



Implementation of the UN Convention on the Rights of Persons with Disabilities

**Submission to inform the CRPD List of Issues
on the UK**

Children's Commissioner for England
February 2017

About the Children's Commissioner for England

Anne Longfield, the Children's Commissioner for England, was appointed in 2015. The role was established under the Children Act 2004 which gave the Commissioner responsibility for promoting awareness of the views and interests of children. Her remit includes listening to what children and young people say about things that affect them and encouraging those who are making decisions to take their views and interests into account. She has unique data gathering powers and powers of entry to talk with children to gain evidence to support improvement for children. The Children and Families Act 2014 further strengthened the remit, powers and independence of the Commissioner.

Anne Longfield is the first Commissioner to be appointed since the introduction of the new legal framework for the Commissioner to promote and protect children's rights in accordance with the UN Convention on the Rights of the Child. The Children and Families Act 2014 also strengthens the Children's Commissioner's responsibilities towards children in care and other vulnerable groups.

The Children's Commissioner seeks to bring about long term change and improvements for children, in particular the most vulnerable children including those who are in care. She is the 'eyes and ears' of children in the system and is expected to carry out her duties 'without fear or favour' of Government, children's agencies, nor the voluntary or private sector.

The submission

This submission to the UN Committee on the Rights of Persons with Disabilities (hereafter the Committee) focuses on children and young people in England. The report draws on recent, relevant work undertaken by the Children's Commissioner including research, treaty monitoring, findings from our visits to institutions where children are living, evidence from our advice line and consultation activities with children and young people. In addition to providing evidence it sets out suggested questions and recommendations to inform the Committee's examination of the UK Government's progress towards implementation of the UN Convention on the Rights of Persons with Disabilities.

Executive summary

Article 4: General obligations

During our consultation activities we heard from disabled children and young people that they do not think that the Government has sufficiently considered the impact of policies and legislation on disabled children and young people. They also called for more information on policy changes that affect them.

Article 7: Children with disabilities

Disabled children and young people report difficulties in getting their voices heard and taken seriously. More needs to be done to ensure that the views of disabled children and young people are heard, both at an individual level and in wider, strategic decision making.

Research by the Children's Commissioner indicates that a significant number of disabled children are acting as carers for family members. There are questions as to the extent to which the particular support needs to disabled young carers are being adequately met by local agencies.

Article 8: Awareness raising

Disabled children and young people have reported to the Children's Commissioner that negative attitudes and stereotypes about disabled people are widespread. To date there has been no government led awareness raising campaign focussed specifically on changing attitudes towards disabled children and young people, nor aimed at raising awareness of the rights in the CRPD.

Article 9: Accessibility

Disabled children and young people have reported significant challenges in accessing public transport. During consultation activities, disabled children described buses driving past wheelchair users, broken ramps, and a lack of understanding on the part of travel companies about their needs. Some children also report difficulties with accessibility in mainstream, state funded schools – including broken lifts or insufficient space to move around classrooms and corridors.

Article 13: Access to justice

Research by the Children's Commissioner found that children in care who are disabled and/or have mental health needs face particular challenges in accessing advocacy services. Advocacy services in medium secure in-patient settings for children appear to be variable. Advocates in these settings do not necessarily have expertise in working with children and young people, particularly those with learning disabilities or additional communication needs.

Article 14: Liberty and security of person

Evidence indicates that discharge from in-patient mental health settings can be delayed due to lack of appropriate placements, either in other in-patient settings or due to lack of community provision. Children with learning disabilities and autism in secure settings who present "challenging behaviour", itself potentially exacerbated by detention is causing clinicians to decide against discharge.

Article 15: Freedom from torture or cruel, inhuman or degrading treatment

There are concerns over the high use of restraint and seclusion in secure mental health settings with a learning disability specialism. Research by the Children's Commissioner on the use of isolation in the youth justice secure estate revealed that children with a recorded disability are more likely to have experienced isolation than non-disabled children.

Article 16: Freedom from exploitation, violence and abuse

Disabled children and young people reported to the Children's Commissioner that more needs to be done to tackle disability related bullying and hate crime and called for action to ensure that professionals and agencies take reports seriously and take appropriate action to investigate.

Data on the numbers of victims of child sexual abuse in the family with a physical or learning disability is not captured accurately, including by the Police. The Children's Commissioner has found that victims of child sexual abuse who are disabled may be less likely to be identified as victims, may be less able to report abuse directly, and may find it particularly difficult to access help.

Article 24: Education

Research by the Children's Commissioner on "residential special schools" calls for more local provision so that there is no need for a child to be in residential provision, better involvement of children in decision-making and the need for local authorities to work harder to prevent delayed decision making and ensure that decisions about placements and transitions are in the best interests of the child.

Parents of children with special educational needs or disabilities experience significant challenges in having complaints addressed and resolved adequately. Research reveals examples of students being punished for behaviour that parents believe to be a symptom of their special educational need.

Article 25: Health

There are concerns about the extent to which children and young people can access child and adolescent mental health services. Research by the Children's Commissioner found that under a quarter of CAHMS collected data on disability. There are concerns about the extent to which CAHMS are considering how services could be made accessible to disabled children and young people and tailored to their needs.

