



# HOUSE OF LORDS

## Children and Families Act 2014

### Corrected oral evidence: Children and Families Act 2014

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Members present: Baroness Tyler of Enfield (The Chair); Baroness Bertin; Baroness Blower; Lord Brownlow of Shurlock Row; Lord Cruddas; Baroness Massey of Darwen; Baroness Prashar; Baroness Wyld.

Evidence Session No. 18

Heard in Public

Questions 168 - 175

### Witness

I: Dame Rachel de Souza, Children's Commissioner for England.

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## Examination of witness

Dame Rachel de Souza.

Q168 **The Chair:** Good afternoon and welcome to this public evidence session of the Children and Families Act 2014 Committee. This session is being broadcast online and a transcript will be taken.

I am very pleased to be able to welcome the Children's Commissioner, Dame Rachel de Souza, as our witness. It is very good of you to come. Before we get into our questions, will you very briefly introduce yourself?

**Dame Rachel de Souza:** Yes. It is great to be here. I am the Children's Commissioner for England. I took up post in March 2020, just as we were coming out of the pandemic.

I am really pleased that this committee is considering the role of the commissioner today. I have been reflecting on that deeply over the past year, and I would like to make three points to frame it.

For me, it is all about how the position of Children's Commissioner can best bring about the change that children seek. The first thing I did when I came into the role was to seek the views of children about what they wanted. We did the largest survey of children ever in this country. We asked them for their views, and we got half a million responses. I have also been talking to the Government, Parliament, public sector leaders and front-line workers about what they want from the role, and I hope to have an interesting discussion with you today about that.

People often do not know that my office runs a helpline, called Help at Hand, and we cover 500,000 young people who have a social worker or are in care. We deal with the most acute cases—the children who are falling between services. That work is so important both in advocating for those children and in really understanding what the system needs and what the Children's Commissioner can do.

I am often on the phone to directors of children's services and others. I was sitting with the President of the Family Division the other day hearing about children who have been deprived of liberty and who are falling between services. I was down in Kent for the third time this summer, at the Kent Intake Unit, making sure that children's rights there are being looked after and picking up some difficult cases.

I have been thinking deeply about this role in the light of those three things. I am looking forward to a good discussion and will try to answer your questions today.

Q169 **The Chair:** Thank you very much. That was a very helpful way of framing what you have been doing.

I know it is a big question, but what do you see as the biggest challenge facing children and young people in this country at the moment, and what are you doing to try to tackle it?

**Dame Rachel de Souza:** As I said, when I took up the role, the first thing I did was to ask children exactly that question, and they gave me some very clear answers. We wrote about them in The Big Ask, and my work has been defined by them so far. Children talked to me coming out of lockdown, and their number one, deepest concern was about their mental health and well-being. As you know, this generation talks about and connects their mental and physical health, but that was a major issue for them.

They were concerned about their education and getting back to school. You will know that I have been running a major attendance project where I have used all my Section 2F powers to find out where children are who are not in school, and what we can do to get them back to school.

Across the half a million responses we got from children, the word they used the most—it will seem odd when we are talking about this—was “play”. They talked to me about play: places to go, things to do, sustainable activities and the labyrinth of the online world and what that is like. I have been working hard to support those goals and to make sure that children’s views are represented in the children’s safety bit of the Online Safety Bill.

They talked about their desire for great jobs and careers, and their worries that they needed support to be able to achieve at school to gain those great outcomes. So we have been very involved in the schools White Paper and the SEND Green Paper. In fact, when the first draft of the SEND Green Paper was shown to me, I told the then Secretary of State that I could not support it, and it had to go back. We have a far better one now.

There are lots of issues, and everything we work on has come out of what children said. You will have seen me presenting my family review last week, and children and adults talking about the primacy of family, but also worries about things such as spending enough time with family, the cost of living and other issues. It is massive; that is the great thing about the commissioner’s role. It is so broad, and, if you really listen to children and their perspectives, you cannot go down these government silos; you are right across the piece. That is the strength of the role, but it is also a challenge.

