UK implementation of the Convention on the Rights of the Child

NGO alternative report to the Committee on the Rights of the Child – ENGLAND
This report has been produced by the Children’s Rights Alliance for England (CRAE). A drafting committee was established in 2007, with representatives from the following organisations:

- Action on Rights for Children (ARCH)
- APPROACH Ltd.
- Brook
- Child Poverty Action Group
- Children’s Rights Alliance for England
- The Children’s Society
- ECPAT UK
- Howard League for Penal Reform
- Medical Foundation for the Care of Victims of Torture
- National Association for Youth Justice
- National Children’s Bureau (NCB)
- Refuge
- Royal College of Paediatrics and Child Health
- Save the Children UK
- UNICEF UK.

A very large number of organisations and individuals have contributed to this report, often whilst working under pressure trying to protect the human rights of children. The investment into this report, by CRAE and others, shows how strongly we care about the implementation of the Convention on the Rights of the Child in our country.

CRAE has supported children and young people to undertake their own children’s rights investigation and a separate report is being submitted to the UN Committee summarising the main findings.

**Supporting organisations**

The 100 non-governmental organisations listed below support this report to the UN Committee on the Rights of the Child prepared by the NGO (England) drafting committee and co-ordinated by CRAE.

Not all organisations work across all areas of implementation of the Convention on the Rights of the Child.

Action for Prisoners’ Families
A National Voice
Action on Rights for Children
Alliance for Inclusive Education

APPROACH Ltd
Association of Lawyers for Children
Association of Panel Members
Association of Youth Offending Team Managers
ATD Fourth World
Baby Milk Action
Bail for Immigration Detainees
British Association for Community Child Health
British Association of Social Workers
British Humanist Association
British Youth Council
Brook
Bury St Edmunds Youth Council
Calcut Services for Children
Campaign for State Education
Centre for Studies on Inclusive Education
Child Dynamix
Children and Armed Conflict Unit
Children’s Legal Centre
Children’s research centre, Open University
Children’s Rights Alliance for England
Children’s Rights Officers and Advocates
Childrensdinks
Daycare Trust
ECPAT UK
English Secondary Students’ Association
Fair Play for Children
Families Need Fathers
fpa (Family Planning Association)
Get Connected
Headliners UK
Howard League for Penal Reform
Independent Academic Research Studies
Inquest
Investing in Children
Jemmbarrio
Jigsaw4u
KIDS
Law Centres Federation
Lawyers for Young People
London Play
Mind
Mouth That Roars
Nacro
National Association for Youth Justice
National Children’s Bureau (NCB)
National Council of Voluntary Child Care Organisations
National Council of Voluntary Youth Services (NCVYS)
National Youth Advocacy Service
NCH

NSPCC
Parenting UK
Phoenix Consultancy and Training Ltd
Phoenix Education Trust
Play England
playtrain
Princess Royal Trust for Carers
Prison Reform Trust
Public Law Project
Queer Youth Network
Race on the Agenda (ROTA)
Refuge
Refugee Council
Release
Royal College of Nursing
Royal College of Paediatrics and Child Health
Salford children’s rights service
Save the Children UK
Scope
Shelter
Shout Out! Off The Record
SOLAR Centre, University of the West of England
Southwark Community Care Forum
Spurgeons
Standing Committee for Youth Justice
Stonewall
Streetlegal
Summerhill School
The BIG Bug Show
The British Institute of Human Rights
The Children’s Society
The Duke of Edinburgh’s Award
The Fostering Network
The Medical Foundation for the Care of Victims of Torture
The National Youth Agency
The Who Cares? Trust
Tooks Chambers
Triangle
Trust for the Study of Adolescence
UK Youth
UK Youth Parliament
UNICEF UK
Voice
Woodcraft Folk
Xpress Advocacy Service / SEAP
Youth Access

In addition to the NGOs listed above, several projects and groups working within statutory settings have endorsed this report.
## Overview

<table>
<thead>
<tr>
<th>General measures</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall picture: still a very unequal society</td>
<td>1</td>
</tr>
<tr>
<td>Immigration reservation</td>
<td>1</td>
</tr>
<tr>
<td>Detention with adults’ reservation</td>
<td>1</td>
</tr>
<tr>
<td>Convention not incorporated into UK law</td>
<td>2</td>
</tr>
<tr>
<td>No co-ordinating body within government</td>
<td>2</td>
</tr>
<tr>
<td>Children’s Commissioner legislation does not meet Paris Principles</td>
<td>2</td>
</tr>
<tr>
<td>International aid still lower than UN target agreed in 1970</td>
<td>2</td>
</tr>
<tr>
<td>Marked differences across UK in political engagement with Convention</td>
<td>3</td>
</tr>
<tr>
<td>Children’s access to justice is worsening</td>
<td>3</td>
</tr>
<tr>
<td>Lack of dissemination of the Convention</td>
<td>3</td>
</tr>
<tr>
<td>Limited dissemination of periodic report</td>
<td>3</td>
</tr>
</tbody>
</table>

## Definition of the child

<table>
<thead>
<tr>
<th>Definition of the child</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incoherent minimum age requirements</td>
<td>4</td>
</tr>
</tbody>
</table>

## General principles

<table>
<thead>
<tr>
<th>General principles</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Unequal enjoyment of rights</td>
<td>5</td>
</tr>
<tr>
<td>Age discrimination</td>
<td>5</td>
</tr>
<tr>
<td>Discrimination faced by lesbian, gay and bisexual young people</td>
<td>6</td>
</tr>
<tr>
<td>Discrimination in school admissions</td>
<td>6</td>
</tr>
<tr>
<td>Discrimination faced by gypsy and Roma children</td>
<td>6</td>
</tr>
<tr>
<td>Child’s best interests not consistently reflected in legislation</td>
<td>6</td>
</tr>
<tr>
<td>Child’s best interests not considered when sentencing parents</td>
<td>7</td>
</tr>
<tr>
<td>Parents imprisoned and fined for children not attending school</td>
<td>7</td>
</tr>
<tr>
<td>Teenagers to be penalised for not taking up “right” to education</td>
<td>7</td>
</tr>
<tr>
<td>Other penalties on parents</td>
<td>7</td>
</tr>
<tr>
<td>Inequalities in infant mortality rates</td>
<td>8</td>
</tr>
<tr>
<td>Large gap in life expectancy</td>
<td>8</td>
</tr>
<tr>
<td>Up to two child homicides every week</td>
<td>8</td>
</tr>
<tr>
<td>Child deaths in custody</td>
<td>8</td>
</tr>
<tr>
<td>Taser guns now being used</td>
<td>9</td>
</tr>
<tr>
<td>High incidence of self-harm among children</td>
<td>9</td>
</tr>
<tr>
<td>Disabled children’s right to communication not prioritised</td>
<td>9</td>
</tr>
<tr>
<td>Lack of student choice and decision-making</td>
<td>9</td>
</tr>
<tr>
<td>Not all children heard in family proceedings</td>
<td>9</td>
</tr>
<tr>
<td>Safe contact and the child’s wishes and feelings</td>
<td>9</td>
</tr>
<tr>
<td>Independent advocacy not widely available</td>
<td>10</td>
</tr>
<tr>
<td>Child’s wishes and feelings in child protection investigations</td>
<td>10</td>
</tr>
<tr>
<td>Lack of consistent and effective complaints procedures</td>
<td>10</td>
</tr>
<tr>
<td>No right for a child to veto adoption, or to be informed that they are adopted</td>
<td>10</td>
</tr>
</tbody>
</table>

## Civil rights and freedoms

<table>
<thead>
<tr>
<th>Civil rights and freedoms</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Violation of disabled children’s right to family life</td>
<td>11</td>
</tr>
<tr>
<td>Inadequate right to information about identify or parents</td>
<td>11</td>
</tr>
<tr>
<td>Police given more powers to move children off the streets</td>
<td>11</td>
</tr>
<tr>
<td>Excluded children prohibited from being in public</td>
<td>11</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Anti-terrorism legislation increases police powers to stop and search</td>
<td>11</td>
</tr>
<tr>
<td>Ministers fail to ban discriminatory ‘mosquito anti-social device’</td>
<td>12</td>
</tr>
<tr>
<td>Serious erosion of children’s right to privacy</td>
<td>12</td>
</tr>
<tr>
<td>Schools given wider powers to punish behaviour</td>
<td>13</td>
</tr>
<tr>
<td>Lack of protection from harmful media</td>
<td>14</td>
</tr>
<tr>
<td>Child death reviews not meeting full human rights requirements</td>
<td>14</td>
</tr>
<tr>
<td>Corporal punishment not prohibited in all settings</td>
<td>14</td>
</tr>
<tr>
<td>No national strategy to end all violence against children</td>
<td>15</td>
</tr>
<tr>
<td>No overall prevalence data on violence against children</td>
<td>15</td>
</tr>
<tr>
<td>Inadequate support for young witnesses</td>
<td>16</td>
</tr>
<tr>
<td>Youth Justice Board’s failure to protect vulnerable children</td>
<td>16</td>
</tr>
<tr>
<td>Painful “distraction” techniques in secure training centres</td>
<td>16</td>
</tr>
<tr>
<td>Children injured following restraint in custody</td>
<td>17</td>
</tr>
<tr>
<td>Tear gas used on children in custody</td>
<td>17</td>
</tr>
<tr>
<td>Very small proportion of abused children seek help from statutory agencies</td>
<td>17</td>
</tr>
<tr>
<td>Lack of confidential assistance</td>
<td>17</td>
</tr>
<tr>
<td>Young carers not receiving adequate support</td>
<td>17</td>
</tr>
<tr>
<td>Punishment for genuinely consensual sexual behaviour</td>
<td>17</td>
</tr>
<tr>
<td><strong>Family environment and alternative care</strong></td>
<td><strong>18</strong></td>
</tr>
<tr>
<td>Child’s right to family contact not adequately protected</td>
<td>18</td>
</tr>
<tr>
<td>Penalties on parents – for whose benefit?</td>
<td>18</td>
</tr>
<tr>
<td>High numbers of black children and children with special educational needs in care</td>
<td>18</td>
</tr>
<tr>
<td>Inadequate legal protection and services for looked-after children</td>
<td>18</td>
</tr>
<tr>
<td>Unequal protection for children in private foster care</td>
<td>19</td>
</tr>
<tr>
<td>Inadequate children’s services in refuge accommodation</td>
<td>19</td>
</tr>
<tr>
<td><strong>Basic health and welfare</strong></td>
<td><strong>20</strong></td>
</tr>
<tr>
<td>Discriminatory treatment of disabled children</td>
<td>20</td>
</tr>
<tr>
<td>Health inequalities are growing</td>
<td>20</td>
</tr>
<tr>
<td>Failure to ban advertising of formula milk</td>
<td>20</td>
</tr>
<tr>
<td>Unequal access to health services</td>
<td>21</td>
</tr>
<tr>
<td>Insufficient health visitors and school nurses</td>
<td>21</td>
</tr>
<tr>
<td>Child and adolescent mental health services and appropriate hospital care</td>
<td>21</td>
</tr>
<tr>
<td>Sex and relationships education not part of statutory curriculum</td>
<td>21</td>
</tr>
<tr>
<td>Parents can remove children from sex education (unless part of science)</td>
<td>21</td>
</tr>
<tr>
<td>Over a third of the UK’s children living in poverty</td>
<td>22</td>
</tr>
<tr>
<td>Inadequate benefit levels and discretionary social fund</td>
<td>22</td>
</tr>
<tr>
<td>Poor housing conditions</td>
<td>22</td>
</tr>
<tr>
<td>Teenagers in bed and breakfast accommodation</td>
<td>22</td>
</tr>
<tr>
<td>Poor pay more for utilities</td>
<td>23</td>
</tr>
<tr>
<td><strong>Education, leisure and cultural activities</strong></td>
<td><strong>24</strong></td>
</tr>
<tr>
<td>Not all children can enjoy right to education</td>
<td>24</td>
</tr>
<tr>
<td>Continuing high level of school exclusions</td>
<td>24</td>
</tr>
<tr>
<td>Testing is making children unhappy</td>
<td>25</td>
</tr>
<tr>
<td>Why is bullying a common childhood experience?</td>
<td>25</td>
</tr>
<tr>
<td>Concerns about state-funded academies and faith schools</td>
<td>25</td>
</tr>
<tr>
<td>Right to play, rest and leisure</td>
<td>25</td>
</tr>
</tbody>
</table>
## Special protection measures

- Immigration reservation 27
- Immigration control takes priority over children’s best interests 27
- No guardianship for separated children 27
- Entering UK without documentation 27
- Age disputes 28
- Lack of adequate safeguarding for separated children 28
- Immigration detention 29
- Unacceptable conditions in immigration detention 30
- Discriminatory benefit entitlements and health care 30
- Deliberate policy of destitution 30
- Asylum determination process 31
- “Profound inequality” of gypsy and traveller children 31
- Discriminatory minimum wage 32
- Failure to ratify optional protocol and other international instruments 32
- Inadequate protection from trafficking 32
- Children going missing from local authority care 32
- Immigration control takes priority over protecting trafficked children 32
- Children involved in armed conflict 32
- Juvenile justice system is harming children 32
- Very low age of criminal responsibility 33
- Too many children entering criminal justice system 33
- Anti-social behaviour and other related orders 33
- Children tried as adults 34
- Detention not used as a last resort 34
- Vulnerable children in custody 34
- Mandatory indeterminate and extended detention 35
- Children on remand still held in custody 35
- Vulnerable children and self-harm in custody 35
- Widespread criticism of conditions in child custody 36
- Inadequate response from government 37
- Failure to provide therapeutic support for abused children 37

### Annex A:

Summary of legislation passed since September 2002 that breaches aspects of the Convention on the Rights of the Child

### Annex B:

Summary of the findings from Prisons Inspectorate surveys of children in custody, 2005-2007

### Annex C:

Recommendations

### References
Overview

This report has been compiled by the Children’s Rights Alliance for England (CRAE) and is endorsed by 100 NGOs in England. This is the NGOs’ alternative report, and a commentary on the government’s July 2007 report to the UN Committee on the Rights of the Child, in preparation for the next UN Committee examination of the UK in autumn 2008. Children and young people from CRAE’s Get ready for Geneva project are making a separate submission.

We make 152 recommendations for improvements in the implementation of the Convention on the Rights of the Child (the Convention) in England. At least 100 of these recommendations require urgent action.

There have been some significant improvements to children’s rights since 2002: new legislation requires local authorities to tackle inequalities among young children; equality legislation has been extended; and the government continues to emphasise children’s right to be heard and taken seriously. Child protection legislation has in some respects been strengthened, and the fight continues to end child poverty, homelessness and health and educational inequalities. Children now have their own cabinet minister who, among other things, advocates their right to play and take risks. For the first time the UK is undertaking a public consultation on its wide-ranging immigration and nationality reservation to the Convention. This broad reservation puts immigration concerns ahead of children’s human rights; a position adopted by only two other European countries (Belgium and Germany). It will be progress indeed if it is removed. The 10-year Children’s Plan makes reference to the Convention in a way that has never before been seen in a government document.

Yet still this is not a country where every child can enjoy their human rights and reach their maximum potential:

- we have the fourth richest economy and the second worst infant mortality rate of the 24 wealthiest countries in the world
- there is a difference of 14 years in the average life expectancy of children born into the best and worst circumstances
- in our capital city alone, poverty is the cause of death of 41 babies each year
- a third of children in the UK live in poverty, and in some places this rises to half
- according to the Parliamentary Joint Committee on Human Rights the government has a policy of deliberate destitution for failed asylum-seeking families.

Children in trouble with the law

In 2002, the UN Committee expressed very strong concerns about the treatment of children in trouble with the law. Other human rights bodies have repeated these concerns. There has been no increase in the age of criminal responsibility (10 years in England), no significant reduction in the number of children held in custody, and no review of the impact on children of the Crime and Disorder Act 1998.

Since the last examination in September 2002, six more children have died in custody, taking the total number of child deaths since 1990 to 30. There has not been a single public inquiry into a child’s death in custody.

Coroners’ inquests into the deaths of two children who died in restraint-related incidents in secure training centres (privately run prisons for children as young as 12) were held in 2007. These, and a host of Parliamentary questions and disclosures under the Freedom of Information Act, brought information into the public domain that we must assume was already known by ministers and senior prison officials.

This includes:

- children deliberately, and routinely, hit on the nose as a means of restraint
- children resuscitated with oxygen following restraint
- children handcuffed in custody
- children being restrained in order to carry out strip-searches (and having their clothes cut off)
- staff glorifying their violence by giving each other nicknames like “mauler” and “crusher”
- surveys of children in custody revealing high levels of victimisation from staff as well as other children.

In March 2008, the Parliamentary Joint Committee on Human Rights published its report of an inquiry into the use of restraint in secure training centres. The report makes 30+ recommendations and includes a harrowing account of the death following restraint of 15 year-old Gareth Myatt. Gareth was sent to his room because he refused to clean a sandwich toaster (others had used it before him). Two members of staff then entered his room and Gareth told them to get out. The staff members removed items from Gareth’s room because they said he was not calming down. Gareth is said to have become angry when they took a piece of paper with his mother’s new mobile number on it. Three members of staff restrained him on his bed. When Gareth said he couldn’t breathe, he was told, “If you’re shouting you can breathe”. The restraint did not stop even when Gareth said he was going to defecate, which he did. These were Gareth’s final words. He was physically sick and then became unconscious. The Youth Justice Board suspended the restraint method nearly seven weeks later. The inquest in 2007 heard that one of the members of staff restraining Gareth when he died had been investigated the previous year, after a boy needed hospital treatment when he began to choke while being restrained.
A Parliamentary question answered at the end of February 2008 reveals that there were 145 minor injuries and 8 major injuries to children following restraint in custody between April and December 2007. The Government’s definition of major injuries includes: “serious cuts, fractures, loss of consciousness and damage to internal organs”.

The UK Government’s report to the UN Committee says that each child has access to an independent advocate. What the report doesn’t say is that most children do not get to spend time with an advocate. The majority of children know how to make a complaint in prison, but few believe complaints will be sorted fairly.

In nine prisons inspected between 2005 and 2007 (10 units in all):

- most children did not get more than two visits a month from their family and friends
- growing boys usually had less than an hour of outdoor exercise a day
- one in 10 children in custody was a parent themselves.

Children seeking asylum

Our report shows the discriminatory treatment of asylum-seeking families and separated children, not least in the continued use of immigration removal centres (detention). Alternatives to detention are currently being piloted but still families are subject to institutionalised rules and children have to miss school one day a week to report to immigration. The benefit rate to asylum-seeking parents is 30% lower than it is to other parents. Asylum seekers are not allowed to work for the first 12 months of their stay in the UK; and local authorities too often shun their legal obligations to separated children. The Refugee Council has documented cases of young women being threatened with bills and bailiffs for maternity costs: access to free secondary health care was removed from failed asylum seekers in 2004.

Children’s civil rights

The civil rights of all children have been eroded since the last examination by the UN Committee, with plans for a national electronic database of all 11 million children.

Another database will keep records of children using social care services (estimated at between 30 and 50 per cent of the total child population).

Local councils have powers to disperse groups of children (as well as adults) and the police can remove children from the streets after 9pm.

Schools have much wider powers to punish the behaviour of children, including for actions away from the school building. Extended powers of restraint, as well as the growth in cameras, electronic tracking and body searching are changing the culture of schools in our country. At the same time, teaching unions point out that children in England are the most tested in Europe, with children taking about 70 tests by the time they reach 16. An Ofsted (the education and children’s services inspectorate) survey in 2006 of nearly 112,000 school children found that 51% worried about exams and nearly one in 10 (9%) never enjoy school.

The school day has been extended, with breakfast and after school clubs, yet ministers still resist giving students the kind of consultation rights they have in other settings such as health and social care.

Parents must keep children indoors for the first five days following school exclusion (even a trip to a museum or theatre is not permitted). Sanctions are being introduced for 16 and 17 year-olds who do not take up their “right” to education.

In October 2007, the Government announced the results of its review into the impact of section 58 of the Children Act 2004, which removed the defence of “reasonable chastisement” for actual bodily harm, grievous bodily harm, wounding or ill treatment but introduced the “reasonable punishment” defence for common assault. Only 1% of respondents said that the 2004 Act had increased child protection, yet ministers claim no further action is necessary. In 2002 the UN Committee urged the UK “as a matter of urgency” to remove this defence, but this is one of many recommendations that have been ignored. In addition, nearly 30 pieces of legislation have been introduced in England since September 2002 that in part breach the Convention (see Annex A).

There are big opportunities ahead to increase protection for children’s human rights, notably in the forthcoming consolidation and, we hope, the strengthening of discrimination law and in the promised British Bill of Rights.

The new Equality and Human Rights Commission has the potential to make a significant impact on public awareness and respect for the human rights of the young. England’s Children’s Commissioner, appointed in 2005, continues to challenge harmful attitudes and treatment, in spite of his inadequate legal mandate and weak independence. We very much welcome the examination of the UK by the United Nations’ Committee on the Rights of the Child, and we will do all we can to ensure this process brings real change for all of England’s 11 million children.

Children’s Rights Alliance for England

March 2008
The UK Government’s report to the UN Committee, July 2007

The government’s report shows a profound lack of engagement with the spirit and requirements of the UN Convention on the Rights of the Child by ministers and officials in England. While there have been some positive developments since the UK submitted its report in July 2007, we still do not have a government that embraces the Convention as the tool to transform children’s lives and social position. The government’s report shows very little enthusiasm for children’s rights.

The statement “Children across the UK are achieving more and families are better off than before” sums up this government’s strong focus on education and employment. While both are critically important there is much more to childhood than achieving at school and being prepared for work, as the Convention demonstrates.

Claims that the interests and rights of asylum-seeking children are “fully respected” are misleading. The refusal of the UK (to date) to remove its far-reaching immigration reservation to the Convention is proof alone that immigration concerns trump the human rights of vulnerable children. The government states that these children have the same protection as other children under the Human Rights Act but fails to mention that high quality lawyers are increasingly hard to find and it is incredibly difficult for all children, let alone the most vulnerable, to seek legal remedy for breach of their human rights.

We welcome the acknowledgement of wide “gaps between outcomes”, but object to the reference in this section to “young people’s preparedness to take health risks with underage drinking and early sexual experiences”. As our report demonstrates, NGOs have grave concerns about many aspects of children’s rights in England, from deaths and mistreatment in custody and violence in the home, to the failure of government to sufficiently protect the rights of particular groups of children subject to discrimination, including gypsy, Roma and traveller children; disabled children; and asylum-seeking children. Addressing the risky behaviour of children is an important part of protecting their human rights but this reporting process, and this section of the UK’s report in particular, should be about scrutinising the government actions that help or hinder the enjoyment of human rights, not the behaviour of individual children or their families.

In February 2007, the government was asked in Parliament whether its Cabinet sub-Committee on Children’s Policy had discussed the UNCRC, or the UN Committee’s 2002 concluding observations. The minister, Lord Adonis, responded: “Information relating to the proceedings of Cabinet committees is generally not disclosed, as to do so could harm the frankness and candour of internal discussion.”

House of Commons written answer, 28 February 2007

Article 4

Overall picture: still a very unequal society

The UK is not undertaking “all appropriate legislative, administrative and other measures” as required by article 4 of the Convention:

➔ more than a third (3.8 million) of children live in poverty in the UK; in some areas of Britain this rises to more than half;
➔ a total of 1.3 million children in the UK live in severe poverty;
➔ the UK has the second worst death rate for under-fives of the 24 wealthiest countries in the world and this figure is linked directly to inequality. In London alone, socioeconomic inequalities cause the deaths of 41 babies each year;
➔ the difference in life expectancy between the richest and poorest in our very affluent country is almost 14 years;
➔ 112,263 children were living in temporary accommodation in England in December 2007, and in March 2007 (latest figures available) 1,584 children were living in bed and breakfast accommodation in England;
➔ eighty children in England were brought into care (looked-after) in the year ending 31 March 2007 because of poverty, bringing the total to 380 children since 2002;
➔ recent analysis shows that more than four in 10 young people from the richest 20% of households obtained a degree in 2002, compared with just one in 10 of young people from the poorest 20% of households. Social mobility in the UK is no better now than it was in the 1970s.

Immigration reservation

The UK Government announced a review of its immigration reservation on 14 January 2008 and there is a question in the Border and Immigration Agency’s consultation on its code of practice on children’s safeguarding in immigration.

We note that the UK Government in July 2004 withdrew a similar reservation to the Convention on the Elimination of All Forms of Discrimination against Women.

Detention with adults’ reservation

The UK Government’s report claims that girls are no longer detained with women in English prisons. The Chief Inspector of Prisons reported in 2006 that some girls were still mixing with adults in prisons. This is undoubtedly a consequence of building units for girls in the grounds of women’s prisons.

There were 61 children within families held in immigration detention in September 2007 (latest available figures, February 2008). In May 2006, the Chief Inspector of Prisons interviewed 13 children in detention. Of these eight said they were frightened or worried and nine children had been ill since being detained.
When asked what made them unhappy, a 13 year-old responded: “Little kids crying too much. You don’t feel like doing anything and it all comes back what happened to you.”

A 10 year-old explained: “The officers are tall and scary - their shoes are big and noisy.”11

**Convention on the Rights of the Child has not been incorporated into UK law**

In 2002, the UN Committee welcomed the Human Rights Act 1998 but was concerned “that the provisions and principles of the [UN] Convention on the Rights of the Child - which are much broader than those contained in the European Convention - have not yet been incorporated”. It recommended that the UK incorporate the Convention into domestic law. This has not happened, though there could be a significant opportunity to do this with the development of a British Bill of Rights.14

The Department for Children, Schools and Families (DCSF) leads many aspects of children’s policy in England but shares key policy areas with other government departments, notably poverty, health and juvenile justice. Immigration and asylum policy relating to children remains with the Home Office’s Border and Immigration Agency. For the past few years, *Every Child Matters* has been the guiding framework for the DCSF (and the Department for Education and Skills before it), with virtually no attention to the Convention on the Rights of the Child. There is some reference to the Convention in the Children’s Plan, published in December 2007, but no indication (yet) that the treaty’s detailed obligations are guiding government policy in any significant way.

The Children Act 2004 requires each of England’s 150 authorities regulating children’s services to promote cooperation between local agencies “with a view to improving the well-being of children in the authority’s area so far as relating to: (a) physical and mental health and emotional well-being; (b) protection from harm and neglect; (c) education, training and recreation; (d) the contribution made by them to society; and (e) social and economic well-being”. These aspects of well-being are known as the ‘five outcomes’.

The Parliamentary Joint Committee on Human Rights described the five outcomes as “vague and generalised” when it tried to persuade the government to give England’s Children’s Commissioner a broader children’s rights focus.15

The 2004 Act does not give children rights that can be tested in court, while public service agreements and children’s services inspection criteria neither add up to a comprehensive implementation plan for the UN Convention on the Rights of the Child, nor promote the general principles of the Convention.

The government’s report notes that the five outcomes reflect children’s own priorities. This implies that children were consulted openly and were even able to set the agenda. In reality, children were given a pre-set agenda and asked to indicate their support. Interestingly, children indicated support for the sixth outcome proposed at the time, relating to inclusion and non-discrimination. Though present in the 2001 draft national children’s strategy, it was missing from the *Every Child Matters* Green Paper, published in 2003, and not included in the Children Act 2004.