Article 31: Statistics and Data

The Children's Commissioner's research programme has found insufficient data is routinely collected on disabled children. Further steps must be taken to ensure that local authorities and other agencies routinely collect, analyse and publish disaggregated data on disabled children and young people.

Implementation of the UN Convention on the Rights of Persons with Disabilities

Submission to inform the CRPD List of Issues on the UK

Article 4: General Obligations

Impact of legislation on disabled children

In a consultation session with disabled children and young people, some told us that they felt that the Government had not sufficiently considered the impact of the move from Disability Living Allowance to Personal Independence Payment on young people, both in terms of the assessment process and in relation to the potential reduction in family income. Other young people called for more information on proposed changes, *'They should give you more information about these changes, talk to you more about them, they just throw it on you'*.¹

Recommended questions for the Committee to ask the UK Government:

What measures have been taken by Government to analyse the impact of legislation and policies on disabled children and young people, and will the Government set out what measures have been taken to mitigate any negative impact identified?

What steps have been taken to ensure the systematic implementation of the CRPD across all relevant policy areas, and the active involvement of disabled children and young people, in the development and implementation of law and policy?

What is Government's position on giving 'due consideration' to the CRPD when making policy and legislation?

What steps have been taken to implement the recommendation of the UN Committee on the Rights of the Child that the Government conduct a comprehensive assessment of the cumulative impact of the full range of social security and tax credit reforms introduced between 2010 and 2016 on children, including children with disabilities?

Article 7: Children with disabilities

Right to express views

Participants in a small-scale piece of research by the Children's Commissioner on the rights of disabled children and young people said that it is difficult for disabled children to get their voice listened to and taken seriously and called for more action in this area.² Young people reported feeling forced to take subjects and courses they did not choose or want to do at school and college. Other children reported facing significant barriers to communicating with others and called for more training and support for professionals on how to communicate with disabled children and young people, particularly those who are non-verbal.³

¹See Annex 1

²See Annex 1

³Children's Commissioner (2014) *'They still need to listen more'*. A report about disabled children and young people's rights in England

More needs to be done to ensure that the views of disabled children and young people are heard, both at an individual level and in wider, strategic decision-making.

Recommended questions for the Committee to ask the UK Government:

What steps has the Government taken to implement the recommendation of the UN Committee on the Rights of the Child that the Government ensure the full respect of the rights of children with disabilities to express their views and to have their views given due weight in all decision-making that affect them, including on access to and choice of personal support and education?

Suggested recommendations for the Committee to make to the UK Government:

Ensure at all levels of governance (i.e. UK, devolved and local) there are effective participation structures that fully support disabled children and young people to engage meaningfully in all decision-making about matters that affect them. These structures should be adequately resourced, embedded in practice and protected in legislation and allow for the participation of disabled children and young people of all ages.

Ensure that where children's views are sought, that appropriate mechanisms are created to provide feedback regarding how their views and experiences have influenced decision-making. This is of particular importance where a decision appears to directly contradict the views expressed by children.

Ensure mandatory training for all professionals working with disabled children and young people on the right to express views freely, and on effective communication tools with disabled children, including non-verbal children.

Disabled young carers

Research by the Children's Commissioner found that a significant number of disabled children are acting as carers for other family members. Analysis of data from 130 local authorities in England by the Children's Commissioner revealed that where disability was recorded, 27% of young carers had a disability. Government figures indicate that 6% of children in Great Britain have a disability, so there is significant over-representation of disabled children and young people within the young carer population.⁴ We also question whether the particular support needs of disabled young carers are being adequately met by local agencies.

Recommended questions for the Committee to ask the UK Government:

What steps is the Government taking to ensure that disabled children and young people with caring responsibilities are accurately identified, assessed and provided with appropriate support and services?

Article 8: Awareness raising

Negative attitudes and prejudice towards disabled children and young people

Disabled children and young people who participated in our consultation activities on the CRPD reported to the Children's Commissioner that service providers and

⁴ Children's Commissioner (2016) *Young Carers. The Support provided to Young Carers in England*

professionals, including in education settings, underestimate their abilities and hold limited expectations and aspirations for them.⁵

Children and young people have told the Children's Commissioner that media and public debates linking disability and benefits dependency reinforce negative perception of disabled people and that more needs to be done to challenge public perceptions of disability.⁶ They report people making negative assumptions about them, '*People treat you differently just because you are in a wheelchair. You are not seen as responsible or clever*', '*I feel invisible in my wheelchair*'. Disabled children and young people called for more positive representations of disabled people, including children and young people, in the media. Children and young people called for more information about their rights and entitlements, which they thought would better equip them with the skills to challenge prejudice and breaches of their rights.⁷

To date there has been no government-led awareness raising campaign focussed specifically on changing attitudes towards disabled children and young people, nor any materials aimed at disabled children and young people on the rights in the CRPD.⁸

Recommended questions for the Committee to ask the UK Government:

What steps is the Government taking to ensure the provision of information about the rights in the CRPD in accessible and appropriate formats for disabled children and young people?

Suggested recommendation for the Committee to make to the UK Government:

Establish a cross-Government group, chaired by the Minister of State for Disabled People to coordinate and develop a strategy dedicated to changing public attitudes and reducing negative stereotypes which are still a barrier to disabled children realising their rights. The strategy should be informed by the views and experiences of disabled children and young people.