**The Chair:** Thank you very much. I am sure we will pick up on a

number of those points. I will pick up briefly on one. You mentioned mental health, which has emerged as a very big theme and issue for this committee, even though there is nothing specifically about mental health in the Act that we are scrutinising. Indeed, our next session immediately after this is on mental health. Do you feel that the mental health challenges facing young people were around pre-pandemic and were just exacerbated by it, or do you feel that the pandemic has brought this all to a head?

**Dame Rachel de Souza:** The NHS Digital survey shows that pre-pandemic one in six children had a diagnosable mental health concern, and post pandemic it is one in nine. As well as hearing from children in the survey, I went round the country. I have been to all the children's hospitals, many mental health wards and schools. We need to be really careful and clear about what we mean when we talk about this well-being, mental health issue.

We have the isolation and vulnerabilities that were caused by lockdown. The solutions to those are found in getting back to school, children being able to play, be with their peers and get the support that they need in a very simple, straightforward way. I have talked to Oxford's best neuroscientist, Sarah-Jayne Blakemore, and others, about what the solutions are. They are not about specialist services but about children being able to get what they need.

However, obviously there are also the more serious vulnerabilities that have been exacerbated, and I am concerned about CAMHS. The serious focus needs to be on the high end and the CAMHS support, and we have shown that.

**The Chair:** Thanks very much. We will pursue that a bit later on. I just have a point of clarification. I think I am right in saying that it is one in six now, is it not?

**Dame Rachel de Souza:** Yes, it is one in nine to one in six. Sorry, I got that the wrong way round.

Q170 **Baroness Blower:** I know we are short on time, but I would just like to ask, Rachel, whether you have a view about issues to do with early intervention, where we compare the age in England at which school children start formal schooling, as opposed to, for example, Estonia and Finland. They have very successful education systems, where formal schooling does not start until age seven, although they have a very good childcare system. In Finland, they are often in forest schools; in Estonia, they are in other kinds of childcare arrangements. I ask that particularly because you said that an outcome from The Big Ask was play and activities.

**Dame Rachel de Souza:** That is a brilliant question. We do look at international comparisons and wonder, "Are we doing the right thing?" I am a bit torn here because, on the one hand, the one thing we know is that really good, early years education has great outcomes. It is the one causal link that we can make to good outcomes at 16.

I spent quite a bit of time in China looking at maths teaching. I was watching seven year-olds doing the most amazing mathematics, and I asked, "Can I speak to the kindergarten teacher or the early years teacher?", and was told, "Oh no, we don't do formal learning". I spoke to the kindergarten head in a school in Wuhan and she said, "We count the clouds. We play with whatever".

The way we work with younger children to get the outcomes that we need is what is important, rather than the label that we put on it. I worry about the children who need it most getting the settings that they need—whether it is early years or nursery—and the quality of those.

Q171 **Lord Cruddas:** It comes across that you are very passionate about your job, and it is really nice to hear that passion. My question is: do you have the correct powers to discharge your duties, and should the commissioner have the power to investigate individual cases?

**Dame Rachel de Souza:** I have thought about this a lot. I have made sure that I have used the specific powers that I have a lot, and used them well. I can give two immediate examples of that. The first is when I recently used my Section 2F powers to collect data from public bodies on an issue of strip searching of children by the Met police. You might have seen that work. I have also used my 2F powers to ask local authorities for the data on how many children they have in their areas, which children are not at school and which do not have a school place. Out of 151 local authorities, pretty much every one responded, apart from one or two LAs that did not have the capacity. The Met police came back straightaway, and I am now widening that strip search inquiry to every police authority in the country.

I would say that I use the powers that I have, and I use them well. With regard to other powers, such as my 2E powers of entry, I do not normally have to formally instigate them. I have been to pretty much every YOI, or where a child is held in youth justice, and to secure mental health wards, and I have not needed to use them. Public service leaders will often say, "We know you could say that you have to come in, so we'd rather let you in". When I was down at the Kent Intake Unit, I went to the hotels where young children

who are asylum seekers are kept, and I went in and talked to them.

My view is that any power is useful to me if it allows me either to get information about children or speak to children, because my job is about listening to children, amplifying their voices, and coming and sharing that.

I also have 2C powers, which means that I have to get a reply if I write a letter to a public body about children. I have three of them. I am trying to use them even more innovatively and usefully for children.

