer backgrounds – 81% compared to 44%.¹⁰⁴

There is a direct link in the UK between social class and dietary habits. Children in higher social classes tend to eat more fresh fruit and vegetables than those from lower social classes.¹⁰⁵ The Social Exclusion Unit reported that on many poor estates, there is no access to affordable fruit and vegetables.¹⁰⁶

Department of Health statistics show that nutritional inequality between social classes has increased in the last 15 years.¹⁰⁷

Government research shows continuing problems in take-up of free school meals,¹⁰⁸ and there are reports of children going without food throughout the school day.¹⁰⁹

Obesity

Over 6% of two year-olds and 8% of four year-olds are defined as obese.¹¹⁰ Of all young people aged between two and 15 years 6.6% of boys and 7% of girls were defined as obese.¹¹¹

Eating disorders

The Mental Health Foundation has estimated that 1% of women aged between 15 and 30 have an eating disorder with about half being under 20 years of age.¹¹² The organisation calculates that 25% of 7–14 year-olds with an eating disorder are boys.

A survey found that 31% of girls aged between 11 and 12 years and 46% of girls aged between 13 and 14 years were trying to lose weight or thought that they should lose weight.¹¹³ Figures for boys were less but equally alarming: 23% of 11 and 12 year-olds and 28% of 13 and 14 year-olds were trying to lose weight or thought they should lose weight.

There is regional disparity in specialist services for treating children and adolescents with eating disorders.¹¹⁴

Tooth decay

In the National Diet and Nutrition Survey, prevention of tooth decay by better brushing was mentioned less often by people in low-income households.¹¹⁵ Fifty three per cent of 4–18 year-olds had dental decay in their primary or permanent teeth.¹¹⁶

Families without fuel

The Government estimates that in 1998 up to 4.5 million households in England were living in fuel poverty.¹¹⁷ One in seven of these households included children.¹¹⁸

There is a direct correlation between income and access to central heating.¹¹⁹

Electricity and gas disconnection

The Water Industry Act 1999 ended the practice of water companies disconnecting domestic water supplies for non-payment of bills. Although there has been a decrease in the number of electricity disconnections, prepayment meters are offered as an alternative. These are a more expensive form of payment, and are almost exclusively used by poor households. Gas disconnections continue to rise: in 1999 22,200 households had gas supply disconnected, a 19% increase on 1991 figures.¹²⁰

Mental health

About 7,000 children per year use NHS mental health in-patient care.¹²¹ It is widely acknowledged that children's mental health provision is seriously lacking. Overall there is a dearth of preventive services, ranging from accessible and child-friendly information about emotional well being to child-centred services offering confidential advice, support or counselling.

Placement of vulnerable children is often dependent on local

resources rather than their needs. A report from The Children's Society in 1997¹²² showed that children were placed in mental health in-patient units when there were no available social care placements, or residential education placements. Once in the mental health system, children and young people tend not to be diverted into more appropriate placements. Children and young people are often placed in specialist units far from their home, which restricts contact with family and friends.

There is only one specialist mental health advocacy service, with one worker in the whole of England and Wales. Mental health legislation does not adequately reflect the needs or rights of children, with serious concerns about the numbers of children "voluntarily" placed for treatment by their parents.¹²³

Re-appearance of TB

There were 6,572 reported cases of tuberculosis in 2000 in England and Wales, with the largest proportion (37%) occurring in the 15-34 year-old group.¹²⁴ Of the 79,000 tuberculin skin tests carried out on children aged between 10 and 15 years in 2000/01 about 12% tested positive.¹²⁵

Harmful traditional practices

Following serious concern about Government inaction on female genital mutilation (FGM) including failure to enforce the Prohibition on Female Circumcision Act 1985, the Women's National Commission established a working group of children's and women's organisation in March 2002.

The Foundation for Women's Health Research and Development (FORWARD) estimates that there are about 6,500 "at risk" girls in the UK.¹²⁶ In May 2000 the All-Party Parliamentary Group on Population, Development and Reproductive Health held hearings to

raise awareness of FGM in the UK and to increase support for FGM prevention and eradication programmes. Over 30 recommendations were made in the All-Party Parliamentary Group's report in November 2000,¹²⁷ including on law enforcement, public education and professional training. None of these has been implemented by the Government. There is no information available on the prevalence or effects of circumcision of boys in England.

Immunisation rates

Immunisation coverage in England for two year-old children in 2000-01 was much the same as in the previous year – around 95% for diphtheria, tetanus and polio, and for pertussis.¹²⁸ However, there is concern about geographical disparities in immunisation rates, as well as in relation to the Government's insistence that toddlers must have a combined measles, mumps and rubella immunisation.¹²⁹

ACTION FOR COMPLIANCE

- **Within the National Health Service, the National Service Framework for Children should adopt the CRC as its framework. The Framework should address the needs of all children, including those detained in prison service accommodation, asylum seekers and Gypsy Travellers.**
- **The Government should consider law reform to prevent disruption in domestic gas and electricity supplies in households containing children.**
- **The Government should co-ordinate action to reduce the number of children living in food poverty, and suffering from obesity or eating disorders.**

- The practice of using parental consent to “voluntarily” place children under the Mental Health Act 1983 requires urgent review to ensure children with sufficient understanding can exercise informed choice.
- All children in contact with mental health services should have access to specialist mental health advocacy services.
- The Government should ensure co-ordinated action to protect all children from harmful traditional practices, including dissemination of appropriate information to the public.
- All children of compulsory school age should be entitled to free school meals, as is proposed in Scotland.

Articles 26 and 27 – standard of living

Government figures indicate that in 1999/2000 4.1 million children – nearly one in three – were living in poverty (in 1994/95 the figure was 4 million).¹³⁰ The UK compares very badly with other rich/developed countries.¹³¹

Income inequality

Britain is a profoundly unequal society. A recent report from the Institute for Fiscal Studies¹³² shows that the poorest tenth of the population receive just 3% of the UK’s total income compared with the richest tenth who receive 25% of income. On average, families with the lowest income are those with lone parents.

The Social Fund

In March 2001 the Social Security Select Committee concluded that failure to improve the cash limited and discretionary social fund would undermine the Government’s pledge

to tackle child poverty and social exclusion.¹³³ The Committee called for an urgent ‘overhaul’ and an injection of extra funds.

Discriminatory benefits

16 and 17 year-olds are only entitled to income support in certain restricted circumstances, and full benefit entitlement is not available to anyone under 25, even to teenagers who are parents. Asylum seekers’ benefits are fixed at 24% below normal rates. Care leavers’ financial support is provided by local authorities, with no nationally agreed minimum rates.

Housing

Nearly three million households live in poor housing.¹³⁴ The 1996 English House Condition Survey (carried out every five years) found that 207,000 households in England lacked one or more basic amenity such as an indoor toilet, kitchen sink, bath/shower, hand basin or hot and cold running water.¹³⁵

Those most at risk of living in unfit housing are Pakistani and Bangladeshi and black households, young households, and lone parent households.¹³⁶

Homelessness

Over 78,000 households live in temporary accommodation (the highest figure ever recorded), with 12,110 in bed and breakfast.¹³⁷

Parents and children begging

In 1995 the Committee expressed concern about young people begging and sleeping on the street (CO para. 15), and since the Government’s Initial Report there has been an increase in asylum seekers begging with babies and small children.¹³⁸

Young runaways

One in nine children under sixteen are known to run away for at least one night,¹³⁹ many fleeing from vio-

lence at home, or running away from the care system. With no entitlement to social security, even for 16 and 17 year-olds, many end up on the street and are exploited and assaulted.

ACTION FOR COMPLIANCE

- The Government should undertake all necessary measures to accelerate the elimination of child poverty, ensuring a rapid improvement for children in the poorest families and a narrowing of the income gap between them and the most affluent.
- Urgent action is needed across the UK to reduce children’s health inequalities associated with income levels, ethnicity and neighbourhood.
- The Government should invest the necessary resources to ensure an end to child and family homelessness.
- The Government should replace the cash limited and discretionary Social Fund with cash-based grants, and inject new funds, in line with the recommendations of the Social Security Select Committee in 2000.
- There should be nationally agreed minimum rates for financial support to young people leaving care (including one-off “leaving care grants”).
- Asylum seekers should have the same entitlement and access to cash benefits and tax credits as other families living in the UK.
- Benefits should be reinstated for 16 and 17 year-olds and the under 25 year-old rate abolished so that all claimants are treated according to need.