Article 9: Accessibility

Transport

Children and young people who participated in our consultation activities expressed serious concerns about the lack of accessible public transport. They described challenges include getting in or out of transport and a lack of understanding from bus and travel companies about their needs.⁹ Disabled children and young people using wheelchairs reported that buses frequently drive past them; have broken ramps; or that drivers are unsupportive in asking other passengers to make space.¹⁰ Young people also reported that the majority of buses are unable to take more than one wheelchair - this has significant implications in terms of young people being able to participate fully in wider society.

⁵ See Annex 1

⁶ Children's Commissioner (2014) '*They still need to listen more*'. A report about disabled children and young people's rights in England

⁷ Children's Commissioner (2014) '*They still need to listen more*'. A report about disabled children and young people's rights in England

⁸ The Children's Commissioner in England, Scotland and Wales have published a joint resource on the UN Convention on the Rights of the Child (CRC) designed as a symbol communication tool for children and young people who are non-verbal, have speech, language or additional support needs, designed in partnership with children and young people. The aim of the symbols resource is to provide information on the rights in the CRC in an accessible format; to support children and young people's understanding of what rights mean to them, and how they relate to their everyday lives. See: UK Children's Commissioners (2016) *UNCRC symbols (widget resource)*

⁹ Children's Commissioner (2014) '*They still need to listen more*'. A report about disabled children and young people's rights in England

¹⁰ See Annex 1

We heard from disabled children and young people that the inaccessibility of transport frequently leads to a loss of independence, feelings of isolation and reliance on other, more expensive forms of transport such as taxis, or on family members. Children also reported difficulties with accessibility in mainstream, state funded schools – such as broken lifts or insufficient space in corridors to move around - resulting in exclusion from lessons and extracurricular activities.^{11 12}

Recommended questions for the Committee to ask the UK Government:

What steps are being taken to improve transport accessibility for disabled children and young people? Can the Government set out the extent to which transport companies are monitored to ensure they are acting in compliance with the CRPD?

Will equalities legislation be amended to ensure that schools are under the same duty to ensure access for people with disabilities as other public buildings?

Suggested recommendation for the Committee to make to the UK Government:

All professionals working with disabled children and young people should receive training on the rights and entitlements of disabled children as set out in the CRPD. This should include different methods of communicating with disabled children and young people, including those who are non-verbal.

Article 13: Access to justice

Provision of advocacy services

Research by the Children’s Commissioner found that children in care who are disabled and/or have mental health needs face particular challenges in accessing advocacy services. Disabled children and young people in care are less able to use advocacy services, as not all local authorities provide services to assist them. Nearly a third of local authorities provide no access to non-instructed advocacy (advocacy for those who have not requested it because they have communication needs).¹³

In 2016/17 the Office of the Children’s Commissioner has undertaken a series of visits to medium secure child and adolescent (CAMHS) in-patient mental health settings.¹⁴ Initial findings from these visits indicates that access to advocacy services is variable, that the provision of up to date, accessible and age-appropriate information about advocacy services is limited and that advocates in these settings do not necessarily have expertise in working with children and young people, and particularly those with learning disabilities and/or additional communication needs.¹⁵

The Children’s Commissioner is concerned about reports that disabled children have been prevented from having an advocate due to their disability, a particular issue for children with Autistic Spectrum Disorder.¹⁶

¹¹ Children’s Commissioner (2014) *‘They still need to listen more’: A report about disabled children and young people’s rights in England*

¹² See Annex 1

¹³ Children’s Commissioner (2016) *Helping children get the care experience they need. Independent advocacy for children and young people in care*

¹⁴ These visits seek to determine how children are being treated, and to ensure that their rights as set out in the UNCRC are being upheld. These visits have been undertaken under the Children’s Commissioner’s powers as legislated for in the Children and Families Act 2014, and on the basis of these powers, as a member of the UK’s National Preventive Mechanism. Staff working in the Commissioner’s office have the power to enter any setting where a child (or young adult with an EHC plan or leaving care entitlements) is accommodated or cared for, other than a private dwelling, in order to observe the standards of care, to interview any person working on the premises and (with the child’s consent) to interview the child in private. With regard to the National Preventative Mechanism the types of facilities the Commissioner’s office can use this power to visit include, but are not limited to, the youth justice secure estate, police stations, immigration facilities and medium secure mental health facilities.

¹⁵ See footnote 14

¹⁶ Evidence from the Children’s Commissioner advice and assistance line

Recommended questions for the Committee to ask the UK Government:

What steps are being taken to ensure that local authorities and mental health providers are making all children and young people aware of their entitlement to and availability of services?

What steps are being taken to ensure that relevant bodies, including the Care Quality Commission, make sure that advocacy services to young people in in-patient settings follow the Mental Health Code of Practice so that requirements for Independent Mental Health Advocates are met?

What steps are being taken to ensure that Clinical Commissioning Groups and Health and Wellbeing Boards assess the advocacy needs of young people in the area to inform commissioning and ensure that young people are aware of their entitlements?