On investigative powers, what I have been trying to share is that the job is very broad, and its value is in being able to take the voices of children, really understand what they are saying and the experience that they are getting, and then bring that to policymakers and the Government, holding them to account and sharing the reality of what is going on. I would be concerned about getting too involved in investigations, because I am a small body—I have 30 staff—and there is limited time. The concern would be about my time going into those kinds of individual investigations rather than staying strategic, getting an overview and being able to challenge—and to do that in a much more national way.

A lot of Children's Commissioners across Europe and the world were set up as ombudsmen. They do a lot of investigations and that kind of more legal work. I talked to the civil servants who wrote the 2004 and 2014 changes, and we are a Children's Commissioner on purpose. The idea is that, right from 2004—even though it slightly changed in 2014—the Children's Commissioner role is about children, and families, and bringing their views to policymakers and the Government to make sure that they are heard. If I felt that I was not being listened to or heard, I probably would call for more powers, but I have good cut-through, and no Minister or parliamentarian has turned me away.

**Lord Cruddas:** That is a “yes”.

**The Chair:** If I may, I have a couple of quick follow-up points. First, you talked about your entry powers—these institutions you can visit. Are they announced or unannounced visits?

**Dame Rachel de Souza:** Either. We have used them in both ways. When we have been concerned about a particular children's prison or YOI, we have turned up unannounced. We are about to do some work looking at what a great example would be and are planning some work over the next couple of months. I am worried

about children in custody in YOIs—about their sport and their visits from families. I will use both my 2F and 2E powers, so a bit of unannounced at the weekends, as well as getting the data. We can use both. Frankly, it is normally not conspiracy; it is just something that is not working well, so, whether you announce or not, you are going to see the same things as long as you get to talk to the children alone.

**The Chair:** Finally, on this general issue, I am interested to know how independent you feel. I ask everyone this. Conscious that you are both appointed and, indeed, can be dismissed by Ministers, do you feel that you have the degree of political independence you need to do the role effectively?

**Dame Rachel de Souza:** Absolutely. The process of appointment is really interesting, because you go through a number of hoops. Yes, the Minister makes a decision, and then you go to a Select Committee. I feel accountable to Parliament. I am in my second year now and nobody has tried to tell me what to think or do. I have been able to be absolutely challenging on behalf of children, where needed. I want to be constructive and get solutions for children, but there are ways of having very strong, good collaborative relationships while being absolutely for children and making that work. I take my independence as the most serious bit of my job.

Q172 **Baroness Massey of Darwen:** Welcome, Rachel, to this session. I want to ask you about identifying and highlighting the problems of vulnerable children. I know you have done a lot of work on this and are very committed to it. When you did The Big Ask, did this come out? How did you know who were the vulnerable children, and how did you see and test what was going on with them? How did you do that if it was just a survey?

Also, you have talked about kids in the care system, but how do you get to the bottom of all that? I know your team goes and interviews people. How do you persuade the Government to change things if necessary, and how do you hold them to account?

**Dame Rachel de Souza:** Four thousand children in care responded to The Big Ask, which is one of the largest responses of children in care. I think 94,000 children with additional needs responded, and a really high figure of children with a social worker. We made sure that we captured that in both our survey response and our qualitative work. I went to meet children—children in care councils and children all around the country—and made sure that children in care, vulnerable children and children with social workers were absolutely central. If you look at any work we do,

whether it is our work on attendance or online harms—all the themes—you will always see a major strand of it on the children I have a statutory responsibility for, which are vulnerable children, children in care and children with a social worker.

I was out doing my family review last week, which was an independent review that the Government asked me to do. There is a whole section on those children. We make sure that they are front and centre in all the work. There are a number of strands as well. There is talking to them and reflecting their views, and this year we are also setting up a care leavers and children in care board. That is the first time that that has been done from my office. With our helpline, we also hear directly from vulnerable children in the most serious circumstances. We also have a number of datasets, some of which were previously in the office that we have continued with and continue to refine, such as the stability index and a range of datasets on vulnerable children.