In 2002, the UN Committee welcomed the government’s draft national children’s strategy but urged greater integration of the Convention in the final document. The head of the government’s delegation, Althea Efunshile, who was director of the Children and Young People’s Unit at that time, sought to reassure Committee members that this would happen: “We do... agree that we can do more to commit ourselves to a vision encompassing the overall approach of the Convention and that is why...[the forthcoming children’s] strategy will... be firmly linked to obligations under the UN Convention on the Rights of the Child (our emphasis).”

The Children and Young People’s Unit was disbanded and replaced by the Children, Young People’s and Families Directorate in the Department for Education and Skills in autumn 2003, which itself was replaced in June 2007 by the new Department for Children, Schools and Families. The draft national children’s strategy discussed by the UN Committee in 2002 was never finalised, though a 10-year Children’s Plan for England was published in December 2007 (see above).

**No co-ordinating body within government for Convention implementation**

There is still no co-ordinating body within government for the implementation of the Convention. There is only a very limited “rights-proofing” process, whereby ministers and officials scrutinise proposed law and policy for its compatibility with human rights standards (currently this process only encompasses the European Convention on Human Rights and the Human Rights Act).16 There is no distinct analysis or monitoring of expenditure on children.

**Children’s Commissioner legislation does not meet Paris Principles**

The function of England’s Children’s Commissioner, appointed in March 2005, is narrowly to “promote awareness of the views and interests of children”. The legislation does not comply with the UN Paris Principles:17 the Children’s Commissioner does not have an open mandate; his independence is seriously compromised (for example, he must consult the Government before establishing an inquiry); and the role is not to promote and protect children’s human rights. The government’s explanatory notes accompanying the legislation describe the role as simply being “to ensure a voice for children and young people at national level”, with no mention of the Convention.18

We welcome the creation of the Equality and Human Rights Commission, which opened for business in October 2007, whose function, powers and independence are much more compliant with the Paris Principles.

**International aid still lower than UN target agreed in 1970**

The government expects to meet the international goal of 0.7% gross national income (GNI) to official development assistance by 2013. In 2006, the UK gave 0.51% of its GNI to official development assistance and in 2002 it gave 0.31%.19
Marked differences across the UK in political willingness to embrace the Convention

The UK Government’s report to the UN seeks to use devolution as a smokescreen for the lack of progress in England (and UK-wide) on the implementation of the Convention. We consider the different approaches to implementation reflect degrees of political will and engagement rather than any differences in the needs of children. We note the UN Committee’s expectation that “decentralization or devolution [should] not lead to discrimination in the enjoyment of rights by children in different regions”.20

Children’s access to justice is worsening

There is mounting evidence that children cannot get the advice they need from the civil justice system to claim their rights. Research by Youth Access with the Legal Services Research Centre reveals that the majority of young people who have complex problems are far more likely to have tried and failed to get advice than adults.21 Many experience health problems or become homeless as a result of their unmet needs.22 Ongoing reforms to the legal aid system in England and Wales is making working with vulnerable children uneconomic and forcing many of the specialist lawyers and advisers to abandon legal aid work.23

Article 42

Lack of dissemination of the Convention

There has been virtually no dissemination of the United Nations Convention on the Rights of the Child to children or adults. More than three-quarters of 11 to 16 year-olds who took part in an Ipsos MORI survey for the Office of the Children’s Commissioner in 2006 were unaware of the Convention.24 The national curriculum, introduced in 1988, still does not include education about the Convention.

In December 2006, the government was asked in parliament to describe how it disseminates the Convention. The Minister, Lord Adonis, explained that information is held on three government websites (Department for Children, Schools and Families, Directgov and the Foreign and Commonwealth Office). When asked about wider public dissemination, he replied:

“The department does not disseminate information to schools, health centres, hospitals, courts, job centres, post offices, libraries and other similar establishments. However, there are opportunities within citizenship education to learn about human rights and how they relate to young people and [this] could include the Convention.”25

Accessible information about the Convention has not been circulated to disabled children. Notably, there is nothing on the Department for Children, Schools and Families’ website about the United Nations Disability Convention, or any other treaty besides the United Nations Convention on the Rights of the Child.

The government’s July 2007 report refers to funding given to UNICEF’s Rights Respecting Schools Award in five local authorities. This new nationwide award scheme promotes the UN Convention on the Rights of the Child as the basis for enhancing teaching, learning, ethos, attitudes and behaviour. Government funding is a welcome development but providing funding for this project does not equate to the government fully meeting its obligations under Article 42.

Furthermore, the Minister for Schools, Kevin Brennan, gave a fairly lukewarm response in July 2007 when asked in parliament how his department supports the Rights Respecting Schools initiative. He said:

“...while the Department does not actively promote the specific RRR framework, schools are free to adopt it. The Department does not collect information about the numbers of schools involved in RRR.”26

The government refers in its July 2007 report to a new website for five to 11 year-olds, launched in April 2007. The website glosses over human rights challenges in our country. For example, in the first of three exercises teachers are urged to invite children to talk in pairs about their bedroom and then to: “Explain to the children that they are very lucky living in the United Kingdom to all have such lovely bedrooms. They are also very lucky to have lots of other things, such as an education, clean water and parks to play in, and that some children who live in other countries don’t have some of the things that we take for granted”.

There are no general training programmes developed on the Convention for professionals, although the Children’s Rights Alliance for England (CRAE) was commissioned by the government in 2004 to develop Ready Steady Change, a training and tools package on children’s participation rights. The alliance received funding in 2005 and 2006 to disseminate the materials.

Article 44(6)

Limited dissemination of periodic report

The government did not issue a press release when it submitted its third and fourth joint periodic report to the UN Committee in July 2007, and it received very little media attention. Its report is available on the Strategy and Governance area of the Department for Children, Schools and Families Every Child Matters micro-site. No reference to the government’s joint report, the Convention, children’s rights or human rights can be found in the A-Z search on the department’s website.

See recommendations on pages 43 to 50.
Definition of the child

The UK Government’s report to the UN Committee, July 2007

We agree that the measures outlined are very positive though regret that the government’s report does not address concerns relating to the inconsistencies in minimum age requirements. For example, while it wants to prohibit those less than 18 years of age from purchasing tobacco and alcohol, the government will continue to expose children from the age of 10 to a criminal justice system that was designed for adults.

Incoherent minimum age requirements

Age-based legislation in England continues to be muddled:

➢ the age of criminal responsibility is still 10 years. Youth offending teams now engage in prevention work with under-10s and this, together with new penalties on parents relating to anti-social behaviour, results in even younger children having contact with the criminal justice system

➢ legislation has been passed that prohibits any sexual activity between under-16s: there is absolutely no legal defence for adults or children

➢ thirteen year-olds can work part-time but only 16 year-olds are eligible for the reduced minimum wage. The full minimum wage is not available until age 22

➢ 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. They have to pay full price on transport, and for many leisure facilities

➢ sixteen and 17 year-olds can work full time, pay income tax, get married or have a civil partnership, change their name by deed poll, ask the state to look after them and claim social security benefits in certain restricted circumstances. However, full benefit entitlement is not available to anyone under 25 years (benefits were removed from most 16 and 17 year-olds in 1986). Even when they are parents, adolescents are not entitled to full benefit rates

➢ the right of trans-gendered people to apply for a gender recognition certificate and have their gender legally recognised is only available to adults (Gender Recognition Act 2004)

➢ the Mental Capacity Act 2005 provides that only adults can make an advance decision to refuse medical treatment, or appoint a Lasting Power of Attorney (someone to make decisions on their behalf, relating to property and affairs including personal welfare)

➢ seventeen year-olds are treated as adults when the police arrest them (including in connection with terrorism) and in bail and remand proceedings

➢ children are excluded from the right to vote and individuals cannot put themselves forward as local councillors or Members of Parliament until the age of 18

➢ the government may exclude children from new protection from age discrimination.

See recommendations on pages 43 to 50.
We welcome advances in anti-discrimination law but note that none of these statutes has been designed specifically for children. Children benefit from these laws because of factors other than their age or status as children. The recent discrimination law review is the first time age discrimination outside of employment has been considered seriously. Despite plenty of evidence of unfair treatment, some ministers say they do not believe that children should be protected from discrimination on the grounds of age. The reasons given, principally children’s need for age-appropriate services, have been strongly rejected by many organisations, including the new Equality and Human Rights Commission, the UK Children’s Commissioners and the Equality and Diversity Forum (a coalition of 38 equality and human rights NGOs, including the Children’s Rights Alliance for England).

We cannot accept the government’s view that it has "established a range of mechanisms, guidance and legal requirements which mean that pupils’ views and interests are heard, valued and acted upon in the school context". Since the UN Committee last examined the UK’s implementation of the Convention on the Rights of the Child in 2002, CRAE and others have tried on four separate occasions to have the law amended to give children participation rights in schools in England. Each time the government has resisted enshrining Article 12 in law, relying instead on guidance and positive promotion by NGOs. We very much welcome support for organisations such as School Councils UK but training 160 education professionals in running effective school councils is absolutely no substitute for giving all children the legal right to contribute to the running of their schools, to have a choice over their secondary school, to be able to opt in or out of religious education and to be able to appeal their exclusion. This is a major gap in policy.

Unequal enjoyment of rights

There is substantial evidence of Article 2, 3, 6 and 12 breaches in the immigration and juvenile justice systems (see pages 27-37).

The government has not developed a national strategy to tackle the many forms of discrimination faced by children in England, as recommended by the UN Committee in 2002.

In 2007, child poverty increased for the first time in seven years, with a rise of 200,000 more children living in poverty. Income inequality is at its highest since 2001/02.

The consensus is that about £4 billion additional expenditure is required this year and next in order to meet the government’s own target of reducing child poverty by half by 2010.

Age discrimination

Ministers have begun to acknowledge publicly that anti-social behaviour measures may have affected public perceptions of the young. Research undertaken for the Joseph Rowntree Foundation in 2007 reported that young people feel they are disproportionately targeted and blamed for antisocial behaviour, and they resent being moved from an area by the police when they have not done anything wrong. The researchers concluded: “By telling young people in groups that they may be dispersed and/or escorted home because they are perceived to be intimidating to others, we may be in danger of reworking the traditional Victorian saying such that it now reads: ‘Children should be not seen and not heard’.”

CRAE has documented other evidence of discriminatory treatment on the grounds of age, including on public transport, access to shops and leisure facilities and the availability of health and social care services to vulnerable teenagers.

The government conducted an online children’s rights survey in preparation for its submission to the UN Committee in July 2007. It asked under 18 year-olds to state whether they have ever been treated unfairly because of their age, gender, disability, family’s financial status, skin colour, religion or culture, the beliefs or behaviour of parents/carers, the child’s own beliefs, language, sexual orientation or something else. Over 3,900 children participated in the online survey. More than four in 10 (43%) reported that they had been treated unfairly because of their age. While fewer than three in 10 (29%) of the under-11s felt that they had experienced age discrimination, nearly two-thirds of older teenagers (64%) reported this. Unfair treatment on the grounds of age was by far the single biggest example of discrimination.
Discrimination faced by lesbian, gay and bisexual young people

There are at least 100,000 children growing up to be lesbian, gay, bisexual or transgender in England. We very much welcome the new legal protection from hatred on the grounds of sexual orientation included in the Criminal Justice and Immigration Bill (currently in the Lords – February 2008).

Stonewall undertook the largest survey of young lesbian, gay and bisexual secondary school students in 2007. Hearing from 1,145 students, Stonewall found that homophobia is widespread in schools:

- Almost two thirds (65%) of lesbian, gay and bisexual young people had experienced direct homophobic bullying. In faith schools this rose to three in every four (75%)
- More than nine out of 10 (92%) of gay young people had been subject to verbal abuse; 41% to physical abuse
- Less than a quarter of gay young people (23%) had been told that homophobic bullying is wrong in their school
- Over half of lesbian and gay young people did not feel able to be themselves at school; 35% did not feel safe or accepted at school
- ‘Boys in my year’ were the most common perpetrators of homophobic bullying but more than 30% of young gay and lesbian students said adults were responsible for homophobic incidents.

Ofsted has found that in some secondary schools homophobic or sexist attitudes among students still go unchallenged. It notes that “[s]chools have not received the guidance and support they need on [sexuality].”

Responding to pressure on this issue, the Government commissioned Stonewall and Educational Action Challenging Homophobia to prepare detailed guidance for schools on how to prevent and tackle homophobic bullying. This forms part of new revised overarching guidance on bullying published in September 2007.

Discrimination in school admissions

Legislation still permits segregated education for many disabled children. Section 316 of the Education Act 1996 (as amended by the Special Education Needs and Disability Act 2001) provides that any child who does not have a statement of special educational needs must attend a mainstream school. However, a child with a statement of special educational needs must be educated in a mainstream school. However, a child with a statement of special educational needs must be educated in a mainstream school unless it would be incompatible with “the provision of efficient education for other children” or the wishes of parents. The British Council of Disabled People has described the Act as creating a two-tier system, which is “discriminatory and unjust.” In January 2007, the number of disabled children and young people attending ‘special’ schools was 89,410. Of these, 4,540 were aged five and under and 720 were aged two and under. Over half (57.2%) of children with a statement of special educational needs attended a mainstream school in January 2007; in January 2003, this was 60.3%.

At the end of November 2006, the Centre for Studies on Inclusive Education wrote to the Education Secretary urging an unequivocal national inclusion strategy and said “it is simply not acceptable to carry on dealing with this by vagueness”.

Under Section 59 of the Equality Act 2006, educational institutions, including state-funded faith schools, can operate selective admissions policies based on religion or belief.

Discrimination faced by gypsy and Roma children

It is estimated that between 90,000 and 120,000 gypsies and Irish travellers live in a caravan in England, and up to three times as many live in conventional housing. The duty on local councils to provide sites for gypsy and traveller families was removed in 1994. Provisions in the Housing Act 2004 for local authorities to make an assessment of need for sites and to set land aside are too weak, and the Traveller Law Reform Project and others are urging the reinstatement of the statutory duty.

In December 2006, the European Social Rights Committee declared the UK did not conform with the European Social Charter “because Roma/traveller/gypsy families do not have effective protection [in relation to the provision of sites and protection from eviction]”. There is provision in the Housing and Regeneration Bill currently (March 2008) going through parliament to extend security of tenure to residents on local authority gypsy and traveller sites (through an amendment to the Mobile Homes Act 1983). This is very welcome, although it does not replace the need for a clear duty on local authorities to provide such sites.

Traveller, gypsy and Roma children still face discrimination when trying to use services and are insufficiently protected from hostile media coverage. For example, The Sun newspaper’s Stamp on the Camp campaign in March 2005 led to increased attacks and bullying.

Article 3

Children’s best interests not consistently reflected in legislation

Family courts must have the child’s welfare as the paramount consideration when considering matters relating to a child’s upbringing, or property and financial matters relating to a child (Section 1, Children Act 1989). This strong provision is not present in any other legislation affecting children, although the importance of a child’s welfare and well-being is increasingly part of England’s legislative framework for many, but not all, children:

➔ Section 175 of the Education Act 2002 requires local education authorities and school governing bodies to discharge their functions with a view to safeguarding and promoting the welfare of children who are students at the school
➔ Section 11 of the Children Act 2004 requires public authorities working with children to have regard to the need to safeguard and promote the welfare of children but immigration agencies are not included (see page 27)
Section 1 of the Childcare Act 2006 requires local authorities to improve the well-being of young children (five and under) in their area

Section 44 of the Children and Young Persons Act 1933 requires courts dealing with child defendants to have regard to the welfare of the child. A Bill is currently going through parliament that attempts to dilute this provision (see page 35)

Child’s best interests not considered when sentencing parents

There is no duty on the court when sentencing parents, including children who are parents, to treat the child’s best interests as a primary consideration, although the Sentencing Guidelines Council recently (June 2007) published draft guidelines that stress the importance of considering the child’s circumstances when sentencing parents for child cruelty. The report from the England’s Children’s Commissioner’s office, 11 Million, on mothers in prison, was recently published. It includes the following recommendation: “The impact of separation [on babies and children] should be a determining factor when conducting the initial assessment to see whether placement in a Mother and Baby Unit is likely to be in the child’s best interests.”

At least 70,000 children have a parent in prison, yet only 3% of local authority plans for children’s services make reference to children in these circumstances. The Corston review on women in prison reported in 2007 that 18,000 children each year are separated from their mothers in prison. Only 5% of prisoners’ children remain in their home once their mother has been sentenced to custody. A quarter are cared for by grandparents, 29% by other relatives and 12% are in care or adopted. The review describes the impact on children of their mother’s imprisonment as “catastrophic”.

Parents imprisoned and fined for children not attending school

The Education Act 1996 was amended in 2000 to enable courts to issue custodial sentences of up to three months for parents who fail to ensure children attend school regularly. The government does not collect data on the number and circumstances of parents imprisoned as a result of truancy but there have been many high profile cases since the UN Committee’s last examination that indicate a possible disproportionate impact on lone mothers.

The Anti-social Behaviour Act 2003 gives local authorities the power to issue penalty notices to parents of children who do not attend school regularly. In the seven months between September 2006 and April 2007 there were 7,662 penalty notices issued to parents whose children did not attend school regularly. A total of 23,295 penalty notices have been issued since 2004/05. During this same seven-month period, 151 parenting orders were issued by courts following prosecution for truancy. The total number of parenting orders issued for truancy since 2004/05 is 1,083.

Teenagers to be penalised for not taking up the “right” to education

A Bill is currently (February 2008) passing through parliament that places a duty on 16 and 17 year-olds to engage in education or training. The local education authority will be able to issue a penalty notice and, if this does not work, initiate court proceedings for an “attendance notice”. Failure to comply with this notice will be a criminal offence punishable by a fine up to £200. The UK Government says children will not be imprisoned for non-attendance but it has not explained how it plans to deal with children who do not pay their fines. The UK government estimates that 206,000 (almost 11%) of 16 to 18 year-olds are not in education, employment or training while the latest figures show that 28% of care leavers are not in education, employment or training.

While it is clear that the life chances of children can be increased significantly if they remain in education or training beyond the age of 16, there are concerns that unless the right opportunities are identified, and effective support is given, the children who are currently disenfranchised from the formal education and training systems will completely disappear or be driven underground in an attempt to escape penalties for non-attendance.

Other penalties on parents

Since the last examination, when the UN Committee expressed concern about the orders in the Crime and Disorder Act 1998, there has been a proliferation of financial and other penalties on parents for failing to regulate children’s behaviour:

➔ from July 2006, magistrates in 10 pilot areas have had the power to issue a parental compensation order in relation to the behaviour of a child below the age of criminal responsibility (10 years). A parent can be fined up to £5,000 even if their child is subject to a care order and is being looked-after by the local authority. There is no minimum age so, in theory, parents could be fined for the actions of toddlers. Non-payment of the fine can result in imprisonment

➔ the Anti-social Behaviour Act 2003 allows for fast-track eviction of families for anti-social behaviour. The definition of anti-social behaviour is extremely broad and vague: “[acting] in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself.” (Crime and Disorder Act 1998). Between October 2003 and September 2006, there were 1,720 evictions for anti-social behaviour. When a family with children is evicted because of the anti-social behaviour of one or more of its members, the whole family is deemed to be “intentionally homeless” and the local authority has no ongoing obligation to secure accommodation for that family

➔ the Welfare Reform Act 2007 includes powers to reduce up to 30% of a family’s or young person’s housing benefit for up to five years if they have been evicted for anti-social behaviour and refuse offers of support. No similar penalty exists for homeowners. The new powers are being piloted in eight local authorities for two years from November 2007. Local authorities were offered a minimum of £10,000 a year from the Department for Work and Pensions to join the pilot.
The department’s note to local authority chief executives includes a question about the likely impact on the provision of support services and states, “This should be relatively minor.” This brings into question whether families at risk of eviction or reduced housing benefit will actually be offered the support they need (and to which they are entitled under the Children Act 1989)

➔ in February 2008 the UK Government announced that social housing would be conditional on actively seeking work. The head of Shelter, the housing charity, commented: “[This] would mean... the destruction of families and communities and would add to the thousands who are already homeless... This problem has arisen because successive governments have failed to invest in building social housing, meaning that the only people who can access it tend to be the vulnerable, the sick, the old and people with young children.”

### Article 6

#### Inequalities in infant mortality rates

The infant mortality rate in the routine and manual social class group was 17% higher than in the total population in 2004/06 (a 2% drop from the 2002/04 rate).

The infant mortality rate is highest among mothers aged under-20. An inquiry by the Commission for Racial Equality (2006) reported that gypsy and traveller mothers are 20 times more likely to experience the death of a baby than other mothers.

#### Large gap in life expectancy

There is more than 14-years’ difference between the life expectancy of a male child born in Blackpool (life expectancy 73.3 years) and a girl child born in the London borough of Kensington and Chelsea (life expectancy 87.2 years). Social class still largely determines life expectancy in our country, with males in the lowest social class having an average life expectancy at birth of 72.7 years, and females in the highest social class having an average life expectancy at birth of 85.1 years.

#### Up to two child homicides every week

On average, every week in England and Wales one to two children are killed at the hands of another person. While the number of child homicides fluctuates each year, the overall child homicide rate in England and Wales has remained broadly similar since the 1970s. Infants under one year of age are more at risk of being killed at the hands of another person than any other age group in England and Wales. Almost two-thirds of children killed at the hands of another person in England and Wales are under five years of age.

### Child deaths in custody

Thirty children (all boys) have died in custody since 1990. Nine of these were on remand. Six children have died in custody since the UN Committee’s last examination in September 2002 (see table 1 below).

Two children died following restraint-related incidents. Fifteen year-old Gareth Myatt died after being restrained by three staff at the privately run Rainsbrook secure training centre. Gareth was four foot ten and weighed just six and a half stone. His inquest heard of a macho culture in the secure training centre. Staff had nicknames such as “crusher”, “clubber”, “mauler” and “breaker”. The children who received most restraints on a shift were called “winners”. The staff nicknames were included in a training document issued to staff. The court also heard that one of the custody officers restraining Gareth when he died had been investigated previously, after a boy needed hospital treatment when he began to choke while being restrained. The Parliamentary Joint Committee on Human Rights has made publicly available the appalling circumstances surrounding Gareth’s death.

The youngest person to die in custody in modern history was 14-year-old Adam Rickwood, who hanged himself in August 2004 just hours after being subjected to the painful nose “distraction” (see page 44).

A Parliamentary question has revealed that in Rainsbrook secure training centre oxygen was administered on four separate occasions in 2005 and once in 2006, following the restraint of a child.

Following the inquest into the death of 16-year-old Joseph Scholes, who died in wretched circumstances in Stoke Heath young offender institution in March 2002, the coroner used his powers under rule 43 of the Coroners Rules 1984 to recommend that a public inquiry be held into matters that were outside his inquest remit, and in particular the sentencing and allocation of vulnerable children. Despite widespread Parliamentary support, including from the Parliamentary Joint Committee on Human Rights, the government has refused to set up an inquiry.

<table>
<thead>
<tr>
<th>Name of child</th>
<th>Age at time of death</th>
<th>Custodial setting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liam Philip McManus</td>
<td>15 years (29 November 2007)</td>
<td>Young offender institution</td>
</tr>
<tr>
<td>Sam Elphick</td>
<td>17 years (15 September 2005)</td>
<td>Young offender institution</td>
</tr>
<tr>
<td>Gareth Price</td>
<td>16 years (20 January 2005)</td>
<td>Young offender institution</td>
</tr>
<tr>
<td>Adam Rickwood</td>
<td>14 years (9 August 2004)</td>
<td>Secure training centre</td>
</tr>
<tr>
<td>Gareth Myatt</td>
<td>15 years (19 April 2004)</td>
<td>Secure training centre</td>
</tr>
<tr>
<td>Ian Powell</td>
<td>17 years (6 October 2002)</td>
<td>Young offender institution</td>
</tr>
</tbody>
</table>

![Table 1: Children who have died in custody since the last UN Committee on the Rights of the Child examination in September 2002](image_url)
Taser guns now being used in England
Since July 2007, authorised firearms officers in police forces across England and Wales have been able to use Taser stun guns.41 Tasers emit a 50,000-volt electric shock and have been used 619 times since they were introduced in April 2003 as a “less lethal alternative” to police firearms.42 In addition to the extended powers, a 12-month trial of the deployment of Tasers by specially trained units who are not firearms officers began in September 2007 in 10 police forces. In November 2006, the Home Office Scientific Development Branch reported a safety notice issued by the manufacturer Tasertron (now Taser Technologies Inc.) warning against the use of Tasers on children. Contrary to these safety instructions, it appears that the use of Taser devices on under-18 year-olds has been authorised. In May 2007, the Defence Scientific Advisory Council’s Sub-Committee on the Medical Implications of Less Lethal Weapons (DOMILL) reported that it had “reviewed ten cases of the exposure of persons under the age of eighteen to Taser currents in Great Britain up to December 2006, under firearms authority” and stated that it “anticipates that there will be an increase in the numbers of children subjected to Taser”. DOMILL concluded that children are at “potentially greater risk from the cardiac effects of Taser currents than normal adults”.63

High incidence of self-harm among children
The national inquiry into self-harm published its final report in May 2006 and called on the Government to launch a UK-wide initiative to improve responses to children who self-harm.64 The report reveals that children who self-harm are more likely to turn to friends of their own age for help than to relatives, teachers or doctors, as they worry they will receive a negative reaction from adults. Research conducted for the inquiry found that one in 12 children in the UK self-harms.

Article 12

Disabled children’s right to communication
Disabled infants and children have no legal right to augmentative and alternative communication equipment, which is essential for them to enjoy their Article 12 rights.

Funding for the Communication Aids Project ended in March 2006. In the four years the project ran, more than 4,000 disabled children of school age received technology and training.

Lack of student choice and decision-making
It is parents, not children, who have the legal right to decide which school their child attends. There is no legal provision for children who have sufficient understanding to challenge parental choice, including in relation to faith schools or “special” schools. Only students in the sixth form (16+ years) can decide to opt in or out of collective worship65 and parents can remove children from sex and relationships education that is not part of the science national curriculum. Children have no right to complain about their education and no consultation rights within their school. They can only be associate members of governing bodies (the right to become a full governor was removed in 1986).

Not all children heard in family proceedings
Section 122 of the Adoption and Children Act 2002 added proceedings under section 8 of the Children Act 1989 to the list specified in section 41 of the Act, in which a child may be made a party to family proceedings. This part of the Act finally came into force in December 2004.46 However, there have been no additional court rules to implement this provision, and a government consultation in 2006 proposed that children should only be given party status if there is a “legal need”.47

A survey of children affected by parental separation and family proceedings undertaken by a statutory body and major children’s charity revealed that just 4 in 10 children thought they had “had a say”. A further 34% of children thought they had had “a bit” of a say, and 16% responded “not really”. Only 1% of children went to court and talked to the judge; 19% said they would like to have done this and a further 18% said they would like to have attended court. More than half (55%) said they didn’t want to go to court. Only 62% of children were satisfied with contact arrangements determined by the court (girls were twice as likely as boys to be dissatisfied; and children aged 13 and under were four times as likely to be dissatisfied as those aged 14 years and over).64 Her Majesty’s Inspectorate of Court Administration undertook a review of safeguarding in family proceedings and found “most courts visited by inspectors have little or no relevant written information about family proceedings suitable for children”. The report states: “… there is an irrefutable case for children to be increasingly involved, given that such proceedings so crucially affect their lives.”65

Safe contact and the child’s wishes and feelings
The government does not collect data on the number of children killed during a contact visit.70 In 2004, Women’s Aid reported that 28 children had been killed by a parent in a contact visit in the previous 10 years.71 A recent report by the Family Justice Council (February 2007) may indicate a shift from the “contact is always the way forward” approach to “contact that is safe and positive for the child is always the appropriate way forward”. We particularly welcome the council’s advice that the child’s wishes and feelings should be ascertained whenever domestic violence is evident. However, insufficient weight is still given to the wishes and feelings of children in family proceedings. Whilst children in public law proceedings are entitled to separate representation by a lawyer (in addition to the CAFCASS officer who will inform

Nearly four in every 10 children (38%) who responded to a national survey (n=111,325) reported that children’s views are listened to “not much” or “not at all” in the running of their school; a further 11% of children said they didn’t know whether children’s views are listened to. More than half (52%) said children’s views are listened to a “great deal / fair amount”.