Suggested recommendations for the Committee to make to the UK Government:

Ensure that availability and take up of advocacy services is monitored by local authorities and that steps are taken to ensure that disabled children and those with mental health needs are getting the help and support they need.

In relation to advocacy support in mental health settings, NHS England, in conjunction with the Department of Health and Department of Education, must consider how best to collect and collate information about access to and commissioning of advocacy to children and young people in mental health settings; and specifically those with learning disabilities. Advocates in in-patient CAHMS settings must have specialist experience of working with children and young people.

Article 14: Liberty and security of person

Findings from the Children's Commissioner's visits to in-patient health settings,¹⁷ and cases from our advice and assistance line demonstrate that discharge can be delayed due to lack of appropriate placements, either in other in-patient settings or due to lack of appropriate community provision. Other children, often those with learning disabilities and autism in secure settings, who present "challenging behaviour", itself potentially exacerbated by detention, is causing clinicians to decide against discharge. The detention of children and young people with autism in in-patient settings should be a last resort and only for the shortest possible time.

Recommended questions for the Committee to ask the UK Government:

What are the Government's plans to ensure that the most suitable provision for any child with mental health conditions and /or learning disabilities is in place, with a focus on local community provisions and minimising in-patient stays?

¹⁷ See footnote 14

Article 15: Freedom from torture or cruel, inhuman or degrading treatment

Restraint and seclusion

Emerging findings from the Children's Commissioner's visits to medium secure and forensic in-patient settings for children and young people indicates particularly high use of restraint and seclusion in units with a learning disability specialism.¹⁸

Government guidance on the use of such interventions with adults is clear that restrictive interventions should be for the shortest time possible, use the least restrictive means possible and that prone restraint should no longer be used as an intervention.¹⁹ A statement on restrictive physical interventions with children endorsed by the Children's Commissioner notes that children with learning disabilities are regularly subject to prone restraint, that there is little evidence to suggest that the use of prone restraint is effective in reducing the occurrence of behaviours that challenge, that prone restraint can be a '*hugely traumatic and damaging experience*', and that it is inconsistent with the CRC.²⁰

There has been a significant reduction in the numbers of children locked up in the secure estate in England (960 at the end of March 2016, a 66% reduction from 2006²¹), however a high proportion of those children who remain in custody have vulnerabilities such as mental health conditions or learning disabilities.

The Children's Commissioner study of the use of isolation in the youth justice secure estate in England revealed that around a third of children in Young Offender Institutes (YOIs), Secure Training Centres and Secure Children's Homes experience isolation and segregation, with some young people spending as many as 22 hours per day isolated away from their peers. Isolation is likely to exacerbate feelings of stress, anxiety, anger, depression and hopelessness. Staff in the secure estate reported that '*even short periods of isolation could trigger self-harm, exacerbate the impact of trauma experienced in the past and cause psychotic episodes*'.²² The research found that children with a recorded disability are two-thirds more likely to have experienced isolation than non-disabled children. In YOIs children with a disability were 77% more likely to be isolated than children without a disability.²³

Recommended questions for the Committee to ask the UK Government:

What steps is the Government taking to systematically and regularly collect, critically analyse and publish disaggregated data on the use of restraint and other restrictive interventions on children in all settings. What steps are being taken to address inaccurate recording of incidences and what action will be taken to ensure inaccurate reporting does not take place in the future?

What steps have been taken to implement the recommendations of the UN Committee on the Rights of the Child to ensure that restraint is never used for disciplinary purposes in both residential and non-residential settings, to ensure that restrictive physical interventions do not use techniques involving pain compliance, to

¹⁸ See footnote 14

¹⁹ Department for Health (2014) *Positive and Proactive Care: reducing the need for restrictive interventions*

²⁰ The Challenging Behaviour Foundation, The Council Disabled Children, Tizard, The Children's Commissioner and MENCAP (2016) *Statement on restrictive physical interventions with children*. The Challenging Behaviour Foundation.

²¹ Youth Justice Board (2017) *Youth Justice Statistics 2015/16 England and Wales*

²² Children's Commissioner (2015) *Unlocking Potential. A study of the isolation of children in custody in England*.

²³ Children's Commissioner and Associate Development Solutions (2015) *Research report: Isolation and Solitary Confinement in the English Youth Justice System*.

ensure that restraint is used against children exclusively to prevent harm to the child or others, and always as a last resort?

What steps are being taken to ensure that strategies to minimise the use of restraint do not instead rely on the use of seclusion and segregation?

What steps have been taken to establish why disabled children are over-represented among those children who experience isolation and segregation in youth justice settings? What steps have been taken to reduce this disproportionate use?

Suggested recommendation for the Committee to make to the UK Government:

Develop clear statutory guidance on safe and appropriate use of restraint on children – including use of prone restraint and medical ‘restraints’, sufficient staff training, and the requirement for the recording and monitoring, and publishing data on incidents of restraint.