Particularly for the most vulnerable children, we are also working on in-system reform. I was an academy principal, I ran a trust and I have been an educator in the most disadvantaged areas. I understand and have been part of system reform since I was a head in 2005. I am really trying to bring that understanding and the absolute necessity of improving the system to the discussions about vulnerable children and what we can do following the care review. We are doing lots of system reform work. I was instrumental in ensuring that the Secretary of State set up an implementation board for the care review. I am on it, and it is now being led by a Minister—although no doubt that Minister might change today. We are making sure that not only are the good ideas getting there but reform and improvements will actually happen.

We have published a number of papers on vulnerable children, particularly children in care, with clear recommendations, both as submissions to the care review and beyond. Frankly, every time I sit down with a Minister it is number one on my list. I could give you lots of examples of things that we have managed to change, but a good and very recent one would be getting the national programme for asylum-seeker children mandated and ensuring that the right amount of money follows each child. That came from discussions with Ministers. We are just obsessed with it, Baroness Massey.

**Baroness Massey of Darwen:** Good, I am glad to hear that you and others are obsessed with it; we should be obsessed with it. Can you just say a few words about the children in care board?

**Dame Rachel de Souza:** The new one that we are setting up?

**Baroness Massey of Darwen:** Yes.

**Dame Rachel de Souza:** We are right at the start. We have always run IMO, a digital platform for children in care and care leavers. We have reached out through that, and we are setting up two boards: one for care leavers and one for children in care. They will get lots of positives for doing it. We want to bring that live voice. We are also setting up a vulnerable children's board with the DfE.

**Baroness Massey of Darwen:** Are they virtual boards or are they real boards? I do not mean that. Do they meet together?

**Dame Rachel de Souza:** I am afraid I am a real "in-person" person, so they are physical.

**Baroness Massey of Darwen:** Exactly. Good. Thank you.

**Baroness Bertin:** I would like to follow up your point on schooling and vulnerable children, and pupil referral units. How do you think that is all working in the system, and could they be improved? We do not talk about it often enough, but I imagine there is a huge correlation of vulnerable children ending up in PRUs.

**Dame Rachel de Souza:** I have been working really hard to try to make sure that we think about exactly that and how the raft of papers join up—we have just had the schools White Paper, the SEND Green Paper and the care review—and how we find the right places for vulnerable children. First, we pushed really hard for children in alternative provision or PRUs to be looked at in the SEND review and seen as the same. When I was a trust leader for the Inspiration Trust, we had a little school in Norwich that was so disadvantaged you knew that lots of the children who were exhibiting early behavioural issues would end up in PRUs, rather than being seen as having SEND. We needed that AP-SEND join-up.

Also, in the schools White Paper, if we are moving towards families of schools, LAs' champions for children, and convening, we need to make sure that there is the capacity in families of schools to lead alternative provision and that we are developing the leaders to do it, but also that the model works and that we get more of a revolving door. For many years you had that—I am sure that people here could talk at length about this—but you would look at exclusion rates and behaviour, the terrible incidents leading to exclusion, and think, "But these children need support". If we make sure our alternative provision and our SEND specialist support are in families of schools and properly embedded in local areas, we

could get a revolving door so that children can get the help they need and get back into mainstream—they are all part of the same family.

It is a big, burning debate at the moment, but we have been right at the centre of it, trying to make sure that, with all the reform and development around schools, the most vulnerable children and their needs are really looked at. For me, the big burning issues are special educational needs, AP and making sure that kids get the provision they need.

**Baroness Blower:** Of course, you are right that the notion of alternative provision should be a revolving door, because the reason why kids are not being successful in the mainstream should be addressed while they are in alternative provision. The difficulty is that sometimes that does happen, but they go back into a mainstream classroom where nothing has changed and there is no additional support in the arrangements for dealing with that child or change to the way they are perceived. That is quite a problem. It is not just about making the alternative provision function but about saying that all schools have to be able to be welcoming to all students—and sometimes, they need the resources to do that.

**Dame Rachel de Souza:** You are absolutely correct. We need all our schools to be inclusive. One of the ambitions of the SEND Green Paper that we have been pushing very hard on from our office is making sure that children, whatever their needs, can be supported, educated and properly resourced in their own local area in their school.

The specialist provision question is really important. It is about how to move away from it being seen as outside, or external, and to really bring it into the family of schools in the local areas. I know it is a vision and a hope, and your point is well made, but it is really important, and it is the solution, if we get that right.