Ofsted TellUs2 questionnaire summary results, November 2007
the court of the child’s wishes and feelings but not necessarily advocate them), children involved in Section 8 (Children Act 1989) private law proceedings do not automatically have independent representation. In both situations, the law itself gives no prominence to the child’s wishes and feelings; the court has to have regard to the child’s wishes and feelings alongside their physical and emotional needs; the likely impact of any change in circumstances; their age; sex and background and any other characteristics; any harm suffered or risk of harm; and the parents’ capabilities.

Independent advocacy not widely available
There has been some strengthening of the right to independent advocacy since the UN Committee’s last examination. The Adoption and Children Act 2002 amended the Children Act 1989 to place a duty on local authorities to make arrangements for the provision of advocacy for children in care and care leavers, who want to make a complaint under the Children Act procedures. The Mental Health Act 2007 requires the appointment of an independent advocate when a child is detained in a mental health setting but not when they are held “voluntarily” with parental permission. There are many other children that require independent information, advice and support in order to be heard and have their rights secured, not least disabled children living away from home and children subject to school exclusion.

Child’s wishes and feelings in child protection investigations
During the passage of the Children Act 2004, the Children’s Rights Alliance for England (CRAE) and The Children’s Society lobbied for new consultation rights for children subject to child protection enquiries and children in need assessments. This legislation followed the brutal killing of eight-year-old Victoria Climbié by her aunt and aunt’s partner in February 2000. On the day the Children Bill was published (March 2004), the former Children’s Minister Margaret Hodge said of Victoria Climbié: “Nobody, but nobody asked her what she wanted or asked her how she felt.”72

Section 53 of the Children Act 2004 amends the Children Act 1989 and places new duties on social workers to give due consideration to children’s wishes and feelings when undertaking a child protection enquiry or a children in need assessment. It came into force in March 2005. Two years later, the government was asked in parliament what guidance it had issued to local authorities, and how it is monitoring the implementation of the new duty. The minister gave a very inadequate response.71 At the end of 2007, CRAE made a Freedom of Information request to the director of children’s services in all English local authorities asking how they had implemented this new provision. Nearly 10% of respondents had been personally unaware of the new provision until receiving the CRAE survey (13 of 139 respondents). Only a third of local authorities that responded (43 of 131) said action had been taken to raise awareness of Section 53 among social workers while 24 (18%) said they didn’t know and a further 19 (15%) replied they had taken no action.

Lack of consistent and effective complaints procedures
The new regulations on social services complaints procedures, in force from September 2006, have brought some improvements to the procedures, notably a reduction in the number of days by which a local authority must resolve a complaint (from 28 to 20) and the requirement to provide assistance to a complainant. On the other hand, the regulations introduce new powers for local authorities to reject a complaint because it was not made within a year (likely to have a disproportionate effect on child complainants) and councils can ignore complaints that are “unclear” or “frivolous” or “vexatious”.74 It is too early to tell whether the positive developments will outweigh these new provisions. Further, there is no duty on schools to have a complaints procedure for children or to monitor complaints made by children. The Children’s Legal Centre has published research showing the difficulties faced by children when trying to use police complaints procedures.75

No right for a child to veto adoption or to be informed that they are adopted
The UK ratified the Hague Convention on the Protection of Children and Co-Operation in Respect of Intercountry Adoption in June 2003. This and Article 21 of the UN Convention on the Rights of the Child provides for the consent of children (and other interested parties) to adoption to make a decision on adoption to regard the child’s ascertainable wishes and feelings. The child may also apply to maintain contact with their birth family (Section 26, Adoption and Children Act 2002 (November 2002) requires a court or adoption agency making a decision on adoption to regard the child’s ascertainable wishes and feelings. The child may also apply to maintain contact with their birth family (Section 26, Adoption and Children Act 2002). However, the child has no right to veto adoption, there is no requirement on adoptive parents to inform the child of their adoptive status and the child cannot obtain information about their birth family until they reach 18 years. In the year ending March 31 2007, 3,300 children were adopted in England.76

See recommendations on pages 43 to 50.
Civil rights and freedoms

The UK Government’s report to the UN Committee, July 2007
We welcome the government’s acknowledgement that many of its policies have the potential to infringe children’s civil rights and freedoms. However, the Government’s report fails to face up to the extent of human rights breaches, especially in relation to the separation of disabled children from their families; new powers for head teachers and other education staff to control and punish behaviour inside and outside of school; growing infringements of children’s privacy rights in school, in the community and across a host of state and voluntary agencies; and new legislation that punishes children for consensual sexual activity.

The difference in approach between England and Wales in relation to children’s right to protection from all forms of violence in the home confirms that this is a political rather than a practical issue. Welsh ministers, just like those in the 18 other European countries that have taken decisive action, do not want to punish and penalise parents. They nevertheless recognise that law reform is vital to end the deeply ingrained cultural practice of smacking.

Two new phenomena breach a range of children’s human rights: reality television shows depicting and “experimenting” with the private lives of babies and children; and the increasing use by commercial outlets and public authorities of electronic devices that deliberately cause discomfort to children. Ministers have failed to take protective action in both cases.

Article 7

Violation of disabled children’s right to family life
There are about 700,000 disabled children living in Britain. The latest Children Act 1989 report (October 2006) states there are 13,300 disabled children living in a long-term residential establishment in England (“special” schools, children’s homes and hospitals). This means about 3% of disabled children are living in institutions on a long-term basis, a rate more than 20 times higher than the child population generally.

Most respondents to the government’s Care Matters Green Paper consultation agreed that disabled children in 52-week placements should have the same levels of protection as looked-after (in care) children.77

Inadequate right to information about identity of parents
Individuals conceived using donated sperm, eggs or embryos can now obtain information about the identity of their biological parents but only when they reach 18 years.

Article 15

Police given more powers to move children off the streets
There is provision in law (Children Act 1989) for the police to remove vulnerable children to a place of safety. In 2002, the UN Committee urged the government to review the “child safety” powers included in the Crime and Disorder Act 1998, including the use of curfews for vulnerable children. We are pleased to report that local councils did not use these powers under the 1998 Act. Unfortunately, the government then introduced wider powers that allow the police and local councils to designate an area a “dispersal zone” simply because any member of the public has been alarmed, harassed or distressed by a “group” of two or more people. It also gave the police a new blanket power to take home under-16s between the hours of 9pm and 6am.

Home Office research shows that 42 police forces designated 809 areas as dispersal zones in the 12 months to June 2005. Asked about the number of under-16s who were taken home by police officers, in the 18 forces that responded an estimated 520 under-16s were escorted home from 236 areas.78

There have been successful legal challenges to these wide police powers79 but the government has not issued any guidance on the implications of these.

We welcome the Prime Minister’s promise to reinstate the right to protest around Parliament Square but note that public order rules and offences that currently apply to marches could also be introduced to assemblies, for example, a group of young people protesting outside a building.80

Excluded children prohibited from being in public
Section 103 of the Education and Inspections Act 2006 places parents under a legal obligation to ensure that, following exclusion, their child is not found in a public place during normal school hours without reasonable justification. If they fail to do so, they will have committed an offence and be subject to a fixed penalty fine of up to £1,000. The Parliamentary Joint Committee on Human Rights commented:

“...this provision raises concerns about the proportionality of the impact on parents’ right to respect for private life in Article 8 of the European Convention on Human Rights (ECHR), as well as concerns about whether in practice the measure will discriminate against single parents or parents in lower paid employment.”81

Anti-terrorism legislation increases police powers to stop and search
Section 44(1) of the Terrorism Act 2000, which came into force in February 2001, allows the police to stop and search anyone aged 10 or older. Home Office Minister Tony
McNulty reported in October 2007 that the Government does not collect data on the age of individuals stopped and searched under terrorism legislation. Metropolitan Police stop and search figures show disproportionate use on under-18s. Under-18s comprise between 18% and 20% of London’s population, yet 40% of stops and 30% of searches were made on children between January and May 2007.

Ministers fail to ban discriminatory ‘mosquito anti-social device’
A new form of ‘dispersal’ has attracted the attentions of local authorities, the police and commercial outlets. The mosquito anti-social device ‘repels’ teenagers from public places: it works by emitting a high-pitched noise only heard by the under-25s. The human rights organisation Liberty has found the device is being used in every region of England except the north east.

Asked in May 2007 about the effect of the ultrasonic device, the Home Office said the Health and Safety Executive had determined there to be no long-term risks and did not set out any government protective action. The mosquito device obviously affects babies and young children as well as young people. Children who do not talk may be distressed by the noise but be unable to move out of the zone because they are with an adult who cannot detect the noise.

Serious erosion of children’s right to privacy
Developments in information technology have created unprecedented opportunities for monitoring children’s physical whereabouts, gathering and sharing data about their lives, and attempting to predict the statistical likelihood of their committing offences or failing educationally. The government has not taken sufficient protective action; in many respects it has been at the forefront of the erosion of children’s right to privacy:

➔ there is increasing use of CCTV in schools, with monitors even in toilet areas
➔ there is a growing trend in the use of webcams in nurseries to enable parents, and others nominated by them, to view their children over a password-protected internet system. As the webcam monitors an entire room, all parents can see all of the children
➔ electronic systems are increasingly used in school canteens to monitor children’s individual meal choices, and in school libraries, where children’s reading habits can be monitored individually, and also by ethnicity and gender. Many of these systems use children’s fingerprints and there is mounting protest that these are being taken without the informed consent of children or parents
➔ parents are able to purchase software that enables them to track their children’s location via their mobile phones. A new generation of GPS tracking devices, which can be fitted in school uniform, is now coming on to the market.

There is currently no statutory regulation of any of the above devices, beyond the Data Protection Act 1998. After public protest, the government agreed to consult with the Information Commissioner and the British Educational Communications and Technology Agency to produce ‘guidelines’ for schools on the use of children’s fingerprints. These were issued in July 2007, but they do not mention any need for consent and are not in any case binding. Providers of mobile location services have agreed a voluntary code of practice; however, this does not include any requirement that service providers should undergo police checks, and an attempt to amend to the Safeguarding Vulnerable Groups Act 2006 to introduce such a requirement was resisted by ministers.

Article 16

National child index
Section 12 of the Children Act 2004 empowers the government to construct a national index of all children in England from birth to 18. The “ContactPoint” index will contain basic identifying data on all children together with details of education and health care providers, and contact information for practitioners providing services to the child. There will also be a facility to indicate that a practitioner has information to share; is taking action in relation to the child; or has completed an in-depth assessment under the Common Assessment Framework (CAF). The Conservative Peer Lord Forsyth of Drumlean described this as the “nationalisation of childhood”. The day before parliament’s 2007 summer recess, the government published a written statement of its intention to create a second national database to hold the assessments of children using social care and other public services – official estimates indicate between 30% and 50% of the child population will be affected by this.

Parliamentarians, the Information Commissioner, child protection experts and information security specialists have expressed serious reservations about the extent of the proposed information sharing, the likelihood of security breaches, and the risk that children at risk of significant harm will be overlooked in a plethora of low-level data on all children, although it is also considered that the database will make it easier for professionals concerned about a child being significantly harmed to contact other professionals who are involved in working with the child. ContactPoint’s aim is to pull together the data to increase professional communication, raise awareness of concerns and prompt earlier intervention particularly in protecting children most at risk of significant harm. However whether it actually does this and whether it really is in the child’s best interests and does not breach the child’s right to privacy is open to scrutiny and question.

Security concerns have increased substantially following the “loss” in November 2007 of two computer discs with the personal details of 7.5 million families in receipt of child benefit; since this incident, several more government data protection failures have come to light. Deloitte has completed a security review for the government. Although Deloitte commented upon the high levels of security
measures within ContactPoint, it points out that wherever centralised database or information systems exist there will always be some element of risk:

“It should be noted that risk can only be managed, not eliminated, and therefore there will always be a risk of data security incidents occurring... Due to the stage at which the project was at when we conducted the review, we recommend that a follow-up review be conducted once the production environment technology and its supporting people, processes and procedures are in place.”

During the Parliamentary passage of the Children Act 2004, the Joint Committee on Human Rights expressed concern that: “if the justification for information-sharing about children is that it is always proportionate where the purpose is to identify children who need child welfare services, there is no meaningful content left to a child’s Article 8 [European Convention on Human Rights] right to privacy and confidentiality in their personal information.”

Since then, the government has produced non-statutory guidance advising that children’s consent should normally be obtained before information is shared, but this does not afford sufficient protection to a child’s entitlement within Article 5 of the UN Convention to obtain parental guidance about the exercise of their rights.

DNA retention

The Criminal Justice Act 2003 gave the police additional powers to retain DNA samples of anyone arrested for a ‘recordable’ offence without the person’s consent – which covers most criminal offences. The sample is retained regardless of whether the police take no further action or the person is subsequently acquitted by the courts of any offence. Home Office estimates indicate that the police currently hold DNA profiles of up to 360,000 children. Of these, up to 82,000 are of innocent children and around half relate to those who have received reprimands or warnings for low-level offences, not a finding of guilt in law.

Sexual activity reported to social services

A 2007 survey of Local Safeguarding Children Boards (LSCBs) in England by Brook and Action on Rights for Children found that more than a third of boards have adopted protocols on working with sexually active under 18 year-olds which require professionals to inform social services, and in some instances the police, about any child who is sexually active under the age of 13, regardless of whether they are judged to be at risk of harm or not. This takes no account of children’s rights and compromises their right to privacy and confidentiality. A Brook survey in 2005 found that 74% of under-16s would be less likely to use sexual health services if they thought information had to be passed to social workers or the police.

ID cards

The Identity Cards Act 2006 provides for all UK residents over the age of 16 to have their details entered on to a National Identity Register and to carry a card linking to this data. It will be the responsibility of each individual to notify changes of details, including every change of address, and a chronological record of addresses will be created on the Register. The Secretary of State may levy a charge for each notification of a change of circumstances, and failure to notify can attract a fine of up to £1,000.

The burden of notification will have a disproportionate impact upon young people living away from home. It will be particularly onerous for those who are homeless, whose accommodation in hostels and night-shelters can change on a nightly basis. It is highly likely that a vulnerable teenager would find difficulty in coping with the demands of constant notification, and would risk escalating penalties. The situation would be aggravated if changes were introduced for changes of details. The chronology of addresses held on the register will form a permanent record of any care placements, or sentences served in custody, making it impossible for a young person to hold as confidential the fact that they have been looked-after or in custody, and undermining rehabilitation. These problems can only be exacerbated should the Home Secretary exercise his power at a future date to order that ID Cards be issued to younger children.

Schools given wider powers to punish behaviour

The Education and Inspections Act 2006 introduces new powers for head teachers to punish a child for “conduct [that] falls below the standard which could reasonably be expected of him (whether because he fails to follow a rule in force at any such school or an instruction given to him by a member of its staff or for any other reason)”, whether this takes place on or outside school premises.

While the legislative focus on penalties and enforcement is to some extent mitigated by the accompanying guidance, a number of concerns remain. For example, penalties may be imposed by members of staff who are not qualified and indeed by volunteers, if the head teacher authorises this. Qualified teachers and teaching assistants receive training in disciplinary procedures and penalties, and should therefore be more able to understand and apply the concepts of proportionality and reasonableness, as is required by the Act (and human rights legislation).

Section 93 of the Act updates the law regarding the use of force and permits staff to use force “to prevent a pupil from prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school”. In its scrutiny report on the proposed legislation, the Parliamentary Joint Committee on Human Rights said:

“This is a very widely defined purpose, which in our view might give rise in practice to a risk of disproportionate use of force, in breach of the right to respect for private life and to dignity and physical integrity recognised under Article 8 of the European Convention on Human Rights.”

There is no requirement for staff using force to receive appropriate training in de-escalation techniques or safe restraint techniques. The danger of over-reaction resulting in injury to a child, especially those under the age of 10, is considerable.

Sections 45 and 46 of the Violent Crime Reduction Act 2006 give school staff in England the power to screen children...
for weapons, search them without the need to ask for their consent, and confiscate these items. If a child refuses to allow the screening/searching, they will be judged to have failed to comply with school rules and can be asked to leave the premises but not be subject to a formal exclusion. Section 94 of the Act protects a staff member from liability if they confiscate an item that is lost or damaged.

Lack of protection from harmful media
The British Youth Council and YouthNet carried out a survey with young people and found that almost nine out of 10 are concerned about negative media representation, and over 80% believe that it leads to a lack of respect from older people. There is an urgent need for more opportunities for inter-generational dialogue and contact. Ministers are increasingly criticising the media coverage of children yet seem unaware of the impact of their own legislation that removed reporting restrictions for children who are subject to an anti-social behaviour order. Children as young as 10 have appeared on the front page of national newspapers, and had their personal details publicised across neighbourhoods by local councils.

There are growing concerns about the participation of babies and children in reality television shows, particularly those that purport to offer parenting advice. Popular programmes advocate a range of harmful behaviour, such as leaving babies to cry, not giving eye contact during breastfeeding and forcing young children to sit on a “naughty chair” or “naughty step”. These practices are harmful in themselves but their broadcast on prime-time television makes them even more degrading. The Chief Executive of the Family and Parenting Institute has warned:

“In programmes like I Smack and I’m Proud, Supernanny and the Baby Borrowers, we see babies and children in acute distress, ignored or manhandled. If this masquerades as public service broadcasting, it is time to call a halt and make absolutely sure that neither the children nor their relationships with their parents are harmed in the short or longer term... We know from anecdote that some children have experienced bullying at school and that some participants bitterly regret having succumbed to the seduction of TV.”

Child death reviews not meeting full human rights requirements
In 2002, the UN Committee urged the Government to “introduce a system of statutory child death inquiries” and “develop a strategy for the reduction of child deaths as a result of violence and the reduction of all forms of violence against children”. The Children Act 2004 established statutory Local Safeguarding Children Boards (LSCBs) and from April 2008 each LSCB must have a child death overview panel to collect information about the deaths of all children in their area. Official guidance says this process will be a “paper exercise” to, *inter alia*, “ensure a thorough consideration of how such deaths might be prevented in the future”; There has been no change in the function of serious case reviews which follow a child’s death or serious injury where abuse or neglect is suspected.

Purpose of case reviews: 1999 statutory guidance
The purpose of case reviews carried out under this guidance (known widely as ‘Part 8 reviews’) is to:

- establish whether there are lessons to be learned from the case about the way in which local professionals and agencies work together to safeguard children;
- identify clearly what those lessons are, how they will be acted upon, and what is expected to change as a result; and as a consequence,
- to improve inter-agency working and better safeguard children

Purpose of serious case reviews: 2006 statutory guidance
The purpose of serious case reviews carried out under this guidance is to:

- establish whether there are lessons to be learned from the case about the way in which local professionals and organisations work together to safeguard and promote the welfare of children;
- identify clearly what those lessons are, how they will be acted upon, and what is expected to change as a result; and
- as a consequence, to improve inter-agency working and better safeguard and promote the welfare of children

Serious case reviews do not and are not intended to meet the main requirements of the European Convention on Human Rights in relation to cases where the state may bear some responsibility. The European Convention’s requirements are that the facts are made public and the degree of state culpability receives full and independent scrutiny. This leaves a serious breach in the availability of mechanisms to hold to account state agents if required. We very much welcome the inclusion of custody in the scope of the new offence of corporate manslaughter (Corporate Manslaughter and Corporate Homicide Act 2007) but can see no justification for the exclusion of child protection work.

Corporal punishment not prohibited in all settings
In 2004 the government supported legislation which allows parents to justify common assault on their children as “reasonable punishment”. It resisted campaigning by an alliance of over 400 organisations, including all the major

Page 14 Civil rights and freedoms
children’s organisations, and refused to allow Labour MPs a free (conscience) vote on an alternative proposal which would have satisfied the UK’s human rights obligations by removing the defence completely, to give children the same protection as adults enjoy from being hit.

This action ignored the UN Committee’s 1995 and 2002 concluding observations. In the latter, the committee expressed “deep regret” that the UK “persists in retaining the defence of ‘reasonable chastisement’ and has taken no significant action towards prohibiting all corporal punishment of children in the family”. The committee emphasised then that UK proposals to limit rather than remove the defence do not comply with the principles and provisions of the Convention; constitute a serious violation of the dignity of the child; and suggest that some forms of corporal punishment are acceptable, thereby undermining educational measures to promote positive and non-violent discipline. It referred to a similar recommendation from the Committee on Economic, Social and Cultural Rights. Since then, in 2005, the European Committee of Social Rights has also told the UK that it is not in compliance with the European Social Charter because it has not prohibited all corporal punishment in the family.

Ironically, the Adoption and Children Act 2002 (November 2002), extended the definition of significant harm (the trigger for social services intervention) to include witnessing violence against a parent.

Under the changes introduced in the Children Act 2004, applying to England and Wales, the defence of “reasonable punishment” cannot be used in relation to charges of actual bodily harm, grievous bodily harm, wounding or ill treatment. This represents no significant change on the previous position: for several years, courts have not accepted use of the defence in cases in which children are injured.

Outside the family home, children in private foster care lack protection from corporal punishment, in contrast to those in all other forms of alternative care. The recent change in restraint rules in secure training centres (see below) effectively introduces corporal punishment into these institutions and the young offender institution rules94, governing conduct in the majority of child prisons, do not prohibit corporal punishment.

No national strategy to end all violence against children

The government welcomed the UN Secretary-General’s study on violence against children95 but has not made a public statement on how it plans to respond to its recommendations. A national strategy would set out the government’s plans to prevent all forms of violence against children and outline the services and support available to children affected by violence, including for those affected by violence inflicted on a parent. We note that the Welsh Assembly’s definition of domestic violence includes violence inflicted on children while the UK Government’s definition deliberately excludes children. Importantly, the strategy would set out the steps to be taken by public authorities, especially schools, to inform children of their absolute right to protection from all forms of violence. We welcome, for example, the government’s guidance on forced marriage, with its clear description of this being a human rights abuse, but note that so far schools are only encouraged to display materials signposting children to organisations that can help them.100

No overall prevalence data on violence against children

It is estimated that up to a million children in the UK are exposed to domestic violence annually.102 Many more are subject to direct violence, including from parents and carers. The online survey carried out by the Children’s Rights Alliance for England (CRAE) and others for the government, and included as an annex to the UK’s periodic report, asked children if they had been hit or harmed in the past 12 months. One in 10 children said they had been hit or harmed by an adult in the past 12 months and 87% of this violence happened at home.

A report commissioned by the Department for Education and Skills in 2006 reviewed the cases of 47 children who had been subject to violence because carers perceived them to be “possessed” or “evil”.103 Telling a child they are “possessed” or “evil” is a clear violation of their right to human dignity. But the violence does not stop there. Of the 47 children studied, many had endured appalling physical and mental torture.

The most common age of child victims was between eight and 14 years and the most frequent characteristic was disability or illness. One of the 38 families studied was a white English family, the rest were first or second generation migrants.

The BBC carried out an investigation of the action taken by local authorities to protect children from forced marriage. It found that nearly one in four (23%) of the 120 local authorities contacted was unaware that forced marriages happened and did not collect statistics. More than half (54%) of councils who replied had not heard of any cases. One local authority registered only a single case of a child being forced into a marriage, yet a local Asian women’s group found 12 schoolgirls threatened with forced marriage, five of whom had disappeared, and were believed to have been taken abroad for marriage.104

The government’s Offending, Crime and Justice surveys, first conducted in 2003, are an attempt to understand the nature of crime committed by children aged 10 to16, and the levels of victimisation of children. The survey limits its analysis to certain categories of crimes, specifically robbery, theft and assault, and does not include crimes which would normally be considered within the child protection system. The experiences of under-10s are missing, and the methodology (surveys within a school setting) is clearly not appropriate for assessing the prevalence of violence against children in the home.

In 2002, the UN Committee recommended that the British Crime Survey should be extended to under-16s, and the government delegation said this would happen. We understand this is now being considered.
**Inadequate support for young witnesses**

There is an urgent need for adequate funding to ensure that all young witnesses are given support to help with the process of giving evidence. It is vital that the distress children experience as they go through the process is reduced as far as possible so that they are able to give their best evidence.

**Youth Justice Board’s failure to protect vulnerable children**

In February 2006, Lord Carlile of Berriew QC’s report on the use of strip-searching, restraint and segregation in child custody called for greater safeguards for children. It explained that many of the practices in child custody would be regarded as child abuse in any other setting.

The Youth Justice Board (YJB) published its response to the Carlile Inquiry in July 2006. It rejected the inquiry’s recommendation for a single approved method of safe restraint for all locked establishments, claiming that this would be impossible because children in different establishments vary in age, size and background. The implication from the YJB’s response is that older children (usually detained in young offender institutions) need firmer methods of restraint. The Howard League for Penal Reform analysed figures provided by the YJB for England and Wales and found that nearly one in three children in prison custody had been assessed as vulnerable by their youth offending team.

In April 2004, 15 year-old Gareth Myatt died in hospital after being restrained by staff at Rainsbrook secure training centre. The jury at Gareth’s inquest returned a verdict of accidental death but made sweeping criticisms about the YJB’s conduct, including the following failures:

➔ failure to adequately assess the safety of its restraint methods
➔ failure to undertake a medical review of the safety of its restraint methods
➔ lack of anyone at the YJB with specific management responsibility for the safety of Physical Control in Care (the system of restraint operated in secure training centres) prior to Gareth’s death
➔ inadequacy of YJB’s response to the National Children’s Bureau Physical Interventions report (2004) as to the urgent need for the medical review of Physical Control in Care
➔ inadequacy in the YJB’s monitoring of the use of Physical Control in Care at Rainsbrook secure training centre.

**Painful “distraction” techniques in secure training centres**

Lord Carlile was especially concerned about the use of nose, rib and thumb “distractions” in secure training centres: these involve the deliberate infliction of severe pain on children as young as 12.

We believe the use of these “distractions” as a routine form of restraint, and especially to secure compliance, most definitely breaches Article 19 of the Convention on the Rights of the Child. We note the UN Committee’s General Comment on corporal punishment (2005) and its requirement that restraint does not involve the deliberate infliction of pain as a form of control.

Most recent information given to parliament (July 2007) implies a considerable reduction in the use of the “distraction” techniques between 2004 and 2007:

<table>
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<th>Year</th>
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<tr>
<td>2004</td>
<td>340 (of which 230 nose “distractions”)</td>
</tr>
<tr>
<td>2005</td>
<td>299 (of which 193 nose “distractions”)</td>
</tr>
<tr>
<td>2006</td>
<td>199 (of which 120 nose “distractions”)</td>
</tr>
<tr>
<td>January</td>
<td>14 (of which, 2 nose “distractions”)</td>
</tr>
<tr>
<td>May 2007</td>
<td>(Four establishments)</td>
</tr>
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NB: CRAE obtained information, using the Freedom of Information Act, on the use of “distraction” techniques in the 12 months to September 2005: the YJB told us the techniques were used 768 times, resulting in 51 child injuries. Given the discrepancy with the figures above, this means either the information given to CRAE or the information given to parliament was inaccurate.