Article 16: Freedom from exploitation, violence and abuse

Disability related bullying, harassment and hate crime

Children and young people who participated in our consultation activities told the Children’s Commissioner that disability-related bullying is a serious problem, and professionals and agencies fail to take it seriously. They have called for more to be done to tackle disability-related hate crime, victimisation and abuse. Some disabled children and young people thought more progress had been made on eliminating discrimination based on race and ethnicity, and that agencies, including the Police, take racism and racist hate crime more seriously than discrimination and hate crime based on disability.²⁴

Suggested recommendation for the Committee to make to the UK Government:

Develop a Ministerial taskforce on hate crime which addresses issues specific to disabled children and young people

Sexual abuse of disabled children and young people

The Children’s Commissioner’s critical assessment of Child Sexual Abuse in the Family (2015) found that the majority of victims of sexual abuse are not identified by statutory services.²⁵ Data on the number of victims of child sexual abuse in the family with a physical or learning disability is not captured accurately by a range of agencies, particularly the Police. It is therefore difficult to effectively determine the number of disabled children and young people who have been subject to child sexual abuse who are known to statutory and non-statutory agencies. However, the Inquiry did find that victims of child sexual abuse with a learning/physical disability faced particular barriers to reporting abuse, and therefore may be less likely to access help. Findings include:

- Victims of child sexual abuse in the family with learning/physical disabilities may be less likely to be identified as victims, as they face additional communication barriers to disclosure. Signs of abuse may be misattributed to the disability.

²⁴ Children’s Commissioner (2014) *‘They still need to listen more’: A report about disabled children and young people’s rights in England*

²⁵ Children’s Commissioner (2015) *Protecting children from harm: A critical assessment of child sexual abuse in the family network in England and priorities for action*

- Children with a disability which impacts upon their communication skills are less able to report abuse directly. The signs and symptoms of abuse, when presenting in children with a learning disability, may not be evident to some practitioners as it can be masked by behavioural responses attributed to the disability.
- Children with learning/physical disabilities are particularly reliant on their parents/carers and personal care. Where the abuser is an immediate family member, victims may find it particularly difficult to access help.

There are additional concerns about *Achieving Best Evidence* interviews – used by the Police to substantiate abuse and maximise the evidential value of the account given by the child for criminal courts, ‘*the quality of these interviews is inconsistent, and there are delays and shortages in skilled intermediaries to assist with interviews of younger children and children with learning/ physical disabilities.*

Recommended questions for the Committee to ask the UK Government:

What steps are being taken to establish adequate information sharing and multi-agency working practices that protect children from child sexual abuse including child sexual exploitation?

What steps are being taken to ensure that the Police and other agencies accurately record data on whether a victim of child sexual abuse has a physical/learning disability?

Can the Government evidence what steps have been taken to ensure that *Achieving Best Evidence* interviews are consistently of high quality, and that appropriate measures are taken to support interviews with children with learning/physical disabilities.

Suggested recommendation for the Committee to make to the UK Government:

The Government should take immediate steps to establish the true levels of violence, abuse and exploitation against disabled children and use this information to inform a national strategy and action plan to eliminate all forms of violence against disabled children and young people.

Article 24: Education

In 2014 the Children’s Commissioner conducted research into the experiences of children living away from home in specialist boarding schools for disabled children (“residential special schools”), speaking to children in 17 residential special schools, who shared their experiences of life at school.²⁶

There were many examples within the research of schools working hard to support family contact for children, to create a homely environment at school, involve children in local community life, and to support children’s emotional development and wellbeing. However, our concerns included:

- Need for more local provision so that there is no need for the child to be in residential provision e.g. respite care.

²⁶ Children’s Commissioner (2014) *The views and experiences of children residential special schools. Overview report.* See also Pellicano, P., Hill, V., Croydon, A., Greathead, S., Kenny, L, and Yates, R. with Wac Arts (2014) *My Life at School. Understanding the experiences of children and young people with special educational needs in residential special schools.* Children’s Commissioner

- Better involvement of children in decision-making around their daily lives, particularly facilitating child-led activities, involving children in life decisions such as where to go to school and plans after leaving school. These big changes were experienced as stressful and often adversarial by children and parents.
- Bullying was rarely a major focus, but a number of children reported feeling unsafe as a result of their own or other pupils' behaviour – it is essential that the schools provide a safe environment for children.
- Many schools said it was difficult to get the right services either as “in-house” specialist provision, or from external providers particularly mental health services, educational and clinical psychologists.
- Delayed decision-making had a negative impact on young people's wellbeing and plans for life after school, and children in the care of the state faced particular challenges, getting poor or inconsistent support from their placing local authority particularly in relation to transition planning. As a result, decisions were taken which did not reflect their wishes and were not in their best interests.

Recommended questions for the Committee to ask the UK Government:

What steps the Government has taken to implement the recommendation of the UN Committee on the Rights of the Child to set up comprehensive measures to further develop inclusive education, ensure that inclusive education is given priority over the placement of children in specialised institutions and classes and make mainstream schools fully accessible to children with disabilities?

What is being done to listen and respond to the views of children in residential special schools, particularly for children who cannot communicate verbally and to ensure the onus is on adults to work harder to understand children's experiences and feelings and to identify the services and support which is in their best interests?

What is in place to ensure local commissioning and decision-making put in place services for children that genuinely meet their needs, in particular early support and flexible help to enable more children to remain at home with their families, or to return home from residential settings as soon as possible and when in their best interests; also to ensure that residential special school placements is focused on achieving the best possible outcomes for children and that the correct “move on” placements are provided in a timely manner?