Education, Leisure and Cultural Activities

Articles 28, 29 & 31

Article 28 – the right to education

Continuing inequality of opportunity

Official statistics continue to reveal sharp differences in outcomes for children according to their socio-economic background and to other factors such as disability, ethnic origin and care status.¹⁴⁰ Recent consultations with children and young people living in poor communities across England revealed extreme forms of educational exclusion, from children not being able to take part in school trips to being unable to afford textbooks or school clothes.¹⁴¹

The Family Welfare Association (February 2002) reports that 29% of education authorities provide no assistance to poor families to buy school uniforms.¹⁴² At the end of February 2002, the Government issued revised guidance on school uniforms,¹⁴³ urging governing bodies “to give high priority to cost considerations” but it has refused to introduce grants for low-income families or to require schools to make uniforms optional.

In 2000 69% of children with professional parents in England and Wales attained five or more high grade GCSEs, compared to only 30% of children with unskilled manual parents.¹⁴⁴

Who goes where?

Over 10 million children in the UK were registered in schools in 2000/01. Of these:¹⁴⁵

- 9.4 million children were in public sector schools
- 626,000 children were in private fee-paying schools
- 113,000 disabled children were in special schools
- 10,000 excluded children attended Pupil Referral Units

Locked up children

Children in England and Wales in detention are specifically excluded from any statutory right to education.¹⁴⁶ The educational needs of these children are acute: the Department for Education and Skills reported that of the 5,963 boys admitted to young offender institutions during 2000/2001 37.6% had the numeracy ability of a seven year-old while 31.36% had the literacy ability of a seven year-old.¹⁴⁷

The average number of hours of education per week achieved by the Prison Service during 2000 was 9.43 per male in young offender institutions.¹⁴⁸ Recent reports by the Youth Justice Board and HM Inspectorate of Prisons show that a limited and inappropriate curriculum is being offered by often inexperienced staff.¹⁴⁹

The Government claims that children in most secure units (lock-ups in the care system) and secure training centres in England receive a minimum of 24 hours education a week. Information is not publicly available on the precise educational experience of these vulnerable children, although the annual report of the Office for Standards in Education (OFSTED), published in February 2002, noted a “*high proportion*” of secure establishments fail to offer children “...a modern foreign language, music and religious education, with science and design technology restricted because of limited accommodation and/or lack of teachers with subject specialist knowledge... Careers education and guidance are provided fully and effectively in only three [of 32] units...”¹⁵⁰

Permanent exclusion rates

In 1995 the Committee expressed concern over the increasing numbers of school exclusions, disproportionately higher rates for certain groups such as African-Caribbean boys, and the lack of any right for children to

Commentary on the UK Government's Report, 1999

This section of the Report provides no information on categories of children who do not enjoy the right to education, or who may be excluded temporarily or permanently. It fails to address the Committee's recommendation that children's right to appeal against expulsion from school be ensured, commenting only that children and parents can request to attend the hearing and speak, and the panel should allow this unless there is good reason to refuse. The Report claims to cover Articles 29 and 31, but Article 29 is mainly reflected in a section on specialist schools, with no mention of the Article 29 rights of all children or of including the Convention in the curriculum. The Report shows little commitment to or understanding of Article 31 rights, and children's play is barely mentioned

appeal against exclusions (CO para. 14). Although permanent exclusion rates have declined, problems persist with certain groups of children being disproportionately excluded. The Government does not collate or publish numbers of children temporarily excluded and there is concern among NGOs that the decline in permanent exclusions could be at the expense of rising fixed-term exclusions. Despite Government promises, there continues to be a serious lack of full-time alternative education for excluded children.

In 1999/2000 over 8,000 children of compulsory education age were permanently excluded; boys were permanently excluded five times more than girls were. Fifteen percent of permanently excluded children were in primary schools and 5% in special schools.¹⁵¹

A survey by the National Autistic Society during 2000 found that of 1,100 families with an autistic child, 21% included a child who had been excluded from school.¹⁵²

Black children continue to be three times more likely to be permanently excluded than pupils of other ethnic groups.¹⁵³ An OFSTED report in 1999 noted the continuing underachievement of Bangladeshi and Pakistani pupils in their early years of schooling and the poor secondary education experience of Black Caribbean pupils. The report noted that "*Gypsy Traveller pupils are the group most at risk in the education system...their generally low attainment is a matter of serious concern*". It concluded "*schools in which minority ethnic pupils flourish understand the hostility these pupils often face (especially Gypsy Travellers)*".¹⁵⁴

In January 2002 the UK Government published draft guidance on school exclusions for England.¹⁵⁵ The guidance proposes new powers to exclude children for certain "first time offences", even where the headteacher is not satisfied on a bal-

ance of probabilities that a child was responsible for the "offence". The draft guidance has been widely criticised by NGOs who interpret the Government's "get tough" approach as pandering to large teacher unions rather than being a serious attempt at tackling growing concerns about violence and bullying in schools.

Unofficial educational exclusion

Research for the Joseph Rowntree Foundation¹⁵⁶ found that although girls are under-represented in permanent exclusion figures (they account for 17% of total exclusions), their right to education can be hampered by self-exclusion and by teachers sending them out of the classroom. Similar concerns have been expressed about the unofficial exclusion of boys from education.

What happens to permanently excluded children?

Children who are excluded immediately lose their entitlement to full-time education. In March 2001 13% of excluded Key Stages 1 and 2 pupils (5-11 year-olds), 16% of excluded Key Stage 3 pupils (11-14 year-olds) and 10% of excluded Key Stage 4 pupils (14-16 year-olds) were receiving no educational provision whatsoever. Only one in ten local education authorities offered all excluded pupils full-time education.¹⁵⁷ The Government's own report into school exclusion showed that excluded children have poor academic attainment compared to their non-excluded peers and are also at increased risk of long-term social exclusion.¹⁵⁸

League tables

School league tables were introduced 10 years ago to inform parents and policy makers of the success or failure of individual schools. NGOs are concerned that they have tended to increase the already high status of schools in affluent catchment

areas and publicly disgrace schools in especially deprived areas. This has evoked suspicion that children who threaten academic results are being excluded. League tables in practice give further advantage to affluent parents, who have the ability to move house to be near "better" schools; they are also usually more able to press the system to give them the school of their choice.

Access to higher education

Noting that over 85% of students who go to the most prestigious universities are from families in the top three income groups, the Government is currently running a national campaign to attract more young people into higher education (sponsored by two leading banks).¹⁵⁹ However, the Government has failed to remedy the inequality of opportunity in higher education for young people from less affluent families.

In 1997 the Government introduced tuition fees for entry into higher education. The maintenance grant for students from low-income families was also abolished and replaced by loans. Tuition fees were abolished in Scotland in 1999 and in February 2002, the Welsh Assembly announced its plan to reintroduce grants for students from low-income families.