The YJB and ministers consistently seek to justify the use of these painful techniques by pointing to the dangerous behaviour of children (children’s accounts obtained through the Carlile Inquiry give a different picture). Children in secure training centres remain the youngest and most vulnerable of the detained child population. If we are to believe there has been a significant reduction in the use of the “distraction” techniques then we consider this to be the result of NGO and Parliamentary scrutiny rather than any change in the individual characteristics of the children held in these centres. It is worth recalling that the initial trigger for the restraint of Gareth Myatt, which led to his death, was the boy’s refusal to clean a sandwich toaster.

Having heard that physical restraint was being used frequently and unlawfully to secure compliance, the coroner that conducted the inquest into the death of 15 year-old Gareth Myatt asked that staff in secure training centres be given urgent clarification on the law relating to physical restraint. The government’s response was to amend the law to permit staff to use physical restraint, including the painful distraction techniques, for good order and discipline. There was no public debate and the process was subject to negative resolution in parliament, which means the change in the law could have happened without any Parliamentary scrutiny whatsoever. Only the YJB and the directors of the privately-run secure training centres were consulted by government. The change in the law attracted widespread criticism from NGOs and parliamentarians: as a result the government (July 2007) established a six-month independent review of the use of restraint in custodial settings. In December 2007 it temporarily suspended the use of the nose “distraction” claiming a medical review found it to be unsafe: the decision was announced soon after a visit to the UK of the European Committee for the Prevention of Torture, which was alerted by CRAE of the use of these abusive methods.
Children injured following restraint
Parliamentary questions show that many children are injured as a result of restraint in custody. Between April and December 2007, there were 62 minor child injuries and 6 major child injuries caused through restraint in young offender institutions. During this same nine-month period, there were 83 minor child injuries and 2 major child injuries caused through restraint in secure training centres. The Government defines minor injuries as including redness to skin, welts, scratches or bruising, grazes, nose-bleeds, concussion and sprains. Major injuries include serious cuts, fractures, loss of consciousness and damage to internal organs. Some recent Parliamentary questions have elicited graphic lists of child injuries following restraint including fractures and sprains, many sore wrists, bruising and a large number of nose bleeds and cut lips. Of 52 child injuries requiring treatment in secure training centres (30 in one centre alone) between April and October 2007, not one child was taken to hospital.

Tear gas used on children in custody
In June 2007, a chemical incapacitate known as PAVA was used for the first time on children in custody. It is very rarely used on adults. Three armed children climbed up onto the prison roof and refused to come down. The authorisation of the use of such a lethal substance was criticised strongly by the Prison Officer’s Association (POA). Steve Cox, National Vice Chairman of the POA explained:

“Not only is the use of PAVA extremely rare and only used in most dangerous situations, using it during a rooftop demonstration is pure madness, someone could have fallen to their death.”

The Association’s General Secretary added:

“We believe the decision to use PAVA was political due to the current prison population pressures. And as such the Director General authorised what we can only describe as excessive force on Juvenile Prisoners to protect the prison places at Huntercombe. I hope he can live with the fact he is the first Director General of the Prison Service to gas children in his care.”

The prisons minister said in a Parliamentary written answer in July 2007 that PAVA should only be used when lives are in danger and it is generally not authorised for use on children.

Very small proportion of abused children seek help from statutory agencies
At 31 March 2006, there were 26,400 children on child protection registers, representing 24 children per 10,000 of the population aged under 18. The government has announced that the child protection registers will be replaced with child protection plans in April 2008 and there is a danger that children with these plans may become less of a priority. There are 11 million children in England and official statistics considerably underestimate the extent of abuse and neglect. One in five girls (21%) and one in ten boys (11%) are sexually abused before they reach the age of 16. The NSPCC prevalence study found that only a quarter of people who were sexually abused as children had told anyone at the time of the abuse, while 31% had still not told anyone by the time of their adulthood. It is worth noting that the telephone helpline ChildLine takes 4,500 calls from children every day.

Lack of confidential assistance
The government continues to strongly defend children’s right to confidential services relating to sexual health (including in the High Court in 2006) but still resists making any kind of confidential provision in child protection. There has been no review of the national advocacy standards, published by the Department of Health in November 2002. The confidentiality standard puts a child approaching an advocate in exactly the same position as if they had approached a school teacher or a social worker. The advocate must refer on to statutory agencies any concerns that the child is suffering, or is likely to suffer, significant harm.

Young carers not receiving adequate support
The split between adult and children’s social services means that young carers are not always receiving the support they need. Obtaining funding for whole family services has become increasingly difficult. There are a number of areas where government action is necessary: the early identification of the needs of young carers; greater awareness amongst professionals; financial assistance; an acceptable level of guaranteed support; and improved support in education and in accessing other key services such as health and transport.

Punishment for genuinely consensual sexual behaviour
The Sexual Offences Act 2003 makes any form of sexual activity, including sexual touching, an offence if one or both people are aged under 16, irrespective of whether there is close proximity in age and understanding and the behaviour was mutually agreed. Genuinely consensual and non-exploitative sexual activity between children should not be prosecuted, according to guidance from the Crown Prosecution Service. However, concern remains about the distress and harm caused to children engaged in consensual sexual activity if they are reported to the police (or threatened with being reported) and of the potential of the Act to deter children from seeking sexual health advice (see above). Furthermore, the Act makes no distinction between children and adults with regard to sentence length for offences involving children under 13. The maximum sentence length for any penetrative sexual activity with a child under 13 is life imprisonment for a child under 18, which is a potential breach of Article 37a.

See recommendations on pages 43 to 50.
Family environment and alternative care

The UK Government’s report to the UN Committee, July 2007

We welcome the extensive summary of interventions and support available to children and their families but note the failure to analyse and report on the extent to which these actually increase children’s enjoyment of their rights in the Convention.

Article 9

Child’s right to family contact not adequately protected

Contact with parents (or other family members, including siblings) is not one of the Government’s performance indicators for looked-after children, so there is no ongoing data available about children’s contact with their parents. Legislation requires that children are placed with their siblings “so far as is reasonably practicable” or consistent with the child’s welfare. On March 31 2007 10,200 looked-after children were living further than 20 miles from their homes.120

There are other children for whom parental contact is not being adequately protected, including disabled children in long-term placements, children in custody and children whose parents are in custody. In addition, there is very little research on children’s views and experiences of contact following parental separation. That which exists tends to focus on those children for whom violence was a dominant factor.

As at March 2007, 17% of looked-after children were placed more than 20 miles away from their family home

In October 2005, 7.7% of unconvicted children and 9.5% of convicted children were held more than 100 miles away from their family home (Parliamentary written answer, 24 July 2006: Hansard Column 1135W).

Article 18

Penalties on parents – for whose benefit?

As summarised in Annex A (pages 38), many new penalties on parents have been introduced since 2002. For example, between September and December 2006, 877 parenting contracts were “offered” by local authorities to parents of pupils excluded from school.121 Section 97 of the Education and Inspections Act 2006 enables schools and local education authorities to apply for parenting contracts for children at risk of exclusion from school for disruptive behaviour. Failure to meet the terms of these contracts can be grounds for the local education authority to apply to the court for a parenting order, breach of which can result in a £1,000 fine. Recent research on the use of similar penalties for parents of children who truant from school show they have no discernible impact on improving attendance rates.122 Parentline Plus, the NGO specialising in supporting families, advised the government recently:

“Compulsory parenting orders risk alienating parents rather than bringing them on board and we are puzzled about how penalising parents for their children’s behaviour can act in the best interests of the children.”123

Even the government’s own report to the UN Committee admits: “There is no hard, scientific evidence specifically about the impact of parenting orders.”

Article 20

High numbers of black children and children with special educational needs in care

Over twenty-two per cent of children in care are from black and minority ethnic communities, while they constitute only 14% of the general child population.124 Children with special educational needs are also much more likely to be in care: more than a quarter (28%) of looked-after children have special educational needs, compared to 3% of all children.125

Inadequate legal protection and services for looked-after children

The government continues to place a high priority on improving the outcomes of children in care. However, children in care are moved between placements far too frequently (12% had three or more placements in 2005/06) and there is as yet no distinct legal provision for children to apply to the court to stop a placement move. The young people’s organisation, A National Voice, reports that placement moves and lack of carer support are the two biggest impediments to children in care doing well at school.

Siblings are frequently placed apart and too often lose contact with each other. The NSPCC consulted children about their experiences of family proceedings and care since the Children Act 1989.126 Nearly four in every 10 children and young people said they did not have enough contact with their siblings. A National Voice, which is run by and for young people, maintains contact with siblings is very important to young people.127 The government itself recently said: “Many of the children and young people we have spoken to thought that it was vital to keep siblings together wherever possible. Where this is not possible, maintaining contact with siblings is very important to young people.”128

Yet the government has resisted attempts in parliament to increase the duties on local authorities to facilitate sibling contact.

Only 12% of children in care achieved five GCSEs A* to C, compared with 59% of the general population. One hundred and eighty care leavers were in custody in March 2007 (constituting 3% of young people that left care in 2004).129
The young people’s charity Rainer carried out research with care leavers in three regions of the UK and found that almost one in six (16%) were not in suitable supported accommodation. A National Voice surveyed more than 600 care leavers and found lack of joint working between housing and social services; one in 10 young people had no place of their own and were “sofa surfing”.

One area of ongoing concern is the lack of counselling and therapeutic support available to children in care. Nearly half of children in care have a clinically recognisable mental disorder, and six out of 10 have been subject to abuse or neglect, yet the Child and Adolescent Mental Health Service (CAMHS) 2005 mapping found that only 16% of children in care were receiving mental health services.

**Unequal protection for children in private foster care**

In 2002, the UN Committee recommended consistent legal protection for all children in alternative care. Section 45 of the Children Act 2004 empowers the Secretary of State to establish a private foster care registration scheme through regulation. During the passage of the Act, there were strong calls from fostering organisations and others to immediately introduce the safeguards. This has still not happened (March 2008).

**Inadequate children’s services in refuge accommodation**

UK prevalence studies estimate that one in three children is exposed to domestic violence at some point in their childhood and adolescence. Local authorities have a statutory responsibility towards the approximately 30,000 children in domestic violence refuges as children in need and at risk of significant harm (Children Act 1989). However, the Supporting People framework (which funds services for residents of refuges and those living with and escaping from domestic violence) does not provide services for children in such circumstances (including psychological support), despite the fact that two-thirds of refuge residents are children. The funding of services for children in refuges is not the clear responsibility of any named government agency. As a consequence, services are patchy and vulnerable to resource constraints. Less than half (40%) of all child support workers are funded by local authorities, which means that children’s services are constantly under threat of closure.
Basic health and welfare

Articles 18, 23, 24, 26 and 27

The UK Government’s report to the UN Committee, July 2007

Given the government’s acknowledgement of persisting (and growing) inequalities, this would have been the place for ministers to explain to the UN Committee their analysis of why the UK is still such an unequal society, and what the government’s overall strategy is in relation to achieving equality among children. We very much welcome the provisions in the Childcare Act 2006 that require local authorities to reduce inequalities among young children but much bolder action is required for all children, and for all public authorities. Even the steps government has taken (and reports on) in relation to this Act are tentative.

Article 6

Continuing (and growing) inequalities are a significant contributing factor to thousands of child deaths in our country each year, and millions more in our very rich country are prevented from enjoying their right to maximum development (see page v).

Article 23

Discriminatory treatment of disabled children

The discriminatory treatment of disabled children is documented throughout this report in relation to the right to family life, the right to be heard, the right to education, the right to play and the right to active participation in the community.

Article 24

Health inequalities are growing

The Fabian Society has reported on inequality in baby health between ethnic groups, with Indian mothers nearly three and a half times more likely to have a low birth-weight baby than white mothers, and Pakistani and Bangladeshi mothers twice as likely.131

A British Medical Association report shows that children in poverty, asylum-seeking children, children in care and children who have witnessed domestic violence are all at risk of developing mental health problems. It points out that mental health disorders such as depression, anxieties and phobias, conduct disorders, hyperkinetic disorders, manic depression and schizophrenia are on the increase for children. One in 10 children between the ages of one and 15 years has some kind of mental health disorder, according to the BMA’s board of science.131

Failure to ban advertising of formula milk

The years between 2000 and 2005 saw the percentage of mothers who breastfeed initially rise from 71% to 77%. However, there are marked social differences; while 89% of managerial or professional mothers breastfeed initially, only 67% of mothers in routine and manual occupations do so. Unlike in Scotland, breastfeeding mothers in England currently have no legal protection from being refused access to a building.

In March 2007, the Food Standards Agency (FSA) wrote to all baby food companies pointing out that the Infant Formula and Follow-on Formula Regulations 1995 prohibit all claims on infant formula labels except those listed in an annex to the regulations. However, research by Save the Children has found that many companies continue to break these regulations and those of the international code.135

Baby Milk Action co-ordinates a monitoring project on behalf of the Baby Feeding Law Group, a coalition of 22 health professional and mother support groups, and has documented widespread violations of both the International Code of Marketing of Breastmilk Substitutes and subsequent relevant resolutions of the World Health Assembly and the far narrower UK formula regulations. Violations of the code and resolutions include: advertising; promotion in health facilities; direct mail to pregnant women and mothers; gifts to mothers and health workers; targeting with websites and telephone ‘carelines’; idealizing text and images on labels; and failure to provide necessary warnings and instructions. Cases of breaches of national regulations have been registered with trading standards officers, but no prosecutions have been brought since Wyeth was fined in 2003 for illegal advertising. Cases recur even if warnings are given. Labels non-compliant with national regulations remain on the market. The industry’s self-regulatory Advertising Standards Authority has a mandate from the government to regulate advertising and is required to ensure advertising is ‘legal, decent, honest and truthful’, but refuses to invest complaints.

In a consultation on the Infant Formula and Follow-on Formula Regulations groups including the Baby Feeding Law Group, the broader Breastfeeding Manifesto Coalition, LACORS (the umbrella body for trading standards), the government’s own Standing Committee on Nutrition, the Royal College of Nursing, the Royal College of Midwives, the National Childhood Trust, Save the Children, UNICEF, members of the public and others recommended a prohibition on all advertising and promotion of all breast-milk substitutes and the introduction of other provisions of the code and resolutions. However, the 2007 regulations, which were due to come into force in January 2008, continue to permit the advertising of follow-on formulas and direct targeting of pregnant women and mothers, in line with the request of industry for minimal action. The government has given an undertaking to conduct a 12-month review and bring in stronger measures if found necessary. The industry challenged the regulations at the High Court in London and in Northern Ireland and Scotland in January 2008, calling for the law to be annulled or revised, claiming it requires two years to comply with the new labelling requirements, though the Food Standards Agency said it has discussed the
changes with the industry over the past three years. The industry has been granted a judicial review and campaigners allege the legal challenge is motivated by a wish to delay compliance and undermine the proposed review and revision. The government is defending the regulations, with Baby Milk Action as an interested party in the High Court case.

There has been no progress towards adopting the World Health Assembly’s international marketing code, established in 1981.

Unequal access to health services
There is evidence that poorer people continue to find it difficult to gain access to health services. The Fabian Society found that pregnant women on lower incomes are likely to have greater difficulty in accessing maternity services, and that this is particularly acute for women from black and minority ethnic communities. Gypsy and traveller families experience considerable difficulties with registering with GPs and obtaining continuous health care where needed. They receive little education around healthy life choices: poor pre-natal and post-natal health care for young mothers from traveller, gypsy and Roma communities is a growing concern and there is clear evidence that poor living conditions on most sites are detrimental to children’s health.

Failed asylum seekers and some other immigrants are experiencing further difficulties accessing essential medical care because of new charging regulations. In 2004, the National Health Service (Charges to Overseas Visitors) (Amendment) Regulations were introduced, which extended charging to overseas visitors to include refused asylum seekers.

Research published by the Refugee Council shows the devastating impact of the regulations on pregnant women. The organisation worked with 17 women and girls who were denied access to maternity care. All were destitute, living on the charity of friends and community groups. Despite the implementation guidance clearly stating that “maternity services should not be withheld if the woman is unable to pay in advance”, eight of the women and girls had been told that unless they paid in advance, they would not be provided with maternity care. The Children’s Society has recently (February 2008) reported on a destitute asylum-seeking mother who was sent a £3,000 bill for maternity care.

Insufficient health visitors and schools nurses
The trade union Amicus reports that the number of health visitors in England has fallen to its lowest level in 12 years and school nurses are also in very short supply. A 40% reduction in training places for health visitors and a 10% reduction in training for school nurses since 2005/06 has been blamed on poor commissioning and inadequate funding.

Child and adolescent mental health services and appropriate hospital care
The government’s report to the UN Committee states that by the end 2006/07 all 152 Primary Care Trusts in England reported 24-hour cover available for urgent needs and specialist mental health assessments undertaken within 24hrs or during the next working day. However, a survey by the Thomas Coram Research Unit showed that 9% of services were unable to provide an “on-call” child and adolescent mental health service (CAMHS) response for emergency assessment at any time, and around 30% had no CAMHS staff on call to undertake assessments at weekends. It is worth noting that there were fewer NHS child mental health beds in England in 2005/06 than in 2002/03 (509 compared with 504).

We note the fall in the waiting period for new clients to CAMHS, though clearly far too many children still have to wait too long for these much needed services.

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<th>2002</th>
<th>2006</th>
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<td>Children waiting more than six months for a CAMHS appointment</td>
<td>14.8%</td>
<td>4.77%</td>
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<td>of children</td>
<td></td>
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<tr>
<td>Children who are seen by CAMHS within four weeks of referral</td>
<td>24.10%</td>
<td>50.72%</td>
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<td>of children</td>
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The government itself has acknowledged that, “The mental health needs of children in secure settings are... considerable, severe and complex, with rates of psychosis, self-harm and suicide well above those of other children.” The Social Exclusion Unit has reported that 95% of 15 to 21 year-olds in prison have a mental disorder; 80% have at least two disorders. Nearly 10% of female sentenced young offenders have been admitted to a mental hospital at some point. In addition, the level of suicide for 15 to 17 year-old boys in custody is 18 times that for boys living in the community. In February 2007, 1,148 children in custody were assessed by their youth offending team worker to be vulnerable.

We very much welcome the provision in the Mental Health Act 2007 that requires age appropriate care in mental health settings from November 2008.

Sex and relationships education not part of statutory curriculum
Sex and relationships education (SRE) is not part of the statutory curriculum. The UK Youth Parliament carried out a survey of 21,602 under-18s about their experiences of SRE. The survey shows large gaps in young people’s knowledge, for example: six in 10 (61%) of boys and 70% of girls over the age of 17 reported not having received any information about personal relationships at school; more than half (55%) of all 12 to 15 year-olds, and 57% of girls aged 16 to 17 had not been taught how to use a condom; and almost three-quarters (73%) of all respondents felt that SRE should be delivered under the age of 13, with 56% of boys under-11 wanting SRE in primary schools.

Only the biological elements of reproduction and sexually transmitted infections are currently a compulsory part of the science curriculum in schools. It is left to the discretion of individual schools to determine what else is taught.

Parents can remove children from sex education
Parents can remove children from SRE lessons (though not from sex education that is taught as part of science). Ofsted estimated in 2002 that about 4 in every 10,000 school students is withdrawn by parents from the non-statutory...
aspects of SRE. The government does not collect data on this. There were 7.3 million children attending school full-time in January 2007; on the 2002 proportion (0.04%), this means potentially around 3,000 affected children.

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Articles 26 and 27
Over a third of the UK’s children living in poverty
Official figures show that 3.8 million (33%) children live in poverty in the UK. More than a million of these children actually have parents in work.

In 2002, the UN Committee welcomed the government’s historic pledge to end child poverty by 2020. We are pleased to report that this remains a strong commitment, but not enough progress has been made. The Joseph Rowntree Foundation reports that the government must spend £4 billion more a year on benefits and tax credits to meet its 2010 target of halving child poverty. Its report calls on the government to increase redistribution to poor families; ensure that parents are better supported in the workplace; and implement long-term policies such as better education and training for disadvantaged groups, improved childcare and the promotion of equal pay for women.

Without these measures, far from ending child poverty in 2020, the government will have only succeeded in reducing it by a further 260,000 children.

Many children talked of feeling sad about being poor, and some went on to describe how it made them feel anxious, frightened, frustrated and/or angry... Although some children appeared to have little idea why their parents might be stressed or unhappy, many were aware that one of the main sources of stress for their parents was poverty. Some children described how they tried to help reduce poverty related stress for their parents by limiting what they asked for, including keeping school trips secret...


We very much welcome the provision in the Childcare Act 2006 that requires local authorities to reduce inequalities between young children (five and under), and we note the work the new child poverty unit is doing with local authorities. However, given the extent of inequalities in our country, we believe this important duty should be extended to all public authorities and to all children.

Inadequate benefit rates and discretionary social fund
Benefit rates to families do not meet basic living standards. Furthermore, benefits can be reduced or removed when parents fail to comply with their responsibilities as claimants (for example, attendance at “work focused interviews”). The government has recently published research that shows the negative impact of such penalties on the health and well-being of the family:

“... sanctions often caused a great deal of hardship for people already managing on a reduced income and for those with dependents, could lead to being forced to ‘go without’ certain purchases (both food and other types of purchases) to ensure that children, for example, could be fed properly... We found evidence of people who experienced no adverse impact on their health whilst others experienced a worsening of their primary health condition (especially true for those with mental health conditions) or the development of new secondary issues such as increased stress, anxiety or depression.”

The Social Fund was introduced in 1988 through the Social Security Act 1986 and replaced grants with state loans for essential items such as bedding and winter coats. Significantly, once local Social Fund budgets have been used in any given year there are no more available resources for destitute families. The Child Poverty Action Group has reported that social fund crisis loans made to cover gaps between first payments of benefits or wages take up 37% of social fund expenditure, which means less for poor families. The Local Government Association has reported that local councils and charities are picking up the pieces of families refused help from the Social Fund in order to avoid children coming into care as a result of destitution.

Poor housing conditions
A consultation paper published by the Department for Communities and Local Government in 2006 estimates that there are between 350,000 and 410,000 families with dependent children in England living in overcrowded conditions. High rates of overcrowding persist amongst lone parent families.

Many traveller and gypsy children live on the side of the road in constant fear of eviction. The Traveller Law Reform Coalition estimates that there are 3,500 gypsy and traveller caravans with no legal sites where they can camp.

The sites that do exist are unsuitable for children, often close to big roads, with few facilities, no play space and inadequate management.

Teenagers in bed and breakfast
The government has almost succeeded in ending the practice of families being placed in bed and breakfast accommodation (640 in the last quarter of 2006, compared with 5,870 in the last quarter of 2002), yet this type of accommodation is still being used for 16 and 17 year-olds. In November 2006, the government announced that by 2010, 16 and 17 year-olds would not be placed in bed and breakfast accommodation unless it in an emergency.

In 2006, 6,750 16 and 17 year-olds and 18 to 20 year-
old care leavers were accepted as being in priority need of accommodation, down from 8,970 in 2005 and 10,860 in 2003. Without accompanying statistics on the number of young people deemed not in priority need, this fall cannot be taken as a significant drop in youth homelessness, as Anthony Lawton, the chief executive of the charity Centrepoint, explained in March 2007:

“We know that statistics are only collected in England for people who have been accepted rather than for all applicants as in Scotland. Our research on 16 and 17 year-olds shows that many are turned away from housing departments even though they are homeless. Many young people are not included in the statistics and we feel that without this information it is impossible to gauge the extent of the problem.”

Research from Youth Access, the national membership organisation for young people’s information, advice, counselling and support services, has shown that homelessness is the most common rights-based issue presented by young people to its membership. Housing and homelessness represent the single largest area of work for the few specialist legal advice services for young people. Separated teenagers are routinely placed in bed and breakfast accommodation (see page 28). Centrepoint analysed the homelessness strategies of 100 local authorities across England and found that 59% did not say how they would house 16 and 17 year-olds, and 32% did not have any plans to offer supported accommodation to this age group.173

**Poor pay more for utilities**

In 2004/05, the poorest 10% of households (nearly 2.5 million homes), used 5.7% of their annual expenditure on gas and electric bills, compared to 3.1% for all households. The Child Poverty Action Group warns that after recent fuel price rises the poorest households could now be paying as much as 10% of their annual budget on gas and electricity.174 The Family Welfare Association and Save the Children report that the poorest families pay an average of £1,000 extra for household bills such as gas, electricity and insurance. They also pay more VAT than wealthier families.175

Two-thirds of families with disabled children struggle to pay their fuel bills in wintertime and 10% have had their gas or electricity supply cut off, either by their supplier or because they couldn’t afford to top up a prepayment meter.

Research shows that UK families with disabled children are among the poorest. It costs three times as much to bring up a disabled child compared with other children, and childcare costs for disabled children are up to five times as much. Families with disabled children are 50% more likely to be in debt than other families and 50% less likely to be able to afford essentials like new clothes or school outings.

See recommendations on pages 43 to 50.
Education, leisure and cultural activities

Articles 28, 29 and 31

The UK Government’s report to the UN Committee, July 2007
The third paragraph of this section of the government’s report sums up recent developments in education policy: “This [2005] White Paper set out and implemented plans to put parents and the needs of their children at the heart of schools”. Children’s needs can be constructed in a broad or a narrow way. The broad reflects the requirements of the Convention, the narrow focuses on political priorities and perceived national interests. The prevailing policy discourse for the past decade has been on achievement and results. The motivation for this, to ensure all children have positive life chances, is commendable. However, there is now widespread agreement that education in England has become too utilitarian and restrictive. The government’s own research shows that children in England are increasingly anxious about school and want more fun and engaging lessons. The permanent exclusion rate is much the same as five years ago, with significant increases in fixed period exclusions while truancy rates are about the same. Inequalities in academic outcomes persist, and there are now strong concerns that children with conduct disorders and other difficulties are being squeezed out of mainstream settings because they threaten the “performance” of their schools. The proposal that penalties should be introduced to force children to stay in education and training beyond 16 shows that the system does not yet have the support of some of the most disadvantaged children and families in our country.

Article 28
Not all children can enjoy their right to education
Section 562 of the Education Act 1996 exempts local education authorities from having to provide an education to children who are detained under a court order, including those detained through criminal justice legislation. Children “informally” excluded from school do not receive their educational entitlement. New exclusions guidance makes it clear that informal exclusions are illegal, although ‘isolation units’ within schools are not prohibited. Children who are obliged to care for a family member because there is no alternative are often unable to access their right to education. There are about 175,000 young carers in the UK176 and more than a quarter of young carers of secondary education. There are about 175,000 young carers in the UK.

The government’s report to the UN Committee acknowledges that gypsy, Roma and traveller children still fare badly in the education system. Access to education for these children is compounded by frequent evictions from unauthorised sites, which often happen in the middle of the school term. Efforts by Traveller Education Support teams and school staff to improve educational attainment are often undermined by decisions to evict families without taking into consideration children’s needs. The government issued guidance to schools on how to improve educational outcomes for minority children but there is still no co-ordination between government departments. No comprehensive plan of action has been developed to ensure gypsy, Roma and traveller children can enjoy all of their rights in the Convention, as recommended by the UN Committee in 2002.