What is being done to ensure there are robust, comprehensive, ambitious and outcome focused quality standards for residential special schools, including how they will involve children in decision making, provide sufficient therapeutic and developmental support, and protect the safety of children in their care? With regards safeguarding, what has been put in place to ensure the highest level of safeguarding, including improving national standards to eradicate the use of force, restraint and isolation, to report on and monitor serious incidents, improve independent inspection, oversight and visiting?

Complaints about school

We consulted with children and their parents/carers about their experiences of complaints processes in schools.²⁷ We found that in particular, parents whose children had special educational needs or disabilities described ongoing and multiple occasions on which they had raised complaints with the school and had difficulties in securing resolution. Repeated examples were given where students were punished for poor behaviour that parents considered to be a symptom of their particular SEN or where parents believed that their child's education was suffering because their individual needs were not being taken fully into account. More positively in our recent consultation activities with children and young people in a "special school" we heard high levels of confidence in raising concerns and complaints with staff, including the head teacher.²⁸

Recommended questions for the Committee to ask the UK Government:

What is being put in place to ensure that disabled children are able to access robust complaints processes in schools, in particular:

- Ensuring the complaints process is accessible to disabled children and their parents/carers.
- That schools and colleges, and their governing and inspecting authorities be required to monitor the number, nature and resolution of complaints.
- Requiring the Department for Education to release annual aggregated statistics on school complaints.

Article 25: Right to the highest attainable standard of physical and mental health

Provision of mental health care

Research undertaken by the Children's Commissioner on access to CAHMS services revealed:

- Significant numbers (30%) of children and young people are being turned away from CAHMS upon referral without being allocated a service.
- 79% of CAHMS imposed restrictions and thresholds on children and young people accessing services – meaning that unless cases were sufficiently severe children were unable to access services.
- 35% of CAHMS stated that children and young people who missed appointments would face restrictions in accessing services.

Of particular concern was the finding that only 23% of 48 CAMHS collected some data on disability, and in the majority of these CAMHS, they only gathered data on children and young people with learning disabilities as they offered specialist provision in this area. The Children's Commissioner is concerned about the extent to which CAMHS are considering how services could be made accessible to disabled children and young people and tailored to their needs.²⁹

²⁷ Children's Commissioner (2015) *Speaking Up: When children and young people want to complain about school*

²⁸ See Annex 1

²⁹ Children's Commissioner (2016) *Lightning Review: Access to Child and Adolescent Mental Health Services*

Recommended questions for the Committee to ask the UK Government:

What steps the Government has taken to implement the recommendation of the UN Committee on the Rights of the Child to regularly collect comprehensive data on child mental health, disaggregated across the life of the child, with due attention to children in vulnerable situations, and covering key underlying determinants?

What is the timetable for the proposed review of CAHMS to be led by the Care Quality Commission? Will the Government commit to publishing a detailed framework for action, alongside clear timescales for improving CAHMS services and a commitment to ongoing funding, clear objectives and outcomes so that services are sustained and effective?

What steps is the Government taking to ensure that CAHMS are accurately and routinely collecting and publishing data on disability and to evidence how the data is used to inform the commissioning and provision of services?

What steps is the Government taking to ensure there is sufficient provision of community CAHMS services specifically tailored to meet the needs of disabled children and young people?

Article 31: Statistics and data collection

Generally, the Commissioner's research programme has found insufficient data is routinely collected on disabled children. For example, in 2015 and 2016 the Children's Commissioner issued requests for data from public authorities on the handling of child abuse³⁰, waiting times for CAHMS referrals³¹ and young carers and few were able to provide detailed data on disabled children, or any impairment specific data. For example:

- When asked to provide data on children and young people reported to the police as being sexually abused only 10 police forces (approximately a quarter) were able to provide details on whether the victim had a disability. Of those who were able to provide this information, in the majority of cases, the quality of information was very poor.³²
- Just under half (46%) of local authorities were able to provide data on whether young carers they supported had a disability.³³

Additionally, our research into disabled children in residential special schools demonstrated that it is difficult to build a clear picture of the number of residential special schools, and of the number and profile of the children who live away from home at these schools. Our data request shows that just over 6,000 children were boarding at 277 residential special schools in January 2014, down from 8,700 children in 2005. Over half these boarders are in schools in southern England and London. Children attending residential special schools are very diverse. The majority are of secondary school age, and three quarters are male. The absence of pupil profile data for private residential special schools makes further analysis difficult.³⁴

³⁰ Children's Commissioner (2015) *Protecting children from harm: A critical assessment of child sexual abuse in the family network in England and priorities for action*

³¹ Children's Commissioner (2016) *Lightning Review: Access to Child and Adolescent Mental Health Services*

³² Children's Commissioner (2015) *Protecting children from harm: A critical assessment of child sexual abuse in the family network in England and priorities for action*

³³ Children's Commissioner (2016) *Young Carers. The Support provided to Young Carers in England*

³⁴ Children's Commissioner (2014) *The views and experiences of children residential special schools. Overview report.*

Recommended questions for the Committee to ask the UK Government:

What steps are the Government taking to ensure that local authorities and other agencies (including the Police) are routinely collecting, analysing and publishing disaggregated data on disabled children and young people, including on the type of impairment.