Q173 **Baroness Bertin:** We have spoken a lot about mental health, and obviously there is a crisis in mental health services. What is your view about what can be done about it? Early years prevention seems to be a big answer, but how can you do that when the waiting lists are so long? I would love your thoughts on that.

**Dame Rachel de Souza:** In a nutshell, this is a massive issue. I have made it my business to work with the Royal College of Psychiatrists, with therapists, with hospitals and everyone right across the piece in health and education. There is a real vision emerging for how mental well-being can be supported in schools. The start of the rollout of the mental health support teams has

gone well, and I would like to encourage that even further. The training of at least one but preferably all senior leaders to ensure that they can identify and support good mental well-being, but also deal with more serious mental health issues in school, is good.

As a former head, I know that most heads buy in counselling. They use their limited resources to make sure that they have counsellors, because they know that it will help in so many ways. I am really keen that those mental health support teams provide really good clinical governance over that so that people make good decisions and put in sound, evidence-based programmes that work.

On the more challenging end, when we were looking at public sector recovery with the Government a year or two ago, it was really at the top of the agenda there. The serious end of CAMHS and mental health is not just about moving the deckchairs around on the decks; there is some really serious thinking to be done about getting the resource in. A really good solution is emerging for general well-being and low to medium health issues; it is that really serious end that I am really concerned about.

On the CAMHS side, every year we produce a mental health report looking at the variation across the country in waiting times and the amount of money that CCGs—now the ICSs—put into mental health. It is getting better, and more areas are meeting their target, but there is still way too much variation. Waiting times are coming down, but there is still way too much variation between the best and the worst. There is something about looking locally at the CCGs and ICSs to see the real picture, because there are some stars. Some areas are doing fantastically. Scunthorpe comes to mind—I come from there so that one is on my mind. It is not always the places that you would expect.

**Baroness Bertin:** Is there a correlation with, for example, the schools that are doing very well and are trying to prevent problems from escalating and those services, or is there no marry-up whatever?

**Dame Rachel de Souza:** We are talking about the more serious end now.

**Baroness Bertin:** Yes.

**Dame Rachel de Souza:** It is more about commitment from the CCGs. I do not think we have the evidence base to show that crossover yet. That might be a good piece of work to look at. You would hope there would be crossover, would you not?

**Baroness Bertin:** It might help with the pitches for longer-term

funding.

**Dame Rachel de Souza:** Yes, you would really hope so.

Q174 **Baroness Wyld:** You made some very powerful points on CAMHS, with which I think we all agree. It is a bit clumsy, but I want to talk about the other end of the spectrum: the kids who are not in crisis but are, for whatever reason, unhappy, or who said in The Big Ask that they were not content. Also, in your work on the breakdown of family, do you ever look at some of those cases and think that, although not all parents have the capacity to look after their children, the majority do, and think, "This is your job, parents, not the job of the commission or the Government"?

**Dame Rachel de Souza:** It is interesting. Parents themselves told me in the family review that the first place they go to for support when they need it is family, and the second place is friends. The second part of the family review will look at the services that meet the needs of families and make sure that they are familial and local. Put simply, yes, of course parents want to and should be the people who look after the well-being of their child. Family has primacy, and I tried to make that point quite emphatically.

I was really heartened and thrilled by what we heard back from the nation about how important family is to people, however they described it, and the bonds and wider links not just with parents but with grandparents, cousins and close family friends who provide support for a child. Frankly, what we heard in The Big Ask was that, if a child is unhappy with their family life, they are nine times more likely to be unhappy. No service can step in and do what a family can do—we know that—but services do incredible things. I am a great believer in the power of education, but your own family, network and community are absolutely critical, and we should be supporting that.

**Baroness Wyld:** It is a huge topic, and I know we are tight on time. Do you think that we need to be a bit bolder about making sure, perhaps when people go to their early parenting sessions in NCT, et cetera, that they know about the degree of responsibility? I do not know; I am opening up a whole discussion.

**Dame Rachel de Souza:** Again, there has been great debate about this with our family review. I am really worried. I am looking at very high levels of lone parenting. Anyone can make their own personal choice, but there is a link with that to low education levels and poor economic outcomes, not having work, particularly in the cold spots such as Scunthorpe, where I come from. I really think

that education, support, investment and jobs could provide the solution.