ACTION FOR COMPLIANCE

- **The Government should act to remove the disparities between children from different minority ethnic communities in educational attainment and in exclusion rates, paying special attention to African-Caribbean boys and young men.**
- **The provision of free education should include making freely available to pupils all necessary equipment, books and stationery required to fulfil the school curriculum.**

- **Appropriate full-time education should be provided for all children unable to attend school through ill health, exclusion or for any other reason.**
- **All children in detention should have a statutory right to education, and should receive full-time high quality education, on a voluntary basis beyond the school leaving age.**
- **Urgent action is needed to ensure the maximum educational participation and attainment for children in public care.**
- **Asylum seeking and refugee children and children of travelling families should have equal access to quality education.**
- **In order to promote equal opportunity, financial and other barriers restricting access to further and higher education for children should be urgently addressed.**

Article 29 – Aims of education

The aims of education, as expressed in legislation and guidance, continue to focus on the preparation of children for adulthood, with little emphasis on children's need for fulfilment today. The Education Bill (for England and Wales) currently in Parliament (March 2002) extends the national curriculum to three year-olds: the aims of the curriculum are exactly the same for these very young children as for older secondary school pupils.¹⁶⁰

Access to a broad curriculum

OFSTED's most recent annual report, published in February 2002, noted that in 2000 all primary headteachers in England responding

to a small-scale survey said they were finding it increasingly difficult to offer children as broad and balanced a curriculum as they would wish.¹⁶¹ The 2002 report described the pressures arising from the Government's national strategies in literacy and numeracy and noted the impact of increased testing of children: *"...The drive to improve performance in the national tests in English and mathematics also absorbs more teaching time... Headteachers report that, when something has to give, it is often extended practical or problem-solving activities in subjects such as science, technology and art that are squeezed out. This represents a serious narrowing of the curriculum. The shortcomings...are particularly marked in design and technology, art, music, geography and religious education."*¹⁶²

OFSTED also reported that extra-curricular opportunities for primary school children – access to sport, music, chess, computing, drama and modern foreign languages – is unsatisfactory or poor in about one in 12 schools.

In secondary education, OFSTED reports that 40% of schools in England fail to comply with one or more elements of the national curriculum, with the provision of Information and Communication Technology (ICT) being the biggest problem.¹⁶³ Of those schools which have received full OFSTED inspections, 60% are said to be weak in the area of spiritual development, and 11% of schools have poor provision in Personal and Social Education (PSE).¹⁶⁴ Education about HIV/AIDS and other health matters, such as mental health, has suffered cut-backs and *"education about parenthood is continuing to receive insufficient attention"*.¹⁶⁵

Specialist and selective schools

New categories of specialist secondary schools have developed since

1994. By July 2001 there were 685 such schools, each having a distinct ethos in technology, languages, arts or sports. In February 2002 the Government announced a further 149 specialist schools, bringing the total to 834. The Government has set a target of 1,500 specialist schools for 2005.

There is concern among NGOs that these specialist schools hamper children's fullest development, forcing them and their parents to make restrictive choices about their current interests and future employment prospects at the age of 11. In addition to these specialist schools, 36 local authorities in England retain grammar schools, which select children on the basis of academic ability. The presence of grammar schools has been shown to depress the overall achievement of local schools, as less social mixing occurs between children from different socio-economic backgrounds.¹⁶⁶

Teacher training and human rights education

Teachers are given no initial or in-service training on the CRC or its implications for teaching methods, classroom organisation or the curriculum. (*See also General Measures, Article 42.*)

Pupils as consumers

There is alarm among NGOs at the increasing extent of sponsorship and branding of schools by commercial organisations. While the provision of basic equipment such as books and stationery has been cautiously welcomed in times of public underfunding, there is real concern that the purpose of education is being undermined by the marketing of consumer goods and international brands to children. This is a particular issue in specialist schools, which rely on business investment.¹⁶⁷

Independent schools

There are continuing questions about the independence and frequency of inspections of independent schools. A non-government body - the Independent Schools Council - currently inspects around 1,200 of the 2,200 independent schools in England, on a six-yearly basis.¹⁶⁸

ACTION FOR COMPLIANCE

- The Government should use the Committee's first General Comment as the basis for a review, fully involving children, of all aspects of schooling to ensure compliance with article 29.1.
- The Government should ensure that the drive to improve standards does not diminish opportunities for children to experience a broad range of subjects and activities.
- The Government should review the extent of all forms of advertising and sponsorship in schools and introduce regulations to protect the fundamental goals and ethos of education.
- The Government should review the effect of privatisation of education authorities, services and schools to ensure that CRC rights are fully respected.

Article 31 - Right to play, leisure, recreation and cultural activities

Play in decline

There is a general perception that children's play has been increasingly curtailed by the loss of suitable public space, the impact of technology such as television, personal computers and cars, and changing attitudes towards children; for exam-

ple growing parental anxiety about their children's safety.¹⁶⁹ A number of studies describe a reduction in children's use of the outdoors over the past few decades, and a steady reduction in play space including playing fields, open spaces and play grounds over the past twenty years.¹⁷⁰

Places for school-aged children to play were the subject of a Children's Play Council's recent survey. They found significant variation in the availability of play provision.¹⁷¹

Inclusive play - disabled children and other excluded children

During 2000 The Children's Society supported over 200 disabled children to share their experiences and views of social inclusion, including access to local playgrounds and leisure facilities. Young wheelchair users described their exclusion from local play equipment such as slides and swings.¹⁷²

In preparing this report, CRAE found it impossible to obtain any national statistics on inclusive play provision and accessible playgrounds.

The Disability Rights Commission has published (in February 2002) a new Code of Practice, which from 2004 will require arts, play and leisure facilities to be fully inclusive and accessible. This report confirms that access to play and out-of-school services is frequently difficult for disabled children.¹⁷³

Research shows that children from minority ethnic communities are often not well served by play provision.¹⁷⁴ Children who are not settled in one neighbourhood inevitably miss out on the opportunity to make use of play provision, for example those in temporary accommodation, asylum seekers subject to dispersal, and travellers.¹⁷⁵

The arts and culture

The Government has reintroduced free access to national museums and is improving access to individual music teaching and music making for school children. It is impossible to ascertain current levels of spending on children or their levels of participation, as there is no government monitoring of this.

ACTION FOR COMPLIANCE

- There should be a statutory duty on local authorities to make adequate and appropriate provision for children's play.
- The lack of play opportunities and facilities, especially for disabled children and children in institutional settings such as custody and hospital, should be urgently rectified.
- A national audit on the availability of inclusive play provision and accessible playgrounds should be undertaken, to identify action needed.

Special Protection Measures

Articles 22, 30, 32, 33, 34, 35, 37, 38, 39 & 40

Article 22 – Rights of refugee children and those seeking refugee status

The treatment of refugee children and those seeking refugee status by the British Government has been consistently condemned as inhumane and discriminatory by NGOs.

In 1999 14,000 children claimed asylum with their families.¹⁷⁶ In 2000 2,733 children aged 17 or under claimed asylum on their own.¹⁷⁷ At the end of 2000 there were over 5,000 unaccompanied minors living in England, 3,500 of these lived in London.¹⁷⁸

Detention

Bail hearings for detainees were never implemented¹⁷⁹, and now the UK Government proposes to scrap them altogether (February 2002). On 31 May 2001 there were 1,787 people detained, 65% in prisons. This figure is the highest yet for the UK and the highest in Europe.¹⁸⁰ Recent Government proposals endorse the detention of children in asylum-seeking families prior to removal and extends detention “at other times”.¹⁸¹

Vouchers instead of cash

The Immigration and Asylum Act 1999 introduced a voucher support scheme for asylum seeking families. The vouchers are administered through the National Asylum Support Service (NASS), set up in April 2000. The total amount of support received by families is currently worth 76% of social security benefits provided to other destitute families on Income Support. The vouchers are only redeemable in certain shops, usually large supermarkets. In addition to vouchers, NASS provide a cash allocation of £10 per person per week.¹⁸²

There are particular issues about pregnant women not being able to attend ante-natal care because of lack of money for transport, and

not having adequate funds for their nutritional needs. Expectant mothers and children under five do not have access to milk and vitamin tokens currently available to other poor families. The British Medical Association and Medical Foundation for the Care of Victims of Torture found instances of mothers watering down milk for their babies.¹⁸³

Toys not essential

When the Government set the voucher rates for asylum seeking families they declared that toys were not an essential living item. This was widely condemned by NGOs and led the Medical Foundation for the Care of Victims of Torture to organise a national appeal for toys for children in asylum seeking families.