Continuing high level of school exclusions
There has been no significant improvement since the last examination. In 2001/02 there were 10,300 children permanently excluded in England, Scotland and Wales, while in 2005/06 there were 9,900 children permanently excluded.

Boys represented around 80% of the total number of permanent exclusions in 2005/06. A similar trend is apparent with regard to fixed period exclusions.

Of all children in 2005/06, permanent exclusion rates for gypsy and Roma children were highest, with these children being more than three and a half times more likely to be excluded than other children (0.44% of all gypsy and Roma students). Exclusion rates for traveller children of Irish heritage were similarly high, at three times that of all other children (0.36% of all Irish traveller students). Children from black and mixed ethnic origins were twice as likely to be permanently excluded as white children.178

Students with statements of special educational needs are over three times more likely to be permanently excluded from school than the rest of the school population. Children in the care system are over eight times more likely to be excluded from school than other children, with government figures for the 12 months to September 2006 showing that 1% of looked-after children were excluded from school (an increase of 0.1% from 2005), compared to 0.12% of all other children.179

Under sections 100 and 101 of the Education and Inspections Act 2006, school governing bodies must make arrangements for the provision of suitable full-time education for the first five days of a fixed period exclusion. The child must not be present in a public place during school hours during any of these five days – see page 11. From the sixth day of exclusion, the local authority (LA) is obliged to do the same.180 Under previous legislation LAs were under a duty to ensure that appropriate alternative education was made available to pupils from the 15th day of the exclusion, yet only half of LAs managed to reach that target.181 In its 2006 inquiry into special educational needs, the Parliamentary Education and Skills Select Committee recommended that the government should enhance existing, and improve alternative forms of provision, training and resources rather than use an increasingly punitive approach for these children and families.
Article 29

Testing is making children unhappy
There is growing evidence of children, especially boys, being put under undue pressure because of testing in schools. Cambridge University’s Primary Review has this year reported that “testing in our schools causes anxiety and stress in pupils.” The General Teaching Council has proposed the scrapping of tests, noting that by the age of 16 most children in England have taken about 70 different exams or tests, making them the most tested children in the world.

In November 2007, the results of a survey involving 111,325 children across 141 local authorities in England showed children’s top three worries were exams (51% of children); friendships (39%); and school work (35%). More than half (58%) of children said they always or most of the time enjoyed school, while more than a third (34%) said they sometimes enjoyed it. Nearly a tenth (9%) said they never enjoyed school. When asked what might help them do better in school, by far the most common answer was “more fun/interesting lessons”.

Why is bullying a common childhood experience?
Bullying between children in and outside of school is a growing concern in England. It is estimated that at least a quarter of children experience bullying in school and over a third outside of school.

High profile initiatives have been introduced since the UN Committee’s last examination, including a great deal of Government funding for the Anti-Bullying Alliance, founded by two major NGOs (NSPCC and NCB) in 2002. Government guidance has been issued to help teachers to tackle homophobic bullying, racist bullying and cyber bullying. This is all welcome. However, there is little evidence that policy makers are prepared to examine, and change, institutional factors that may cause or contribute to bullying. Adults still dominate debates about bullying and how to tackle it, and schools still have no statutory duty to consult and involve children in developing anti-bullying strategies.

Concerns about academies and faith schools
Academies do not have to comply with any education law or the Freedom of Information Act and are independent of local authorities, owned and organised by a sponsor (who is given all the assets) who determines the admissions, appoints the staff and the majority of the governing body and who is accountable to the Department for Children, Schools and Families, not the local community. Sponsors include businesses, religious associations (including those advocating ‘creationism’), charities or higher education establishments. The government says it wants 400 academies in place by 2010. The schools are funded by public money; they were intended to replace failing schools in disadvantaged areas but increasingly are replacing good schools in advantaged areas. The Children’s Services Network reports:

“For a relatively modest one-off contribution (compared to the level of state funding), sponsors are able to exercise a disproportionate influence over a very long (potentially indefinite) period. Academies are not subject to the education law which applies to other state-funded schools and there is precious little democratic accountability (with what there is being through Government ministers, not local politicians). For example, parents’ redress on issues such as special educational needs provision, exclusions and appeals, and admission appeals are greatly diminished and there is little their elected representatives (Councillors or MPs) can do to assist them.”

Evaluations by PriceWaterhouseCoopers (PWC) and the National Audit Office have found “considerable diversity” between academies in terms of pupil profile and a geographical imbalance in the development of academies, which can be attributed in part to the availability of sponsors. The House of Commons Public Accounts Committee reported in October 2007 that exclusions are higher, on average, at academies than at other schools. The government has established a review of academies (November 2007) but is not inviting NGO submissions.

Concerns exist about the extent to which children attending state-funded faith schools can enjoy all of their rights in the Convention. In January 2007, there were 6,635 primary schools with a religious character in England, and 644 secondary schools. The comparable figures in January 2003 were 6,325 and 586 respectively – indicating a growth of 310 state-funded primary faith schools and 58 secondary faith schools. The vast majority of faith schools are Church of England or Roman Catholic.

Article 31

Right to play, rest and leisure
The government itself is now acknowledging that children in England are not getting enough opportunities to play, and its new Staying Safe action plan (February 2008) gives prominence to the importance of play, reiterating the December 2007 pledge to spend £225 million on play, allowing up to 3,500 playgrounds nationally to be rebuilt or renewed and made accessible to disabled children. A wide-ranging national play strategy has been promised by the summer of 2008.

From January 2007, local authorities have had a duty, as part of primary and secondary education provision, to secure access to “adequate facilities for recreation and social and physical training” for under 13 year-olds. In addition, they must provide for 13 to 19 year-olds sufficient educational and recreational leisure-time activities and facilities for the improvement of their well-being. Local authorities must ascertain and take into account the views of 13 to 19 year-olds. There is no equivalent duty relating to under-13s. These new duties are very welcome, though are set against a background of a steady reduction in play space, including playing fields, open spaces and playgrounds.

The University of Cambridge is conducting a major review of primary education. One of its recent observations is “that children’s opportunity for play at school has been progressively reduced to the extent that ‘playtimes’ have been pushed aside, mainly to give more time for the basics of the National Curriculum and to obviate poor behaviour by children at playtimes”.
There is no positive duty on local authorities to make provision for play and leisure accessible to disabled children, though unequal provision could be challenged under disability equality legislation.

Many disabled children are denied their right to play and leisure. A Contact a Family survey in 2002 found that seven out of 10 disabled children were made to feel uncomfortable at their local leisure services; eight out of 10 disabled children had been left out of a sport because of their impairment; and only six out of 10 disabled children played a sport in their leisure time compared with nine out of 10 of all children. The worst places for accessible toilets were playgrounds and parks.192

Disabled children and young people have significantly worse access to good play opportunities. There are a limited number of specialist playgrounds, but most disabled children and young people, supported by their parents and carers, want to be able to go to the same places as all the other children.

Government’s play review, 2004

At least 13,000 young carers care for someone for 50 or more hours per week (UK Census 2001) and many carry out caring duties during the evening. These children are frequently unable to access their right to play, rest and leisure.

When NGOs concerned with children’s play consulted children about outdoor play, they found the street was the most popular location for outside play, followed by a park near home or a garden. The most popular activity was playing with friends. Yet nearly nine out of 10 younger children (89%) and almost three-quarters (71%) of the older children had been told off for playing outside. A quarter of younger children and 43% of older children had been told to go away; half had been shouted at and some were subject to physical violence from adults.193

There are growing concerns about the impact of mounting schoolwork on children’s leisure time, with children frequently reporting feeling stressed and overwhelmed. The Children’s Society carried out interviews with 11,000 children and reported “schoolwork was presented as a thief of free time”.194

See recommendations on pages 43 to 50.
Special protection measures

The UK Government’s report to the UN Committee, July 2007

This aspect of the UK Government’s report is particularly misleading in its representation of care and support for asylum-seeking children, and offensive in its discussion of the difficulties concerning children in custody. In relation to the excessive use of restraint, the report claims: “Because of the multiple problems many [children in custody] have experienced – family breakdown, mental health problems, low educational attainment, alcohol and drug abuse - they find it difficult to accept normal social restraints.” The government’s report does not mention the two restraint-related child deaths in secure training centres in 2004, the frequent use of restraint when strip-searching children, or the serious child protection concerns expressed by a wide range of statutory bodies and NGOs. It reports that children are often at high risk of self-harm before detention, but does not explain why they are subsequently held in conditions that exacerbate this. There is a promise to issue “forward plans” to improve the education of children in custody, without any acknowledgement of the impact of the removal of the statutory right to education for detained children in the Education Act 1996.

There is no compelling explanation in the government’s report of why the UK continues to fail to introduce strong legislation to protect babies and children from human trafficking, and to invest the necessary resources. The failure of the UK to ratify European and UN human rights instruments designed to protect these vulnerable children is shameful.

Article 22

Immigration and reservation nationality reservation

We welcome the current review of the immigration and nationality reservation, announced on 14 January 2008, although we strongly reject the government’s claim in its report to the UN Committee that: “The interests and rights of asylum-seeking children and young people are fully respected”.

Immigration control takes priority over children’s best interests

In October 2007, the government resisted an amendment to legislation that would have required the Border and Immigration Agency to discharge its functions having regard to the need to safeguard and promote the welfare of children, just like all other statutory bodies working with children. Opposition peers in the House of Lords lost their amendment by a single vote. The minister repeated the government’s position that it does not want the welfare of children to interfere with immigration control: “...we are very concerned that the breadth of the duty would invite challenges to our decisions on the basis that they do not promote a child’s welfare. Experience shows that many of these challenges would be made simply as a means of frustrating the implementation of quite legitimate immigration control.”

No guardianship for separated children

The government continues to refuse to introduce guardianship for separated children, despite the UN Committee’s recommendation and the requirements of other international treaties. The government claims in its report to the UN Committee that separated children receive adequate social services and legal support. This view is not shared by the NGOs working with these vulnerable children, or by the Children’s Commissioner, who has called for the appointment of guardians for all separated children until they reach 18 years or have permanently left the UK. The Refugee Council’s Children’s Panel was established in 1994 and now employs around 25 advisers spread across three offices in different parts of England. It provides a vital service but is no substitute for guardianship for these vulnerable children. The panel does not have contact with all separated children (around 3,000 enter the UK each year). The support advisers are able to offer can sometimes involve just a single telephone call and they have limited capacity to follow up the referrals they do make. The panel is not set up by law and therefore has no statutory powers.

Of the initial decisions made in 2006 in relation to asylum applications from separated children:

• seven in 10 (70.3%) were given discretionary leave (able to stay in UK for three years or until 18th birthday. NB From April 2007, discretionary leave is only given until the child is 17.5 years)
• almost a quarter (23%) were refused
• just 6.3% were granted asylum
• only 0.4% were given humanitarian protection

The majority of applications for asylum from separated children in 2006 came from children living in Afghanistan (30%), Iran (10%) and Eritrea (10%)


Entering UK without documentation: new offence applies to children as well as adults

Section 2 of the Asylum and Immigration (Treatment of Claimants etc) Act 2004 creates an offence of arriving in the UK without a valid immigration document unless the person can show they have a reasonable excuse. Children from the age of 10 are liable to a criminal prosecution, which carries a penalty of up to two years’ imprisonment. This measure also applies to adults with dependent children who do not have
documentation attesting to the child’s age and identity. In an important case brought by the Howard League for Penal Reform, the Court of Appeal warned, in July 2007, that the imposition of a custodial penalty under Section 2 could be unlawful for children, essentially because the minimum term of imprisonment cited in the 2004 Act is two months, yet the minimum period that a child can be subject to a detention and training order is four months.

Age disputes
The Immigration Law Practitioners’ Association (ILPA) has found that 45% of those who claim asylum as separated children are age-disputed and treated as adults, which has “significant implications for the ability of children to access appropriate social welfare, health and educational support”.198 Children and adults seeking asylum have different entitlements to legal aid, and there is concern that individuals whose age is disputed by the Home Office are being directed towards law firms dealing with adults, rather than specialist children’s lawyers. The Children’s Society has reported on the difficulties faced by separated children whose age is in dispute: “One young person, Amadou, could no longer find legal representation after his refusal. His case was complex because he had been challenged about his age which meant he was treated differently by children’s services, the Home Office and housing providers who were all working to different age assessments. Notwithstanding his lack of English, Amadou filled in his appeal forms by himself using a French-English dictionary.”199

Asylum statistics report the number of age disputes each year, but they do not differentiate between those applicants who withdraw their claim and those the Home Office subsequently accepts as children. The Children’s Legal Centre reports that, during 2005, Cambridgeshire Social Services received 241 referrals of age-disputed cases from Oakington immigration removal centre. Of these, social workers assessed 166 individuals and found 101 (61%) to be children. All of these children were unlawfully detained. A Parliamentary written answer in February 2007 revealed:

➔ Between January and June 2006, six asylum applicants were taken into the detained fast-track (DFT) process despite their claim to be under 18. Social services assessments confirmed that each one of these six applicants was a child

➔ In addition, five asylum applicants claimed to be minors after they had entered the DFT process and one claimed to be a child on transit to the detention centre. All six children were unlawfully detained.

The government announced in January 2008 that it plans to establish a working group to review “all age assessment procedures with a view to establishing best practice”. It claims there is “a lack of consensus about the merits of X-rays as a means of accurately assessing age” but does not say who, besides government, supports this method.200 The Parliamentary Joint Committee on Human Rights reports that both the Royal College of Paediatrics and Child Health and the Royal College of Radiologists have issued warnings about the use of X-rays for non-clinical reasons. Indeed, the Royal College of Radiologists has advised its members that a request from immigration officers for an X-ray would be unjustified on the grounds of accuracy and the potential risks from using ionising radiation for a non-clinical purpose. The Parliamentary Joint Committee on Human Rights recommended in March 2007:

“... that where an asylum seeker’s age is disputed even where the benefit of the doubt has been given, he or she should be provided with accommodation by the appropriate social service department in order for an integrated age assessment to be undertaken, considering all relevant factors. X-rays and other medical assessment methods should not be relied upon, given the margin of error. The process for dealing with age disputes should be reviewed, particularly in light of the evidence and recommendations arising from the research currently being undertaken by ILPA and due to be published shortly, with a view to ensuring that no age disputed asylum seeker is detained or removed unless and until an integrated age assessment has been undertaken.”202

Lack of adequate safeguarding for separated children
Following a legal challenge in 2003 (The Hillingdon Judgement), most separated children should now receive support under Section 20 of the Children Act 1989 (where a child is looked-after on a voluntary basis and is entitled to leaving care assistance). A Save the Children study in 2005 found that some local authorities were not able to allocate a social worker to all separated children and that the quality of accommodation and support was on many occasions inadequate.203 Many local authorities reported concerns about insufficient resources and “extreme difficulties in providing support to 18-year-olds who have outstanding immigration issues”.204 In its evidence to the Parliamentary Joint Committee on Human Rights, Save the Children reported:

“It really is a lottery in terms of the services an unaccompanied child gets, whether they have a qualified social worker or an unqualified social worker, whether they have a named social worker or an unnamed social worker, whether they have any knowledge of the systems they are going through or whether they do not and...the quality of legal advice, if they get any at all, and [whether or not they have] access to education and access to health. We are seeing huge deterioration in children’s mental health in some of the projects that we are working in, cases of self-harm and issues like that.”205

The Children’s Commissioner has criticised the “de-accommodation” policy of Hillingdon council, apparently introduced to avoid providing leaving care support to separated children. The commissioner notes:

“... it is likely that the need to make financial savings plays a part... It would seem that the de-accommodation policy is endorsed by senior managers of the Children and Families Divisional Management Group... At the level of the individual child, the policy is being implemented by the allocated Independent Review Officer at the first review meeting.”206

In 2007 the Refugee Council supported young people denied leaving care assistance by the London Boroughs of
Wandsworth, Hackney and Islington, which suggests that the practice of providing inappropriate levels of support from separated children is widespread.207 NGOs working in this area report that the practice of supporting separated children under Section 17 of the Children Act 1989 (instead of Section 20 or 31) is widespread. A survey conducted by London councils and the Local Government Association concluded that the shortfall in government funding to London local authorities alone amounted to at least £28 million in 2007.208

In February 2007, the government published its proposals for reforming the system of support for separated children.209 Following public consultation, it has published a further document which sets out the government’s plans. We summarise and comment on each of the main proposals below:

<table>
<thead>
<tr>
<th>Home Office plans</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>It will make sure that private companies have to follow the code of practice on keeping separated children safe from harm introduced by the UK Borders Act 2007 (draft currently out for consultation, February 2008)</td>
<td>The code of practice does not place the same kind of statutory duty on the Border and Immigration Authority or private companies as would the application of Section 11 of the Children Act 2004</td>
</tr>
<tr>
<td>Pilot alternatives to detention (see below)</td>
<td>This is very welcome so long as the alternatives are compliant with human rights standards and the pilot results in a considerable reduction in the use of detention</td>
</tr>
<tr>
<td>Establish a working group on age assessment</td>
<td>The use of X-rays has not been ruled out</td>
</tr>
<tr>
<td>“Locate” separated children in specialist local authorities</td>
<td>Great care must be taken in selecting these specialist authorities to ensure easy access to high quality legal representation, appropriate services and community support for separated children</td>
</tr>
<tr>
<td>Development of a service specification for specialist local authorities; this will address the needs of children who are trafficked (including the provision of “safe accommodation or foster placements”)</td>
<td>Plans to increase safeguards and services for trafficked children are very welcome. Separated children should be provided with accommodation and care under Section 20 of the Children Act 1989</td>
</tr>
<tr>
<td>From April 2008, the Home Office, rather than the Department for Children, Schools and Families, will fund leaving care support services for separated children; and it will issue additional guidance to local authorities in 2008</td>
<td>This continues the dual system, with separated children being kept apart from mainstream children’s services</td>
</tr>
<tr>
<td>“Look again” at discretionary leave to remain, in order that separated children can return to country of origin “at earliest opportunity once a decision is made and all appeal rights are exhausted”</td>
<td>This emphasis on return detracts from the very real difficulties separated children face before they arrive in the UK, once they have arrived, and as they try and build their lives and future here</td>
</tr>
<tr>
<td>Increase information sharing between local authority staff (social workers) and immigration officers; and produce updated guidance with Department for Children, Schools and Families</td>
<td>It is unclear whose benefit this information sharing is for, and how separated children’s right to respect for private and family life is being upheld</td>
</tr>
<tr>
<td>Make Assisted Voluntary Return programmes “more attractive”</td>
<td>This is only acceptable if children are being assisted to return only when it is in their best interests and adequate safeguards are in place</td>
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</tbody>
</table>

### Immigration detention

In 2001, the policy of only detaining the children in families immediately prior to removal and for no more than a few days was changed to allow “indefinite detention of those families whose circumstances justify this.”210 The decision to detain is an administrative one and the detention of families follows broadly the same legal and policy framework as for the detention of single adults.211 In December 2007, the Immigration Minister Liam Byrne was asked in parliament whether limits could be introduced on the amount of time children may be held in detention. He replied:

“... Where family detention is prolonged it is often because parents seek to frustrate the removal process. To introduce a time limit on detention would reward such behaviour and that would be unacceptable.”212

In December 2003, following strong criticism, the Home Office announced that any detention of a child beyond 28 days would take place only after ministerial authorisation. The government’s report to the UN Committee states that: “Detention of families is kept to the minimum period necessary - published statistics show that the vast majority of detained families spend fewer than seven days in detention. The cases of detained families are kept under close and frequent review throughout the period of detention to ensure that swift case progression is maintained and that detention continues for
no longer than is necessary. In those exceptional cases where detention lasts for 28 days or more, continuing detention is subject to weekly ministerial authorisation.”

The Parliamentary Joint Committee on Human Rights recently conducted an inquiry into the treatment of asylum seekers. The immigration minister admitted that the child’s welfare is not the primary consideration in the ministerial authorisation process. Legal challenges testify to this:

➔ In 2004, the High Court heard the case of a woman who was detained with her young child for more than six months. Apart from the first two weeks, the High Court ruled that the detention was unlawful, despite repeated ministerial authorisation.

➔ In 2007, the High Court found the Home Office to have breached the human rights of a young mother and two young children by detaining them for a period of four months when there was no threat of her absconding (no breaches were determined to have occurred in the first two weeks of the detention). The case concerned an 18 year-old woman who was found to be unlawfully in the UK in October 2002 and instructed to leave the following week. She did not leave. In 2005, the young woman was caught shoplifting and she and her two young children (aged five and one) were detained at Oakington immigration removal centre and then Yarl's Wood immigration removal centre. During the period of detention the youngest child developed anaemia and rickets and the mother became suicidal. An independent medical report from a consultant paediatrician stated: “It should have been evident to any trained health visitor or doctor in the detention centre that D required appropriate preventative measures in order to prevent rickets developing.”

➔ The judge determined there had been a breach of Article 5 (the right to protection from unlawful detention) of the European Convention on Human Rights in relation to all three applicants, and a breach of Article 8 (the right to physical integrity) in relation to the youngest child.

In July 2007, the government was asked in a Parliamentary question how many cases of children being detained beyond 28 days had been referred to the Home Secretary in the past three years. The minister said such information was “not centrally collated.” However, one month later, statistics published by the Home Office revealed that, of the 1,235 children who left immigration detention in the nine months from January to September 2006, 7% (86 children) had been detained for 30 or more days. Save the Children studied 32 cases of child and family detention and found the length of detention varied from seven to 268 days.

Unacceptable conditions in immigration detention

Deterred children in the UK suffer from weight loss, depression, lack of sleep, skin complaints and persistent respiratory problems. Her Majesty’s Chief Inspector of Prisons has consistently criticised the conditions in detention, especially relating to child protection. In 2005, the joint report from eight inspectorates recommended that welfare assessments should inform decisions and gave evidence of the harm caused by detention:

“There are examples of the removal of pupils who had spent up to four years in school and were shortly to complete GCSEs… Inspectors found evidence that the additional effects of restrictions on children’s movements and activities and of witnessing their parents’ powerlessness had led, in some cases, to eating and sleeping problems and depression… Moreover, it must be assumed that the longer the child remains in detention, the greater the risk of significant harm; and there are no procedures to instigate area child protection team strategy conferences for children whose detention stretches into weeks or even months.”

The Parliamentary Joint Committee on Human Rights heard of a family with two young children being moved from one removal centre to another in a freezing cold van for eight hours. A Jamaican woman interviewed by the Committee had lived in the UK since 2000 and was detained with her eight and 10 year-old children. Thirty police officers had arrived to take them into detention. The Committee concluded:

“We are concerned that…children and their needs are invisible throughout the process - at the point a decision to detain is made; at the point of arrest and detention; whilst in detention; and during the removal process. We are particularly concerned that the detention of children can - and sometimes does - continue for lengthy periods with no automatic review of the decision. Where the case is reviewed (for example by an immigration judge or by the minister after 28 days), assessments of the welfare of the child who is detained are not taken into account. It is difficult to understand what the purpose of welfare assessments are if they are not taken into account by Immigration Service staff and immigration judges.”

Discriminatory benefit entitlements and exclusion from health service

The average adult rate of benefit for asylum-seekers continues to be 70% of that given to non-asylum-seeking adult claimants. At the end of November 2006, the healthy start scheme was introduced nationally. This replaces the welfare food scheme (free milk and vitamins) and gives low-income families vouchers to purchase milk, fruit and vegetables. It is available to pregnant women and families with children under five, but not to asylum-seeking families.

Further, regulations which came into force in June 2004 scrapped single additional payments, which allowed asylum-seekers to apply for a one-off payment of £50 every six months for essential “living needs.” Asylum-seeking families have been forced to rely on benefits since the right to work was removed in July 2002 (though they can now apply for permission to work after 12 months). Exclusions from free health care are dealt with on pages 21.

Deliberate policy of destitution

The Parliamentary Joint Committee on Human Rights has accused the government of having a policy of forced destitution for families at the end of the asylum process.

➔ Section 4 of the Immigration and Asylum Act 1999 allows the Home Office to issue vouchers to failed
asylum seekers who meet certain conditions, for example they have agreed to return ‘voluntarily’ to their country of origin (£35 per person regardless of age or individual needs). The Citizens Advice Bureau reports: “In most if not all cases these vouchers are exchangeable for food and drink only, at prescribed retail outlets only and no change is provided. The difficulties that have flowed from this include: inability to purchase replacement clothing and footwear; inability to use public transport and telephones; limited access to culturally appropriate food (for example, halal meat); and a flourishing ‘black market’ in vouchers, with criminal profiteers ‘buying’ vouchers, for as little as 50% of their face value, in return for cash”.

➔ Schedule 3 to the Nationality, Immigration and Asylum Act 2002 puts separated children who turn 18 and whose asylum application has been turned down into the category of people unlawfully in the country, denying them leaving care entitlements and the most basic types of support available to asylum-seekers. It also allows for the removal of financial and other support from parents who have failed in their claim for asylum. In December 2006, the Government was asked in parliament about the number of affected families, and reported that 30 families had had asylum support withdrawn under the 2002 Act. The minister noted: “There are no barriers to any affected families leaving the UK voluntarily”.

➔ Section 9 of the Asylum and Immigration (Treatment of Claimants) Act 2004 added families to the list in Schedule 3 (above) of people who could be denied support. It permits the Home Office to remove housing and financial support from refused asylum-seeking families who would not leave the UK, with the possibility of taking children into care when the parents become destitute. The government says Section 9 will not be used on a “blanket basis” to encourage voluntary returns but has not repealed the legislation.

**Asylum determination process**

Many NGOs have grave concerns about the use of “white lists” of countries, where it is assumed that children (and adults) coming from these countries will have an asylum claim that is “clearly unfounded” and they are prevented from making an appeal within the UK. The European Commission against Racism and Intolerance and the Independent Race Monitor have also criticised the lists. In February 2007, the government began to implement the minors segment of its New Asylum Model aimed at “improving” and speeding up decision-making. Many of the changes are a major cause of concern to NGOs, including: short timelines for decision-making; the introduction of substantive interviews for children aged 12 and over (a decision on the child’s asylum application will be based partly on such interviews); reduction of the age of discretionary leave to remain from 18 to 17.5 years, and shorter periods of limited leave or no leave at all for over-16s.

Cutbacks in legal aid funding means that many specialist immigration advisers are closing down, leaving children without vital expert legal advice and advocacy. The Children’s Society has reported that, following legal aid cuts in 2004, it is now very difficult for children to get an asylum lawyer and cuts in 2007 have exacerbated the situation. Although children’s cases are still paid at an hourly rate (families are not), fixed fees for other parts of the service have forced lawyers out of business. Some children the organisation works with have had five or more lawyers. Sometimes their case is dropped and their lawyer doesn’t even tell them.

In a further act of insensitivity, separated children can now be required to report to police stations on a weekly basis, although an application can be made to change these reporting requirements.

The UK continues to enforce the return of unaccompanied children or those in families, even when the Home Office has accepted that the child was a victim of torture or serious harm in their country of origin but considers there to be no risk on return.

**Article 30**

“**Profound inequality**” of gypsy and traveller children

In May 2006 the Commission for Racial Equality (CRE) published the findings of its year-long inquiry into the rights and treatment of gypsy and Irish travellers. The inquiry report is based on survey responses from 236 local authorities across England and Wales, nine case study authorities and more than 400 responses to a public call for evidence.