We should be having a great national debate, and we should not be squeamish about it. I have seen fantastic parenting in all the shapes and sizes that families come in—our family review showed us that—but there is definitely an education and investment job to be done. There is huge regional disparity in some of these issues, and it really concerns me.

**The Chair:** Thank you very much. We have covered a huge amount of territory, but we still have a little more to do. We have some important questions coming up now from Baroness Prashar.

Q175 **Baroness Prashar:** You rightly said that you see your role as listening to children and amplifying their views, but how can government, when making policy, better account for the views and opinions of children and young people? Secondly, on the machinery of government, how do you work with different departments across government? Is there scope for you to play a larger role in bringing together different elements of the system to serve children better?

**Dame Rachel de Souza:** There is a lot there. In the Children's Commissioner's office, we have tried to support government departments particularly to gain confidence in seeking the views of children. A good example is DCMS looking at the online world and children. We have been working with it, taking the voices of children to say, "This is what children's experience is online".

A great example is a survey we did of 2,000 children, of which 44% said that they had complained to tech companies about things that had been posted about them that had not taken them down. That is hard evidence. We also got hundreds of 16 to 21 year-olds in the basement of the Department for Education, along with Ministers, and asked them, "What do you wish your parents had known about the online world?" The answers were most instructive.

We are communicating with hundreds and thousands of children all the time and taking the voices up there, but we are also trying to give departments confidence about how to do that. They really enjoy it when they do it, and they do it well. It is such a powerful tool, because I have yet to see a Minister who does not want to listen to children. The children want this and are telling them this.

In terms of policy-making, a number of Ministers at the Department for Education now come to us with every policy and check what children think. Would that not be great for any policy that was going to impact on children? I feel this about family as well; we should be consulting families and children. For my family

review, I am trying to bring back the family test—I think it was the Cameron Government who brought it in—which is a tick list at the back of most policies. We need it at the front. We need a children and families test at the front that asks: how will this policy affect children and families? That is one of the practical things we are trying to do.

In terms of cross-government working, I could give you lots of examples where we are able to work across departments that work with children and bring them together. Mental health is one. We work closely with health and education to make sure that they are talking to each other, because they are often amazingly different. Cross-government working is a panacea, but the question is: how do we make it work in reality?

One thing that I am working on at the moment to try to do that is data sharing. Getting decent data sharing would help services and government to understand better what is happening with children. It is really tricky. We have the ICO, and a range of public sector leaders across the country whom we are working with to try to unpick the problems that are preventing this and causing us immense problems. I go to counties where the police have a list of children not in school, which is not talking to the health list or the education list. One of the real things we could do is set up proper data sharing. So that is a biggie.

Another way we could get all departments working together better would be a decent outcomes framework. We will be modelling one as part of the second part of our family review for children and families. We need to think about what outcomes we really want the Government and public services to be delivering for children and families. For me, attendance has to be a huge one. Children cannot achieve the dreams that they have told me they want to achieve if they are not in school. There are lots of different things, but we will try to pin it down.

**Baroness Prashar:** Am I right that you are thinking of levers and mechanisms that you can use to bring government departments together?

**Dame Rachel de Souza:** The Government can use them as well—to work together. I look at it and think, “How can I get health talking to education and understanding the discussion, at both local and national level?” If we had proper data-sharing mechanisms and a really good outcomes framework that we all agreed on, we could do so much more for children, could we not?

**The Chair:** Thank you very much. I shall simply reflect that when

the family test was initially introduced—I was a real supporter of it, I really was—I noticed that it was honoured more in the breach than the observance. If it did come back in some form, there would have to be a way of making sure it had real teeth.

**Dame Rachel de Souza:** I know we do not have much time, but people often ask whether we should have a Children’s Minister or a Families Minister. If we have a Prime Minister and a Cabinet who are passionately committed to children and families, and everyone is, the family test could come alive again, could it not? That is the hope. That is what we want.

**The Chair:** It is excellent to end on that helpful note. Thank you very much indeed, Rachel. I think you can tell from the session that there is an awful lot of interest in the work that you do, and that reflects how important it is. Thank you so much for giving up your time and coming to the committee this afternoon. We very much appreciate it.