Dispersal system

This is a system designed by the Government to spread the financial cost (usually described as “burden”) of meeting asylum seekers’ housing and other needs across different local authority areas. Asylum seekers are dispersed to different parts of the UK, with no choice about the area or type of accommodation they receive. If they refuse their one offer of accommodation from NASS, they are not provided with any further financial or other assistance. The Government is now proposing to introduce further restrictions by refusing asylum seekers voucher support if they choose not to take up NASS accommodation.

Unaccompanied minors who have proven their childhood status are not subject to the dispersal scheme but once they reach 18 they can be dispersed.

Children leaving care

The only exemption to the dispersal scheme in England and Wales is for care leavers whose asylum claims have not been resolved by the time they reach 18. New Government

Commentary on the UK Government’s Report, 1999

In its section on Family Environment and Alternative Care, the Government’s Report asserts that UK immigration and citizenship law is entirely consistent with the CRC: the Government has no plans to withdraw its reservation relating to Article 22 as urged by the Committee (CO paras. 7 and 22).

*Section 10 of the Government’s Report presents a misleading picture of the impact on children of radical juvenile justice reforms since 1995. The erosion of the presumption of *doli incapax* and of children’s right to silence is misinterpreted as contributing “...to the right of children...to develop responsibility for themselves”. No information is given on the enormous increase of children in custody, and the Committee is not told about the appalling conditions in young offender institutions, or what the Government is doing. The detention of asylum-seeking children with their parents is presented as the only means of keeping families together, when clearly another solution is not to imprison families wherever possible. The problems faced by young recruits in the Armed Forces are not addressed. No information is included on children involved in prostitution, and the Government’s resistance to reform of the law so that affected children are not criminalised.*

statutory guidance for care leavers, effective from October 2001, states, “*NASS will treat such 18 year-old asylum seekers sympathetically, and will not seek to disperse except in exceptional circumstances.*” No clarification is given as to the meaning of “exceptional circumstances”.¹⁸⁴

Employment and education

People whose asylum claims are being considered are not permitted to seek employment for the first six months; after this time they can write to the Home Office for permission to work. They are also not entitled to educational grants to carry out studies. The threat of dispersal or removal on reaching 18 can make planning future education or work impossible. The majority of children are also only ever given temporary immigration status making long-term planning almost impossible.¹⁸⁵

Accommodation

In 1999 the Audit Commission found that 41% of unaccompanied minors in London, including under 15 year-olds, had been placed by social services in bed and breakfast accommodation or hotels.¹⁸⁶

Asylum-seeking families are also placed in such temporary accommodation. In October 2001 the British Medical Association and the Medical Foundation for the Care of Victims of Torture published a joint dossier on the effects of Government policy on asylum seekers’ health. In one case a doctor thought a baby boy might be showing early signs of muscular dystrophy or cerebral palsy when it later emerged that his whole family was living in one room. The double bed they all slept in took up almost the whole room so the infant had nowhere to crawl.¹⁸⁷

Racism and xenophobia

There were 36 incidents of racial harassment by accommodation providers reported to NASS by asylum

seekers in the 12 months up to October 2001. The number of allegations of racial harassment by local communities is much higher: there were 112 reports of racial harassment in October 2001 alone.¹⁸⁸

Processing applications

Government claims about the time now taken to process applications should be examined with extreme caution. The Government states that it is now deciding family cases within six months. However, it is only counting new applications (since November 1999): many families have waited for years.¹⁸⁹

Children’s Panel of Advisers

At the end of 2000 Save the Children UK and the Refugee Council warned about inadequate funding, with some children never allocated to an adviser but instead invited to attend a drop-in service”.¹⁹⁰

In 2000/01, 4,276 referrals were made to the Panel, 127 related to children aged 12 and under. Five unaccompanied children were aged six and under.¹⁹¹

Reforming the asylum and immigration systems

A White Paper¹⁹² was published in February 2002 but this fails to address the particular needs or human rights of asylum seeking children. At the end of February 2002, the Government agreed to replace voucher support with a cash-based system.

ACTION FOR COMPLIANCE

- **The Government should ensure that children claiming asylum are only detained as a last resort.**
- **The Government’s reform of the asylum system should give specific attention to children’s CRC rights.**

- **Benefit entitlement for asylum seeking families should be at the same level as other families.**
- **In order to meet its international obligations to asylum seeking children, the Government should carry out an UK-wide review of the availability and effectiveness of legal representation and independent advocacy to unaccompanied minors.**
- **Young refugees and asylum seekers aged 16-17 or younger should be accommodated as “children in need”.**
- **Immediate law reform is needed to ensure young refugees and asylum seekers who have settled into a particular area are not “dispersed” when they reach 18.**

Article 30 – Rights of children from ethnic, religious or linguistic minorities

Although children’s right to enjoy their own culture, religion and language is promoted by social services legislation,¹⁹³ there is no equivalent protection in education, health or juvenile justice legislation.

The Race Relations (Amendment) Act 2000 places a duty on public authorities to tackle discrimination and promote equality of opportunity and good relations between persons of different racial groups. In addition, certain public authorities – including the police, schools and Government departments – have to prepare a race equality plan by May 31 2002.

While the Act is extremely welcome, active monitoring by the Commission for Racial Equality and by individual inspectorates and regulatory bodies will be crucial. Accessible information must also be disseminated to children and parents to ensure they know about these new

provisions and the ways in which they can challenge discrimination.

ACTION FOR COMPLIANCE

- **Inspections of institutions providing care, education, treatment or rehabilitation should include regular reviews of the extent to which the CRC rights of children from ethnic, religious or linguistic minorities are implemented.**
- **The Government should make available to children from ethnic, religious or linguistic minorities accessible information about how they can challenge breaches of their human rights, including through the Commission for Racial Equality.**

Article 32 – Child labour

The national minimum wage does not apply to child workers. A lower “youth rate” applies to 18 to 21 year-olds. The Trades Union Congress in 2001 reported problems of children working long hours and in dangerous conditions.¹⁹⁴ (See also *General Principles, Article 6*)

Article 33 – Protection from drug abuse

Home Office research has shown that rates of cocaine use were 12 times higher among young offenders compared to non-offenders and one in ten rough sleepers were using a Class A drug at least monthly. Over 80% of serial runways had used illicit drugs compared to 42% of young people who had never run away from home.¹⁹⁵

The Government withdrew its public bill on tobacco advertising in 2001, blaming lack of Parliamentary time. It is now supporting a Private Members’ Bill.¹⁹⁶

Articles 34 and 35 – Protection from sexual exploitation and prevention of sale, trafficking and abduction

The law still criminalises children involved in prostitution despite intense lobbying by NGOs.¹⁹⁷

The UK immigration service estimates that up to 200 Nigerian girls as young as 11 have recently been trafficked from West Africa.¹⁹⁸ Unaccompanied minors who have gone missing from care have been trafficked to Italy for sexual purposes.¹⁹⁹ The Government produced a national plan for safeguarding children from commercial sexual exploitation in September 2001 but NGOs see an urgent need for strategic planning and co-ordinated action across government.

ACTION FOR COMPLIANCE

- **The Government should ensure that child workers are fully protected from exploitation and dangerous working practices.**
- **Minimum wage law reform should remove the lower age limits.**
- **The Private Members’ Bill currently before Parliament aimed at banning tobacco advertising should be enacted and fully implemented.**
- **The Government should develop a drugs strategy for children, working in partnership with affected children.**
- **Criminal law should be reformed so that children involved in prostitution cannot be charged with a criminal offence but instead receive appropriate assessment and services under the Children Act 1989.**
- **The Government should co-ordinate urgent action on**

implementation of its national plan for safeguarding children from commercial sexual exploitation.

- **A specific offence dealing with the commercial sexual exploitation of children should be introduced in legislation.**

Articles 37 and 40 – Juvenile justice

In 1995, the Committee recommended that ‘law reform be pursued in order to ensure that the system of administration of justice is child-oriented’ (CO para. 35). Since then the Government has presided over an enormous increase in the use of custody for all children and has extended the reach of the criminal courts to cover younger children and previously non-criminal acts.