The CRE report summarises the “profound inequality” faced by gypsy and traveller children and families:

“Gypsies and Irish travellers fare worst of any ethnic group in terms of health and education: life expectancy for men and women is 10 years lower than the national average; gypsy and Irish traveller mothers are 20 times more likely than mothers in the rest of the population to have experienced the death of a child; and in 2003 less than a quarter of gypsy children obtained five GCSEs at A* to C grades, compared to a national average of just over half.”

Since April 2001, public authorities have been required to promote equality of opportunity and good race relations and to eliminate unlawful racial discrimination. Yet the CRE inquiry found discriminatory treatment in the provision and administration of public sites. Many sites lacked basic amenities, including play facilities for children, and were often dangerous or hazardous to children’s health. Frequent evictions were found to have an impact on children’s mental health, education and access to health care including immunisations. The process of eviction itself is often deeply traumatic for children.

Local authorities’ use of inadequately regulated private bailiff companies in the execution of forced evictions is a major concern for organisations working with traveller and gypsy children. Evictions can be carried out in a hazardous and chaotic manner, for example, using heavy machinery and setting fire to fences while people are still on site, with no attempts made by bailiffs to keep children away from possible injury.
There is no duty on bailiffs to inform or consult local social services of pending evictions involving children. The CRE report describes gypsy and traveller children being threatened and issued with anti-social behaviour orders, and criticises the “inflammatory” media coverage of matters relating to gypsy and traveller families.

**Article 32**

**Discriminatory minimum wage**
The government continues to operate three different “minimum” wages. Current rates are:

<table>
<thead>
<tr>
<th>Employee age</th>
<th>Wage per hour</th>
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</thead>
<tbody>
<tr>
<td>Under 16</td>
<td>No minimum wage</td>
</tr>
<tr>
<td>Employees aged 16 to 17</td>
<td>£3.40</td>
</tr>
<tr>
<td>Employees aged 18 to 21</td>
<td>£4.60</td>
</tr>
<tr>
<td>Employees aged 22 and over</td>
<td>£5.52</td>
</tr>
</tbody>
</table>

We welcome the regulations that came into force in October 2006 that give children some protection from age-based discrimination, victimisation and harassment in employment, education and training.231

**Table 3: Minimum wages in the UK**

**Articles 34 and 35**

**Failure to ratify optional protocol and other international instruments**
The government has promised to ratify the optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography by the end of 2008. It is worth noting that the government promised to ratify it “at the earliest opportunity” in 2003.232 In March 2007 the government signed, but has not yet ratified, the Council of Europe Convention on Action against Trafficking in Human Beings.

**Inadequate protection from trafficking**
The government has acknowledged that the UK is a destination country for human trafficking. However, its enforcement efforts have mainly focused on sexual exploitation of foreign national women and only limited assessment has taken place on the trafficking of children, both from abroad and within the UK. The Parliamentary Joint Committee on Human Rights in its report of November 2006 concluded that:

“... the question of the support available to trafficked children in legal proceedings, in dealings with other authorities, and in their daily lives, is a matter which needs to be reviewed urgently. We are not persuaded that, generally, local authorities have developed the necessary expertise to cater for the very special needs of trafficked children.”233

NGO research shows that the main drivers for child trafficking into the UK are sexual exploitation and child labour, particularly domestic servitude, but also forced marriage and benefit fraud.234 However, the weakness of current legislation is that it can only be used when sexual exploitation, labour exploitation or organ transplant has occurred within the UK. It cannot be used, for example, to prosecute if a child is trafficked into the UK but detected at the port of entry. It also does not cover trafficking of babies or infants for illegal adoption, where no sexual exploitation or labour exploitation has occurred.

The protection of child victims of trafficking has to date been the responsibility of local authorities. There are many inconsistencies in the provision of social services, education and health services, with particular deficiencies in the provision of safe accommodation and mental health services.

**Children going missing from local authority care**

Without a national approach to identification, recording, reporting and monitoring, child trafficking victims remain vulnerable to further exploitation. The organisation ECPAT UK (End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes) reports that many children go missing from care before practitioners have investigated, identified or recorded them as suspected victims of trafficking.

The government has ruled out an independent inquiry into separated children who have gone missing from care, even when evidence exists of traffickers targeting local authority accommodation. In June 2007 the government identified 330 potential child victims of trafficking over an 18-month period (March 2005 to December 2006). The youngest child identified was a nine-month old baby, while 85% were aged 15 to 17 years. Just over half (56%) of the children were girls. Of the 330 children, 183 children (55%) had gone missing without trace from social services care.235

**Immigration control takes priority over protecting trafficked children**

NGOs have grave concerns that immigration controls take precedence over protecting separated children who are victims of trafficking. For instance, new policies introduced in 2007 to limit discretionary leave to remain until a child is 17.5 years breach international standards of best practice on protecting child victims of trafficking.

**Article 38**

**Children involved in armed conflict**

See our separate report covering the optional protocol on armed conflict and our continuing concerns relating to the targeting of children as young as seven in armed forces recruitment, especially in the poorest areas; the lack of child protection and adequate complaints mechanisms in the armed forces; and the “accidental” deployment of children to war zones, including Iraq.

**Articles 37 and 40**

**Juvenile justice system is harming children**

The juvenile justice system in England is not compliant with the principles or provisions of the Convention. In many respects, compliance has worsened since the last examination in 2002:

➔ The boundaries of the system have become much more blurred, especially as a consequence of measures to tackle anti-social behaviour. Prevention is now set within the juvenile justice system instead of the child welfare system,
bringing younger children into contact with criminal justice agencies. At the other end of the spectrum, 17 year-olds are still, with limited exceptions, treated as adults on arrest and for remand purposes. There are inconsistencies at the age of 17 regarding the availability of deportation orders following conviction. There is very little recognition in the criminal justice system of the distinct needs of adolescents attaining the age of 18: this is in stark contrast to broader children’s policy where there is now an acceptance of the need for extended provision for young people leaving care and young disabled people

⇒ Diversion from prosecution is too inflexible and often unfair or discriminatory

⇒ The juvenile justice system is characterised by retribution and punishment

⇒ Children may be tried in adult courts and are regularly subject to remand and mode of trial decisions in the adult magistrates’ courts

⇒ Detention, on remand or sentence, is not used as a measure of last resort, nor for the shortest appropriate period. The treatment of children who are detained is too often unacceptable, without sufficient safeguards either in law or practice.

Very low age of criminal responsibility
The Committee recommended in 2002 that the age of criminal responsibility be raised considerably. In June 2005, the Council of Europe’s Human Rights Commissioner called on the UK Government to increase the age of criminal responsibility to bring it in line with the rest of Europe. The following month, the European Social Rights Committee declared the UK to be in breach of Article 17 of the European Social Charter because the age of criminal responsibility is “manifestly too low”.

There is much support for the age of criminal responsibility to be raised, including from the Association of Youth Offending Team Managers and the Parliamentary Joint Committee on Human Rights. Nevertheless, the government repeatedly tries to defend the current position, even claiming it to be consistent with the best interests of the child.

In a recent judgement regarding the mental capacity of children and court processes, an opinion was given (albeit obiter) that although it was clear that the presumption of doli incapax had been abolished, the common law defence remains. This makes it all the more urgent for the government to establish an independent review of the age of criminal responsibility.

Too many children entering criminal justice system
The system of pre-court disposals is inflexible and the disposals themselves are recorded on a child’s police file. Failure to comply with an intervention can be cited in later proceedings. A child can receive just one reprimand and one warning (apart from exceptional cases and sometimes in error) after which any misdemeanour will result in prosecution. Unlike an adult, a child who has been warned cannot subsequently be conditionally discharged except in some very limited circumstances.

Where reprimands or warnings are not available, for example where the child does not make a full and clear admission or is exercising their right to remain silent, prosecution will follow. Thus, there are many cases in which a child is formally convicted without ever having received a ‘pre-court disposal’. Once convicted, a child cannot be diverted from prosecution again until attaining adulthood when a post-conviction caution is, perversely, available.

Too many children are entering the formal juvenile justice system for minor offences, according to the Audit Commission. The Youth Justice Board has set itself a target of helping to achieve a 5% reduction of “first time entrants” between 2005 and 2008. This extremely unambitious target is set against the increasing criminalisation of children at a time when the juvenile crime rate is stable:

⇒ between 2002/03 and 2005/06 there was more than a 25% increase in the total number of criminal justice disposals given to children (this includes pre-court disposals)

⇒ the rise for girls was more than 46%

⇒ the rise for children from mixed ethnic backgrounds was 137%

In 2005/06 just 45% of disposals were issued outside of court. Younger children were usually dealt with outside of court but from the age of 15 children were more likely to be dealt with in the formal court setting.

Police have been granted new powers in recent years to issue financial penalties, including to children, with no court proceedings or conviction required unless the person, for example, fails to pay or refuses to admit fault.

Anti-social behaviour and other related orders
Despite being introduced as civil orders, breaches of anti-social behaviour orders are dealt with in criminal courts and constitute convictions if proven. Many of these result in, or contribute to, custodial sentences. The Sentencing Advisory Panel notes:

“The purpose of the ASBO itself is preventative. However, breach of any of its terms without reasonable excuse is a criminal offence punishable by up to five years’ imprisonment in the case of an adult offender (two years’ detention in the case of a youth aged from 12 to 17). This is the same maximum penalty as for an offence of inflicting grievous bodily harm or assault occasioning actual bodily harm and greater than that presently available for dangerous driving or for any summary offence.”

In addition, a form of order is available to criminal courts when sentencing children on conviction of any specific offence(s). This is known colloquially as the CRASBO. Some 40% of anti-social behaviour orders are of this type. The order is made in addition to the sentence of the court for the original offence although the alleged behaviour does not need to relate to that offence. Moreover, the court can make an anti-social behaviour order that, in practice, does not commence until a later date. In this way, many children who are given a detention and training order of between four months and two years face an anti-social behaviour order from the point of release from detention. The
government has not, until very recently, deemed it necessary to monitor anti-social behaviour orders by the ethnicity of the recipient. The Criminal Justice and Immigration Bill currently in parliament proposes to introduce a review of child ASBOs after a year, though children’s and human rights organisations are urging a three-month period.

The issue of privacy has been addressed earlier, but it might be noted that in criminal proceedings where an additional anti-social behaviour order is made, children’s right to privacy is protected with regard to the substantive offence to a greater extent than the alleged behaviour that has led to the anti-social behaviour.

The government does not collect statistics on the characteristics of children issued with ASBOs, although independent research confirms they are children from very disadvantaged families. A Sheffield Hallam University evaluation report of work with families threatened with eviction as a result of anti-social behaviour found that: sixty per cent of families engaging in anti-social behaviour are also the victims of such behaviour; children involved in the projects are “amongst the most disadvantaged in the country”, and the “multiple support needs” of families were not being met by agencies “in many cases”.245

**Children tried as adults**

Children are tried in the (adult) crown courts for serious offences and when sent to that court with an adult co-defendant. The government has introduced a practice direction, consolidated in April 2007, to improve the arrangements during the trial of children. For example, gowns and wigs are set aside and the duration of sessions is congruent with the child’s level of concentration. Nevertheless, children are still being tried in settings designed for adults: they appear in the adult magistrates’ courts routinely and regularly. This occurs when no youth court is sitting or where there is an adult co-accused. New matters arising at weekends and during public holidays are dealt with in special (adult) courts, mainly without the benefit of specialist juvenile magistrates or a suitably experienced district judge, or specialist prosecution and defence lawyers. Many children are remanded from adult courts. Decisions regarding the mode of trial and transfer to crown court are made in the adult court when children are co-accused with an adult.

We draw the UN Committee’s attention to a case brought to the European Court of Human Rights (SC v UK) concerning an 11 year-old who was tried in an adult crown court. A consultant clinical psychologist had advised the judge that the boy had significant learning impairments, with a developmental age of between six and eight years, yet the judge continued the proceedings, and an application to a higher court failed. The European Court agreed that the child’s right to a fair trial had been breached. At the end of March 2005, the Home Secretary Charles Clarke wrote to the Chair of the Parliamentary Joint Committee on Human Rights, claiming that: “The [SC v UK] judgment is a difficult one to interpret and apply... We are of course well aware that the judgment, which has now been upheld by the Grand Chamber, needs to be implemented and the Government will ensure that that is done”. In July 2006, the Home Office Minister Baroness Scotland introduced an amendment to the Police and Justice Bill that permits courts to use a live video link for children where it would improve the child’s participation in criminal proceedings. We do not consider that this measure either meets the requirements of the European Court’s judgement for a “specialist tribunal”, or the Committee’s recommendation in 2002 that the UK should raise considerably the age of criminal responsibility – see page 33. It is worth noting that in the same legislation courts were given powers to use live video links for adult defendants in prison and police stations on the grounds of “efficiency savings”.246

**Detention not used as a last resort**

The government’s report states that custody is used as a last resort and “is only available where the seriousness or persistence of the offending makes its use unavoidable or where there is a risk of harm to the public”. The report claims that custodial sentences constitute around 3% of all disposals. However, if pre-court disposals are discounted, 6% of all court disposals in 2005/06 were custodial sentences, or more than one in 20 cases. Section 152(2) of the Criminal Justice Act 2003 requires (for adults and children alike) that: “The court must not pass a custodial sentence [where there is discretion] unless it is of the opinion that the offence or the combination of the offence and one or more offences associated with it was so serious that neither a fine alone or a community sentence can be justified for the offence.” This threshold does not meet the requirements of Articles 37b and 40(3), and does not explain why so many children are being locked up for offences that do not involve violence.

Contrary to the government claims, the number of children being received into prison under an immediate custodial sentence has increased by 13% since 2003, from 4,918 prison receptions for 15 to 17 year-olds in 2003 to 5,291 in 2006 (this does not take account of receptions into secure training centres and local authority secure children’s homes). There was an overall reduction of 22% in all prison receptions (adults and children), raising concerns that children are disproportionately being given an immediate custodial sentence.248 249The government is currently resisting attempts by peers in the House of Lords, supported by a wide range of NGOs, to introduce a custody threshold for children. The use of custody for children throughout England and Wales is highly inconsistent. Between April 2001 and March 2006, the custody rate (expressed as
the number of cases resulting in custody as a proportion of all court disposals) varied widely between the English regions and Wales. For example, in the North East it was 6%, and in London and the West Midlands, it was 11%.

As at December 2007 (latest figures available), there were 2,808 children (under-18 year-olds) in detention in England and Wales (a mere 125 reduction on 2002). Of these:

- eighty-three per cent, or 2,329 children, were held in prison
- nine per cent, 257 children, were held in secure training centres
- eight per cent, 222 children, were held in secure children’s homes

Of the 2,808 children serving custodial sentences, just 147 (5%) were serving sentences for grave crimes of four years or more.251

Young offender institutions (YOIs) Most children are held in YOIs. These institutions, like adult prisons, are mostly run by the Prison Service (three are run by private companies). They are inspected by Her Majesty’s Inspectorate of Prisons for England and Wales. YOIs are monitored by the Youth Justice Board. Unit cost per year is £53,100 per capita.

Secure training centres (STCs). There are four STCs, holding a total of about 250 children. STCs are privately run under contract with the Youth Justice Board and are inspected by Ofsted and monitored by the board. Unit cost per year is £172,300 per capita. The first centre opened in 1998; they resemble prisons in building and culture.

Local authority secure children’s homes (SCHs) are run by local authorities, many under contract with the Youth Justice Board, and are inspected by Ofsted and monitored by the board. Unit cost per year is £185,500 per capita.

Mandatory indeterminate and extended custodial sentences

Sections 226 and 228 of the Criminal Justice Act 2003 introduce indeterminate detention for children and an extended period of detention for certain violent or sexual offences where the court considers there is significant risk to the public of further specified offences being committed. These came into force in April 2005. There are 153 sexual and violent offences specified in the Act. The listed offences include actual bodily harm, public affray and indecent exposure.

Critically, this indeterminate sentence is mandatory, although it does not apply for those offences where a child would ordinarily be given a life sentence.

The extended sentence can result in a much longer period on licence post-release, with the constant threat of return to custody: the licence period for children is five years for a specified violent offence and eight years for a specified sexual offence.

In 2005/06 there were 16 instances of children being given indeterminate detention and 72 instances of children being given an extended sentence for public protection. When the legislation was passing through parliament, Hilary Benn, the Home Office minister in charge, said the new provisions would be used infrequently and estimated that around 10 children would be sentenced to extended sentences each year and only one or two given detention for public protection.252 For children as young as 10 years of age, we consider such sentencing to constitute cruel and unusual treatment or punishment.

Children on remand still held in custody

In December 2007, there were 481 children on remand in prison, excluding those held in secure training centres or secure children’s homes.253

Vulnerable children and self-harm in custody

3,337 children assessed as vulnerable during 2004 were, nevertheless, sent to young offender institutions.254 A Parliamentary written answer in July 2005 shows the growing problem of children self-harming in secure training centres.255 The Home Office has revealed that between July and September 2006, children in four secure training centres suffered a total of 192 injuries following self-harm. Most of these, the Home Office says, were “superficial scratches”. A Parliamentary written answer shows that the number of non-fatal self-harm incidents more than doubled in child custody between 2002 and 2005, from 275 to 622 incidents.256 Against this backdrop, the government is seeking to introduce a principal aim of sentencing, which is to prevent re-offending. The welfare of the child (Section 44, Children and Young Person’s Act 1933) is to be a secondary consideration, and “punishment” is to be introduced as a sentencing purpose for the first time for children.

Very high levels of restraint in child custody

Information has not been published showing the frequency and comparable levels of restraint in the different forms of locked settings. However, Parliamentary questions have revealed that restraint was used in the four secure training centres 3,727 times in 2004; used 4,285 times in 2005; and 2,988 times in 2006.257 Parliamentary questions also reveal that control and restraint was used 4,207 times in nine months in five secure children’s homes.258

### Table 4: self-harming in secure training centres

<table>
<thead>
<tr>
<th>Setting</th>
<th>2000</th>
<th>2001</th>
<th>2003</th>
<th>2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medway</td>
<td>49</td>
<td>40</td>
<td>39</td>
<td>219</td>
</tr>
<tr>
<td>Hassockfield</td>
<td>29</td>
<td>18</td>
<td>49</td>
<td>138</td>
</tr>
<tr>
<td>Rainsbrook</td>
<td>13</td>
<td>35</td>
<td>84</td>
<td>70</td>
</tr>
<tr>
<td>Oakhill</td>
<td>-</td>
<td>-</td>
<td>29</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>91</td>
<td>93</td>
<td>172</td>
<td>456</td>
</tr>
</tbody>
</table>

### Table 5: Average number of times restraint used per type of accommodation:

<table>
<thead>
<tr>
<th>Setting</th>
<th>Average yearly restraint per institution</th>
<th>Average weekly restraint per institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secure training centre</td>
<td>747</td>
<td>14</td>
</tr>
<tr>
<td>Young offender institution</td>
<td>412</td>
<td>8</td>
</tr>
<tr>
<td>Secure children’s home</td>
<td>195</td>
<td>4</td>
</tr>
</tbody>
</table>
The Prisons Inspectorate revealed in 2007 that two children had their clothes cut off during a strip-search in Werrington young offender institution. In the 12 months between November 2005 and October 2006, control and restraint was used 146 times during strip-searching in 11 young offender institutions holding 15 to 21 year-olds. Restraint frequently results in child injuries – see page 17. In September 2006, the European Court of Human Rights found the UK to have breached article 8 of the European Convention on Human Rights in requiring the mother and disabled brother of an adult prisoner to undergo a strip search before the family visit could take place. In February 2007, the government said it would be issuing a revised policy on strip-searching following the case: this has not yet materialised (March 2008).

**Widespread criticism of conditions in child detention**

Since the UN Committee’s last examination of the UK in 2002, concerns about child custody have grown exponentially.

➔ In November 2002, Mr Justice Munby, in a landmark judicial review brought by the Howard League for Penal Reform on the application of the Children Act 1989 to prison custody, said the treatment of children in custody: “...ought to shock the conscience of every citizen”.

➔ In 2004, the Parliamentary Joint Committee on Human Rights recommended that: “...local authority secure accommodation should be used wherever possible for children, with use of prison service custody reduced to an absolute minimum”.

➔ In 2005, the Council of Europe’s Human Rights Commissioner, Alvaro Gil-Rubles, criticised the high number of children incarcerated in the UK and said: “[The] overall impression I obtained was of a detention system that placed too much emphasis on punishment and control and not enough on rehabilitation.”

➔ Eight chief inspectors issued a comprehensive report in 2005 on the safety and well-being of children in a range of settings, including custody. This reported that 7% of children said they felt unsafe all of the time.

➔ In February 2006, Lord Carlile of Berriew QC’s report on the use of strip-searching, restraint and segregation in child custody called for greater safeguards for children in custody, and stated that many of the practices in child custody would be regarded as child abuse in any other setting.

➔ The Royal College of Paediatrics and Child Health welcomed the Carlile report, saying it agreed that painful restraint methods are “unacceptable in their use of pain to bring about compliance”.

➔ The 2006 annual report from the Chief Inspector of Prisons states: “In many establishments, a significant proportion of child protection referrals concern allegations of abuse or rough handling during the use of force; some have resulted in injuries, such as broken bones.” The report indicates that violence in custody does not just occur between children: nearly a quarter (24%) of children report being insulted or assaulted by a member of staff; 6% say they have been hit, kicked or assaulted by a member of staff; and 2% report being sexually abused by a member of staff. Only four in 10 children say they expect prison staff to take seriously their concerns about safety.

➔ In June 2006, the Parliamentary Public Accounts Committee published its report on prison overcrowding. The chair of the Committee, Conservative MP Edward Leigh, urged: “Another way of relieving the pressure is to think long and hard about practical alternatives to imprisonment for some key categories of prisoner: such as those on remand, those with mental health problems and children.”

➔ The Local Government Association (LGA), in June 2006, issued its report on children in trouble and says that local authority secure children’s homes must be “the only form of secure accommodation for children”.

➔ In July 2006, the Howard League for Penal Reform announced the government would establish a public inquiry into the treatment of a mentally ill child in prison. SP was moved from a local authority secure children’s home to an adult women’s prison on her 17th birthday. She was put on suicide watch and in solitary confinement, often staying in her cell for 22 hours a day. She ate meals alone in her cell and her only exercise was taken in a metal cage. SP’s self-harming injuries were so serious whilst in prison that she had to be taken to hospital for blood transfusions. After leaving prison, she was placed in a mental hospital and her condition stabilised.

➔ In 2007, the Chief Inspector of Prisons, Anne Owers, expressed strong concern over the routine strip-searching of children on arrival at HMP Werrington, and a history of self-harm and bullying at the facility. Two teenagers had their clothes cut off by prison officers while being restrained to facilitate a strip-search. The Howard League for Penal reform subsequently made a formal child protection referral to Stoke-on-Trent City Council. Frances Crook, director of the Howard League, said: “This is not the first time that Werrington YOI has been criticised for its strip-searching policies by the Chief Inspectorate of Prisons. The Chief Inspector has now ruled that the jail has failed ‘the healthy prison test’ on safety. That would be unacceptable in any prison but is particularly shocking in a prison that houses children.”

➔ The Chief Inspector of Prisons welcomes improvements in child protection, but notes in her 2005/06 annual report (January 2007): “In our survey, 27% of boys and 11% of girls said that they had been physically restrained. Injuries sustained during restraint are often the highest single category of child protection referrals in an establishment; but few properly monitor the injuries that arise from use of force. Nor do the Youth Justice Board or Prison Service, in spite of Inspectorate recommendations.”

In one young offender institution alone, about a quarter of child protection referrals arose from force being used on children during strip-searches.
In June 2007, jurors at the inquest into Gareth Myatt’s death returned a verdict of accidental death and made sweeping criticisms about the conduct of the Youth Justice Board.

The failures of the UK’s juvenile justice system were summed up by the comments of the serious case review panel that reported to the Lancashire Local Safeguarding Children Board in September 2007 on the circumstances surrounding 14 year-old Adam Rickwood’s death. Concluding that (based on the evidence available to them) Adam should probably not have been restrained, the panel commented generally that: “the ‘whole [criminal justice] system’ treated Adam Rickwood as a child in need of custody, rather than a child in need of care.”

Hungry children
Each young offender institution (where eight out of 10 detained children are held) spends just £2.20 per day on food for each child, including the cost of the catering staff. Juvenile surveys during nine prison inspections carried out between 2005 and 2007 show consistent problems with the provision of food, with between 9% and 56% of children rating it as good/very good.

Lack of physical exercise
Growing boys in custody are only permitted between 30 and 45 minutes of outdoor exercise each day; in one young offender institution the only outdoor exercise available to boys is the walk from one building to another. Only 6% go out every day for exercise, according to children in one prison (see page 42).

Inadequate response from government
The government has responded to the grave concerns about children’s safety in custody by appointing 25 social workers, or just one for each institution. Incredibly, there are questions about the long-term funding of these posts.

Independent advocacy and complaints
Voice and the National Youth Advocacy Service (NYAS) have been providing independent advocacy to children across the secure sector since 2004. In December 2006, the Prisons Inspectorate published an analysis of its juvenile surveys between 2004 and 2006. On advocacy and complaints, it reports:

- only a quarter of boys and around a third of girls said they had spoken to an advocate since arriving at the establishment (and only 11% at Lancaster Farms and Huntercombe, and 13% at Cookham Wood)

- on average 85% of boys knew how to make a complaint but only 45% thought this was easy and less than one in five (17%) thought complaints were dealt with fairly. Responses by girls were similar, although slightly higher in each category.

The government’s report boldly states: “Every child in custody has access to an independent advocacy service.” What it doesn’t say is how much advocacy is provided. The annual 2004/05 report from NYAS and Voice, obtained through a Freedom of Information disclosure, reveals a very limited service. The prison regime often works against giving children access to this vital support. For example, in one prison, children were only allowed to see an advocate between 10.05 and 10.20 (15 minutes), 13.15 and 13.30 (15 minutes), 15.00 and 15.30 (30 minutes), and 18.15 and 20.00 (105 minutes). The last period coincides with the children’s association and free time, which is the only chance they have to ring family, go to the gym, shower and socialise with friends.

Article 39

Failure to provide therapeutic support for abused children
The Medical Foundation for the Care of Victims of Torture supported a 15 year-old girl soldier whom the Home Office claimed should return to Sierra Leone. The immigration appeal tribunal found that to return the child would cause the UK to be in breach of Article 3 inter alia of the European Convention on Human Rights on the basis that “...it will take years to reach appropriate levels of staffing and expertise. In the meantime many children will continue to suffer and their problems will become more intractable.” Although CAMH services have improved, much remains to be done, and current fiscal pressures on the health service do not leave much room for optimism.

A large proportion of children in trouble, including those in custody, have experienced violence or ill treatment. The Youth Justice Board reports that 41% of children in custody are “vulnerable” (38% of males and 72% of females) and 72% of under-15s are vulnerable. The board defines vulnerability as “susceptibility to significant physical, sexual, emotional harm or distress” yet there is a lack of counselling, listening, and support for children in custody.

Research suggests that between 25% and 40% of all alleged sexual abuse involves young perpetrators and about a third of sexual offenders in contact with the criminal justice system each year are adolescents. The vast majority of these children have themselves been subject to violence and mistreatment.