Annex 1: Report from Children’s Commissioner’s consultation sessions on the Convention on the Rights of Persons with Disabilities

Wednesday 28 January 2017

Introduction

The UK Government is due to be examined on its progress in implementing the Convention on the Rights of Persons with Disabilities (CRPD) in 2017. The CRPD is an international human rights treaty passed by the UN in 2006, and ratified by the UK Government in 2009. The CRPD is a wide-ranging treaty, covering all aspects of the lives of disabled children and adults. It covers a wide range of areas including health, education, employment, access to justice, independent living and access to information.

The UK Government has also ratified the Optional Protocol to the CRPD, allowing disabled people (including children) to take a case to the UN Committee on the Rights of Persons with Disabilities (the Committee) if they think their rights have been breached, after they have sought all available remedies in the UK. The Committee is a group of international experts who are responsible for looking at how well governments implement the CRPD.

As part of the process of monitoring how well governments are implementing the CRPD, the Government, National Human Rights Institutions and civil society – including organisations run by disabled people – are invited to submit evidence to the Committee.

The Children’s Commissioner will be making a submission to the Committee as part of this process. Our submission will draw on relevant evidence gathered/published by the Children’s Commissioner since 2014, highlighting key findings and make recommendations in relation to specific Convention articles. As part of our putting together our submission we have delivered two consultation activities with disabled children and young people.

Consultation activities

Aims

- To explore the themes highlighted by our research findings about the issues for disabled children and young people in relation to their rights.
- To capture the views and ideas of children and young people in relation to the challenges and improvements which would address the barriers they face in realising their rights.
- To capture the views and experiences of disabled children and young people in relation to recommendations that have emerged from our research in order to inform and influence our final submission to the UN Committee on the Rights of Persons with Disabilities.

Participants

We met with 20 children and young people aged 13 to 25 years of age in two groups. One group was from a “special school” and the other is a local authority participation

group for disabled children and young people. The children and young people were from a diverse range of backgrounds and had a range of disabilities and needs. The Children's Commissioner has worked with both groups previously, most recently on developing a symbols resource on the UN Convention on the Rights of the Child.

Bedelsford participation group

We spoke with nine young people in the same mixed KS3 and KS4 class.

We split into smaller groups to ask about their responses to our findings and recommendations and if they relate to their personal experiences. Some young people used communication aids such as picture images to answer yes or no, or good or bad in response to questions. Another young person used a tablet communication device to select their response.

Firstly we asked about children's views and if they feel they are listened to. Most of the young people responded positively to this question. Some said that they felt that they were taken seriously at school and by their parents. One young person said that sometimes he felt *'invisible in his wheelchair'*. He said that some professionals were better at listening to him and taking him seriously than others. He had recently been in hospital for an operation and felt that the doctors and nurses were very good at listening to him. Another male said that he regularly attends football matches and that the staff are always very helpful and supportive. He said that sometimes some of the other spectators do not listen/talk to him as positively. One of the girls in the group said that the school bus driver and escort was very good at listening to her views, as was the school speech therapist.

Next we asked about transport and if they thought it was good, all initially responded yes. They expressed that they were particularly very happy with using their school bus and were very positive about the drivers and escorts used by the school: *'yes / love it'*. When talking about public transport most of the young people said that they didn't have much experience of using this but occasionally they have had to walk if the bus can't fit them on. Two young people described having long waits for buses because buses were full, the space was occupied by buggies, or ramps were broken and it was not possible to get a wheelchair on board. One young person said that the ramps on buses are very unreliable and frequently break down. The same young person said that he finds the London underground very inaccessible and said that it was bad that there were only a few stations with lifts/step free access.

Next we talked about if they were to go out to do activities, several young people said that mostly they would go out with their parents or siblings but that this was fine and they felt able to do the things they wanted to do. Between them they took part in lots of different activities such as nerf gun, computer games, drawing, swimming, playing.

We asked the young people who they would talk to if they had a problem, or wanted to make a complaint. Several of the young people said that if they wanted to make a complaint about something that happened at school they would go first to someone in their classroom, and then to their headteacher. One male said that it was very important to tell an adult if there was a problem, *'there no point in holding it in, you need to tell someone so they can help change things.'*

When asked about what they think would make a difference to their lives, one young person suggested that *'we need more nurses in school'*, and more teaching

assistants to provide additional help. Lots of the other group responded that this was a good idea. They also would like less homework and more playtime!

Kingston and Richmond participation group

We met with eleven young people aged between thirteen and twenty-five.

Changes to policy and the impact on their lives

One of the main findings from our previously published work was that children and young people are particularly concerned about the impact on changes to benefits, the lack of consultation on potential impacts, and a lack of accessible information about the implications of these changes for them and their families. Similar views were expressed in this session.

'They should give you more information about these changes, talk to you more about them, they just throw it on you'

'They have already cut all benefits. We are not able to work because of a disability and are not able to pay rent or have a social life or do anything.'

'We have already had to change from DLA to PIP. The woman she kept asking me the same question in lots of different ways. Like can you stand up and touch your toes? Can you touch your toes? Can you walk five metres? The assessment, I hated it, I ended up with less money.'

'It would be good [for the Government] to talk to young people about changes that are happening.'