Age of criminal responsibility

The Committee recommended that the UK Government should give ‘serious consideration ...to raising the age of criminal responsibility throughout the areas of the UK’ (CO, para. 36). At that time the age of criminal responsibility was ten years, but for ten to 13 year-olds, the principle of *doli incapax* applied. Under this provision, the prosecution was obliged to demonstrate that the child understood that the offence committed was seriously wrong. Despite the Committee’s recommendation, and strong opposition from NGOs and statutory youth justice workers, the principle of *doli incapax* was abolished by the Crime and Disorder Act 1998.

Young children

Child Safety Orders under the Crime and Disorder Act 1998 can be made in respect of a child under 10 years if he or she has committed an act which would have been an offence if he or she had been over 10

years old, or if he or she has breached a curfew or is considered to be behaving in an anti-social manner.

There is no minimum age at which children can be placed on the Sex Offenders Register, which was introduced in September 1997 to combat heightened public concern that paedophiles and other adult sex offenders were living unsupervised in local communities.

Although adults can be punished by imprisonment for breaching the terms of the Register, this does not apply to children. However, in July 2001 the Home Office and the Scottish Executive issued a consultation document²⁰⁰ on the Sex Offenders Register: among its proposals was the use of up to two years' imprisonment for children breaching the terms of their registration.

The court system

There is serious concern among NGOs about children's lack of legal representation in "youth offending panels" and the risk of panels making "contracts" with children that are disproportionate and restrictive of children's liberty (the contracts are mandatory for the most minor of offences).

The Crime and Disorder Act 1998 replaced informal actions (and cautions) with a new system of reprimands and final warnings. These are limited by legislation in number for an individual. Both may be cited in court and a final warning precludes the use of a conditional discharge in court for two years (except in exceptional circumstances). In addition, any perceived (no requirement for proof) failure to comply with work programmes imposed by the new youth offending teams can also affect decisions in the same way as court convictions.

The Government's Report refers to changes in the Crime and Disorder Act 1998 which allow the courts to draw inferences from the failure

of an accused child to give evidence or answer questions at trial. Previously, this rule only applied to over 14 year-olds.²⁰¹

Children can be tried in adult courts where their co-defendant is an adult or if the offence is sufficiently serious to place it outside the jurisdiction of the youth court.

The Government has encouraged courts to dispense with protection of children's privacy and has introduced guidance which erodes previous safeguards.²⁰² (*See also Civil Rights and Freedoms, Article 16.*)

Children on remand

Following the suicide of 15 year-old Phillip Knight in Swansea prison, the Criminal Justice Act 1991 provided for an end to prison remands for under 17s. This provision was never implemented but the relatively low numbers in custody did make the target achievable. Then custodial remands and sentences were only available for over 15 year-olds (apart from 'grave' offenders). This has now reduced to 12 years in the case of sentencing and the court may now order 12 year-olds to be remanded in secure accommodation (previously only on application by social services under child care legislation). In June 2001 there were 359 boys and 13 girls remanded in prison service accommodation.²⁰³ In the first half of 2001, 1,284 boys were remanded in prison.²⁰⁴ A 1997 study reported that one in ten of children in custody on remand had considered suicide in the past week.²⁰⁵

Locking up children

Since the UK Government submitted its last report to the Committee on the Rights of the Child, the numbers and plight of locked up children has become a national scandal.

At the end of December 2001 there were 2,235 15, 16 and 17 year-olds detained in prison service

accommodation of whom 289 were untried and 245 were aged 15 years. Most were placed in young offender institutions.²⁰⁶

There remains no legislation to prevent children being placed in adult prisons and the practice continues, although within these prisons, under 18s are now separated. The 'juvenile secure estate' is unable to deal adequately with the numbers of children incarcerated and adult prison continues to provide overflow provision. The lack of placement choice means that girls (who proportionately represent a considerable increase in population in recent years) are particularly affected and are often locked up far from home. Children serving long term detention are routinely moved from child care secure facilities to prison upon attaining 15 due to pressure of numbers of younger children now receiving custodial sentences.

In June 2001 the Chief Inspector of Prisons, in his follow-up review on "Women in Prison" stated, "*I draw attention yet again to the abomination of finding unsentenced children accommodated in dormitories with serious criminals.*"²⁰⁷ At the end of December 2001, there were 95 girls in the prison system.²⁰⁸

Recent legislation permits children as young as 12 to be given two year custodial sentences.²⁰⁹ Children do not automatically have time spent in custody on remand deducted from a custodial sentence, as do adults. Upon release from custody, children are subject to more restrictions of liberty as enforceable conditions of supervision in the community than adults serving an equivalent sentence. And, unlike adults, children cannot receive a shorter custodial sentence than two months.

Responsibility for the treatment of children in prison has been delegated to the Youth Justice Board, a quango set up under the 1998 Crime and Disorder Act. Under its

guidance a Prison Service Order was issued on Regimes for Prisoners Under 18 Years Old which requires a significantly higher standard of care for children than is provided under the statutory Young Offender Institution Rules 2000. However, it is clear that this attempt to bring children's prisons up to a civilised standard, though definitely improving in some establishments, is still an unachieved goal.

The Prison Inspectorate continues to find poor conditions, high levels of violence, negligent health and mental health care and inadequate education and rehabilitative provision, with children still being essentially warehoused, abused and corrupted. The Howard League for Penal Reform's recent research into conditions in young offender institutions raised concerns of lack of specialist training for staff, a failure on the prison service to give children individualised care, limited access to daylight and open air, a failure to tackle bullying and help children feel safe and lack of preparation for release.²¹⁰ In its special report on education for children in prison,²¹¹ arising from visits to 13 prisons which hold 15-18 year-old boys sentenced and on remand, the Howard League found that *"boys with special educational needs, such as emotional and behavioural difficulties, were being placed in solitary confinement in prisons as a response to their behaviour"*.

The Government has never made an official response to any of the Chief Inspector's reports on young offender institutions, aside from press rebuttals. Children may at this moment be suffering intolerable conditions, since the Chief Inspector does not have the resources to visit all establishments even annually – some are not inspected for over four years.

Secure training centres

Against fierce opposition from children's NGOs, the first "child prison" – Medway secure training centre – opened in 1998. There are now three secure training centres in England, with four more planned.

Initially aimed at 12 to 14 year-olds, their remit is being extended to take in remanded children, including 15 and 16 year-olds. The centres are run by a private company.

The first report by the Social Services Inspectorate on Medway secure training centre, published in January 1999, described problems of very high staff turnover, with virtually all staff unqualified. Inspectors noted *"significant deficits in the management of bullying, self-harm and detoxification... it was a major concern that restraint has been used as a primary means of control"*. Children's lack of access to fresh air and exercise was also raised, as was the inadequate level of teaching staff. A 12-strong "restraint squad" and other staff used neck and wrist locks on children; there were 150 recorded cases of the use of physical restraint on children each month.²¹²

Hassockfield Secure Training Centre was opened in 2000; by July 2001 the Social Services Inspectorate had condemned its educational provision.²¹³ Only 25% of children had educational records and there was no monitoring of individual educational progress. The inability of staff to exert positive control on children's behaviour was also noted, with concerns about the use of the health care centre as a "time out" room. Despite the Centre being purpose-built, inspectors noted various problems with the physical environment, for example viewing points to children's bedrooms which *"gave an uninterrupted view into the trainees' bathing area"* and noise levels in the communal living area which a member of staff described as *"an infernal, unending racket"*.²¹⁴

Suicides, self-harm and violence

Since 1996, 11 children under the age of 18 have committed suicide whilst in custody.²¹⁵ Most surveys indicate that between one third and one half of all child prisoners are victims of bullying. The Chief Inspector of Prisons' report into Portland young offender institution found that 22% of those questioned felt either unsafe or very unsafe when they were in the segregation unit, with only contact from staff.²¹⁶

Self-harm in women's prisons is endemic: many girls held in women's prisons become involved in this 'cutting-up' culture, even if they have not self-harmed before. Twenty two percent of 61 girls interviewed by the Howard League for Penal Reform had self-harmed.²¹⁷

Child protection system

"I can find no evidence that the Prison Service has acknowledged the Children Act 1989" was the conclusion of Sir David Ramsbotham, HM Chief Inspector of Prisons following his review of young offender institutions in 1997.²¹⁸ Of major concern to NGOs is the lack of a co-ordinated child protection system.