NSPCC research suggests that the response to this problem is often disjointed and inadequate, resulting in an inaccurate initial assessment of risk and inappropriate treatment. Frequently children do not receive any assessment or positive intervention because they fall between criminal justice and child protection systems. The decision about whether a child is directed towards the child protection or criminal justice system is very often arbitrary. There has been some progress in policy and practice, but there is still no effective national strategy.
## Annex A: Summary of legislation passed since September 2002 that in part breaches the rights in the Convention on the Rights of the Child

<table>
<thead>
<tr>
<th>Breaches</th>
<th>Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash support given to parents from the National Asylum Support Service is 70% of the adult rate of ordinary benefits – breach of Articles 27, 3, 6 and 2</td>
<td>Nationality, Immigration and Asylum Act 2002 (Royal Assent in November 2002)</td>
</tr>
<tr>
<td>No entitlement to housing and other support for asylum-seeking parents whose asylum claim has failed, unless denial would cause them to be destitute – breach of Articles 27, 3, 6 and 2</td>
<td></td>
</tr>
<tr>
<td>Right to work removed from asylum seekers* – breach of Articles 27, 3, 6 and 2</td>
<td></td>
</tr>
<tr>
<td>Aspects of Part III of the Immigration and Asylum Act 1999 relating to the right of automatic bail hearing for all detainees are repealed (having never been brought into force) – breach of Articles 37 and 3</td>
<td></td>
</tr>
<tr>
<td>Provision for “accommodation centres” in which asylum-seeking families can be held for up to nine months, and children provided with segregated education. Ministers scrapped the idea in June 2005, after calculating the cost. The legislation has not been repealed. By end March 2007, the Home Office had spent £33.7 million on the accommodation centres and ministers apparently have plans to use land purchased in Oxfordshire for a new immigration removal centre*</td>
<td></td>
</tr>
<tr>
<td>The right to appeal, within the UK, an asylum refusal on refugee convention or human rights grounds is removed for applicants from designated countries (so called “white list” countries). Introduces a statutory presumption that all claims from designated countries are “clearly unfounded” unless the Secretary of State determines otherwise. Countries currently on the list: the Republic of Albania, Bulgaria, Serbia and Montenegro (including Kosovo), Jamaica, Former Yugoslav Republic of Macedonia, the Republic of Moldova, Romania, Bolivia, Brazil, Ecuador, Sri Lanka, South Africa, Ukraine, India – breach of Articles 3 and 37 and possibly many other rights in the Convention</td>
<td></td>
</tr>
<tr>
<td>Police given the power to close premises, including family homes, where illegal drugs are being used – breach of Articles 3, 27, 16 and 2</td>
<td>Anti-Social Behaviour Act 2003</td>
</tr>
<tr>
<td>Local education authorities, schools and youth offending teams can ask parents of children not attending school regularly or who have been excluded to sign a “voluntary” parenting contract; the courts have the power to consider any refusal to sign as grounds for issuing a parenting order (breach of which becomes a criminal offence and the parent can be fined up to £1,000 or imprisoned) – breach of Articles 3 and 18</td>
<td></td>
</tr>
<tr>
<td>Introduction of fixed penalty notices (on-the-spot fines) for parents seen to condone or ignore truancy. These fines can be issued by the police, head teachers and local councils – breach of Articles 27 and 3</td>
<td></td>
</tr>
<tr>
<td>Police powers to designate dispersal zones with a power to disperse groups of two or more people of any age, and remove young people under 16 who are unsupervised in public places between the hours of 9pm and 6am to their place of residence* – breach of Articles 16, 31 and 2</td>
<td></td>
</tr>
<tr>
<td>Removal of automatic reporting restrictions on anti-social behaviour orders made in a youth court (reporting restrictions had been in place since 1932) – breach of Articles 40, 3 and 2</td>
<td></td>
</tr>
<tr>
<td>Extension of fixed penalty notices (on-the-spot fines) for “disorderly behaviour” to 16 and 17 year-olds, with a power to reduce the age still further to 10 (the age of criminal responsibility) – breach of Articles 40 and 3</td>
<td></td>
</tr>
<tr>
<td>Introduction of fixed penalty notices (on-the-spot fines, currently £75 – February 2008) as an alternative to prosecution for graffiti and fly-posting, with no differentiation between adult and child offenders – breach of Articles 40 and 3</td>
<td></td>
</tr>
<tr>
<td>*Following a human rights challenge, the Court of Appeal has clarified that anti-social behaviour should be evident or imminent for such police powers to comply with the European Convention on Human Rights</td>
<td></td>
</tr>
<tr>
<td><strong>Introduces mandatory “detention for public protection” (an indefinite sentence, subject to parole board review) for children who have committed a sexual or violent offence and the court considers there to be a significant risk of the child committing another specified offence (153 in all) that will cause serious harm. In addition, introduces an “extended sentence” for children who are still considered a significant risk to public safety (extension period can be the same custodial penalty as would be given to an adult); after the extended period in custody is served, the child will be supervised in the community for between five years (violent offence) and eight years (sexual offence) – breach of Articles 37 and 3</strong></td>
<td><strong>Criminal Justice Act 2003</strong></td>
</tr>
<tr>
<td><strong>Extension of police powers to retain DNA and other intimate samples without the person’s consent: can now obtain and retain DNA from any person arrested for a recordable offence (most crimes) – breach of Articles 16 and 3</strong></td>
<td><strong>Sexual Offences Act 2003</strong></td>
</tr>
<tr>
<td><strong>Convicted children from the age of 14 can be required to be tested for drugs before a sentence is passed, but there is no requirement that treatment be available – breach of Article 16</strong></td>
<td><strong>Sexual Offences Act 2003</strong></td>
</tr>
<tr>
<td><strong>Introduces a new broad offence of sexual activity with an underage child (under 16), and a new offence of causing or inciting a child to engage in sexual activity. Both apply equally to children and adults, though length of custodial penalties are different (up to five years for children; 14 years for adults) – breach of Articles 3, 6 and 16</strong></td>
<td><strong>Sexual Offences Act 2003</strong></td>
</tr>
<tr>
<td><strong>Makes it an offence for adults to obtain the sexual services of a child under 18, but does not remove the possibility under existing law that the child may also be prosecuted for soliciting – breach of Articles 39, 37 and 3</strong></td>
<td><strong>Asylum and Immigration (Treatment of Claimants etc) Act 2004</strong></td>
</tr>
<tr>
<td><strong>Young “sex offenders” will automatically have their name put on the sex offender register for between 12 months and “an indefinite period” – breach of Articles 39, 37 and 3</strong></td>
<td><strong>Asylum and Immigration (Treatment of Claimants etc) Act 2004</strong></td>
</tr>
<tr>
<td><strong>Withdraws all financial and other support and assistance from a family after their asylum appeal has failed. This includes denying them support under section 17 of the Children Act 1989 (children in need assistance), leaving the family reliant on charitable or discretionary grants, or having to face the possibility of having their children taken into local authority care – breach of Articles 3, 6, 27, 24, 37 and 2</strong></td>
<td><strong>Asylum and Immigration (Treatment of Claimants etc) Act 2004</strong></td>
</tr>
<tr>
<td><strong>Any behaviour that is seen to try and conceal, mislead or obstruct and any failure to give information can affect the claimant’s credibility in relation to an asylum or human rights claim, with no safeguard for children – breach of Articles 3, 6 and 12</strong></td>
<td><strong>Asylum and Immigration (Treatment of Claimants etc) Act 2004</strong></td>
</tr>
<tr>
<td><strong>Establishes an information-sharing database with a basic record on every child up to 18 in England whether or not they or their parents consent – breach of Article 16 and possibly 3, 6 and 12 (not operational yet and doubts about whether it will be)</strong></td>
<td><strong>Children Act 2004</strong></td>
</tr>
<tr>
<td><strong>Removes the defence of “reasonable chastisement” in cases where adults cause grievous or actual bodily harm when hitting children, but allows them a new defence of “reasonable punishment” in cases of common assault – breach of Articles 19, 3, 6, 18 and possibly 37</strong></td>
<td><strong>Domestic Violence, Crime and Victims Act 2004</strong></td>
</tr>
<tr>
<td><strong>Introduces an offence of causing or allowing the death of a child or vulnerable adult. Only those aged 16+ can be convicted of this offence, unless they are the parent of the child, in which case the age of criminal responsibility (10 years) applies – breach of Articles 3 and 37</strong></td>
<td><strong>The Nationality, Immigration and Asylum Act 2002 (Specification of Particularly Serious Crimes) Order 2004</strong></td>
</tr>
<tr>
<td><strong>Article 33(1) of the UN Convention on the Status of Refugees prohibits the expulsion or return of a refugee to a country where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion. An exception is set out in Article 33(2): expulsion or forced return is permitted where a refugee has been convicted “of a particularly serious crime [and] constitutes a danger to the community”. The 2004 Order defines a large number of offences as “particularly serious”, including drug offences and property damage – breach of Articles 37, 3 and possibly 6</strong></td>
<td><strong>The Nationality, Immigration and Asylum Act 2002 (Specification of Particularly Serious Crimes) Order 2004</strong></td>
</tr>
<tr>
<td>Clean Neighbourhoods and Environment Act 2005</td>
<td>Extends the range of environmental offences applicable to children from the age of 10. Fixed penalty notices are offered in lieu of prosecution. If paid, there is no criminal liability but, if the child or parent does not pay, the local authority may prosecute for the offence – breach of Articles 3 and 37</td>
</tr>
<tr>
<td>Drugs Act 2005</td>
<td>Provides for X-raying and ultrasound testing in police custody after arrest (to look for Class A drugs) – breach of Articles 3 and 5</td>
</tr>
<tr>
<td>Prevention of Terrorism Act 2005</td>
<td>Control orders imposing house arrest for between 12 and 16 hours apply to children (from the age of 10) and adults without differentiation – breach of Articles 3, 6 and 37</td>
</tr>
<tr>
<td>Serious Organised Crime and Police Act 2005</td>
<td>Removes reporting restrictions on courts (in statute since 1932) when children breach an anti-social behaviour order, which is a criminal offence – breach of Articles 3, 40 and 16</td>
</tr>
<tr>
<td>Staffordshire Police 2005</td>
<td>Introduces parental compensation orders in cases where children under the age of criminal responsibility commit what would have been an offence if they had been 10 or over – breach of Articles 3 and 40</td>
</tr>
<tr>
<td>Staffordshire Police 2005</td>
<td>Prohibits any demonstration of one person or more within one square kilometre of the Houses of Parliament unless prior permission has been sought in writing from the police – breach of Article 15</td>
</tr>
<tr>
<td>Staffordshire Police 2005</td>
<td>Penalties can be imposed on a child for behaviour that takes place outside the school, including on occasions when a member of school staff is not present – breach of Articles 16, 28 and 3</td>
</tr>
<tr>
<td>Staffordshire Police 2005</td>
<td>Disciplinary penalties can include evening or weekend detentions – breach of Articles 16, 28, 3 and 31</td>
</tr>
<tr>
<td>Staffordshire Police 2005</td>
<td>Introduces very broad powers for staff to use reasonable force – control and restraint – on children, including when a child is thought to be “prejudicing the maintenance of good order and discipline at the school or among any children receiving education at the school” – breach of Articles 16, 19 and 3</td>
</tr>
<tr>
<td>Staffordshire Police 2005</td>
<td>Staff are protected from liability if they confiscate an item from a child and it gets lost or is damaged – breach of Article 16</td>
</tr>
<tr>
<td>Staffordshire Police 2005</td>
<td>Parent is responsible for ensuring that their excluded child is not present in a public place during school hours for the first five days of the exclusion; if the child is found in a public place (whether or not accompanied by a parent), the parent may be liable for a fixed penalty notice, or a £1,000 court fine – breach of Articles 16, 18, 27, 3 and 28</td>
</tr>
<tr>
<td>Staffordshire Police 2005</td>
<td>Enables parents but not children to complain about their education to Ofsted, the education and children’s services inspectorate – breach of Article 12</td>
</tr>
<tr>
<td>Staffordshire Police 2005</td>
<td>Children from the age of 16 will be required to have an ID card (expected to be issued in 2009) – breach of Article 16</td>
</tr>
<tr>
<td>Staffordshire Police 2005</td>
<td>The Act gives the Secretary of State the power to change the age at which this requirement can begin</td>
</tr>
<tr>
<td>Staffordshire Police 2005</td>
<td>Amends the Immigration and Asylum Act 1999 and subordinate legislation so that failed asylum seekers are not entitled to cash support – breach of Articles 3, 6, 27 and 2</td>
</tr>
<tr>
<td>Immigration, Nationality and Asylum Act 2006</td>
<td>Gives power to an “authorized person” to search and detain for up to three hours any person arriving in the UK on a ship, aircraft, vehicle “or other thing”. Private contractors can exercise the power and searches and detentions can be conducted in Calais and Dunkirk. No safeguarding provisions for children – breach of Articles 3 and 16 and possibly Article 37</td>
</tr>
<tr>
<td>Immigration, Nationality and Asylum Act 2006</td>
<td>Introduces “good character” test for anyone aged 10 and over applying for British citizenship – breach of Articles 3, 6 and 2</td>
</tr>
<tr>
<td>Immigration, Nationality and Asylum Act 2006</td>
<td>Restricts the right of appeal for refusal of entry clearance in cases where the subject intends to enter the country as a dependent, a visitor or a student – breach of Articles 3 and 2</td>
</tr>
<tr>
<td>Immigration, Nationality and Asylum Act 2006</td>
<td>All applicants for a visa must provide 10 digital finger scans and a digital photograph for the purposes of proving they are the rightful holder of their passport or travel documents – breach of Articles 3 and 2</td>
</tr>
<tr>
<td>Immigration, Nationality and Asylum Act 2006</td>
<td>The Act contains several provisions empowering the Home Secretary to deprive a person of British citizenship (or Right of Abode) if she considers that such deprivation is “conducive to the public good” – breach of Articles 37, 3 and 2</td>
</tr>
</tbody>
</table>
A government minister can make any provision that they consider would remove or reduce any “burden”, or the overall burdens, resulting directly or indirectly for any person from any legislation. “Burden” means any of the following: a financial cost; an administrative inconvenience; an obstacle to efficiency, productivity or profitability; or a sanction, criminal or otherwise, which affects the carrying on of any lawful activity. Ministers are not permitted to amend the Human Rights Act using these new powers, nor can they introduce a criminal offence which carries a penalty of more than two years’ imprisonment – potential breach of many of the rights and freedoms in the Convention

<table>
<thead>
<tr>
<th>立法和条例改革法 2006</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Authority Social Services Complaints (England) Regulations 2006</td>
<td></td>
</tr>
<tr>
<td>Police and Justice Act 2006</td>
<td></td>
</tr>
<tr>
<td>Terrorism Act 2006</td>
<td></td>
</tr>
<tr>
<td>Violent Crime Reduction Act 2006</td>
<td></td>
</tr>
<tr>
<td>The Asylum (Procedures) Regulations 2007</td>
<td></td>
</tr>
<tr>
<td>Mental Health Act 2007</td>
<td></td>
</tr>
<tr>
<td>Secure Training Centre (Amendment) Rules 2007</td>
<td></td>
</tr>
<tr>
<td>UK Borders Act 2007</td>
<td></td>
</tr>
<tr>
<td>Welfare Reform Act 2007</td>
<td></td>
</tr>
<tr>
<td>Criminal Justice and Immigration Bill 2008</td>
<td></td>
</tr>
<tr>
<td>Counter-Terrorism Bill 2008</td>
<td></td>
</tr>
</tbody>
</table>
A juvenile survey is circulated during every prison inspection. The table below summarises some of the main messages from the surveys undertaken in 2005 and 2007.

<table>
<thead>
<tr>
<th>Question</th>
<th>YOI 1&lt;sup&gt;290&lt;/sup&gt;</th>
<th>YOI 2&lt;sup&gt;291&lt;/sup&gt;</th>
<th>YOI 3&lt;sup&gt;292&lt;/sup&gt;</th>
<th>YOI 4&lt;sup&gt;293&lt;/sup&gt;</th>
<th>YOI 5&lt;sup&gt;294&lt;/sup&gt;</th>
<th>YOI 6&lt;sup&gt;296&lt;/sup&gt;</th>
<th>YOI 7&lt;sup&gt;298&lt;/sup&gt;</th>
<th>YOI 8&lt;sup&gt;297&lt;/sup&gt;</th>
<th>YOI 9&lt;sup&gt;298&lt;/sup&gt;</th>
<th>YOI 10&lt;sup&gt;299&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Have children of their own</td>
<td>14%</td>
<td>0%</td>
<td>0%</td>
<td>18%</td>
<td>15%</td>
<td>14%</td>
<td>15%</td>
<td>10%</td>
<td>12%</td>
<td>11%</td>
</tr>
<tr>
<td>Been in care</td>
<td>48%</td>
<td>40%</td>
<td>6%</td>
<td>9%</td>
<td>46%</td>
<td>28%</td>
<td>7%</td>
<td>36%</td>
<td>34%</td>
<td>26%</td>
</tr>
<tr>
<td>On care order now</td>
<td>18%</td>
<td>7%</td>
<td>31%</td>
<td>46%</td>
<td>16%</td>
<td>11%</td>
<td>0%</td>
<td>19%</td>
<td>10%</td>
<td>7%</td>
</tr>
<tr>
<td>Ever been excluded from school</td>
<td>96%</td>
<td>80%</td>
<td>88%</td>
<td>73%</td>
<td>74%</td>
<td>86%</td>
<td>87%</td>
<td>96%</td>
<td>82%</td>
<td>89%</td>
</tr>
<tr>
<td>Felt safe on journey to / from prison</td>
<td>58%</td>
<td>33%</td>
<td>56%</td>
<td>27%</td>
<td>84%</td>
<td>79%</td>
<td>88%</td>
<td>66%</td>
<td>64%</td>
<td>63%</td>
</tr>
<tr>
<td>Felt van comfortable</td>
<td>4%</td>
<td>0%</td>
<td>6%</td>
<td>40%</td>
<td>32%</td>
<td>17%</td>
<td>44%</td>
<td>10%</td>
<td>13%</td>
<td>8%</td>
</tr>
<tr>
<td>Could telephone family / friends first day in prison</td>
<td>78%</td>
<td>80%</td>
<td>88%</td>
<td>80%</td>
<td>95%</td>
<td>78%</td>
<td>88%</td>
<td>87%</td>
<td>80%</td>
<td>88%</td>
</tr>
<tr>
<td>Felt safe first night</td>
<td>81%</td>
<td>80%</td>
<td>69%</td>
<td>55%</td>
<td>85%</td>
<td>92%</td>
<td>93%</td>
<td>83%</td>
<td>83%</td>
<td>83%</td>
</tr>
<tr>
<td>Easy to attend religious services</td>
<td>37%</td>
<td>33%</td>
<td>44%</td>
<td>46%</td>
<td>54%</td>
<td>63%</td>
<td>61%</td>
<td>58%</td>
<td>51%</td>
<td>55%</td>
</tr>
<tr>
<td>Rate food good / very good</td>
<td>42%</td>
<td>40%</td>
<td>56%</td>
<td>9%</td>
<td>41%</td>
<td>33%</td>
<td>56%</td>
<td>20%</td>
<td>27%</td>
<td>23%</td>
</tr>
<tr>
<td>Rate healthcare as good / very good</td>
<td>56%</td>
<td>80%</td>
<td>44%</td>
<td>64%</td>
<td>59%</td>
<td>52%</td>
<td>90%</td>
<td>62%</td>
<td>79%</td>
<td>68%</td>
</tr>
<tr>
<td>Been physically restrained in this prison</td>
<td>36%</td>
<td>14%</td>
<td>31%</td>
<td>11%</td>
<td>36%</td>
<td>18%</td>
<td>10%</td>
<td>28%</td>
<td>27%</td>
<td>25%</td>
</tr>
<tr>
<td>Talked to an advocate</td>
<td>29%</td>
<td>13%</td>
<td>56%</td>
<td>22%</td>
<td>36%</td>
<td>36%</td>
<td>48%</td>
<td>22%</td>
<td>29%</td>
<td>28%</td>
</tr>
<tr>
<td>Know how to make a complaint</td>
<td>87%</td>
<td>87%</td>
<td>94%</td>
<td>82%</td>
<td>100%</td>
<td>98%</td>
<td>85%</td>
<td>94%</td>
<td>83%</td>
<td>81%</td>
</tr>
<tr>
<td>Feel complaints are sorted out fairly</td>
<td>16%</td>
<td>21%</td>
<td>40%</td>
<td>20%</td>
<td>16%</td>
<td>21%</td>
<td>37%</td>
<td>18%</td>
<td>19%</td>
<td>25%</td>
</tr>
<tr>
<td>Normally able to shower everyday</td>
<td>86%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>85%</td>
<td>96%</td>
<td>95%</td>
<td>73%</td>
<td>32%</td>
<td>27%</td>
</tr>
<tr>
<td>Call bell normally answered within five minutes</td>
<td>74%</td>
<td>67%</td>
<td>63%</td>
<td>20%</td>
<td>69%</td>
<td>64%</td>
<td>16%</td>
<td>22%</td>
<td>33%</td>
<td>27%</td>
</tr>
<tr>
<td>Most staff treat with respect</td>
<td>77%</td>
<td>87%</td>
<td>88%</td>
<td>90%</td>
<td>78%</td>
<td>69%</td>
<td>81%</td>
<td>75%</td>
<td>84%</td>
<td>88%</td>
</tr>
<tr>
<td>Felt unsafe at some time</td>
<td>28%</td>
<td>20%</td>
<td>38%</td>
<td>36%</td>
<td>22%</td>
<td>14%</td>
<td>17%</td>
<td>30%</td>
<td>24%</td>
<td>25%</td>
</tr>
<tr>
<td>Insulted or assaulted by another child</td>
<td>32%</td>
<td>40%</td>
<td>44%</td>
<td>20%</td>
<td>21%</td>
<td>19%</td>
<td>15%</td>
<td>31%</td>
<td>25%</td>
<td>22%</td>
</tr>
<tr>
<td>Insulted or assaulted by member of staff</td>
<td>22%</td>
<td>27%</td>
<td>6%</td>
<td>33%</td>
<td>21%</td>
<td>28%</td>
<td>15%</td>
<td>23%</td>
<td>15%</td>
<td>12%</td>
</tr>
<tr>
<td>Able to tell someone about being insulted or assaulted</td>
<td>52%</td>
<td>93%</td>
<td>67%</td>
<td>56%</td>
<td>60%</td>
<td>67%</td>
<td>71%</td>
<td>58%</td>
<td>66%</td>
<td>67%</td>
</tr>
<tr>
<td>Staff checked on child personally in last week</td>
<td>21%</td>
<td>42%</td>
<td>71%</td>
<td>44%</td>
<td>44%</td>
<td>67%</td>
<td>51%</td>
<td>27%</td>
<td>25%</td>
<td>34%</td>
</tr>
<tr>
<td>Need help with reading, writing and maths</td>
<td>27%</td>
<td>27%</td>
<td>38%</td>
<td>30%</td>
<td>38%</td>
<td>27%</td>
<td>54%</td>
<td>30%</td>
<td>39%</td>
<td>31%</td>
</tr>
<tr>
<td>Doing education in prison</td>
<td>87%</td>
<td>87%</td>
<td>100%</td>
<td>82%</td>
<td>100%</td>
<td>96%</td>
<td>98%</td>
<td>87%</td>
<td>58%</td>
<td>66%</td>
</tr>
<tr>
<td>Education is helping</td>
<td>62%</td>
<td>67%</td>
<td>69%</td>
<td>30%</td>
<td>80%</td>
<td>60%</td>
<td>80%</td>
<td>57%</td>
<td>34%</td>
<td>42%</td>
</tr>
<tr>
<td>Can go outside for exercise every day</td>
<td>67%</td>
<td>67%</td>
<td>75%</td>
<td>70%</td>
<td>68%</td>
<td>86%</td>
<td>55%</td>
<td>19%</td>
<td>6%</td>
<td>4%</td>
</tr>
<tr>
<td>Can use telephone to ring family every day</td>
<td>70%</td>
<td>80%</td>
<td>100%</td>
<td>50%</td>
<td>90%</td>
<td>86%</td>
<td>88%</td>
<td>78%</td>
<td>28%</td>
<td>26%</td>
</tr>
<tr>
<td>Receives more than two visits a month</td>
<td>42%</td>
<td>40%</td>
<td>31%</td>
<td>27%</td>
<td>59%</td>
<td>73%</td>
<td>50%</td>
<td>34%</td>
<td>39%</td>
<td>38%</td>
</tr>
<tr>
<td>Has done anything or anything been done that child thinks will make less likely to offend in future</td>
<td>33%</td>
<td>54%</td>
<td>13%</td>
<td>33%</td>
<td>69%</td>
<td>53%</td>
<td>74%</td>
<td>45%</td>
<td>51%</td>
<td>34%</td>
</tr>
</tbody>
</table>
General measures recommendations:

1. **URGENT** Substantial additional resources must be invested in the implementation of the Convention, with a particular focus on eradicating child poverty and tackling inequality. Expenditure on children must be separated out and shown discretely and collected systematically.

2. **URGENT** The UK must as a matter of urgency remove its remaining reservations to the Convention on the Rights of the Child in the light of Article 51(2); remove its far-reaching declaration on the optional protocol on the involvement of children in armed conflict, and ratify the optional protocol on the sale of children, child prostitution and child pornography. It should ratify the UN Convention on the Rights of Persons with Disabilities and its optional protocol. Also, it should accept the right of individual petition within: the International Covenant on Civil and Political Rights optional protocol; the International Convention for the Elimination of Racial Discrimination (Article 14); the United Nations Convention on the Elimination of All Forms of Racial Discrimination, and the Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment (Article 22).

3. **URGENT** The UK Government should ensure that the Convention on the Rights of the Child and its two optional protocols are extended to Gibraltar.

4. **URGENT** The UK Government should establish a children's human rights unit within the Department for Children, Schools and Families. Working to the Secretary of State for Children, Schools and Families, the unit's remit should include: co-ordination of the implementation of the Convention; the publication of a national children's rights implementation plan, incorporating the World Fit for Children outcome goals, 2002; child rights-proofing of all appropriate legislation and policy; children's rights awareness raising across government, and briefing the Secretary of State on human rights requirements and potential and actual violations and necessary remedial action. The children's human rights unit should establish effective formal structures for cooperation and collaboration with children's rights NGOs, including organisations run by children.

5. There should be one government department in charge of all policy affecting children, working consistently and explicitly within the framework of the Convention on the Rights of the Child.

6. The Children's Plan progress report (December 2008) should integrate further the principles and provisions of the Convention on the Rights of the Child and set out action to be taken in response to the UN Committee on the Rights of the Child's concluding observations.

7. The Every Child Matters outcomes framework should be substantially amended so that it incorporates the requirements of the Convention on the Rights of the Child and therefore addresses all aspects of children’s healthy and happy development. Measures of children’s well-being should reflect the principles and provisions of international human rights standards.

8. **URGENT** Legislation should be amended to ensure the Children’s Commissioner has the necessary mandate, independence and powers to properly perform the functions of a national independent human rights institution for children, consistent with the Paris Principles and the UN Committee’s General Comment No. 2.

9. **URGENT** The UK Government should commit itself to providing at least the UN target of international aid of 0.7% Gross National Income no later than 2009/10.

10. The Legal Services Commission should conduct an urgent assessment of the impact on children of the current reforms to the legal aid system. Legal aid policy and planning should recognise and take far greater account of the specific needs for information, advice and representation of vulnerable children, including separated asylum-seekers, care leavers, children in trouble with the law and children who are homeless or in housing need. This should involve meaningful consultation with children about their access to justice.