'Children and young people should know what changes are happening. We should get told of changes, like leaving the EU and stuff is going to change benefits. It wasn't exactly easy after the DLA to go to PIP- you have to prove yourself.'

Being listened to and taken seriously

The participants in the session were very clear that young people's views were important and more needs to be done to get their voices heard. They also reflected that if they are accompanied by adults, then professionals tend to direct their comments at the adult rather than the young person themselves

'If my mum is there, they won't chat to me, they speak directly to my mum. I hate it when they ignore me just because I'm in a wheelchair. I am here – I can speak, you can speak to me'

'Kids and young adults need to have their voices heard''

'It would be useful for schools and colleges to have consultation meetings to get students thinking.'

Accessibility, transport and getting out and about

Participants in the group identified a number of challenges in regard to independent living and getting out and about in wider society. They were particularly critical of the lack of accessibility on public transport and in shops and felt that this had a particularly negative impact on their social lives. Many of the young people felt that

negative perceptions about disabled people underpin the lack of accessibility and the lack of inclusivity in wider society (see below):

'I have made a complaint about the lifts in Bentall's to get them to put a notice up saying please make space for wheelchairs.'

'On buses, there is a big notice but people just completely ignore it. Its ignorance, but I do think there was something happening about that. They should put the ramp out first but it just doesn't happen.'

'I had this thing with my education where a school said that because of my physical disability I was a liability for not being able to pass my GCSE's. They were concerned with the schools standing and were worried that I would represent the school badly and they were too bothered about their public image. They are meant to teach all young people regardless of disability. I ended up getting 8 GCSE's.'

'If there is a buggy on the bus, the driver doesn't even come out to say to them to make way. That happened on 2 buses and they wouldn't ask. The drivers should say to fold up buggies and move, the sign is there. I had to get the third bus after waiting for ages at 8.30 at night.'

'They won't allow 2 [wheel] chairs on a bus, so I can't go shopping or to the cinema with my friend who is also in a chair. They say it's because of the backrest but it doesn't support you.'

'Drivers don't know how to use the ramps, it kept not working because the sensor doesn't work it kept going up and down. In the end I had to get the 4th bus and I was late.'

'When it (the ramp) takes ages, people look at you like you've made it worse, the ramp sensitivity is too much.'

'Drivers don't really listen when you press the disabled button, it doesn't get them to stop and ends up going past where I need to get off. It has a different noise but they should realise.'

'Ramps on trains are an issue, there are no people on the platform to put in on. My dad has had to get people to help carry me on. You have to pre-book but you aren't told on the website.'

'The platforms used to be on all levels. You didn't used to need to book for ramps, I don't have time to do that!'

'Things should change quickly. There has been quite a long wait for changes to happen. I am not allowed to stand up on trains because of my condition.'

'The lifts are always breaking at school. It's also a problem when they haven't chosen the right lift like in my school, you have to keep holding the button for it to go down and it makes me late to classes. They didn't consult about what type of lift would be useful for disabled users.'

'It's hard to get into some small shops as they have big steps and don't have ramps, I just can't go in so have to wait outside.'

'You have to call up to see if buildings are accessible. This can be a real problem if you also have a speech impediment, and sometimes, you can hear the tut at the end of the line.'

Perceptions

Many of the participants were critical about the wider public perceptions and images of disabled people. They felt these were broadly negative. A number of young people reported that teachers and employers have very low aspirations of young disabled people. The group made several suggestions as to how these negative perceptions and stereotypes could be challenged – awareness raising campaigns, training for professionals and greater visibility in the media for disabled young people. Similar views and suggestions were expressed in our previous consultation work with disabled children and young people.

'I think if the public see a wheelchair, they will look at you and give you dirty looks almost. It's almost understandable if kids do it but adults do it too.'

'They assume if you are in a wheelchair you can't speak, which is really frustrating and it is bad to assume.'

'I hate it when people come down to your level to speak to you and then talk to you as if you are stupid.'

'People treat you differently just because you are in a wheelchair. You are not seen as responsible or clever.'

'People can't seem to separate and think you have both a physical and learning disability, they think you can't be one or the other.'

'Like in school, it's like they can't treat you like normal student because of the physical.'

'Young disabled people should speak out in public, like on question time. On TV channels that people actually watch. There's not enough people advertising that and need to get this across.'

'There needs to be a campaign on a national scale, international even as there is the same problems. They should have like an international week of treat disabled young people equally.'

'They should have people on television who have a disability which would make it normal in that way and then would help to be accepted as a person.'

'You know how like being gay has become more accepted because you have seen in in public appearances, interviews and on TV over the last 10 and 20 years. There needs to be the same thing.'

'Take for example PIP, people on the phone are meant to sort you out but I feel they treat disabled people differently. My Mum has to help out because they like, put you on the spot to answer questions and I get nervous.'

One change that would make a difference to their lives

'There should be a campaign for more understanding around hidden disability.'

'Stop being mean to people are different and support them to be who they are.'

'There should be more awareness around chronic illness.'

'More recognition- radio and TV- question time with a young panellist.'

'Money.'

'There is a lack of inquisitiveness about some things and people just assume and then when they do ask me things, it's often people ask me things that are too personal.'



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