The child protection policy of HM Prison Service²¹⁹ states that all child protection concerns must be reported to the duty governor of a prison service establishment who will then *"make an informed judgement as to whether or not the harm is deemed significant. This judgement will determine whether or not local Child Protection procedures are invoked"*. No other manager of an institution – including in educational, health or youth service settings – has this level of discretion.

Educational opportunities

In August 2001 the Howard League for Penal Reform reported that there were over 300 children in prison not receiving appropriate education.²²⁰

Between 1 April 2000 and 31 March 2001 five full inspections and two unannounced inspections were carried out by Her Majesty's Inspectorate of prisons with OFSTED. The Chief Inspector of Prisons notes in her preface to the review report: "[The Prison Service] is literally running an impoverished regime...the average amount spent on education per head in a juvenile Young Offender Institution (except for two small specialist units) is £1,800 per year, compared with £16,000 in a secure training centre and a local authority secure unit".²²¹

The report confirms what is already known about the poor life experiences and opportunities of young people involved in crime. From 171 under 18 year-olds in young offender institutions, inspectors found: 49% had been in local authority care; 84% had been excluded from school; 52% had left school at 14 or younger; and 48% had been in custody before.

The Department for Education and Skills has identified that of the 5,963 boys admitted to young offender institutions during 2000/2001 37.6% had the numeracy ability of a seven year-old while 31.36% had the literacy ability of a seven year-old.²²²

Despite detained children's acute need for education, successive education acts have specifically excluded them from any statutory right to education. Prison Service rules dictate that children detained in young offender institutions should have 30 hours per week of "purposeful activity". The average number of hours of education per week achieved by the Prison Service during 2000 was 9.43 per male in young offender institutions.²²³

Complaints and redress

In February 2001 the Prisons Ombudsman published a report outlining the difficulties faced by

young prisoners in making complaints about their care and treatment. He noted, "*The under-representation of young prisoners [in making complaints] is a particular personal anxiety, given that the two most worrying establishments I have visited in the past 12 months have been young offender institutions...is it a paradox or actually part of the explanation that the worst institutions seem to generate the fewest formal complaints?*"²²⁴

In July 2001 the Prisons Ombudsman published his annual report: no information was included in the report on the numbers of complaints from young prisoners or of the types of issues raised by them.²²⁵

ACTION FOR COMPLIANCE

- **Juvenile justice legislation and policy should be immediately amended to give full respect to children's CRC rights.**
- **As a matter of urgency the Government should review its approach to juvenile justice to ensure that children are only arrested, detained or imprisoned as a last resort and for the shortest appropriate period of time.**
- **The Government should give immediate effect to the principal recommendation from the HM Chief Inspector of Prisons thematic review of young offender institutions in 1997 that no child should be held in prison service accommodation.**
- **The conditions in detention require urgent Government action, with particular attention to explicitly upholding children's rights to survival and development, basic health and welfare, education, protection**

from violence and to periodic review.

- **As a matter of urgency the Government should ensure children are always separated from adults in detention unless it is considered not to be in their best interests.**
- **All children in custody should have access to independent advocacy services.**
- **The Youth Justice Board should be required to work within the provisions of the CRC and to have a substantial role in promoting positive public attitudes towards children.**

Article 38 – Children and armed conflict

Deployment

The minimum age for deployment for direct participation in hostilities is 17, although recruits under 17 can take an indirect part in hostilities. The Select Committee on the Armed Forces Bill 1996²²⁶ reviewed the issue of under-18 deployment but concluded that it would be impractical and unpopular to place any further restrictions on the ability of under 18s to serve on active duty.

While the Government has agreed to abide by the Secretary-General's directive that all UN Peacekeepers be at least 18, and preferably 21, the UK has continued to include under-18s in its contribution to NATO forces operating under UN resolutions.²²⁷

Recruitment

There is no conscription for any person, regardless of age, in the United Kingdom. While there is no statutory minimum age for Armed Forces recruitment in the UK, the Armed Forces do not recruit under the age of 16. Both males and

females may enlist, with parental consent, at 16 years. Recruitment procedures, however, can begin at 15 years and 9 months. The UK shares the lowest minimum age of recruitment in Europe and enlists the largest number of under-18s of any European State.²²⁸ There are currently 6,000-7,000 under-18s in the Armed Forces.²²⁹

Targeting of under-18s

The UK has an open recruitment campaign targeting under 18 year-olds, for which the Ministry of Defence (MoD) has made a huge amount of money available.²³⁰

In order to recruit under-18s the Armed Forces, and in particular the Army (which recruits by far the biggest proportion of under-18s), visit schools and youth clubs, and target disadvantaged youth and young offenders.²³¹ The MoD also funds cadet forces, which attract a large number of young people and act as a channel for recruitment.

Discriminatory terms of enlistment

All Army recruits must serve a minimum of four years, but for those enlisting under-18 this minimum period does not start to run until after their 18th birthday.²³² Thus a recruit joining at 16 must serve until his/her 22nd birthday (the “six-year trap”). We welcome the abolition of similar disparities for the Royal Navy²³³ and the Royal Air Force.²³⁴

Treatment of young recruits

Young people in the Armed Forces are vulnerable to bullying, harassment and abuse and, in severe cases, have suffered violence, sexual assault and rape.²³⁵ While the MoD claims a policy of ‘zero tolerance’ towards all forms of harassment and bullying, Amnesty International²³⁶ raised concerns that the complaints procedure was not accessible to children. Almost all cases of absenteeism (AWOL - absent without leave -

and desertion) come from the junior ranks and from the Army. A large volume of the absenteeism is made up of young recruits, who have suffered bullying and mistreatment.²³⁷

Optional protocol

When the UK signed the Optional Protocol on 7 September 2000, an ‘interpretative declaration’ was entered which allows the UK to deploy under-18s where it deems necessary.²³⁸

The MoD insists that great care is taken to ensure that young people understand precisely the nature of the commitment they are making.²³⁹ However, the terms of service are complicated and not clearly laid out in the available literature.

International co-operation

Britain has promoted a ban on the use of children aged under 16 as soldiers in other parts of the world.²⁴⁰

Juvenile justice in the armed forces

Those who breach military law (and those accused of most ordinary criminal offences occurring wholly in an Armed Forces context) are tried within the military justice system. There is no separate system for trying under-18s and, if detained, they are not held separately from adults. For minor matters, personnel may be tried before their own commanding officer. There is no right to legal representation for these hearings, but there is a right to elect trial by court-martial instead. More serious matters are dealt with by a court-martial, which involve trial before a panel of officers outside the defendants’ immediate purview. The panel is part of the relevant branch of the Armed Forces and is therefore not strictly independent. There is a right to legal representation, but the right to financial legal aid is very limited, and it is often difficult to find a solicitor both willing to act and with relevant experience.

A range of dispositions are open to the panel, including deprivation of liberty. A possible, but not automatic, punishment for going absent without leave (AWOL) is detention at The Military Corrective Training Centre. This amounts to detaining a minor for a breach of ‘contract’ and is disproportionate to the offence.

ACTION FOR COMPLIANCE

- The Government should stop recruiting under 18s into the Armed Forces.
- The Government should abolish the requirement for under-18 Army recruits to serve a longer minimum period than adults.
- The Government should ensure there is an accessible, transparent and independent complaints procedure for under-18s in the Armed Forces.
- The Government should ratify the Optional Protocol on the Involvement of Children in Armed Conflict without delay and remove the declaration it has entered.
- The Government should ensure that all new recruits fully understand the terms of enlistment and the conditions of service before they enlist.
- When making international financial or military assistance conditional on the non-use of child soldiers by government forces, the Government should require a minimum recruitment age of 18 years.
- Action should be taken to ensure that the military justice system fully complies with the CRC.