11. **URGENT** The Convention on the Rights of the Child should be included in the statutory national curriculum and accessible materials produced for younger children and disabled children, including those with learning difficulties. Parents should receive information about the Convention through education and health services and the child benefit and tax credit systems.

12. The UK Government should use the 20th anniversary of the UN adopting the Convention (2009) as the platform for a comprehensive public education campaign on the Convention, using the internet and other mass media and telecommunications.

13. **URGENT** Guidance and training on the Convention on the Rights of the Child, citing its use to date in domestic courts and in other comparable jurisdictions, should be made available to the judiciary, lawyers and other public officials in order to increase awareness of children’s additional human rights and the need to consider these whenever decisions are being made that affect them.

14. The UK Government should disseminate widely the UN Committee’s concluding observations, including to children and parents, and debate them in both Houses of Parliament.
### Definition of the Child recommendation:

15. **URGENT** The UK Government should undertake a review of age-based legislation to ensure that all of the protective rights in the Convention, particularly those relating to juvenile justice and immigration, are fully applied in law and practice for all children (under-18s).

### General principles recommendations:

16. **URGENT** The UK Government should develop a national strategy to end all forms of discrimination against children, following a wide public consultation. Children should be meaningfully engaged in the development of the strategy. The strategy should outline UK Government plans to ensure the full and equal enjoyment of human rights among England’s 11 million children, with a particular focus on children living in poverty, disabled children, Roma and traveller children, black and minority ethnic children, lesbian, gay, bisexual or transgender young people and children seeking international protection from persecution and violations of their human rights.

17. The provision in Section 316 of the Education Act 1996 (as amended by the Special Educational Needs and Disability Act 2001) that allows children with a statement of special education needs to be prevented from attending a mainstream school because of “the efficient education of other children” should be removed from law.

18. Protection for children from age discrimination must be included in the forthcoming Single Equality Bill.

19. The UK Government should ensure children have legal protection from electronic devices that emit a high-pitched noise in order to disperse children from public places.

20. The entitlement of a child born out of wedlock to a British father, to register as a British citizen, on proof of paternity, should be extended to all such children living in the UK.

21. The “good character test” for British registration should not apply to children.

22. The forthcoming Citizenship Bill should offer citizenship to “stateless” children who live in the UK but who have not been granted citizenship by their country of origin, in line with the UK’s obligations under the UN Convention on the Reduction of Statelessness.

23. **URGENT** The primacy of the best interests of the child should be enshrined in all laws relating to children, including in relation to juvenile justice and immigration, and should be included in the forthcoming Bill of Rights.

24. When sentencing parents, courts should be required to have due regard to the best interests of affected children.

25. **URGENT** There should be no legal penalties on children for non-take-up of the right to education. Where children fail to take up their right to education, and the parent or parents is/are not providing alternative provision, supportive measures should be put in place. Parental neglect and mistreatment should be dealt with by children’s services and broader safeguarding legislation, principally the Children Act 1989.

26. Annual reports should be presented to parliament depicting the numbers and causes of child deaths in England, the scale of infant and child homicide and accidental fatalities, including in the workplace, and the action to be taken by different UK Government departments and public authorities.

27. **URGENT** There should be an independent and public inquiry into the unexpected death of any child who is looked after or held in custody.

28. **URGENT** The use of Taser guns on, or in the vicinity of, children should be prohibited in law.

29. Information should be collected, and made publicly available, on the numbers and characteristics of children who self-harm or attempt suicide, including those in care, custody and immigration detention.

30. **URGENT** The equal right to life of disabled babies and children, as expressed in Article 10 of the UN Convention on the Rights of Persons with Disabilities, should be included in the forthcoming British Bill of Rights.

31. **URGENT** Children’s right to express their views and to have these views given due weight according to their age and maturity should be enshrined in the parts of all laws relating to children, including those covering education, juvenile justice and immigration. Children’s overarching rights relating to participation should be included in the forthcoming British Bill of Rights/British statement of values and the Single Equality Bill.

32. **URGENT** All disabled children should have a statutory right to the equipment and assistance necessary to facilitate their right to communication. This right should apply from birth and continue into adulthood. Equipment and assistance must belong to the child, not to the institution.

33. **URGENT** 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.

34. **URGENT** Children with sufficient understanding should have the right to withhold consent to adoption. The law should be reformed so that adoptive parents are required to inform children of their adoptive status in a manner consistent with the child’s evolving capacities.

35. **URGENT** The UK Government must introduce statutory safeguards to prevent a child under the age of 16 who has sufficient understanding from being “voluntarily” placed in mental health settings with parental consent when the child does not give consent.

36. The right to vote and to stand in public elections should be available from the age of 16 years.

37. **URGENT** Children should be informed of their right to be heard and taken seriously, and training and support provided on an ongoing basis to the judiciary and other professionals working directly with children. Given the continuing existence of discriminatory attitudes and barriers, particular attention must be given to ensuring disabled children enjoy their equal right to be heard and taken seriously.
38. **URGENT** All children separated from their parents and siblings, including those in long term residential care or attending boarding schools, should have a statutory right to initiate contact proceedings.

39. In relation to the making of Section 8 orders in family proceedings, the UK Government should ensure that the welfare checklist in Section 1 of the Children Act 1989 is used in order to increase the weight given to the child’s wishes and feelings, having regard to his or her age and maturity.

40. The UK Government should remove the prohibition in law preventing looked-after children from applying to the courts for a section 8 order under the Children Act 1989.

41. The UK Government should disseminate accessible information to children and parents/carers in order to raise awareness of the legal duties of social workers and others to give due consideration to children’s wishes and feelings.

42. **URGENT** Independent and confidential advocacy services should be widely available to ensure children can actively take part in making decisions about their lives and future. Children being cared for away from home should have the availability and purpose of advocacy services actively brought to their attention. Where a child is the subject of administrative proceedings, including statutory reviews for children in care, care planning, child protection conferences and reviews, school exclusion, special educational needs assessments and tribunals and hospital admission processes (including mental health settings), there should be a statutory right to an independent and confidential advocate.

43. **URGENT** Accessible, well publicised and effective complaints procedures with an independent element should be guaranteed for all children living away from home.

44. Work on developing the young defendants’ and young witness packs must be prioritised and the dissemination and use of these should be monitored.

45. **URGENT** All UK Government departments that make policy affecting children should as a matter of routine make available public consultation documents that are in an appropriate language and format for children and easily obtainable by children, including disabled children.

46. Parent education and professional training should stress children’s participation rights and the need to respect children as rights holders with evolving capacities.

47. The Department for Children, Schools and Families should each year publish its response to the TellUs 2 survey, setting out the action it intends to take (including with other government departments) as a result of children’s views and experiences. The survey should be extended to children in “special” schools.

48. Public funding should be made available for children’s rights groups and organisations run by and for children.

### Civil rights and freedoms recommendations:

49. The law on birth registration should be reformed so that, except where demonstrably not in the child’s best interests and taking into account the need to ensure children’s safety, both biological parents* are required to enter their names on the birth certificate of the child.

* Unless the law provides that some other person is the legal parent of the child: this would include same-sex couples, should provisions in the Human Fertilisation and Embryology Bill be accepted by Parliament (currently in the Commons – February 2008)

50. **URGENT** All children separated from their biological parents should have the right to access appropriate information (in a manner consistent with their evolving capacities) about their origins, the existence of any siblings and their extended family.

51. Children born as a result of sperm or egg donation should have the right to be informed of their status in a manner consistent with their evolving capacities.

52. **URGENT** As a matter of urgency, an independent review should be undertaken of disabled children’s right to family life and active participation in the community, to examine why so many disabled children are in long term institutional care and to review the care and treatment of children in these settings. Disabled children’s views and experiences must be central to the review. The UK Government is urged to increase effective support to the family, in order to considerably reduce the separation of disabled children from their families.

53. **URGENT** Statutory guidance on school exclusion should seek 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 this does not breach the rights of others.

54. All children of sufficient understanding should have the right to opt in or out of religious worship.

55. All children of sufficient understanding should have the right to be consulted about their school place, and mechanisms should be established to enable a child of sufficient understanding to veto a parent’s wish to enrol him or her in a school on the basis of religion or belief or the child’s disability.

56. **URGENT** Police powers to move children off the streets under antisocial behaviour legislation should be repealed (leaving protective legislation in place).

57. No further limitations should be introduced relating to the right to assemble/demonstrate.

58. **URGENT** The requirement on parents to supervise (and keep) their child at home for the first five days of any school exclusion should be removed from law.
59. **URGENT** The UK Government should consider extending the statutory duties of the Information Commissioner to include monitoring the operation of the ContactPoint database with a particular focus on ensuring the protection of children’s privacy rights and safeguarding the critical role of parents in advising children on the enjoyment of their rights. The commissioner should raise awareness among the general public (including children) of the database and deal with complaints from aggrieved children or parents acting on children’s behalf.

60. **URGENT** Reporting restrictions relating to antisocial behaviour and civil and criminal (breach) proceedings involving children, should be reinstated as a matter of urgency.

61. **URGENT** The routine collection of the DNA samples of children on arrest should be stopped altogether. It should be for the courts to decide following a child’s conviction for a serious offence whether the public interest is strong enough to require collection of a DNA sample and the retention of the child’s DNA profile on the National DNA Database.

62. The UK Government should consider the provision of free or subsidised television licenses as well as internet broadband connection to low-income families.

63. The UK Government should consider strengthening protection for babies and children affected by reality television programmes.

64. The child death review process should have a primary duty to establish any significant factors, both intrinsic and extrinsic to the child, which may have contributed to the cause of death, and the extent to which the death was preventable.

65. **URGENT** The UK Government should legislate to remove the “reasonable punishment” defence completely to ensure children equal protection under the criminal law on assault and build the promotion of positive, non-violent relationships with children into all parenting education and support programmes and the training of all those who work with children and families.

66. **URGENT** All corporal punishment and all other cruel or degrading forms of punishment should be explicitly prohibited in regulations applying to private foster-care, young offender institutions and secure training centres. Tear gas must not be used on children in custody.

67. **URGENT** The UK Government should develop a national strategy to end all forms of violence against children, building on children’s own experiences and integrating the implementation of the Domestic Violence, Crime and Victims Act 2004 with the Children Acts 1989 and 2004. Violence witnessed by children or inflicted on children by parents and carers – including that meted out in the name of discipline – must be included in the UK Government’s definition of domestic violence. The national strategy should identify the resources, services and interventions needed to ensure that all children subject to violence, or affected by violence, can enjoy all of their rights laid down in the Convention.

68. The UK Government should appoint a cabinet level minister to be responsible for co-ordinating the implementation of the recommendations of the UN Secretary-General’s study on violence against children.

69. **URGENT** Information should be disseminated widely to children to make them aware of their absolute right to protection from all forms of violence in all settings. This should set out the legal safeguards that currently exist for children, including new protection relating to forced marriage for example, and inform children of the places and people they can go to for advice and assistance, including help of a confidential nature. Accessible information must be produced for disabled children and for younger children.

70. **URGENT** As a matter of urgency, there should be a public inquiry into the treatment of children in custody. The terms of reference should include an examination of the extent to which children’s human rights are being met in custodial settings. Children and families with direct experience of custody should be assisted to give evidence to the inquiry.

71. An independent review should be carried out into the suitability of the Youth Justice Board’s role in both arranging custodial placements for children and overseeing the development of such institutions. We believe there is a strong case for the two functions to be split. Accountability for the treatment of children in custody must rest explicitly with government ministers.

72. **URGENT** The UK Government should monitor the implementation of guidelines on child contact in cases of domestic violence; should ensure that issues relating to the child’s safety are properly dealt with, and should consider issuing a presidential practice direction to enforce adherence.

73. **URGENT** The UK Government should commission an independent review of the number and circumstances of children who have been arrested and/or charged with new sexual offences under the Sexual Offences Act 2003, and the impact on individual children in these circumstances of contact with criminal justice agencies. It should commission research to identify any broader consequences of the Act for children seeking sexual health advice and information, including help sought in relation to contraception and pregnancy.

74. **URGENT** As a matter of urgency the UK Government should review the law on sexual offences with a view to developing a distinctive non-punitive system for the identification, assessment, care and rehabilitation of children who sexually offend. The focus should be on positive rehabilitation. A child who commits a sexual offence against another child should not be treated as a child sex offender under the law or under the systems in place to protect children from adult offenders. The Sex Offenders’ Register should contain only the names and details of adult offenders; a child’s name must not, under any circumstances, be kept on the register for life.
Family and alternative care recommendations:

75. Parental responsibility should be appropriately defined in law, in such a way that it promotes respect for children’s human rights and evolving capacities as well as their best interests.

76. The UK Government should monitor the characteristics of children in the looked after system in order to identify institutional bias and especially to reduce the over-representation of disabled children and children from black and minority ethnic communities.

77. **URGENT** All public authorities concerned with the care, treatment or rehabilitation of children separated from their parents should be required to take all reasonable steps to ensure that these children can maintain contact with their parents (and any siblings) on a regular basis, having regard to the need to ensure the child’s safety and unless it would be contrary to the child’s best interests.

78. **URGENT** There should be a legal presumption that siblings in care will be placed together unless it is not in their best interests (the “so far as is reasonably practicable” provision in the Children Act 1989 should be removed).

79. **URGENT** A statutory right to counselling and mental health assessment and services should be available for looked after children, and care leavers.

80. **URGENT** Private foster care must be regulated and inspected on the same basis as other placements. Local authorities must be under a statutory duty to locate and assess children in private fostering arrangements in order to ensure these children receive appropriate protection and assistance.

81. The UK Government must increase support for young carers and the current review of the national carers’ strategy should include a comprehensive appraisal of the extent to which young carers can enjoy their rights under the Convention on the Rights of the Child.

82. **URGENT** 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. Children in custody and in residential education and health settings should be entitled to formal care status (and aftercare assistance).

83. Guidance and inspection should ensure that reviews are held regularly, that they are independently chaired, and that children are fully involved and offered advice and support from independent advocates.

84. **URGENT** Emergency services for children escaping violence should cater for boys as well as girls and also for the needs of those from black and minority ethnic communities. The Children Act 1989 should be amended to place an explicit duty on local authorities to make provision for refuge accommodation and support services that adequately meet the needs of children escaping violence.

Basic health and welfare recommendations:

85. **URGENT** All children living in England should have a statutory right to free health care.

86. The TellUs 2 survey should encourage children to make proposals about what the UK Government and others could do to improve children’s emotional well-being (happiness).

87. The UK Government should ensure that all health and social care frontline staff are trained in human rights principles and it should introduce a statutory duty to raise awareness of children’s rights on all public authorities working with children or parents. Funding should be available to schools and other children’s services to meet this new duty.

88. **URGENT** Commissioners of health services should commission early intervention, and preventative and health promotion services for all young children and families. Also, more health visitors and school nurses must be provided. Clear and unequivocal guidance from the Department of Health to commissioners about proportional spending on children is required if the National Service Framework for Children, Young People and Maternity Services and the Children’s Health Strategy are to succeed.

89. The UK Government should implement fully the World Health Organisation’s International Code of Marketing of Breastmilk Substitutes and World Health Assembly resolutions on infant and young child nutrition.

90. **URGENT** The UK Government must remove parents’ right to withdraw children from sex education in school and make sex education and healthy relationships (including non-violence and gender equality) part of the statutory curriculum.

91. **URGENT** The UK Government must invest the maximum available resources into the eradication of child poverty and introduce a statutory duty on public authorities to reduce inequalities among children, including socioeconomic inequalities.

92. **URGENT** Cash benefits paid to poor families should adequately cover basic living costs. This would, among other things, ameliorate the need for the Social Fund.

93. **URGENT** The placement by statutory agencies of teenagers in bed and breakfast accommodation should be ended immediately. Separated children must never be placed in this type of accommodation.

94. **URGENT** The UK Government should introduce fuel allowances for low-income families with children.

95. The UK Government should consider introducing legislation to prevent disruption in domestic gas and electricity supplies in households containing children.

96. There should be nationally agreed minimum rates for financial support to young people leaving care (including one-off leaving care grants).
97. Benefits should be reinstated for 16 and 17-year-olds who are not living at home and who are not looked after or being provided with leaving care assistance. The under 25-year-old rate should be abolished for income support and housing benefit allowances so that all claimants are treated according to need.

98. **URGENT** Parents aged under 18 should receive the same level of benefits as over 18s whether or not they are living at home.

99. **URGENT** Welfare benefits for families with children should be dependent on need alone and never withdrawn or reduced as a penalty for behaviour.

**Education, leisure and cultural activities:**

100. **URGENT** The purpose of education should be extended in law to incorporate the detailed provisions in Article 29 of the Convention and to reflect the UN Committee on the Rights of the Child's first general comment on the aims of education. In addition, an express duty should be placed on local education authorities and school governing bodies to promote equality and tackle disadvantage and discrimination on all grounds. Changes to the statutory national curriculum should reflect the broad aims of education and include personal social, health and economic education.

101. **URGENT** The UK Government must invest considerable additional resources in order to ensure the right of disabled and non-disabled children to a truly inclusive education, as required by Article 29 of the Convention and Article 24 of the UN Convention on the Rights of Persons with Disabilities.

102. **URGENT** State-funded faith schools and academies should be required as a condition of funding to operate within the principles and provisions of the Convention on the Rights of the Child.

103. Local education authorities should be required to make freely available to primary and secondary students all the equipment necessary (including musical instruments, books and stationery) to fulfil a broad national curriculum based on the aims of education set out in Article 29. In order to increase take-up and support children's learning and well-being, consideration should be given to the provision of free school meals to all students.

104. **URGENT** The exclusion of detained children from the right to education should be removed from law (Section 562 of the Education Act 1996).

105. **URGENT** Primary legislation should clearly state that exclusion from school should be a very last resort and for the shortest period of time. Children should have the legal right to information about their exclusion and to give their version of events in the exclusion hearing. They should also have the legal right to appeal their exclusion. In order to identify any institutional bias and trends, statistics should be collected and published annually on the precise reasons for exclusion and the characteristics of excluded children. The use of isolation units as an “alternative” to exclusion should be ended.

106. **URGENT** Section 175 of the Education Act 2002 should be amended to require local education authorities and school governing bodies to consult children on ways in which their welfare can be safeguarded and promoted in school, with a particular emphasis on preventing and tackling bullying. Guidance to schools should underpin the requirement that school discipline must always be consistent with the child’s human dignity and the principles and provisions of the Convention, especially Articles 2, 3, 6 and 12.

107. School governing bodies and local education authorities should have a statutory duty to operate effective complaints procedures for children, with an independent element and an emphasis on early resolution.

108. **URGENT** There should be a statutory duty on local authorities to make adequate, free provision for children's play from birth to 18. There should be an express duty to provide play and leisure facilities for disabled children in the local area and for all children in institutional settings such as hospitals and custody. Every school should be required by law to have easy access to indoor and outdoor play facilities.

**Special protection recommendations:**

109. **URGENT** The statutory duty to discharge functions having regard to the need to safeguard and promote the welfare of children (Section 11, Children Act 2004) should be extended to immigration agencies, including the Border and Immigration Agency.

110. **URGENT** The UK Government should establish an independent statutory guardianship system for all separated children.

111. **URGENT** Section 2 of the Asylum and Immigration (Treatment of Claimants etc) Act 2004 should be repealed in relation to children.

112. **URGENT** Where an individual’s age is disputed during the immigration process, they should be treated as a child within the legal aid system until the dispute is resolved.

113. **URGENT** Children, including those under immigration control, should not be subject to invasive procedures to determine their age, such as ionising radiation, that are of no therapeutic benefit to them.

114. **URGENT** Separated children should be looked-after. A local authority should have statutory obligations toward the child under Section 20 or 31 of the Children Act 1989. They should be entitled to all the same care and support as other looked after children (not simply provided with accommodation). Policy responsibility for these children should move to the Department for Children, Schools and Families.
115. *URGENT* The policy of detaining families with children under Immigration Act powers should be stopped immediately. The separation of young children from their primary caregiver during the immigration process should be prohibited in law unless this is not in the best interests of the child. Alternatives to detention must comply with all aspects of the Convention and lead to a considerable reduction in the use of detention.

116. *URGENT* Pregnant women and asylum-seeking families should be entitled to make applications to and receive benefits from the mainstream benefits system, with no difference in rates from other families. There should be no exclusion of families under immigration control from other welfare provision, such as NHS treatment and the welfare food scheme.

117. *URGENT* Families refused asylum should be entitled to mainstream support (including benefits and health care) until they leave the UK.

118. *URGENT* Section 9 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, which mandates the removal of all support from failed asylum-seeking families, should be repealed.

119. The prohibition on asylum seekers being employed for the first 12 months of their stay in the UK should be removed from law.

120. *URGENT* Children under immigration control should benefit from the full protection of leaving care legislation and the child’s individual pathway plan should be drawn up to reflect the best interests and the views of the child.

121. If a separated child is not recognised as a refugee, nor given humanitarian protection or otherwise given leave to remain in the UK, and it is proposed to return that child to his or her country of origin/former habitual residence, then there must be an independent determination that the return is in the child’s best interests. The child’s ascertainable wishes and feelings should be central to any assessment of their best interests. Appropriate reception arrangements and safeguards must be in place in the destination country before any return can proceed.

122. Laws that allow a child to face deportation or to be given “special immigration status” because of the actions of a family member should be repealed/not brought into force (UK Borders Act 2007 and Criminal Justice and Immigration Bill respectively).

123. No individual should face deportation for offences committed whilst a child.

124. *URGENT* A statutory duty on local authorities to provide sites for Gypsies and travellers should be reintroduced.

125. *URGENT* Eviction of traveller families from unauthorised sites should be a last resort and only lawful where alternative provision exists locally. Statutory regulations should set out the responsibilities that local authorities have to ensure the eviction process is carried out in a manner most conducive to the child’s best interests.

126. There should be one minimum wage for all workers. This should apply from the age of 13 and the UK Government should increase the rate to above average wage inflation.

127. *URGENT* The UK should immediately ratify the optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which provides more detailed obligations regarding the protection of child victims of trafficking than the general obligations of the Convention on the Rights of the Child.

128. *URGENT* The UK must ratify the Council of Europe Convention on Action against Trafficking in Human Beings without further delay. Articles 10 to 14 of the Convention provide minimum standards for the protection of child victims of trafficking from the moment of identification. These standards should be fully incorporated into domestic legislation.

129. *URGENT* The protection of victims of human trafficking should be incorporated into the UK’s legislative framework. In addition, the scope of existing legislation should be broadened to tackle each form of human trafficking, including the trafficking of babies and infants.

130. *URGENT* The UK Government should take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of, or traffic in, children for any purpose and in any form.

131. *URGENT* The UK Government should establish an independent inquiry into trafficked children who go missing from local authority care.

132. *URGENT* The UK should immediately sign and ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, which has been signed by 27 of the 47 member states of the Council of Europe (as of February 29 2008).

133. *URGENT* Criminal law should be reformed so that children who are sexually exploited (engaged in prostitution) cannot be prosecuted (or threatened with prosecution) but instead receive appropriate assessment and services under the Children Act 1989.

134. *URGENT* The UK should stop targeting children generally and poor children in particular for armed forces recruitment.

135. *URGENT* For as long as children remain in the UK armed forces, they should be trained and accommodated separately from adults, in facilities that are conducive to their welfare.

136. The UK Government should ensure that all new recruits fully understand the terms of enlistment and the conditions of service before they enlist.

137. The UK Government should abolish the requirement for child recruits to serve a longer minimum period than adults.
138. **URGENT** Children in the armed forces should have the same safeguards as other children living away from home. These should include: independent investigation of complaints and allegations of abuse; telephone contact and family visits; access to confidential helplines, and scrutiny by the Local Safeguarding Children Board.

139. **URGENT** When making international financial assistance or military assistance conditional on the non-use of child soldiers, the UK Government should require a minimum recruitment age of 18 years.

140. **URGENT** Action should be taken to ensure that the military justice system fully complies with international human rights standards.

141. **URGENT** The UK Government should commit itself to a distinct juvenile justice system, based on meeting the child’s needs and positive rehabilitation. Punishment must have no place in the juvenile justice system; proposals to include punishment as one of the statutory purposes of sentencing should be scrapped.

142. **URGENT** The age of criminal responsibility in England should be amended to reflect the requirement of international human rights standards for a completely distinct approach to dealing with all juvenile crime.

143. **URGENT** Children should not be tried as adults in crown courts (though the right to a jury trial should be retained).

144. **URGENT** A national strategy must be introduced to tackle the institutional race and class bias across all aspects of the criminal justice system.

145. **URGENT** A distinct children’s custody threshold should be introduced in law to ensure that only children who have caused (or could reasonably be expected to have caused) serious physical or psychological harm and who are a serious danger to others can be held in custody; and then for only the shortest period of time.

146. **URGENT** Seventeen-year-olds should only ever be remanded to local authority accommodation. Safeguards in the Police and Criminal Evidence Act 1984 should be extended to seventeen-year-olds.

147. **URGENT** Sections 226 and 228 of the Criminal Justice Act 2003 must be repealed without delay. These require courts to issue to children indefinite “detention for public protection” sentences (release is subject to satisfactory parole board review) and “extended detention sentences” (up to the adult level for a particular offence).

148. **URGENT** Children should only ever be detained in child-centred environments which have a single joint aim: to provide positive rehabilitation and to meet the child’s needs. These environments must operate to the highest child care and human rights standards, be non-punitive and demonstrably distinct in culture and practice from prison establishments. All children in custody should have a statutory right to independent advocacy.

149. **URGENT** Child specific mechanisms and safeguards must be introduced into the parole process. Children must be made aware of their right to legal representation in the parole process. The Youth Justice Board must ensure that children are provided with enough opportunities to demonstrate their progress, and that their progress and risk are measured well enough to allow a meaningful decision to be made as to release on parole.

150. **URGENT** As a matter of urgency, an independent review should be undertaken on how ASBOs are used with regard to children. The review should cover: the numbers and characteristics of children who have been issued with these orders since 1998; the compatibility of ASBO legislation with welfare legislation and human rights requirements; and the effectiveness (and desirability) of using ASBOs to change children’s behaviour and increase community safety. The review should make recommendations as to whether ASBOs should continue to be available for use with children. In the interim period, a local authority or other agency should only be able to apply to the court for an ASBO relating to a child once an assessment of need has been carried out for that child. Where a child’s needs are evidently not being met by statutory agencies, or their parents / carers, the ASBO disposal should not be available to the court.

151. **URGENT** The experiences of children under the age of 16 as victims of all kinds of crime should be collated and reflected in the annual British Crime Survey.

152. Guidance should be issued to statutory and voluntary agencies on the child’s right to positive rehabilitation under Article 39 of the Convention and appropriate training and resources invested into upholding this right.
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290 HM YOI Castington

291 HM YOI Cookham Wood

292 HM YOI Downview

293 HM YOI Eastwood Park

294 Oswald Unit at HM YOI Castington

295 HM YOI Parc

296 HM YOI Thorn Cross

297 HM YOI Warren Hill

298 HM YOI Werrington

299 HM YOI Wetherby
The Children’s Rights Alliance (CRAE) for England is a large coalition of voluntary and statutory organisations, as well as individuals, committed to the full implementation of the Convention on the Rights of the Child. CRAE was established in 1991, the same year as the UK ratified the Convention.

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