Notes

- i National Statistics (July 2001) *Households below average income statistics 1994/5 - 1999/00*. The 4.1 million figure represents the number of children below 60% contemporary median income after housing costs. Figures for 2000/01 will not be available until July 2002.
- ii Shelter press release, March 14 2002.
- iii Office for Standards in Education (February 2002) *The annual report of her majesty's chief inspector of schools*.
- iv Child Accident Prevention Trust (1999) *Child injury facts and figures - 1999*.
- v Meltzer, H. et al (1999) *Mental health of children and adolescents in Great Britain*. National Statistics.
- vi Social Exclusion Unit (2000) *National strategy for neighbourhood renewal. Report of policy action team 12: young people*.
- vii See National Statistics (2001) *Mortality statistics. Childhood, infant and perinatal. Review of the Registrar General on deaths in England and Wales, 1999*; and National Society for the Prevention of Cruelty to Children (2001) *Out of sight: NSPCC report on child deaths from abuse 1973 to 2000*.
- viii Nobes, G. and Smith, M. (1997) 'Physical punishment of children in two-parent families' *Clinical Child Psychology and Psychiatry*, 2, 2, 271-281
- ix Cited in Mohibur, R. et al (December 2001) *Monitoring poverty and social exclusion*. Joseph Rowntree Foundation and New Policy Institute. See also Goldson, B. and Peters, E. (2000) *Tough justice. Responding to children in trouble*.
- x See *Young prisoners: A thematic review by HM chief inspector of prisons for England and Wales* (October 1997) and subsequent inspections of individual institutions.
- xi Response to Parliamentary Question from Beverley Hughes, January 31 2002.
- xii See reports from Howard League for Penal Reform. See also Willow, C. (1999) *It's not fair. Young people talking about children's rights*.
- xiii Howard League for Penal Reform (June 2001) *Missing the grade. Education for children in prison*. Her Majesty's Inspectorate of Prisons for England and Wales (2001) *A second chance. A review of education and supporting arrangements within units for juveniles managed by the HM Prison Service*.
- xiv Cited in HM Inspectorate of Prisons for England and Wales and Office for Standards in Education (2001) *A second chance. A review of education and supporting arrangements within units for juveniles managed by the HM Prison Service*.
- xv Audit Commission briefing (July 2000) *A new city. Supporting asylum seekers and refugees in London*.
- xvi Access to free milk tokens was removed in April 2000 when the voucher support scheme replaced cash benefits for asylum seekers. Backbench MPs are currently joining the campaign to reinstate the milk tokens.
- xvii Special Educational Needs and Disability Act 2001.
- xviii Amnesty International (November 2000) *United Kingdom, U-18s: Report on recruitment and deployment of child soldiers*, AI Index: EUR 45/57/00, page 33-34.
- xix Meltzer, H. et al (1999) *Mental health of children and adolescents in Great Britain*. National Statistics.
- xx Centrepoint factsheet series 2000/2001. *Being looked after by a local authority*.
- xxi Cawson, P. et al (2000) Child maltreatment in the United Kingdom: a study of the prevalence of child abuse and neglect. NSPCC.
- 1 In October 2001 the Government submitted its supplementary report to the Human Rights Committee under Article 40 of the International Covenant on Civil and Political Rights, reiterating its retention of the reservation to the CRC concerning immigration and citizenship.
- 2 In July 2001 a Cabinet Office publication listed the Minister for Young People, John Denham MP, as having the following ministerial responsibilities: police policy; overall crime reduction and drugs strategy; youth crime prevention and anti-social behaviour; children's fund and the Children and Young People's Unit; domestic violence; and criminal records.
- 3 Children and Young People (November 2001) *Building a strategy for children and young people. Consultation document*.
- 4 Children and Young People (November 2001) *Learning to listen. Core principles for the involvement of children and young people*.
- 5 The Lord Chancellor's Department (December 2001) *Human Rights Act 1998: impact on court workloads*; The Lord Chancellor's Department (June 2001) *Human Rights Act 1998: impact on court workloads*; The Lord Chancellor's Department (1999) *Human Rights Act 1998: a statistical update*.
- 6 Department of Health and Department for Education and Employment (1996) *Children's services planning: guidance*.
- 7 Department of Health (April 2000) *New guidance on children's services planning - draft for consultation*.
- 8 In 2001 the Office of Children's Rights Commissioner for London, a non-statutory demonstration project making the case for a children's rights commissioner for England, produced "*the state of London's children report*". The report has been widely commended.
- 9 In January 2002 the Department of Health published draft regulations for the children's rights director, who was appointed in September 2001. The draft regulations have been criticised as too weak and limited in scope by NGOs. See LASSL (2002) 2, *consultation document: children's rights director regulations*, 15 January 2002.
- 10 The Department of Health has, however, given a one-off grant to the self-advocacy organisation Article 12 to produce a Children's Rights Information Pack for use in schools and youth settings.
- 11 Alderson, P. (March 1999) *Children's civil rights in schools 1996-1998. Final report to the ESRC*.
- 12 Qualification and Curriculum Authority (2000) *Citizenship at key stages 3 and 4. Initial guidance for schools*.
- 13 Qualification and Curriculum Authority (2000) *Personal, social and health education and citizenship at Key Stages 1 and 2. Initial guidance for schools*.
- 14 On March 4 2002, the Department of Health and National Care Standards Commission issued new national minimum standards and regulations for children's homes. The standards list subjects for training that should be available to staff in children's homes. Despite a request from CRAE to include the CRC in the list, there is no mention of children's human rights training (although the Human Rights Act 1998 is now included; it was omitted from the draft).
- 15 For more extracts see Children's Rights Development Unit (1995) *Making the Convention work for children*.
- 16 Section 4 of Local Government Act 2000.
- 17 The Women and Equality Unit in the Cabinet Office actively works against gender discrimination. In November 1998 the Cabinet Office, Home Office and the Department for Education and Employment circulated "policy appraisal for equal treatment" guidelines to all Government departments to encourage policy-impact assessment in relation to women, minority ethnic communities and disabled people. In May 2000 a draft "gender mainstreaming for policy makers" was circulated to promote gender equality. The Minister for Women is listed as having lead responsibility for the Convention on the Elimination of Discrimination against Women. By contrast, it is still not clear whether the Minister for Young People has lead responsibility for the CRC.
- 18 See The Stephen Lawrence Inquiry. Report of an Inquiry by Sir William Macpherson of Cluny (February 1999); and Home Office (December 2001) *Community cohesion: A report of the independent review team chaired by Ted Cantle*.
- 19 Alexander, Z. (September 1999) *Study of Black, Asian and ethnic minority issues*. Department of Health, pp 33-4.
- 20 See National Statistics and Department for Education and Skills (November 2001) *Statistics of education: permanent exclusions for maintained schools in England*; and Goldson, B. and Peters, E. (2000) *Tough Justice. Responding to children in trouble*. The Children's Society.

- 21 Labour Force Survey 1997-98 cited in *Statistics on race in the UK*. Guardian website, 21 February 2000.
- 22 Office for Standards in Education (1999) *Raising the attainment of minority ethnic pupils. School and LEA responses*.
- 23 The Criminal Justice and Public Order Act 1994 removed the duty on local authorities to provide sites for Gypsy Travellers. The Government estimates that local authorities currently provide sites for less than 50% of Gypsy Travellers – Department for Transport, Local Government and the Regions (December 2001) *Housing and housing policy. Gypsy sites policy*.
- 24 The Committee should also note the recommendation of the Human Rights Committee, commenting on the UK's fifth periodic report under the International Covenant on Civil and Political Rights, that a Human Rights Commission should be established – CCPR/CO/73/UK, para. 9.
- 25 Section 1(1)(b) of Children Act 1989.
- 26 See National Statistics (March 2001) *Mortality statistics: childhood, infant and perinatal*. The Stationery Office; and Innocenti Report Card No. 2 (February 2001) *A league table of child deaths by injury in rich nations*.
- 27 Children and Young People's Unit (November 2001) *Building a strategy for children and young people. consultation document*, p.20.
- 28 Child Accident Prevention Trust (1999) *Child injury facts and figures - 1999*.
- 29 Department of the Environment, Transport and the Regions (1998) *English house condition survey 1996: supporting tabulations - households with smoke detectors by tenure, 1991 and 1996*.
- 30 Child Accident Prevention Trust (1999) *Child injury facts and figures - 1999*.
- 31 Ibid.
- 32 See National Statistics (2001) *Mortality statistics. Childhood, infant and perinatal. Review of the Registrar General on deaths in England and Wales, 1999*; and National Society for the Prevention of Cruelty to Children (2001) *Out of sight: NSPCC report on child deaths from abuse 1973 to 2000*.
- 33 Information obtained from Disability in Action Alliance, March 2002.
- 34 Response to Parliamentary Question from Paul Boateng MP, October 19 1998.
- 35 Meltzer, H. et al (1999) *Mental health of children and adolescents in Great Britain*. National Statistics
- 36 Ibid.
- 37 National Statistics (August 2001) *Children and adolescents who try to harm and kill themselves*.
- 38 Health and Safety Commission and National Statistics (2001) *Health and Safety Statistics 2000/01*.
- 39 Ibid.
- 40 Ibid.
- 41 Home Office (November 2001) *Deaths in police custody. Statistics for England and Wales, April 2000 to March 2001*.
- 42 Department of Health (June 2000) *Listening to people. A census on improving social services complaints procedures*. See also Wallis, L. and Frost, N. (1998) *Cause for complaint. The complaints procedure for young people in care*. The Children's Society.
- 43 See, for example, Willow, C. (1997) *Hear! Hear! Promoting children and young people's democratic participation in local government*. Local Government Information Unit.
- 44 Social Trends 32.
- 45 Department of Health (2001) *Donor information consultation. Providing information about gamete or embryo donors*.
- 46 Department for Education and Skills (January 2002) *Revised guidance on exclusion from school - draft for consultation*. The draft guidance states that exclusion should not be used for breaches of school uniform policy "except where persistent and in open defiance of such policy".
- 47 See Social Exclusion Unit (1998) *Truancy and school exclusion*.
- 48 This case concerned a secondary school student Jo Hale. The headteacher and local education authority had claimed that a breakdown in discipline would occur if girls were allowed to wear trousers. The case took three years to resolve.
- 49 The Commission for Racial Equality issued a news release on 20 June 2001 describing its opposition to "segregated schools". It said, "*The CRE does not see this as the way forward...the solutions to the problems of underachievement [of black young people] do not lie in separation*".
- 50 Joint Parliamentary Human Rights Committee (March 2001) *First special report - Criminal Justice and Police Bill*.
- 51 Cited in Carter, H. and James, J. *Signs of the times*, Guardian newspaper May 2 2001.
- 52 Information obtained from Action for Children's Rights in Education, January 2002.
- 53 Section 80 of the Criminal Justice and Public Order Act 1994 repealed the Caravan Sites Act 1968. Sections 77-79 gave police and local authorities new powers to deal with "unauthorised campers".
- 54 The high level of personal care required by many disabled children raises particular issues about respect for their privacy rights.
- 55 Lord Chief Justice (16 February 2000) *Trial of children and young persons in the crown court*.
- 56 Information obtained from Action for Children's Rights in Education, January 2002.
- 57 Response to Parliamentary Question from Janet Anderson MP, 6 July 1999.
- 58 NCH (2001) *NCH IT OK*.
- 59 See media guidelines prepared by PressWise (1999) for UNICEF - *The media and children's rights. A practical introduction for media professionals*.
- 60 The organisation PressWise campaigns for the fullest implementation of children's CRC rights, and is calling for media studies to be part of the national curriculum.
- 61 See end note 32.
- 62 See A v UK; Z and Others v UK; TP and KM v UK.
- 63 Department of Health (January 2000) *Protecting Children, supporting parents. A consultation document on the physical punishment of children*.
- 64 Department of Health (November 2001) *Analysis of responses to the protecting children, supporting parents consultation document*.
- 65 R v H Court of Appeal Criminal Division, April 25 2001.
- 66 Nobes, G. and Smith, M. (1997) 'Physical punishment of children in two-parent families' *Clinical Child Psychology and Psychiatry*, 2, 2, 271-281.
- 67 Allan Levy QC 'Children in court' in Fiondar, J. (ed.) (2001) *Legal concepts of childhood*.
- 68 Saunders, H. (2001) *Making contact worse? report of national survey of domestic violence into the enforcement of contact orders*. Women's Aid Federation of England. The Government has agreed to amend the Adoption and Children Bill, currently in Parliament (March 2002), to strengthen children's protection in this area.
- 69 In June 1999 the Government published its domestic violence strategy *Living without Fear*. The strategy refers to the impact on children of being aware that their parent is being subject to violence, but there is no mention of violence from adults towards children. In August 1999 the Home Office published *Break the Chain*. This states that the official definition of domestic violence used to collect data from police forces, "excludes other violence that might be perceived as being in a domestic context, such as the abuse of children... There is a danger that a wider definition might cause dilution of effort and impact...it is important not to marginalise partner violence in favour of addressing other violent occurrences. In deciding their definition of domestic violence, agencies must take this into account".
- 70 Christian Wolmar (2000) *Forgotten children. The secret abuse scandal in children's homes*. Vision.
- 71 Robins, J. *Breach of trust in Law Society Gazette*, March 11 2000.
- 72 Churches Child Protection Advisory Service (February 2002) *Submission to Climbie Inquiry*.
- 73 Counsel for the parents of eight-year-old Victoria Climbié, who died as a result of torture and abuse in February 2000, told her Public Inquiry, "...If some sort of statutory

- regulation is not looked at there can be little doubt that some churches and religious institutions will continue to act in a manner that is totally at odds with the child's welfare".
- 74 Response to Parliamentary Question from Beverley Hughes, February 6 2002.
- 75 There has been no national report on the particular safeguards needed by the large numbers of disabled children living away from home, following the general review of safeguards for children living away from home carried out in the late 1990s – see note 87.
- 76 In Scotland, parental responsibility is defined in the Children (Scotland) Act 1995; it includes a presumption of contact with both parents if separation occurs.
- 77 Joseph Rowntree findings (September 2001) *Children's views of their changing families*.
- 78 Caddle, D. and Crisp, D. (1997) *Mothers in prison*. Home Office Research and Statistics Directorate.
- 79 Response to Parliamentary Question from Paul Boateng MP, November 14 2000.
- 80 Court of Appeal judgement, July 20 2001.
- 81 Howard League for Penal Reform (1994) *Families matter*; and Howard League for Penal reform (1993) *The voice of a child. The impact on children of their mothers' imprisonment*.
- 82 Department of Health (July 2001) *The Children Act Report 2000*.
- 83 Department of Health (1998) *Me, survive out there?*
- 84 Wallis, L. and Frost, N. (1998) *Cause for complaint. The complaints procedure for young people in care*. The Children's Society.
- 85 See Department of Health et al (June 2000) *Learning the lessons. The Government's response to lost in care: the report of the tribunal of inquiry into the abuse of children in care in the former county council areas of Gwynedd and Clwyd since 1974*.
- 86 The Department of Health is currently in dispute with NGOs over the crucial role of confidentiality in ensuring children can access appropriate support and protection. The Department has refused to accept that confidential advocacy services enhance rather than diminish child protection.
- 87 Utting, W. (1997) *People like us: the report of the review of the safeguards for children living away from home*. Department of Health and Welsh Office.
- 88 The British Agencies of Fostering and Adoption and other NGOs are currently calling for the Government to use the Adoption and Children Bill, currently in Parliament (March 2002), to extend protection to privately fostered children.
- 89 For example, The Children's Society *I'll go first toolkit* was piloted with 60 disabled children in five local authorities during 1997-98. After using the pack, 40% more children took part in their review meetings.
- 90 Court of Appeal judgment, May 2001.
- 91 By contrast, parents of disabled children feel their children are not well enough included in Government programmes that encourage/support working parents – information from Council for Disabled Children.
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